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B

188

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SB 188
 Title: Act relating to bank holding companies
 Sponsor: Rodey
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Div. Banking
 Program Category Affected: Public Protection
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Willis F. Kirkpatrick
 Division: Banking, Securities & Corporations

Phone: 465 2521
 Date: 3/28/83

Approved by Commissioner: Richard A. Lyon
 Department: Commerce & Economic Development

Date: 3/28/83

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

(b) A bank may issue a credit card or other similar credit-granting device to a customer for obtaining money, goods, services or anything else of value and the bank, when credit is extended under this section, may impose a service charge not in excess of the limits for service charges provided in AS 45.10.120(c). However, in addition, when cash is advanced under this section, the bank may impose a setup charge which does not exceed three per cent of the funds advanced, or \$12, whichever is less, except that on loans of under \$100 a minimum not exceeding \$3 may be charged.

(c) In addition to charges authorized under (b) of this section, a bank may charge an annual fee for the issuance of a credit card or other similar credit granting device. (§ 2 ch 63 SLA 1969; am § 1 ch 152 SLA 1972; am § 1 ch 79 SLA 1980)

Effect of amendments. — The 1980 amendment added subsection (c).

Sec. 06.05.232. Leasing of real and personal property.

NOTES TO DECISIONS

A writing is executed for the purposes of this section when it has been signed by only the lessee. *Dischner v. United Bank Alas.*, Sup. Ct. Op. No. 2386 (File No. 5008), 631 P.2d 107 (1981).

Where lease agreement is a replace-

ment for one signed prior to the acquisition of the property to be leased, requirements of this section are met. *Dischner v. United Bank Alas.*, Sup. Ct. Op. No. 2386 (File No. 5008), 631 P.2d 107 (1981).

Sec. 06.05.235. Bank holding companies. (a) Except as provided in (b) or (e) of this section, it is unlawful for a company to own, control or hold with power to vote 25 percent or more of a class of voting securities or other capital stock of one or more state banks or domestic bank holding companies subject to regulation under this chapter. However, when it becomes a bona fide necessity to avoid loss for a creditor to accept shares of stock in one or more state banks or domestic bank holding companies constituting more than 25 percent of the ownership or control of a state bank or domestic bank holding company in payment of indebtedness owing to the creditor, shares of stock may be accepted, but the shares of the one or more state banks or domestic bank holding companies exceeding that 25 percent shall be promptly disposed of under the supervision of the department.

(b) A domestic bank holding company, as defined in AS 06.05.540 and organized under AS 10.05, which maintains its principal office and place of business in the state and conducts its principal operations in the state, may acquire and own all or any portion of the voting securities or other capital stock of, or all or substantially all of the assets of, one or more banks or bank holding companies unless the bank is a

recently formed bank. The department may require a domestic bank holding company to post a bond with the department in an amount equal to the paid-in capital and paid-in surplus represented by the proportion of state bank stock directly or indirectly owned, held, or controlled by it, under conditions the department may prescribe, to assure full protection of the public. The domestic bank holding company is subject to an examination by the department or a competent person designated by the department when the department considers it necessary, but not less than once each year. The domestic bank holding company shall pay an examination fee in accordance with AS 06.01.010.

(c) The department may adopt regulations for controlling as domestic bank holding companies or out-of-state bank holding companies under (b) or (e) of this section to assure financial sound banking organization and practice.

(d) A person, or an officer, director, agent, or employee of the person, who violates a regulation adopted under (c) of this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both; and in the case of a corporation, by a fine of not more than \$10,000.

(e) An out-of-state bank holding company as defined in (h) of this section may acquire and own all or any portion of the voting securities or other capital stock of, or all or substantially all of the assets of, one or more state banks, domestic bank holding companies, or national banks conducting a banking business in the state unless the state bank or national bank is a recently formed bank. To assure full protection of the public the department may require an out-of-state bank holding company that directly or indirectly owns, holds, or controls stock in a state bank or domestic bank holding company to post a bond with the department, under conditions the department may prescribe. The amount of the bond shall be equal to the product obtained by multiplying the amount of paid-in capital and paid-in surplus of the state bank or domestic bank holding company by the percentage of state bank or domestic bank holding company stock directly or indirectly owned, held, or controlled by the out-of-state bank holding company.

(f) When the department considers it necessary, an out-of-state bank holding company directly or indirectly owning, holding, or controlling state bank stock or domestic bank holding company stock is subject to an examination by the department or a competent person designated by the department. The out-of-state bank holding company shall pay an examination fee in accordance with AS 06.01.010.

(g) As used in this section a "recently formed bank" is a state bank or national bank conducting a banking business in the state that commenced that banking business in the state on or after July 1, 1982, and that has not been in existence and continuously operating in the state

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for a period of three years or more. However, the term "recently formed bank" does not include

(1) a bank organized solely for the purpose of facilitating acquisition of a bank that either has been in existence and continuously operating in the state as a bank for a three-year period, or was conducting a banking business in the state on or before June 30, 1982;

(2) a state bank that the department determines was not chartered directly or indirectly by an acquiring out-of-state bank holding company, and that does not have the capacity to continue to conduct its business independently in a fashion consistent with the public interest and the interest of depositors, creditors, and shareholders; or

(3) a national bank that the Board of Governors of the Federal Reserve System, or their designee, determines was not chartered directly or indirectly by an acquiring out-of-state bank holding company, and that does not have the capacity to conduct its business independently in a fashion consistent with the public interest of depositors, creditors, and shareholders.

(h) As used in this section "out-of-state bank holding company" means a company that

(1) is a bank holding company as defined in the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841, et seq.);

(2) is registered as a bank holding company with the Board of Governors of the Federal Reserve System, with the Federal Reserve Bank of the Federal Reserve District in which the operations of the bank holding company are principally conducted, or with a Federal Reserve Bank that the Board of Governors may designate;

(3) maintains its principal office and place of business outside the state; and

(4) principally conducts its operations out of the state, as measured by total deposits held or controlled by it on the date on which it becomes an out-of-state bank holding company.

(i) For the purpose of this section, a trust company organized under AS 06.25 which is engaged in the business of banking shall be considered a state bank. (§ 3.167 ch 129 SLA 1951; am § 1 ch 194 SLA 1959; am § 1 ch 139 SLA 1961; am § 1 ch 53 SLA 1962; am § 1 ch 124 SLA 1966; am § 18 ch 218 SLA 1976; am § 16 ch 169 SLA 1978; am §§ 1—4 ch 75 SLA 1982)

Effect of amendments. — The 1982 amendment, effective July 1, 1982, in subsection (a), added "Except as provided in (b) or (c) of this section" to the beginning of the subsection, substituted "a class of voting securities or other capital stock" for "the capital stock" and "domestic bank" for "state bank" in the first sentence, deleted the former second sentence, which read "Nothing in this subsection prohibits a company from qualifying as a bank

holding company under (b) of this section," and substituted "state banks or domestic bank holding companies" for "banks or bank holding companies" in two places and "state bank or domestic bank holding company" for "bank or bank holding company" in one place in present second sentence. In subsection (b), the amendment substituted "voting securities" for "voting shares" in the first sentence, added "unless the bank is a recently formed

bank" to the end of the first sentence, inserted "domestic bank" preceding "holding company" in the second, third and fourth sentences, and inserted "state" preceding "bank stock" in the second sentence. In subsection (c), the amendment

deleted "bank holding" following "adopt regulations for" and inserted "qualifying as domestic bank holding companies or out-of-state bank holding companies under (b) or (e) of this section." The amendment also added subsections (e)-(i).

Article 3. Organization and Corporate Functions of Banks.

SUBARTICLE 2. INCORPORATION AND CERTIFICATION.

Section

365. [Repealed]

Sec. 06.05.365. Application for charter.

Repealed by § 54 ch 169 SLA 1978.

Editor's notes. — The repealed section derived from § 3.215, ch. 129, SLA 1951; § 12, ch. 157, SLA 1970.

This section was contained in a former subarticle 3, entitled "Bank Charters," which was repealed by § 54, ch. 169, SLA

1978. See editor's note following subarticle 3 heading.

Legislative history reports. — For report on ch. 157, SLA 1970 (CSHB 643 (Judiciary)), see 1970 House Journal, p. 1085.

SUBARTICLE 3. INITIATION OF CORPORATE AFFAIRS.

Editor's notes. — Prior to 1978, this article contained a subarticle 3 entitled "Bank Charters," consisting of AS 06.05.365 — 06.05.375. This subarticle was repealed by § 54, ch. 169, SLA 1978, and derived from §§ 3.215 — 3.217, ch.

129, SLA 1951. Former subarticle 4 and AS 06.05.395, which was formerly contained in subarticle 5, were then redesignated as subarticle 3 by the revisor of statutes.

SUBARTICLE 4. BRANCH APPLICATIONS.

Editor's notes. — Prior to 1978, AS 06.05.399 was contained in a subarticle 5, entitled "Certificate of Authority." See

editor's note following subarticle 5 analysis.

SUBARTICLE 5. CONDUCT OF BANK AFFAIRS.

Editor's notes. — Prior to 1978, this article contained a subarticle 5 entitled "Certificate of Authority," consisting of AS 06.05.395 — 06.05.425. The revisor of statutes transferred AS 06.05.395 to present subarticle 3 and designated AS 06.05.399

as present subarticle 4. AS 06.05.400 — 06.05.425 were repealed by § 54, ch. 169, SLA 1978, and derived from §§ 3.221 B — 3.221 F, 3.221 H, ch. 129, SLA 1951. Former subarticle 6 was then redesignated as subarticle 5 by the revisor of statutes.

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SB 188 TITLE & SPONSOR SUMMARY

16:17 6/04/84 PAGE 1 OF 3

PROPOSED TITLE:

AN ACT RELATING TO BANK HOLDING COMPANIES

PRIME SPONSOR: RODEY.

CO-SPONSORS:

CURRENT STATUS: 7/14/83 CHAPTER 0060 SLA 83

SB 188 SENATE ACTION

16:17 6/04/84 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/21/83	01	0440	FIRST READING -- COMMITTEE REPORTS
04/06/83	02	0590	L&C -- DP03
04/06/83	03	0590	L&C F/NOTE EQUALS ZERO
04/26/83	04	0810	RLS -- NR02, OTHER04 TAKEN UP IMMEDIATELY
04/26/83	05	0811	SECOND READING
04/26/83	06	0811	ADVANCED TO 3RD READING BY UNAN CONSENT
04/26/83	07	0811	THIRD READING
04/26/83	08	0811	PASSED BY DIV 15-04-01
05/25/83	15	1519	TRANSMITTED TO GOVERNOR
07/14/83	16	1640	SIGNED BY GOVERNOR-CH0060, EFF 10/12/83
****	**	**	*** **

SB 188 HOUSE ACTION

16:17 6/04/84 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/27/83	09	1060	FIRST READING -- COMMITTEE REPORTS
05/12/83	10	1295	L&C -- DP04, NR03
05/23/83	11	1925	SECOND READING
05/23/83	12	1925	ADVANCED TO 3RD READING BY UNAN CONSENT
05/23/83	13	1925	THIRD READING
05/23/83	14	1926	PASSED BY DIV 36-04-00
****	**	**	*** **

COMMITTEE REPORT

SENATE

3/21/43

FURTHER:

Date: 11-3-42

Mr. President:

The Committee on Labor & Commerce has had 10 186

Relating to bank holding companies.

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:

CHAIRMAN

SENATE LABOR AND COMMERCE

STANDING COMMITTEE

April 5, 1983

1:35 p.m.

Members Present: Senator Dick Eliason, Chair
Senator Bob Mulcahy
Senator Pat Rodey

Members Absent: Senator Don Bennett
Senator John Sackett

COMMITTEE CALENDAR

SB 182

"An Act relating to elevator safety standards."

SJR 20

"Supporting passage of J.R. 1176 and S. 137 in the Congress of the United States, amending the Internal Revenue Code to allow certain home mortgage bonds to continue to be tax-exempt."

SB 188

"An Act relating to bank holding companies."

WITNESS REGISTER

(SB 182)

Judy Knight, Special Assistant to the Commissioner
Dept. of Labor
P. O. Box 1149
Juneau, Alaska 99802
465-2700

Position statement: Department supports SB 182.

(SB 188)

Willis Kirkpatrick, Director, Division of Banking, Securities and
Corporations, Dept. of Commerce and Economic Development
Pouch D
Juneau Alaska 99811
465-2521

Position statement: Knows of no opposition to SB 188.

PREVIOUS ACTION

(In Senate Labor and Commerce only.)

No previous action on any of these measures.

ACTION NARRATIVE

Tape #17
Number 008

Senator Eliason called the meeting to order with members Senator Rodey and Senator Mulcahy present. Senate Bill 182, concerning elevator safety standards. Senator Josephson, prime sponsor, had provided a memorandum on the measure for the information of committee members.

Judy Knight, Special Assistant to the Commissioner of the Department of Labor, provided the department position on the measure. She stated that the department supports SB 182, which adopts the 1981 American National Standards Institute Safety Code, and permits municipalities to adopt and enforce standards at least as strict as those set forth in the Code.

Sen. Mulcahy inquired if it was that case that existing elevator operations will not be affected by passage of this legislation, for example, old elevators will not need to have telephones installed, etc.

Number 100

Judy responded that this was correct. Just future elevator construction will conform to the new safety requirements. This bill will not affect existing elevators. There is one elevator inspector for the state, and Anchorage has one to serve their municipal inspection program. The inspector covers elevators, and amusement rides. There are 886 elevators in the state (425 in Anchorage are covered by the City Inspector), and the inspector is quite busy with 225 inspections per year.

Number 193

Senator Rodey moved that SB 182 be passed out of committee with individual recommendations, his own a "do pass". There being no objection, it was so ordered.

Number 203

SJR 20, concerning the amending of the Internal Revenue Code to allow certain home mortgage bonds to continue to be tax-exempt, was taken up for consideration. Senator Rodey, prime sponsor, described the measure as the companion to House Joint Resolution 37. The committee developed the intention, with Sen. Rodey's agreement, to have the Senate pass HJR 37. Senator Rodey outlined the matters addressed by the resolution. He explained that the savings to the state would be great if the tax-exempt mortgage bonds program is continued. He has heard no opposition to the measure, and feels that the program it supports is desirable, especially in Alaska. Senator Rodey then suggested using the House Resolution as a vehicle to pass the measure. Senator Eliason suggested that the committee pass out SJR 20 and waive referral of HJR 37 in order to expedite its arrival in the Rules Committee.

Senator Rodey moved that SJR 20 be passed out of committee with individual recommendations. There were no objections, it was passed out.

Number 280

Senator Rodey then

addressed SB 183, of which he is also the prime sponsor. The measure relates to bank holding companies. Its purpose is to allow all financial institutions "to be on a level playing field", to establish parity. Sen. Rodey stated that the bill has unanimous support, including from the Div. of Banking, Securities and Corporations.

Number 340

Willis Kirkpatrick, Director of the Division of Banking, Securities and Corporations described the purpose of the measure. The bill makes a single change in the domestic bank holding companies section of the Alaska Banking Code. The problem is that domestic bank holding companies, of which Alaska presently has four, are prohibited from establishing new banks in the state, and recently formed banks are prohibited from establishing domestic bank holding companies. (These prohibitions went into effect as a result of passage of a comprehensive interstate banking bill last session. The problem described above had not been previously detected or anticipated.) Mr. Kirkpatrick knows of no reason why there would be opposition to the measure.

Number 426

Wes Coyner, lobbyist for Alaska Bankers Association, did not testify on the measure, but the committee members asked if he supported the measure. He stated that he did not oppose the measure, he supported it. Senator Rodey moved that SB 188 be passed out with individual recommendations. There being no objections, it was so moved.

Number 435

The meeting adjourned at 2:00 p.m.



ALASKA STATE SENATE

M E M O R A N D U M

DATE: March 21, 1983
TO: Senator Patrick Rodey
FROM: Jim Kelly, Aide *JK*
RE: Senate Bill 188: "An Act relating to bank holding companies."

This bill would make a single change in the domestic bank holding companies section of the Alaska Banking Code. The change, accomplished by the deletion of the words "unless the bank is a recently formed bank" in AS 06.05.235(b), is intended to restore the principle of parity for banks doing business in Alaska.

The problem is that domestic bank holding companies, of which Alaska presently has four - Alaska Pacific Bancorp, Alaska Bancshares, Alaska Bancorporation and United Bancorporation of Alaska, are prohibited from establishing new banks in the state; and recently formed banks, such as the Alaska Continental Bank, are prohibited from establishing domestic bank holding companies.

These legal prohibitions went into effect on July 1, 1982, as a result of passage last session of SB 752, the interstate banking bill. That bill, being the first of its kind enacted anywhere in the country, though carefully drafted, was nonetheless quite complex. The major effect of SB 752 was to allow Outside banks to enter the local market; that has happened, and was intended. The problem mentioned above was not intended, and, in fact, was not even discovered until Alaska Continental Bank made application to establish its own domestic bank holding company and was informed by the Division of Banking that that was prohibited.

It is unfair to allow some Alaskan banks to form relationships with domestic bank holding companies, and prohibit some other Alaskan banks from doing likewise. As there can be significant economic advantages to such relationships, it is not in the public interest to grant the opportunity to some, and withhold it from others. For the consumer to realize the very real benefits of true competition, that is competitive services and competitive prices, it is necessary for rivals within the banking industry to be competing on a "level playing field". This legislation would help accomplish that.

Bill Fact Sheet

Date Received 3/21/83

Bill Number SB/88 Title Bank holding companies

Fiscal Note - Date Requested 3/24 Date Received _____

- Of Whom Katherine Wallen C+ED

Dept. Position Paper - Date Requested 3/24 Date Received _____

- Of Whom Katherine Wallen C+ED

Resource People

Initial Hearing - Date ~~3/21/83~~ 4/5/83
People Contacted

Willis Kirkpatrick. 2521 (Katy will inform) ^{3/24} 3/31

Follow-up Hearing - Date _____

Final Action passed L+C Date 4/5/83