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STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

February 26, 1982

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce
Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Senate Bill 752 an Act Relating to Savings Associations

You have asked for a position from the Department of Commerce and Economic Development on Senate Bill 752. We are generally in favor of this bill as it clears up some questions under the Savings and Loan Act, i.e., qualifying shares of directors and out-of-state loan participations.

The department is opposed, however, to Section 7 of the bill as we feel it is not needed. It is not clear as to why a savings and loan would wish to be saddled with a federal investment list. The department could publish a list of acceptable investments which can include any investments authorized by the Federal section quoted in the bill. This list can be updated as rapidly as necessary and could allow for more control and yet be flexible enough to meet the needs of the industry.

If you have any further questions concerning our position on Senate Bill 752, you may wish to contact Mr. Kirkpatrick, Director of the Division of Banking, Securities and Corporations, direct at 465-2521.

Sincerely,

Edward W. Eboch

Edward W. Eboch
Deputy Commissioner

EWE/krb 5/4

James M. Kelly
October 7, 1981
Page 4

a member, or stockholder, shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members or stockholders except upon express action and authority of the board of directors.

Sec. 1 & 2
This language closely follows the language of the Model Act (1979 version); the amendments add reference to stockholders and delete subsection (c) of AS 06.30.115. Subsection (c) is a bad provision for at least three reasons. First, as the statutes are presently drafted, subsection (c) contradicts the provisions of AS 06.30.120. Second, it incorporates the common law concept of inspection applicable to business corporations, see AS 10.05.240, to savings associations, but without any of the safeguards as to relevancy and proper purpose. Third, it ignores the difference between business corporations and financial institutions, the latter being dedicated to the public interest (under extensive regulatory control) and subject to annual (if not more frequent) inspection by the Director of Banking and the Federal Home Loan Bank Board.

✓ 4. Ten Percent of Assets Limitation on Second Lien Loans. AS 06.30.555(b)(4) should be repealed. There are no similar limitations on federal savings and loan associations, see 12 C.F.R. §§545.6, et seq., thereby rendering state savings and loan associations noncompetitive.

5. Automatic Tie-In with Federal Powers. AS 06.01.020, as amended by Ch. 63 SLA 1981, gave the commissioner broad regulatory authority to grant state-chartered financial institutions powers enjoyed by federally chartered institutions (and to impose federal limitations on state-chartered institutions). The present administration has indicated a preference for legislation, as opposed to regulation, in order to effect any changes in state powers (and limitations); accordingly, the commissioner has not issued any regulations in the savings and loan area pursuant to AS 06.01.020, despite request for such regulations.

I suggest that it was the intent of AS 06.01.020, as amended, to at least allow state institutions to be competitive with federal institutions; such intent is frustrated if the ad-

from: The Model Savings Association Act

meeting of stockholders shall determine any question unless this Act specifically provides otherwise.

SECTION 13. ACCESS TO BOOKS AND RECORDS; COMMUNICATION WITH MEMBERS OR STOCKHOLDERS

Sec. 13?
(a) **Exclusiveness of Access.** Every member or stockholder shall have the right to inspect such books and records of an association as pertain to his loan, savings account, or the determination of his voting rights. Otherwise, the right of inspection and examination of the books and records shall be limited (1) to the Commissioner or his duly authorized representatives as provided in this Act, (2) to persons duly authorized to act for the association, and (3) to any federal or State instrumentality or agency authorized to inspect or examine the books and records of an insured association. The books and records pertaining to the accounts, loans and voting rights of savers, borrowers, members and stockholders shall be kept confidential by the association, its directors, officers and employees, and by the Commissioner, his examiners and representatives, except where disclosure is expressly or impliedly authorized by such person, or where the disclosure shall be compelled pursuant to applicable law or by a court of competent jurisdiction, and no member, stockholder or any other person shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members or stockholders except upon express action and authority of the board of directors, or to the extent that may be authorized and provided for in the bylaws of the association.

(b) **Communication with Members or Stockholders.** In the event, however, that any member, members, stockholder or stockholders desire to communicate with other members or stockholders of the association with reference to any question pending or to be presented for consideration at a meeting of the members or stockholders the association shall furnish upon request a statement of the approximate number of members or stockholders of the association at the time of such request, and an estimate of the cost of forwarding such communication. The requesting member, members, stockholder or stockholders shall then submit the communication, together with a sworn statement that the proposed communication is not for any reason other than the business welfare of the association, to the Commissioner who, after examination of the facts finds it to be appropriate, truthful and in the best interests of the association and its members or stockholders shall execute a certificate setting out such facts and such findings, forward the certificate together with the communication to the association, and direct that the communication be prepared and mailed by the association to the members or stockholders upon the payment to it by those making the request of the expenses of such preparation and mailing. If the Commissioner finds such proposed communication to be inappropriate, untruthful, or contrary to the best interests of the association and its members or stockholders, he shall have the discretion to deny or make other disposition of the request to communicate which he deems proper and he shall execute a certificate setting out such findings and deliver it to the party or parties making the request together with his order denying or making other disposition of the request.

from: The Model Savings Association Act

(c) Applicability of Section to Federal Associations. Insofar as the provisions of this section are not inconsistent with federal law, such provisions shall apply to federal associations whose home offices are located in this State, and to the members or stockholders thereof, except that the communication and statement provided for in subsection (b) shall be tendered to the Federal Home Loan Bank Board, Washington, D. C., in the case of a federal association and forwarded only upon that Board's certificate and direction.

SECTION 14. FINANCIAL STATEMENT. Every association shall prepare and publish annually in the month following the annual closing of its books in a newspaper of general circulation in the county in which the home office of such association is located, and shall deliver to each member or stockholder upon application therefor, a statement of its financial condition in the form prescribed or approved by the Commissioner.

SECTION 15. DIRECTORS

(a) Association under Direction of Board of Directors. The business of the association shall be directed by a board of directors of not less than five (5) nor more than fifteen (15) adult individuals elected by ballot from among the members or stockholders by a plurality of the votes of the members present or voting by proxy. If authorized by vote of the members or stockholders, the directors may elect all directors. At all times at least two-thirds of the directors shall be bona fide residents of this State.

(b) Qualifications Required of Directors. In order to qualify as a director: a member of a mutual association must hold individually, or jointly with his spouse, a savings account, the unencumbered withdrawal value of which is at least \$1,000; a stockholder of a capital stock association must own individually, or jointly with his spouse, capital stock in the association with a net, unencumbered stated value of at least \$1,000. Except with the written consent of the Commissioner, no member or stockholder shall be eligible for election or shall serve as a director or officer of an association who has been convicted of a criminal offense involving dishonesty or a breach of trust. A director shall automatically cease to be a director when he ceases to be a member, or when he is adjudicated a bankrupt or is convicted of a criminal offense as herein provided, or when the net equity above loans of all savings accounts in the association held by him or minimum stock ownership requirement specified above aggregates less than the minimum required to be eligible for election as a director, but no action of the board of directors shall be invalidated through the participation of such director in such action; provided, that if a director becomes ineligible under the terms of this subsection by reason of the exercise by the association of the right of redemption of savings accounts provided for in Section 36, he shall remain validly in office until the expiration of his term or until he otherwise becomes ineligible, resigns, or is removed, whichever may occur first.

Sec 3

(c) C stockholde nearly equ expire at th year there election th succeed th

(d) ? authorize the limits vote of th

(e) Director each vac electing holders a term for

(f) der the j such cha the pro number

(g) vacancy by a m: a direc which the cla of dire ity to

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STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2521

November 18, 1981

Mr. Eddie Turner, President
Peninsula Savings and Loan
Association
Blazy Mall - Sterling Highway
Pouch 1000
Soldotna, Alaska 99669

Dear Mr. Turner:

In reference to Ralph E. Duerre's letter of October 7, 1981 to James M. Kelly, Administrative Assistant to Senator Pat Rodey, there are a couple of points that the Division of Banking wishes to discuss.

Regards nationwide lending, the first item addressed by Mr. Duerre in his letter, the division intends to utilize the "wild-card" statute, AS 06.01.020, to promulgate a regulation which will allow state-chartered associations to participate in conventional loans or pools of conventional loans secured by a mortgage on a one-to-four family residence where the mortgaged property is located outside the state. The contemplated regulation will not provide for direct loan packaging. This instance seems to be a classic case where the application of AS 06.01.020 would bring about the desired result, and thereby eliminate the necessity of seeking statutory change through the legislature.

Regards AS 06.30.610(9), the seventh point addressed in Mr. Duerre's letter, this division is in the process of preparing a list of other investments. We would appreciate your input as to what investments you think should be placed on the list.

The division would prefer to place on the list that which Mr. Duerre suggested as a new subsection (9) of AS 06.30.610. Thus;

"Assets which qualify as liquid assets as defined in Section 523.10(g), Title 12, Code of Federal Regulations, and other assets, except time deposits and bankers' acceptances, which

*out-of-state
participations*

*expanded
investments*

*Sec 4
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Sub 6*

§ 561.37

§ 561.37 Audit period.

The "audit period" of an insured institution means the twelve month period (or other period in the case of a change in audit period) covered by the annual audit conducted to satisfy § 563.17-1.

(41 FR 35821, Aug. 24, 1976)

§ 561.38 Consumer credit.

Credit extended to a natural person for personal, family, or household purposes, including loans secured by liens on real estate and chattel liens secured by mobile homes. Provided, the association relies substantially upon other factors, such as the general credit standing of the borrower, guaranties, or security other than the real estate or mobile home, as the primary security for the loan. Appropriate evidence to demonstrate justification for such reliance should be retained in an association's files. Among the types of credit included within this term are consumer loans; educational loans; unsecured loans for real property alteration, repair or improvement, or for the equipping of real property; loans in the nature of overdraft protection; and credit extended in connection with credit cards.

(Sec. 5(c)(2)(B), 48 Stat. 132, as amended by Title IV, § 401, Public Law 96-221, 94 Stat. 151; § 5(d), 48 Stat. 132, as amended (12 U.S.C. 1464(d)); §§ 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., p. 1071)

(45 FR 76110, Nov. 18, 1980)

§ 561.39 Open-end consumer credit.

"Open-end credit" as defined in Regulation Z (12 CFR 226.2(x)).

(Sec. 5(c)(2)(B), 48 Stat. 132, as amended by Title IV, § 401, Public Law 96-221, 94 Stat. 151; § 5(d), 48 Stat. 132, as amended (12 U.S.C. 1464(d)); §§ 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., p. 1071)

(45 FR 76110, Nov. 18, 1980)

§ 561.40 Closed-end consumer credit.

Consumer credit other than open-end consumer credit.

Title 12—Banks and Banking

(Sec. 5(c)(2)(B), 48 Stat. 132, as amended by Title IV, § 401, Public Law 96-221, 94 Stat. 151; § 5(d), 48 Stat. 132, as amended (12 U.S.C. 1464(d)); §§ 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., p. 1071)

(45 FR 76110, Nov. 18, 1980)

PART 562—APPLICATION FOR INSURANCE OF ACCOUNTS

- Sec.
- 562.1 General provisions.
- 562.2 Application form.
- 562.3 Filing and amendment of application.
- 562.4 Processing of application.
- 562.5 [Reserved]
- 562.6 Exceptions to the foregoing procedures.
- 562.7 Action by Corporation.
- 562.8 Costs of examination, audit, and appraisal.
- 562.9 Effective date of insurance; initial premium payment, issuance of certificate of insurance.
- 562.10 Prohibition against advertising prospective insurance.

AUTHORITY: Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726; Reorg. Plan No. 3 of 1947; 3 CFR, 1943-1948 Comp.

SOURCE: 32 FR 8125, June 7, 1967, unless otherwise noted.

§ 562.1 General provisions.

All requests by interested persons for advice or instructions with respect to any matter arising under this part shall be addressed to the Corporation's Supervisory Agent. As used in this part, the term "Supervisory Agent" means the President of the Federal home loan bank of the district in which the insured institution is to be located or any other officer or employee of such bank designated by the Board as agent of the Corporation as provided by § 501.10 of the general regulations of the Federal Home Loan Bank Board (§ 501.10 of this chapter).

§ 562.2 Application form.

An application for insurance of accounts shall be submitted in form prescribed by the Corporation and shall be supported in accordance with the prescribed "Outline of Information to be Submitted in Support of an Application for Insurance of Accounts or a

Chapter V—Federal Home Loan

Request for a Commitment of Accounts" (hereinafter in this chapter referred to as "Outline of Information")

§ 562.3 Filing and amendment of application.

An application for insurance of accounts shall be filed with the Corporation by delivering four copies of the application, together with four copies of supporting information, to the Supervisory Agent. After an application for insurance of accounts has been filed with the Corporation, and prior to the date of advice by the Supervisory Agent to the applicant to file additional information pursuant to § 562.4, the applicant may not amend the application and may not file any additional support information unless requested to do so by the Supervisory Agent or other officer or employee of the Corporation on behalf of the Corporation.

(36 FR 13682, July 23, 1971)

§ 562.4 Processing of application.

Processing of an application for insurance of accounts (this part) shall follow the procedure set forth in § 543.2 (d), (e), and (f) of this chapter.

(Sec. 101, 91 Stat. 1147, 12 U.S.C. 195-128 (the Community Reinvestment Act of 1977); sec. 5, 48 Stat. 151, as amended; 12 U.S.C. 1464; secs. 408, 48 Stat. 1256, 1257, 1260, 12 U.S.C. 1725, 1726, 1730, 82 Stat. 90-255, 12 U.S.C. 1730a; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

(43 FR 47162, Oct. 12, 1978)

§ 562.5 [Reserved]

§ 562.6 Exceptions to the foregoing procedures.

(a) Procedure prior to State charter. The foregoing provisions of this part shall be applicable to an application submitted to the Corporation for insurance of accounts by a person who has organized a new institution but who has not yet received approval of organization from the State. Such an application shall be submitted to the Corporation but have not yet received approval of organization from the State but have not yet received approval of organization from the State except that said organization shall be submitted, in lieu of an

04.30.520
Sec 5

James M. Kelly
October 7, 1981
Page 6

NOT BE LIMITED BY LAW UNLESS THAT
LAW EXPRESSLY REFERS TO THIS SEC-
TION.]

In my suggested language, I have deleted reference to the limitations imposed on federally chartered institutions on the theories that automatic imposition of additional restrictions/limitations may upset the state statutory/regulatory framework and that the commissioner already has authority to impose such limitations, see e.g. AS 06.30.025 and 030.

✓6. Director Qualifying Stock. Request is made that AS 06.30.145(b) be amended to read as follows:

In a stock association each director shall own individually, or jointly with his spouse, [IN HIS OWN RIGHT] free of any encumbrance capital stock of the association in an amount equal to at least \$1000 in par value.

This language follows that of the Model Act and is considered necessary pursuant to matters raised in supervisory audits of Peninsula Savings and Loan Association.

Sec 7
✓7. Investment in Securities. AS 06.30.610(9) permits investments in "other stocks, securities or obligations which the commissioner approves and places on a published list." Pursuant to an item which showed up on a recent supervisory audit, Peninsula Savings and Loan Association requested that bankers' acceptances be placed on the published list of approved investments. The commissioner candidly pointed out that the Department has yet (since 1961) to develop such a list and, again, indicated a preference for legislative action (as opposed to administrative). Accordingly, request is made that AS 06.30.610(9) be redesignated as subsection (10), and that a new subsection (9) be added to read as follows:

assets which qualify as liquid assets as defined in Section 523.10(g) of Title 12, Code of Federal Regulations, and other assets, except time deposits and bankers' acceptances, which would so qualify

a member, or stockholder, shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members or stockholders except upon express action and authority of the board of directors.

This language closely follows the language of the Model Act (1979 version); the amendments add reference to stockholders and delete subsection (c) of AS 06.30.115. Subsection (c) is a bad provision for at least three reasons. First, as the statutes are presently drafted, subsection (c) contradicts the provisions of AS 06.30.120. Second, it incorporates the common law concept of inspection applicable to business corporations, see AS 10.05.240, to savings associations, but without any of the safeguards as to relevancy and proper purpose. Third, it ignores the difference between business corporations and financial institutions, the latter being dedicated to the public interest (under extensive regulatory control) and subject to annual (if not more frequent) inspection by the Director of Banking and the Federal Home Loan Bank Board.

Sec 8
✓ 1. Ten Percent of Assets Limitation on Second Lien Loans. AS 06.30.555(b)(4) should be repealed. There are no similar limitations on federal savings and loan associations, see 12 C.F.R. §§545.6, et seq., thereby rendering state savings and loan associations noncompetitive.

no! 5. Automatic Tie-In with Federal Powers. AS 06.01.020, as amended by Ch. 63 SLA 1981, gave the commissioner broad regulatory authority to grant state-chartered financial institutions powers enjoyed by federally chartered institutions (and to impose federal limitations on state-chartered institutions). The present administration has indicated a preference for legislation, as opposed to regulation, in order to effect any changes in state powers (and limitations); accordingly, the commissioner has not issued any regulations in the savings and loan area pursuant to AS 06.01.020, despite request for such regulations.

I suggest that it was the intent of AS 06.01.020, as amended, to at least allow state institutions to be competitive with federal institutions; such intent is frustrated if the ad-

STOCK SUBSCRIPTION

§ 523.4 Subscription.

An applicant shall subscribe for stock when it applies for membership.

§ 523.5 Additional subscription.

At the end of each calendar year, a Bank shall notify any member if additional stock subscription is required.

§ 523.6 Adjustments in holdings.

A Bank may from time to time increase or decrease the amount of stock of any member to conform to section 6(d) of the act. If such amount is decreased upon proper application of the member, the Bank shall pay for each share, on its surrender, the value thereof determined under section 6(i) of the act, or, at its election, credit any part of such payment against the member's debt to the Bank. A Bank may require a member to give 30 days' written notice of intention to apply for such a decrease, and a member's holdings shall not be reduced to an amount less than required by section 10(c) of the act.

§ 523.7 Excess subscription.

With Bank approval, a member may subscribe for stock over the minimum amount, if the law under which the member operates so permits.

§ 523.8 Payment on subscription.

An applicant may, under section 6(d) of the act, pay in installments for subscribed stock. If an applicant's admission to membership is substantially delayed following application, and it has furnished all information required and complied with applicable laws and Board regulations, it may make its second payment on admission, and succeeding payments as prescribed in section 6(d). All other subscriptions shall be paid in full before stock certificates are issued.

LIQUIDITY

§ 523.10 Definitions for purposes of this section, § 523.11 and § 523.12.

(2) Cash. Cash on hand and unpledged demand deposits in a Bank, an insured bank, or the Bank for Savings

and Loan Associations, Chicago, Ill., but not gold in any form.

(b) Insured bank. A commercial bank whose deposits are insured by the Federal Deposit Insurance Corp., not under control of any supervisory authority.

(c) Liquidity base. A member's net withdrawable accounts, or the policy reserve of a member insurance company required by State law, plus the member's short-term borrowings.

(d) Net withdrawable accounts. All withdrawable accounts less the unpaid balance of all loans secured by such accounts, but not including tax and loan accounts or note accounts.

(e) Short-term borrowings. All borrowings payable on demand or in 1 year or less, but not including tax and loan accounts or note accounts.

(f) Obligations of the United States. Evidences of indebtedness issued by the United States, or issued by an agency or instrumentality thereof and fully guaranteed as to principal and interest by the United States.

~~Capital assets.~~ The total of cash, accrued interest on unpledged assets which qualify as liquid assets under this subsection or would so qualify except for their maturities, and the book value of the following unpledged assets (including such assets held subject to repurchase agreement), as long as principal and interest on such assets are not in default:

(1) Time deposits in a Bank or the Bank for Savings and Loan Associations, Chicago, Ill.;

(2) Except as the Board may otherwise direct in a specific case, obligations of the United States maturing in 5 years or less;

(3) Obligations with 5 years or less remaining until maturity, issued, or fully guaranteed as to principal and interest, by:

- (i) A Bank(s);
- (ii) The Federal National Mortgage Association;
- (iii) The Government National Mortgage Association;
- (iv) A Bank(s) for Cooperatives, including the Central Bank for Cooperatives;
- (v) A Federal Land Bank(s);
- (vi) A Federal Intermediate Credit Bank(s);

(vii) The Tennessee Valley Authority;

(viii) The Export-Import Bank of the United States;

(ix) The Commodity Credit Corporation; or

(x) The Federal Financing Bank;

(4) Time and savings deposits in an insured bank, including time deposits held subject to a repurchase agreement and loans of unsecured day(s) funds to an insured bank (Federal funds or similar unsecured loans to insured banks), up to an amount not to exceed the maximum permissible investment in such deposits allowed under § 562.9-6 of this chapter, if:

(i) Except for loans of unsecured day(s) funds such time deposits are (a) negotiable and will mature in 1 year or less, (b) not negotiable and will mature in 90 days or less, or (c) not withdrawable without notice and the notice periods do not exceed 90 days;

(ii) Loans of unsecured day(s) funds will mature in 6 months or less; and

(iii) The priority of claims of a lender of unsecured day(s) funds is not subordinate to claims of depositors in the borrower thereof;

(5) Bankers' acceptances of an insured bank if:

(i) The total of all such acceptances of the same bank held by the same member does not exceed one-fourth of 1 percent of total deposits of such bank (as shown by its last published statement of condition preceding the date of acceptance);

(ii) Such acceptances will mature in 6 months or less;

(6) General obligations (other than gold-related obligations) of any State, territory, or possession of the United States, or political subdivision thereof, if:

(i) Such obligations continue to be either (a) rated in one of the four highest grades by the most recently published rating of such obligations by nationally recognized investment rating service or (b) issued by a public housing agency and have the full faith and credit of the United States pledged under § 1421a(c) or § 1427(a) of Title 42 of the United States Code, as amended; and

(ii) Such obligations will mature in 2 years or less; and

(7) Shares or certificates in any open-end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, while the portfolio of such company is restricted by its investment policy, changeable only by vote of the shareholders, to investments described in the other provisions of this paragraph (g).

(h) Short-term liquid assets. The total of cash, accrued interest on unpledged assets which qualify as liquid assets under paragraph (g) of this section, or would so qualify except for their maturities, and the book value of the following unpledged assets (including such assets held subject to repurchase agreement):

(1) Time deposits specified in paragraph (g)(1) of this section;

(2) Obligations specified in paragraphs (g) (2) and (g) (3) of this section, which will mature in 12 months or less;

(3) Time and savings deposits, including loans of unsecured day(s) funds, which qualify as liquid assets under paragraph (g) (4) of this section and, in the case of such time deposits which are negotiable, will mature in 6 months or less;

(4) Bankers' acceptances specified in paragraph (g) (5) of this section which will mature in 6 months or less;

(5) General obligations specified in paragraph (g) (6) (i) (b) of this section which will mature in 6 months or less; and

(6) Shares or certificates of any investment company qualifying under paragraph (g)(7) of this section, to the extent that the investments of such company are eligible under this paragraph (h).

(Sec. 405, 94 Stat. 702, Pub. L. 96-221, § 2 amended (12 U.S.C. 1437) Reorg. Plan No. 5 of 1947, 12 FR 4951, 3 CFR, 1947 Supp.; 143 FR 46839, Oct. 11, 1978, as amended; 44 FR 28648, Mar. 15, 1979; 45 FR 57134, Aug. 27, 1980)

§ 572.11 Liquidity requirements

(a) General. Except as otherwise provided in paragraphs (b) and (c) of this section, for each calendar month, each member, other than a mutual savings



Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 752 Sectional Analysis:

Section 1) Amends AS 06.30.115 pertaining to access to books and records of a savings association. Members and stockholders of an association may inspect records pertaining to his loan, savings account, or voting rights. Retains provision that the commissioner (or his authorized representative), persons authorized by the association, and federal agencies authorized, may inspect the books and records of an insured association.

Section 2) Books and records pertaining to accounts, loans and voting rights of members, stockholders, savers and borrowers shall be kept confidential.

Section 3) In a stock association each director shall own capital stock (\$1,000), individually or jointly with his spouse. Currently "in his own right".

Section 4) Exempts participation loans authorized under AS 06.30.530 from the prohibition against securing loans by mortgages on properties located outside the state.

Section 5) amends As 06.30.520 by the addition of language which would allow property improvement and consumer loans to be secured by liens on real estate and mobile homes.

Section 6) Adds the National Credit Administrator insured loans and loans approved by the Department to the list of eligibility for participation loans.

Section 7) allows investments in liquid assets as defined by federal regulation, as well as assets excluded from the definition because of maturity limitations, but not time deposits and bankers' acceptances.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 752

Title An Act relating to savings associations

Requested by Labor and Commerce Date _____

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development

Program Category Affected Consumer Protection

BRU, Program, Or Subprogram(s) Affected Banking and Securities

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER (Specify Source)	0					

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE February 18, 1982

PREPARED BY Willis E. Kirkpatrick, Director

AGENCY Banking, Securities, Sm. Loans, & Corp.

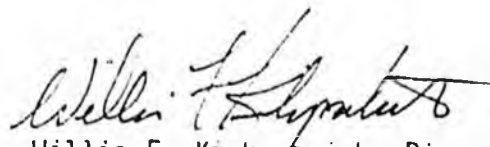
Original: Legislative Finance

PHONE 465 2521

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)



COMMITTEE REPORT

SENATE

2/11/82

FURTHER: None

Date: 3 MARCH 82

Mr. President:

The Committee on LABOR & COMMERCE has had SB 752
savings associations

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Mendenhall
CHAIRMAN

charge may be made against borrowers for defaults or prepayments. However, nothing contained in this chapter prevents payment being made for the purchase of stock in a stock association. (§ 7 ch 49 SLA 1961; am § 12 ch 164 SLA 1972)

Effect of amendment. — The 1978 amendment substituted "may not charge" for "shall not charge" in the first and second sentences and added the third sentence.

Sec. 06.30.115. Access to books and records of association. (a) Every member may inspect the books and records of an association which pertain to his loan or savings account.

(b) Except as provided in (a) and (c) of this section, the right of inspection and examination of the books and records is limited to (1) the commissioner or his authorized representatives as provided in this chapter, (2) persons authorized to act for the association, and (3) any federal instrumentality or agency authorized to inspect or examine the books and records of an insured association.

(c) In stock associations every stockholder may inspect the general books and records of the association except a stockholder may not have access to the loan and savings records of other members. (§ 8(a) ch 49 SLA 1961; am § 13 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment inserted "and (c)" in subsection (b), and added subsection (c).

Sec. 06.30.120. Books and records pertaining to members' accounts to be kept confidential. The books and records pertaining to the accounts and loans of members shall be kept confidential by the association, its directors, officers and employees, and by the commissioner, his examiners and representatives, except where disclosure is compelled by a court of competent jurisdiction. No person, including a member, shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members except upon express action and authority of the board of directors. (§ 8(a) ch 49 SLA 1961)

Sec. 06.30.125. Communication between members. If a member desires to communicate with another member with reference to a question pending or to be presented for consideration at a meeting of the members, the association shall furnish upon request a statement of the approximate number of members of the association and an estimate of the cost of forwarding the communication. The requesting member shall submit the communication to the commissioner who, if he finds it is appropriate, truthful and in the best interests of the association and its members, shall execute a certificate setting out these findings, forward the certificate together with the communication to the

association, and direct the association to prepare the communication and mail it to the members upon payment to it by the requesting member of the expenses of preparation and mailing. (§ 3(b) ch 49 SLA 1961)

Sec. 06.30.130. Application of §§ 115—125 of this chapter to federal savings and loan associations. To the extent that §§ 115—125 of this chapter are not inconsistent with federal law, they apply to federal savings and loan associations whose home offices are located in this state, and to the members, except that the communication provided for in § 125 of this chapter shall be submitted to the Federal Home Loan Bank Board, Washington, D.C., and forwarded only upon that board's certificate and direction. (§ 8(c) ch 49 SLA 1961)

Sec. 06.30.135. Association to publish and furnish annual financial statement. Every association shall prepare an annual statement of its financial condition in the form prescribed or approved by the commissioner. The statement shall be published annually each January in a newspaper of general circulation in the city in which, or in the immediate vicinity of which, the home office of the association is located. The association shall deliver a copy of the statement to each member upon his request. (§ 9 ch 49 SLA 1961)

Sec. 06.30.140. Association under direction of board of directors. The business of the association is directed by a board of directors of not less than five or more than 25 as determined and elected by ballot from among the members by a plurality of the votes of the members present. If authorized by vote of the members, vacancies on the board of directors may be filled by a simple majority vote of the remaining directors, and those persons so appointed may serve only until the next annual meeting of the association. At all times at least two-thirds of the directors shall be bona fide residents of this state. (§ 10(a) ch 49 SLA 1961; am § 14 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "25" for "15" in the first sentence and the language beginning "vacancies on the board of directors" for "the directors may elect all

directors" at the end of the second sentence.

C.J.S. reference — 9 C.J.S. Banks and Banking § 968 et seq.

Sec. 06.30.145. Qualifications of directors. (a) To qualify as a director, a member of a mutual association shall hold a savings account with the association having a withdrawal value of at least \$1,000. A director automatically ceases to be a director when he ceases to be a member, or when the net equity above loans of all savings accounts in the association held by him aggregates less than the minimum required to be eligible for election as a director. However, no action of the board of directors is invalid through the participation of the director in the action. If a director becomes ineligible under this section by reason of the exercise by the association of the right of redemption of savings

accounts provided for in §§ 475—485 of this chapter, he remains in office until the expiration of his term or until he otherwise becomes ineligible.

(b) In a stock association each director shall own in his own right free of any encumbrance capital stock of the association in an amount equal to at least \$1,000 in par value.

(c) Each director shall take an oath that he will faithfully and honestly perform the duties of his office and will not violate or permit to be violated any provisions of this chapter. The oath shall be filed annually in the office of the department. (§ 10(b) ch 49 SLA 1961; am § 15 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment designated the provisions of this section as subsection (a), and in that subsection, substituted "a mutual association" for "an association" and "\$1,000" for "\$500" in the first sentence, inserted

"with the association" in the first sentence, and deleted the former second sentence, which read "If the assets exceed \$2.5 million, the withdrawal value of the account must be at least \$2,000." The amendment also added subsections (b) and (c).

Sec. 06.30.150. Classification of directors. At the first annual meeting, the directors shall by majority vote be divided into three classes of as nearly equal numbers as possible. The term of office of directors of the first class expires at the first annual meeting following the first election; the term of office of the second class expires one year thereafter; and the term of office of the third class expires two years thereafter. At each annual election thereafter directors shall be chosen for a full term of three years to succeed those whose terms expire. (§ 10(c) ch 49 SLA 1961)

Sec. 06.30.155. Number of directors increased only by members. The number of directors may be subsequently increased only by vote of the members. (§ 10(d) ch 49 SLA 1961)

Sec. 06.30.160. How vacancy on board of directors caused by increase in number of directors is to be filled. If the members fail to elect a director to fill each vacancy created by an increase, the directors may fill the vacancy by electing a director to serve until the next annual meeting of the members, at which time a director shall be elected to fill the vacancy for the unexpired term for the class of director in which the vacancy exists. (§ 10(e) ch 49 SLA 1961)

Sec. 06.30.165. Classification of new directors elected to fill vacancies. Whenever the number of directors is changed and vacancies caused by the change are filled, the directors so elected shall be classified so that each of the three classes contains numbers as nearly equal as possible. (§ 10(f) ch 49 SLA 1961)

Sec. 06.30.170. When vacancy on board of directors is to be filled by directors. A vacancy among directors, not filled by the members, may be filled by a majority vote of the remaining directors, though less than a quorum, by electing a director to serve until the next annual meeting

successor in interest without notice to the original party, except where there is a written agreement to the contrary, and may forbear to sue or may extend time for payment of the secured debt or otherwise modify its terms without discharging or in any way affecting the original liability of the party upon the debt. (§ 23(f) ch 49 SLA 1961)

Sec. 06.30.520. Property improvement and small loans. An association may make property improvement loans to property owners for maintenance, repair, modernization, improvement, and equipment of their properties. A loan may be made with or without security, except that a loan without security may not exceed \$4,500. An association may not make property improvement loans exceeding 25 per cent of its assets. An association may make small loans to members with or without security not exceeding \$2,500. However, an association may not make small loans exceeding 15 per cent of its assets. The total amount of loans made under this section may not exceed 25 per cent of the assets of the association. (§ 23(g) ch 49 SLA 1961)

Sec. 06.30.525. Power to purchase loans and to lend upon loans. The power to make loans includes (1) the power to purchase loans of any type that the association may make and (2) the power to make loans upon the security of loans of any type that the association may make. (§ 23(h) ch 49 SLA 1961)

Sec. 06.30.530. Participation loans. An association may participate with other lenders in loans of any type that an association may otherwise make, if the other lenders are instrumentalities of or corporations owned wholly or in part by the United States or this state, or are associations organized under the laws of this state, or are associations or corporations insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, or are life insurance companies with assets in excess of \$100 million, or are employees' or self-employed persons' trusts qualified and exempt from federal income tax under the laws of the United States. (§ 23(i) ch 49 SLA 1961)

Sec. 06.30.535. Sale of loans. An association may sell without recourse any loan, including its participating interest in a loan, at any time, if the total dollar amount of the loan sold, including the sale, within the calendar year beginning January 1 immediately preceding the date of the sale, does not exceed a sum equal to 25 per cent of the dollar amount of all loans and participating interests in loans held by the association at the beginning of the calendar year. However, the commissioner, upon application of the association showing good cause, may authorize the sale of a greater amount during a calendar year. Notwithstanding the limitations of this section, loans may be assigned with recourse to the Federal Home Loan Bank of which the association is a member. (§ 23(j) ch 49 SLA 1961)

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Article 9. Investments and Borrowing.

Section

610. Investments in securities
615. Investments in real estate

Section

616. Investment in service corporation
620. Power to borrow

Sec. 06.30.610. Investments in securities. An association may invest in the following securities:

(1) obligations of, or guaranteed as to principal and interest by, the United States or this state without limitation;

(2) stock of a Federal Home Loan Bank of which it is eligible to be a member and in obligations or consolidated obligations of any Federal Home Loan Bank;

(3) stock or obligations of the Federal Savings and Loan Insurance Corporation;

(4) stock or obligations of a national mortgage association or its successor;

(5) demand, time, or savings deposits with a bank or trust company whose deposits are insured by the Federal Deposit Insurance Corporation;

(6) stock or obligations of any corporation or agency of the United States or this state, or in deposits therewith to the extent that the corporation or agency assists in furthering or facilitating the association's purposes or powers;

(7) savings accounts of an association operating under this chapter and of a federal savings and loan association;

(8) evidence of indebtedness which is a general obligation of a city, town, village, school district, or other municipal or political subdivision of this state;

(9) other stocks, securities or obligations which the commissioner approves and places on a published list. An association investing in securities listed by the commissioner is not required to dispose of the securities if at a later time the commissioner removes the securities from the list. (§ 26(a) ch 49 SLA 1961)

C.J.S. reference. — 9 C.J.S. Banks and Banking § 1008 et seq.

Sec. 06.30.615. Investments in real estate. (a) An association may invest an amount which does not exceed the sum of its capital stock, surplus, undivided profits and reserve accounts in real estate including buildings and appurtenances as may be or reasonably anticipated to be necessary or convenient for the transaction of its business from portions of which a revenue may be derived by rentals or otherwise. However, the commissioner may approve investment of a larger sum.

(b) An association may also invest in:

(1) real estate purchased at any type of sale upon which it has a lien or claim;

(B) secured in addition to the amortized mortgage by a savings account held by the lending institution in an amount equal to 15 percent of the loan or other collateral acceptable to the department.

(3) No investment may be made in a conventional loan secured by a mortgage on a one-to-four family residence unless the mortgaged property is located inside the state.

(4) Repealed by § 15 ch 71 SLA 1981.

(5) The loan may not be made to a director, officer, or employee except when secured by home property owned and occupied by the director, officer, or employee.

(6) No investment may be made in a mortgage upon a leasehold unless

(A) the leasehold has an unexpired term of not less than two years beyond the maturity of the loan;

(B) the principal amount of the mortgage loan is not in excess of 80 per cent of the appraised value of the leasehold; and

(C) provision is made for completed amortization of the loan within an unexpired term by period payments as the department may prescribe.

(7) No investment may be made in a conventional loan secured by a mortgage on a multiple-family dwelling or improved real estate if the loan exceeds 90 percent of the appraised value of the property or has a maturity exceeding 40 years from the date the loan is made. (§ 23(c) ch 49 SLA 1961; am § 27 ch 164 SLA 1978; am §§ 3-6, 15 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment, in paragraph (1), substituted "the net worth of the association or an amount equal to 10 percent of the savings liabilities of the association, whichever is less, except that a mortgage investment in the aggregate amount of \$100,000 or less may be made notwithstanding the provisions of this paragraph" for "two percent of the assets of the association at the time the investment is made, or \$90,000 on a single-family dwelling or \$90,000 per unit on a multiple-family dwelling or other improved realty, whichever is greater, or other maxima established by the commissioner by regulation." In paragraph (2), the amendment substituted "90" for "two percent of the assets of the association at the time the investment is made, or as specified in (1) of this section, whichever is greater, or more than 80" preceding "percent of the appraised value," substi-

tuted "40" for "30" preceding "years," added "a" preceding "mortgage" and substituted "insurer authorized to do business in Alaska with coverage in an amount acceptable to the department" for "insurance in an amount equal to 20 percent of the loan issued by a mortgage insurer authorized to do business in Alaska" in subparagraph (A) and substituted "15" for "10" preceding "percent" in subparagraph (B). In paragraph (3), the amendment substituted "No" for "except as provided in (1) of this section, no" preceding "investment" and deleted "and the mortgage has a maturity not exceeding 30 years from the date the loan is made" following "inside the state." The 1981 amendment also repealed paragraph (4) and added paragraph (7).

Editor's notes. — For limitation on investments in loans on improved real estate, see paragraph (7) of this section.

Sec. 06.30.505. Other loans. (a) An association may use for loans other than those specified in AS 06.30.500 an aggregate amount not exceeding 30 percent of the assets at the time of use, or a larger amount

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if a loan made after 30 percent of the assets of the association have been used is made with a written commitment by a secondary investor to purchase the loan within a reasonable time and with the approval of the commissioner as follows:

(1) home loans, whether direct-reduction or not, which exceed 90 percent of the appraised value of the home property securing the loan;

(2) [repealed]

(3) home loans of any amount, which are not direct-reduction home loans, regardless of where the home property securing the loan is situated;

(4) other real estate loans, whether amortized or unamortized, regardless of amount or location of real estate securing the loan.

(b) A subsequent reduction of savings liability does not affect outstanding loans made under this section.

(c) An association may, subject to regulations adopted by the commissioner, invest not to exceed 20 percent of its assets in loans secured by mobile homes.

(d) The loans referred to in (a) of this section may not exceed 90 percent of appraised value of the property securing the loans except as provided in AS 06.30.500 and 06.30.510. (§ 23(d) ch 49 SLA 1961; am §§ 28, 29 ch 164 SLA 1978, am § 7 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment, in subsection (a), added "if a loan made after 30 percent of the assets of the association have been used is made with a written commitment by a secondary investor to purchase the loan within a reasonable time and" preceding "with the approval" in the introductory language and in paragraph (1), substituted "90 percent of the appraised value of" for "\$90,000 each, regardless of where" preceding "the home property" and deleted "is situated" following "securing the loan."

In subsection (b), the amendment deleted the former first sentence which read "The power referred to in (a) of this section is referred to as the 30 percent of assets lending power" and substituted "this section" for "the 30 percent of assets lending power" in the second sentence. In subsection (c), the amendment substituted "20" for "10" preceding "percent of its assets" and, in subsection (d), substituted "90" for "80" preceding "percent of appraised value."

Sec. 06.30.507. Lending standards. An association may not make a loan unless it has determined that the type, amount, purpose, and repayment provisions of the loan in relation to the resources and credit standing of the borrower support the reasonable belief that the loan is financially sound, will be repaid according to its terms, and is lawful. (§ 8 ch 71 SLA 1981)

Sec. 06.30.520. Property improvement and consumer loans. An association may make property improvement loans to property owners for maintenance, repair, modernization, improvement, and equipment of their properties. In addition, an association may make consumer loans. A property improvement or consumer loan may be made with or without security. An association may not make property

improvement loans exceeding 25 percent of its assets or consumer loans exceeding 40 percent of its assets. (§ 23(g) ch 49 SLA 1961; am § 9 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment added the present second sentence, added "property improvement or consumer" preceding "loan" and deleted "except that a loan without security may not exceed \$4,500" following "without security" in the third sentence, deleted "an association may make small loans to members with or without security not exceeding \$2,500. However, an association

may not make" from the end of the third and beginning of the fourth sentences, substituted "or consumer" for "small" preceding "loans exceeding," substituted "40" for "15" preceding "percent of its assets" and deleted the former last sentence which read "The total amount of loans made under this section may not exceed 25 percent of the assets of the association."

Sec. 06.30.535. Sale of loans.

Repealed by § 15 ch 71 SLA 1981.

Editor's notes. — The repealed section derived from § 23(j), ch. 49, SLA 1961.

Sec. 06.30.540. Servicing loans. An association may service loans. (§ 23(k) ch 49 SLA 1961; am § 10 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment substituted "loans" for "mortgages and trust deeds made by the association and later sold subject to regulations and restrictions prescribed by the commissioner" following "service" in the first sentence and deleted the former

second sentence which read "The maximum principal amount of mortgages and trust deeds serviced by an association at any one time shall not exceed two-thirds of the amount of the savings liability of the association."

Sec. 06.30.555. Security for real estate loans. (a) Every real estate loan shall be secured by a mortgage, trust deed, or other instrument constituting a first lien, or the equivalent of a first lien, upon the real estate securing the loan, according to lawful or well-recognized practice best suited to the transaction. The instrument, constituting a first lien, is referred to in this chapter as a "mortgage." The mortgage shall provide specifically for full protection to the association for the loan and additional advances and the usual insurance risks, taxes, assessments, other governmental levies, maintenance, and repairs. The mortgage may provide for the assignment of rents which becomes absolute upon the borrower's default and operative upon written demand made by the association. The mortgage shall be recorded in accordance with law.

(b) An association may, subject to the requirements of this chapter, make or acquire a loan by a second lien on improved real estate if

(1) payments on the loan secured by the first mortgage are current and the bank retains in its records a written report of the status and balance of the first lien loan as of the date the second lien loan is made or acquired;

REPEALED;

(2) the total of the balance of the loan secured by the first lien and the loan secured by the second lien does not exceed the maximum percentage of appraised value permitted under AS 06.30.500(2);

(3) the second mortgage agreement contains a provision that the association is entitled to be subrogated to all rights of the borrower under the first mortgage;

(4) the total aggregate amount of such loans outstanding does not exceed 10 per cent of the association's assets. (§ 24 ch 49 SLA 1961; am § 30 ch 164 SLA 1978; am § 11 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment, in subsection (b), substituted "AS 06.30.500(2)" for "AS 06.30.505(d)" in paragraph (2).

Article 9. Investments and Borrowing.

Section

616. Investment in service corporations

Sec. 06.30.616. Investment in service corporations. An association may, subject to the approval of the commissioner, invest in capital stock, obligations, and securities of any service corporation organized under the laws of this state if: (1) the entire capital stock of the service corporation is available for purchase only by one or more savings and loan or banking institutions having their home offices in the state; and (2) substantially all of the activities of the service corporation are similar or incident to activities which may be engaged in by a service corporation in which a federal savings and loan association may invest or such other activities as the commissioner may approve. Investments in service corporations may not exceed five percent of the assets of an association. (§ 33 ch 164 SLA 1978; am § 12 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment rewrote this section.

Article 11. Conservatorship and Receivership.

Section

665. Commissioner may apply for appointment of conservator

Sec. 06.30.665. Commissioner may apply for appointment of conservator. If satisfactory corrective action is not taken within a reasonable time after the order of the commissioner under AS 06.01.030, the commissioner, if he believes that the public interest may be served by the appointment of a conservator, may, acting through the attorney general, apply to the superior court for the appointment of a conservator. (§ 38(b) ch 49 SLA 1961; am § 4 ch 94 SLA 1980)