

HOUSE CS FOR CS FOR SENATE BILL NO. 149(L&C)**IN THE LEGISLATURE OF THE STATE OF ALASKA****EIGHTEENTH LEGISLATURE - FIRST SESSION****BY THE HOUSE LABOR AND COMMERCE COMMITTEE****Offered: 4/14/93****Referred: Judiciary****Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE
A BILL****FOR AN ACT ENTITLED**

1 "An Act revising the laws governing financial institutions and relating to trust
2 companies, the Alaska Small Loans Act, and the Premium Financing Act;
3 amending Alaska Rule of Criminal Procedure 17 and Alaska Rule of Civil
4 Procedure 45(b); and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * Section 1. AS 06.01.010(e) is amended to read:

7 (e) An exam fee or other charge assessed to a state [STATE-CHARTERED]
8 financial institution under this section may not exceed a fee or other charge assessed
9 for the same type of exam or service to a similarly situated federally-chartered
10 financial institution.

11 * Sec. 2. AS 06.01.010(f) is amended to read:

12 (f) In this section "deposit institution" means a state financial [AN] institution
13 [CHARTERED UNDER THIS TITLE] that has obtained authority from the department
14 to receive deposits of the type eligible to be insured by an agency of the federal

1 government.

2 * Sec. 3. AS 06.01 is amended by adding a new section to read:

3 Sec. 06.01.015. EXAMINATIONS. (a) Financial institutions regulated under
4 this title are subject to at least one examination each year. The department may
5 conduct additional examinations at its discretion.

6 (b) The department shall select one or more competent persons to make
7 examinations of financial institutions. The examiner shall take and subscribe an oath
8 that

9 (1) the examiner will honestly and impartially examine into and report
10 the condition of the institution as to assets and liabilities and other information
11 required by the department;

12 (2) the examiner will not disclose the information the examiner obtains
13 through the examination to a person other than the department;

14 (3) at the time of employment, the examiner is not obligated to, or the
15 owner of an interest in, the institution and is not an officer or shareholder of the
16 institution;

17 (4) the examiner does not own more than five percent of the voting
18 shares in another financial institution in the state; and

19 (5) the examiner is not an officer or employee of another financial
20 institution in the state.

21 (c) The department shall promptly call to the attention of the directors of an
22 institution irregularities in the conduct of the financial institution's business and any
23 violations. The department shall send a copy of the report of examination to the
24 institution examined.

25 * Sec. 4. AS 06.01.020(a) is amended to read:

26 (a) Notwithstanding other provisions of this title, the department
27 [COMMISSIONER] may by regulation authorize financial institutions, except licensees
28 subject to AS 06.20 or AS 06.40, to exercise any of the powers conferred upon, or to
29 be subject to any of the limitations imposed upon, a [FEDERALLY CHARTERED
30 BANK, TRUST COMPANY, SAVINGS ASSOCIATION, FEDERALLY
31 CHARTERED CREDIT UNION, OR OTHER] federally chartered financial institution

1 doing business in this state with deposits insured by an agency of the federal
2 government [WHICH IS SUBJECT TO THE REGULATIONS OF THE UNITED
3 STATES COMPTROLLER OF THE CURRENCY, THE FEDERAL RESERVE
4 BOARD, THE FEDERAL HOME LOAN BANK BOARD, THE FEDERAL DEPOSIT
5 INSURANCE CORPORATION, THE NATIONAL CREDIT UNION
6 ADMINISTRATOR, OR THE SUCCESSOR OR SUCCESSORS OF THEM], if the
7 department [COMMISSIONER] finds that the exercise of the power or imposition of
8 the limitation both

9 (1) serves the public convenience and advantage; and

10 (2) equalizes and maintains the quality of competition between state
11 [STATE-CHARTERED] financial institutions and [CORRESPONDING] federally
12 chartered financial institutions.

13 * Sec. 5. AS 06.01 is amended by adding a new section to read:

14 Sec. 06.01.025. RECORDS OF DEPARTMENT. (a) Information in the
15 records of the department obtained through the administration of this title is
16 confidential, is not subject to subpoena, and may be revealed only with the consent of
17 the department.

18 (b) The department shall retain reports of examinations for five years.

19 * Sec. 6. AS 06.01.030 is repealed and reenacted to read:

20 Sec. 06.01.030. ORDERS AND INJUNCTIONS; NOTICE AND HEARINGS.

21 (a) Whenever it appears to the department that a person is engaging, has engaged, or
22 is about to engage in an unsafe or unsound practice in conducting the business of a
23 financial institution, or is violating, has violated, or is about to violate a provision of
24 this title or a regulation adopted or order issued under this title, the department may

25 (1) issue and serve on the person a notice of intent to issue an order
26 directing the person to cease and desist from continuing the act or practice, or
27 imposing a penalty under AS 06.01.035(e) - (g); or

28 (2) bring an action in the superior court to enjoin the act or practice.

29 (b) A notice issued under (a)(1) of this section must contain a statement of the
30 facts constituting the alleged violation or the unsafe or unsound practice, and must give
31 reasonable notice of and an opportunity for a hearing to determine whether an order

1 to cease and desist the act or practice should be issued. If a hearing is not requested
2 within 30 days, or if the person served or the person's representative fails to appear
3 at the hearing, the person is considered to have consented to the issuance of the order,
4 and the department may issue the order to cease and desist. If the department finds
5 at the hearing that a violation or an unsafe or unsound practice has been established,
6 the department may issue the order to cease and desist.

7 (c) A cease and desist order issued under (b) of this section may impose a
8 penalty under AS 06.01.035(e) - (g) and may require the person to cease and desist
9 from the act or practice and to take affirmative action to correct the conditions
10 resulting from the act or practice.

11 (d) Notwithstanding the other provisions of this section, the department may
12 issue a temporary cease and desist order at the same time that the department issues
13 a notice under (a)(1) of this section. The department may not issue a temporary cease
14 and desist order under this subsection without a prior hearing unless the order is issued
15 for the sole purpose of preserving the status quo and preventing damage to a financial
16 institution pending completion of any hearing. A temporary cease and desist order
17 issued under this subsection remains in effect until a final order is issued under (b) of
18 this section or until otherwise terminated by the department, except that the order may
19 not remain in effect for more than 60 days.

20 (e) Except for notices issued under (a)(1) of this section, the department shall
21 give public notice of each proposed action, but the department is not required to hold
22 a hearing before taking the action unless it receives written opposition to the proposed
23 action. Written opposition must be filed with the department within the time specified
24 by the department. In cases involving extraordinary circumstances requiring immediate
25 action, the department may take action without notice and public hearing, but upon
26 application to rescind the action taken, the department shall promptly hold a hearing
27 on the application.

28 (f) Hearings required or authorized under this title are not subject to
29 AS 44.62.330 - 44.62.630, except as required by AS 44.62.560 and 44.62.570. The
30 department shall adopt regulations, consistent with the provisions of this title,
31 establishing procedures for hearings held under this section.

1 (g) For the purpose of hearings, investigations, or other proceedings under this
2 title, and except as otherwise provided in this title, the department or an officer
3 designated by the commissioner may administer oaths and affirmations, subpoena
4 witnesses, compel the attendance of witnesses, take evidence, and require the
5 production of books, papers, correspondence, memoranda, agreements, or other
6 documents or records that the department considers relevant or material to the inquiry.

7 (h) In this section, "unsafe or unsound practice" means

8 (1) operating a bank while it is in an unsafe or unsound condition;

9 (2) doing an act that violates a law or order of the department, or the
10 bank's articles or bylaws; or

11 (3) doing an act reasonably likely to result in a bank's condition
12 becoming unsafe or unsound.

13 * Sec. 7. AS 06.01 is amended by adding a new section to read:

14 Sec. 06.01.035. PENALTIES. (a) A person who knowingly violates, or
15 causes another person to violate, a provision of this title, or a regulation or order of
16 the department under this title, for which a specific remedy is not provided, is guilty
17 of a class A misdemeanor.

18 (b) A person who, without first receiving a license or certificate of authority
19 from the department, participates in an activity that requires a license or certificate of
20 authority under this title, is guilty of a class A misdemeanor.

21 (c) A person is guilty of a class C felony if the person, with intent to deceive
22 the department, the commissioner, or a person authorized to examine the affairs of a
23 financial institution, knowingly

24 (1) makes or causes a false statement or report to be made;

25 (2) enters a false figure, statement, or entry in the books of a financial
26 institution; or

27 (3) makes or circulates a false report or statement about the condition
28 of a financial institution.

29 (d) A director, officer, or employee of a financial institution who receives a
30 deposit, after having been notified by regulatory authorities that the institution is
31 insolvent and without the department's prior approval, is guilty of a class C felony.

1 (e) In addition to other penalties applicable under this section, if a person other
2 than a financial institution knowingly or intentionally violates, or causes another person
3 to violate, a provision of this title, or a regulation or order of the department under this
4 title, the department may issue an order against the person imposing a civil penalty of
5 not more than \$2,500 a day for a single violation, and not more than \$25,000 for
6 multiple violations that constitute a single proceeding or a series of related
7 proceedings.

8 (f) In addition to other penalties applicable under this section, if a financial
9 institution knowingly or intentionally violates a provision of this title, or a regulation
10 or order of the department under this title, the department may issue an order against
11 the institution imposing a civil penalty of not more than \$5,000 a day for a single
12 violation, and not more than \$50,000 for multiple violations that constitute a single
13 proceeding or a series of related proceedings.

14 (g) For violations not covered by (e) or (f) of this section, and in addition to
15 other penalties applicable under this section, if a person, including a financial
16 institution, violates, or causes another person to violate, a provision of this title, or a
17 regulation or order of the department under this title, the department may issue an
18 order against the person imposing a civil penalty of not more than \$500 a day for a
19 single violation, and not more than \$5,000 for multiple violations that constitute a
20 single proceeding or a series of related proceedings.

21 (h) A financial institution that fails to file a report or make payments required
22 by the department within the time specified in this title is subject to a penalty of not
23 more than \$100 a day for each day the report or payment is late. A financial
24 institution is considered to have transmitted a report or payment when the institution
25 mails the report or payment, properly addressed to the department and with the
26 appropriate postage.

27 (i) In addition to other penalties applicable under this section, the department
28 shall dismiss an employee of the department who violates AS 06.05.065(a). An
29 employee dismissed under this subsection is forever disqualified from holding a
30 position in the department relating to the regulation of financial institutions. An
31 employee who is dismissed under this subsection may appeal the dismissal under

1 AS 39.25 (State Personnel Act), unless the employee is in the exempt or partially
2 exempt service under AS 39.25.110 - 39.25.120.

3 * **Sec. 8.** AS 06.01 is amended by adding a new section to read:

4 Sec. 06.01.048. REGULATIONS. Regulations required or authorized under
5 this title shall be adopted under AS 44.62 (Administrative Procedure Act).

6 * **Sec. 9.** AS 06.05.005 is repealed and reenacted to read:

7 Sec. 06.05.005. POWERS OF DEPARTMENT. (a) The department shall

8 (1) exercise general supervision over all state financial institutions and
9 their subsidiaries and affiliated corporations;

10 (2) adopt regulations necessary to implement this chapter, including
11 regulations providing for the retention and preservation of bank records;

12 (3) review and approve or disapprove applications for new state banks
13 under AS 06.05.345, new bank branches under AS 06.05.399, and international or
14 interstate branch banks under AS 06.05.555;

15 (4) issue permits authorizing bank holding companies to do business
16 in this state under AS 06.05.235 and 06.05.570;

17 (5) determine for each state bank the amount of paid-in capital
18 necessary to operate under AS 06.05.305(a);

19 (6) review and approve transfers of bank ownership under
20 AS 06.05.327;

21 (7) perform examinations of state banks, branch banks, and subsidiaries
22 under AS 06.01.015.

23 (b) The department may

24 (1) relieve a bank from the examination requirements of AS 06.01.015
25 if the bank's deposits are insured by the Federal Deposit Insurance Corporation or
26 another agency of the United States that insures bank deposits;

27 (2) approve under AS 06.05.166(f) the operation of a branch bank on
28 a schedule different than normal banking days;

29 (3) approve under AS 06.05.426 the operation by a state bank of an
30 automated teller machine at a location other than the bank's premises;

31 (4) approve certain bank subsidiaries under AS 06.05.272;

- 1 (5) approve under AS 06.05.205(d) the acceptance by a bank of the
2 bank's stock or of the stock of the bank's holding company as security for a loan in
3 certain circumstances;
- 4 (6) restrict the withdrawal of deposits from a state bank where the
5 department finds that extraordinary circumstances make restriction necessary for the
6 proper protection of depositors;
- 7 (7) require a state bank to
- 8 (A) maintain its capital and reserve accounts in amounts
9 determined appropriate by the department, considering the size of the bank;
- 10 (B) observe the methods and standards that the bank adopts for
11 determining the value of various types of assets;
- 12 (C) charge off part or all of an asset that has not been lawfully
13 acquired;
- 14 (D) write down an asset to its market value;
- 15 (E) record liens and other interests in property;
- 16 (F) obtain a financial statement from a borrower or prospective
17 borrower to the extent that the bank can obtain the statement;
- 18 (G) obtain insurance against damage to real property taken as
19 security;
- 20 (H) search, or obtain insurance of, the title to real property
21 taken as security;
- 22 (I) maintain adequate insurance against other risks as the
23 department determines necessary and appropriate for the protection of
24 depositors and the public;
- 25 (J) charge off that portion of an asset classified as a loss, or
26 charge off or reserve up to 50 percent of loans classified as doubtful, in a state
27 or federal report of examination; or
- 28 (K) charge off all debts owed to the bank in which interest is
29 past due and unpaid for a period of six months, unless the debt principal is
30 adequately secured and the bank is in the process of collection;
- 31 (8) require the board of directors of a bank to hold a meeting under

- 1 AS 06.05.438(f);
2 (9) order the removal of a board member of a bank under
3 AS 06.05.435(g);
4 (10) order a bank to suspend the payment of dividends under
5 AS 06.05.441(b);
6 (11) require a bank to increase its capital accounts under
7 AS 06.05.305(c);
8 (12) take possession of a bank in the manner provided in
9 AS 06.05.468(c), and operate, reorganize, or liquidate the bank under AS 06.05.470 -
10 06.05.474 after taking possession under this paragraph;
11 (13) issue an order under AS 06.01.030 that the department determines
12 is necessary to ensure compliance with this chapter and regulations adopted under this
13 chapter; and
14 (14) exercise other powers expressly or implicitly granted in this
15 chapter.

16 * Sec. 10. AS 06.05.045(a) is amended to read:

17 (a) Each state bank shall make at least four reports of condition each year to
18 the department on days designated by, and on forms prescribed by, the department.
19 The report shall be signed by a duly authorized officer of the bank, and shall be
20 verified [BY AN OATH OF THE PRESIDENT, VICE PRESIDENT, OR CASHIER
21 AND] by at least three directors who certify [, CERTIFYING AND SUBSCRIBING]
22 under oath that they and each of them have personal knowledge of the facts stated in
23 the report and that the facts are true. The reports shall exhibit in detail and under
24 appropriate heads the resources and liabilities of the bank, and must be received by the
25 department within 30 calendar days after the end of the period covered by the report.

26 * Sec. 11. AS 06.05.065(a) is amended to read:

27 (a) A bank examiner of the department who deals with the regulation of
28 financial [LENDING] institutions, a special agent selected by the department to do
29 work relating to financial [LENDING] institutions, the commissioner or deputy
30 commissioner, or the director of banking may not be an officer, employee, director,
31 trustee, attorney, shareholder [STOCKHOLDER], or partner of a financial

1 [LENDING] institution, or receive, directly or indirectly, a payment or gratuity from
2 a financial [LENDING] institution. A person subject to this section may not borrow
3 money from a financial [STATE-CHARTERED LENDING] institution that has a
4 certificate of authority under this title, except as provided in this section.

5 * Sec. 12. AS 06.05.065(b) is amended to read:

6 (b) A person subject to this section may

7 (1) be a depositor in a financial [LENDING] institution;

8 (2) purchase shares of a savings and loan association on the same terms
9 available to the public;

10 (3) be a member of an employee credit union;

11 (4) be indebted to a state financial [STATE-CHARTERED LENDING]
12 institution upon an installment debt incurred by the employee in the purchase of
13 goods for personal use only and transferred to the financial [LENDING] institution
14 in the regular course of business [BY A SELLER OF GOODS], including debts for
15 [BUT NOT LIMITED TO] household goods, mobile homes, motor vehicles, or boats;
16 or

17 (5) be indebted to a state financial institution for a mortgage loan
18 secured by the person's primary residence, if the loan closed before the person
19 became an employee subject to this section [PURCHASED BY THE EMPLOYEE
20 FOR PERSONAL USE ONLY].

21 * Sec. 13. AS 06.05.075 is amended to read:

22 Sec. 06.05.075. STANDARDS [IN REGULATIONS]. The department, in the
23 exercise of its authority [THE POWER TO ADOPT REGULATIONS] under this
24 chapter, shall act in the interests of promoting and maintaining a sound and
25 competitive banking system, the security of deposits and customers, the
26 [PRESERVATION OF THE] liquid position of banks, and [IN] the prevention of
27 [INTEREST OF PREVENTING] injurious credit expansions and contractions.

28 * Sec. 14. AS 06.05.100 is amended to read:

29 Sec. 06.05.100. DEPOSIT OF MINOR OR PERSON UNDER DISABILITY.

30 Where a deposit is made in a bank by or on behalf of a minor or a person under
31 disability in the [DEPOSITOR'S OWN] name of the minor or person under

1 disability, the bank may pay the money on check or order of that person as in other
2 cases.

3 * Sec. 15. AS 06.05.120 is amended to read:

4 Sec. 06.05.120. NOTICE OF CHARGES. A bank or other financial institution
5 that levies a charge for the establishment or maintenance of personal nonbusiness
6 demand deposit accounts shall clearly post a schedule of the charges in each of its
7 places of business where these accounts are opened.

8 * Sec. 16. AS 06.05.160 is amended to read:

9 Sec. 06.05.160. TRANSMITTING MONEY AND FOREIGN EXCHANGE.
10 A bank may accept for transmission and transmit money, and may buy and sell foreign
11 exchange to the extent necessary to meet the reasonably anticipated needs of
12 customers.

13 * Sec. 17. AS 06.05.166(a) is amended to read:

14 (a) A bank organized under or doing business under the laws of the state or
15 a national bank may remain closed on the legal holidays described in AS 44.12.010 -
16 44.12.025 [AS 44.12.010, 44.12.020 AND 44.12.025, EXCEPT THAT A BANK MAY
17 NOT BE CLOSED FOR MORE THAN THREE CONSECUTIVE DAYS]. The bank
18 shall post a notice of holiday closing in the place of business affected at least seven
19 [15] days in advance. [A BANK MAY OPERATE A BRANCH BANK ON A
20 DIFFERENT SCHEDULE APPROVED BY THE DEPARTMENT IF OPERATION
21 ON A DIFFERENT SCHEDULE WILL PROVIDE BETTER SERVICE.]

22 * Sec. 18. AS 06.05.166(c) is amended to read:

23 (c) In an emergency, [AS DEFINED BY THE DEPARTMENT,] a bank [, IN
24 THE REASONABLE AND PROPER EXERCISE OF ITS DISCRETION,] may elect
25 [DETERMINE] not to open any of its banking offices on a business or banking day
26 [,] or, [IF] having opened, to close any banking office. The [DURING THE
27 OCCURRENCE OF AN EMERGENCY. IF COMMUNICATION FACILITIES ARE
28 OPERATIVE, THE] bank shall notify the department [, OR IN THE CASE OF A
29 NATIONAL BANK THE COMPTROLLER OF THE CURRENCY,] of the
30 nonopening or the closing before taking the action. if possible, and as soon as
31 possible, in any event. Any act relating to the banking office that [HAS NOT BEEN

1 OPENED OR THAT] has been closed for any period of time under this subsection
2 may be performed on the next [SUCCEEDING] business day that the office is open
3 [REOPENED] for business. No liability or loss of rights of any kind on the part of
4 any person, firm, or corporation or of the bank results from the nonopening or closing,
5 and the rights of all parties are suspended during the nonopening or closing.

6 * Sec. 19. AS 06.05.166 is amended by adding new subsections to read:

7 (d) In addition to legal holidays, a bank's board of directors may declare a
8 closing of the bank on any other normal business day, if the department authorizes the
9 closure, the bank posts notice of the closing in the place of business affected at least
10 15 days in advance, and the bank maintains all normal processing and clearing
11 operations on the closed day.

12 (e) Under (a) or (d) of this section, a bank may not be closed for more than
13 three consecutive days.

14 (f) A bank may operate a branch bank on a different schedule approved by the
15 department if the department determines that operation on a different schedule will
16 provide better service or otherwise benefit the public.

17 * Sec. 20. AS 06.05.175(a) is amended to read:

18 (a) The bank records pertaining to depositors and customers are confidential
19 and may not be made public except when

20 (1) [WHEN] the bank, customer, or depositor is compelled to disclose
21 the contents of the records by a court order; [,]

22 (2) [WHEN] their disclosure is required by federal or state law or
23 regulation; [,]

24 (3) [WHEN] disclosure is authorized in writing by the depositor or
25 customer; [,]

26 (4) [WHEN] disclosure is made to the holder of a negotiable instrument
27 drawn on the bank as to whether the drawer has sufficient funds in the bank to cover
28 the instrument; [,] or

29 (5) [WHEN] an inquiry has been made by a bank, savings association,
30 or savings and loan association regulated under this title, or by a credit-reporting
31 agency regulated under 15 U.S.C. 1681-1681t (Fair Credit Reporting Act) solely for

1 the express purpose of determining the credit worthiness of the depositor or customer
2 as an applicant for credit, and the information disclosed by the bank or the entity
3 making the inquiry under this paragraph pertains only to the payment habits of the
4 depositor or customer in connection with loans and other credit accommodations and
5 does not pertain to records concerning deposit balances in savings or checking
6 accounts.

7 * Sec. 21. AS 06.05.175(b) is amended to read:

8 (b) When disclosure of bank records is required or allowed under (a)(1) or (2)
9 of this section, the bank shall notify the depositor or customer of the disclosure. If
10 notification before disclosure is not possible, the bank shall immediately notify the
11 customer or depositor of the disclosure or inquiry. However, notification may not be
12 made if disclosure is made under a search warrant or under a court order
13 [SUBPOENA] issued [BY OR] at the behest of a grand jury.

14 * Sec. 22. AS 06.05.175 is amended by adding a new subsection to read:

15 (d) When disclosure of bank records is compelled by a court order under (a)(1)
16 of this section, the court shall provide in the order for the reimbursement of the bank
17 for the reasonable costs incurred in complying with the order.

18 * Sec. 23. AS 06.05.200(a) is amended to read:

19 (a) A [COMMERCIAL] bank [THAT IS NOT A MEMBER OF THE
20 FEDERAL RESERVE SYSTEM] shall maintain a reserve fund sufficient to
21 maintain liquidity and meet all reasonable demands of depositors, as provided in
22 regulations adopted by the department [TOTAL RESERVES EQUAL TO THE
23 FOLLOWING PERCENTAGES OF THE AGGREGATE AMOUNT OF ITS
24 DEPOSITS, EXCLUSIVE OF DEPOSITS OF THE UNITED STATES, THE STATE
25 OF ALASKA, BOROUGH AND MUNICIPAL GOVERNMENTS AND OTHER
26 DEPOSITS OF PUBLIC MONEY THAT ARE SECURED AS REQUIRED BY LAW:

27 (1) 20 PERCENT OF ITS DEMAND DEPOSITS; AND

28 (2) EIGHT PERCENT OF ITS TIME AND SAVINGS DEPOSITS].

29 * Sec. 24. AS 06.05.200(d) is amended to read:

30 (d) If the reserve fund [RESERVES] of a [COMMERCIAL] bank falls
31 [FALL] below the amount required by the department to be maintained under [BY]

1 this section, the department may prohibit the bank from making [MAY NOT
2 MAKE] any new loans or other investments or paying [PAY] any dividends until the
3 bank's reserve fund has [ITS RESERVES HAVE] been restored to the amount
4 required under this section.

5 * **Sec. 25.** AS 06.05.205(b) is repealed and reenacted to read:

6 (b) The total outstanding loans of a state bank to a person may not be more
7 than 25 percent of the total capital accounts of the bank, and the total outstanding
8 loans to a person that are not fully secured may not be more than 15 percent of the
9 total capital accounts of the bank. Unearned income may not be included in
10 determining the amount a bank may loan under this subsection. The following are not
11 considered when determining compliance with this subsection:

12 (1) the discount of bills of exchange drawn in good faith against actual
13 existing values;

14 (2) loans secured by gold, gold dust, or bullion;

15 (3) loans secured by the assignment of specifically identified deposit
16 accounts of the bank with a balance equal to or greater than the total balance of the
17 loan;

18 (4) loans secured by fully insured cannery products or other products
19 in transit; in this paragraph, "products in transit" means the following products, unless
20 the products contain substances added for a purpose other than processing or finishing:

21 (A) hard mineral products, including coal, tin, iron, copper, and
22 silver, in the form of ores or smelted ingots;

23 (B) raw or refined liquid material products, including gas, oil,
24 or petrochemicals;

25 (C) agricultural products, including potatoes, grains, carrots,
26 hay, berries, and meat products;

27 (D) timber products, including logs, chips, pulp, lumber, and
28 peat moss;

29 (E) manufactured products using native materials, including
30 animal hides, vegetation, bone products, horn products, and raw or processed
31 animal furs; and

- 1 (F) raw or processed fish or fish products;
2 (5) loans with warehouse receipts as collateral security; and
3 (6) discounted commercial or business paper actually owned by the
4 person negotiating the paper.

5 * Sec. 26. AS 06.05.205(c) is amended to read:

6 (c) The restrictions contained in [(a) AND] (b) of this section do not apply to
7 a loan guaranteed by, or to a commitment or agreement to take over or to purchase by,
8 a department, bureau, board, commission, or establishment of the United States or the
9 state, including a corporation wholly owned, directly or indirectly, by the United
10 States or the state, provided that the guarantee, agreement or commitment is
11 unconditional and to [SHALL] be performed by payment in cash or its equivalent
12 within 60 days after demand.

13 * Sec. 27. AS 06.05.205(d) is repealed and reenacted to read:

14 (d) Except with the written prior approval of the department for an acquisition
15 or merger with another financial institution, or except with the written prior approval
16 of the department in order to prevent loss upon an indebtedness previously contracted
17 in good faith, a bank may not

18 (1) accept as security for a loan the capital stock of

19 (A) the bank; or

20 (B) the bank's parent holding companies, unless the stock of the
21 holding companies is publicly traded on a nationally recognized exchange; or

22 (2) loan money that is to be used to purchase the capital stock of the
23 bank or a parent holding company of the bank.

24 * Sec. 28. AS 06.05.205 is amended by adding a new subsection to read:

25 (g) The department shall adopt regulations to determine when a loan made to
26 one person may be attributed to other persons under (b) of this section, taking into
27 consideration the purpose of the loan, the use of the loan proceeds, the anticipated
28 sources of repayment of the loan, the borrower's ownership percentage, and other
29 relevant factors.

30 * Sec. 29. AS 06.05.207 is repealed and reenacted to read:

31 Sec. 06.05.207. REAL ESTATE LOANS. (a) A bank may, subject to the

1 requirements of this chapter, make or acquire a loan secured primarily by a first lien
2 on an interest in improved or unimproved real property, including leases, if

3 (1) the making of the loan is consistent with written lending policies
4 of the bank and regulations adopted by the department;

5 (2) before the loan is made or acquired, the bank secures and maintains
6 in its files, evidence of merchantable title and a determination of the value of the
7 property by a person familiar with the real property values in the vicinity where the
8 real property is located; and

9 (3) insurance against loss from fire on all buildings on the real property
10 that are included in the value of the property is acquired by the borrower or the bank
11 and is not allowed to lapse.

12 (b) A bank may, subject to the requirements of this chapter, make or acquire
13 a loan secured by a junior lien on real property if

14 (1) payments on the loan secured by all senior liens are current and the
15 bank retains in its records a written report of the status and balance of the senior liens
16 as of the date the junior lien loan is made or acquired; and

17 (2) all requirements of (a) of this section are met.

18 * Sec. 30. AS 06.05.210(a) is amended to read:

19 (a) Subject to the same terms and conditions applicable to other loans, a
20 director, [AN] officer, or employee of a state bank may borrow up to \$100,000, or
21 up to \$250,000 for the director's, officer's, or employee's primary residence
22 [\$10,000] from the bank at the discretion of the chief executive or managing officer
23 of the bank. A loan to a director, officer, or employee that makes the total
24 amount owed to the bank by the director, officer, or employee [LOANS] in excess
25 of the limits in this subsection [\$10,000], or loans of any amount to the chief
26 executive or managing officer of the bank, shall have the prior approval of the board
27 of directors, shall be reported to the department within 30 days and shall be secured
28 by adequate collateral. [FOR THE PURPOSE OF THIS SECTION, AN OVERDRAFT
29 IS CONSIDERED A LOAN.]

30 * Sec. 31. AS 06.05.211(a) is amended to read:

31 (a) A bank may, subject to the requirements of this chapter, make or acquire

1 a loan secured by a first lien on a forest tract if
2 (1) the making of the loan is consistent with written lending policies
3 of the bank and regulations adopted by the department [AMOUNT OF THE
4 LOAN DOES NOT EXCEED 60 PERCENT OF THE APPRAISED VALUE OF THE
5 GROWING TIMBER, LAND AND IMPROVEMENTS ON IT OFFERED AS
6 SECURITY];
7 (2) before the loan is made or acquired, the bank secures and
8 maintains in its files evidence of a determination of the value of the property
9 [TERMS AND CONDITIONS OF THE LOAN ARE ADEQUATE TO ENSURE
10 THAT THE LOAN BALANCE WILL NOT AT ANY TIME EXCEED 60 PERCENT
11 OF THE ORIGINAL APPRAISED VALUE OF THE PROPERTY REMAINING AS
12 SECURITY]; and
13 (3) [THE TERM OF THE LOAN DOES NOT EXCEED 15 YEARS
14 AND THE ANNUAL PRINCIPAL PAYMENTS EQUAL AT LEAST SIX AND
15 TWO-THIRDS PER CENT OF THE AMOUNT LOANED; AND
16 (4)] the loan is secured by an amortized mortgage, deed of trust, or
17 assignment of a federal or state timber sale contract.

18 * Sec. 32. AS 06.05.212(a) is amended to read:
19 (a) A director, officer, or employee of a state bank may not [WHO]
20 knowingly, wilfully, and persistently overdraw [OVERDRAWS] the director's,
21 officer's, or employee's account or permit [WHO PERMITS] a customer to do so [,
22 IS ENGAGED IN AN UNSOUND BANKING PRACTICE AND SUBJECT TO THE
23 PROVISIONS OF AS 06.01.030].

24 * Sec. 33. AS 06.05.215 is repealed and reenacted to read:
25 Sec. 06.05.215. LIABILITY OF DIRECTORS AND OFFICERS FOR
26 CERTAIN LOANS. A director, executive officer, managing officer, or issuing officer
27 of a state bank who knowingly or with gross negligence approves or permits the funds
28 of the bank to be lent or overdrafts to be made in an unsafe or unsound manner, or in
29 violation of an order of the department, the bank's lending policies, this title, or a
30 regulation adopted under this title, is personally liable to the bank for all the loans and
31 overdrafts. The bank may enforce the liability against the director or officer by an

1 action in a court of competent jurisdiction.

2 * **Sec. 34.** AS 06.05.225 is amended to read:

3 **Sec. 06.05.225. APPLICATION OF OTHER LAWS TO LOANS INSURED**
4 **UNDER NATIONAL HOUSING ACT [AS 06.05.220]. The laws [NO LAW] of the**
5 **state prescribing or limiting interest rates upon loans do not apply [APPLIES] to loans**
6 **insured [MADE] under 12 U.S.C. 1706c (National Housing Act) [AS 06.05.220].**

7 * **Sec. 35.** AS 06.05.230 is amended to read:

8 **Sec. 06.05.230. INVESTMENT IN PROPERTY [REAL ESTATE] AND**
9 **BANKING PREMISES. A bank may acquire, purchase, hold, and convey [AND**
10 **HYPOTHECATE] real and personal property for the following purposes only:**

11 (1) **that which is [REAL PROPERTY] necessary for the convenient**
12 **transaction of, or the promotion of, its business, including buildings containing**
13 **banking offices, equipment, furniture and fixtures, art work, leasehold improvements,**
14 **[AND] parking lots, and, with the prior approval of the department, real property**
15 **reasonably anticipated to be necessary for future expansion of the bank, if the**
16 **book asset value of the purchase or investment does not exceed 60 percent of the**
17 **capital [ACCOUNT] and [THE] surplus [ACCOUNT] of the bank; [THE PURCHASE**
18 **OR INVESTMENT MAY CONSIST OF STOCK IN A BANK BUILDING**
19 **CORPORATION, IN WHICH CASE IT MUST INCLUDE ALL OBLIGATIONS OF**
20 **THE BUILDING CORPORATION TO THE BANK;]**

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

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

25 * **Sec. 36.** AS 06.05.231(a) is amended to read:

26 (a) A bank may invest not more than 10 percent of its paid-in and unimpaired
27 capital and surplus in a bank service corporation if

28 (1) the bank submits an application requesting permission to invest in
29 a bank service corporation to the department, accompanied by complete information
30 concerning feasibility, rates and competitive organizations, and the department consents
31 in writing to the investment before it is made; and

1 (2) the total investment under this section and AS 06.05.230(1) [AND
2 06.05.232] does not exceed the combined capital, surplus and undivided profits.

3 * Sec. 37. AS 06.05.235(a) is amended to read:

4 (a) Except as provided in [(b) OR (e) OF] this section or in AS 06.05.570, it
5 is unlawful for a person [COMPANY] to own, control or hold with power to vote 25
6 percent or more of a class of voting securities or other capital stock of one or more
7 state banks or domestic bank holding companies subject to regulation under this
8 chapter. However, when it becomes a bona fide necessity to avoid loss for a creditor
9 to accept shares of stock in one or more state banks or domestic bank holding
10 companies constituting more than 25 percent of the ownership or control of a state
11 bank or domestic bank holding company in payment of indebtedness owing to the
12 creditor, shares of stock may be accepted, but the shares of the one or more state
13 banks or domestic bank holding companies exceeding that 25 percent shall be promptly
14 disposed of under the supervision of the department.

15 * Sec. 38. AS 06.05.235(b) is amended to read:

16 (b) A domestic bank holding company that maintains its principal office and
17 place of business in the state and conducts its principal operations in the state, may
18 acquire and own all or a [ANY] portion of the voting securities or other capital stock
19 of, or all or substantially all of the assets of, one or more banks or bank holding
20 companies. The department may require a domestic bank holding company to post a
21 bond with the department in an amount not more than [EQUAL TO] the paid-in
22 capital and paid-in surplus represented by the proportion of state bank stock directly
23 or indirectly owned, held, or controlled by it, under conditions the department may
24 prescribe, to assure full protection of the public. Before a domestic bank holding
25 company may acquire a bank or bank holding company doing business in the
26 state, the domestic bank holding company shall apply for and obtain a permit
27 from the department. In considering whether to issue a permit, the department
28 shall consider the benefits to the public, the preservation of a competitive banking
29 industry, and the maintenance of a safe and sound bank industry. The domestic
30 bank holding company is subject to an examination by the department or a competent
31 person designated by the department when the department considers it necessary, but

1 not less than once each year. The domestic bank holding company shall pay an
2 examination fee under AS 06.01.010.

3 * Sec. 39. AS 06.05.235(g) is amended to read:

4 (g) For the purpose of this section and AS 06.05.570, a trust company
5 organized under AS 06.25 that is engaged in the business of banking shall be
6 considered a state bank.

7 * Sec. 40. AS 06.05.235 is amended by adding a new subsection to read:

8 (i) The provisions of this section do not apply to a person that

9 (1) acquires or holds voting securities or other capital stock of a bank
10 or bank holding company only for a reasonable period of time in connection with the
11 underwriting of securities;

12 (2) is a state agency;

13 (3) is a trustee or agent of an independent federal financial regulatory
14 agency; or

15 (4) under a plan of financial restructuring that is intended to prevent
16 the failure of a state bank and that is approved by the department,

17 (A) acquires or receives 25 percent or more of a class of voting
18 securities or other capital stock of the bank or bank holding company subject
19 to the plan, and owns, controls, or holds, with the power to vote, the securities
20 acquired or received in excess of 24.99 percent of that class for a period of
21 time that permits the distribution or resale of the securities or other capital
22 stock on a reasonable basis; or

23 (B) purchases or receives securities under the plan and, after the
24 purchase or receipt, owns, controls, or holds, with a power to vote, less than
25 25 percent of a class of voting securities or other capital stock of the bank or
26 bank holding company subject to the plan but subsequently, solely through the
27 action or inaction of others, including the bank or bank holding company,
28 owns, controls, or holds, with a power to vote, 25 percent or more of a class
29 of voting securities or other capital stock of the bank or bank holding company;
30 the exemption in this subparagraph does not apply if the department
31 determines, after notice and opportunity for hearing under AS 06.01.030, that

1 the ownership, control, or holding of the securities or stock exceeding 24.99
2 percent of a class, other than under a plan to promptly dispose of the securities
3 or stock under the supervision of the department, permits the organization in
4 any manner to control the election of a majority of the board of directors or
5 trustees, or to directly or indirectly exercise a controlling influence over the
6 management or policies of the bank or bank holding company.

7 * Sec. 41. AS 06.05.240 is amended to read:

8 Sec. 06.05.240. ACQUISITION OF PROPERTY TO SATISFY OR PROTECT
9 PREVIOUS LOAN. A state bank may take property of any kind [, INCLUDING
10 SHARES OF ITS OWN CAPITAL STOCK,] to satisfy or protect a loan previously
11 made in good faith and in the ordinary course of business. A bank may not take the
12 capital stock of the bank or of the bank's parent holding companies unless it
13 complies with AS 06.05.205(d). The property shall be entered on the books at cost,
14 or fair market value, whichever is less. Property acquired to satisfy or protect previous
15 loans shall be disposed of over periods of time as the department may prescribe
16 [PRESCRIBES] by regulation.

17 * Sec. 42. AS 06.05.245 is amended to read:

18 Sec. 06.05.245. DISPOSITION OF PROPERTY NOT NEEDED IN THE
19 CONDUCT OF A BANKING BUSINESS. All real [ESTATE] and personal property
20 not necessary for the convenient transaction or promotion of a [CONSERVATIVE]
21 banking business under AS 06.05.230 that comes into the possession of a state bank
22 shall be disposed of as soon as possible [UNDER THE REGULATIONS OF THE
23 DEPARTMENT]. If the real [ESTATE] or personal property is not sold within the
24 time limit prescribed by the department in regulations, it shall be written off and may
25 not be carried as an asset of the bank.

26 * Sec. 43. AS 06.05.255(a) is amended to read:

27 (a) The aggregate amount of outstanding liabilities of a state bank for money
28 borrowed exclusive of (1) capital notes and debentures issued under AS 06.05.307, (2)
29 obligations incurred in connection with the purchase of bank premises under
30 AS 06.05.230(1), and (3) agreements to repurchase securities, earlier sold by the
31 bank, at the end of a stated period [BORROWING FOR EMERGENCY

1 PURPOSES AS PERMITTED BY THE DEPARTMENT], may not at any time exceed
2 15 percent of the bank's total assets, [THE TOTAL AMOUNT OF ITS
3 UNIMPAIRED CAPITAL AND ONE-HALF OF ITS UNIMPAIRED SURPLUS] or
4 a larger amount if approved by the department.

5 * Sec. 44. AS 06.05.260(a) is amended to read:

6 (a) A bank may not give preference to a depositor or creditor by pledging any
7 of the assets of a bank as collateral security except

8 (1) to the state to secure state funds, or to a municipal corporation or
9 other public corporation, municipal utility or municipal utility board, or political
10 subdivision of the state to secure its funds, and to the United States as may be required
11 to make the bank a depository for United States funds:

12 (2) to secure a mortgage or deed of trust in connection with the
13 purchase of banking premises as provided in AS 06.05.230, if the only property
14 pledged is property purchased in the transaction; or

15 (3) to a federal reserve bank or federal home loan bank in the
16 manner required by the applicable laws, regulations, and rules of the federal
17 reserve bank or federal home loan bank, as applicable.

18 * Sec. 45. AS 06.05 is amended by adding a new section to read:

19 Sec. 06.05.262. UNAUTHORIZED ASSUMPTION OF LIABILITY. Except
20 as expressly permitted in this chapter, a state bank may not assume liability as an
21 insurer or as a guarantor or endorser of a security instrument or obligation unless the
22 bank has a property interest in or with respect to the instrument or obligation. This
23 section does not apply to warranty deeds issued by a bank.

24 * Sec. 46. AS 06.05.270(a) is amended to read:

25 (a) In addition to loans and acquisitions expressly authorized by this chapter,
26 a state bank may deal in, underwrite, and invest in for its own account the obligations
27 that the department by regulation authorizes the bank to deal in, underwrite, or
28 invest in for its own account

29 [(1) DIRECT OR GUARANTEED OBLIGATIONS OF THE UNITED
30 STATES, EITHER DIRECTLY OR IN THE FORM OF SECURITIES OF, OR
31 OTHER INTERESTS IN, AN OPEN-END MANAGEMENT TYPE INVESTMENT

1 COMPANY OR INVESTMENT TRUST REGISTERED UNDER 15 U.S.C. 80a-1 -
2 80a-64 (INVESTMENT COMPANY ACT OF 1940), IF

3 (A) THE PORTFOLIO OF THE INVESTMENT COMPANY
4 OR INVESTMENT TRUST IS LIMITED TO OBLIGATIONS OF THE
5 UNITED STATES GOVERNMENT AND REPURCHASE AGREEMENTS
6 FULLY COLLATERALIZED BY THE OBLIGATIONS; AND

7 (B) THE INVESTMENT COMPANY OR INVESTMENT
8 TRUST TAKES DELIVERY OF THE COLLATERAL DIRECTLY OR
9 THROUGH AN AUTHORIZED CUSTODIAN;

10 (2) GENERAL OBLIGATIONS OF THE STATE OF ALASKA AND
11 ITS POLITICAL SUBDIVISIONS;

12 (3) GENERAL OBLIGATIONS OF A STATE OF THE UNITED
13 STATES OR ITS POLITICAL SUBDIVISIONS;

14 (4) REVENUE OBLIGATIONS OF THE STATE OF ALASKA OR
15 ITS POLITICAL SUBDIVISIONS SUBJECT TO THE LIMITATION OF (b) OF
16 THIS SECTION;

17 (5) REVENUE OBLIGATIONS OF A STATE OF THE UNITED
18 STATES OR ITS POLITICAL SUBDIVISIONS SUBJECT TO THE LIMITATION
19 OF (b) OF THIS SECTION;

20 (6) OBLIGATIONS OF INSTRUMENTALITIES OF THE UNITED
21 STATES GOVERNMENT INCLUDING, BUT NOT LIMITED TO FEDERAL
22 INTERMEDIATE CREDIT BANKS, FEDERAL LAND BANKS, THE FEDERAL
23 NATIONAL MORTGAGE ASSOCIATION, AND BANKS FOR COOPERATIVES;

24 (7) COMMERCIAL PAPER OF PRIME OR EQUIVALENT
25 QUALITY AS RATED BY A RECOGNIZED NATIONAL RATING SERVICE
26 SUBJECT TO THE LIMITATION OF (b) OF THIS SECTION;

27 (8) SECURED CORPORATE OBLIGATIONS RATED WITHIN THE
28 THREE HIGHEST GRADES OF A NATIONAL RATING SERVICE SUBJECT TO
29 THE LIMITATION OF (b) OF THIS SECTION;

30 (9) OBLIGATIONS OF THE INTERNATIONAL BANK FOR
31 RECONSTRUCTION AND DEVELOPMENT, THE INTER-AMERICAN

1 DEVELOPMENT BANK, OR THE AFRICAN DEVELOPMENT BANK, SUBJECT
2 TO THE LIMITATION OF (b) OF THIS SECTION;

3 (10) STOCK IN THE FEDERAL NATIONAL MORTGAGE
4 ASSOCIATION, A FEDERAL RESERVE BANK, OR A FEDERAL HOME LOAN
5 BANK;

6 (11) THE STOCKS, BONDS, AND OTHER SECURITIES OF
7 (A) A CORPORATION LICENSED UNDER AS 10.13; OR
8 (B) A CORPORATION ATTEMPTING TO BECOME
9 LICENSED UNDER AS 10.13 IF THE CORPORATION INTENDS TO USE
10 THE PROCEEDS TO FULFILL THE TASKS NECESSARY TO BECOME
11 LICENSED UNDER AS 10.13].

12 * Sec. 47. AS 06.05 is amended by adding a new section to read:

13 Sec. 06.05.272. BANK SUBSIDIARIES. (a) A state bank may purchase or
14 establish, and operate, one or more subsidiaries engaged in any of the following
15 activities, if the subsidiary has the necessary licenses and permits and the operation is
16 not detrimental to the bank's business:

- 17 (1) real property ownership, development, and leasing;
18 (2) securities brokerage;
19 (3) other activities authorized in regulations adopted under this section;

20 or

21 (4) other activities approved by the department.

22 (b) Under this section, a bank may invest in subsidiaries an amount equal to
23 the lesser of 20 percent of its total assets or 50 percent of its total capital accounts.
24 Loans to subsidiaries are considered investments subject to the limitations of this
25 subsection.

26 (c) A subsidiary of a state bank is subject to examination by the department
27 as part of the examination of the bank under AS 06.01.015.

28 * Sec. 48. AS 06.05.275(b) is amended to read:

29 (b) A bank may discount, invest in, negotiate, and issue trade acceptances and
30 bank acceptances if

31 (1) the terms of the draft require presentation for payment within 180

1 days of issuance, exclusive of days of grace, and it is drawn to finance the purchase
2 of goods with maturity and payment in accordance with the terms of the purchase
3 agreement;

4 (2) the terms of the draft require presentation for payment within 180
5 days of issuance, exclusive of days of grace, and it is secured by shipping documents
6 transferring or securing title to goods, or by receipt of a licensed or bonded warehouse
7 securing title to readily marketable goods; or

8 (3) the draft is drawn by a bank outside the continental limits of the
9 United States for the purpose of furnishing dollar exchange for trade and its terms
10 require presentation for payment within 90 days of issuance.

11 * Sec. 49. AS 06.05 is amended by adding a new section to read:

12 Sec. 06.05.301. APPLICABILITY OF CORPORATIONS CODE. (a) Except
13 for national banks with a principal place of business in the state, and interstate and
14 international banks with a certificate of authority under AS 06.05.555, a corporation
15 may not engage in the banking business unless the corporation is organized under
16 AS 10.06 (Alaska Corporations Code) and this title.

17 (b) The provisions of AS 10.06 (Alaska Corporations Code) apply to state
18 banks, except those provisions inconsistent with this chapter. The provisions
19 inconsistent with this chapter include AS 10.06.010(4) - (8), 10.06.105(a), 10.06.325,
20 10.06.356, 10.06.358 - 10.06.360, 10.06.370, 10.06.385 - 10.06.388, 10.06.420(i),
21 10.06.430, 10.06.453, 10.06.460(b), 10.06.485, 10.06.522 - 10.06.868, 10.06.915,
22 10.06.960, and 10.06.990(30) and (36).

23 * Sec. 50. AS 06.05.305 is amended to read:

24 Sec. 06.05.305. CAPITAL STRUCTURE. (a) A corporation may not
25 commence and operate a banking business in the state in a community with a
26 population of 35,000 or more unless the corporation has paid-in capital in an amount
27 acceptable to the department, but not less than \$2,000,000, [OF AT LEAST
28 \$250,000] and paid-in surplus equal to 20 percent of paid-in capital. A corporation
29 may not commence and operate as a bank in the state in a community with a
30 population less than 35,000 unless the corporation has paid-in capital in an
31 amount acceptable to the department, but not less than \$1,000,000, and paid-in

1 surplus equal to 20 percent of paid-in capital. A bank may not operate any
2 branches unless it has an aggregate paid-in capital and paid-in surplus in amounts
3 acceptable to the department [OF AT LEAST \$800,000].

4 (b) The capital [STOCK] of a state bank may not be reduced to an amount less
5 than is required by the department [IN THIS CHAPTER] for capital under (a) of
6 this section. A reduction of capital [STOCK, CANCELLATION OF STOCK
7 CERTIFICATES,] or [REDUCING OF] the liability of the shareholders
8 [STOCKHOLDERS] is not valid until it is approved by the department.

9 (c) If a state bank fails to maintain its total [ADJUSTED] capital accounts and
10 loan loss reserves in an amount equal to the [SUBSTANDARD] assets classified as
11 substandard [AS REPORTED] by the Federal Deposit Insurance Corporation or by
12 the state in the [A] bank's latest report of examination, the department shall consider
13 the failure as endangering the safety of depositors [THE DEPOSITOR] and may direct
14 the bank's directors to increase the capital accounts in an amount sufficient to cover
15 substandard assets.

16 * Sec. 51. AS 06.05.310 is repealed and reenacted to read:

17 Sec. 06.05.310. CORRECTION OF IMPAIRMENT OF CAPITAL. If the
18 department determines that the order is necessary for the protection of depositors, the
19 department may issue an order under AS 06.01.030 to require a state bank to increase
20 its capital accounts or to reduce its deposits. In making a decision whether to issue
21 an order under this section, the department shall consider the

- 22 (1) quality of management;
23 (2) quality and liquidity of assets;
24 (3) history of earnings and retention of earnings;
25 (4) quality and character of ownership;
26 (5) potential volatility of deposit structure;
27 (6) quality and cost of bank operations; and
28 (7) capacity to meet present and future needs of the area served,
29 considering the bank's competition.

30 * Sec. 52. AS 06.05.320 is amended to read:

31 Sec. 06.05.320. BANK PURCHASES OF OWN SHARES [PROHIBITED].

1 Except in accordance with written approval of the department, a [A] bank may not
2 purchase its own capital stock.

3 * Sec. 53. AS 06.05.327 is amended to read:

4 Sec. 06.05.327. CHANGE IN OUTSTANDING VOTING SHARES [STOCK].
5 Before [IF] a change may occur [OCCURS OR IS ABOUT TO OCCUR] in the
6 outstanding voting shares [STOCK] of a state bank that will result in a change in the
7 control of the bank, or before [IF] any sales or transfers by or to a person, corporation
8 or other legal entity of the aggregate of 10 percent or more of the voting shares
9 [STOCK] of a state bank may be made, the transaction must be approved by [ARE
10 ABOUT TO BE CONSUMMATED, THE PRESIDENT OR OTHER CHIEF
11 EXECUTIVE OFFICER OF THE BANK IMMEDIATELY UPON OBTAINING
12 KNOWLEDGE OF THE CHANGE IN THE CONTROL OF THE BANK OR THE
13 CONTEMPLATED OR CONSUMMATED SALE OR TRANSFER OF STOCK,
14 SHALL REPORT THESE FACTS TO] the department.

15 * Sec. 54. AS 06.05.342(a) is amended to read:

16 (a) Subscription agreements and accompanying prospectuses or offering
17 circulars, whether for a proposed state bank or for an increase in capital of an existing
18 state bank, shall be submitted to the department for approval before their use. The
19 department shall determine whether the subscription agreements or offering circulars
20 provide full and accurate disclosure of the material terms of the offering. The
21 department may order the incorporators not to accept any stock subscriptions or to
22 cease accepting subscriptions if the department [IT] determines that the incorporators
23 are not acting lawfully or in good faith.

24 * Sec. 55. AS 06.05 is amended by adding a new section to read:

25 Sec. 06.05.344. APPLICATION FOR APPROVAL OF STATE BANK. (a)
26 Before the department issues a certificate of incorporation under AS 10.06.910 for a
27 state bank, the incorporators of a proposed state bank shall obtain the approval of the
28 department. In applying for the approval, the incorporators shall file with the
29 department

30 (1) an application in the form and containing the information the
31 department requires, including

1 (A) for each incorporator and proposed director, and for each
2 preincorporation subscriber of more than five percent of the capital stock, any
3 past and present connection with a bank other than as a customer on terms
4 generally available to the public;

5 (B) the name, residence, and occupation of each
6 preincorporation subscriber and the number of shares subscribed for by the
7 subscriber;

8 (C) the address of the proposed place of business of the bank
9 or, if an address is not available, a legal description of the proposed place of
10 business; and

11 (2) the proposed articles of incorporation; and

12 (3) all applicable fees, payable to the department, for the filing.

13 (b) Investigation expenses incurred by the department in processing an
14 application for approval of a proposed bank shall be charged to and paid by the
15 applicant under AS 06.01.010. When submitting the application to the department, the
16 applicant shall pay to the department \$2,000 in partial payment of the investigation
17 expenses incurred by the department. If the investigation expenses incurred by the
18 department are less than \$2,000, the department shall promptly refund the excess to
19 the applicant.

20 (c) The department shall notify the incorporators of its decision whether to
21 accept an application for a proposed state bank. If the application and accompanying
22 documents required by (a) of this section do not conform to the requirements of this
23 chapter and the regulations adopted under this chapter, the department shall return the
24 documents with an explanation of the defects. If the department does not act within
25 30 days of receipt of the application, the application is considered to be accepted.
26 Acceptance of the application does not constitute approval.

27 (d) The incorporators shall publish notice of the department's acceptance of
28 the application for a proposed state bank and acceptance of the articles of incorporation
29 once each week for two successive weeks in a newspaper of general circulation
30 published in the community proposed as the bank's principal place of business. If
31 there is no newspaper of general circulation in the community, the notice shall be

1 published in a newspaper of general circulation near the community. The first
2 publication of the notice must appear within 15 days after the application and articles
3 of incorporation have been accepted by the department. The notice must state

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

5 (2) that the proposed bank is to be incorporated under this chapter and
6 AS 10.06;

7 (3) the purpose of the proposed bank; and

8 (4) the names and addresses of the incorporators and the initial board
9 of directors as the names and addresses appear in the articles of incorporation.

10 (e) To prove that the publication required by (d) of this section was made, the
11 incorporators shall file with the department an affidavit of the publisher of the
12 newspaper in which the notice was published.

13 (f) Upon acceptance of an application for approval of a proposed state bank,
14 the department shall conduct an investigation to determine whether

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

16 (2) the population density and economic characteristics of the area
17 primarily to be served by the bank afford reasonable promise of adequate support for
18 the bank;

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

22 (4) the proposed capital structure of the bank meets the requirements
23 set by the department under AS 06.05.305;

24 (5) the bank will have personnel with adequate knowledge and
25 experience to conduct its business and officers of good character and financial
26 responsibility;

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

29 (7) other relevant facts and circumstances exist that bear on the bank
30 and its relation to the community.

31 (g) The department shall approve or deny an application within six months

1 after the application for approval has been accepted. The time may be extended by
2 up to six additional months when the department determines that an extension is
3 warranted by exceptional circumstances. Within 60 days after the second publication
4 of the notice required by (d) of this section, a person opposing approval of the
5 application may file written objections with the department. When it approves or
6 denies the application, the department shall notify the incorporators and a person who
7 requested in writing to be notified, and, if the application is denied, the department
8 shall state the reasons for its decision and return all copies of the articles of
9 incorporation.

10 (h) If the department approves the application, the department shall endorse
11 the approval on the articles of incorporation, file the articles of incorporation, and issue
12 a certificate of incorporation under AS 10.06.910.

13 * Sec. 56. AS 06.05.345(a) is amended to read:

14 (a) In addition to those items required under AS 10.06.208, the [THE
15 INCORPORATORS SHALL EXECUTE] articles of incorporation of a state bank [,
16 WHICH] must specify

17 (1) [THE NAME ASSUMED BY THE BANK;

18 (2)] the judicial district in which the bank is to be located and the
19 community where the bank is to conduct its principal place of business;

20 (2) [(3) THE NATURE OF ITS BUSINESS;

21 (4)] the amount of its capital stock, which shall be divided into shares
22 having a par value of not less than \$1 each;

23 (3) that there will [(5) THE NUMBER OF DIRECTORS OF WHOM
24 THERE MUST] be at least five but no more than 25 directors; and

25 (4) [(6)] the period for which the bank is organized, if limited.

26 * Sec. 57. AS 06.05.345(1) is repealed and reenacted to read:

27 (l) A bank may amend its articles of incorporation in a manner consistent with
28 its articles and bylaws, AS 10.06, and this chapter by a vote of its shareholders
29 representing at least a majority of the capital at a regular meeting or at a special
30 meeting called for the purpose.

31 * Sec. 58. AS 06.05.350(a) is repealed and reenacted to read:

1 (a) At any time after receiving a certificate of incorporation, a bank may apply
2 to the department for a certificate of authority to engage in the banking business.
3 Before receiving a certificate of authority, a bank may not perform an act other than
4 to perfect its organization, obtain and equip a place of business, obtain subscriptions
5 and payment for its shares, and otherwise prepare to do business. If a bank violates
6 this subsection by transacting business before it receives a certificate of authority, the
7 directors and officers who wilfully authorized or participated in the action are
8 personally, jointly, and severally liable for the debts and liabilities of the bank incurred
9 before the certificate of authority is issued.

10 * Sec. 59. AS 06.05.350(b) is amended to read:

11 (b) The department shall issue a certificate of authority to engage in the
12 banking business to a proposed state bank if, upon review of the information required
13 by this chapter, including the following, it approves the application:

14 (1) certification by an officer [TO THE DEPARTMENT] by affidavit
15 that the capital and surplus [AND UNDIVIDED PROFITS] required by the department
16 have been fully paid in cash;

17 (2) a list of all shareholders [STOCKHOLDERS], giving the name,
18 address, and number of shares held by each [HAS BEEN FILED WITH THE
19 DEPARTMENT];

20 (3) bylaws of the corporation [HAVE BEEN ADOPTED AND FILED
21 WITH THE DEPARTMENT];

22 (4) evidence satisfactory to the department that the bank has
23 [RECEIVED APPROVAL OF ITS APPLICATION FOR INSURANCE FROM THE
24 FEDERAL DEPOSIT INSURANCE CORPORATION;

25 (5) THE BANK HAS] complied with all the requirements of this
26 chapter and any conditions imposed by the department and has advised the department
27 in writing of any changes that have occurred in the facts reflected in the material it
28 filed under AS 06.05.344 [AS 06.05.345].

29 * Sec. 60. AS 06.05.350 is amended by adding a new subsection to read:

30 (d) Except as authorized under this section, a person may not

31 (1) engage in the business of receiving deposits, discounting evidences

1 of indebtedness, or receiving money for transmission;
2 (2) represent that the person is, or acts for, a bank; or
3 (3) use an artificial or corporate name that purports to be or suggests
4 that it is the name of a bank.

5 * Sec. 61. AS 06.05.355(a) is repealed and reenacted to read:

6 (a) The department may require a state bank, either at the time the bank
7 applies for a certificate of authority or during the bank's existence, to become a
8 member of the Federal Deposit Insurance Corporation.

9 * Sec. 62. AS 06.05.355(c) is amended to read:

10 (c) Relinquishment of membership without giving notice and obtaining the
11 department's consent, involuntary loss of membership, or failure to become a member
12 after the department directs the bank to become a member constitutes cause for
13 the department to take possession of the bank in the manner provided by this chapter.

14 * Sec. 63. AS 06.05.385 is amended to read:

15 Sec. 06.05.385. ORGANIZATIONAL MEETING [FIRST MEETING OF
16 STOCKHOLDERS AND DIRECTORS]. (a) A state bank may not call an
17 organizational meeting under AS 10.06.223 until all [AFTER THE] capital and
18 surplus have been fully paid [, THE INCORPORATORS SHALL CALL A MEETING
19 OF THE STOCKHOLDERS ON 10 DAYS' NOTICE TO ELECT DIRECTORS AND
20 ADOPT BYLAWS, AND DIRECT THE CALL, ON FIVE DAYS' NOTICE, OF THE
21 FIRST MEETING OF DIRECTORS FOR THE ELECTION OF OFFICERS].

22 (b) Bylaws shall be adopted and may be amended by a vote of the holders of
23 a majority of the outstanding voting shares voted at a meeting of the shareholders
24 [STOCKHOLDERS]. If not provided in the articles of incorporation, the bylaws
25 must indicate the organizational structure of the bank and specifically designate
26 the offices that will be held by the executive or managing officers of the bank.
27 The bank shall file with the department copies of the original bylaws of the bank
28 and any amendments adopted for the bylaws [THE BYLAWS MAY PROVIDE
29 FOR THEIR AMENDMENT BY THE BOARD OF DIRECTORS OF ANY
30 PROVISIONS OTHER THAN THOSE RELATING TO THE DUTIES, TERM OF
31 OFFICE, REMUNERATION, REIMBURSEMENT OR INDEMNIFICATION OF A

1 DIRECTOR].

2 * Sec. 64. AS 06.05.399 is amended to read:

3 Sec. 06.05.399. APPLICATION FOR CERTIFICATE OF AUTHORITY FOR
4 BRANCH BANK OR CHANGE OF LOCATION. (a) Before operating a branch
5 bank at [AS] a permanent location or a mobile facility branch bank, or changing the
6 location of the principal office or [OF] a branch of the bank at a permanent location,
7 a state bank must apply to the department [COMMISSIONER] for a certificate of
8 authority to do so. The application must be in the form and contain the information
9 the department [COMMISSIONER] requires to enable the department
10 [COMMISSIONER] to determine whether a certificate of authority should be issued,
11 including [BUT NOT LIMITED TO] the address at which the state bank or branch at
12 a permanent location will operate. Investigation expenses incurred by the department
13 in processing applications shall be charged to and paid by the applicant as provided
14 in AS 06.01.010. At the time of submitting the application to the department
15 [COMMISSIONER], the applicant shall pay to the department \$1,000 [\$500] in partial
16 payment of those investigation expenses incurred by the department. If the
17 investigation expenses incurred by the department do not exceed \$1,000 [\$500], the
18 remainder shall be promptly refunded to the applicant. In this subsection, "mobile
19 facility branch bank" means a branch bank that moves from one location to
20 another to provide banking services and that is located in or serves remote areas
21 of the state not being adequately served by permanently located banks or bank
22 branches.

23 (b) The department shall notify the state bank of its action on the application
24 for a branch bank or for a change of location. If the application and the accompanying
25 documents do not conform to the requirements of (a) of this section, the department
26 shall return them with an explanation of the defects in them. If the department does
27 not respond within 30 days of its receipt of the application, the application [IT] shall
28 be considered to have been accepted.

29 (c) The state bank shall publish notice of [THE ACCEPTANCE BY THE
30 DEPARTMENT OF] the application for a branch bank or for a [APPROVAL TO]
31 change in location in the manner provided in AS 06.05.344(d) - (e) [AS 06.05.345(f)]

1 AND (g)]. The notice shall state the proposed location for the facility.
2 (d) Upon acceptance of an application for a certificate of authority to operate
3 a branch bank or for approval to change location, the department shall conduct an
4 investigation to ascertain whether
5 (1) the addition of the proposed facility in the community is consistent
6 with [NOT DETRIMENTAL TO] a sound and competitive banking system;
7 (2) the population density and other economic characteristics of the area
8 primarily to be served afford reasonable promise of adequate support for the proposed
9 facility [A BRANCH AT A PERMANENT LOCATION OR MOBILE FACILITY
10 BRANCH BANK OR A RELOCATED PRINCIPAL OFFICE OR BRANCH AT A
11 PERMANENT LOCATION];
12 (3) the capital structure of the state bank is adequate in relation to the
13 anticipated business and costs of operating at the proposed location;
14 (4) the name is not deceptively similar to that of another branch or
15 bank and is not otherwise misleading.
16 (e) No later than 150 days after the application for a certificate of authority
17 to operate a branch bank or to change location has been accepted, the department shall
18 make a determination whether to approve the application. Within 30 days after the
19 second publication of the notice referred to in (c) of this section, a [ANY] person
20 opposing the pending application may file written objections with the department.
21 When it approves or denies the application, the department shall notify the bank and
22 any other person who requested in writing to [THAT THE PERSON] be notified; and
23 if the application is denied, the department shall state the reasons for its decision.
24 (f) The department shall issue a certificate of authority to operate a branch
25 bank or to change location if
26 (1) all conditions imposed by the department in granting the certificate
27 have been fulfilled; and
28 (2) the requirements of this chapter are satisfied [;
29 (3) APPROVAL OF THE APPLICATION FOR INSURANCE HAS
30 BEEN RECEIVED FROM THE FEDERAL DEPOSIT INSURANCE
31 CORPORATION].

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

3 * Sec. 65. AS 06.05 is amended by adding a new section to article 4 to read:

4 Sec. 06.05.426. AUTOMATED TELLER MACHINES. (a) A state bank may
5 establish, maintain, and operate an automated teller machine on the premises of the
6 main office or a branch office of the bank.

7 (b) A state bank may establish, maintain, and operate an automated teller
8 machine at a location other than bank premises with the prior approval of the
9 department. An automated teller machine operated off bank premises shall be made
10 available on a nondiscriminatory basis for use by other banks authorized to do business
11 in the state and their customers, upon the agreement of the other banks to pay a fair
12 and equitable amount for the use of the machine.

13 (c) For each automated teller machine that a state bank proposes to establish
14 or operate under (b) of this section, the state bank shall submit an application to the
15 department for the machine. The application must contain the following:

16 (1) the location and general description of the surrounding area,
17 including a description of any business establishment in which the machine will be
18 located;

19 (2) the name of the manufacturer and owner of the machine;

20 (3) the manner of operation, including whether the machine is on-line
21 and the kinds of transactions the machine will perform;

22 (4) the names of the other banks that will share the machine's services;

23 and

24 (5) other information required by the department.

25 (d) A state bank may invest in a corporation organized to operate machines
26 that perform automated teller services for two or more banks, if each bank owns part
27 of the capital stock of the corporation.

28 * Sec. 66. AS 06.05.435(a) is amended to read:

29 (a) The affairs of every bank incorporated under this chapter shall be managed
30 by not less than five directors, nor more than 25 **[, WHO SHALL BE ELECTED BY**
31 **THE STOCKHOLDERS AND HOLD OFFICE FOR ONE YEAR AND UNTIL**

1 THEIR SUCCESSORS ARE ELECTED AND HAVE QUALIFIED]. A majority of
2 the board of directors shall be bona fide residents of the state and a majority
3 constitutes a quorum for the transaction of business.

4 * Sec. 67. AS 06.05.435(c) is amended to read:

5 (c) Unless otherwise approved by the department, each [EACH] director
6 of a bank shall own, in the director's own right or jointly with the director's spouse,
7 free of any encumbrance, capital stock of the bank in an amount equal to at least
8 \$1,000 in par value.

9 * Sec. 68. AS 06.05.435 is amended by adding new subsections to read:

10 (f) A bank shall report within 30 days to the department a change in directors,
11 including a statement of the business and professional affiliations of new directors.

12 (g) The department may issue an order under AS 06.01.030 removing a person
13 from the board of directors or prohibiting a person from being on the board, if the
14 department determines that

15 (1) due to the competence, experience, character, or integrity of the
16 person, it is not in the best interests of the depositors or the public for the person to
17 be or remain on the board;

18 (2) the person is dishonest or reckless in managing the affairs of the
19 bank;

20 (3) the person has persistently violated this title, the regulations adopted
21 under this title, or the orders of the department under this title or under the regulations
22 adopted under this title;

23 (4) the person has been indicted for a felony or other crime involving
24 moral turpitude or breach of trust; or

25 (5) the person has filed a petition in bankruptcy either in an individual
26 capacity or in the name of a corporation in which the person owns a majority of the
27 shares.

28 * Sec. 69. AS 06.05.437 is amended to read:

29 Sec. 06.05.437. OFFICERS. (a) The officers of a bank shall be chosen
30 [ELECTED] by the board of directors. An officer may not be appointed to serve
31 [ELECTED] for a period longer than one year. If a [AN OFFICER MAY BE

1 REMOVED BY THE BOARD OF DIRECTORS AT ANY TIME BUT REMOVAL
2 DOES NOT PREJUDICE ANY RIGHTS THAT THE OFFICER MAY HAVE TO
3 DAMAGES FOR BREACH OF CONTRACT OF EMPLOYMENT. THE] president
4 of a bank or other chief officer responsible for the management of the bank is not a
5 director, the officer must be an ex officio [A] member of the board of directors
6 without the power to vote.

7 (b) A bank shall report within 30 days to the department any changes among
8 executive officers [AND DIRECTORS], including in its report a statement of the
9 business and professional affiliations of new executive officers [AND DIRECTORS].

10 * Sec. 70. AS 06.05.437 is amended by adding a new subsection to read:

11 (c) If the department determines that an officer or employee of the bank has
12 been negligent, dishonest, reckless, or incompetent in the performance of official
13 duties, the department may order the board to remove the officer or employee from
14 office, after giving the board and the officer or employee an opportunity for a hearing
15 under AS 06.01.030. If the board neglects or refuses to remove the officer or
16 employee from office and if losses due to the negligence, dishonesty, recklessness, or
17 incompetence of the officer or employee accrue to the bank after the neglect or refusal,
18 the order of the department is conclusive evidence of the negligence of the board under
19 this subsection in an action brought against the board, or a member of the board, for
20 recovery of the losses.

21 * Sec. 71. AS 06.05.438(a) is amended to read:

22 (a) The board of directors of each bank shall hold a meeting at least once each
23 month for at least 10 months in each calendar year [TO GENERALLY
24 INVESTIGATE THE AFFAIRS OF THE BANK].

25 * Sec. 72. AS 06.05.438 is amended by adding new subsections to read:

26 (e) Unless prohibited by the articles or bylaws of the state bank, the board of
27 directors or a committee of the board may validly conduct a meeting by
28 communicating simultaneously with each other by means of conference telephones or
29 similar communications equipment.

30 (f) The department may require a meeting of the board of directors of a state
31 bank to be held in the manner and at the time and place the department directs when,

1 in the judgment of the department, a violation of this title has occurred or is about to
2 occur. A report of an examination required or allowed by this title, the conclusions
3 drawn from the examination by the department, recommendations made by the
4 department, and other matters concerning the operation and condition of the bank may
5 be presented to the board of directors by the department. If the department presents
6 a report of examination or other information is presented to the board, each member
7 of the board of directors shall furnish to the department a statement, on forms to be
8 supplied by the department, that the member has read and is familiar with the
9 recommendations of the department.

10 * Sec. 73. AS 06.05.440 is amended to read:

11 Sec. 06.05.440. AUTHORITY TO DECLARE DIVIDENDS. The directors of
12 a bank transacting business in the state may declare a dividend out of the net profits,
13 subject to any restrictions under AS 06.05.307(c) and after complying with
14 AS 06.05.441 - 06.05.445.

15 * Sec. 74. AS 06.05.441 is amended to read:

16 Sec. 06.05.441. CONDITIONS PRECEDENT TO DIVIDEND
17 DECLARATION AND PAYMENT. (a) Before a bank dividend is declared [,] or the
18 net profits for the period covered by the dividend disposed of, and after the
19 restoration of any undivided profits or surplus under AS 06.05.442, not less than
20 one-fifth of these net profits shall be carried to the bank surplus account until the
21 surplus account equals [AMOUNTS TO] 100 percent of the paid-in capital of the
22 bank.

23 (b) The department may require a bank to suspend the payment of any
24 dividends until all orders or requirements of this section and AS 06.05.442 [MADE
25 BY THE DEPARTMENT] have been complied with.

26 * Sec. 75. AS 06.05.442 is amended to read:

27 Sec. 06.05.442. RESTORATION OF SURPLUS BEFORE PAYMENT OF
28 DIVIDENDS. A loss sustained by a bank in excess of its undivided profits and any
29 capital contingency reserves [RESERVE] shall be charged to its surplus account or,
30 with the approval of the department, carried as negative undivided profits. The
31 bank's undivided profits and [. ITS] surplus account shall thereafter be reimbursed

1 from earnings, and no dividends may be declared or paid by the bank [IN EXCESS
2 OF ONE-HALF OF ITS NET EARNINGS] until any negative undivided profits are
3 eliminated and the surplus account is restored to at least the amount from which the
4 surplus was originally reduced [OR AN AMOUNT EQUAL TO 100 PERCENT OF
5 PAID-IN CAPITAL].

6 * Sec. 76. AS 06.05.445 is repealed and reenacted to read:

7 Sec. 06.05.445. DETERMINING NET PROFITS. (a) A bank may not declare
8 or pay a dividend in an amount greater than its net undivided profits then on hand.

9 (b) In determining net profits for the purpose of declaring a dividend, a bank
10 may not include in its calculations

11 (1) loan loss reserves and losses in excess of reserves, including loans
12 or other credits upon which interest for a period of six months is due and unpaid,
13 unless the loan or credit is well secured and in the process of collection;

14 (2) interest accrued but not collected on loans or other credits upon
15 which the interest due is more than 90 days delinquent;

16 (3) interest collected but not earned;

17 (4) assets or depreciation that the department has required to be charged
18 off;

19 (5) the appreciation of any asset above its actual cost to the bank; and

20 (6) any accrued expenses, interest or taxes due from the bank.

21 * Sec. 77. AS 06.05.450 is amended to read:

22 Sec. 06.05.450. SHAREHOLDERS [STOCKHOLDERS] LIST. Each bank
23 shall keep a record of [BOOK IN WHICH IT SHALL ENTER] the name and
24 residence of each shareholder [STOCKHOLDER] of the bank, the class and number
25 of shares held by each, the time when each person became a shareholder
26 [STOCKHOLDER], and all transfers of stock, stating the time when made, the number
27 of shares, and by whom transferred. A list of current shareholders [THE
28 STOCKHOLDERS] shall be available for inspection in the bank office by any
29 shareholder on demand [SHOWING THE NUMBER OF SHARES HELD BY EACH
30 STOCKHOLDER OF RECORD].

31 * Sec. 78. AS 06.05.462(a) is amended to read:

1 (a) A national [CHARTER] bank located in the state may convert to a state
2 [CHARTER] bank or merge or consolidate with a state [CHARTER] bank, and a state
3 [CHARTER] bank may merge or consolidate with another state [CHARTER] bank, if
4 the merger or consolidation is consistent with federal and state law and approved by
5 the department.

6 * Sec. 79. AS 06.05.462(c) is amended to read:

7 (c) The department, in the exercise of its power to approve or disapprove
8 applications for merger or consolidation, shall act in the interests of promoting and
9 maintaining a sound banking system, the security of deposits and customers, the
10 preservation of the liquid position of banks, and in the interest of preventing injurious
11 credit expansions and contractions. [THE DEPARTMENT MAY ADOPT
12 REGULATIONS TO IMPLEMENT THIS SECTION.]

13 * Sec. 80. AS 06.05.462(d) is amended to read:

14 (d) A state [CHARTER] bank converting to or merging or consolidating with
15 a national [CHARTER] bank shall submit a copy of the application for national charter
16 or application to convert, merge, or consolidate to the department at the time those
17 documents are forwarded to the comptroller of the currency.

18 * Sec. 81. AS 06.05.466 is repealed and reenacted to read:

19 Sec. 06.05.466. DISSOLUTION BEFORE COMMENCEMENT OF
20 BUSINESS. If the department discovers, after it approves the articles of incorporation
21 for a bank but before it issues a certificate of authority to the bank, a reason why a
22 bank should not have been incorporated, or if a certificate of authority is not issued
23 within the later of one year after the issuance of the certificate of incorporation or the
24 time the department allows for satisfaction of conditions precedent to the issuance of
25 a certificate of authority, the bank shall voluntarily dissolve under AS 10.06.605 -
26 10.06.625 or may be involuntarily dissolved by the department under AS 10.06.633.

27 * Sec. 82. AS 06.05 is amended by adding a new section to read:

28 Sec. 06.05.468. CEASE AND DESIST; OPPORTUNITY FOR HEARING;
29 DEPARTMENT TAKEOVER. (a) A state bank may be closed and the department
30 may take possession of the bank if the bank voluntarily places its affairs and assets
31 under the department's control, or if the department finds

- 1 (1) the bank has violated an order of the department;
- 2 (2) the bank has violated a provision of this chapter or a regulation of
3 the department adopted under this chapter;
- 4 (3) the bank's capital is impaired or the bank is otherwise in an unsafe
5 or unsound condition;
- 6 (4) the bank's business is being conducted in an unlawful, unsafe, or
7 unsound manner;
- 8 (5) the bank is insolvent;
- 9 (6) the bank is unable to continue normal operations;
- 10 (7) a department examination of the bank is obstructed or impeded;
- 11 (8) the bank holding company that controls the bank refuses to permit
12 an examination as provided in AS 06.05.235; or
- 13 (9) the bank has lost, or received notice of the termination or
14 suspension of, its membership in the Federal Deposit Insurance Corporation or has
15 relinquished its membership in the Federal Deposit Insurance Corporation without the
16 consent of the department.
- 17 (b) Except as provided in (d) of this section, before the department may take
18 possession of a bank the department shall issue a notice to the board of directors of
19 the bank under AS 06.01.030(a) of the problems identified by the department and issue
20 an order to the board under AS 06.01.030(b) to correct the problems. The notice must
21 also specify that failure to comply with the order may result in the department taking
22 possession of the bank.
- 23 (c) If a bank fails to comply with an order issued under (b) of this section, the
24 department may take possession of the bank by posting upon the bank premises a
25 notice stating that the department is assuming possession under this chapter.
26 Department possession begins when the notice is posted. The notice shall also be filed
27 in the superior court of the judicial district in which the bank is located. The
28 department shall notify the local federal reserve bank if the bank is a member of the
29 Federal Reserve System.
- 30 (d) Notwithstanding the provisions of this section and AS 06.01.030, if, in the
31 opinion of the department, an emergency exists that will result in serious losses to the

1 depositors, the department may take possession of a bank without prior hearing.
2 Within two days after the department takes possession under this subsection, an
3 interested party may file with the department an application for an order vacating the
4 possession. The department shall grant the application if the department finds that the
5 department's action was not authorized under this chapter.

6 * Sec. 83. AS 06.05.470(b) is amended to read:

7 (b) [THE DEPARTMENT SHALL TAKE POSSESSION UNDER (A) OF
8 THIS SECTION BY POSTING UPON THE BANK PREMISES A NOTICE
9 STATING THAT IT IS ASSUMING POSSESSION UNDER THIS CHAPTER. ITS
10 POSSESSION IS CONSIDERED TO COMMENCE AT THE TIME OF POSTING OF
11 THE NOTICE. THE NOTICE SHALL ALSO BE FILED IN THE SUPERIOR
12 COURT OF THE JUDICIAL DISTRICT IN WHICH THE BANK IS LOCATED.
13 THE DEPARTMENT SHALL NOTIFY THE FEDERAL RESERVE BANK IF THE
14 BANK IN THE POSSESSION OF THE DEPARTMENT IS A MEMBER OF THE
15 FEDERAL RESERVE SYSTEM.] When the department has taken possession of a
16 state bank, it is vested with the full and exclusive power of management and control,
17 including the power [TO ASSESS OUTSTANDING CAPITAL STOCK UNDER
18 AS 06.05.310,] to continue or discontinue the business, to stop or limit the payment
19 of the bank's [ITS] obligations, to employ necessary assistants, to execute any
20 instrument in the name of the bank, to commence, defend, and conduct in the bank's
21 [ITS] name any action or proceeding in which the bank [IT] may be a party, to
22 terminate the [ITS] possession by restoring the bank to its board of directors, and to
23 reorganize or liquidate the bank under [IN ACCORDANCE WITH] this chapter. As
24 soon as practicable after taking possession, the department shall make an inventory of
25 the assets and file a copy of the inventory [IT] with the superior court.

26 * Sec. 84. AS 06.05.470(g) is amended to read:

27 (g) A judgment, lien, or attachment may not be enforced against
28 [EXECUTED UPON] any asset of the bank while it is in possession of the department.
29 Upon the election of the department in connection with a liquidation or reorganization,
30 (1) any lien or attachment, other than an attorney's or mechanic's lien,
31 obtained upon any asset of the bank during the department's possession or within four

1 months before commencement of that possession, may [SHALL] be vacated, except
2 liens created by the department while in possession; and

3 (2) any transfer of an asset of the bank made after or in contemplation
4 of its insolvency or in anticipation of the department's takeover, with intent to
5 effect a preference of one creditor over another creditor or to prevent the
6 distribution of the bank's assets according to law, is void.

7 * Sec. 85. AS 06.05 is amended by adding new sections to read:

8 Sec. 06.05.471. REORGANIZATION. (a) If the department decides to
9 reorganize a state bank, the department, after according a hearing to all interested
10 parties, shall enter an order proposing a reorganization plan. The department shall
11 send a copy of the plan to each depositor and creditor who will not receive payment
12 of a claim in full under the plan, and a notice that, unless within 30 days the plan is
13 disapproved in writing by persons holding one-third or more of the aggregate amount
14 of the claims, the department will reorganize the bank.

15 (b) A plan of reorganization may not be prescribed under this chapter unless,
16 in the opinion of the department,

17 (1) the plan is fair to all classes of depositors, creditors, and
18 shareholders;

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

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

25 (4) any exchange of new common stock for obligations or stock of the
26 bank will be made

27 (A) in the inverse order of the priorities in liquidation of the
28 classes that will retain an interest in the bank; and

29 (B) upon terms that adjust in a fair manner any change in the
30 relative interest of the respective classes that will be produced by the exchange;

31

1 (5) the plan assures the removal of a director, officer, or employee
2 responsible for a problem identified by the department under AS 06.05.468(a) - (b),
3 including an unsafe, unsound, or unlawful action or the existence of an unsafe or
4 unsound condition;

5 (6) any merger or consolidation provided by the plan complies with this
6 chapter.

7 (c) When in the course of reorganization, supervening conditions render a plan
8 of reorganization unfair or its execution impractical, the department may modify the
9 plan or liquidate the bank.

10 Sec. 06.05.472. LIQUIDATION. (a) In liquidating a state bank, the
11 department may exercise any power incidental to liquidating a bank, but it may not,
12 without the approval of the superior court,

13 (1) sell an asset of the bank having an appraised value in excess of
14 \$100,000;

15 (2) compromise or release a claim that exceeds \$100,000, exclusive of
16 interest;

17 (3) make full payment on a claim, other than a claim upon an
18 obligation incurred by the department, before preparing and filing a schedule of the
19 department's determinations under AS 06.05.473(d)(3).

20 (b) Within six months after beginning the liquidation of a bank, the department
21 may terminate an executory contract for services or advertising to which the bank is
22 a party or an obligation of the bank as a lessee. A lessor who receives 60 days' notice
23 of the department's decision to terminate a lease does not have a claim for rent, other
24 than rent accrued to the date of termination, or for damages due to the termination.

25 (c) As soon as practical after beginning the involuntary liquidation of a bank,
26 the department shall take the steps necessary to terminate all fiduciary positions held
27 by the bank, to surrender all property held by the bank as a fiduciary, and to settle the
28 fiduciary accounts of the bank.

29 Sec. 06.05.473. CLAIMS. (a) As soon as practical after beginning the
30 liquidation of a state bank, the department shall

31 (1) mail notice of the liquidation proceedings to the last known post

1 office address of each depositor, creditor, lessee of a safe deposit box, or bailor of
2 property;

3 (2) post notice of the proceedings conspicuously on the premises of the
4 bank; and

5 (3) publish notice that the department determines to be appropriate for
6 the proceedings.

7 (b) The department shall mail with the notice sent under (a)(1) of this section
8 a statement of the amount shown on the bank's books to be the claim of the depositor
9 or creditor. The notice must also include a demand that a person who is entitled to
10 property held by the bank as bailee or in a safe deposit box of the bank withdraw the
11 property within 30 days. The notice must direct those depositors and creditors who
12 claim amounts different from the amounts in the notice to file their claims with the
13 bank under the procedure described in the notice and before a specified date. The
14 specified day may not be less than 60 days from the date of the first publication of the
15 notice.

16 (c) A safe deposit box whose contents have not been removed within 30 days
17 after demand shall be opened. The department shall retain the contents of the box and
18 the other unclaimed property held by the bank as bailee until the conclusion of the
19 liquidation proceedings. At the conclusion of the liquidation proceedings, the property
20 held by the department under this subsection is considered abandoned, and the
21 department shall turn the property over to the Department of Revenue for handling
22 under AS 34.45.110 - 34.45.780.

23 (d) Within six months after the last day specified in the notice for the filing
24 of claims, or within a longer period if allowed by the superior court, the department
25 shall

26 (1) reject a claim that it determines to be invalid;

27 (2) determine the amount, if any, owing to each known creditor or
28 depositor and the priority class of the person's claim under this chapter;

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

31 (4) publish a notice in a newspaper once each week for three successive

1 weeks, of the times and places where the schedule of determinations will be available
2 for inspection and the date when the department will file its schedule in court; the date
3 may not be sooner than 30 days after the first publication.

4 (e) Within 30 days after the filing with the superior court of the department's
5 schedule under (d)(3) of this section, a creditor, depositor, or stockholder may file with
6 the court an objection to a determination. The court shall hear and determine the filed
7 objections after the notice to the department and interested claimants that the court
8 establishes. If the court sustains an objection, the court shall direct that the schedule
9 be modified appropriately.

10 (f) After filing its schedule, the department may make partial distribution to
11 the holders of the claims that are undisputed or are allowed by the court, if an
12 adequate reserve is established for the payment of disputed claims. As soon as
13 practicable after the determination of all objections, the department shall make the final
14 distribution.

15 (g) The following claims have priority in liquidation proceedings, in the order
16 listed:

17 (1) obligations incurred by the department in liquidating the bank;

18 (2) wages and salaries of officers and employees earned during the
19 three-month period preceding the department's possession in an amount not exceeding
20 \$3,000 for each person;

21 (3) fees and assessments owed by the bank to the department;

22 (4) deposits;

23 (5) claims secured by assets pledged under AS 06.05.260(a).

24 (h) After the payment of all other claims, including interest at the rate
25 established under AS 09.30.070, the department shall pay claims that are otherwise
26 valid but that were not filed within the time prescribed.

27 (i) If the sum available for a class of creditors is insufficient to provide
28 payment in full, the sum shall be distributed pro rata to the claimants in the class.

29 (j) When the department has liquidated a bank, any assets remaining after all
30 claims have been paid shall be distributed to the shareholders in accordance with their
31 respective interests.

1 of a class of voting securities of the bank or holding company;

2 (B) the corporation controls in any manner the election of a
3 majority of the directors or trustees of the bank or holding company; or

4 (C) the department determines, after notice and opportunity for
5 hearing, that the corporation directly or indirectly exercises a controlling
6 influence over the management of the policies of the bank or holding company;

7 (11) "fiduciary" means a trustee, agent, executor, administrator,
8 committee, guardian or conservator for a minor or other incompetent person, a
9 receiver, a trustee in bankruptcy, an assignee for creditors, or the holder of a similar
10 position of trust;

11 (12) "financial institution" means an institution subject to the regulation
12 of the department under this title;

13 (13) "good faith" means honesty in fact in the transaction and a
14 reasonable ground for belief that the transaction is lawful, proper, or authorized;

15 (14) "impaired capital" or "impairment of capital" means that the value
16 of the bank's assets is less than the bank's liabilities plus 120 percent of the amount
17 of the bank's paid-in capital;

18 (15) "insolvent" means

19 (A) bank assets having a value less than the bank's liabilities,
20 other than liability on account of capital stock, capital notes, and debentures;

21 (B) failure to increase total adjusted capital accounts or reserves
22 after being ordered to do so under AS 06.05.305(c); or

23 (C) inability to meet obligations or demands as they become
24 due in the ordinary course of business;

25 (16) "international bank" means a corporation, partnership, or
26 association that is organized and operates under the laws of a country other than the
27 United States and that is authorized by its license or charter to carry on a banking
28 business;

29 (17) "interstate bank" means

30 (A) a corporation, partnership, or association organized under
31 the laws of another state and holding a charter, license, or certificate of

1 authority from another state to engage in a banking business; or
2 (B) a national bank, except a national bank whose principal
3 office, as designated in its articles of incorporation, is located in the state;
4 (18) "loans" includes
5 (A) all direct or indirect advances of funds to a person made on
6 the basis of an obligation of the person to repay the funds, or repayable from
7 specific property pledged by or on behalf of the person, guarantees, overdrafts,
8 letters of credit;
9 (B) a liability of a bank to advance funds to or on behalf of a
10 person under a contractual commitment;
11 (19) "national bank" means a bank chartered by the United States;
12 (20) "out-of-state bank holding company" means a company that
13 (A) is a bank holding company as defined in 12 U.S.C. 1841
14 (Bank Holding Company Act); is registered as a bank holding company with
15 the Board of Governors of the Federal Reserve System, with the federal reserve
16 bank of the Federal Reserve District in which the operations of the bank
17 holding company are principally conducted, or with a Federal Reserve Bank
18 that the Board of Governors may designate; maintains its principal office and
19 place of business outside the state; and principally conducts its operations out
20 of the state, as measured by total deposits held or controlled by it on the date
21 on which it becomes an out-of-state bank holding company; or
22 (B) a corporation, partnership, or association organized and
23 operating under the laws of a country other than the United States.
24 (21) "recently formed bank" means a state bank or national bank that
25 conducts a banking business in the state and that commenced the banking business in
26 the state on or after July 1, 1982, and that has not been in existence and continuously
27 operating in the state for a period of three years or more; "recently formed bank" does
28 not include
29 (A) a bank organized solely for the purpose of facilitating
30 acquisition of a bank that either has been in existence and continuously
31 operating in the state as a bank for a three-year period, or was conducting a

- 1 banking business in the state on or before June 30, 1982;
- 2 (B) a state bank that the department determines was not created
3 directly or indirectly by an acquiring interstate bank, international bank, or
4 out-of-state bank holding company, and that does not have the capacity to
5 continue to conduct its business independently in a manner consistent with the
6 public interest and the interest of depositors, creditors, and shareholders; or
- 7 (C) a national bank that the board of governors of the Federal
8 Reserve System, or their designee, determines is not chartered directly or
9 indirectly by an acquiring out-of-state bank holding company, and that does not
10 have the capacity to conduct its business independently in a manner consistent
11 with the public interest of depositors, creditors, and shareholders;
- 12 (22) "state bank" means a bank organized under this chapter;
- 13 (23) "state financial institution" means a financial institution organized
14 under this title;
- 15 (24) "subsidiary" means a corporation in which a bank owns more than
16 50 percent of the voting power of the corporation either directly or indirectly through
17 one or more other subsidiaries of the bank;
- 18 (25) "surplus" includes amounts paid in for stock in excess of the par
19 value of the stock, which are generally called capital surplus or paid-in surplus, plus
20 any amounts transferred to the account from undivided profits, which are generally
21 called earned surplus;
- 22 (26) "undivided profits" means the accumulated, undistributed net profit
23 of a bank, including any residue after
- 24 (A) provision for payment of taxes and expenses of operations;
25 (B) transfers to reserves allocated to a particular asset or class
26 of assets;
27 (C) losses estimated or sustained on a particular asset or class
28 of assets in excess of the amount of reserves allocated for the asset;
29 (D) transfers to surplus and capital; and
30 (E) amounts declared as dividends to shareholders;
- 31 (27) "unsafe or unsound condition," with respect to a bank, means

1 insolveny; impairment of capital; operating in violation of law, order of the
2 department, or its articles or bylaws; having less than the statutory or regulatory
3 requirements for capital, surplus, or reserves; or another condition that the department
4 determines threatens the safety of depositors or the soundness of the state banking
5 system.

6 * Sec. 87. AS 06.05 is amended by adding new sections to read:

7 ARTICLE 9. INTERNATIONAL AND INTERSTATE BANKS AND
8 OUT-OF-STATE BANK HOLDING COMPANIES.

9 Sec. 06.05.550. AUTHORITY OF INTERNATIONAL OR INTERSTATE
10 BANK TO BRANCH. (a) An international bank, or an interstate bank whose deposits
11 are insured by the Federal Deposit Insurance Corporation, may acquire a branch bank
12 as the result of a merger or consolidation of the international or interstate bank with,
13 or the purchase of all or substantially all of the assets of, a state bank, a national bank
14 with its principal office in this state, or a branch of the state bank or national bank,
15 unless the state bank or national bank is a recently formed bank.

16 (b) An international bank may establish a new branch bank in this state or
17 acquire a recently formed bank, if the department approves the establishment or
18 acquisition before the establishment or acquisition occurs. An interstate bank may not
19 establish a branch bank in this state unless the establishment occurs through an
20 acquisition under (a) of this section of a bank located in the state. An interstate bank
21 may not establish a new branch bank in this state.

22 (c) An interstate or international bank that opens, occupies, or maintains a
23 branch bank in the state has the same powers under the laws of the state as a state or
24 national bank of the same type.

25 Sec. 06.05.555. CERTIFICATE OF AUTHORITY FOR INTERSTATE AND
26 INTERNATIONAL BRANCHING. (a) Before acquiring a branch bank under
27 AS 06.05.550(a) or establishing a branch bank under AS 06.05.550(b), an interstate or
28 international bank shall file an application with the department for and receive a
29 certificate of authority to operate a branch bank. The application must include

- 30 (1) all information and fees required under AS 06.05.399;
31 (2) the name of the bank and the address of its principal office;

- 1 (3) if an international bank, the country under whose laws it is
2 organized;
- 3 (4) the amount of the bank's capital actually paid in cash and the
4 amount subscribed for and unpaid;
- 5 (5) a complete and detailed statement of the bank's financial condition;
- 6 (6) the names of all other states and countries in which the bank is
7 admitted or qualified to do business;
- 8 (7) a copy of the bank's charter, articles of incorporation, and bylaws,
9 as applicable;
- 10 (8) if an international bank, evidence satisfactory to the department that
11 the bank is authorized to conduct a banking business under the laws of the country of
12 its organization, and the nature of the bank's business;
- 13 (9) a properly executed designation of the department as the bank's
14 agent for service of process in an action or proceeding arising out of a transaction
15 involving the branch bank; the designation must include the name and address of the
16 officer, agent, or other person to whom the department is to forward the process; and
- 17 (10) other information necessary or appropriate for the department to
18 determine whether the bank is entitled to a certificate of authority from the department.
- 19 (b) The department shall notify the interstate or international bank of its action
20 on the application. If the application and the accompanying documents do not comply
21 with the requirements of (a) of this section, the department shall return them with an
22 explanation of the noncompliance. If the department does not respond within 30 days
23 of its receipt of the application, the application is considered to be accepted.
- 24 (c) The interstate or international bank shall publish notice of the application
25 in the manner provided in AS 06.05.344(d) - (e). The notice must state the proposed
26 location of the branch bank.
- 27 (d) Upon acceptance of the application, the department shall conduct an
28 investigation to determine that
- 29 (1) if an interstate bank,
30 (A) the laws of the home state of the bank authorize a state
31 bank of this state to acquire a branch bank in the home state without conditions

1 or restrictions on the operations of the branch bank; and
2 (B) the bank supervisor of the home state of the bank has
3 agreed to provide to the department the examination reports that the department
4 determines sufficient to permit the department to determine on a current basis
5 the financial condition of the bank;
6 (2) the proposal is consistent with a sound and competitive banking
7 system;
8 (3) the capital structure of the bank is adequate in relation to the
9 anticipated business and costs of operating the branch bank;
10 (4) the name of the bank is not deceptively similar to the name of
11 another branch bank or state bank and is not otherwise misleading; and
12 (5) the other requirements of this chapter have been met.
13 (e) Not later than 150 days after the department accepts an application by an
14 interstate or international bank for a certificate of authority to operate a branch bank,
15 the department shall make a determination whether to approve the application. Within
16 30 days after the second publication of the notice referred to in (c) of this section, a
17 person opposing the pending application may file written objections with the
18 department. When it approves or denies the application, the department shall notify
19 the bank and any other person who requested in writing to be notified, and if the
20 application is denied, the department shall state the reasons for its decision.
21 (f) The department shall issue a certificate of authority to an interstate or
22 international bank to operate a branch bank if
23 (1) the conditions imposed by the department in granting the certificate
24 have been fulfilled; and
25 (2) the requirements of this chapter are satisfied.
26 (g) If the rights conferred by a certificate of authority issued under this section
27 are not exercised within one year from the date of the issuance of the certificate under
28 this section, the certificate lapses.
29 **Sec. 06.05.560. ASSET REQUIREMENTS FOR INTERNATIONAL BANKS.**
30 (a) An international bank that operates one or more branch banks in the state shall
31 maintain in the state assets in an amount acceptable to the department, except that the

1 amount may not be less than the amount of deposits payable at or through the branch
2 banks.

3 (b) The department shall determine the value of the assets maintained by the
4 international bank for purposes of this section. In making its determination, the
5 department may include as assets currency, bonds, notes, debentures, drafts, bills of
6 exchange, and other evidences of indebtedness owed by persons in the United States
7 and collectible in the United States in United States currency or, with the approval of
8 the department, in currency freely convertible into United States currency, but the
9 department may not include as assets prepaid expenses, customers' liability on prepaid
10 expenses, or amounts due from other offices, branches, or wholly owned subsidiaries
11 of the international bank.

12 (c) When the department takes possession of a branch bank of an international
13 bank under AS 06.05.468 and 06.05.470, the assets of the international bank in the
14 state shall be turned over to the department and disbursed as provided in
15 AS 06.05.470 - 06.05.473.

16 Sec. 06.05.565. **APPLICABILITY OF TITLE TO INTERSTATE OR**
17 **INTERNATIONAL BRANCH.** (a) An interstate or international bank operating a
18 branch bank in the state is subject to the provisions of this title, and the regulations
19 adopted and orders issued under this title, except for the residency requirements in
20 AS 06.05.435(a).

21 (b) In meeting the reserve requirements of AS 06.05.200(a) and applicable
22 regulations, the bank shall maintain the required reserve fund in the state, except that
23 assets held to meet the requirements of AS 06.05.560(a) may be applied to meet the
24 requirements of AS 06.05.200.

25 (c) A branch bank of an interstate or international bank operating in the state
26 is subject to examination under AS 06.01.015 and assessments under AS 06.01.010.
27 Assessments under AS 06.01.010(d) are based on the branch bank's total deposits in
28 the state.

29 (d) When the department considers it necessary to protect the public interest,
30 the department or a competent person designated by the department may examine an
31 interstate or international bank with a branch in the state. The interstate or

1 international bank shall pay an examination fee established under AS 06.01.010.

2 Sec. 06.05.570. OUT-OF-STATE BANK HOLDING COMPANIES. (a) An
3 out-of-state bank holding company may acquire and own all or a portion of the voting
4 securities or other capital stock of, or all or substantially all of the assets of, one or
5 more state banks, domestic bank holding companies, or national banks conducting a
6 banking business in the state, unless the state bank or national bank is a recently
7 formed bank. Before an out-of-state bank holding company may acquire a bank or
8 bank holding company doing business in this state, the out-of-state bank holding
9 company shall apply for and obtain a permit from the department. In considering
10 whether to issue a permit, the department shall consider the benefits to the public, the
11 preservation of a competitive banking industry, and the maintenance of a safe and
12 sound bank industry. To assure full protection of the public, the department may
13 require an out-of-state bank holding company that directly or indirectly owns, holds,
14 or controls stock in a state bank or domestic bank holding company to post a bond
15 with the department under conditions established by the department. The amount of
16 the bond may not be more than the product obtained by multiplying the amount of
17 paid-in capital and paid-in surplus of the state bank or domestic bank holding company
18 by the percentage of state bank or domestic bank holding company stock directly or
19 indirectly owned, held, or controlled by the out-of-state bank holding company.

20 (b) When the department considers it necessary, the department or a competent
21 person designated by the department may examine an out-of-state bank holding
22 company directly or indirectly owning, holding, or controlling state bank stock or
23 domestic bank holding company stock. The out-of-state bank holding company shall
24 pay an examination fee established under AS 06.01.010.

25 (c) The provisions of this section do not apply to a company that

26 (1) acquires or holds voting securities or other capital stock of a bank
27 or bank holding company for only a reasonable period of time in connection with the
28 underwriting of securities;

29 (2) is an agency of the United States or of a state, or if the majority of
30 the company is owned by the United States or a state;

31 (3) is an independent federal financial regulatory agency or a trustee

1 or agent of an independent federal financial regulatory agency; or

2 (4) under a plan of financial restructuring that is intended to prevent
3 the failure of a state bank and that is approved by the department,

4 (A) acquires or receives 25 percent or more of a class of voting
5 securities or other capital stock of the bank or bank holding company subject
6 to the plan, and owns, controls, or holds, with the power to vote, the securities
7 acquired or received in excess of 24.99 percent of that class for a period of
8 time that permits the distribution or resale of the securities or other capital
9 stock on a reasonable basis; or

10 (B) purchases or receives securities under the plan and, after the
11 purchase or receipt, owns, controls, or holds, with a power to vote, less than
12 25 percent of a class of voting securities or other capital stock of the bank or
13 bank holding company subject to the plan, if subsequently, solely through the
14 action or inaction of others, including the bank or bank holding company,
15 owns, controls, or holds, with a power to vote, 25 percent or more of a class
16 of voting securities or other capital stock of the bank or bank holding company;
17 the exemption in this subparagraph does not apply if the department
18 determines, after notice and opportunity for hearing under AS 06.01.030, that
19 the ownership, control, or holding of the securities or stock exceeding 24.99
20 percent of a class, other than under a plan to promptly dispose of the securities
21 or stock under the supervision of the department, would permit the organization
22 in any manner to control the election of a majority of the board of directors or
23 trustees, or to directly or indirectly exercise a controlling influence over the
24 management or policies of the bank or bank holding company.

25 * Sec. 88. AS 06.20.330(b) is amended to read:

26 (b) This chapter does not apply to individual loans by pawnbrokers or loan
27 shops where separate and individual loans do not exceed \$500 [\$200].

28 * Sec. 89. AS 06.25.085 is amended to read:

29 Sec. 06.25.085. APPLICATION OF GENERAL BANKING LAWS. The
30 provisions of AS 06.05 that are consistent with this chapter [AS 06.05.005 -
31 06.05.085, 06.05.090, 06.05.270, 06.05.307, 06.05.320 - 06.05.327, 06.05.440 -

1 06.05.445, 06.05.462, 06.05.465 - 06.05.510, AND 06.05.525 - 06.05.545] apply to all
2 trust companies engaged in any phase of the business of banking as that term is
3 defined by AS 06.05.540 or AS 06.25.100.

4 * Sec. 90. AS 06.45.010(b) is amended to read:

5 (b) The commissioner may by regulation define the powers of
6 [STATE-CHARTERED] credit unions formed under this chapter and adopt
7 regulations to carry out the purposes of credit unions consistent with this chapter and
8 AS 06.01.020.

9 * Sec. 91. AS 06.45.020(c) is amended to read:

10 (c) At the time of presenting the articles of incorporation to the commissioner
11 the incorporators shall also submit proposed bylaws to the commissioner for approval.
12 Except to the extent the articles of incorporation provide the structure and
13 designate the offices, the bylaws shall provide the organizational structure of the
14 credit union and specifically designate those offices that will be held by the
15 executive or managing officers of the credit union. Copies of the original bylaws
16 of the credit union and any amendments of the bylaws shall be filed with the
17 commissioner.

18 * Sec. 92. AS 06.45.090(a) is amended to read:

19 (a) The business affairs of a credit union are managed by (1) a board of not
20 less than five directors; (2) a credit committee of not less than three members; and (3)
21 a supervisory committee of not less than three members or more than five members.
22 The members of the board of directors [AND THE MEMBERS OF THE CREDIT
23 COMMITTEE] shall be elected at the annual members meeting by and from the
24 members. The supervisory committee shall be appointed by the board of directors, and
25 a vacancy in the supervisory committee shall be filled by the board of directors. One
26 of the members of the supervisory committee may be a member of the board of
27 directors, other than the treasurer. The credit committee consists of an uneven
28 number of three or more members appointed by the board of directors for the
29 terms established by the bylaws. Members of the board of directors and of the credit
30 and supervisory committees hold office for terms as the bylaws may provide.

31 * Sec. 93. AS 06.45.110(a) is amended to read:

1 (a) At its first meeting after the annual meeting of the members, the board of
2 directors shall elect from its membership [A PRESIDENT, ONE OR MORE
3 VICE-PRESIDENTS, A SECRETARY, AND A TREASURER, WHO ARE] the
4 executive officers of the credit union.

5 * Sec. 94. AS 06.45.110 is amended by adding a new subsection to read:

6 (f) The board of directors shall appoint a president to act as chief executive
7 officer of the credit union and to be actively in charge of the operations of the credit
8 union.

9 * Sec. 95. AS 06.45.120(b) is amended to read:

10 (b) The board of directors shall

11 (1) act upon applications for membership;

12 (2) require an officer or employee having custody of or handling funds
13 to give bond with good and sufficient surety in an amount and character to be
14 determined by the board of directors in compliance with regulations adopted by the
15 commissioner and authorize the payment of the premium by the credit union;

16 (3) fill vacancies in the board of directors [AND IN THE CREDIT
17 COMMITTEE] until successors elected at the next annual meeting have qualified;

18 (4) have charge of investments other than loans to members; the board
19 of directors may designate a committee of not less than two to act as an investment
20 committee that [WHICH] has charge of making investments under rules and
21 procedures established by the board of directors;

22 (5) determine the maximum number of shares and share certificates and
23 the classes of shares and share certificates that may be held;

24 (6) subject to the limitations of this chapter, determine the interest rates
25 on loans, the security, and the maximum amount that may be loaned or provided in
26 lines of credit;

27 (7) subject to regulations adopted by the commissioner, authorize an
28 interest refund to members of record at the close of business on the last day of any
29 dividend period in proportion to the interest paid by the members during the dividend
30 period; and

31 (8) provide for compensation of officers and employees.

1 * **Sec. 96.** AS 06.45.140(c) is amended to read:

2 (c) The credit committee may delegate to a loan officer the power to approve
3 loans and lines of credit. [ONLY ONE MEMBER OF THE CREDIT COMMITTEE
4 MAY BE APPOINTED AS LOAN OFFICER.] A loan officer shall furnish to the
5 credit committee a record of each approved or unapproved application within seven
6 days of the filing of the application.

7 * **Sec. 97.** AS 10.06.005 is amended to read:

8 Sec. 10.06.005. PURPOSES. A corporation may be organized under this
9 chapter for any lawful purpose except for the purpose [PURPOSES] of [BANKING
10 AND] insurance.

11 * **Sec. 98.** AS 10.06.990(13) is amended to read:

12 (13) "corporation" or "domestic corporation" means a corporation for
13 profit subject to the provisions of this chapter, but does not include a foreign
14 corporation or a [STATE OR] national bank;

15 * **Sec. 99.** AS 34.45.210 is amended to read:

16 Sec. 34.45.210. PROPERTY OF BUSINESS ASSOCIATIONS HELD IN
17 COURSE OF DISSOLUTION. Intangible [EXCEPT FOR INTANGIBLE
18 PROPERTY DISTRIBUTABLE UNDER AS 06.05.465, INTANGIBLE] property
19 distributable in the course of a dissolution of a business association that remains
20 unclaimed by the owner for more than one year after the date specified for final
21 distribution is presumed abandoned.

22 * **Sec. 100.** AS 45.50.481 is amended by adding a new subsection to read:

23 (b) The exemption in (a)(3) of this section does not apply to an act or
24 transaction between a bank and its borrowers, depositors, or other customers or
25 potential customers.

26 * **Sec. 101.** AS 45.50.572(b) is amended to read:

27 (b) AS 45.50.562 - 45.50.596 do not forbid actions or arrangements authorized
28 or regulated under the laws of the United States that [WHICH] exempt these actions
29 or arrangements from application of the antitrust laws of the United States or under
30 the following statutes of this state:

31 (1) AS 06.05.235 and 06.05.570:

1 (2) AS 10.15; and

2 (3) AS 31.05.110.

3 * **Sec. 102.** AS 06.01.010(c); AS 06.05.015, 06.05.020, 06.05.025, 06.05.030, 06.05.035,
4 06.05.040, 06.05.055, 06.05.060, 06.05.065(d), 06.05.065(e), 06.05.065(f), 06.05.070,
5 06.05.080, 06.05.085, 06.05.090(c), 06.05.130, 06.05.175(c), 06.05.185, 06.05.190, 06.05.195,
6 06.05.200(b), 06.05.200(c), 06.05.205(a), 06.05.205(e), 06.05.205(f), 06.05.206, 06.05.208,
7 06.05.210(b), 06.05.220, 06.05.232, 06.05.235(c), 06.05.235(d), 06.05.235(e), 06.05.235(f),
8 06.05.235(h), 06.05.238, 06.05.255(c), 06.05.260(b), 06.05.270(b), 06.05.275(a), 06.05.275(c),
9 06.05.280(a), 06.05.280(b), 06.05.300, 06.05.307(d), 06.05.307(e), 06.05.325, 06.05.330,
10 06.05.345(b), 06.05.345(c), 06.05.345(d), 06.05.345(e), 06.05.345(f), 06.05.345(g),
11 06.05.345(h), 06.05.345(i), 06.05.345(j), 06.05.345(k), 06.05.360, 06.05.367, 06.05.380,
12 06.05.390, 06.05.395, 06.05.430, 06.05.435(b), 06.05.435(e), 06.05.443, 06.05.465,
13 06.05.470(a), 06.05.470(d), 06.05.470(f), 06.05.470(j), 06.05.470(k), 06.05.470(l),
14 06.05.470(m), 06.05.470(n), 06.05.470(o), 06.05.470(p), 06.05.470(q), 06.05.470(r),
15 06.05.470(s), 06.05.470(t), 06.05.470(u), 06.05.470(v), 06.05.470(w), 06.05.470(x),
16 06.05.470(y), 06.05.470(z), 06.05.480, 06.05.485, 06.05.490, 06.05.495, 06.05.500, 06.05.505,
17 06.05.510, 06.05.520, 06.05.525, 06.05.530; AS 06.20.320(b); AS 06.25.060, 06.25.070,
18 06.25.320; AS 06.30; AS 06.40.160(b); AS 06.45.320, and 06.45.330 are repealed.

19 * **Sec. 103.** TRANSITIONAL PROVISIONS. (a) On and after the effective date of this
20 Act, a bank incorporated in the state before the effective date of this Act is subject to the
21 provisions of AS 10.06 (Alaska Corporations Code), as amended by secs. 97 and 98 of this
22 Act, as if the bank were incorporated under AS 10.06 on the effective date of this Act.

23 (b) A bank that was formed under AS 06.05 before the effective date of this Act and
24 that is in existence on the effective date of this Act shall amend its articles of incorporation
25 to comply with this Act within 60 days after the date of its next annual shareholders' meeting
26 and shall file the amended articles with the Department of Commerce and Economic
27 Development. A bank that fails to comply with this subsection is guilty of violating
28 AS 06.05, as amended by secs. 9 - 87 of this Act, and is subject to the enforcement and
29 penalty provisions of AS 06.05, as amended in this Act.

30 * **Sec. 104.** CHANGES IN COURT RULES. AS 06.01.025, enacted by sec. 5 of this Act,
31 changes Alaska Rule of Criminal Procedure 17(c) and Alaska Rule of Civil Procedure 45(b)

1 by making the records of the Department of Commerce and Economic Development not
2 subject to a subpoena.

3 * **Sec. 105.** This Act takes effect January 1, 1994.