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# STATE OF ALASKA THE LEGISLATURE

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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	4/9/85	1:30 pm
" "	4/15/85	1:30 pm
" "	4/18/85	1:30 pm
" "	4/18/85	7 pm
" "	4/19/85	1:15 pm

COMMITTEE REPORT  
HOUSE

4/23  
*(Signature)*

(7)

FURTHER:

3/15/85

Date: 4/15

The Committee on JUDICIARY has had HB 217

"An Act relating to interest rates; and providing for an effective date."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 217 (JUD)  same title  
 new title
- and recommends if do pass
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

*(Signature)*  
*(Signature)*  
*(Signature)*  
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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*(Signature)*  
*(Signature)*  
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CHAIRMAN

Bannister  
4/22/85/

Original sponsors: Duncan, Pearce,  
Ringstad and Boucher

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IN THE HOUSE

BY THE JUDICIARY COMMITTEE

CS FOR HOUSE BILL NO. 217 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to interest rates on judgments and decrees, interest rates on agreements subject to the provisions of AS 06 and AS 45, and certain interest rate preemptions by the federal government; and providing for an effective date."

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

\* Section 1. AS 06.20.320(a) is amended to read:

(a) A licensee or lender who, in the making or collection of a loan contract, does any act that [WHICH] violates AS 06.20.230 - 06.20.260 or 06.20.280 - 06.20.310 shall at the option of the commissioner reimburse the portion of the interest and charges in excess of that provided in those sections, or, in the case of repeated violations of those sections by the licensee, the commissioner may, upon a hearing, require the licensee to adjust the loan contract interest or other charges down to 10.5 percent a year [THE CONTRACT INTEREST LIMITATION SPECIFIED IN AS 45.45.010(a)].

\* Sec. 2. AS 06.40.160(a) is amended to read:

(a) A lender who, in the making of any contract, loan or premium finance agreement or the collection of interest or charges, does any act that [WHICH] violates AS 06.40.010, 06.40.020, 06.40.090, or 06.40.110 - 06.40.130 shall at the option of the commissioner reimburse that portion of the interest and charges in excess of that provided in those sections, or, in the case of repeated violations of those sections by the lender, the lender shall adjust the contract,

1 loan, or premium finance agreement interest and other charges down to  
2 10.5 percent a year [THE CONTRACT INTEREST LIMITATION SPECIFIED IN  
3 AS 45.45.010(a)].

4 \* Sec. 3. AS 06.45.060(5)(A)(vi) is amended to read:

5 (vi) the rate of interest may not exceed [THE  
6 GREATER OF 15 PERCENT A YEAR OR] the rate specified in  
7 AS 45.45.010(b);

8 \* Sec. 4. AS 09.30.070 is amended to read:

9 Sec. 09.30.070. INTEREST ON JUDGMENTS. The rate of interest on  
10 judgments and decrees for the payment of money is 14 [10.5] percent a  
11 year, except that a judgment or decree founded on a contract in writ-  
12 ing, providing for the payment of interest until paid at a specified  
13 rate not exceeding the legal rate of interest for that type of con-  
14 tract, bears interest at the rate specified in the contract if the  
15 interest rate is set out in the judgment or decree.

16 \* Sec. 5. AS 45.10.120(c) is repealed and reenacted to read:

17 (c) A seller or holder of a retail charge agreement, revolving  
18 charge agreement or other retail charge agreement may charge, receive  
19 and collect a service charge at a rate of 1.5 percent a month computed  
20 on the outstanding balance from month to month. If the service charge  
21 so computed is less than \$1 for any month, then the service charge is  
22 \$1. The service charge may be computed on a schedule of fixed amounts  
23 if as so computed it is applied to all amounts of outstanding balances  
24 equal to the fixed amount minus a differential of not more than \$5  
25 provided that it is also applied to all amounts of outstanding bal-  
26 ances equal to the fixed amount plus at least the same differential.

27 \* Sec. 6. AS 45.45.010(b) is amended to read:

28 (b) Interest may not [NO INTEREST MAY] be charged by express  
29 agreement of the parties in a contract or loan commitment which for

1 loans of \$10,000 or under is more than six and one-half [FIVE] per-  
2 centage points and for loans over \$10,000 and not more than \$25,000 is  
3 more than 10 percentage points above the annual rate charged member  
4 banks for advances by the 12th Federal Reserve District on the day on  
5 which the contract or loan commitment is made. A contract or loan  
6 commitment in which the principal amount exceeds \$25,000 is exempt  
7 from the limitation of this subsection.

8 \* Sec. 7. AS 45.45 is amended by adding a new section to read:

9       Sec. 45.45.015. ELECTION TO OVERRIDE FEDERAL PREEMPTION. In  
10 accordance with Section 525 of Public Law 96-221 (the Depository  
11 Institutions Deregulation and Monetary Control Act of 1980), the state  
12 declares that it overrides the federal interest rate preemption pro-  
13 visions contained in the following sections of that act:

14           (1) section 521, which amends the Federal Deposit Insurance  
15 Act (12 U.S.C. 1811-1832) with respect to the interest rate that may  
16 be taken, received, reserved, or charged on a loan or discount made,  
17 or on a note, bill of exchange, or other evidence of debt, by foreign  
18 bank branches and state-chartered banks that are insured in accordance  
19 with that act;

20           (2) section 522, which amends subchapter IV of the National  
21 Housing Act (12 U.S.C. 1724-1730g) with respect to the interest rate  
22 that may be taken, received, reserved, or charged on a loan or dis-  
23 count made, or on a note, bill of exchange, or other evidence of debt,  
24 by institutions that are insured under that subchapter; and

25           (3) section 523, which amends section 205 of the Federal  
26 Credit Union Act (12 U.S.C. 1785) with respect to the interest rate  
27 that may be taken, received, reserved, or charged on a loan by a  
28 credit union that is insured in accordance with subchapter II of the  
29 Federal Credit Union Act (12 U.S.C. 1781 - 1790).

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\* Sec. 8. This Act takes effect July 1, 1985.

AMENDMENT TO CS FOR HB 217 (Loans)

By Representative Gruenberg

1. Add a new section 4 as follows:

AS 09.30.070 is amended to read:

Sec. 09.30.070. Interest on judgments. The rate of interest on judgments and decrees for the payment of money is 14 (10.5) percent a year, except that a judgment or decree founded on a contract in writing, providing for the payment of interest until paid at a specified rate not exceeding the legal rate of interest for that type of contract if the interest rate is set out in the judgment or decree.

2. Renumber all following sections.

Comment: This raises the interest rate on judgments from 10.5% a year to 14%. The amendment encourages judgment debtors to pay off their judgments.

A M E N D M E N T

#1

Offered in the HOUSE

By Clocksin

TO: Proposed CSHB 217 (Judiciary)

Page 1, line 6, delete "interest rates" and insert "financial transactions"

Page 1, following line 8, insert a new bill section to read:

"\* Section 1. AS 06.05 is amended by adding a new section to read:

Sec. 06.05.120. MANDATORY CHECKING ACCOUNT SERVICES. (a) A bank organized under the laws of the state shall provide each of the following persons, on request of the person, with a checking account that provides the services required under (b) of this section:

(1) a person 65 years of age or older;

(2) a person who is eligible to receive general relief assistance, aid to families with dependent children, or adult public assistance from the state;

(3) a person who is eligible for assistance under the food stamp program of the state;

(4) a person who is eligible to reside in a Pioneers' Home.

(b) A checking account required by this section must provide the following services without charge:

(1) eight checks per month that can be written on the checking account;

(2) checks for the checking account that are printed with the person's name, address, and phone number;

(3) interest on the funds in the checking account at the lowest rate of interest provided by the bank for an interest-bearing checking account in that bank."

Page 1, line 9, delete "\* Section 1." and insert "\* Sec. 2."

Renumber remaining bill sections accordingly.

A M E N D M E N T

#6

Offered in the HOUSE

By Clocksin

To: PROPOSED CSHB 217(Jud)

Page 2, line 24 through line 28 delete all material and insert:

"\* Sec. 6. AS 45.45.010(b) is amended to read:

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment which is more than six and one-half [FIVE] percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the day on which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds \$25,000 is exempt from the limitation of this subsection."

Page 2, following line 28, insert the following new bill section to read:

"\* Sec. 7. AS 45.45 is amended by adding a new section to read:

Sec. 45.45.015. ELECTION TO OVERRIDE FEDERAL PREEMPTION. In accordance with section 525 of Public Law 96-221, the state declares that it does not want the amendments to the Federal Deposit Insurance Act, the National Housing Act, and the Federal Credit Union Act made by sections 521 to 523 of P.L. 96-221 prescribing interest rates and preempting state interest rates to apply in this state."

Page 2, line 29, delete all material.

A M E N D M E N T

#6

Offered in the HOUSE

By Clocksin

To: PROPOSED CSHB 217(Jud)

Page 2, line 24 through line 28 delete all material and insert:

"\* Sec. 6. AS 45.45.010(b) is amended to read:

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment which for loans under \$10,000 is more than six and one-half [FIVE] percentage points and for loans over \$10,000 and not more than \$25,000 is more than 10 percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the day on which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds \$25,000 is exempt from the limitation of this subsection."

Page 2, following line 28, insert the following new bill section to read:

"\* Sec. 7. AS 45.45 is amended by adding a new section to read:

Sec. 45.45.015. ELECTION TO OVERRIDE FEDERAL PREEMPTION. In accordance with section 525 of Public Law 96-221, the state declares that it does not want the amendments to the Federal Deposit Insurance Act, the National Housing Act, and the Federal Credit Union Act made by sections 521 to 523 of P.L. 96-221 prescribing interest rates and preempting state interest rates to apply with respect to loans made in this state."

Page 2, line 29, delete all material.

A M E N D M E N T

Offered in the HOUSE

By Clocksin

TO: CSHB 217 (Loans)

Page 1, following line 8, insert a new bill section to read:

"\* Section 1. AS 06.20.230 is repealed and reenacted to read:

Sec. 06.20.230. MAXIMUM INTEREST PERMITTED. (a) A licensee may lend \$25,000 or less and may charge, contract for, and receive on the loan interest at a monthly rate of

(1) two percent or less on an unpaid principal balance of \$500 or less;

(2) one and one-half percent or less on an unpaid principal balance of more than \$500 but less than \$5,000; and

(3) on an unpaid balance of more than \$5,000 but less than \$25,000, the lower of

(A) one and one-half percent; or

(B) six and one-half percentage points above the federal reserve discount rate charged banks on 90-day commercial paper for advances by the 12th Federal Reserve District on the first day of the month before the calendar quarter when the loan is made.

(b) A licensee who makes open-end loans under this chapter may charge, contract for, and receive interest at the rates set out in (a) of this section."

Page 1, line 9, delete "\* Section 1." and insert "\* Sec. 2."

Renumber succeeding bill sections accordingly.

Original Sponsors: *Walter Kudpatrick*  
Suncan, Pearce,  
Ringstad and Boucher

IN THE HOUSE

BY THE HOUSE SPECIAL  
COMMITTEE ON STATE LOANS

CS FOR HOUSE BILL NO. 217 (Loans)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to interest rates; and providing for an effective date."

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

\*Section 1. AS 06.20.320(a) is amended to read:

(a) A licensee or lender who, in the making or collection of a loan contract, does not act that [WHICH] violates AS 06.20.230 - 06.20.260 or 06.20.280 - 06.20.310 shall at the option of the commissioner reimburse the portion of the interest and charges in excess of that provided in those sections, or, in the case of repeated violations of those sections by the licensee, the commissioner may, upon a hearing, require the licensee to adjust the loan contract interest or other charges down to 10.5 percent a year [THE CONTRACT INTEREST LIMITATION SPECIFIED IN AS 45.45.010(a)].

\* Sec. 2. AS 06.40.160(a) is amended to read:

(a) A lender who, in the making of any contract, loan or premium finance agreement or the collection of interest or charges, does any act that [WHICH] violates AS 06.40.010, 06.40.020, 06.40.090, or 06.40.110 - 06.40.130 shall at the option of the commissioner reimburse that portion of the interest and charges in excess of that provided in those sections, or, in the case of repeated violations of those sections by the lender, the lender shall adjust the contract, loan, or premium finance agreement interest and other charges down to 10.5 percent a year [THE CONTRACT INTEREST LIMITATION SPECIFIED IN AS 45.45.010(a)].

\* Sec. 3. AS 06.45.060(6)(A)(vi) is amended to read:

(vi) the rate of interest may not exceed the rate specified by AS 45.45.010(b);

\* Sec. 4. AS 45.10.120(c) is repealed and reenacted to read:

(c) A seller or holder of a retail charge agreement, revolving charge agreement or other retail charge agreement may charge, receive and collect a service charge at a rate of 1.5 percent a month computed on the outstanding balance from month to month. If the service charge so computed is less than \$1 for any month, then the service charge is \$1. The service charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amount minus a differential of not more than \$5 provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

\* Sec. 5. AS 45.45.010(b) is repealed and reenacted to read:

(b) Parties to a contract or loan commitment may charge by express agreement a rate of interest that does not exceed 24 percent a year. A contract or loan commitment in which the principal amount exceeds \$25,000 is exempt from the limitation of this subsection.

\* Sec. 6. AS 44.33.020(11) is repealed.

\* Sec. 7. This Act takes effect July 1, 1985.

MAY, 1983

Retail Banking in  
New York State:  
Customer Beware

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A report by State Senator  
Franz S. Leichter, (Manhattan)

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Glenn von Nostitz  
Legislative Counsel

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*Research assistance provided by Marie Ferzan and Douglas Fried*

*Since 1980 banks in New York have increased charges to banking customers by hundreds of millions of dollars and have effectively withdrawn essential banking services from many New Yorkers. The banks are clearly seeking to augment profits and to cover losses on foreign loans by taking advantage of the captive New York banking public.*

*Banking services in New York, which in our society are a necessity, have developed into a two-tier system, with sweeteners and inducements to the large depositor and reduced services grudgingly given to the mass of bank users.*

*Banking customers need to be protected from uncontrolled fee charges which threaten to price banking services out of the reach of many New Yorkers and which are particularly onerous for the working poor and elderly living on limited fixed incomes. The State should not allow its citizens to have to "pay the piper" for adventurous and risky foreign loans made by banks. A new system of regulation to insure fairness in banking is required.*

*It is time that we treat banking as a form of utility as essential in our modern society as telephone service or gas and electricity. Just as the State must insure the availability of utility services to all its citizens, so it must insure that banking be available at reasonable rates consistent with a fair return to the banks and with a reasonable correlation between services and costs.*

*This report details how charges for banking services have escalated, far outpacing inflation or the cost of actually providing bank services.*

*Essentially, banks have increased their profits by:*

- tripling and quadrupling the charges for maintaining checking accounts;*
- imposing for the first time fees for certain savings accounts;*
- imposing for the first time on the small and moderate banking customer a charge for every automatic teller machine withdrawal;*

- doubling, tripling and quadrupling fees for check certification and for money orders, stop payment orders and small safe deposit boxes;

- charging unreasonably high interest rates as detailed in my March 1983 report, "Deregulation of Consumer Lending in New York: The Rates Went Up But Never Came Back Down";

- maintaining billions of dollars of "floats" by failing to timely credit customers with monies collected on checks they have deposited (as explained and documented in a report I issued one year ago).

- In addition automated banking, which was to have been a convenience to customers by enabling them to carry out certain banking transactions in off-hours, is now being mandated upon all but the affluent customer even during regular banking hours by Citibank. Hundreds of thousands of customers are thus being relegated to second rate service.

Clearly, New York banks consider the average customer is there to profit on but not to service. To begin meaningful protection for New York banking customers, I am proposing legislation (explained later in this report) to:

1. Require advance disclosure and prominent posting of all bank service and fee changes;
2. Empower the Banking Department to disallow excessive fees and charges;
3. Require audits by the Banking Department to determine the amount banks are making from New York's banking consumers and whether unreasonably high fees are being charged to make up for imprudent loans - particularly foreign loans.

My staff has conducted surveys of the pricing history of a wide range of basic banking services, the result of which are set forth below.

## RETAIL BANKING: THE SMALL CUSTOMER PAYS MORE

1. Personal checking accounts, which remain the most common form of banking account have been made increasingly more expensive through large fee hikes. These increases range from a doubling of the monthly maintenance charges at Chase Manhattan and Chemical Bank within a one year period to a more than doubling of the minimum balance required for free checking at Bankers Trust and Bank of North America. It is to be noted that when "minimum daily balance" is required, the entire monthly fee is imposed even if the balance falls below the minimum for just one day. The results of a March, 1983 survey by my office show:

In 1981 Manufacturers Hanover Trust charged \$1.25 a month if the minimum daily checking account balance fell below \$500. In early 1982 this fee was raised to \$3.00, and in late 1982 to \$4.00.

The monthly checking account maintenance fee at Chase Manhattan is \$6 unless at least \$500 is maintained on account. Before September 1, 1982 the fee was \$4.00, and prior to July 1982 it was \$3.00.

Bankers Trust requires an \$800 minimum daily balance to qualify for free checking. If the balance falls to \$500 the fee is \$5.00, and if it falls below \$500 the fee is \$8.00. Prior to February 1982 Bankers Trust did not have a minimum balance requirement and the only fee was a charge of 15 cents per check.

At the end of 1979 Chemical Bank offered "Special Checking" with a \$1.25 monthly fee and 15 cent a check charge. The per check charge was raised to 20 cents by the end of 1980. And by the end of 1982 the per check charge stood at 25 cents and the monthly fee at \$2.00. Chemical now charges a straight \$5.00 a month and if more than \$5.00 worth of checks (at 25 cents a check) are written the additional fee is 25 cents a check.

Chemical Bank also provides a balance plan with a \$6.00 monthly fee if the balance falls below \$200, a \$4.00 fee for balances that stay between \$200 and \$499, and free checking for balances greater than \$500. The fees were somewhat lower at the end of 1981: \$4.00 for under \$200, \$3.00 for \$200 to \$299, \$1.00 for \$400 to \$499 and free over \$500.

Citibank charged \$1.25 a month fee and 20 cents a check for the basic checking account between September 1979 and October 1980. It was then raised to a \$2.50 monthly fee and a 25 cent a check charge, and in October 1981 the monthly fee was raised again, to \$4.00.

In October 1979 Citibank offered a balance plan providing free checking if more than \$900 was kept on account, \$2.00 if \$500 to \$899 was kept on account, and \$4.00 if up to \$500 was maintained. In early 1981 these charges were raised so that free checking is provided only to those customers with at least \$1,500 in combined checking and savings accounts. \$2.00 is charged for those with \$900 to \$1,500 in their checking accounts, and \$4.00 is charged for everyone else. However, Citibank at this time also imposed an additional 25 cent per check charge for balances under \$500, and also started imposing a 25 cents charge for each "Citicash" machine withdrawal when the account was below \$500.

In January 1982 Citibank stopped providing checking account balances over the phone.

National Bank of North America offers a checking account with a \$5.00 monthly fee if the minimum balance falls below \$500. Prior to September of 1982 the minimum balance requirement was \$200. The bank also offers an account charging a monthly fee of \$2.25 and 25 cents for each check regardless of balance. This was increased in May of 1982 from \$1.25 and 20 cents a check.

At Republic National Bank \$500 must be maintained every day to avoid a \$1.00 maintenance fee and a 25 cent a check charge. This was raised from a \$400 minimum balance in June of 1981. In June of 1980 Republic charged only 75 cents a month and 15 cents a check for failure to keep the minimum \$400 daily balance.

Irving Trust charges \$6.00 a month unless at least \$500 is maintained in the checking account. If \$500 to \$1,000 is on account the fee is \$4.00. It is only \$3.00 if \$1,000 to \$2,000 is kept. It is free only if at least \$2,000 is kept in combined accounts. Before June of 1982 only \$900 had to be on account to get free checking, and the \$2.00 was charged for balances between \$500 and \$899. \$3.00 was charged for balances of \$300 to \$499, and \$500 was charged for balances under \$300.

*For a bank, the increases in checking account charges can mean millions of dollars a year in extra income. Manufacturers Hanover Trust, for example, had over \$4 billion in domestic demand deposits in 1981. If only \$3 billion of this was in non-interest bearing checking accounts, that would mean the bank had nearly one million checking accounts, according to the Federal Reserve figures concerning the average size of checking accounts.*

*One in three New York City households has a Citicard which is used for the automatic teller machine transactions on basic personal checking accounts. At the end of 1982 Citibank had over \$7 billion in domestic checking accounts. Over 200*

million transactions have been made on the "Citicash" machines since their advent a few years ago, most of which were withdrawals for which Citibank now charges 25 cents if the balance is under \$500. If only 20 million withdrawals are made each year in which the fee is charged, the added income to Citibank is \$5 million.

Only one bank has held the line on personal checking accounts. Amalgamated Bank, owned and operated by the Amalgamated Clothing and Textile Workers Union requires a minimum daily balance of \$100 to avoid a \$1 a month fee.

That these increases hurt hundreds of thousands of small customers is shown in statistics contained in the "Functional Cost Analysis", a publication of the Federal Reserve Board based on data furnished by 614 participating banks around the country. For banks with deposits of more than \$200 million, 93% of the personal checking accounts in 1981 had balances of less than \$5,000. 16.9% were in the \$500 to \$1,000 range where customers are quite likely to let their accounts fall below a minimum daily (or even average monthly) balance of \$500. 10.63% of checking accounts have balances of \$200 to \$500, whose depositors will almost always pay the increased checking fees.

The upward pricing spiral of charges for personal checking accounts is likely to continue, in spite of last year's low inflation rate. The 1982 edition of the Sheshunoff national survey, "Pricing Bank Services and Loans" asked New York State banks the question: "Are you planning to increase service charges on personal checking accounts in the next twelve months?" Almost half those answering admitted they would. The average expected increase is 25%. (Many of the banks surveyed did not answer this particular question at all.) Regarding last year's increases, 24% of banks surveyed nationally said they thought the fees should have gone even higher.

Sheshunoff's Vice President, Robert Walters, quoted in the February 25, 1982 Wall Street Journal commented: "Higher fees are done simply with the stroke of a pen. It's an easy way to cover costs and boost your return on assets." Alan Sheshunoff told my staff that banks in bigger cities are most likely to increase fees because of the "impersonality factor... No one will look them in the face."

2. Even the NOW (5.25% interest with checking) accounts are not immune from price increases. Chemical Bank, for instance, requires \$3,000 to be kept on account in order to avoid a \$6.00 a month fee and a 20 cent per check charge. One year ago Chemical charged \$4.00 for balances between \$2,000 and \$3,000 and \$6.00 only if the balance dipped under \$2,000. Manufacturers Hanover requires at least \$1,000 to be kept in the NOW account to avoid the \$6.00 a month charge. This was raised from \$5.00 last year. At Chase Manhattan the fees range from \$4.00 to \$8.00 on balances of less than \$3,000, raised from \$2.50 to \$5.00 six months ago. Prior to May 20, 1982 Marine Midland had the lowest required balance, \$500, to avoid a \$5.00 monthly charge. Now at least \$1,000 must be maintained. At National Bank of North America the customer loses the entire interest up to \$4.37 for balances that go under \$1,000, and for balances of less than \$500 a \$4.00 monthly service charge is added. On April 27, 1983 the minimum balance will be raised to \$1,500 and the service charge to \$7.00.

3. Commercial and thrift institutions have recently begun imposing fees for savings accounts that fall below specified balances. Often the result is that smaller depositors' accounts are eroded to zero. The March survey by my office found these policies in effect:

Chemical Bank started imposing a \$3.00 monthly service charge on balances that fall below \$400 in October of 1982. If "excessive" (that is more than three) withdrawals are made a month from such an account, \$1.00 is charged for each withdrawal.

Starting in March of 1982 Citibank began charging \$1.50 a month as well as eliminating the interest on "Citicard Savings" accounts that fall below \$500. Previously, customers had to keep \$100 to avoid a 75 cent charge.

If the balance during the month falls below \$250 at Chase Manhattan, the bank will not pay interest for that month and will also charge a \$2.00 fee. Prior to July 1982 Chase charged 50 cents a month on savings accounts that fell below \$100. Before that there were no charges at all.

Before October 1, 1982 Dime Savings Bank did not impose charges on savings accounts. Thereafter, Dime started charging \$1.00 a month for accounts that go below \$500, and 50 cents a withdrawal on accounts of less than \$250. For these smaller accounts Dime also charges 50 cents to cash a check.

Bankers Trust requires a minimum \$200 balance to earn interest. If less than \$500 is on account and more than three withdrawals are made in a quarter, \$1.00 is charged for each additional withdrawal. This policy has been in effect for the past one and a half years, prior to which there were no charges.

At Anchor Savings Bank a minimum balance of \$100 must be maintained to avoid a \$1.00 monthly fee, beginning December 1, 1982. Interest is lost if the balance falls below \$30.

At Marine Midland a \$2.00 service fee was imposed on accounts of less than \$200 beginning in late 1981. After five withdrawals, 50 cents is charged for each withdrawal no matter what the balance is.

*There are a small handful of banks which still only deny interest on the smaller accounts, so that a \$99 account earning 5½%, for example, would lose \$5.00 a year in interest. At some banks interest is still paid but a passbook "maintenance" charge is imposed which often exceeds the annual interest on the account. But many banks now both deny interest and charge a fee. At Citibank, which does both, the cost to the customer can be substantial. If the balance stays at \$300 all year, by year's end Citibank will have collected \$18 in fees as well as avoided paying \$15 in interest, for a total cost to the customer of \$33, more than 10% of the value of the account.*

*In 1981 Citibank had \$1.9 billion in domestic savings accounts which earned an average rate of 5.01%. The Federal Reserve reports that the average size of a regular savings account in larger banks in 1981 was \$1,499. This would mean that Citibank has over one million regular savings accounts. If only 300,000 of these accounts are assessed \$30 a year in lost interest and fees, total new income to Citibank, from this source alone, comes to \$9 million.*

*The Federal Reserve's "Functional Cost Analysis" cited above reports that in 1981 21.2% of savings accounts in banks with more than \$200 million in deposits had balances of \$100 to \$500. It is these accounts, representing savings of thousands of working individuals that are being hit hard by the new savings account charges.*

*Banking industry representatives state that the new savings account fees are needed to discourage the very small accounts with only a few dollars, many of which are forgotten by their owners. Banks do not find it profitable to maintain*

accounts with only \$30 or \$40. The Federal Reserve's 1981 statistics show the bankers do have a point since 44.9% of savings accounts had balances of less than \$100 but made up only .6% of savings volume. However, the banks have not limited their new fees to these smallest accounts. Only a few banks in New York such as Anchor Savings Bank have targeted only the under \$30 accounts.

In any event, the goal of eliminating the small "nuisance" accounts is being largely accomplished. The April 6, 1983 Wall Street Journal reports that when Chemical Bank first started charging on savings accounts with balances under \$400, "between 80,000 and 100,000 accounts were closed" and that most of these were consolidated with other accounts. Yet much the same goal could have been accomplished with charges restricted to accounts of less than \$100 without hurting the many legitimate depositors with \$300 balances.

4. The fees banks are charging for money orders have been increased dramatically in the past two years. Money orders are commonly used by poorer people who do not have bank accounts to pay their rent and utility bills. My March 1983 survey found:

Chemical Bank charged 50 cents in 1980, increased the fee to 75 cents in 1982 and in 1982 doubled that fee to \$1.50.

Citibank charged 50 cents in 1980, 75 cents in 1981, and raised it again to \$1.25 in February 1983.

American Savings Bank last year raised the fee from 50 cents to \$1.00.

Marine Midland charges \$1.50 for a money order, raised nine months ago from 90 cents.

Six months ago Bankers Trust raised the fee from 75 cents to \$1.25.

Dry Dock Savings charges depositors \$1.50, raised from \$1.00 last year. Non-depositors are charged \$2.00, up from \$1.75.

Amalgamated Bank still charges only 50 cents.

5. Some of the biggest increases are for such services as safe deposit boxes, certification of checks, and stop payment orders on checks. Chemical Bank charges \$4.00 for check certification, up from \$2.50 in August 1982. Chase

Manhattan raised the certification fee from \$3.00 to \$4.00 in June of 1982. At Marine Midland the fee is \$5.00 up from \$4.00 in August 1982. Only Amalgamated Bank does not charge for check certification.

As for stop payment orders, Chase Manhattan raised its fee last July from \$4.00 to \$7.50. About two months ago Citibank raised its stop payment fee from \$3.50 to \$6.00. Chemical Bank presently charges \$4.00, up from \$1.50 in April 1981. On May 1, 1983 Chemical plans to raise the fee to \$9.50, more than a quintupling in two years.

Last January Citibank doubled the charge on its smallest safe deposit box. In June of last year Chase Manhattan raised safe deposit box fees 20% for depositors; non-depositors must pay an extra \$5.41 for the smallest box. This year Manufacturers Hanover raised the charge 15% to 20% for the smallest boxes.

6. A major new income source for banks are annual credit card membership fees, first authorized in New York under the 1980 banking deregulation law. Proponents of deregulation predicted in 1980 that there would be a wide variance in credit card fees and that some banks would not charge a fee at all. But soon after the law took effect most banks imposed at least a \$10 annual fee, some charged \$15, and now nearly all charge \$20. One of the few exceptions is Chemical Bank, which charges \$36 if both a Visa and MasterCard are held. On top of the fees, of course, are the finance charges, still at their record levels of 18% to 19% in spite of the recent large decline in the cost of money for the banks.

These new credit card fees have become a lucrative income source. Citicorp's 1981 report says that just the new bank card fees brought in \$55 million in their first year. Chemical Bank's 1981 report states that a 68% increase over the previous year from "consumer banking services" was "contributed to significantly" by credit card fees. Chemical Bank's experience is common to other banks offering credit cards. A May 3, 1982 U.S. News and World Report article stated that: ".....banking analysts note that for a growing number of banks, non-interest revenue is becoming increasingly important."

## SPECIAL SERVICES FOR THE AFFLUENT: COURTESY OF EVERYONE ELSE

*While imposing major service charge and fee hikes on most banking customers as outlined in this report, the banks have been providing beneficial new services and no-charge accounts for those with "high deposit relationships".*

*This is a trend best seen at the nation's biggest bank, Citibank, often viewed as the trend setter in the banking industry. The future of retail banking can be seen at their 72nd Street and Broadway branch in Manhattan. A banner outside the branch advertises: "Special Services for Citipeople" and signs inside the bank advertise: "Improved Services for Citipeople". However, further investigation reveals that only "Citipeople" with more than \$5,000 on account qualify for the services. In fact, those with less than \$5,000 are no longer allowed to use a human teller. They must go to one of the automatic teller machines. Citibank plans to adopt this policy at nearly all of its more than 200 branches in the New York City area.*

*The 72nd Street branch's physical layout has been rearranged so that the affluent customers must flash a special card to get past a security guard and smoked glass wall into the area with the tellers. Citibank has added special hours for privileged "Citipeople": up to 6:00 PM on three weekdays and Saturdays from 10:00 AM to 2:00 PM. A new Citibank brochure describing the new setup says: "When you enter your neighborhood branch, you'll be greeted by a Customer Director who will show you to the right area. You'll need to show your Citicard, so have it ready."*

*Those customers with more than \$25,000 qualify for "Priority Service" entitling them to make appointments with their own personal banker to use an even more secluded portion of the branch.*

*Citibank also has 32 offices in five upstate cities, and according to the President of Citibank's upstate subsidiary Daniel Salkad (interviewed in a recent American Banker) the bank plans to expand upstate to "at least 45 branches by 1985" and will be emphasizing installation of automatic teller machines.*

*Automatic teller machines are being criticized by consumer organizations nationwide. They do not always function correctly, they cannot issue money orders, certify checks and answer most customer questions, and they commonly run out of cash and receipts. Citibank officials say that there is an "other" line at its 72nd Street branch to take care of these matters, but no such line could be found on a recent visit there.*

*Citibank stands to significantly reduce its costs with the no-human teller program. A human teller handles about 200 transactions a day. An automatic teller can handle 2,000 transactions, costs only a few thousand dollars more a year, and works around the clock. A Bank of America Senior Vice President said in a recent issue of American Banker that his bank's ATM's transactions cost one tenth those done by human tellers. According to a "Consumer Close-up" report by Cornell University Cooperative Extension, "it is estimated that an ATM costs 11 or 15 cents less per transaction than a human teller." While there is no objection as such to automation, if it becomes a means of inferior service to the majority of banking customers, then it must become a matter of public scrutiny and official action.*

*While increasing basic account fees, Chase Manhattan has meanwhile opened an expensively decorated (original, objets d'art) branch on the 18th floor of 270 Madison Avenue. The new facility is called the "Business Banking Center" and according to the bank is geared to small professional offices - lawyers, accountants, architects - and others with substantial assets: Manufacturers Hanover is now constructing a large, elaborate "Private Banking" branch on the ground floor of its Park Avenue headquarters.*

*Many other banks besides Citibank, Chase Manhattan and Manufacturers Hanover are expanding their services to the well-off, adopting such labels as "executive banking" and "personal banking". There has recently been a proliferation of Cash Management Accounts (CMA's) that combine several types of transactions in a single account, and which require increased use of highly trained, higher-cost bank personnel to manage the money of customers with these accounts. The affluent bank customers then end up paying less for elaborate services while the majority pays more for banking transactions.*

On April 19th Citibank began offering a new Personal Asset Account, titled "Focus". Citibank's advertisements bill Focus as the account "that enable successful individuals to focus on their finances with a new level of confidence and convenience." The ads explain that, "We've built an entire service organization within Citibank to link all our resources and focus them where they belong: you." The new services included a highly trained personal Account Officer who will immediately "wire money to your daughter in college", "buy a 6-month T-bill", "get the current stock quote on General Motors," "find the current value of your securities portfolio", "and more". Although Focus is aimed at persons with assets of at least \$200,000, the charge is not large for all of these immediate over-the-phone services. The cost is only \$12 a month and a special high-credit line Visa Card (usually \$40 a year) is thrown in for free. In contrast, Citibank charges (in monthly fees and lost interest) over \$40 a year on a regular savings account that stays below \$500.

The most obvious form of luring the well-off at the expense of poorer customers is through the new higher interest accounts permitted under the Depository Institution Deregulation and Monetary Control Act of 1980, which began the process of removing interest ceilings. The Act set up the Depository Institution Deregulation Commission (DIDC) to set guidelines and policies for deregulation. The DIDC and Congress, under pressure from the banking industry, soon approved more high interest accounts and most recently the money market rate accounts (December 1982). In addition, in the zeal to attract the well-off customer, the banks still sought creative ways to circumvent the few remaining restrictions still in place with new "sweep accounts" which combined NOW accounts with uninsured money market mutual funds, in which any amount over the minimum NOW account was "swept" into the fund at a much higher rate.

To help pay for these new deposits some small banks are merging with other small banks so as to offer the higher rates given by larger banks. But more commonly, both larger and smaller banks have cut costs through installation of automatic teller machines and have raised income through service fee increases on the low-interest accounts they still have. An article in the March 25, 1983 American Banker, "New Account Costs Worry Bankers" reported that to offset the

squeeze on interest margins created by deregulated money market accounts, banks "will....charge for everything they do for customers" as well as make more profitable loans. "Fee income from previously free services, such as checking, could also help offset the increased interest expense of the new accounts." The article quoted one bank spokesperson who said, "We have to start charging the customer for everything we do for them."

Additionally, as pointed out in my March, 1983 report: "Deregulation of Consumer Lending in New York State: The Rates Went Up But Never Came Back Down" banks are also keeping at very high levels the interest they charge on a broad range of consumer loans, most notably credit card charges, auto loans, home improvement loans, and personal loans. Credit is being made available only to those who can afford these high rates.

And the banks are also trying to profit as much as possible on checks deposited in their branches by not crediting customers with their monies for many days even though the bank had use of the funds within 48 hours. In a test I conducted last month State employees deposited their paychecks in several New York City banks on the same day. The banks took anywhere from three to thirteen days to credit the customer. This is another bank practice that penalizes the smaller customer, since they usually need the deposited money immediately. Additionally, many low-deposit customers end up bouncing checks because they legitimately thought that after six or seven days the money had cleared into their account.

RECORD BANK PROFITS: NEW CHARGES HELP COVER OVERSEAS LOSSES AND SERVICES FOR THE AFFLUENT

*Bank profits go up and up. The higher interest paid on large deposits has not eroded bank earnings and even the extraordinary losses on foreign loans has not meant an earnings decline at the major money center banks. Analysis of bank profitability shows that large profits are being earned and that banks are effectively competing with the new "financial supermarkets" set up by Sears Roebuck and others and do not need major increases in basic retail service charges.*

*Citicorp's 1982 net income of \$747 million was 35% above the previous year's \$531 million, which in turn was 6% above the 1980 level. Citicorp's first quarter 1982 profit of \$73 million was a significant increase over 1981's \$58 million. Chemical New York Corporation's net income of \$240 million in 1982 was 11.9% higher than the \$215 million reported in 1981. In 1980 Chemical's net income was \$174 million, in 1979 it was \$129 million, and back in 1978 it was \$108 million. Chase Manhattan's 1981 profit of \$412 million was substantially higher than 1980's \$354 million or 1979's \$303 million. The Bank of New York Company's \$73 million profit in 1982 was far above 1981's \$58 million and the 1980 figure of \$42 million. For the first quarter of 1983 Manufacturers Hanover's profit rose 37% over the strong showing in 1982. The average return on total assets for these banks are also at or near record levels. In short, every major New York bank is much more profitable today than three years ago.*

*Nonetheless, when justifying increased customer charges banking industry officials say that they must cover "increased costs". This is a fallacious justification. Personal checking and regular savings accounts do make money. According to the Federal Reserve's 1981 "Functional Cost Analysis" banks with deposits of more than \$200 million had an average expense per checking account (including all overhead costs) of \$10.78 per month. The banks collected average service and handling fees in 1981 of \$2.69 per account, resulting in a net operating cost per account of \$8.08. But then they paid an average interest (some of the*

accounts are interest bearing) on the accounts of \$1.95 each, for a total expense to the bank of \$10.03. However, the cost analysis found that the net earnings the bank made on the money in an average checking account was \$22.27 a month, giving the banks a handsome margin of \$12.24. With the new service charges imposed since 1981, this margin is certainly larger today. When only the NOW (interest with checking) accounts are analyzed, \$5.77 a month is earned by the banks per account.

For regular savings accounts (average account size \$1,499) the profit margin is \$65.68 a year according to the Functional Cost Analysis. This is based on basic maintenance expenses to the bank of \$38.07 and an interest expense of \$77.57. But the average larger bank earned \$179 off a savings account. Banks certainly are not "losing money" on savings accounts.

When justifying capital and large fee increases, bankers ignore the fact that small savings and checking accounts provide a large base of cheap and free money for the banks to lend. While the cost of the new money market rate accounts fluctuates between 8% and 9%, larger banks still have hundreds of thousands of checking accounts, each with several hundred dollars, on which they pay no interest whatsoever. There are also substantial sums in savings accounts paying 5½% (5½% at thrift institutions) which are a large source of inexpensive money that can be lent at the prime rate of 10.5%, or to consumers at between 16% and 18%. Bank of New York, for example, had \$983 million worth of savings accounts earning only an average of 5.11% in 1982, up from \$931 million the previous year and \$840 million in 1980. Chase Manhattan in 1981 had some \$1.6 billion in such low-interest accounts. Bankers Trust in 1982 paid \$21.3 million (5.2%) on the \$410 million in their savings accounts. This interest rate did not go up much at all during the past several years. It stood at 4.98% in 1979, 5.10% in 1980, and 5.07% in 1981.

Another advantage to the banks of the smaller, low interest accounts is that they tend to be more stable and less liquid than the new money market rate and other higher interest accounts. A March 7, 1983 American Banker article discussed the fear among bankers of "the silent bank run - the removal of larger balances whenever bad news or rumors about the bank are bandied about." Concerning the

*new higher rate accounts, the article said: "Bankers worry that such funds can leave as fast as they came...."*

*Although small and medium size accounts are still quite profitable for the banks, apparently the banks do not find them profitable enough. For the larger New York banks a major reason for this is that they are seeking to greatly increase non-interest fee income to cover escalating losses from overseas lending.*

*Although Citicorp's profit rose 18% in the first quarter of 1983 the earnings would have been even higher without the bank's 83% increase in non-performing commercial loans. An April 20, 1983 Wall Street Journal report attributed most of this increase to losses in Mexico and Latin America. Because of these bad loans Citibank has been forced to increase its provision for possible loan losses by 51% to \$136 million. 2.9% of Citicorp's assets are in Mexican loans.*

*Chase Manhattan's earnings actually dropped 8% in 1983's first quarter, attributed by financial writers entirely to loan loss provisions for Mexican and Argentinian loans and the continuing impact from the failure of the Penn Square Bank in Oklahoma. Over 2% of Chase Manhattan's \$55 billion portfolio is in Mexico, over 3% in troubled Brazil and over 1% is in Argentina and Venezuela.*

*Other New York banks also have done extensive lending in Latin America. 3.2% of Irving Trust's assets are in Mexico, and the figure for Manufacturers Hanover is 3.6% and for Marine Midland, 2.4%*

*Writing about fourth quarter 1982 profits, New York Times banking reporter Robert Bennett found that, "...many American banks may soon show smaller profits and major increases in problem loans" as a result of Latin American lending. Bennett quoted a Prudential-Bache bank stocks analyst who said that loans to Mexico's private sector will reduce Citicorp's fourth quarter profits by 10 cents a share (from \$1.53 a share in the third quarter) and Chase's by 11 cents (from \$3.07).*

*In spite of the overseas losses, a July 30, 1982 Wall Street Journal account concluded that, "most banks are continuing to earn enough to defray heavy loan losses. In many cases they are increasing their profits when interest rates generally fall by keeping their lending rates high."*

*As this report shows, they are also adding to profits by covering for the losses through enormous retail service fee hikes. With help from the smaller retail customer, many banks are still reporting record profits, in spite of risky and often ill-advised foreign loans.*

## CONCLUSIONS AND RECOMMENDATIONS: THE PUBLIC NEEDS PROTECTION

*The banking industry in New York is undergoing rapid change. The taking of deposits and providing checking accounts to a broad base of consumers is no longer a primary mission. As Citibank Senior Vice President William Heron recently was quoted in the New York Times: "What we are doing in New York is redefining what a bank is." According to the article containing this quote, "Citibank now sees its branch network primarily as a mechanism to 'sell products' and its managers see themselves more like account officers at securities firms...trying to sell 'financial products'". This new view of banking is gradually being adopted by all major New York banks, although Citibank (the largest) is the leader.*

*Unfortunately, for the overwhelming majority of New Yorkers who cannot afford the new "products" the bank of the future has less service and higher and higher fees. One of the central functions of a bank - to fully serve all its customers at reasonable rates is being discarded.*

*The impact of this change on a smaller customer (\$400 in checking and \$400 in savings accounts) at the largest bank, Citibank is seen by comparing his costs in late 1979 with what he is paying in 1983 for the same services. Assuming that during the year this customer made 100 "Citicash" withdrawals, wrote 30 checks, asked for two stop payment orders and bought three money orders he would have paid \$29.50 in 1979. But based on early 1983 charges, he would be paying \$131.25. This constitutes a near quintupling of service charges in slightly over three years, a period when inflation drove prices in general up less than 25%. At Chase Manhattan a customer with \$250 in his savings and checking accounts would have paid \$31.50 in 1979 as opposed to \$135 today (assuming two check certifications and two stop payment orders).*

*This is why legislation is needed now to prevent the broad base of bank customers from being gouged. I am, therefore, introducing legislation that will:*

1. Require advance disclosure and prominent posting of bank service and fee changes. Banks will be required to post in large type in every branch the fees and proposed increases in fees for basic checking accounts, savings accounts, money orders, official checks, orders stopping payment on checks, and membership charges on credit cards. Sixty day notice of fee increases will be required.

2. Empower the Banking Department to disallow "excessive" fees and charges upon receiving a written protest from a bank customer. "Excessive fee" is any fee, commission or charge that "is not in the public interest" and when determining if a fee is excessive, the department is required to consider a number of factors, including the reasonable cost of providing the service (and income earned from the accounts), how long the previous fee was in effect, and whether the proposed fee is more than 25% above the average fee charged by other banks for the service.

3. Require the Banking Department to periodically prepare audits to determine the amount of money the banks are making from retail banking services and whether high fees are being charged to make up for imprudent loans, particularly foreign loans.

Banking industry officials and the Banking Department itself say that competition will keep charges down and that consumers should "shop around" for the lowest charges. But given the fee histories presented in this report the reality is that bank charges are uniformly high. They also change often, are confusing to the average customer, and are often difficult to find out in the first place. "Shopping around" just isn't possible. The difficulty encountered in obtaining accurate information is illustrated by my staff's experience in eliciting basic checking account fees from Chemical Bank. Phone calls to different branches resulted in a number of different fee schedules. Once a phone was answered (sometimes they were answered only after 30 rings) my staff was commonly referred to two or three different offices. Personal visits to the bank's branches was not much more helpful. Printed fee schedule cards were usually not available and employees provided confusing and sometimes conflicting information in some cases. The information contained in this report came from written and telephone communications with higher bank officers, an option not available to the average customer.

*It is evident that banks in New York State are doing everything possible to maximize their profits from smaller customers. They can do this because there is no law or regulation against it and because these smaller customers have nowhere else to go. The largest banks, moreover, have the resources to provide tens and even hundreds of branches that make them ever-present and always close by - except in poorer neighborhoods - and that have resulted in the enormous consumer deposits in these institutions. In fact, the major money center banks are increasing their dominance in the greater New York City area. In 1980 Citibank had 7.5% of total deposits which increased to 9.6% this year. Chase Manhattan's share climbed from 3.5% to 4.0% during this period, Chemical went up from 3.6% to 4.7% and Manufacturers Hanover's share increased from 2.6% to 3.6%.*

*Unfortunately, the banks see their branches essentially as vacuums to suck in the most money possible at the least possible cost to the bank. Since this goal too often conflicts with the need to provide full and reasonably priced banking services to all the people, legislative action is needed now.*

# Bill would hike loan interest to 24%

By JIM ERICKSON

Daily News business reporter

Alaska bankers are seeking changes to state law that would allow lenders to charge more for small loans and consumer credit plans, such as charge cards.

But a state consumers group said this week some banks are already charging far more for certain loans than state law allows, though a federal loophole in banking law.

Maureen Kennedy, executive director of the Alaska Public Interest Research Group (AKPIRG), said she found it "appalling" that the Alaska Bankers Association is lobbying for a measure now before a House committee that would allow lenders to charge up to 24 percent interest annually for loans of \$25,000 or less.

The present cap for the so-called "consumer loans," such as car or boat loans, is 13.5 percent.

The bill was introduced by Rep. Jim Duncan, D-Juneau, Drue Pearce, R-Anchorage, John Ringsstad, R-Fairbanks, and H.A. "Red" Boucher, D-Anchorage. Pearce is a

former employee of the Alaska Bank of the North.

At the same time bankers are pushing for the bill, "they are ignoring state law and implementing wholesale increases in interest rates on consumer loans," she said.

For example, she said, First Interstate Bank is now charging 22 percent interest on loans under \$2,500.

"The smaller borrower, the one that can least afford it, is being hit hardest by the bank's belligerence," she said. Interest rates on loan amounts of more than \$25,000 are not regulated.

Derrell Smith, president of the Alaska Bankers Association, said at least one Alaska bank began exceeding state limits about five years ago. Others are increasingly following suit.

That's because a federal banking law known as the "most favored lenders doctrine" allows federally-chartered banks to charge as much as other Alaska lenders, such as small loan companies, Smith said.

Under the state's Small Loan

Act, national banks based in Alaska can charge up to 36 percent annual interest on loans of \$850 or less, and 24 percent annual interest on the principle balance of a loan between \$850 and \$10,000, said Dave Lawer, a local lawyer whose firm recently reviewed how the most favored lenders doctrine applies in Alaska.

The doctrine extends to state-chartered banks as well, said Willis Kirkpatrick, director of the state Division of Banking.

The state's largest bank, National Bank of Alaska, last year began charging 15 percent annual interest on auto loans and 17.5 percent on other consumer loans. The rate of small loans from Alaska Statebank increased two weeks ago to 14.5 percent, from 13 percent.

Kennedy said AKPIRG is considering a court test of the legality of the most favored lenders doctrine — and whether Alaska banks can use it to circumvent state law.

AKPIRG this week asked the

See Page D-4, BILL

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## Bill would allow lenders to hike loan interest to 24 percent

Continued from Page D-1

Consumer Protection Section of the state Attorney General's Office to investigate the matter, she said.

According to state and federal officials, the state usury laws are not enforced by regulators. In most instances, consumers must press action in court if they feel a bank has violated the law.

"We don't step into the shoes of the borrower," said Debra Chong, a senior attorney for the Comptroller of the Currency in San Francisco. "The borrower has to sue on their own."

Smith said the apparent increasing willingness by banks to charge more than state law allows "puts a different complexion on the bill."

Although "we'd feel comfortable using the most favored lenders doctrine" with-

out changes to state law, Smith said, the provision does not go far enough.

"My personal preference is to completely deregulate," he said.

Raising the lending cap to 24 percent is a good compromise, he said.

"Obviously, (bankers) are trying to get the law changed so there is never any hint of them being in violation of state law," said Gary Jenkins, director of governmental relations for the National Federation of Independent Business/Alaska.

The 3,000-member federation opposed the bill, because small businessmen fear banks would begin charging more for small business loans of \$25,000 or less.

The measure is backed by the Alaska Bankers Association, the state Chamber of Commerce, and the Alaska Retail Association.

A hearing on the bill was held Tuesday by the House Special Committee on State Loans. Another hearing is scheduled for 3:30 p.m. today in Juneau. The hearing is not going to be teleconferenced.

The bill has been referred on to the House Judiciary Committee.

Bank officials say national deregulation has forced them to pay more for deposits. But Alaska's "usury" law prevents corresponding increases in loan charges and cut profit margins.

"Although banks have been profitable the last few years, the next few years don't look so good unless we try to match revenue to expenses," Smith said.

Alaska retailers and bankers have been lobbying to raise or eliminate interest rate caps since 1980, because of the increasing costs of servicing small loans.

Besides raising the ceiling on small loans, the bill introduced this year also would raise allowable interest rates for credit card account balances above \$1,000 from 11 percent to 18 percent.

Without the changes, banks are not willing to make small consumer loans, according to lenders.

Alaska's usury laws are among the most restrictive in the nation, bankers said. Most all states have limits 18 percent or higher; 13 states have eliminated caps entirely.

The industry argues that consumer credit would be more available if restrictions were eased.

However, Kennedy of AKPIRG said that "has clearly not been the case" in states where deregulation has been cured.

ALASKA

CONSUMER LOAN INTEREST RATES  
As of April 8, 1985

NEW CARS:

B.M. Behrends	13.75%
Alaska Federal	12.75%
Bank of the North	13.0%
First National Bank of Anchorage	15.0%
National Bank of Alaska	15.0%
United Bank of Alaska	13.0%
Alaska USA Federal Credit Union	12.75%
Alaska Municipal Employees	13.5%
Alaska State Employees Federal	13.5% 48-mos.
	14.0% 60-mos.
Federal Alaska Federal Credit Union	12.75%

USED CARS:

B.M. Behrends	15.5%
Alaska Federal	13.5%
Bank of the North	13.0%
First National Bank of Anchorage	15.0%
National Bank of Alaska	17.0%
United Bank of Alaska	13.0%
Alaska USA Federal Credit Union	14.4%
Alaska Municipal Employees	14.5%
Alaska State Employees Federal	14.0%
Federal Alaska Federal Credit Union	14.9%

NEW BOATS:

B.M. Behrends	13.75%
Alaska Federal	13.75%
Bank of the North	13.0%
First National Bank Of Anchorage	15.0%
National Bank of Alaska	17.0%
United Bank of Alaska	13.0%
Alaska USA Federal Credit Union	14.4%
Alaska Municipal Employees	14.5%
Alaska State Employees Federal	15.0%
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USED BOATS:

B.M. Behrends	13.75%
Alaska Federal	13.75%
Bank of the North	13.0%

First National Bank Of Anchorage	15.0%
National Bank of Alaska	17.0%
United Bank of Alaska	13.0%
Alaska USA Federal Credit Union	14.4%
Alaska Municipal Employees	14.5%
Alaska State Employees Federal	15.0%
Federal Alaska Federal Credit Union	14.5%

**UNSECURED LOANS:**

B.M. Behrends	17.0% under \$5,000
	13.75% over \$5,000
Alaska Federal	14.0%
Bank of the North	13.0%
First National Bank of Anchorage	15.0%
National Bank of Alaska	17.0%
United Bank of Alaska	13.0%
Alaska USA Federal Credit Union	15.0% on credit line
	15.4% all others
Alaska Municipal Employees	16.0%
Alaska State Employees Federal	19.0%
Federal Alaska Federal Credit	15.7%

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# ALASKA CREDIT UNION LEAGUE

2509 EIDE STREET, SUITE 4  
ANCHORAGE, ALASKA 99503  
(907) 278-4949

19 March 1985

*Sharon Sturrock  
586-3592*

Honorable Mike Miller  
Behrends Building, Room 220  
Pouch V  
Juneau, Alaska 99811

Dear Representative Miller:

We are writing on behalf of both the federal and state chartered credit unions in Alaska. Section 3 of H.B. 217 revises AS 06.45 J60(5)(A)(xi). This amendment would have the effect of putting a 15% limit on loan charged by state credit unions.

We believe this would harm our two state chartered institutions as well as make credit less available to their members. Such a change would put state credit unions at a disadvantage with banks and savings and loans as well as federally chartered credit unions.

Members of state chartered credit unions deserve competitive rates on their deposits. It is not possible to pay market rates on deposits if there is an artificial ceiling on loan rates.

We believe Section 3 discriminates against state chartered credit unions. To insure the viability of the state chartering system for credit unions and to allow state chartered credit unions to be competitive with other financial institutions, we request that Section 3 of H.B.217 be deleted.

Sincerely,

David L. Chatfield  
Governmental Affairs Committee Chairman

cc: Representatives Sund, Gruenberg  
Taylor, Clocksin, Pettyjohn and Phillips



## MEMBERS OF THE COMMITTEE

I think all of you have had an opportunity to familiarize yourself with this bill. We have spoken to each of you to explain the provisions of and the reasons for this legislation. Therefore, I will not address the bill specifically, but there are several general points I would like to make which I think deserve further clarification primarily, because I think that some of the people and groups that have testified in opposition to this legislation are perpetuating some myths and misconceptions about the financial services industry.

Although we don't think of ourselves as grocers, the analogy is a good one, because there are a great deal of similarities. Like the grocer, we buy a product, put a mark-up on it, and re sell it at a profit. Also, like the grocer, we have relatively low margins and depend on high volume to make a fair return on our assets. Our product, however, is money and the price we pay for it and the price we get for it when we sell it is called the interest rate. Nevertheless, the laws of supply and demand and other economic axioms apply to us just like the grocer. If we charge too much for our product we won't sell any; if we charge too little for our product we won't make a profit. Being a bank, a savings and loan, credit union, or other financial institution will not change this fact. In this respect, we are no different than thousands of businesses large and small across the country.

What makes us different today, in Alaska, is that unlike the grocer, while we must pay for our inventory at whatever the market rate is, there is a law on the books that says we cannot price our product accordingly. In fact, there

are numerous laws in Alaska which control the price we can charge. Credit card rates are governed by one law, retail installment sales by another, small commercial loans by another and consumer finance by even another. It all adds up to a huge tangled confusing morass of laws which benefit no one.

I wonder what the neighborhood grocer would say if we suddenly restricted the price he could charge on a loaf of bread. He would scream bloody murder. He would say his costs aren't the same as the Safeway down the street, Safeway is more efficient, has volume buying power, and more capital! Safeway might be making a profit on bread at the restricted price, but the neighborhood grocer might not because his costs are different. Why should he have to charge the same price as Safeway? Indeed, what difference does it make what he charges for the bread. If it is too much, he won't sell any, if its too little he won't make a profit. Market forces will determine his price.

Banks and other financial institutions are no different than thousands of other businesses. They sell a product at a price which is determined by demand and competition. If the statute says they can't sell at a fair price that will cover cost, then eventually the market will dry up. This is exactly what happened when the Fed instituted tight credit policies and drove rates up in mid-1981. Mortgage lending and credit card lending virtually came to a halt in many states. The usury ceiling in this case didn't serve to protect anyone, it only cut off their access to credit.

Well, what will happen if some of the regulations such as usury ceilings are modified? I am sure that is a question on everyone's mind today. What has happened in other industries that were deregulated? How about the airline

industry? Can anyone deny that deregulation in that industry wasn't beneficial to Alaskans? Air travel has never been cheaper. What about the communication industry? Long distance calls are suddenly becoming cheaper. Why? Because competition insures the price will remain fair. No one has satisfactorily explained to me why financial institutions are looked at differently. The laws of economics aren't suspended just because the commodity we sell is money. I am here to tell you that the laws of supply and demand will continue into the future and institutions will continue to compete as they always have and this will provide positive benefits to all Alaskans.

Now, there may be some people testifying today that financial institutions are not competitive and that rates will go up, if this legislation is passed. They even have studies which they claim support this contention, just as we have studies which support just the opposite.

However, I don't think we need to go much further than our own state to prove our point. Under current law, because of the "MOST FAVORED LENDER DOCTRINE", financial institutions can actually charge any rate they want up to 24%. The "DOCTRINE" has the effect of "overriding" many of the usury ceilings in current state statute. I don't intend here to justify its existence --- I didn't invent it - but it is perfectly legal. What it has done, however, is give you a glimpse of what would happen if usury ceilings were lifted in this state. Frankly, its been the biggest non-event in Alaska.

A few banks have modified their rates on loans where their costs have exceeded their returns. But in our bank the majority of loans below \$25,000.00 are between 12% and 13%. If we could charge 24%, why aren't we? Simple -- back

to the laws of economics. Competition is what is keeping rates where they are now and it is what will keep rates fair in the future.

How do we promote competition? Again, the answer is fairly clear. Provide a healthy economic environment in which financial institutions can compete freely without artificial restrictions and a tangle of obsolete laws which do not protect anyone, but confuse and harm the consumer.

Remember, a vote for this legislation is not a vote to raise interest rates. It means you are in favor of a system where prices are fairly determined by supply and demand not by government edict. Time and time again throughout our history, price controls have proven to be a mistake.

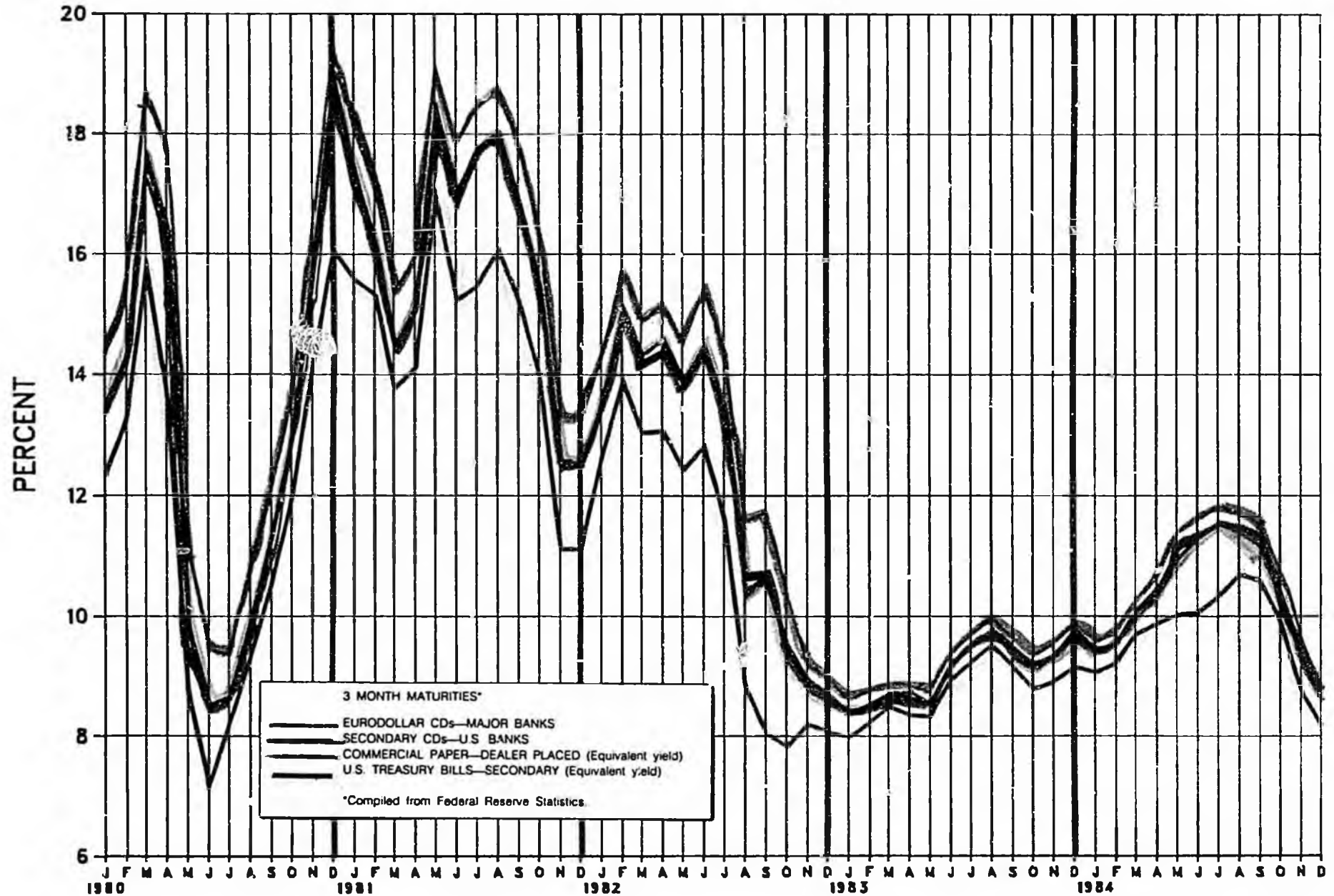
Unrealistic usury ceilings force unregulated borrowers to subsidize the cost of lending to regulated borrowers and it creates the opportunity under some economic conditions for certain classes of borrowers to be denied access to credit. In passing on this legislation today, you will be helping to establish a truly free market for everyone's benefit - not just for the big borrowers, but for the little borrower too.

WHG/pm

Comments By:

Win Gruening, Vice President & Controller  
The B. M. Behrends Bank  
Juneau, Alaska  
April 9, 1985

# MONEY MARKET OFFER RATES (MONTHLY AVERAGE)



3 MONTH MATURITIES\*

- EURODOLLAR CDs—MAJOR BANKS
- SECONDARY CDs—U.S. BANKS
- COMMERCIAL PAPER—DEALER PLACED (Equivalent yield)
- U.S. TREASURY BILLS—SECONDARY (Equivalent yield)

\*Compiled from Federal Reserve Statistics.

§ 06.15.250

§ 06.15.350

BANKS AND FINANCIAL INSTITUTIONS

§ 06.20.010

Article 4. General Powers of Mutual Banks.

Section

350. General powers

Sec. 06.15.350. General powers. A mutual bank

- (1) shall have indefinite succession;
- (2) may adopt and use a seal;
- (3) may sue and be sued;
- (4) may adopt, amend and repeal rules and regulations governing the manner in which its business may be conducted and the manner in which the powers vested in it may be exercised;
- (5) may make and carry out contracts and agreements, provide benefits to its personnel and take other action, as it considers necessary or desirable in the conduct of its business;
- (6) may appoint and fix the compensation of officers, attorneys, and employees desirable for the conduct of its business, define their authority and duties, delegate to them the powers the trustees determine, require bonds of them as the trustees designate and fix their penalties and pay the premiums on the bonds;
- (7) may acquire by purchase or lease real property or interest therein as the trustees consider necessary or desirable for the conduct of its business, and sell, lease or otherwise dispose of real property or interest therein;
- (8) may exercise the powers of a bank granted under the Alaska Banking Code (AS 06.05.005 — 06.05.545); and
- (9) may convert from a mutual bank to a capital stock bank under a plan approved by the department. (§ 15 a ch 132 SLA 1960; am § 3 ch 47 SLA 1980)

Effect of amendments. — The 1980 amendment added paragraphs (8) and (9).

Chapter 20. Alaska Small Loans Act.

Section

- 10. License required
- 200. Advertising of misleading statements prohibited
- 230. Maximum interest permitted
- 250. Computation and payment of interest
- 260. Charges prohibited
- 270. Requirements for making and payment of loans
- 280. Maximum charge by licensee

Section

- 285. Open-end loans
- 287. Credit insurance on open-end loans
- 290. Purchase of wages for \$25,000 or less
- 300. Maximum charges by nonlicensee on loans
- 310. Illegal interest rate
- 320. Civil and criminal penalties
- 330. Exemptions
- 900. Definitions

Sec. 06.20.010. License required. A person may not engage in the business of making loans of money, credit, goods, or things in action in the amount or of the value of \$25,000 or less and charge, contract for,

or receive on the loan a greater rate of interest, discount, or consideration than the lender would be permitted by law to charge if he were not a licensee under AS 06.20.010 — 06.20.920, except as authorized by AS 06.20.010 — 06.20.920 and without first obtaining a license from the department. (§ 2 ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 23 ch 218 SLA 1976; am § 1 ch 71 SLA 1978; am § 1 ch 63 SLA 1980)

**Effect of amendments.** — The 1980 amendment substituted "A" for "No" at the beginning of the section and "\$25,000" for "\$5,000," and inserted "not" following "A person may" near the beginning of the section.

**Sec. 06.20.200. Advertising of misleading statements prohibited.** (a) A person may not advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action in the amount or of the value of \$25,000 or less, which is false, misleading, or deceptive. The department may order any licensee to desist from any conduct which it finds to be in violation of this section.

(b) The department may require rates of charge stated by a licensee to be stated fully and clearly in the manner considered necessary to prevent misunderstanding by prospective borrowers. (§ 13 ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 6 ch 71 SLA 1978; am § 2 ch 63 SLA 1980)

**Effect of amendments.** — The 1980 amendment, in subsection (a), substituted "A" for "No" at the beginning of the subsection, and "\$25,000" for "\$5,000" near the end of the first sentence, and inserted "not" following "A person may" near the beginning of the subsection.

**Sec. 06.20.230. Maximum interest permitted.** (a) A licensee may lend any sum of money not exceeding \$25,000 and may charge, contract for, and receive on the loan interest at a rate not exceeding three percent a month on that part of the unpaid principal balance of a loan not in excess of \$850; two percent a month on the unpaid principal balance exceeding \$850 but not exceeding \$10,000; and at a rate agreed by contract on the remainder of any unpaid principal balance exceeding \$10,000 but not exceeding \$25,000.

(b) Notwithstanding the provisions of (a) of this section, a licensee who makes open-end loans under this chapter may charge, contract for, and receive interest at a rate not exceeding three percent a month on that part of the unpaid principal balance of a loan not in excess of \$850; two percent a month on the unpaid principal balance exceeding \$850 but not exceeding \$10,000; and at a rate agreed by contract on the remainder of any unpaid principal balance exceeding \$10,000 but not exceeding \$25,000.

(c) Interest on loans under (b) of this section shall be computed according to the actuarial method on the entire unpaid principal balance as determined in AS 06.20.285(b). (§ 16(a) ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 7 ch 71 SLA 1978; am § 2 ch 84 SLA 1979; am § 3 ch 63 SLA 1980; am §§ 1, 2 ch 99 SLA 1982)

**Effect of amendments.** — The 1979 amendment added subsection (b).

The 1980 amendment, in subsection (a), substituted "\$25,000" for "\$5,000" twice; in subsection (b), inserted "or who makes a loan under this chapter exceeding \$5,000 but not exceeding \$25,000" and "the greater of", restructured the subsection into the present introductory paragraph and paragraphs (1) and (2), added "or" following "a month" in paragraph (1), added the provisions of paragraph (2); designated the provisions beginning "Interest on loans" as subsection (c), added "Interest on loans under (b) of this section shall be", and inserted "entire" preceding "unpaid principal" in subsection (c).

The 1982 amendment, in subsection (a), substituted "\$850" for "\$500" and "\$10,000" for "\$1,000" in two places each and "at a rate agreed by contract" for "one percent a month" and deleted "remainder of any" preceding "unpaid principal balance exceeding \$850," and deleted the

former second sentence, which read: "On loans the principal of which is \$50 or less a licensee may charge, contract and receive interest at a rate not exceeding five percent a month." In subsection (b), the amendment substituted the language beginning "may charge, contract for, and receive interest" and ending "at a rate agreed by contract on the remainder of any unpaid principal balance exceeding \$10,000" for "or who makes a loan under this chapter exceeding \$5,000" and deleted from the end of the subsection "may elect to charge, contract for, and receive interest not to exceed the greater of

- (1) one and one-half percent a month; or
- (2) eight percentage points above the Federal Reserve discount rate on 90-day commercial paper charged to banks for advances by the 12th Federal Reserve District on the first day of the month before the calendar quarter during which the loan is made."

**Sec. 06.20.250. Computation and payment of interest.** (a) Interest shall not be paid, deducted, or received in advance. Except for open-end loans made under AS 06.20.285, interest shall be computed and paid only on unpaid principal balances and shall not be compounded; however, if part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan, the principal amount payable under the loan contract may include any unpaid charges on the prior loan which have accrued within 60 days before the making of the loan contract. The maximum interest permitted on loans made under AS 06.20.010 — 06.20.920 shall be computed on the basis of the number of days actually elapsed. For the purpose of these computations a month is any period of 30 consecutive days.

(b) A licensee may compute interest for a loan as provided in AS 06.20.010 — 06.20.920 on an interest-bearing or actuarial basis either at the rates stated in AS 06.20.230 or at the single annual percentage rate that would earn the same finance charge as the rates stated in AS 06.20.230 when the debt is paid according to the agreed terms and the calculations made according to the actuarial method.

(c) Except for open-end loans under AS 06.20.285, a licensee may not enter into any contract for a loan that provides for a scheduled repayment of principal over more than the maximum terms set out below opposite the respective size of loans.

Principal amount of loan to	Maximum term
\$1,000 . . . . .	24 and ½ months
Over \$1,000 to \$2,500 . . . . .	48 and ½ months
Over \$2,500 to \$5,000 . . . . .	60 and ½ months
Over \$5,000 to \$25,000 . . . . .	as agreed to by the parties

(§ 16(c) ch 73 SLA 1955; am § 8 ch 71 SLA 1978; am §§ 3, 4 ch 84 SLA 1979; am § 4 ch 63 SLA 1980)

**Effect of amendments.** — The 1979 amendment added "Except for open-end loans made under AS 06.20.285" at the beginning of the second sentence of subsection (a) and "Except for open-end loans under AS 06.20.285" at the beginning of subsection (c).

The 1980 amendment, in subsection (c),

substituted "a" for "no" preceding "licensee" near the beginning of the subsection, inserted "not" following "licensee may" near the beginning of the subsection, added the provisions of the last line of both columns of the loan repayment terms beginning "Over \$5,000" and ending "as agreed to by the parties."

**Sec. 06.20.260. Charges prohibited.** (a) No further or other charge or amount for any examination, service, brokerage commission, expense, fee, or bonus or other thing or otherwise shall be directly or indirectly charged, contracted for or received except

(1) lawful fees actually paid out by the licensee to a public officer for filing, recording, or releasing any instrument securing the loan, or for transferring certificate of title to a motor vehicle securing the lien or noting a lien on that certificate;

(2) premiums actually paid out for insurance on any one or combination of the following: pledged property of the borrower, credit life insurance on the life of one or more borrowers, or credit disability insurance to provide indemnity for payments becoming due on the indebtedness;

(3) taxable costs and expenses to which the licensee becomes entitled under general law in any court proceedings to collect a loan or to realize on the security after default;

(4) *[Repealed, § 16 ch 71 SLA 1978.]*

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

(6) a late payment fee of not more than 10 percent of the payment that is due or \$15, whichever is less.

(b) A licensee may collect the charges permitted under (a) of this section at the time when the loan is made or at any time thereafter. If any interest, consideration or charges in excess of those permitted by AS 06.20.230 are charged, contracted for or received, except as the result of an accidental and bona fide error in computation, the contract of loan is modified as follows: all interest, consideration or charges involved are voided and a like amount credited to the debtor on the principal of the loan. If the unpaid principal is less than the total of the interest, consideration and charges, the difference shall be refunded by

the lender to the borrower. (§ 16(d) ch 73 SLA 1955; am §§ 9, 16 ch 71 SLA 1978; am § 5 ch 84 SLA 1979; am § 3 ch 99 SLA 1982)

Effect of amendments. — The 1979 amendment added paragraph (5) to subsection (a).      The 1982 amendment added paragraph (6) to subsection (a).

**Sec. 06.20.270. Requirements for making and payment of loans.** Except as provided in AS 06.20.285 for open-end loans, every licensee shall

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

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

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

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

(5) display prominently in each licensed place of business a full and accurate schedule, approved by the department, of the charges to be made and the method of computing them. (§ 17 ch 73 SLA 1955; am § 6 ch 84 SLA 1979)

Effect of amendments. — The 1979 amendment added "Except as provided in AS 06.20.285 for open-end loans" to the beginning of the section.

**Sec. 06.20.280. Maximum charge by licensee.** A licensee may not directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than that which he would be permitted by law to charge if he were not a licensee under AS 06.20.010 — 06.20.920, upon the loan, use or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit, of the amount or value of more than \$25,000. This section applies to any licensee who permits any person, as borrower or endorser, guarantor, or surety for any borrower, or otherwise, to owe directly or contingently or both to

the licensee at any time a sum of more than \$25,000 on principal. (§ 18 ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 10 ch 71 SLA 1978; am § 5 ch 63 SLA 1980)

**Effect of amendments.** — The 1980 amendment substituted "A" for "No" at the beginning of the section, "\$25,000" for "\$5,000" twice where it appears in the section, and inserted "not" following "A licensee may" near the beginning of the section.

**Sec. 06.20.285. Open-end loans.** (a) A licensee may make open-end loans not exceeding an aggregate total of \$25,000 and may contract for and receive interest on open-end loans as provided in AS 06.20.230, and for other charges permitted under AS 06.20.010 — 06.20.920. Interest on open-end loans may be computed daily or monthly on the unpaid principal balance or the average unpaid principal balance if the interest charged as a result of these computations does not exceed the rates stated in AS 06.20.230 when the interest is computed according to the interest-bearing or actuarial method.

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

(c) A licensee may secure the payment of an open-end loan in the same manner as other loans under AS 06.20.010 — 06.20.920 may be secured.

(d) The licensee shall deliver a copy of the open-end loan agreement to the borrower at the time the open-end loan account is opened. The open-end loan agreement must contain the name and address of the licensee and the borrower and must contain disclosures of finance charges, and agreed terms as may be required by regulations adopted by the department and the Board of Governors of the Federal Reserve System.

(e) At the end of each billing cycle in which there is an outstanding balance in the account for which a finance charge is imposed, the licensee shall deliver to the borrower a statement in the form required by regulations adopted by the department and the Board of Governors of the Federal Reserve System. This subsection does not apply to accounts which the licensee considers uncollectible or for which an action to collect past due amounts has been filed. (§ 1 ch 84 SLA 1979; am § 6 ch 63 SLA 1980)

**Effect of amendments.** — The 1980 amendment substituted "\$25,000" for "\$10,000" near the beginning of subsection (a).

**Sec. 06.20.287. Credit insurance on open-end loans.** (a) A licensee may obtain credit life, credit disability, and property insurance on open-end loans under AS 06.20.010 — 06.20.920. The credit life and credit disability insurance obtained by a licensee shall satisfy the requirements of AS 21.57.010 — 21.57.170. The property insurance obtained by a licensee shall satisfy the requirements of AS 21.39.010 — 21.39.180 and AS 21.42.010 — 21.42.370. The licensee shall comply with AS 21.36.160 and 21.36.165 during all transactions with borrowers involving credit life, credit disability and property insurance.

(b) The licensee shall calculate the charge for credit life or disability insurance in each billing cycle by adding to the unpaid balance in the borrower's account the current monthly premium rate for the coverage required at the rate set under AS 21.57.010 — 21.57.170, using the method specified in the loan agreement for determining the unpaid balance.

(c) A licensee may not cancel credit life or disability insurance obtained for an open-end loan if the borrower is delinquent in paying his monthly installments unless an installment is delinquent for 90 days or longer. The licensee shall advance to the insurer amounts necessary to keep the policy in force until the 90-day delinquency period has elapsed, and the borrower's account may be charged for the amounts advanced to the insurer. (§ 1 ch 84 SLA 1979)

**Sec. 06.20.290. Purchase of wages for \$25,000 or less.** For purposes of AS 06.20.010 — 06.20.920, the payment of \$25,000 or less in money, credit, goods, or things in action, as consideration for the sale or assignment of, or order for, the payment of wages, salary, commissions, or other compensation for services whether earned or to be earned is considered a loan, and the difference between the payment and the amount of the compensation sold or assigned is considered interest or a charge upon the loan from the date of payment to the date the compensation is payable. Such a transaction is governed by AS 06.20.010 — 06.20.920. (§ 19 ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 11 ch 71 SLA 1978; am § 7 ch 63 SLA 1980)

**Effect of amendments.** — The 1980 amendment substituted "\$25,000" for "\$5,000", and inserted "is considered a loan, and the difference between the payment and the amount of the compensation sold or assigned", and inserted "a" following "Such" at the beginning of the second sentence.

**Sec. 06.20.300. Maximum charges by nonlicensee on loans.** (a) Except as authorized in AS 06.20.010 — 06.20.920, a person may not directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than that which he would be permitted by law to charge if he were not a licensee, upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit of the amount or value of \$25,000 or less.

(b) The provisions of (a) of this section apply to any person who, by any device, subterfuge or pretense whatsoever charges, contracts for or receives greater interest, consideration or charges than are authorized by AS 06.20.010 — 06.20.920. (§ 20(a) (b) ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 12 ch 71 SLA 1978; am § 8 ch 63 SLA 1980)

**Effect of amendments.** — The 1980 amendment, in subsection (a), substituted "a" for "no" preceding "person" near the beginning of the subsection, and "\$25,000" for "\$5,000", and inserted "not" following "a person may" near the beginning of the subsection.

**Sec. 06.20.310. Illegal interest rate.** No loan of the amount or value of \$25,000 or less for which a greater rate of interest, consideration or charge than is permitted by AS 06.20.010 — 06.20.920 has been charged, contracted for or received, wherever made, may be enforced in the state, and every person participating in such a loan in the state is subject to AS 06.20.010 — 06.20.920. This section does not apply to loans legally made in any state or territory of the United States which has in effect a regulatory small loan law similar in principle to AS 06.20.010 — 06.20.920. (§ 20(c) ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 13 ch 71 SLA 1978; am § 9 ch 63 SLA 1980)

**Effect of amendments.** — The 1980 amendment substituted "\$25,000" for "\$5,000."

**Sec. 06.20.320. Civil and criminal penalties.** (a) A licensee or lender who, in the making or collection of a loan contract, does any act which violates AS 06.20.230 — 06.20.260 or 06.20.280 — 06.20.310 shall at the option of the commissioner reimburse the portion of the interest and charges in excess of that provided in those sections, or, in the case of repeated violations of those sections by the licensee, the commissioner may, upon a hearing, require the licensee to adjust the loan contract interest or other charges down to the contract interest limitation specified in AS 45.45.010(a).

(b) Any person, copartnership, association, or corporation, and its members, officers, directors, agents, and employees, who violates or participates in a violation of the provisions of AS 06.20.010, 06.20.180 — 06.20.200, 06.20.230 — 06.20.290, 06.20.300 or 06.20.310 is guilty of a misdemeanor.

(c) If a penalty for failure to comply with financing disclosure requirements under regulations adopted by the Board of Governors of the Federal Reserve System is imposed by the federal authorities, the department may not impose a civil penalty under this section for the same act or omission. (§ 21 ch 73 SLA 1955; am § 14 ch 71 SLA 1978; am § 7 ch 84 SLA 1979)

**Effect of amendments.** — The 1979 amendment added subsection (c).

**Sec. 06.20.330. Exemptions.** (a) AS 06.20.010 — 06.20.920 does not apply to any person doing business under and as permitted by any law of the state or of the United States relating to banks, savings banks, trust companies, building and loan associations, or credit unions.

(b) AS 06.20.010 — 06.20.920 does not apply to individual loans by pawnbrokers or loan shops where separate and individual loans do not exceed \$200. (§ 22 ch 73 SLA 1955; am § 1 ch 49 SLA 1981)

**Effect of amendments.** — The 1981 amendment added subsection (b) and in subsection (a), added "or" preceding "credit unions" and deleted "pawnbrokers or loan shops where separate and individual loans do not exceed the sum of \$100" following "credit unions."

**Sec. 06.20.900. Definitions.** As used in AS 06.20.010 — 06.20.920, unless the context otherwise requires,

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

(2) "department" means the Department of Commerce and Economic Development.

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

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

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

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

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

(E) the agreement covers open-end loans under AS 06.20.010 — 06.20.920. (§ 15 ch 71 SLA 1978; am § 8 ch 84 SLA 1979)

**Effect of amendments.** — The 1979 amendment added paragraph (3).

§ 06.35.030 BANKS AND FINANCIAL INSTITUTIONS § 06.35.050

Cross references. — For applicability of the Rules of Civil Procedure, see note to AS 1964 Act, see note to AS 06.35.010. For 06.35.019. effect of § 1, ch. 14, SLA 1964, on Rule 4 of

Sec. 06.35.030. Procedure for court accounting. When an accounting of a common trust fund is presented to the superior court under § 20 of this chapter for approval, the court shall assign a time and place for hearing and order notice of the hearing by (1) publication once a week for three weeks, the first publication to be not less than 20 days before the date of the hearing, of a notice in a newspaper having a circulation in the judicial district in which the bank or trust company or branch thereof operating the common trust fund is located; (2) mailing not less than 14 days before the date of the hearing a copy of the notice to all beneficiaries of the trusts participating in the common trust fund whose names are known to the bank or trust company from the records kept by it in the regular course of business in the administration of the participating trusts, directed to them at the addresses shown by the records; and (3) such further notice as the court may order. (§ 1 ch 14 SLA 1964)

Cross references. — For applicability of the Rules of Civil Procedure, see note to 1964 Act, see note to AS 06.35.010. For AS 06.35.010. effect of § 1, ch. 14, SLA 1964, on Rule 4

Sec. 06.35.040. Uniformity of interpretation. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. (§ 1 ch 14 SLA 1964)

Cross references. — For applicability of the Rules of Civil Procedure, see note to 1964 Act, see note to AS 06.35.010. For AS 06.35.010. effect of § 1, ch. 44, SLA 1964, on Rule 4

Sec. 06.35.050. Short title. This chapter may be cited as the Uniform Common Trust Fund Act. (§ 1 ch 14 SLA 1964)

Cross references. — For applicability of the Rules of Civil Procedure, see note to 1964 Act, see note to AS 06.35.010. For AS 06.35.010. effect of § 1, ch. 44, SLA 1964, on Rule 4

Chapter 40. Premium Financing Act.

- Article
1. Licensing (§§ 06.40.010 — 06.40.080)
2. Operations (§§ 06.40.090 — 06.40.150)
3. General Provisions (§§ 06.40.160 — 06.40.190)

Editor's note. — Section 3, ch. 170, SLA before the effective date of this Act 1978, provides: "The provisions of this Act [October 15, 1978]. do not void a lawful contract entered into

## Article 1. Licensing.

## Section

- 10. License required
- 20. Applicability
- 30. Bond
- 40. Annual license fee

## Section

- 50. Application for license; fee
- 60. Place of business
- 70. Investigation: Qualifications for license
- 80. Revocation and suspension of license

**Sec. 06.40.010. License required.** Except as provided in § 20 of this chapter, no person may engage in the business of entering into premium finance agreements on insurance sold in this state or risks located in this state, either directly or indirectly, or otherwise act as a premium finance company in this state without being licensed by the department. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.020. Applicability.** This chapter does not apply to

(1) any insurer authorized to transact business in this state with respect to premiums on policies which the insurer issues;

(2) any bank, trust company, savings association, or other financial institution subject to the other chapters of this title and authorized to transact business in this state that does not possess or acquire any right, title or interest with respect to the insurance policy for which the premiums are financed other than in the proceeds of it in the event of loss;

(3) the inclusion of a charge for insurance in connection with an installment sale in accordance with AS 45.10; and

(4) persons licensed under AS 21.27 financing only their own accounts if they are in compliance with AS 21.36.122. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.030. Bond.** (a) The applicant shall file with the application a bond to be approved by the department in which the applicant shall be the obligor, in the sum of \$5,000 with one or more sureties. The bond shall be for the use of the state and any person who may have a cause of action against the obligor under this chapter. The bond shall state that the obligor will faithfully conform to and abide by the provisions of this chapter and of all regulations lawfully made by the department, and will pay to the state and to any person all money that may become due or owing to the state or to the person from the applicant under this chapter. The aggregate liability of the surety for all breaches of the bond condition may not exceed the penal sum of the bond, and the bond may be cancelled by the surety on 30 days notice to the commissioner.

(b) If at any time the commissioner finds that the bond is unsatisfactory for any reason, he may require the licensee to file, within 10 days after the receipt of a written demand for it, an additional bond complying with the provisions of (a) of this section. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.040. Annual license fee.** On or before December 20 of each year, each licensee shall pay a fee of \$200 to the department as an annual license fee for the next succeeding calendar year. At that same time the licensee shall file with the department a new bond which complies with § 30 of this chapter. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.050. Application for license; fee.** (a) Application for a license under this chapter shall be in writing and in the form prescribed by the department.

(b) All reasonable investigation expenses incurred by the department in processing an application for approval of a proposed premium finance company shall be charged to and paid by the applicant in accordance with AS 06.01.010. At the time of submitting the application to the department, the applicant shall pay to the department \$500 in partial payment of the investigation expenses incurred by the department. If the investigation expenses incurred by the department do not exceed \$500, the remainder shall be promptly refunded to the applicant.

(c) The person to whom the license may be or is issued shall file sworn answers to interrogatories required by the commissioner. The commissioner shall have authority, at any time, to require the licensee fully to disclose the identity of all directors, partners, officers and managerial employees, and he may, in his discretion, refuse to issue or continue a license in the name of any firm or corporation if he determines that any officer, employee, stockholder or partner of the firm or corporation who may materially influence the licensee's conduct does not meet the requirements of this chapter.

(d) All premium finance licenses shall continue in force until suspended or revoked, subject to the payment by the licensee of the annual license fee and to the licensee being in compliance with other provisions of this chapter. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.060. Place of business.** (a) A licensee may maintain only one place of business under his license. The department may issue more than one license to the same licensee upon application and compliance by the licensee with the provisions of this chapter governing the original issuance of a license.

(b) Whenever a licensee changes his place of business to another location, he shall give written notice to the department. The department shall attach the written notice of the change to the license together with the date. Thereafter, the licensee may operate the business under the license at the new location. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.070. Investigation: Qualifications for license.** (a) Upon the filing of an application and payment of the investigation fee specified in § 50(b) of this chapter, the commissioner shall conduct an investigation of an applicant and shall issue a premium finance company license if the applicant meets the requirements of this chapter. If the commissioner does not so find, he shall, within 30 days after he has

received the application, at the request of the applicant, give the applicant a full hearing.

(b) The commissioner shall issue a license to an applicant when he is satisfied that the applicant

(1) is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;

(2) has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied; and

(3) if a corporation, is a corporation incorporated under the laws of this state or a foreign corporation authorized to transact business in this state. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.080. Revocation and suspension of license.** The commissioner may revoke or suspend the license of any licensee when, upon completion of an investigation, the commissioner determines that

(1) the license issued to the company was obtained by fraud;

(2) there was misrepresentation in the application for the license;

(3) the holder of the license has otherwise shown himself untrustworthy or incompetent to act as a premium finance company; or

(4) the licensee has violated any of the provisions of this chapter. (§ 1 ch 170 SLA 1978)

**Article 2. Operations.**

Section	Section
90. Advertising of misleading statements prohibited; disclosure of interest	120. Maximum interest permitted: Prepayment, refund
100. Record keeping; examination of records	130. Delinquency charge
110. Contents of premium finance agreement	140. Cancellation of policy; requirements
	150. Return of unearned premiums

**Sec. 06.40.090. Advertising of misleading statements prohibited; disclosure of interest.** (a) No person may advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner, any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action which is false, misleading, or deceptive.

(b) The licensee or lender shall state the interest rate charged in a premium finance agreement fully and clearly as an annual percentage rate. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.100. Record keeping; examination of records.** (a) Every licensee shall maintain records of its premium finance transactions, including the insurance agents through which the licensee provides loans to residents of this state and the records shall be open to examination and investigation by the commissioner at the office of the

licensee. All records pertaining to insurance contracts financed by Alaska residents shall be maintained or readily available in the licensee's office. The commissioner may, at any reasonable time, require the licensee to bring records pertaining to premium finance agreements to his office for examination. The expenses incurred by the department in conducting an examination shall be charged to and paid by the licensee in accordance with AS 06.01.010.

(b) Every licensee shall preserve its records of premium finance transactions, including cards used in a card system, for at least three years after making the final entry relating to any premium finance agreement. The preservation of records in photographic form constitutes compliance with this requirement.

(c) Each licensee shall, on or before March 15 of each year, file a report with the department containing information as the department may reasonably require concerning the business and operations during the preceding calendar year of each licensed place of business conducted by the licensee. The report shall be made under oath, shall be in the form prescribed by the department, and shall be kept available as a public record. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.110. Contents of premium finance agreement.** (a) A premium finance agreement shall

(1) be dated, signed by the borrower, and the printed portion of it shall be in at least eight-point type;

(2) contain the name and place of business of the insurance agent negotiating the related insurance policy, the name and residence or the place of business of the borrower as specified by him, the name and place of business of the licensee to which payments are to be made, an identification of the insurance policy involved and the amount of the premium charged for it; and

(3) set out the following items where applicable:

(A) the total amount of the premiums;

(B) the amount or the down payment;

(C) the principal balance (the difference between (A) and (B) of this paragraph);

(D) the annual percentage rate of interest; and

(E) the number of payments required, the amount of each payment expressed in dollars, and the due date or period of it.

(b) The items set out in (a)(3) of this section need not be stated in the sequence or order in which they appear in (a) of this section, and additional items may be included to explain the computations made in determining the amount to be paid by the insured.

(c) The repayment schedule relating to dwelling fire, homeowner, private passenger automobile, boats not used for commercial purposes, owner-occupied mobile homes, and fire insurance policies covering owner-occupied multiple unit dwellings for four families or less shall be such that the total amount due the licensee at any time does not exceed

the unearned premium on the policy being financed at that time. No deficiency balance may be established or collected from the borrower. This section does not preclude the licensee from establishing or collecting a deficiency balance to the extent the insurer offsets unearned premiums on the policy financed by premiums earned by reason of endorsements to that same policy not paid for by the insured or financed by the licensee.

(d) The licensee or the insurance agent shall deliver to the borrower, or mail to him at his address shown in the agreement, a complete copy of the agreement. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.120. Maximum interest permitted: Prepayment, refund.**

(a) A premium finance company may not charge, contract for, receive, or collect a service charge other than as permitted by this chapter.

(b) The service charge is to be computed on the balance of the premiums due, after subtracting the down payment made by the borrower in accordance with the premium finance agreement, from the effective date of the insurance coverage, for which the premiums are being advanced, to and including the date when the final payment of the premium finance agreement is payable.

(c) The service charge may not exceed interest at the nominal annual rate of 15 per cent plus an additional charge of \$10 per premium finance agreement which need not be refunded upon cancellation or prepayment. However, any borrower may prepay his premium finance agreement in full at any time before the due date of the final payment and in that event the unearned service charge shall be refunded. The amount of any refund shall be calculated in accordance with regulations adopted by the commissioner. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.130. Delinquency charge.** (a) A premium finance agreement may provide for the payment by the borrower of a delinquency charge for any payment that is in default for a period of 10 days or more. The charge may be made for each month or fraction of a month that the payment is in default. The amount of the charge may be a minimum of \$1 and as a maximum shall be subject to the following limits:

(1) for delinquent payments of less than \$250, five per cent of the payment or \$5, whichever is less; or

(2) for delinquent payments of \$250 or more, two per cent of the payment.

(b) A borrower may at his option separate the financing of the premiums for one insurance policy from a premium finance agreement by requesting in writing that the premium finance company provide that service and by paying a \$10 separate charge. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.140. Cancellation of policy; requirements.** (a) When a premium finance agreement contains a power of attorney enabling the licensee to cancel the insurance policy listed in the agreement, the

insurance policy may not be cancelled by the licensee unless the cancellation is effectuated in accordance with this section.

(b) The licensee shall give not less than 10 days written notice to the borrower, by mailing by certified mail or documented by an affidavit of mailing, of the licensee's intent to cancel the insurance policy unless the default is cured within that 10-day period. A copy of the notice shall also be mailed by certified mail or documented by an affidavit of mailing to the insurance agent indicated on the premium finance agreement.

(c) After expiration of the 10-day period specified in (b) of this section, the licensee may, in the name of the borrower, cancel the insurance policy by mailing by certified mail or documented by an affidavit of mailing to the insurer a notice of cancellation. The insurance policy shall be cancelled as if the notice of cancellation had been submitted by the borrower himself, but without requiring the return of the insurance policy. The licensee shall also mail by certified mail or documented by an affidavit of mailing a notice of cancellation to the borrower at his last-known address and to the insurance agent indicated on the premium finance agreement.

(d) All statutory, regulatory and contractual restrictions providing that the insurance policy may not be cancelled unless notice is given to a governmental agency, mortgagee, or other third party shall apply where cancellation is effected under the provisions of this section. The insurer shall give the prescribed notice on behalf of itself or the borrower to any governmental agency, mortgagee, or other third party on or before the fifth business day after the day it receives the notice of cancellation from the licensee and shall determine the effective date of cancellation taking into consideration the number of days' notice required to complete the cancellation. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.150. Return of unearned premiums.** (a) Whenever a financed insurance policy is cancelled and provided the insurer has been notified of the assignment of interest of the insured to the licensee, the insurer within 60 days of the effective date of cancellation shall take such steps as are necessary to have any gross unearned premiums that are due under the insurance policy returned to the licensee for the account of the borrower if the licensee has complied with the notice provisions of § 140(b) of this chapter.

(b) If the crediting of return premiums to the account of the borrower results in a surplus over the amount due from the borrower, the licensee shall refund the excess to the borrower; however, no refund is required if it amounts to less than \$1. (§ 1 ch 170 SLA 1978)

### Article 3. General Provisions.

**Section**

160. Civil and criminal penalties

170. Filing not required to perfect validity of agreement

**Section**

180. Regulations, orders

190. Definitions

**Sec. 06.40.160. Civil and criminal penalties.** (a) A lender who, in the making of any contract loan or premium finance agreement or the collection of interest or charges, does any act which violates §§ 10 — 20, 90, or 110 — 130 of this chapter shall at the option of the commissioner reimburse that portion of the interest and charges in excess of that provided in those sections, or, in the case of repeated violations of those sections by the lender, the lender shall adjust the contract, loan, or premium finance agreement interest and other charges down to the contract interest limitation specified in AS 45.45.010(a).

(b) Any person, copartnership, association, or corporation, and its members, officers, directors, agents, and employees, who violates or participates in a violation of the provisions of § 10 of this chapter, 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. In case of conviction of a corporation for violation of this chapter, the corporation is punishable by a fine of not more than \$20,000. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.170. Filing not required to perfect validity of agreement.** No filing under AS 45.05 of the premium finance agreement is necessary to perfect the validity of the agreement as a secured transaction against creditors, subsequent purchasers, pledgees, encumbrancers, successors or assigns. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.180. Regulations, orders.** The commissioner shall adopt regulations necessary to carry out this chapter, and the commissioner may order any person to cease violation of this chapter or a regulation adopted under it. (§ 1 ch 170 SLA 1978)

**Sec. 06.40.190. Definition.** As used in this chapter, unless the context otherwise requires,

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

(2) "department" means the Department of Commerce and Economic Development;

(3) "premium finance agreement" means an agreement by which a borrower or prospective borrower promises to pay to a licensee or to its assignee the amount advanced or to be advanced under the agreement to an insurer or to an insurance agent or broker in payment of premiums on an insurance policy sold in this state or covering risks located in this state together with a service charge, and as a security for it the premium finance company receives an assignment of the unearned premium; however, no mortgage, conditional sale contract, or other security agreement covering property which authorizes the lienholder to pay or advance premiums for insurance under the mortgage, contract, or other

security agreement is considered to be a premium finance agreement;

(4) "premium finance company" means a person engaged in the business of entering into premium finance agreements with borrowers or of acquiring premium finance agreements from insurance agents, brokers or other premium finance companies. (§ 1 ch 170 SLA 1978)

### Chapter 45. Alaska Credit Union Act.

Section	Section
10. Responsibility of commissioner	180. Reserves
20. Formation of credit union	190. Dividends
30. Approval of articles of incorporation and issuance of certificate of authority	200. Expulsion and withdrawal
40. Fees	210. Minors or trusts
50. Reports and examinations	220. Suspension
60. Powers of a credit union	230. Exemption taxation
70. Membership	240. Conversion.
80. Meetings of members	250. Insurance of member accounts
90. Management of credit union	260. Liquidity facility participation
100. Compensation	270. Conflict of interest
110. Executive officers	280. Merger
120. Board of directors	290. Branch offices
130. Applications for membership	300. Unauthorized conduct of credit union business
140. Powers and duties of credit committee	310. Transfer of credit union's property to preferred creditor is void
150. Loan restriction	320. Unlawful deceit of commissioner or examiners
160. Security	330. Receipt of deposits while insolvent
170. Powers and duties of supervisory committee	340. Limitations on credit unions
	400. Definitions

**Sec. 06.45.010. Responsibility of commissioner.** (a) The commissioner shall administer AS 06.45.010 — 06.45.400.

(b) The commissioner may by regulation define the powers of state-chartered credit unions and adopt regulations to carry out the purposes of credit unions consistent with AS 06.45.005 — 06.45.400 and AS 06.01.020.

(c) The commissioner may delegate any authority, power, or function granted by AS 06.45.010 — 06.45.400.

(d) The records of credit unions shall be kept and reports shall be made in accordance with regulations approved by the commissioner.

(e) A person appointed or elected by a credit union to a position requiring the receipt, payment, or custody of money or personal property owned by a credit union or in its custody or control as collateral or otherwise shall give bond in a corporate surety company approved by the commissioner on a form approved by the commissioner and in an amount prescribed by the commissioner. The commissioner may approve the use of a form of schedule or blanket bond which covers all the officers and employees of a credit union whose duties include the receipt, payment, or custody of money or other personal property for or on behalf of the credit union. The commissioner may approve the use of a form of excess coverage bond under which a credit union may obtain coverage in excess of the basic surety coverage. (§ 2 ch 47 SLA 1980; am § 2 ch 99 SLA 1981)

**Effect of amendments.** — The 1981 amendment, in subsection (b), added "by regulation define the powers of the state-chartered credit unions and"

preceding "adopt regulations," substituted "to carry out the purposes of credit unions consistent with" for "for the administration of" preceding "this chapter" and added

"and AS 06.01.020" following "this chapter."

**Sec. 06.45.020. Formation of credit union.** (a) Seven or more natural persons who desire to form a credit union shall subscribe before an officer competent to administer oaths articles of incorporation in duplicate which shall state

- (1) the name of the credit union;
- (2) the location of the credit union and the territory in which it will operate;
- (3) the names and addresses of the subscribers to the certificate and the number of shares each subscribed;
- (4) the par value of the shares, which shall be \$5 each;
- (5) the proposed field of membership specified in detail;
- (6) the term of the existence of the credit union which may be perpetual; and
- (7) the fact that the articles of incorporation are adopted to enable the persons to avail themselves of the advantages of AS 06.45.010 — 06.45.400.

(b) The articles of incorporation shall also include provisions required by the commissioner for the management of the business of the credit union, for the conduct of its affairs, and relating to the powers of its directors, officers, or stockholders.

(c) At the time of presenting the articles of incorporation to the commissioner the incorporators shall also submit proposed bylaws to the commissioner for approval.

(d) The commissioner may prepare form articles of incorporation and form bylaws, consistent with AS 06.45.010 — 06.45.400, which may be used by credit union incorporators and shall be supplied to them on request. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.030. Approval of articles of incorporation and issuance of certificate of authority.** (a) The articles of incorporation shall be presented to the commissioner for approval. Before the certificate of authority is issued, the commissioner shall determine

(1) whether the articles of incorporation and bylaws conform to the provisions of AS 06.45.010 — 06.45.400 and to regulations of the commissioner;

(2) the general character and fitness of the subscribers; and

(3) the economic advisability of establishing the proposed credit union.

(b) A certificate of authority shall be delivered by the commissioner to the credit union if the required fee has been paid. On issuance of the certificate of authority, the credit union is a body corporate and is subject to the limitations of AS 06.45.010 — 06.45.400, and is vested with all of the powers and charged with all of the liabilities conferred and imposed by AS 06.45.010 — 06.45.400 upon credit unions organized under it. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.040. Fees.** (a) The commissioner shall assess a credit union a fee for his expenses under AS 06.01.010 in processing an application

- (1) for approval of articles of incorporation and bylaws and the issuance of a certificate of authority for a credit union;
- (2) for the approval of a branch of a credit union;
- (3) for a merger or conversion of a credit union; or
- (4) for an examination under AS 06.45.050.

(b) Failure of a credit union to pay a fee required by (a)(2), (3), or (4) of this section within 30 days of receipt of billing from the commissioner is grounds for the revocation of the certificate of authority of the credit union. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.050. Reports and examinations.** A credit union organized under AS 06.45.010 — 06.45.400 is under the supervision of the commissioner and shall make an annual financial report to the commissioner and shall make other financial reports required by regulations adopted by the commissioner. A credit union is subject to examination by the commissioner. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.060. Powers of a credit union.** A credit union has succession in its corporate name during its existence and may

- (1) enter into a contract;
- (2) sue and be sued;
- (3) adopt, use, and alter a common seal;
- (4) purchase, hold, and dispose of property;
- (5) make loans, the maturities of which may not exceed 12 years except as provided in AS 06.45.010 — 06.45.400, and extend lines of credit to its members, to other credit unions, and to credit union organizations and participate with other credit unions, credit union organizations, or financial organizations in making loans to credit union members in accordance with the following:

(A) loans to members shall be made in conformity with regulations adopted by the commissioner, except that

(i) a residential real estate loan which is made to finance the acquisition of a one-to-four-family dwelling for the principal residence of a credit union member which is secured by a first lien on the dwelling may have a maturity not exceeding 30 years;

(ii) a loan to finance the purchase of a mobile home, which is secured by a first lien on the mobile home, to be used as the residence of a credit union member, or for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member shall have a maturity not to exceed 15 years unless the loan is insured or guaranteed under (iii) of this subparagraph;

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

(iv) a loan or aggregate of loans to a director or member of the supervisory or credit committee of the credit union making the loan which exceeds \$5,000 plus pledged shares shall be approved by the board of directors;

(v) loans to other members for which directors or members of the supervisory or credit committee act as guarantor or endorser shall be approved by the board of directors when the loans standing alone or when added to an outstanding loan or loans of the guarantor or endorser exceed \$5,000;

(vi) the rate of interest may not exceed the greater of 15 percent a year or the rate specified as AS 45.45.010(b);

(vii) the taking, receiving, reserving, or charging of a rate of interest greater than is allowed by this subsection, when knowingly done, is considered a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid on the note, bill, or other evidence of debt; if a greater rate of interest has been paid, the person by whom it has been paid or his legal representatives may recover back from the credit union taking or receiving it the entire amount of interest paid, but the action must be commenced within two years from the time the usurious collection was made;

(viii) a borrower may repay a loan before maturity in whole or in part on any business day without penalty;

(ix) loans shall be paid or amortized under regulations adopted by the commissioner which consider the needs or conditions of the borrowers, the amounts and duration of the loans, the interests of the members and the credit union, and other factors established in regulations adopted by the commissioner;

(x) the total dollar amount of real estate loans and mobile home loans outstanding may not exceed 25 percent of the assets of the credit union without the written approval of the commissioner;

(xi) a credit union with assets of less than \$3,000,000 may make real estate loans with maturities in excess of 15 years only with the approval of the commissioner;

(B) a self-replenishing line of credit to a borrower may be established to a stated maximum amount on terms and conditions which may be different from terms and conditions established for another borrower;

(C) loans to other credit unions require the approval of the board of directors of the loaning credit union;

(D) loans to credit union associations require the approval of the board of directors of the credit union and may not exceed one percent of the paid-in and unimpaired capital and surplus of the credit union;

(E) participation loans with other credit unions, credit union associations, or financial organizations shall be made in accordance with written policies of the board of directors of the credit union, except that

a credit union which originates a loan for which participation arrangements are made in accordance with this section shall retain an interest not less than 10 percent of the face amount of the loan;

(6) receive from its members and from others payments on shares which may be issued at varying dividend rates, and payments on share certificates which may be issued at varying dividend rates and maturities, and establish share draft accounts, subject to terms, rates, and conditions as may be established by the board of directors of the credit union, within limitations prescribed by the commissioner;

(7) invest its funds

(A) in loans exclusively to members;

(B) in obligations of the United States or securities fully guaranteed as to principal and interest by the United States;

(C) in loans to other credit unions in the total amount not exceeding 25 percent of its paid-in and unimpaired capital and surplus in accordance with regulations adopted by the commissioner;

(D) in shares or accounts of savings and loan associations or mutual savings banks which are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation;

(E) in obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, or a corporation designated in 31 U.S.C., § 846 as a wholly owned federal government corporation; in obligations, participations, or other instruments of or issued by or fully guaranteed as to principal and interest by the Federal National Mortgage Association or the Government National Mortgage Association; in mortgages, obligations, or other securities which are or have been sold by the Federal Home Loan Mortgage Corporation under § 305 or § 306 of the Federal Home Loan Mortgage Corporation Act; or in obligations or other instruments or securities of the Student Loan Marketing Association;

(F) in participation certificates evidencing beneficial interests in obligations, or in the right to receive interest and principal collections from obligations, which have been subjected by one or more federal agencies to a trust or trusts for which an executive department, agency, or instrumentality of the United States or its head has been named to act as trustee;

(G) in shares or deposits of a central credit union in which such investments are authorized by the board of directors of the credit union making the investment;

(H) in shares, share certificates, or share deposits of federally insured credit unions;

(I) in the shares, stocks, or obligations of another organization providing services which are associated with the routine operations of credit unions, up to one percent of the total paid-in and unimpaired capital and surplus of the credit union with the approval of the commissioner; and

(J) in the capital stock of the National Credit Union Central Liquidity Facility;

(8) make deposits in national banks and in state banks, trust companies, and mutual savings banks operating in accordance with the laws of the state;

(9) borrow in accordance with regulations adopted by the commissioner from any source, in an aggregate amount not exceeding 50 percent of its paid-in and unimpaired capital and surplus, except that a credit union may discount with or sell to a federal intermediate credit bank an eligible obligation up to the amount of its paid-in and unimpaired capital;

(10) levy late charges, in accordance with the bylaws, for failure of members to meet promptly their obligations to the credit union;

(11) levy and enforce a lien upon the shares and dividends of a member to the extent of a loan made to, and any dues or charges payable by, the member;

(12) in accordance with regulations adopted by the commissioner, sell to members negotiable checks, travelers checks, and money orders, and cash checks and money orders for members, for a fee which does not exceed the direct and indirect costs incident to providing the service;

(13) in accordance with regulations adopted by the commissioner, purchase, sell, pledge, discount, or otherwise receive or dispose of, in whole or in part, eligible obligations of its members and purchase from a liquidating credit union notes made by individual members of the liquidating credit union at prices agreed upon by the board of directors of the liquidating credit union and the board of directors of the purchasing credit union; a purchase may not be made under authority of this paragraph if, upon the making of the purchase, the aggregate of the unpaid balances of notes purchased under authority of this paragraph exceeds five percent of the unimpaired capital and surplus of the credit union;

(14) sell all or a part of its assets to another credit union, purchase all or part of the assets of another credit union, and assume the liabilities of the selling credit union and those of its members subject to regulations of the commissioner; and

(15) exercise incidental powers as are necessary or required to enable it to carry on effectively the business for which it is incorporated. (§ 2 ch 47 SLA 1980; am §§ 3 — 6 ch 99 SLA 1981)

**Effect of amendments.** — The 1981 amendment, in paragraph (5)(A)(vi), substituted "the greater of 15 percent a year or the rate specified in AS 45.45.010(b)" for "one percent a month on the unpaid balance inclusive of all service charges" following "may not exceed." In paragraph (5)(A)(x), the amendment substituted "assets" for "paid-in and unimpaired cap-

ital and surplus" following "25 percent of the." In paragraph (5)(A)(xi), the amendment substituted "assets" for "a paid-in and unimpaired capital and surplus" following "a credit union with." In paragraph (6), the amendment added "and establish share draft accounts" following "dividend rates and maturities."

**Sec. 06.45.070. Membership.** Credit union membership consists of the incorporators and other persons and incorporated and unincorporated organizations, to the extent permitted by regulations adopted by the commissioner, elected to membership. Each member shall subscribe to at least one share of the stock of the credit union and pay the initial installment on the stock and a uniform entrance fee if required by the board of directors of the credit union. Credit union membership is limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district. Shares may be issued in joint tenancy with right of survivorship with a person designated by the credit union member. A joint tenant may not be permitted to vote, obtain loans, or hold office, unless the joint tenant is within the field of membership and is qualified for membership. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.080. Meetings of members.** The fiscal year of a credit union ends December 31. The annual meeting of a credit union shall be held within three months after the end of the fiscal year at a place its bylaws prescribe. Special meetings may be held under the bylaws. A member may not vote by proxy, but a member other than a natural person may vote through an agent designated for the purpose. A member may not have more than one vote. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.090. Management of credit union.** (a) The business affairs of a credit union are managed by (1) a board of not less than five directors; (2) a credit committee of not less than three members; and (3) a supervisory committee of not less than three members or more than five members. The members of the board of directors and the members of the credit committee shall be elected at the annual members meeting by and from the members. The supervisory committee shall be appointed by the board of directors, and a vacancy in the supervisory committee shall be filled by the board of directors. One of the members of the supervisory committee may be a member of the board of directors, other than the treasurer. Members of the board of directors and of the credit and supervisory committees hold office for terms as the bylaws may provide.

(b) A record of the names and addresses of the members of the board, the committees, and the officers of the credit union shall be filed with the commissioner within 10 days after election or appointment. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.100. Compensation.** A member of the board of directors or of the credit or supervisory committees may not be compensated for service on the board of directors or credit or supervisory committees. Reasonable health, accident, and similar insurance protection is not compensation under this section and may be provided under regulations adopted by the commissioner. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.110. Executive officers.** (a) At its first meeting after the annual meeting of the members, the board of directors shall elect from its membership a president, one or more vice-presidents, a secretary, and a treasurer, who are the executive officers of the credit union.

(b) An executive officer, other than the treasurer, may not be compensated as an officer.

(c) The offices of secretary and treasurer may be held by the same person.

(d) The duties of the officers are determined by the bylaws.

(e) The treasurer shall give bond with good and sufficient surety, in an amount and character to be determined by the board of directors in compliance with regulations adopted by the commissioner. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.120. Board of directors.** (a) The board of directors shall meet at least once a month and shall have the general direction and control of the business affairs of the credit union. Minutes of all meetings shall be kept.

(b) The board of directors shall

(1) act upon applications for membership;

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

(3) fill vacancies in the board of directors and in the credit committee until successors elected at the next annual meeting have qualified;

(4) have charge of investments other than loans to members; the board of directors may designate a committee of not less than two to act as an investment committee which has charge of making investments under rules and procedures established by the board of directors;

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

(6) subject to the limitations of AS 06.45.010 — 06.45.400, determine the interest rates on loans, the security, and the maximum amount which may be loaned or provided in lines of credit;

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

(8) provide for compensation of officers and employees.

(c) The board of directors may appoint an executive committee of not less than three directors to exercise authority delegated to it under the conditions and limitations prescribed by the board of directors. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.130. Applications for membership.** (a) The board of directors shall establish procedures for the review and approval of applications for membership in the credit union.

(b) Each month the board of directors shall review a list of applications for membership acted on during the preceding month.

(c) If an application for membership is denied, the reasons for the denial shall be furnished to the applicant on request.

(d) The board of directors may appoint a membership officer from the members of the credit union or the executive committee of the board of directors to review applications for membership. A treasurer, assistant treasurer, or loan officer may not review applications for membership. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.140. Powers and duties of credit committee.** (a) The credit committee shall hold meetings to consider applications for loans and lines of credit as the business of the credit union may require but not less frequently than once a month. Reasonable notice of the meetings shall be given to members of the credit committee.

(b) Except for the loans or lines of credit required to be approved by the board of directors under AS 06.45.060(5), a majority of the entire credit committee may approve an application.

(c) The credit committee may delegate to a loan officer the power to approve loans and lines of credit. Only one member of the credit committee may be appointed as loan officer. A loan officer shall furnish to the credit committee a record of each approved or unapproved application within seven days of the filing of the application.

(d) An application not approved by a loan officer shall be acted on by the credit committee.

(e) An individual may not disburse funds of a credit union for a loan, line of credit, or application which he approved in the capacity of loan officer.

(f) Applications for loans and lines of credit shall be made on forms prepared by the credit committee. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.150. Loan restriction.** A loan may not be made to a member if, on the making of the loan, the member would be indebted to the credit union on loans from the credit union in an amount exceeding 10 percent of the unimpaired capital and surplus of the credit union. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.160. Security.** For the purposes of loans made under AS 06.45.010 — 06.45.400, an assignment of shares or the endorsement of a note constitutes security, and, subject to regulations adopted by the commissioner, insurance obtained under Title 1 of the National Housing Act is adequate security. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.170. Powers and duties of supervisory committee.** (a) The supervisory committee shall conduct an annual audit of the

accounts of the credit union and submit a report of the audit to the board of directors and a summary of the audit to the members at the next annual members meeting of the credit union. The supervisory committee may conduct supplementary audits as it considers necessary or as ordered by the commissioner, and submit reports of the supplementary audits to the board of directors.

(b) The supervisory committee shall verify the passbooks and accounts of the members with the records of the treasurer from time to time, but not less frequently than once every two years. As used in this subsection, "passbook" includes a book, statement of account, or other record approved by the commissioner for use by credit unions.

(c) The supervisory committee may by a unanimous vote suspend an officer of the credit union or a member of the credit committee or the board of directors until the next meeting of the members which shall be held not less than seven or more than 14 days after the suspension under this subsection. A suspension shall be acted upon by the members.

(d) The supervisory committee may call by a majority vote a special meeting of the members to consider a violation of AS 06.45.010 — 06.45.400, the articles of incorporation or bylaws, or a practice of the credit union considered unsafe or unauthorized by the supervisory committee.

(e) The board of directors may by a majority vote suspend a member of the supervisory committee until the next meeting of the members which shall be held not less than seven or more than 14 days after the suspension. A suspension shall be acted by the members. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.180. Reserves.** (a) At the end of each accounting period the gross income of the credit union shall be determined. From this amount, there shall be set aside as a regular reserve against losses on loans and against other losses specified in regulations adopted by the commissioner under AS 06.45.010 — 06.45.400 sums in accordance with the following schedule:

(1) A credit union in operation for more than four years and having assets of \$500,000 or more shall set aside

(A) 10 percent of gross income until the regular reserve equals four percent of the total of outstanding loans and risk assets; then

(B) five percent of gross income until the regular reserve equals six percent of the total of outstanding loans and risk assets.

(2) A credit union in operation less than four years or having assets of less than \$500,000 shall set aside

(A) 10 percent of gross income until the regular reserve equals seven and one-half percent of the total of outstanding loans and risk assets; then

(B) five percent of gross income until the regular reserve equals 10 percent of the total of outstanding loans and risk assets.

(3) When the regular reserve falls below the stated percent of the total of outstanding loans and risk assets, it shall be replenished by regular contributions in amounts as may be needed to maintain the stated reserve goals.

(b) The commissioner may decrease the reserve requirement in (a) of this section when the decrease is necessary or desirable. The commissioner may also require special reserves to protect the interests of members either by general regulation or for an individual credit union. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.190. Dividends.** At intervals as the board of directors may authorize and after provision for required reserves, the board of directors may declare, under regulations adopted by the commissioner, a dividend to be paid at different rates on different types of shares and at different rates and maturity dates in the case of share certificates. Dividend credit may be accrued on various types of shares and share certificates as authorized by the board of directors. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.200. Expulsion and withdrawal.** A member may be expelled by a two-thirds vote of the members of a credit union present at a special meeting called for the purpose, but only after the member has been given an opportunity to be heard. Withdrawal or expulsion of a member does not discharge the liability of the member to the credit union. The amount to be paid a withdrawing or expelled member by a credit union shall be determined and paid in the manner specified in the bylaws. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.210. Minors or trusts.** Shares of a credit union may be issued in the name of a minor or in trust, subject to conditions prescribed by the bylaws. When shares are issued in trust, the name of the beneficiary shall be disclosed to the credit union. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.220. Suspension.** (a) The commissioner may on his finding that the credit union is bankrupt, insolvent, or is operating in an unsafe or unsound manner or that the credit union has violated the provisions of its articles of incorporation or bylaws, AS 06.45.010 — 06.45.400, or regulations adopted by the commissioner, exercise the powers granted to him in AS 06.01.030 and temporarily suspend the operations of the credit union.

(b) The commissioner, under the regulations adopted by him, may permit operations to continue under conditions and procedures established by him or he may direct the credit union to cease operations and appoint a liquidating agent to liquidate the credit union. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.230. Exemption from taxation.** A credit union organized under AS 06.45.010 — 06.45.400, its property, franchises, capital, reserves, surpluses, and other funds, and its income are exempt from

taxation by the state or a political subdivision of the state, except that real property and tangible personal property owned by a credit union is subject to taxation to the same extent that similar property is taxed. This section does not prevent holdings in a credit union organized under AS 06.45.010 — 06.45.400 from being included in the valuation of the personal property of the owners or holders under taxes imposed by the state or a political subdivision of the state. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.240. Conversions.** (a) A federal credit union may convert into a credit union organized under AS 06.45.010 — 06.45.400 by complying with applicable federal law and by qualifying under AS 06.45.010 — 06.45.400.

(b) A credit union organized under AS 06.45.010 — 06.45.400 may convert into a federal credit union by complying with AS 06.45.010 — 06.45.400 and by qualifying under federal law. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.250. Insurance of member accounts.** A credit union organized under AS 06.45.005 — 06.45.400 shall, under regulations adopted by the commissioner, participate in insurance of member accounts under programs offered by the National Credit Union Administration Board or a program of comparable insurance approved by the commissioner. (§ 2 ch 47 SLA 1980; am § 7 ch 99 SLA 1981)

**Effect of amendments.** — The 1981 amendment added "or a program of comparable insurance approved by the commissioner" at the end of the section.

**Sec. 06.45.260. Liquidity facility participation.** A credit union organized under AS 06.45.010 — 06.45.400 may, under regulations adopted by the commissioner, participate in the programs offered by the National Credit Union Central Liquidity Facility. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.270. Conflict of interest.** (a) A member of the board of directors or a member of the credit committee or supervisory committee or an employee of a credit union may not participate in the deliberation or the determination of a question affecting his own pecuniary interest or the pecuniary interest of a corporation, partnership, or association in which he is interested.

(b) A person who violates (a) of this section may not thereafter serve as an officer, agent, or employee of a credit union. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.280. Merger.** (a) A credit union may merge with another credit union under a plan agreed upon by a majority of the board of directors of each credit union and approved by a majority of the members of each credit union present at meetings called to approve the plan.

(b) The commissioner may by regulation establish further procedures governing mergers. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.290. Branch offices.** A credit union may establish a branch office under regulations of the commissioner. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.300. Unauthorized conduct of credit union business.** It is a class A misdemeanor for a natural person to conduct business under a name or title which contains the words "credit union" or a derivation of them or to represent himself as conducting business as a credit union. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.310. Transfer of credit union's property to preferred creditor is void.** The transfer of property, money, or assets by a credit union after it becomes insolvent, to prefer one creditor over another, or to prevent the equal distribution of its property and assets among its creditors is void. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.320. Unlawful deceit of commissioner or examiners.** A person is guilty of a class C felony who, with intent to deceive the commissioner or a person authorized to examine the affairs of a credit union, wilfully and knowingly,

- (1) makes or causes to be made a false statement;
- (2) enters a false figure, statement, or entry in the books of a credit union; or
- (2) makes or circulates a false report or statement about the condition of a credit union in the state. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.330. Receipt of deposits while insolvent.** A member of the board of directors, an officer, or an employee of a credit union who fraudulently receives a deposit, knowing that the credit union is insolvent, is guilty of a class A felony. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.340. Limitations on credit unions.** A credit union may not acquire control directly or indirectly of another financial institution or invest in shares, stocks or obligations of an insurance company, trade association, liquidity facility or any other similar organization, corporation, or association except as expressly provided by AS 06.45.010 — 06.45.400. (§ 2 ch 47 SLA 1980)

**Sec. 06.45.400. Definitions.** I. § 06.45.010 — 06.45.400

- (1) "commissioner" means the commissioner of commerce and economic development;
- (2) "credit union" means a cooperative association organized in accordance with the provisions of AS 06.45.010 — 06.45.400 for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes;
- (3) "credit union association" means an organization established primarily to serve the needs of its member credit unions under regulations adopted by the commissioner. (§ 2 ch 47 SLA 1980)



Chapter 10. Alaska Retail Installment Sales Act.

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**Sec. 45.10.010. The contract document.** (a) A retail installment contract must be contained in a single document. The document must contain the entire agreement of the parties including promissory notes and other evidences of indebtedness between the parties relating to the transaction, except as provided in AS 45.10.040, 45.10.050, and 45.10.100.

(b) If the buyer's obligation to pay the time balance is represented by a promissory note secured by a chattel mortgage, a provision of the mortgage by which the buyer undertakes to do something besides pay a sum certain in money is considered to be contained in a separate document for the purpose of determining the negotiability of the note unless the provision is expressly incorporated in the note by reference to the provision of the mortgage.

(c) The contract must be dated, signed by the retail buyer, and completed as to all essential provisions, except as otherwise provided in AS 45.10.050 and 45.10.060. (§ 2 ch 141 SLA 1962)

Am. Jur. 2d references. — 63 Am. Jur. 2d, Secured Transactions, § 1 et seq.

**Sec. 45.10.020. Buyer's copy.** The retail seller shall deliver to the retail buyer, or mail to him at his address shown on the retail installment contract, a copy of the contract as accepted by the seller. Until the seller does so, the buyer is obligated to pay only the cash sale price. An acknowledgment by the buyer of delivery of a copy of the contract must appear directly above the buyer's signature. (§ 3 ch 141 SLA 1962)

**Cross reference.** — As to seller's responsibilities in catalog sales situations, see AS 45.10.050(b).

**Sec. 45.10.030. Contents of contract.** (a) The retail installment contract must contain the names of the seller and the buyer, the place of business of the seller, the residence or other address of the buyer as named by the buyer, and a description or identification of the goods sold or to be sold or services furnished or rendered or to be furnished or rendered. The contract must also contain the following items:

- (1) the cash sale price of each item of goods or services;
- (2) the amount of the buyer's down payment, identifying the amounts paid in money and allowed for goods traded in;
- (3) the difference between items (1) and (2);
- (4) the aggregate amount included for insurance, if a separate identified charge is made for insurance, specifying the types of insurance and the terms of coverage;
- (5) the aggregate amount of official fees;
- (6) the principal balance, which is the sum of items (3), (4), and (5);
- (7) the amount or rate of the service charge;
- (8) any other charges;
- (9) the amount of the time balance owed by the buyer to the seller, which is the sum of items (6), (7), if (7) is stated in a dollar amount, and (8);

(10) except as provided in (c) of this section, the maximum number of installment payments required and the amount of each installment and the due date of each payment necessary to pay the balance.

(b) Additional items may be included to explain the calculations involved in determining the balance to be paid by the buyer.

(c) If the installment payments other than the final payment are stated as a series of equal scheduled amounts and if the amount of the final installment payment does not substantially exceed the scheduled amount of each preceding installment payment, the maximum number of payments and the amount and due date of each payment need not be separately stated, and the amount of the scheduled final installment payment may be stated as the remaining unpaid balance. The due date of the first installment payment may be fixed by a day or date or may be fixed by reference to the date of the contract or to the time of delivery or installation. (§ 4 ch 141 SLA 1962)

**Sec. 45.10.040. Other documents.** (a) A retail installment contract may be contained in more than one document, if one is an original document signed by the retail buyer stated to be applicable to purchase of goods or services to be made by the retail buyer from time to time. In this case the document, together with the sales slip, account book, or other written statement relating to each purchase, must set out all of the information required by AS 45.10.030 and constitute the retail installment contract for each purchase.

(b) On each succeeding purchase under the original document, the sales slip, account book, or other written statement may at the option of the seller constitute the memorandum required by AS 45.10.100. (§ 5 ch 141 SLA 1962)

**Sec. 45.10.050. Catalog sales.** (a) A retail installment contract, or retail charge agreement, negotiated and entered into by mail or telephone without personal solicitation by a salesman or representative of the seller and based upon a catalog of the seller or other printed solicitation of business, if the catalog or other printed solicitation clearly sets out the cash sale prices and other terms of sales to be made through this medium, shall be made as provided in this section. The provisions of this chapter with respect to retail installment contracts and retail charge agreements are applicable to these sales, except that the retail installment contract when completed by the buyer need not contain the items required by AS 45.10.030.

(b) When the retail installment contract is received from the retail buyer, the seller shall prepare a written memorandum containing all of the information required by AS 45.10.030 to be included in a retail installment contract. Instead of delivering a copy of the contract to the retail buyer as provided in AS 45.10.020, the seller shall deliver to the buyer a copy of the memorandum before the due date of the first installment payable under the contract. If the catalog or other printed solicitation does not set out all of the other terms of sales in addition to the cash sales prices, the memorandum shall be delivered to the buyer before or at the time of delivery of the goods or services. (§ 6 ch 141 SLA 1962; am § 1 ch 45 SLA 1978)

**Effect of amendment.** — The 1978 amendment, in subsection (a), inserted "or retail charge agreement" in the first sentence and "and retail charge agreements" in the second sentence and substituted "shall be made" for "may be made" in the first sentence. In subsection (b), the amendment inserted "retail installment" near the beginning of the first sentence.

**Sec. 45.10.060. Signing of incomplete contracts.** The seller may not obtain the signature of the buyer to a contract if it contains blank spaces of items which are essential provisions of the transaction, except as provided in AS 45.10.050. However, if delivery of the goods is not made at the time of the execution of the contract, the identifying numbers or marks of the goods or similar information and the due date of the first installment may be inserted by the seller in the seller's counterpart of the contract after it has been signed by the buyer. (§ 7 ch 141 SLA 1962)

**Sec. 45.10.070. Prepayment.** (a) A retail installment contract must contain a statement that the buyer may pay the total unpaid balance on the contract at any time. A buyer who prepays in full the unpaid balance at any time before its final due date shall, if the contract is not in default more than two months, receive a refund credit of the unearned portion of the service charge for the prepayment.

(b) The amount of the refund credit shall be computed according to the "rule of 78ths"; that is, it shall represent at least as great a proportion of the original service charge over \$25 in case of a retail

installment sale of a motor vehicle, or \$10 in case of a retail installment sales of goods other than a motor vehicle, as (1) the sum of the monthly or other periodic unpaid balances under the schedule of payments in the contract beginning as of the date after the prepayment which is the next succeeding monthly or other periodic anniversary date of the due date of the first installment under the contract, or, if the prepayment is before the due date of the first installment under the contract, then as of the date after the prepayment which is the next succeeding monthly or other periodic anniversary date of the date of the contract bears to (2) the sum of all the monthly or other periodic unpaid balances under the schedule of installment payments in the contract.

(c) If the amount of refund credit is less than \$1, no refund credit need be made. (§ 8 ch 141 SLA 1962)

**Sec. 45.10.080. Delivery and collection charges, and other provisions.** (a) The holder of a retail installment contract may not collect any delinquency or collection charge other than attorney fees, court costs, and disbursements unless the contract so provides. In this case, the charge shall be reasonable, and no attorney fee may be recovered unless the contract is referred for collection to an attorney not a salaried employee of the holder.

(b) The contract may contain other provisions not inconsistent with the purposes of this chapter. (§ 9 ch 141 SLA 1962)

**Sec. 45.10.090. Receipts and requests for statements.** (a) A buyer shall be given a written receipt for any payment when made in cash.

(b) Upon written request of the buyer, the holder of a retail installment contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under the contract. This statement shall be given the buyer once without charge; if an additional statement is requested by the buyer, it shall be supplied by the holder at a charge not in excess of \$1 for each additional statement supplied. (§ 10 ch 141 SLA 1962)

**Sec. 45.10.100. Consolidation of contracts.** (a) If, in a retail installment transaction, a retail buyer makes a purchase of goods or services from a retail seller from whom he has previously purchased goods or services under a retail installment contract, and the amount under the previous contract has not been fully paid, the subsequent purchase may, at the seller's option, be included in and consolidated with the previous contract. This chapter, with respect to a retail installment contract, is applicable to the subsequent purchase. In the event of consolidation, the seller shall furnish to the buyer, before the due date of the first installment of the consolidated contract, the items of information under AS 45.10.030 or 45.10.040 and a memorandum setting out

- (1) the outstanding balance of the previous contract or contracts;
- (2) the amount of the time balance owed by the buyer to the seller for the subsequent purchase;
- (3) the consolidated time balance; and
- (4) the revised installments applicable to the consolidated time balance.

(b) The seller shall deliver a copy of the memorandum to the buyer before the due date of the first installment of the consolidated contract.

(c) When the subsequent purchase is made, if the seller has retained title or taken a lien or other security interest in any of the goods purchased under one of the contracts included in the consolidation,

(1) the entire amount of all payments made before the subsequent purchase is considered to have been applied on the previous purchase;

(2) if the amount of each installment payment is not increased in connection with the subsequent purchase, the subsequent payments are considered to be allocated first to the previous purchase;

(3) if the amount of each installment payment is increased in connection with the subsequent purchase, an amount equal to the original periodic payment is allocated first to the previous purchase, and the amount of the increase may, at the seller's option, be considered to be allocated to the subsequent purchase;

(4) the amount of a down payment on the subsequent purchase is allocated in its entirety to the subsequent purchase.

(d) The provisions of (c) of this section do not apply to a case where the previous and subsequent purchases involve equipment, parts, or other goods attached or affixed to goods previously purchased and not fully paid, or to services in connection with goods previously purchased and not fully paid, rendered by the seller at the buyer's request. (§ 11 ch 141 SLA 1962)

**Sec. 45.10.110. Notice of service charge and monthly statement.** (a) At or before the time a retail charge agreement is made, the seller shall advise the buyer in writing on the application form or otherwise, or orally that a service charge will be computed on the outstanding balance for each month (which need not be a calendar month) or other regular period agreed upon, the schedule or rate by which the service charge will be computed, and that the buyer may pay his total unpaid balance at any time. If this information is given orally, the seller shall, upon approval of the buyer's credit, deliver to the buyer or mail to him at his address a memorandum setting out this information.

(b) The seller or holder of a retail charge agreement shall promptly supply the buyer with a statement as of the end of each monthly period (which need not be a calendar month) or other regular period agreed upon in which there is an unpaid balance. The statement must include the unpaid balance under the retail charge agreement and the amount of a service charge for the period. (§ 12 ch 141 SLA 1962)

**Sec. 45.10.120. Extent of service charge.** (a) The service charge shall include all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments under the contract or agreement. No other fee, expense, or charge may be taken, received, reserved, or contracted for investigating and making the contract or agreement, or for the privilege of making the payments.

(b) A seller or holder of a retail installment contract may charge, receive and collect a service charge which shall not exceed the following rates multiplied by the number of months, including a fraction of a month in excess of 15 days as one month, elapsing between the date of the contract and the due date of the last installment,

(1) on so much of the unpaid balance as does not exceed \$1,000, five-sixths of one per cent;

(2) if the unpaid balance exceeds \$1,000, on so much of the unpaid balance as exceeds \$1,000, two-thirds of one per cent;

(3) if the total service charge so computed is less than \$12, but if the due date of the last installment of the contract is eight months or less after its effective date, \$10.

(c) A seller or holder of a retail charge agreement, revolving charge agreement or other retail charge agreement may charge, receive and collect a service charge not to exceed the following rates computed on the outstanding balances from month to month,

(1) on so much of the outstanding balance as does not exceed \$1,000, one and one-half per cent per month;

(2) if the outstanding balance is more than \$1,000, one-twelfth of the annual rate permitted under AS 45.45.010(b) per month on the excess over \$1,000 of the outstanding balance;

(3) if the service charge so computed is less than \$1 for any month, \$1;

(4) the service charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amount minus a differential of not more than \$5 provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential. (§ 13 ch 41 SLA 1962; am § 1 ch 154 SLA 1966; am § 2 ch 79 SLA 1980)

**Cross reference.** — As to revolving credit plans, see AS 06.05.208.

**Effect of amendment.** — The 1980 amendment substituted "one-twelfth of

the annual rate permitted under AS 45.45.010(b)" for "one per cent" following "more than \$1,000" in paragraph (2) of subsection (c).

**Sec. 45.10.130. Insurance.** If the cost of insurance is included in the retail installment contract or retail charge agreement and a separate charge is made to the buyer for the insurance,

(1) the contract or agreement must state the nature, purpose, and amount of the insurance, and in connection with the sale of a motor vehicle, the contract must state that the insurance coverage ordered under the terms of this contract does or does not include "bodily injury liability," "public liability," and "property damage liability" coverage, as applicable;

(2) the contract or agreement must state whether the insurance is to be procured by the buyer or the seller;

(3) the amount included for the insurance may not exceed the premiums chargeable in accordance with the rate fixed for the insurance by the insurer except where the amount is less than \$1; and if the insurance is cancelled or terminated for any reason, the refund for unearned insurance premiums received by the seller or his assignee, together with the unearned portion of the service charge applicable to the insurance, shall be credited to the final maturing installments of the retail installment contract or retail charge agreement, and the remaining balance of the unearned insurance premiums shall be refunded to the buyer; however, no cash refund is required if the amount is less than \$1;

(4) if the insurance is to be procured by the seller or holder, he shall, within 45 days after delivery of the goods or furnishing of the services under the contract, deliver, mail, or cause to be mailed to the buyer at his address as specified in the contract a notice that the insurance is procured, a copy of the policy or policies of insurance, or a certificate of the insurance so procured. (§ 14 ch 141 SLA 1962)

**Sec. 45.10.140. Agreement not to assert claim.** A provision of a retail installment contract or retail charge agreement by which the buyer agrees not to assert a claim or defense arising out of the sale against the seller or an assignee is invalid. (§ 15 ch 141 SLA 1962)

**Sec. 45.10.150. Nonwaiver of chapter.** No act or agreement of the retail buyer before or at the time of the making of a retail installment contract, retail charge agreement, or purchases under the contract or agreement constitutes a valid waiver of any of the provisions of this chapter or of any remedies granted to the buyer by law. (§ 16 ch 141 SLA 1962)

**Sec. 45.10.160. Contracts and agreements executed before 1963.** This chapter does not invalidate or make unlawful a retail installment contract or retail charge agreement executed before January 1, 1963. (§ 22 ch 141 SLA 1962)

**Sec. 45.10.170. Action by attorney general.** The attorney general may bring an action in the name of the state against a person to restrain and prevent a violation of this chapter. (§ 19 ch 141 SLA 1962)

**Sec. 45.10.180. Assurance of discontinuance.** (a) In the enforcement of this chapter, the attorney general may accept an

assurance of discontinuance of an act or practice considered in violation of this chapter from a person engaging in or who has engaged in the act or practice. The assurance shall be in writing and be filed with and subject to the approval of the superior court of the district in which the alleged violator resides or has his principal place of business.

(b) Failure to perform the terms of the assurance is prima facie proof of a violation of this chapter for the purpose of securing an injunction as provided in AS 45.10.170, and for the purposes of AS 45.10.190. (§ 20 ch 141 SLA 1962)

**Sec. 45.10.190. Barring recovery for noncompliance.** A seller who enters into a contract or agreement which does not comply with the provisions of this chapter or who violates a provision of this chapter except as a result of an accident or bona fide error may not recover a service charge, official fee, or a delinquency or collection charge under or in connection with the related retail installment contract or purchases under a retail charge agreement. The seller or holder may nevertheless recover from the buyer an amount equal to the cash price of the goods or services and the cost to the seller or holder of insurance included in the transaction. (§ 18 ch 141 SLA 1962)

**Sec. 45.10.200. Penalty for violation of order or injunction.** A person who violates an order or injunction issued under this chapter is punishable by a fine of not more than \$1,000, or by imprisonment for not more than six months, or by both. (§ 21 ch 141 SLA 1962)

**Sec. 45.10.210. Penalty for violation of chapter.** A person who wilfully and intentionally violates a provision of this chapter is guilty of a misdemeanor and, upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not more than six months, or by both. (§ 17 ch 141 SLA 1962)

**Sec. 45.10.215. Scope of chapter.** For the purposes of this chapter, a retail installment contract or retail charge agreement is entered into in this state, and is therefore subject to the provisions of this chapter, if either the seller offers or agrees to sell to a resident Alaska buyer in Alaska or if a resident Alaska buyer accepts the offer to sell or makes the offer to buy in Alaska, regardless of any specification in the contract as to its situs (§ 2 ch 45 SLA 1978)

**Sec. 45.10.220. Definitions.** In this chapter, unless the context otherwise requires,

(1) "cash sale price" means the price for which the seller would have sold or furnished to the buyer and the buyer would have bought or obtained from the seller the goods or services which are the subject matter of a retail installment transaction if the sale had been a sale for cash. The cash sale price may include taxes and charges for transferring vehicle titles, delivery, installation, servicing, repairs, alterations, or improvements;

(2) "goods" means personal chattels purchased primarily for personal, family, or household use and not for commercial or business use, but does not include money or, except as provided in the next phrase, chose in action; "goods" includes but is not limited to merchandise certificates or coupons issued by a retail seller to be used in their face amount instead of cash in exchange for goods or services sold by the seller and goods which, at the time of sale or subsequently, are to be so affixed to real property as to become a part of it, whether or not severable from it;

(3) "official fees" means the amount of the fees set by law for filing, recording, or otherwise perfecting and releasing or satisfying a retained title, lien, or other security interest created by a retail installment transaction;

(4) "person" means an individual, partnership, joint venture, corporation, association, or any other group, however organized;

(5) "principal balance" means the cash sale price of the goods or services which are the subject matter of a retail installment contract less the amount of the buyer's down payment in money or goods or both, plus the amounts for insurance and official fees included in the contract if a separate identified charge is made and stated in the contract for insurance and official fees;

(6) "rate" means the percentage which, when multiplied times the outstanding balance for each month or other installment period, yields the amount of the service charge for the month or period;

(7) "retail buyer" or "buyer" means a person who buys or agrees to buy goods or obtain services or agrees to have services rendered or furnished from a retail seller;

(8) "retail charge agreement," "revolving charge agreement," or "charge agreement" means an instrument (A) entered into or performed in the state which sets out the terms of retail installment transactions which may be made under the agreement from time to time, and (B) under the terms of which a service charge is to be computed from time to time in relation to the buyer's unpaid balance;

(9) "retail installment contract" or "contract" means a contract, other than a retail charge agreement or an instrument reflecting a sale price made under a retail charge agreement, entered into or performed in the state for a retail installment transaction; "retail installment contract" includes (A) a chattel mortgage, (B) a conditional sale contract, and (C) a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay a sum substantially equivalent to or in excess of the value of the goods sold as compensation for their use and if it is agreed that the bailee or lessee is bound to become, or for no other or a merely nominal consideration, has the option of becoming the owner of the goods upon full compliance with the provisions of the bailment or lease;

(10) "retail installment transaction" means a transaction in which a retail buyer purchases goods or services from a retail seller under a retail installment contract or a retail charge agreement which provides for a service charge under which the buyer agrees to pay the unpaid balance in one or more installments;

(11) "retail seller" or "seller" means a person engaged in the business of selling goods or services to retail buyers;

(12) "service charge," however denominated or expressed, means the amount which is paid or payable for the privilege of purchasing goods or services to be paid for by the buyer in installments over a period of time; "service charge" does not include the amount charged for insurance premiums, delinquency charges, attorney fees, court costs, or official fees;

(13) "services" means work, labor, or services of any kind purchased primarily for personal, family, or household use and not for commercial or business use, whether or not furnished in connection with the delivery, installation, servicing, repair, or improvement of goods; "services" includes repairs, alterations, or improvements upon or in connection with real property, but does not include the services of a professional person licensed by the state, or services for which the price charged is required by law to be determined or approved by or to be filed, subject to approval or disapproval, with the United States or a state or a department, division, agency, officer, or official of either as in the case of transportation services;

(14) "time balance" means the principal balance plus the service charge. (§ 1 ch 141 SLA 1962)

Sec. 45.10.230. Short title. This chapter may be cited as the Alaska Retail Installment Sales Act. (§ 23 ch 141 SLA 1962)

### Chapter 20. Purchase of Ore.

**Section**

- 10. Claimant in possession considered owner of ores
- 20. When purchaser considered owner of ore: nonliability to person subsequently adjudged owner
- 30. Notice to purchaser by claimant or owner out of possession

**Section**

- 40. Failure to bring action
- 50. Liability of purchaser to person adjudged owner or entitled to possession

Sec. 45.20.010. Claimant in possession considered owner of ores. A person in the actual and peaceable possession of a mining claim, under claim or color of title, and engaged in the mining, shipment and treatment, or sale of ore from it, shall, as to all persons purchasing the ore in good faith and without notice as provided in this chapter of the title or claim of title, or ownership of another person to it, be considered to be the lawful owner of the ore. (§ 29-4-1 ACLA 1949)

# HB 217 Section 7

§ 45.45.010

ALASKA STATUTES SUPPLEMENT

§ 45.45.010

## Chapter 45. Trade Practices.

### Article

1. Interest (§ 45.45.010)
2. Collection of Advance Interest (§ 45.45.080)
5. Regulation of Motor Vehicle Repairs (§ 45.45.240)
6. Motor Vehicle Warranties (§§ 45.45.300 — 45.45.360)

### Article 1. Interest.

#### Section

#### 10. Legal rate of interest

**Sec. 45.45.010. Legal rate of interest.** (a) The rate of interest in the state is 10.5 percent a year and no more on money after it is due except as provided in (b) of this section.

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the day on which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds \$25,000 is exempt from the limitation of this subsection.

(c) *[Repealed, § 3 ch 84 SLA 1973.]*

(d) *[Repealed, § 2 ch 94 SLA 1981.]*

(e) *[Repealed, § 4 ch 146 SLA 1974.]*

(f) No bank, credit union, savings and loan institution, pension fund, insurance company or mortgage company may require or accept any percent of ownership or profits above its interest rate. This subsection does not apply to a loan if the principal amount of the loan is \$1,000,000 or more and the term of the loan is five years or more.

(g) Loan contracts and commitments covering one- to four-family dwellings may be prepaid without penalty, except federally insured loans that require a prepayment penalty.

(h) If the limitations on interest rates provided for in this section are inconsistent with the provisions of any other statute covering maximum interest, service charges or discount rates then the provisions of the other statute prevail. (§ 25-1-1 ACLA 1949; am § 20 ch 143 SLA 1968; am § 2 ch 69 SLA 1969; am §§ 1, 2 ch 94 SLA 1969; am §§ 1, 2 ch 239 SLA 1970; am §§ 1 — 3 ch 84 SLA 1973; am §§ 1 -- 4 ch 146 SLA 1974; am § 1 ch 110 SLA 1976; am § 1 ch 159 SLA 1976; am § 2 ch 107 SLA 1980; am §§ 1, 2 ch 94 SLA 1981; am § 1 ch 56 SLA 1982)

**Cross references.** — As to alternate technology and power resource loans, see AS 45.88.030(e).

**Effect of amendments.** — The 1981 amendment, in subsection (b), deleted "dated after June 4, 1976" following "contract or loan commitment" and substi-

tuted "on the day on" for "that prevailed on the 25th day of the month preceding the commencement of the calendar quarter during" preceding "which the contract" in the first sentence and substituted "\$25,000" for "\$100,000" preceding "is exempt" in the second sentence. The

amendment also repealed subsection (d) which read "Notice of the annual rate charge member banks for advances by the 12th Federal Reserve District prevailing on the 25th day of the month preceding the commencement of each calendar quarter required for the maximum interest rate computation under (b) of this section shall be provided by the Department of Commerce and Economic Development."

The 1982 amendment, in subsection (f), inserted "credit union" in the first sentence and added the present second sentence.

**Editor's notes.** — Section 3, ch. 107, SLA 1980, added a subsection (j) to this section but the provisions of that subsection have been renumbered as AS 09.30.065.

#### NOTES TO DECISIONS

**The purpose of prejudgment interest, etc.**

The purpose of awarding prejudgment interest is not to penalize the losing party, but rather to compensate the successful claimant for losing the use of the money between the date he or she was entitled to it and the date of judgment, and a corollary purpose is to prevent the judgment debtor from being unjustly enriched by the use of that money. *Bevins v. Peoples Bank & Trust Co.*, Sup. Ct. Op. No. 2746 (File No. 7228), 671 P.2d 875 (1983).

**Interest on funds deposited in interpleader actions.** — As a general rule, interest on funds deposited with the court in interpleader actions is not recoverable from the unsuccessful claimant because the funds were not in his or her possession, available for investment; but when an unsuccessful claimant had no legitimate claim to the funds, the court may award interest against the claimant since by filing his suit, the claimant had caused the funds to be interpleaded and thereby deprived the other party of their use. *Bevins v. Peoples Bank & Trust Co.*, Sup. Ct. Op. No. 2746 (File No. 7228), 671 P.2d 875 (1983).

**Application of variable interest rate formula.** — Provision in note for "interest after maturity at the highest lawful contract rate" is sufficient to constitute an express interest agreement setting interest at highest rate sanctioned by application of variable interest rate formula. *Riley v. Northern Com. Co.*, Sup. Ct. Op. No. 2534 (File No. 5754), 648 P.2d 961 (1982).

Where promissory note provided for "interest after maturity at the highest lawful contract rate," award of postjudgment interest at highest rate

allowable on date of maturity, pursuant to interest rate formula in this section, was proper. *Riley v. Northern Com. Co.*, Sup. Ct. Op. No. 2534 (File No. 5754), 648 P.2d 961 (1982).

Rate set forth in subsection (a) is not the highest legal rate formula of interest; only by application of the variable interest rate is it possible to ascertain the highest legal rate of interest. *Riley v. Northern Com. Co.*, Sup. Ct. Op. No. 2534 (File No. 5754), 648 P.2d 961 (1982).

Note provision calling for "highest lawful rate of maturity" indicates intent to be bound by modifications to statutory formula enacted prior to maturity. *Riley v. Northern Com. Co.*, Sup. Ct. Op. No. 2534 (File No. 5754), 648 P.2d 961 (1982).

Where interest provision is intended to establish compensatory damages for detention of money, language in subsection (b) that amended formula applies only to contracts executed after June 4, 1976, does not preclude parties to contract from agreeing to be bound by future modifications in the statutory formula. *Riley v. Northern Com. Co.*, Sup. Ct. Op. No. 2534 (File No. 5754), 648 P.2d 961 (1982).

Applied in *Alaska Far E. Corp. v. Newby*, Sup. Ct. Op. No. 2384 (File No. 5238), 630 P.2d 533 (1981); *Land & Marine Rental Co. v. Rawls*, Sup. Ct. Op. No. 2777 (File Nos. 6963-7090), P.2d (1984).

Stated in *Triangle, Inc. v. State*, Sup. Ct. Op. No. 2405 (File No. 4811), 632 P.2d 965 (1981).

Cited in *State v. Alaska Continental Dev. Corp.*, Sup. Ct. Op. No. 2254 (File Nos. 4121, 4122), 630 P.2d 977 (1980); *Mullen v. Christiansen*, Sup. Ct. Op. No. 2482 (File Nos. 4986), 642 P.2d 1345 (1982).

**Article 2. Collection of Advance Interest.****Section****80. Money lenders may collect interest in advance****Sec. 45.45.080. Money lenders may collect interest in advance.**

(a) A lender of money may, either upon the security of personal property or otherwise, charge and receive interest in advance.

(b) In the case of a secured or unsecured instrument loan not exceeding the principal amount of \$10,000 (not including interest) which is repayable in substantially equal installments over a period not exceeding seven years, a lender of money may contract for a charge at a rate not exceeding \$6 a year for each \$100 (true annual interest rate for "add-on method" of computation at a rate not to exceed 11.1 per cent; or true annual interest rate for "discount method" of computation at a rate not to exceed 11.8 per cent) upon the original face amount of the instrument evidencing the loan for the entire period of the loan. This charge may be collected in advance. However, if the unpaid balance outstanding on a loan is paid before maturity, the lender shall give a refund or credit of the unearned portion of the charge, which refund or credit represents at least as great a proportion of the original charge as the sum of the periodical time balances after the date of prepayment bears to the sum of all the periodical time balances under the schedule of payments in the original instrument. The lender is not required to refund or credit any portion of the unearned charge which would result in a net charge on a loan less than the minimum charge provided for in this section, or to make a refund or credit where the amount of the refund or credit computed as set out in this section would be less than \$5 for each loan paid before the maturity date.

(c) No additional amount may be charged or contracted for on or in connection with an installment loan provided for in (b) of this section except the following:

(1) delinquency charges not to exceed five cents for each \$1 of each installment more than 15 days in arrears, except that the total delinquency charges on an installment loan may not exceed \$15, and only one delinquency charge may be made on each installment;

(2) premiums paid by the lender for insurance required or obtained as security for or by reason of the installment loan;

(3) the amounts necessary to reimburse the lender for fees paid to a public officer for filing, recording, or releasing any instrument or lien; and

(4) the actual expenditures, including reasonable attorneys' fees for legal process or proceedings, to secure or collect the installment loan.

(d) Advertising concerning such installment loans which contains a statement of an amount, or rate of charge, shall also contain the percentage rate, either per month or per year, computed on declining

balances of the face amount of the loan instrument to which the charge would be equivalent if the loan were repaid according to contract. This advertising requirement may be complied with by stating the equivalent percentage rate which would earn the charge for a loan repayable in 12 equal consecutive monthly installments, and the stated rate may be closely approximate, rather than exact, if the statement so indicates. This requirement does not apply to an advertisement in which an amount, or rate of charge, is indicated only by a table which contains and is confined to examples of the face amount of the loan instrument, the proceeds to the borrower exclusive of the charge, and the amount, number and intervals of the required payments. (§ 1 ch 48 SLA 1951; am §§ 1, 2 ch 71 SLA 1968)

**Editor's notes.** — This section is set out above to correct a minor error in the main pamphlet.

### Article 5. Regulation of Motor Vehicle Repairs.

#### Section

#### 24C. Definitions

#### Sec. 45.45.130. Repair order.

#### NOTES TO DECISIONS

Cited in *State v. Grogan*, Sup. Ct. Op. No. 2356 (File No. 5199), 628 P.2d 570 (1981).

#### Sec. 45.45.240. Definitions. In AS 45.45.130 — 45.45.240

(1) "customer" includes a person authorized by the customer to act on the customer's behalf;

(2) "motor vehicle" or "vehicle" means a motor vehicle as defined in AS 28.40.100 which is required to be registered under AS 28.10, or with a governmental agency of another jurisdiction performing a similar function;

(3) "motor vehicle repair shop" or "shop" means an individual, corporation, partnership, or other form of business organization engaged in the motor vehicle repair business and includes owners, officers, directors, agents, employees, and representatives but excludes the following:

(A) a shop engaged solely in the business of repairing the motor vehicles of a single commercial, industrial or governmental establishment, or of two or more of these establishments which are related by common ownership or corporation affiliation;

(B) a person repairing his own or a family member's motor vehicle;

(4) "repair" or "repairs" means the improvement, adjustment, replacement, examination, diagnosis, maintenance, servicing, removal or installation of any component or part of a motor vehicle, but does not include towing or the supply of motor fuel to a motor vehicle. (§ 1 ch 146 SLA 1976; am § 21 ch 144 SLA 1977)

**Article 6. Motor Vehicle Warranties.**

<p><b>Section</b>                  300. Repairs required                  305. Replacement or refund                  310. Notice by owner                  315. Exceptions                  320. Presumption                  325. Parts availability                  330. Failure to replace or refund</p>	<p><b>Section</b>                  335. Resale without disclosure prohibited                  340. Other rights and remedies                  345. Repair facilities                  350. Reimbursement of shipping costs                  355. Arbitration or mediation                  360. Definitions</p>
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**Sec. 45.45.300. Repairs required.** If a new motor vehicle does not conform to an express warranty that is applicable to it and the owner of the vehicle reports the defect or condition to the manufacturer of the vehicle or to the manufacturer's or distributor's dealer during the term of the warranty, the manufacturer, distributor, dealer, or a repairing agent shall make the necessary repairs to conform the vehicle to the express warranty. (§ 1 ch 101 SLA 1984)

Revisor's notes. — As enacted, this section contained subsections (b)-(m). They were renumbered in 1984 as AS 45.45.305 — 45.45.360.

**Sec. 45.45.305. Replacement or refund.** If during the term of the express warranty or within one year from the date of delivery of the motor vehicle to the original owner, whichever period terminates first, the manufacturer, distributor, dealer, or repairing agent is unable to conform the motor vehicle to an applicable express warranty after a reasonable number of attempts, the manufacturer or distributor shall accept the return of the nonconforming motor vehicle, and, at the owner's option, shall replace the nonconforming vehicle with a new, comparable vehicle or shall refund the full purchase price to the owner less a reasonable allowance for the use of the motor vehicle from the time it was delivered to the original owner. A refund under this section shall be made to a lienholder of record, if any, and the owner, as their interests may appear. (§ 1 ch 101 SLA 1984)

Revisor's notes. — Enacted as AS 45.45.300(b). Renumbered in 1984.

**Sec. 45.45.310. Notice by owner.** In order to claim a refund or replacement under AS 45.45.305, the owner shall give written notice by certified mail to the manufacturer and its dealer or repairing agent

at any time before 60 days have elapsed after the expiration of the express warranty or the one-year period after the date of delivery of the motor vehicle to the original owner, whichever period terminates first, (1) stating that the vehicle has a nonconformity; (2) providing a reasonable description of the nonconformity; (3) stating that the manufacturer, distributor, dealer, or repairing agent has made a reasonable number of attempts to conform the vehicle; and (4) stating that the owner demands a refund or replacement vehicle to be delivered on the 60th day after the mailing of the written notice. Within 30 days after receiving the notice required by this section the manufacturer may make a final attempt to conform the vehicle before a refund or replacement is made under AS 45.45.305. (§ 1 ch 101 SLA 1984)

Revisor's notes. — Enacted as AS 45.45.300(c). Renumbered in 1984, also. minor punctuation and word changes were made in 1984.

**Sec. 45.45.315. Exceptions.** An owner may not receive a refund or replacement under AS 45.45.300 — 45.45.360 if the manufacturer or distributor shows that the nonconformity complained of

(1) does not substantially impair either the use or the market value of the motor vehicle; or

(2) is the result of

(A) alteration of the motor vehicle by the owner or a person other than a dealer or repairing agent that is not authorized by the manufacturer or distributor; or

(B) abuse or neglect by the owner or a person other than the dealer or repairing agent. (§ 1 ch 191 SLA 1984)

Revisor's notes. — Enacted as AS 45.45.300(d). Renumbered in 1984.

**Sec. 45.45.320. Presumption.** A presumption that a reasonable number of attempts have been made to conform a motor vehicle under an applicable express warranty is established if:

(1) the same nonconformity has been subject to repair three or more times by the manufacturer, distributor, dealer, or repairing agent during the term of the express warranty or the one-year period after delivery of the motor vehicle to the original owner, whichever period terminates first, but the nonconformity continues to exist; or

(2) the vehicle is out of service for repair for a total of 30 or more business days during the express warranty term or the one-year period referred to in (1) of this section, whichever period terminates first; any period of time that repairs are not performed for reasons that are beyond the control of the manufacturer, distributor, dealer, or repairing agent is excluded from the 30-day time period referred to in this paragraph. (§ 1 ch 101 SLA 1984)

Revisor's notes. — Enacted as AS 45.45.300(e). Renumbered in 1984.

**Sec. 45.45.325. Parts availability.** A manufacturer whose vehicles are sold in the state through an authorized dealer shall provide its dealer or repairing agent with any part necessary to make a repair of a nonconformity covered under an express warranty, as soon as possible, without additional charge for freight or handling, if the part is not in the dealer's or agent's inventory when the nonconforming vehicle is brought to the dealer or repairing agent for repair. (§ 1 ch 101 SLA 1984)

Revisor's notes. — Enacted as AS 45.45.300(f). Renumbered in 1984.

**Sec. 45.45.330. Failure to replace or refund.** A manufacturer or distributor who fails to refund the full purchase price of a motor vehicle or replace the motor vehicle when there is a requirement to do so under AS 45.45.300 — 45.45.360 is presumed to have committed an unfair trade practice under AS 45.50.471. (§ 1 ch 101 SLA 1984)

Revisor's notes. — Enacted as AS 45.45.300(g). Renumbered in 1984.

**Sec. 45.45.335. Resale without disclosure prohibited.** A motor vehicle returned under AS 45.45.305 may not be resold by the manufacturer or distributor in the state unless full disclosure of the reason for the return is made to the prospective buyer before the resale is concluded. (§ 1 ch 101 SLA 1984)

Revisor's notes. — Enacted as AS 45.45.300(h). Renumbered in 1984.

**Sec. 45.45.340. Other rights and remedies.** The provisions of AS 45.45.300 — 45.45.360 do not limit other rights and remedies that may be available to the owner of a motor vehicle under other provisions of law. This section does not create a new cause of action against a dealer or repairing agent who sells or attempts to repair a motor vehicle found to be nonconforming under AS 45.45.300 — 45.45.360. (§ 1 ch 101 SLA 1984)

Revisor's notes. — Enacted as AS 45.45.300(i). Renumbered in 1984.

**Sec. 45.45.345. Repair facilities.** A manufacturer or distributor or motor vehicles who authorizes the sale of the manufacturer's or distributor's motor vehicles in the state shall maintain authorized dealership

facilities within the state that are able to perform the service and make the repairs required by the manufacturer's express warranty and by AS 45.45.300 — 45.45.360. (§ 1 ch 101 SLA 1984)

Revisor's notes. — Enacted as AS 45.45.300(j). Renumbered in 1984.

**Sec. 45.45.350. Reimbursement of shipping costs.** A manufacturer or distributor who accepts the return of a nonconforming motor vehicle under AS 45.45.305 shall reimburse the owner for any reasonable cost incurred in shipping the vehicle to and from the nearest authorized facility for warranty service and repair of a nonconformity that causes the return of the vehicle. (§ 1 ch 101 SLA 1984)

Revisor's notes. — Enacted as AS 45.45.300(k). Renumbered in 1984.

**Sec. 45.45.355. Arbitration or mediation.** If a manufacturer or distributor has established an informal dispute settlement procedure that substantially complies with the requirements of 16 C.F.R. 703, as that section may be amended, or if the manufacturer or distributor, after receipt of notice required by AS 45.45.310, offers in writing to participate in an arbitration or mediation process with the owner and the arbitration or mediation decision is binding on the manufacturer or distributor but not on the owner, and if the informal dispute settlement or arbitration or mediation process is approved by the attorney general, the provisions of AS 45.45.305 concerning refund or replacement or AS 45.45.350 concerning shipping costs do not apply to an owner who has not first resorted to the informal dispute settlement procedure or arbitration or mediation process. (§ 1 ch 101 SLA 1984)

Revisor's notes. — Enacted as AS 45.45.300(l). Renumbered in 1984.

**Sec. 45.45.360. Definitions.** In AS 45.45.300 — 45.45.360,

(1) "dealer" means a person who has obtained a franchise from, or is authorized by, a motor vehicle manufacturer to engage in the retail sale and warranty repair of the manufacturer's new motor vehicles in the state;

(2) "distributor" means a person who is authorized by a manufacturer to engage in the wholesale distribution of the manufacturer's new motor vehicles in the state;

(3) "express warranty" or "warranty" means an express written warranty provided by the manufacturer of a new motor vehicle;

(4) "full purchase price" means the total price paid for a motor vehicle by the original owner, including costs added to the retail price, such as original registration fees, transportation fees, dealer preparation, and dealer installed options;

(5) "manufacturer" means a person who by labor transforms raw materials and component parts into motor vehicles for wholesale or retail sale;

(6) "motor vehicle" or "vehicle" means a land vehicle having four or more wheels, that is self-propelled by a motor, is normally used for personal, family, or household purposes, and is required to be registered under AS 28.10; but does not include a tractor, farm vehicle, or a vehicle designed primarily for off-road use;

(7) "nonconformity" means a defect or condition in a motor vehicle caused by a manufacturer, distributor, dealer or repairing agent that substantially impairs the use or market value of a vehicle;

(8) "owner" means a purchaser, other than for resale, of a new motor vehicle, and a person to whom ownership of the motor vehicle is transferred in conformity with AS 28;

(9) "reasonable allowance" means an amount attributable to an owner's use of a motor vehicle; a "reasonable allowance" may not exceed an amount equal to the depreciation in value of the vehicle for the period during which the vehicle is available for use by the owner, calculated by a straight line depreciation method over seven years, plus an amount equal to the depreciation in value of the vehicle that is caused by

(A) any neglect or abuse by the owner; or

(B) body damage not caused by a nonconformity;

(10) "repairing agent" means a person who has been specifically authorized by a motor vehicle manufacturer or distributor to perform warranty repairs in the state on one or more of the manufacturer's or distributor's motor vehicles;

(11) "substantially impairs the market value" means a nonconformity that substantially decreases the dollar value of a vehicle to the owner when compared to the dollar value of a similar vehicle that does not have the nonconformity;

(12) "substantially impairs the use" means a nonconformity that prevents a motor vehicle from being operated or makes the vehicle unsafe to operate. (§ 1 ch 101 SLA 1984)

Revisor's notes. — Enacted as AS 45.45.300(m). Renumbered in 1984.

## Article 10. Miscellaneous.

**Sec. 45.45.900. Indemnification agreements contra to public policy.**

### NOTES TO DECISIONS

**Applicability of section.** — This section became effective on September 23, 1975, and governs contracts executed on or after that date. Contracts executed before

that date are governed by the rule announced in *Burgess Constr. Co. v. State*, 614 P.2d 1380 (Alas. 1980), that an indemnity clause is effective to shift responsibility for an accident where the indemnitee is

negligent and the indemnitor is not. *Stephen & Sons v. Municipality of Anchorage*, Sup. Ct. Op. No. 2368 (File No. 5102), 629 P.2d 71 (1981).

## Chapter 50. Competitive Practices and Regulation of Competition.

### Article

1. Trademarks (§ 45.50.010)
3. Authorship (Repealed)
4. Unfair Trade Practices and Consumer Protection (§ 45.50.561)
5. Monopolies; Restraint of Trade (§ 45.50.572)

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**Cross references.** — For transitional provisions related to the 1984 amendment to this chapter, see § 14, ch. 107, SLA 1984 in the Temporary and Special Acts.

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### Article 1. Trademarks.

#### Section

#### 10. Registrability

**Sec. 45.50.010. Registrability.** A trademark may not be registered if it

- (1) consists of immoral, deceptive or scandalous matter;
- (2) consists of matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute;
- (3) consists of the flag or coat of arms or other insignia of the United States, or of a state or municipality, or of a foreign nation, or simulation of any of these;
- (4) consists of the name, signature or portrait of a living individual, except with his written consent;
- (5) consists of a mark which,
  - (A) is merely descriptive or deceptively misdescriptive of the applicant's goods, or
  - (B) is primarily geographically descriptive or deceptively misdescriptive of the applicant's goods, or
  - (C) is primarily merely a surname; however, this does not prevent the registration of a mark used in the state by the applicant which has become distinctive of the applicant's goods; as evidence that the mark has become distinctive, the commissioner may accept proof of

NOTES TO DECISIONS

Stated in *Lebert v. Hammond*, Sup. Ct. Op. No. 2653 (File No. 5954), 661 P.2d 635 (1983).

**Collateral references.** — 48 Am. Jur. 2d, Labor and Labor Relations, § 1 et seq.; 53 Am. Jur. 2d, Master and Servant, § 121 et seq.; 1 and 2 Am. Jur. 2d, Administra-

tive Law, § 1 et seq.; 63 Am. Jur. 2d, Public Officers and Employees, § 22; 72 Am. Jur. 2d, States, Territories and Dependencies, § 62.

55 C.J.S., Manufacturers § 1 et seq.; 98 C.J.S., Work and Labor § 1 et seq.

**Sec. 44.31.020. Duties of department.** The Department of Labor shall:

(1) enforce the laws, and adopt regulations under them concerning employer-employee relationships, including the safety, hours of work, wages, and conditions of workers, including children;

(2) accumulate, analyze and report labor statistics;

(3) operate systems of workers' compensation and unemployment insurance; and

(4) gather data reflecting the cost of living in the various election districts of the state upon request of the director of personnel under AS 39.27.030 — 39.27.040. (§ 13 ch 64 SLA 1959; am § 1 ch 93 SLA 1960; am § 2 ch 226 SLA 1970; am § 112 ch 127 SLA 1974)

**Revisor's notes.** — In 1980 the term "workers' compensation" was substituted for "workmen's compensation," pursuant to § 60, ch. 94, SLA 1980.

*Secs. 44.31.100 — 44.31.200. Employment Advisory Commission. [Repealed, § 4 ch 74 SLA 1969.]*

**Chapter 33. Department of Commerce and Economic Development.**

**Article**

1. Organization (§§ 44.33.010 — 44.33.020)
2. Alaska Division of Tourism (§§ 44.33.120 — 44.33.180)
3. Tourism Advisory Board (§§ 44.33.190 — 44.33.230)
4. Child Care Facility Revolving Loan Fund (§§ 44.33.240 — 44.33.275)
5. Areas Impacted by Economic Disaster (§§ 44.33.285 — 44.33.310)
6. Cultural Facilities Grants (§§ 44.33.401 — 44.33.430)
7. Native Art Competitions (§§ 44.33.501 — 44.33.512)
8. Alaska Foreign Offices (§§ 44.33.530 — 44.33.550)
9. Power Development Revolving Loan Fund (§§ 44.33.600 — 44.33.630)

**Article 1. Organization.**

**Section**

10. Commissioner of commerce and economic development
20. Duties of department

**Sec. 44.33.010. Commissioner of commerce and economic development.** The principal executive officer of the Department of Commerce and Economic Development is the commissioner of commerce and economic development. (§ 14 ch 64 SLA 1959; am § 6 ch 186 SLA 1960; am § 95 ch 218 SLA 1976)

**Collateral references.** — 15A Am. Jur. 2d, Commerce, § 1 et seq.; 1 and 2 Am. Jur. 2d, Administrative Law, § 1 et seq.; 63 Am. Jur. 2d, Public Funds, § 1 et seq.; 63 Am. Jur. 2d, Public Officers and Employees, § 22. 15 C.J.S., Commerce, § 1 et seq.; 73 C.J.S. Public Administrative Law, § 1 et seq.

**Sec. 44.33.020. Duties of department.** The Department of Commerce and Economic Development shall

(1) administer the state programs relating to commerce, enforce the laws relating to these programs, and adopt regulations under these laws;

(2) register corporations;

(3) collect corporation franchise taxes;

(4) enforce state laws regulating public utilities and other public service enterprises, banking and securities, insurance, and other businesses and enterprises touched with a public interest;

(5) make veterans' loans;

(6) inspect weights and measures;

(7) promote and develop civil aviation;

(8) furnish the budgeting, clerical and administrative services for regulatory agencies and professional and occupational licensing boards not otherwise provided for;

(9) *[Repealed, E.O. No. 39 § 13 (1977).]*

(10) *[Repealed, E.O. No. 33 (1968).]*

(11) before the commencement of each calendar quarter, furnish lending institutions, title insurance companies, mortgage companies and clerks of the respective superior courts with the 12th Federal Reserve District discount rate that is to be used during that calendar quarter for computing the maximum rate of interest under AS 45.45.010(b);

(12) conduct studies, enter into contracts and agreements, and make surveys relating to the economic development of the state and, when appropriate, assemble, analyze, and disseminate the findings obtained;

(13) provide factual information and technical assistance for potential industrial and commercial investors;

(14) receive gifts, grants, and other aid that facilitate the powers and duties of the department from agencies and instrumentalities of the United States or other public or private sources;

(15) establish and activate programs to achieve balanced economic development in the state and advise the governor on economic development policy matters;

(16) formulate a continuing program for basic economic development and for the necessary promotion, planning and research that will advance the economic development of the state;

(17) cooperate with private, governmental and other public institutions and agencies in the execution of economic development programs;

(18) review the programs and annual reports of other departments and agencies as they are related to economic development and prepare an annual report on the economic growth of the state;

(19) administer the economic development programs of the state;

(20) perform all other duties and powers necessary or proper in relation to economic development and planning for the state;

(21) request tourism-related businesses in the state to provide data regarding occupancy levels, traffic flow and gross receipts and to participate in visitor surveys conducted by the department; data collected under this paragraph which discloses the particulars of an individual business is not a matter of public record and shall be kept confidential; however, this restriction does not prevent the department from using the data to formulate tourism economic impact information including expenditure patterns, tax receipts and fees, employment and income attributable to tourism, and other information considered relevant to the planning, evaluation and policy direction of tourism in the state.

(22) *[Repealed, E.O. No. 47, § 6 (1980).]*

(23) administer the program of state assistance for the construction and development of cultural facilities in accordance with AS 44.33.401 — 44.33.417;

(24) provide administrative and budgetary services to the Real Estate Commission (AS 08.88) as requested by the commission;

(25) operate motor vehicle weighing stations, issue special written permits authorizing the operation of overweight and oversize vehicles, establish fees for the overweight and oversize vehicle special permits, enforce the size, weight, and load limitations adopted by the Department of Transportation and Public Facilities under AS 19.10.060, and establish regulations relating to pilot car services and the enforcement of the size, weight, and load limitations adopted under AS 19.10.060;

(26) administer the Alaska Foreign Offices established by AS 44.33.530. (§ 14 ch 64 CLA 1959; am § 6 ch 186 SLA 1960; am § 2 ch 1 SLA 1961; am § 2 ch 55 SLA 1963; am § 2 ch 70 SLA 1965; am E.O. No. 33 (1968); am § 4 ch 94 SLA 1969; am § 6 ch 207 SLA 1975; am § 1 ch 116 SLA 1976; am § 96 ch 218 SLA 1976; am E.O. No. 39, § 13 (1977); am E.O. No. 40, § 2 (1979); am § 4 ch 62 SLA 1979; am E.O. No. 47, § 6 (1980); am § 33 ch 167 SLA 1980; am § 1 ch 77 SLA 1982; am E.O. No. 57, § 2 (1984); am § 1 ch 120 SLA 1984)

**Cross references.** — As to establishing limitations on weight and load of vehicles, see AS 19.10.060(1).

**Effect of amendments.** — Section 6, E.O. No. 47 (1980) repealed paragraph (22).

Section 33, ch. 167, SLA 1980, added paragraph (24).

The 1982 amendment added paragraph (25).

The first 1984 amendment added paragraph (26).

The second 1984 amendment substituted "Offices" for "Office" in paragraph (26).

**Editor's notes.** — The duties, powers, and responsibilities in respect to the accumulation, analysis, and reporting of commercial and industrial statistics, the

promotion of the economic and tourist development of the state, the granting of industrial tax incentives, the tourist attraction development program, and the tourism advisory board were transferred from the Department of Commerce to the Department of Economic Development and Planning by ch. 159 SLA 1962 (AS 44.45), that was repealed by § 1 ch. 207 SLA 1975.

**Legislative history reports.** — For report on ch. 116, SLA 1976 (SCSHB 730), see 1976 House Journal, p. 696.

*Sec. 44.33.025. Recording. [Repealed, E.O. No. 47, § 6 (1980).]*

*Sec. 44.33.110. Civil Air Patrol. [Repealed, E.O. No. 33 (1968). For current provisions, see AS 26.05.345.]*

**Article 2. Alaska Division of Tourism.**

Section	Section
120. Alaska division of tourism	150. Qualifying for matching money
130. Division contract	160. Limitations on matching money
140. Grants for tourist development	170. Use of matching money
145. Grants for promoting conventions and incentive travel	180. Administration of this chapter

**Sec. 44.33.120. Alaska division of tourism.** (a) There is created in the Department of Commerce and Economic Development the Alaska division of tourism.

(b) The Alaska division of tourism shall

(1) cooperate with organizations in the private sector for the promotion and development of tourism and conventions into and within Alaska;

(2) coordinate with municipal, state and federal agencies for the development and promotion of tourism resources and conventions in Alaska;

(3) promote and develop the Alaska tourist and convention industry by publicizing state attractions through such means as display advertising in magazines and newspapers, advertising on radio and television or other advertising media, publishing pamphlets, brochures and other graphic and pictorial materials, or by aiding and assisting representatives of the media to insure greater coverage of Alaska's visitor attractions;

(4) participate in travel shows;

(5) increase the awareness of the citizens of the state at the statewide, regional and community level of the economic importance of the tourist industry;

(6) assist potential investors in creating new tourist facilities;

DEREGULATION OF CONSUMER LENDING IN NEW YORK:  
THE RATES WENT UP BUT NEVER CAME BACK DOWN

a report by  
STATE SENTAOR FRANZ S. LEICHTER  
(28th S.D., Manhattan)

March 23, 1983

Glenn von Nostitz,  
Legislative Counsel

When the Omnibus Banking Act of 1980, which deregulated rates on a broad range of loans, was enacted, it was said by its proponents that free market forces would keep interest rates on consumer loans at a reasonable level in relation to the bank's cost of money and that if the prime rate declined, consumer rates would also decline.

The following statistics show this did not happen:

In November 1980 when Bank deregulation was enacted by the Legislature, the prime rate posted by the major banks as a base for corporate loans was 17.7%. The State Banking Department reported that the interest rate on unsecured personal loans at that time was 13.21%, on credit cards was 12% and on home improvement loans was 12.91%. By January of 1981 the prime rate had climbed to 20.50% and under the new deregulation law, the unsecured personal loan interest rate went up to a New York State average of 18.21%. Credit card rates climbed to 12.6% (they shot up to 18.3% the following month) and home improvement loans went up to 17.91%. Without question, the consumer loan rates charged back in 1980 were artificially low when considering the cost of money to the banks, and it was natural that when deregulation took effect they would increase somewhat.

But by November of 1982 the prime rate had declined to 12%. Nonetheless, in November of 1982 New York City banks were still charging 18.35% on unsecured personal loans and a record 19.21% on credit card balances. The credit card rate actually climbed in September of 1982 despite an ongoing decline in the prime rate and the cost of money to the banks.

The New York State Bankers Association and the Banking Department both said in their January 1983 testimony before the Assembly Banking Committee on extension of deregulation that there exists wide variance in consumer credit charges. They counseled consumers to "shop around" for the best credit deal. Yet in early February the prime rate declined further to 11% and by the end of the month was at 10.50%. Consumer lending rates moderated only slightly, if at all, with the average interest on personal loans declining only about a point.

A survey my office conducted (February 28, 1983) of interest rates on unsecured personal loans to non-customers found uniformly high interest charges still in effect. The survey found a 19% rate at both Chemical and Citibank, 19.5% at Bank of New York, 20% at European American Bank, and a slightly lower rate of 17% at Marine Midland. For bank customers, the rates were generally one point lower.

Only one bank has broken the uniformity of high rates on personal loans: Amalgamated Bank of New York, which is owned and operated by the Amalgamated Clothing and Textile Workers Union. My survey found Amalgamated was charging only 14.75% on unsecured personal loans (although a maximum of \$3,000 is placed on such loans). Loans above \$3,000 must be secured, but the same rate applied. The Wall Street Journal of March 22nd reports that Amalgamated is further reducing the rate to 14.25%. Indeed, last fall Amalgamated published newspaper advertisements criticizing the banking industry for failing to bring down consumer lending rates.

A survey my office conducted on March 8, 1983 found that credit card finance charges are also uniformly high. All of the following New York City banks charge a \$20 annual membership fee for Visa and MasterCard (Chemical charges \$34 if both cards are held):

Marine Midland: 19.8% annual rate

Chase Manhattan: 21%

Manufacturers Hanover: 19.8%

Citibank: 19.8%

Chemical Bank: 19.5%

Turning to savings institutions for lower credit card costs is not realistic since most thrift institutions do not offer credit cards. Some of them do offer a "cash debit card" under which the cost of purchases is deducted from checking account balances, and if there is an "overdraft" an annual rate of 18% is usually charged.

In a report issued in December of 1982, the Banking Department defended the continued high fees and rates on credit cards by citing "continuing increases in labor and other costs due to inflation", increased "losses due to fraud" and "the unprofitability of credit card operations during 1981". The report contained no statistics supporting the "increase in fraud" and "increased costs" assertions. The report did not mention the significantly reduced 1982 inflation rate (under 5%). Also ignored were the substantial increases in bank revenue from the newly authorized (under the 1980 deregulation law) credit card

membership fees. Citicorp's 1981 annual report, for example, revealed that Citibank earned \$55 million "from new bankcard membership fees".

Rates on home improvement loans have tended to be more favorable to consumers than the rates on credit cards and other consumer loans. Nonetheless, the rates found in my survey of March 21st still provide a substantial spread from the cost of funds to the lenders (all rates based on a \$10,000 loan):

Chase Manhattan: 2 to 3 year term: 16%  
 4 years: 16.5%  
 5 years: 17%  
 6 years: 17.5%  
 7 years: 18%

Citibank: 17% for customers, 19% for non customers.

Bankers Trust: 16.5% (four years or less)  
 17% (more than four years)

Marine Midland: 16% basic rate but may be as high as 19.8% depending on location of branch.

A December 15, 1980 American Banker article reported that profits of "big New York retail banks" were expected to "benefit substantially from the end of the usury ceiling just enacted by the Legislature". The article quoted a Shearson Loeb Rhoades bank stocks analyst explaining how the new law would help banks: "The potential boost to 1981 earnings at large New York banking firms is put at 3% to 5%". Another analyst quoted in the article predicted that per share annual earnings could be up as much as 9% to 20% from 1980 because of the State's deregulation. Because they have large retail operations, Chase Manhattan, Citibank

and "especially Irving Trust" were considered to be the major likely beneficiaries, a prediction that seems to have been largely borne out according to statistics in the banks' annual reports. For example, Citicorp's 1981 net income of \$531 million was 6% above the previous year's level, and the \$747 million in 1982 represented another 35% rise. Earnings per share in 1982 rose 31%, and Citicorp's return on equity was the highest since World War II: 16.4%. Citicorp attributed a 26% rise in 1982's revenue in large part to a "drop in interest rates in the second half of the year". Net interest revenue rose 42% over the 1981 level. Chemical Bank's 1982 fourth quarter net income was 38.7% above the 1981 level. The American Banker attributed the good performance to "an unexpectedly healthy net interest margin". The spread on total investible funds rose to 4.09% over the 3.66% spread a year earlier (during which Chemical had also made record profits).

Officials of Amalgamated Bank interviewed by my staff claim their bank earns money in spite of their low consumer interest rates (they also charge substantially less than other banks for checking accounts, money orders and other retail services). Nonetheless, banking industry officials in New York State say their existing rates are fair, necessary and competitive. They argue:

-The cost of the funds which banks borrow and in turn lend to consumers has gone up, a situation exacerbated by the Federal Reserve's strict monetary policies and high interest rates..

-Because of deregulation, banks must pay higher competitive

rates on deposits, increasing the cost of their funds.

-Because of the recession, there are more troubled loans, causing banks concern and keeping rates high.

In response to the argument that borrowed funds are more expensive, it is true that money is costing the banks more than it once did, but it is also true that the rates on most of the major sources of borrowed funds has declined considerably during the past several months. Commercial paper (60 day) was at an 8.5% rate in early March, several points below the year earlier level, and another major source of funds, "federal funds" was at 8.35% on March 14th as compared with 14.2% one year earlier. Two year Treasury notes yielded 9.66% on March 16th, down from 14.14% a year earlier. Generally, the overall cost of all the long-term and short-term money the banks borrow has been under 10% for several months, and with most consumer lending rates at 17% and above, the difference between the cost of the money borrowed by the bank and the money lent to the consumer by the bank has been from 7% to 10%. Traditionally, this gap has been around 4% or 5%.

Thomas Hanley, Vice-President and an analyst of bank stocks at Salomon Brothers was quoted in the October 25, 1982 New York Times as explaining the third-quarter increased bank profits thus:

"The earnings results were substantially bolstered by an abnormally high spread." The article went on to report that the rise in earnings was "because of an unusually large spread -

between interest rates that the banks charged on the loans they made and the interest rates the banks themselves paid for funds." The spread between the cost of funds and the prime rate is larger than normal, according to a February 24, 1983 American Banker article, which found that, "Over the past six years that spread has almost doubled."

Banking industry spokespersons assert that the cost of the deposit base has increased significantly due to deregulation and subsequent introduction of new types of accounts that pay interest on demand deposits (NOW accounts) or that match rates offered by money market funds. But the spread between six month savings certificates at a March 7th rate of 8.61% or money market rate accounts (7.80% on March 7th) and consumer loan rates is still enormous. A difference of 10 points exists between the money market rate and a 17.9% consumer loan.

Moreover the deregulated deposits have resulted in a surge in overall savings deposits at commercial banks, now at the highest level since November 1979, according to the Federal Reserve Board. This new money is being lent out at substantial profit. Additionally, the high rates initially offered on the new money market rate accounts (first authorized last Decemeber) have declined considerably, easing the banks; cost of deposits. Most banks started the accounts with 11% to 12% interest. By mid-March every bank offering the accounts had reduced them to the 8.00% to

8.60% range.

Some bankers claim an increase in the proportion of problem loans has helped keep consumer rates high. But the fact is that in the industry as a whole the proportion of problem loans to total outstanding loans is lower now than just a few years ago. In 1978 the proportion at Chemical Bank stood at 3.1% as compared with 2.4% in 1982. Citibank's problem loans declined from 2.6% to 1.9% over the same period. A February 14, 1982 American Banker article reports: "Most analysts believe that prospects for fewer loan losses at all banks are brighter in 1983 than they were last year". Meanwhile, lower yielding loans (which some bankers consider "problems" because of their low return) are gradually being terminated.

High consumer lending rates continue to have a dampening effect on the economy. According to the Federal Reserve Board, consumers have drastically cut their credit purchases. In the 3rd quarter of 1981, for example, some \$27 billion in consumer credit was outstanding. By the third quarter of 1982 only \$6 billion was outstanding. When rates are lowered, spending does spurt. Housing starts went up 40% in December 1982 above the previous year, attributable by many analysts to declines in mortgage rates. When the automobile makers started offering low-cost financing (General Motors Acceptance Corporation now offers 11.9% financing, compared with 16% still being asked by commercial banks in New York) auto sales advanced.

Eastern Airlines, according to the February 20, 1983 New York Times achieved a 15% increase in sales when it offered interest free financing. The airline now offer 11.9% financing.

It is evident that the promise made by the banks in 1980 that consumers would benefit from deregulation because market forces would keep interest rates competitive and therefore as low as possible has not been kept. Even President Reagan and Treasury Secretary Donald Regan believe consumer lending rates should be lowered. On February 23rd the President said: "There is no reason -I do not think- why the banks could not bring those interest rates down another notch or two". A week earlier Regan had said: "I think...the banks are doing their utmost to keep their earnings up by keeping their interest rates up". And Federal Reserve Chairman Paul Volcker said on February 24th: "I think they they (bank lending rates) could be lower relative to other market rates...they are out of equilibrium".

The Legislature has an obligation to save consumers from being gouged. A Louis Harris poll conducted late last year learned that 68% of the families interviewed used one or more types of credit cards, and 76% of those questioned said they were worried about the high rate of interest charged on credit.

The banking industry has prospered in New York State during the past three years. As the statistics in this report show,

banks are well able to afford lower consumer interest rates. But three years experience with rate deregulation in New York State shows these rates will not significantly decline unless Government acts.

I urge re-regulation of consumer lending rates, with a maximum interest ceiling based on the cost to the banks of the money they lend. The banking Board should be required to quarterly set interest rates on credit cards, personal loans and other consumer loans. These rates can be keyed to the average weekly yield of long-term Treasury bonds (for determining rates on longer term consumer loans) and on the discount rate for Treasury bills (for determining maximum rates on shorter term consumer lending such as credit cards).

# # #

# As with credit, it pays to shop for credit cards

By THOMAS WATTERSON  
The Christian Science Monitor

The news might almost have been overlooked during the currency-transaction controversy that hit the Bank of Boston earlier this month. The bank's credit card operations will soon move from Massachusetts, where there is a ceiling on credit account interest rates, to New Hampshire, where there is none.

When the bank first announced its intention to find another state for this side of its business several months before, the news created quite a stir. But this time, word of the actual move was all but lost in the larger currency story.

Credit cards have become big business for banks, generating millions of dollars in revenue. Being able to charge a few percentage points more for credit card balances can make a big difference in a bank's profits. But as more banks look for ways to charge more on credit cards, more consumers are looking for cheaper ways to borrow money.

Credit cards are probably the easiest way to borrow. You can even go to a bank and "charge" cash up to certain limits. But depending on where the credit card operations are based, you could be paying 20 percent or more a year for the privilege. You can also charge purchases through credit accounts at department stores and mail-order houses, but depending on the state you live in, the cost can be very high here, too. For example, in all but about 20 states, customers of the giant Spiegel mail-order firm face a 23.94 annual percentage rate on outstanding balances.

Meanwhile, banks and savings-and-loans have actually been lowering their interest rates, but credit card and charge account rates have remained stable. Banks' rates are still high compared with a 4 percent inflation rate and a 10 1/2 percent prime rate, but they have begun to inch down. The rate on personal unsecured loans from a savings-and-loan institution is in the 17 to 18 percent range, a rate that is comparable to the lowest rate on credit cards, says Wayne Bengtson, program director for consumer lending at the US League of Savings Institutions.

By shopping around, Bengtson says, you should be able to find a rate one or two percentage points lower, particularly in large, competitive markets. And if you have some sort of security, or collateral, you should be able to get a rate lower than that.

One "monkey wrench" has been thrown into this picture, Bengtson notes. As of March 1, finance companies will not be permitted to accept household goods already owned as collateral. This includes furniture, clothes, appliances, one radio or television set, kitchenware, or personal effects such as wedding rings. While finance companies are usually the most expensive sources of loans, with rates well above those for credit cards, the Federal Trade Commission ruling that brought this about could be expanded to banks and S&Ls, he notes.

Most people, however, do not use these basic items as security for loans, he adds. The car, boat, or stereo purchased with borrowed money serves as its own collateral.

You can also find collateral in some unexpected places. Sometimes, says Dorothea Kaplan, a Chicago lawyer, people with an urgent need for money consider cashing in certificates of deposit early or canceling cash value life insurance.

For example, on a one-year CD earning 10 percent, she notes, you will be penalized \$50 per thousand of investment, which represents six months' interest at 10 percent. For a \$10,000 CD, this represents an immediate loss of \$500. To make that up in an investment, you would have to get a return of at least 15 percent for nine months.

By using the CD as collateral, you avoid the penalty and gain an additional 3 or 4 percent, depending on the rate at which you borrow. Also, you pick up tax-deductible interest payments, while still keeping the CD.

One key to making all this work, Kaplan says, is planning. While using a credit card or charging a purchase over the phone is certainly easy and fast, "it's not hard to walk into a bank and borrow \$5,000. Sometimes, all you need is a checking account." But this requires planning your

Outstanding debt,  
in billions of dollars

1982	\$29.1
1983	38.1

Gross sales charged  
in billions of dollars

1982	\$67
1983	

People who have used either card  
in millions

1982	64.2
1983	68.3

Chicago Tribune Graphic. Source: Special Information Reports Publications

VISA



## Shopping for credit cards

It can pay to shop around for bank credit cards, as some banks are offering more attractive interest rates for Visa or Mastercards than the average of 19.25 percent annual rate. About half of Americans using credit cards pay off their balances each month, and are unaffected by interest rates. They can still avoid an annual fee, as some banks do not charge one.

### BANK CARD CHARGES: SELECTED BANKS

Annual percentage rates and fees

CITICORP, NEW YORK	19.8%
BANK OF AMERICA, SAN FRANCISCO	19.8% \$
FIRST NATIONAL BANK OF CHICAGO	19.8% \$
REPUBLIC BANK, DALLAS	19.6% No \$
FIRST NATIONAL BANK OF ATLANTA	18.0% \$
DOLLAR DRY DOCK SAVINGS BANK, NEW YORK	16.8% \$
RAINIER NATIONAL BANK, SEATTLE	15.0% \$1
SIMMONS FIRST NATIONAL BANK, PINE BLUFF, ARK.	13.0% \$2

\* Adjustable tied to prime rate

SOURCE: Individual banks, Wall Street Journal

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purchases, shopping around for the best rates, and fitting loans into an overall financial picture.

One of the cheapest places to borrow money is a credit union. Credit unions are now charging 15 to 16 percent, a you can sometimes get the money in less than a day.

Of course, you have to be a member of a credit union which means your employer, or some other group to which you belong, has to have a credit union or belong to overall credit union organization which includes small companies or groups.

Typically, credit unions can write unsecured loans of up to \$2,500. Some may require that you be a member for several months first. You may also be required to keep small amount of money, say \$100, in the account until the loan is paid off.

Then there is life insurance. Although sales of whole life insurance have tapered off in recent years, many people still have outstanding policies that can serve as excellent lending sources, sometimes with interest rates of just 6 to 8 percent.

Over the years, your life insurance has built up permanent cash value and a surrender value. The permanent cash value is slightly smaller, and you can borrow an or all of this money. The interest payments will be added to your premiums, and you can pay back the principal whenever you like.

Finally, Bengtson says, more people are borrowing against the value of their homes. "Lines of credit on home equity have been growing very rapidly," he observes. In many cases, he says, rates on these open-ended lines of credit are only a couple of percentage points above current first-mortgage rates.

# Playing your cards right

Where you get your charge card can make a big difference.



**L**ittle more than a year ago, a well-known American television personality traveling in Europe fell in love with two Ferraris. It was an expensive romance: The pair of cars cost more than \$100,000. But the star simply charged them to his *American Express* card.

Extraordinary charge-card purchases—like the \$5-million jet chartered by an Arab sheikh, or the \$100,000-plus hotel tab of a touring rock band in New York City—are the stuff of legend. And for good commercial reason. Legends add to the mystique wrapped around plastic money: Charge cards are fast, powerful, impulsive, sexy, chic, even dangerous—just like the people who use them, of course.

But when you strip away their gold plating and Christie Brinkley allure, major charge cards are really little more than loans. That's an important point to keep in mind, especially if you don't run up six-figure hotel bills. Though people will camp outside a bank waiting for a chance to save half a point on mortgage interest rates, some are glad—even honored—to pay a bank 18 percent, 20 percent, or 22 percent annual interest for the privilege of credit-card debt.

The truth is, charge-card issuers are not doing you a favor by giving you a card. They need you more than you need them. Charge cards are a very big, profitable business. Assuming an average 18 percent interest rate, lenders raked in something like \$12.6-billion in interest on the \$70-billion worth of outstanding consumer revolving credit in 1983.

Issuers of the five major cards—*American Express*, *Carte Blanche*, *Diners Club*, *MasterCard* and *Visa*—collected another estimated \$3.4-billion in annual fees. On top of that, merchants who accept those cards were charged 1 percent to 6 percent of the dollar value of each transaction. On the estimated \$150-billion volume of major card transactions, that amounts to perhaps another \$4-billion.

Most expenses that total \$20-billion a year—or \$235 per U.S. household—would merit some serious bargain hunting. But shopping around for the best charge card deal is not common. Why? Perhaps because of the perception that all of the major charge cards are the same.

All of the major charge cards are not the same. To prepare this report, CU sur-

veyed 133 large and medium-sized banks coast to coast. We asked bank officials about the interest rates, terms, and availability of their charge cards. The results of the survey showed clearly that there are major differences among banks, particularly in the interest rates charged on *Visa* cards and *MasterCards*. The tables that accompany this report point to some of the best—and worst—buys that we found. Here are some of the highlights:

- For *Visa*, *MasterCard* and the *American Express Gold Card*, we found annual interest rates running from a moderate 12 percent to a greedy 22 percent. On a \$700 outstanding balance (about average), selective shoppers could realistically expect to save \$46 a year in interest; on a \$1700 balance, typical for the "premium" *Visa* and *MasterCard* holders, the savings could amount to \$111 a year.



How can you take advantage of the better rates? By shopping around in what is rapidly becoming a nationwide marketplace for charge cards. While banks have always been free to issue cards out-of-state, our interviews indicate that more of them are actually doing so now, thanks to the competition for new business set on by bank deregulation.

- Almost 84 percent of the banks in our survey charged annual fees, but 21 banks—located primarily in Texas and Missouri, where such fees are outlawed—charged nothing. Fees ranged from \$15 to \$25 for standard credit cards, and from \$18 to \$55 for premium cards—a bankable difference.

- Our findings suggest that you should look skeptically at cards issued by big, aggressive banks such as Citibank, Bank of America, First Chicago, or Wells Fargo. They tend to charge relatively high rates (roughly 20 percent), while the best rates (12 percent to 17.4 percent) are generally offered by mid-sized banks.

## Plastic money

Charge cards come in three different varieties:

**Credit cards** (*Visa*, *Mastercard*) extend a specified line of "revolving credit" to you, and require you to pay interest on the outstanding balance. Revolving credit is something like a wheel that can roll, say, 10 feet, but no farther. To get the wheel rolling again, you must first push it back toward the starting point by paying off part or all of the debt balance. (When the credit wheel keeps rolling back and forth in the same place for a long time, some borrowers say it starts to look more like a treadmill.)

**Travel & entertainment cards** (*American Express*, *Diners Club*, *Carte Blanche*) require that you pay off the entire balance when your bill arrives. There is normally no interest charge, but there is an annual fee for use of the card. (Some T&E cards, however, do offer certain credit options.)

**Debit cards** (*Visa* debit, *Electron Visa*, *MasterCard* debit) are really plastic checks tied to your checking, savings, or asset-management accounts. You use these in making purchases just like a charge card, but you may spend only as much money as you have in the underlying bank account. There are no interest charges because you are not given a line of credit.

If you are a firm believer in a cash-only life style, you do not actually need any of these cards—despite the hokum about the coming cashless society. However, without one, you may have some trouble renting a car or getting personal checks accepted in some places. For convenience, payment flexibility, or use in emergencies, you may well want one or more charge cards.

But which card should you choose? This report may help you decide.

Today, with some 225 million major charge cards out there, most people who

qualify for a card probably already have one. So card issuers have started fighting with each other to get you to use their card. It's "product differentiation" time.

*Visa* and *MasterCard* have introduced "premium" cards with higher credit lines to appeal to the wealthier set. They are touting such extras as travel insurance and special hotel services. *American Express* has lately added access to 100 health spas around the world to the list of extras offered to *Gold Card* members.

Wells Fargo and Citibank offer users of their *Visa* cards and *MasterCards* "Wells Dollars" and "Citidollars." For each purchase you make with their card, you receive a certain amount of this scrip, which can be applied to reducing the cost of items appearing in Wells Dollar and Citidollar shopping catalogues. The savings, though, are sometimes more imagined than real. For example, 75 Citidollars plus \$1.45 will buy you a *Panasonic* portable stereo cassette player. But you can buy the same player at discount stores or through mail-order catalogs for \$100 or less.

Instead of these sideshows, concentrate on what's important. The single most important factor is the interest cost.

### The lowdown on rates

To realize the potential for interest savings, you must understand where *Visa* cards and *MasterCards* come from. Two organizations, *Visa International* and *MasterCard International*, provide banks with advertising and computer record-keeping services. They do not issue the cards; that is done by some 15,000 individual U.S. banks. Each bank sets its own credit terms and interest rates.

That means you have a wide variety of choices. If one bank charges too high an interest rate, you can get your credit card at a bank that offers better rates.

In our survey of 133 U.S. banks, several offered bargain interest rates. Among those banks that offer cards in all 50 states, some of the lowest rates were at Rainier National Bank in Seattle (15.5 percent), Comerica Midwest in Toledo (16.9 percent), Core States Bank of Delaware in Wilmington (16.9 percent), and National City Bank in Cleveland (17.4 percent). Phone numbers and addresses are shown on page 51.

None of those banks aggressively solicits new customers by massive direct-mail campaigns. But big banks such as Bank of America, Citibank, Chase Manhattan, and First Chicago do, which is why each has several million cardholders nationwide. People are apparently so flattered by testimonials to their credit-worthiness—or so oblivious to interest-rate differences—that they are willing to pay those banks 19.8 percent interest.

Don't wait for a bank to come to you.

Seek out one that will offer you a real deal on a credit card.

Some banks in our survey offered much better than normal rates, but do not issue cards out of state, or do so only in neighboring states. If you live in the appropriate states, shopping around can often pay off handsomely. If you live in Virginia, for example, why should you



pay 21 percent on your Bank of Virginia premium *Visa* card debt when Dominion Bank charges only 13 percent?

You may also find low-interest credit cards at a credit union. "We have no hard statistics, but in general, credit card interest rates are about 16.5 percent at credit unions," says Howard Cosgrove, a spokesman for the Credit Union National Association. "There is usually no annual fee, but there's also no grace period." (Grace periods are discussed below.)

Although T&E cards are not, strictly speaking, credit cards, each of them offers some credit options. With the *American Express Green Card* and *Carte Blanche*, travel tickets are the only thing you can buy on long-term credit. *Diners Club* allows you to apply for a Club Plus credit line that lets you put anything on credit, with a limit that can run as high as \$50,000. *American Express* offers the best rates on these credit options—18 percent vs. 19.8 percent for *Diners Club* and *Carte Blanche*.

With the *American Express Gold Card*, issued to upscale customers for a premium of \$30 over the *American Express Green Card*, you get an additional bank line of credit. The bank credit line (minimum, \$2000) is set by each of the 2100 banks issuing the cards. The bank's credit limit is separate from the limit of how much you can charge on your T&E card. Most of the banks in our survey charged 18 percent.

### A sense of balance

Another factor affecting your borrowing costs is the method of calculating the finance charge. The first item to check is

the grace period. A grace period is the period of time between the date of your credit-card purchase and the date the bank starts charging you interest on the loan. Some banks have no grace period—the interest meter starts running immediately from when you make your purchase—while others extend 30-days' grace. The difference can add up. Assuming an 18 percent interest rate, a 30-day grace period can save you \$7.50 in interest on a \$500 purchase.

The other item to check is the balance-calculation method. There are three commonly used methods. The *adjusted-balance method* subtracts the payments you made during the billing cycle. The *previous-balance method* gives you no credit for payments made during the billing cycle. Finally, the *average daily balance method* adds together your balances at the end of each day, then divides that number by the number of days in the billing period. That number is then multiplied by the monthly interest rate.

If you keep an outstanding balance on your account month after month (as about 50 percent of card users do), then it makes relatively little difference what balance method the issuer uses.

If, however, you usually pay off your balance in full and your card has no grace period, the balance method makes quite a lot of difference. Suppose you have an 18-percent card and run up about \$800 of charges on it over a six-month period. Under the adjusted-balance method or the average-daily-balance method, you'd pay somewhat more than \$14 in interest for the period. But under the previous-balance method you'd pay \$23.44—or 67 percent more.

If you pay in full each month, you may want to consider using a travel-and-entertainment card instead of a bank-issued credit card. For, strange though it seems, banks are devising new tricks to penalize people who pay their credit-card bills promptly. Centerre Bank in St. Louis, Mo., for example, will impose a finance charge of up to \$4 a month if you pay off your balance immediately. Apparently it doesn't like people trying to wriggle out of paying its hefty 22 percent annual interest rate.





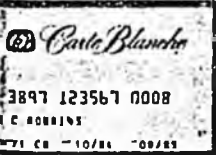
CU suggests that you turn down any charge card that requires you to pay a penalty for the sin of paying your bills promptly.

### The vanishing 'free' card

It is possible to find a credit card without an annual fee—but the odds are stacked against you. Of the 133 banks in our survey, 112 charged annual fees, ranging from \$15 to \$55. Only 21 banks charged no fees.

There is no way to escape the annual fee on *American Express*, *Diners Club*,

## How the charge cards differ

	Type of card	Annual fee	Income <sup>1</sup>	Acceptance <sup>2</sup>	Maximum credit line	Grace period (days) <sup>3</sup>	Interest rate	Cards outstanding	Teller machines <sup>4</sup>	
<b>MasterCard International</b>										
	MasterCard	Credit	\$0-25	\$5,000-18,500	4,000,000	\$30,000	0-30	12-22%	90,000,000	250
	MasterCard	Debit	None	None	4,000,000	NA	NA	NA	1,500,000	250
	MasterCard Gold	Credit	\$0-55	\$25,000-100,000	4,000,000	\$100,000	0-30	12-22%	1,000,000	250
<b>Visa International</b>										
	Classic	Credit	\$0-25	\$5,000-18,500	4,000,000	\$25,000	0-30	12-22%	100,600,000	1,000
	Classic	Debit	None	None	4,000,000	NA	NA	NA	5,000,000	1,000
	Premium	Credit	\$18-50	\$22,000-50,000	4,000,000	\$90,000	0-30	13.5-21.6%	1,700,000	1,000
	Electron	Debit	None	None	130	NA	NA	NA	700,000	1,000
<b>American Express</b>										
	Green	T&E	\$35	\$10,000-15,000	1,050,668	<sup>5</sup>	30-50	18%	16,000,000	3,445
	Gold	T&E	\$65	\$20,000	1,050,668	<sup>5</sup>	30-50	12-21%	3,000,000	3,445
	Platinum	T&E	\$250	\$10,000-20,000	1,050,668	<sup>5</sup>	30-50	18%	100,000 <sup>6</sup>	3,445
<b>Diners Club International</b>										
	Diners Club	T&E	\$45	\$18,000	650,000	\$50,000 <sup>7</sup>	30	19.8%	4,500,000 <sup>8</sup>	2000
<b>Carte Blanche</b>										
	Carte Blanche	T&E	\$40	\$18,000	600,000 <sup>9</sup>	<sup>5</sup>	30	19.8%	500,000 <sup>8</sup>	2000

NA—Not applicable; T&E—Travel and entertainment card.

<sup>1</sup> Minimum income required to get card; there may also be other requirements.

<sup>2</sup> Number of establishments accepting card worldwide.

<sup>3</sup> Days between purchase and the time interest begins to be charged.

<sup>4</sup> No. of automated teller machines taking card.

<sup>5</sup> Flexible limits; see box, page 50.

<sup>6</sup> Estimate.

and Carte Blanche. Since the companies ordinarily charge no interest, those annual fees are an important part of their economic life blood.

Among the commonly issued cards, the American Express Gold Card has the highest annual fee—\$65. (The American Express Platinum Card has a cloud-high annual fee of \$250, but only affluent people who make an average 21 trips a year and charge \$10,000-plus annually get the honor of paying that.)

If you pay off your balance in full every month to avoid interest charges and don't want a T&E card, you may be especially interested in finding a bank that charges no annual fee. Bank Card Holders of America (2025 Eye St., N.W., Suite 1022, Washington, D.C. 20006), a 100,000-member consumer organization,

provides members with educational material about credit cards, including a list of U.S. banks that charge no credit-card fees. But there's a catch. To get the current list, you must join the organization—for an annual fee of \$12. You can, however, get an old list free by sending a self-addressed, stamped envelope.

Even if you find a bank with a "free" card, the deal may not last. No-fee cards are often a marketing device used to draw new customers. For example, in 1981 the Bank of New York widely advertised its no-fee Visa and MasterCard. But in 1983, the bank stuck its customers—including those attracted by the "free" card—with a \$12 annual fee. It's since been raised to \$18.

Two states, Missouri and Texas, prohibit annual fees. But to compensate,

banks there have raised interest rates on credit cards to some of the highest levels in the U.S. We found several Missouri banks charging 22 percent.

### Take my card . . . please

The number and type of establishments accepting each card is another factor to consider. Visa and MasterCard are far and away the most universally accepted of the five major cards. Both are accepted at about 4 million locations worldwide. While each card is accepted in about 160 countries, Visa is more widely accepted than MasterCard in Canada, France, Spain, and Italy. MasterCard, on the other hand, claims an edge in Mexico, Japan, Australia, and some Northern European countries.

Real differences in acceptability can

- be felt with the T&E cards. *American Express* is accepted at more than 1 million locations in 130 countries. *Diners Club* is accepted in far fewer locations—only 650,000. *Carte Blanche* is the least accepted; while it is accepted everywhere in the U.S. that *Diners Club* is honored, overseas *Carte Blanche* is accepted only at major hotels.

Another kind of acceptability—at 24-hour automatic teller machines (ATMs)—might also be considered. *American Express* leads the pack here with a system of 3445 ATMs ready to give you cash or travelers cheq.s.

### Who needs debit cards?

Debit cards offer few advantages to the user (see CONSUMER REPORTS, September 1982). They offer no credit and thus don't boost your cash flow. They draw funds from your checking account as fast as a check (or faster), so you get no benefit from "float." And they provide no protection if you dispute a bill.

If your debit card is stolen, you are worse off than if your credit card is. With credit cards, your liability is ordinarily limited to \$50. With debit cards, that limit applies only if you report the loss



within two business days; otherwise it's \$500.

Debit cards do have at least one advantage. An out-of-state merchant might not take a personal check from you, but the *Visa* and *MasterCard* debit cards are accepted everywhere *Visa* and *MasterCard* credit cards are. Indeed, it is now impossible to tell the credit card from the debit card by appearance alone.

To protect yourself in case you lose your card, it's best to have a debit card attached to a savings account separate from your main checking and savings

accounts. That way your potential losses should be limited to the amount you leave in the account. In theory, overdrafts should bounce.

### Recommendations

Because of the annual fees on most credit cards, we suggest you hold just one—either *Visa* or *MasterCard*, since their acceptability is the same. We recommend you get your *MasterCard* or *Visa* from a bank offering a low interest rate—around 16 percent or lower. Our tables of the best and worst buys we found in our survey may help you start your comparison shopping.

We would not recommend a premium *Visa* or *MasterCard Gold*—unless the bank enticed you with a better rate than you could get elsewhere on a regular card. You can find ample credit lines on the standard cards.

You may also want to carry one travel-and-entertainment card. We would recommend the *American Express Green Card*. With its \$35 annual fee, relatively wide and growing acceptability, and custom-fit charge limits (see box, below), we think the Green card is the best choice among the major T&E cards. ■

## How exclusive is the club?

How hard is it to get a card? We found that banks differ considerably in how much income they require you to have before they will give you a *Visa* or *MasterCard*. So, if one bank rejects your credit application, don't lose heart: Another one may greet you with open arms.

The median annual family income of *American Express* cardholders is about \$30,000. But a \$15,000 annual family income (\$10,000 for students) can qualify you for the *American Express Green Card*, the basic card. For the next step up, \$20,000 is all it takes for the *American Express Gold Card*. (Other factors—credit record, employment history—are also considered.) *Diners Club* and *Carte Blanche*, two other more exclusive cards, look for a minimum income of \$18,000.

Issuers of the standard *Visa* and *MasterCard* look for anywhere from \$5000 to \$18,500 in income. To get a premium *Visa* or *MasterCard*, you need income ranging from \$22,000 to \$100,000.

### How high the limit?

As with income requirements, credit lines vary in size from bank to bank. At the high end of our survey, *MasterCard* offered a slightly fatter credit line than *Visa*: \$30,000 vs. \$25,000 on the regular card and \$100,000 rather than \$90,000

on the premium card.

The T&E card issuers claim they have no set spending limit. That might lead some people to believe they can charge anything within reason. But the key word is *no set limit*.

What is the real limit? "That's one of our most closely guarded secrets," says *American Express* senior vice president John Sutphen. CU anonymously telephoned *American Express* cardmember services in New York—the people who handle this sort of thing—and asked them. The system works like this: computers keep close track of your growing monthly balance. When you charge a purchase that doesn't fit your "normal" monthly pattern, *American Express* will want identifying information from you and will probably ask your bank for more data about your ability to pay. Keep that in mind in case you're thinking of charging a car to your *American Express* card.

### Premium cards

Premium cards, the latest innovation among bank cards, offer two main attractions: a higher credit limit and a status symbol. Those cards also offer a host of ancillary features, such as higher travel-accident insurance and special hotel services. For the most part, however, these

should be considered frills. After all, if you need insurance, you can always talk to an insurance agent.

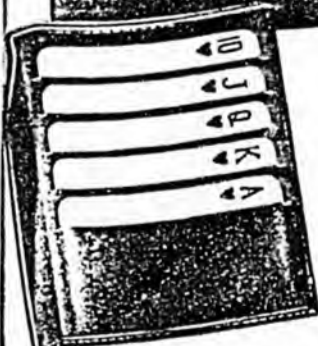
The ultimate in premium cards—for the moment, at least—is the *American Express Platinum Card*. Its \$250 annual fee dwarfs all the others. Worth it? Not at that price, in our view.

The high credit limits on premium cards sound like an attraction. But think about it: Do you really want to borrow a lot of money at charge-card rates? Borrowing \$500 at 18 percent or 20 percent is expensive enough; borrowing \$55,000 at that rate—except for short periods—would be imprudent, to say the least. For purchases that large, you can probably obtain a personal loan or an installment loan from a bank at a substantially cheaper rate.

With a premium card, you may well be able to find a lower-than-normal interest rate. Just as a creditworthy business pays less to borrow money than a shaky business does, so you—if you are a good credit risk—may qualify for a lower rate. Premium cards, we believe, make sense chiefly for those users who maintain high balances and can therefore benefit from a lower rate—which offsets the extra annual fee. Absent a break on the rate, we don't think premium cards are worth the money.

## Who has the best rates?

The seven banks below offered the best interest rates on *Visa* and *MasterCard* of the 133 banks in CU's survey. Cards available nationwide listed first; otherwise listed in order of interest rate on standard cards.



Bank	Standard card rate		Premium card rate		Cards offered				Address, phone
	Standard card rate	Standard card fee	Premium card rate	Premium card fee	Visa Classic	Visa Premium	MasterCard	MasterCard Gold	
Rainier National Bank <input type="checkbox"/>	15.5%	\$18	15.5%	\$50	✓	✓	-	-	Bank Card Services, P.O. Box C-340 18 Seattle, Wash. 98124, Attn: Credit Dept. (206-621-4111)
Comerica Midwest <input type="checkbox"/>	16.9	20	-	-	✓	-	✓	-	P.O. Box 2926, 3450 W. Central Ave. Toledo, Ohio 43606 (1-800-841-0012)
National City Bank <input type="checkbox"/>	17.4	18	17.4	35	✓	-	✓	✓	Customer Service, P.O. Box 5570-N Cleveland, Ohio 44101 (216-575-2000)
Core States Bank of Delaware <input type="checkbox"/>	18.9	18	16.9	50	✓	✓	✓	-	P.O. Box 8920 Wilmington, Del. 19899 (215-629-3100)
Central National Bank <input type="checkbox"/>	19.0	20	15.3	35	✓	-	✓	✓	800 Superior, Cleveland, Ohio 44114 (216-344-3000)
Bank of California <input type="checkbox"/> <input type="checkbox"/>	12.0	20	-	-	✓	-	✓	-	P.O. Box 45000 San Francisco, Calif. 94145 (415-765-0400)
Dominion Bank <input type="checkbox"/>	18.0	15	13.0	36	✓	✓	-	-	Bank Card Center, P.O. Box 13287 Roanoke, Va. 24041 (703-563-7000)

Available nationwide.

Not issued to out-of-state residents, or only limited issue in neighboring states.

Rate applies only in Washington State; California and Oregon rate is 21 percent.

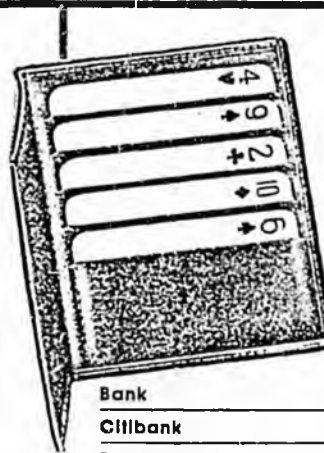


## Who has the worst rates?

The banks shown below had the highest interest rates on standard *Visa* and *MasterCard* of the 133 banks in CU's survey.

Bank	State	Interest rate	Annual fee
Missouri banks <input type="checkbox"/>	Missouri	22.0%	none
Bank One	Ohio	21.6	\$25
Huntington National Bank	Ohio	21.6	20
South Carolina National	S. Carolina	21.5	none
Frost National Bank	Texas	21.1	none

Six banks, all charging 22.0 percent: United Missouri Bank; Boatmen's Bank; Mercantile Bank; First National Bank Charter Corp; Centerre Bank; Commerce Bank.



## Biggest isn't always best

Below are the interest rates on *Visa* and *MasterCard* at the nation's 10 largest banks

Bank	Interest rate	Annual fee	
		Standard card	Premium card
Citibank	19.8%	\$20	\$40
Bank of America	19.8	18	36
Chase Manhattan	19.8	20	45
Manufacturers Hanover Trust	19.8	20	40
Chemical Bank	19.5	20	45
Continental Illinois	19.8	15	20
Security Pacific	20.4 <input type="checkbox"/>	15	45
First Chicago	19.8	12-20 <input type="checkbox"/>	NA
Wells Fargo	20.0	15	45
Mellon National	18.8	15	50

NA-Premium card not available.

Premium card rate 17.4%.

Fee varies depending on cardholder's state of residence.

**GECC ISSUES MONSANTO PRIVATE-LABEL CARD.** Following similar programs for Apple Computer, IBM, John Deere and others, General Electric Credit Corp. will pay retailers and bill customers for credit-card purchases of Monsanto's "Wear-Dated" carpets. Salespeople can approve opening credit lines of \$1,500 covering most carpet purchases if customers have lived in the same place for one year and present a valid driver's license and bank card. Carpets were the only durable goods without a widely available credit line according to Monsanto research which showed that 80% of carpet sales were paid for with cash. Steve Hajtun is Marketing Mgr. of Home Furnishings at GECC, (203) 357-4207. See issues 313, 308, 266, 245, 240, 225.

**SECRET SERVICE FRAUD JURISDICTION.** Although now authorized to investigate credit-card fraud by the Counterfeit Access Device and Computer Fraud and Abuse Act of 1984 (issue 343), the Secret Service has no jurisdiction until the Attorney General and Secretary of the Treasury decide exactly what that role will be. Discussions are underway.

**BANK CARD (Continued from page 1)...** being charged by Simmons First of Pine Bluff, Arkansas which charges five points above the discount rate. Year-end 1983 averages were \$16 for fees and 18.8% for interest. The trend in 1985 will be for interest rates to go up and annual fees to go down. No matter what the interest rate, consumers are less likely to apply for a card if they consider the annual fee too high in relation to cards they currently carry or others being offered to them. Most banks will continue charging up-front fees of \$15 to \$25 per year just to make sure "convenience" users who pay up within 30 days and make up one-third of their card base are paying their share of overhead -- and that's the way it should be. But local banks that have to compete with out-of-state bank cards will have difficulty keeping cardholders if they charge over \$15 per year for standard cards and over \$25 per year for premium cards. To compensate for lower fee income, banks should adjust their interest rates upward and those banks operating in states with low ceilings will have to think about moving elsewhere to remain competitive.

To be profitable, big banks should maintain a spread of at least 6% between what they charge cardholders and the prime rate--which is generally 200 basis points (2%) more than their direct internal cost of funds to finance receivables. Small to medium-sized banks that are generally less profitable should add another 2% on top of that. Bank-card interest at 18% to 21% makes credit-card operations at most banks a lot more profitable than automobile loans at 15% or second mortgages at 13% even though bank cards carry an entirely different set of risks and expenses in the form of credit losses, bankruptcies, reserves for fraud and counterfeiting, and administrative costs. Legislators are being egged on by consumer action groups to press for lower credit-card interest rates just because the cost of money is temporarily down, but when the current prime rate of 10-3/4% goes back up to 12-3/4% by this time next year, any rate less than 19% will be too low. Banks like Shawmut and Bank of Boston that recently lowered their rates from 18% to 17% are finding that other banks are not interested in their private price war, nor are customers flocking to them as benefactors.

BANK	
Annual Fee	Bank
\$24	Bank
\$21	South Banc Bay B Sun B Bank
\$20	Bank Harri Citiba First Chase Chem Manu First Euro First Michi State Assoc Dolla Simm
\$18	North Benefi Sunwe Bank Norwe BancC Fifth Maryl Conn Phila Seattle Rainie Wacho
\$16	Crock

The 71 banks list

**BANK OF BOSTON CREDIT CARDS HEAD OUT-OF-STATE.** Applications are in to set up limited-purpose subsidiary banks in either New Hampshire or Delaware where Bank of Boston can increase interest rates if necessary to cover costs of a planned credit-card expansion into New England and the Southeast. New Hampshire is the preferred location for card operations targeted to start out-of-state by year-end. Bank of Boston has issued 180,000 Visa cards, 395,000 MasterCard, plus 17,000 "Preferred" MasterCard gold credit cards. John Parker is VP, (617) 434-4352.

**AFI ACQUIRES ATM TECH'S GAS TERMINAL.** Manufacturer of "ATM 500" card-activated fuel control system described in issue 322 is being purchased by Addressograph Farrington Inc. and will operate as a separate division in Beaverton, Oregon where ATM Technologies started in mid-1982. Their "ATM 300" ticket/voucher terminal is also card-activated and can be interfaced with AFI/Datatrol's RS 7100 retail-management system as well as other POS terminals. Robert Axline is VP Corporate Development at AFI, (617) 963-8500. Sam Bosch is President at ATM Technologies, (503) 643-4000. See issue 322 on ATM 500 and issue 340 on AFI.

**FEES AND INTEREST RATES**

**Regular Cards Only - Ranked by Highest Fees**

	State	Interest	Regular Cards
England	Mass.	18.0%	85,000
	Fla.	18.0%	923,000
	Fla.	18.0%	746,000
	Mass.	18.0%	470,000
	Fla.	18.0%	465,000
	Mass.	18.0%	456,000
	Ohio	21.6%	1,560,000
	Ill.	21.0%	734,000
	N. Y.	19.8%	6,164,000
go	Ill.	19.8%	3,850,000
lan	N. Y.	19.8%	3,702,000
k	N. Y.	19.8%	3,698,000
s Hanover	N. Y.	19.8%	2,781,000
querque	N. Mex.	19.8%	194,000
erican	N. Y.	19.7%	347,000
Wilmington	Del.	18.7%	35,000
onal	Mich.	18.0%	1,389,000
ank	Mass.	18.0%	718,000
tional	Calif.	18.0%	670,000
k Savings	N. Y.	18.8%	88,000
t	Ark.	13.5%	79,000
a National	N. C.	24.0%	847,000
tional	Del.	24.0%	847,000
	N. Mex.	19.9%	194,000
ica	Calif.	19.8%	7,761,000
	Iowa	19.8%	631,000
	Ohio	19.8%	439,000
ank	Ohio	19.8%	309,000
onal	Md.	18.8%	654,000
E T	Conn.	18.0%	578,000
tional	Penn.	17.0%	753,000
	Wash.	15.0%	1,167,000
al	Wash.	15.0%	503,000
k	N. C.	(1)	297,000
al	Calif.	21.0%	1,127,000

Annual Fee	Bank	State	Interest	Regular Cards	
\$15	Valley National	Ariz.	21.0%	561,000	
	Oregon Bank	Ore.	21.0%	55,000	
	United Bank of Arizona	Ariz.	21.0%	41,000	
	Security Pacific	Calif.	20.4%	1,830,000	
	Home Savings of America	Calif.	20.4%	72,000	
	Wells Fargo	Calif.	20.0%	1,655,000	
	Marine Midland	N. Y.	19.8%	2,292,000	
	Indiana National	Ind.	19.8%	905,000	
	California First	Calif.	19.8%	294,000	
	New Jersey National	N. J.	19.8%	180,000	
	Great Western S & L	Calif.	19.8%	53,000	
	Lincoln First	N. Y.	19.5%	595,000	
	Home Federal S & L	Calif.	19.5%	69,000	
	U. S. National of Oregon	Ore.	19.3%	315,000	
	First Interstate	Calif.	18.0%	2,584,000	
	Bank of Virginia	Va.	18.0%	970,000	
	First Wisconsin	Wis.	18.0%	751,000	
United Virginia Bank	Va.	18.0%	550,000		
Mellon Bank	Penn.	18.0%	513,000		
\$14	Shawmut	Mass.	17.0%	234,000	
	Colorado National	Colo.	21.0%	1,821,000	
	United Bank of Denver	Colo.	21.0%	499,000	
	Central Trust	Ohio	21.0%	225,000	
	First American	Tenn.	21.0%	162,000	
	Bank of New York	N. Y.	18.0%	826,000	
	Citizens & Southern	Ga.	18.0%	497,000	
	Trust Co. of Georgia	Ga.	18.0%	195,000	
	FREE	Mercantile Bank	Mo.	21.1%	768,000
		Republic Bank Dallas	Tex.	21.1%	750,000
First of Atlanta		Ga.	21.0%	778,000	
Avco National		Calif.	19.8%	483,000	
Valley National		N. J.	18.0%	69,000	
Imperial S & L		Calif.	17.0%	91,000	
Bank of the Southwest		Tex.	16.5%	1,448,000	
First City National		Tex.	16.5%	1,328,000	
First of Omaha		Neb.	(2)	844,000	

(1) Rate 5% over prime rate to banks.

(2) Depends on Wall Street Journal quotation.

These represent 54% of the 129.7 million U. S. bank cards in circulation at the close of 1984.



# Monday marketplace

Minneapolis Star and Tribune

Monday  
January 28/1985

1M

DEPT. 765 W  
FEB 25 1985

*Handwritten notes:*  
New Car  
to stock  
proposal  
rule  
Harrison  
Jordan  
McLennan



**Dick  
Youngblood**

## Credit sales are a cost for retailers

I've been a union man most of my working life, but damn it, there are times when I think that no one can ignore economic reality with more contrary, wrongheaded predictability than a labor leader bent on saving us all from corporate greed.

One of those times came a few days ago when Minnesota's major retailers asked the Legislature to raise the interest-rate ceiling on consumer credit from 16 percent, lowest in the nation, to 18 percent a year.

Far from trying to swell their profits on charge accounts, the retailers said, what they'd sort of like to do is cut down a mite on the millions of dollars in losses they post on consumer credit each year.

Their blandishments didn't faze Bernard Brommer, secretary-treasurer of the powerful Minnesota AFL-CIO, whose knees began to jerk almost immediately: "We've opposed (a higher rate ceiling) historically," he grumped. "Increasing interest rates for consumers and working people ... I just don't think it's very wise."

The way he sees it, apparently, retailers can afford to absorb those credit losses a whole lot easier than us working stiffs. Unfortunately, this is yet another example of Big Labor's enduring effort to rewrite the economics textbooks, which assure us that there is no such thing as a free lunch.

There sure isn't: My exhaustive investigation uncovered no retailing executives who are taking pay cuts to offset their employers' losses on consumer credit. Ditto for shareholder dividends.

Instead, the credit losses are being translated into higher retail prices paid by the very working people the AFL-CIO aims to protect, including the 20 to 30 percent of us who rarely or never use credit cards.

Actually, Brommer isn't the only one jerking his knees. Our resident populist, who manages at times to overcome his rather extensive economics training, began muttering about the avarice of retailers who try to raise interest rates even as a declining prime rate cuts their cost of money.

"What about the poor guy who has to buy on credit?" he demanded.

Let's go through this economics lesson just once more: Just as Social Security isn't designed to lift the elderly out of poverty and commodity programs cannot save the small farmer, retailers shouldn't be expected to solve the problem of the low-income consumer. These are issues best addressed by sharply focused programs that eliminate as many middlemen as possible.

My colleague had a point about timing, however — interest rates have fallen a couple of points in the past year. I sought an explanation from Dayton Hudson Corp., a solid corporate citizen with a reputation for sensitivity to the needs of the consumer. (It has a no-questions-asked policy on merchandise returns, and its Target chain spends \$750,000 a year testing toys and other products for safety.)

What I got from James Dirlam, vice president of credit sales at Dayton's, were some impressive numbers: In Minnesota during 1983, the combined credit operation of Dayton's and Target spent \$8.3 million for operating expenses (payroll, postage, supplies), \$2.7 for bad debts and \$17 million for interest on the cash used to finance accounts receivable.

Customer finance charges raised just \$18.4 million, however, leaving their Minnesota credit operations \$9.6 million in the red!

Even if the interest ceiling had been 18 percent instead of 16, Dirlam said, the increased revenue from finance charges would have trimmed the loss only to \$7.3 million.

Moreover, the 1983 loss was calculated on the basis of a 12 percent interest rate on the cash used in credit operations, he said. Even if the rate had been 10 percent, one-half point below the current prime rate, the loss still would have been about \$4.5 million.

That strikes me as quite a lot to ask a retailer to pay for the privilege of granting us credit.

RETAIL REVOLVING CREDIT  
FINANCE CHARGE CEILINGS

Current Ceilings In States Which Removed Break Points Between  
1980 and 1985

<u>State</u>	<u>Current Ceiling</u>
Arizona	Deregulated
Delaware	Deregulated
District of Columbia	24%
Iowa	19.8%
Kansas	21%
Maryland	24%
Massachusetts	18%
Mississippi	21%
Missouri	18%
New Jersey	Deregulated
New Mexico	Deregulated
New York	Deregulated
Puerto Rico	20.4%
South Carolina	Deregulated
Texas	Variable between 18% and 21%
Vermont	21%
Wisconsin	18%; to be deregulated in 1985

RETAIL REVOLVING CREDIT  
FINANCE CHARGE CEILINGS

States Imposing A Lower Rate Above A Break Point Prior to 1980

<u>State</u>	<u>Rates and Break Point</u>
Alaska	18% to \$1,000; 12% above
Arizona	18% to \$1,000; 12% above
California	18% to \$1,000; 12% above
Delaware	18% to \$1,000; 12% above
District of Columbia	18% to \$500; 12% above
Iowa	18% to \$500; 15% above
Kansas	21% to \$300; 18% over \$300 to \$1,000; 14.4% above \$1,000
Maryland	18% to \$700; 12% above
Massachusetts	18% to \$500; 12% above
Mississippi	18% to \$800; 15% over \$800 to \$1,200; 12% above \$1,200
Missouri	18% to \$500; 9% over \$500
Nebraska	18% to \$500; 12% above
New Jersey	18% to \$700; 12% above
New Mexico	18% to \$500; 16% above
New York	18% to \$500; 12% above
Puerto Rico	18% to \$250; 12% above
South Carolina	18% to \$1,000; 12% above
Texas	18% to \$500; 12% above
Vermont	18% to \$500; 12% above

RETAIL REVOLVING CREDIT  
FINANCE CHARGE CEILINGS

States Imposing A Lower Rate Above A Break Point As of January 1, 1985

<u>State</u>	<u>Rates and Break Point</u>
Alaska	18% to \$1,000; 5% plus Federal Discount Rate (now 8.5%) above \$1,000
California	19.2% to \$3,000; 12% above
Nebraska	21% to \$500; 12% above
West Virginia	18% to \$750; 12% above

April 2, 1985

Mr. M. Mike Miller  
Chairman, House Judiciary Committee  
Pouch V  
Juneau, Ak. 99811

Re: HB 217

Dear Mr. Miller

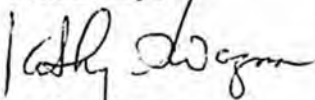
I support and encourage passage of HB 217. The rates of interest paid by banks on deposits and the rates charged on loans were both previously regulated by legislation. Federal deregulation has removed ceilings from interest rates to the benefit of the consumer by allowing banks to pay higher rates of interest on smaller deposits. I feel that the same deregulation should be allowed to banks on loan rates.

The banks' working capital comes from the difference between their cost of funds (interest on deposits) and their income (loan interest rates). A reasonable spread must be maintained between the two to allow banks the income needed to continue operation. Without the passage of this bill, maximum allowable rates would be too low. This could result in several possible problems for the consumer:

1. Banks would need to tighten credit standards to avoid losses or discontinue loans to consumers because they are not profitable. Consumers would be forced to other markets that already charge a higher rate,
2. Credit card facilities could be moved out of state where more competitive rates are allowed. This would result in loss of jobs to Alaskans.

I feel that we should allow the free market system to work in the banking industry as well as other industries. Loan rates would not necessarily rise to the new limits. Banks must be competitive or lose customers. I believe that the consumer will shop for the best loan rates just as he does for the best interest rates.

Sincerely,



Kathy Swagman  
503 Targhee Ln  
Eagle River, Ak. 99577.

cc: Randy Phillips  
Eagle River

1513 Crescent Avenue  
Anchorage, Alaska 99508

April 2, 1985

Representative M. Mike Miller  
Chairman, Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

Re: HB-217

Dear Representative Miller:

I am a 58 year resident of the State of Alaska having been born and raised in Anchorage.

I urge passage of HB-217 so that we may have a safe, sound and viable financial community. And also have reasonable equality between the various financial institutions doing business in Alaska. By keeping the interest rate unreasonably low on credit cards it forecloses the opportunity for marginal credit risks to receive credit cards issued by Alaskan banks. There are other financial institutions headquartered outside of Alaska that offer credit at a rate that is either higher or equal to the rate proposed in this bill. The effect of unrealistically low credit card interest rates is to force these marginal credit risks to financial institutions doing business outside the state of Alaska, therefore, reducing the number of jobs in Alaskan banks' credit card departments.

It is also unfair to allow different types of financial institutions to charge different rates of interest on similar loans. Credit Unions and banks doing business outside of the State of Alaska, as well as small loan companies in Alaska, can charge higher rates of interest than a commercial bank. Under the "Most Favored Lender" doctrine, national banks are permitted to charge the same rate on a loan as any other lender in the state. Some national banks currently operate under this doctrine. It has not been clearly established that a state bank can operate under the "Most Favored Lender" doctrine. As the situation now exists national banks can charge a higher rate of interest than state banks. HB-217 would correct this inequity.

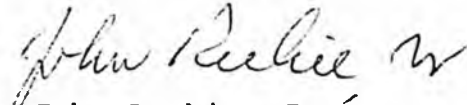
There has been some question raised by certain consumer groups that to lift the interest rate on small loans would cause financial institutions to charge the maximum rate permissible. This is not true because national banks now operating under the "Most Favored Lender" doctrine have been able to charge much higher rates than they are currently charging. Competition will prevent financial institutions from charging unreasonably high rates.

Representative M. Mike Miller  
Page 2  
April 2, 1985

Government regulatory agencies have stopped regulating interest paid to depositors and this allows competition to set that rate. On the other side of the equation there is no logical reason to have legislation that controls the interest rate that a borrower pays. Artificially low interest rates on loans deprives marginal credit risks from receiving loans from Alaskan financial institutions.

Please share my comments with other members of your committee.

Very truly yours,

  
John Reekie, Jr.

CC:  
Representatives:  
Don Clocksin  
Jim Duncan  
Max F. Gruenberg, Jr.  
Fritz Pettyjohn  
Randy Phillips  
John L. Sund  
Robin L. Taylor



National Federation  
of Independent Business

The Guardian of Small Business

TO: NFIB/ALASKA MEMBERS

March 1985

FROM: GARY L. JENKINS, DIRECTOR OF GOVERNMENTAL RELATIONS

SUBJECT: SPECIAL BALLOT

The issues on this ballot are ones which the legislature is considering during this session. It is very important that you complete this ballot as soon as possible and immediately mail it to NFIB/Alaska, P. O. Box 210194, Auke Bay, Alaska 99821.

### 1. INTEREST RATES

Should interest rate ceilings be raised on: (Vote on each one)

- a. Bank loans of \$25,000 or less  
11% Yes      88% No      1% Undecided
- b. Retail charge accounts  
19% Yes      78% No      3% Undecided
- c. Credit card revolving accounts  
17% Yes      81% No      2% Undecided

BACKGROUND: Legislation (HB 217) is currently pending in the House Judiciary Committee which proposes to raise the limits on the interest rates which may be charged for certain types of credit. The legislation would permit any business or credit card company to charge up to 18% on the unpaid balance of any business charge account or credit card account. Further, it would permit any financial institution except a state chartered credit union to charge up to 24% for any loans made of \$25,000 or less.

Current law limits business charge accounts and credit card companies to a maximum rate of 18% on the first \$1,000.00 due and 5 percentage points over the federal discount rate on the balance over \$1,000.00. At the present time, the federal discount rate is 8%, so the current maximum rate on balances over \$1,000.00 is 13%.

Financial institutions are presently limited to the federal discount rate plus 5 percentage points on loans of \$25,000.00 or less. At the present time, the federal discount rate is 8%, so the current maximum rate is 13%. However, it should be noted that some financial institutions are currently charging interest at rates higher than 13%. They are doing this based on a 1981 Attorney General opinion which states that under Federal regulations banks are permitted to follow what is commonly known as the "most favored lender doctrine". This doctrine purportedly provides that financial institutions may charge the highest rate permitted under state

law on loans of the same amount. In the case of Alaska, the Alaska Small Loan Act permits small loan companies to charge up to 3% per month or 36% per year on loans up to \$850.00; up to 2% per month or 24% per year on loans over \$850.00 but not more than \$10,000.00; and at any rate mutually agreeable to the parties for loans over \$10,000.00 but not more than \$25,000.00.

Proponents for raising the rate limitations argue that many businesses and credit card companies are losing money on their credit transactions because of the current limitations. They argue that permitting a maximum rate of 18% on the unpaid balance without a limitation as to the account balance, will allow them to then make a reasonable return on their credit transactions. Those supporting increasing the rate limitation for financial institutions to 24% argue that since many banks are charging rates higher than 13% at the present time, to prevent any confusion regarding what is the proper maximum rate, the proposed limitation should be adopted. They further argue that no financial institution will immediately raise their rates up to 24%. Rather competition in the marketplace will be the controlling factor as to what rates will be charged for the various types of loans.

Opponents argue that Alaska does not have a well developed marketplace and there are many communities where no competition exists for either banking or retail credit. Raising the present limits to the proposed levels would permit charging unreasonably high rates. Further, many studies from other states have shown that, for loans of less than \$25,000.00, when a state does not have an interest rate limit or has a very high interest rate limit, the marketplace tends to react very slowly when interest rates are falling in general. For example, during the first few months of 1983 in California, where there are no interest rate limitations, rates being charged on small loans by banks were running from 20% to 25%, while rates in Alaska were averaging about 14%.

## 2. AUTOMOBILE RECORD KEEPING REQUIREMENTS

Should the Alaska Legislature urge Congress to repeal the automobile record keeping requirements which were adopted as part of the 1984 Tax Reform Act?

96% Yes      3% No      1% Undecided

BACKGROUND: Legislation (SJR 19) is currently pending in the Senate Finance Committee and would urge Congress to repeal the new record keeping requirements and the related limitations on deducting automobile expenses. The resolution urges a return to the previous law which was effective up to December 31, 1984.

Proponents of this resolution argue that the new record keeping requirements are far too burdensome and time consuming for businesses, especially in light of the limited additional revenues which the requirements will generate for the U. S. Treasury. Further, they argue that the limitations on deducting automotive equipments expenses will discourage businesses from investing in additional equipment.

Opponents argue that deductions taken for automobile use for business purposes has been severely abused in the past and the new law is the only effective way to bring this problem under control.

# Alaska State Legislature



## House of Representatives House Judiciary Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990

Contents - HB 217  
April 9, 1985

CSHB 217

HB 217

Fiscal note - Commerce & Economic Development

House Special Committee on State Loans committee report  
dated 3/14/85

3/10/85 letter to Representative Sund from AKPIRG

3/13/85 letter to Representative Sund from AKPIRG

2/14/85 Memo from Theresa Bannister to Representative Duncan  
Sectional Analysis

1/2/81 AG opinion re deregulation and monetary act of 1980

AS 06.20 - Alaska Small Loans Act

AS 06.40 - Premium Financing Act

AS 06.45 - Alaska Credit Union Act

AS 36.90 - Miscellaneous Provisions

AS 45.10 - Alaska Retail Installment Sales Act

AS 45.45. - Trade Practices

"Retail Banking in New York State: Customer Beware" article  
dated 5/83 A report by State Senator Franz Leichter

"Deregulation of Consumer Lending in New York: The Rates  
Went Up But Never Came Back Down" a report by State Senator  
Franz Leichter dated 3/23/83

Anchorage Daily News 4/3/85 article: "As with Credit, It  
Pays to Shop for Credit Cards"

"Playing Your Cards Right" article in Consumer Reports 1/85

"Credit Sales Are a Cost for Retailers" 1/28/85 article in  
Minneapolis Star and Tribune

# Alaska State Legislature



## House of Representatives House Judiciary Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990

HB 217 Contents cont.

### Letters:

Alaska Credit Union League  
Kathy Swagman  
Johna Turcic  
Kathleen Knowles Scott  
Jim Payne  
Debbie Kara  
Micheal  
Patricia Benz  
Grace Young  
Sandi Stillman  
James O'Connell  
Nancy Ashwill  
Frank Dahllee  
Brent Ulmer  
Kate Mills  
JoAnn Shore  
Benjamin Barrera  
John Reekie, Jr.

COMMITTEE REPORT  
HOUSE

7/15

(5)

FURTHER: JUDICIARY

2/20/85

Date: 3/14/85

Mr. Speaker:

The Committee on HOUSE SPECIAL COMMITTEE ON STATE LOANS has had HB 217

"An Act relating to interest rates; and providing for an effective date."

under consideration and reports it back as follows:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 217 (Loans)  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS:

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

COTTEN [Signature]

SUND [Signature]

FULLER [Signature]

USHLING [Signature]

[Signature]

CHAIRMAN



# ALASKA CREDIT UNION LEAGUE

2509 EIDE STREET, SUITE 4  
ANCHORAGE, ALASKA. 99503  
(907) 278-4949

19 March 1985

*SHARON STUKROCK  
576-3592*

Honorable Mike Miller  
Behrends Building, Room 220  
Pouch V  
Juneau, Alaska 99811

Dear Representative Miller:

We are writing on behalf of both the federal and state chartered credit unions in Alaska. Section 3 of H.B. 217 revises AS 06.45.060(5)(A)(xi). This amendment would have the effect of putting a 15% limit on loans charged by state credit unions.

We believe this would harm our two state chartered institutions as well as make credit less available to their members. Such a change would put state credit unions at a disadvantage with banks and savings and loans as well as federally chartered credit unions.

Members of state chartered credit unions deserve competitive rates on their deposits. It is not possible to pay market rates on deposits if there is an artificial ceiling on loan rates.

We believe Section 3 discriminates against state chartered credit unions. To insure the viability of the state chartering system for credit unions and to allow state chartered credit unions to be competitive with other financial institutions, we request that Section 3 of H.B.217 be deleted.

Sincerely,

David L. Chatfield  
Governmental Affairs Committee Chairman

cc: Representatives Sund, Gruenberg  
Taylor, Clocksin, Pettyjohn and Phillips



April 2, 1985

APR 6 1985

Representative M. Mike Miller  
Chairman, Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

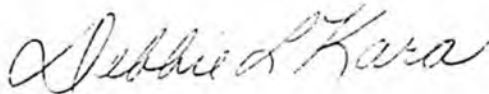
Dear Representative Miller:

Re: HB-217 An Act Relating to Interest

I support the passage of HB-217.

I feel consumers should be able to shop for  
low cost loans the same way they shop for  
high paying deposits.

Very truly yours,



Debbie Kara  
9599 Brayton Drive #494  
Anchorage, Alaska 99507

CC:

Representatives:  
Don Clocksin  
Jim Duncan  
Max F. Gruenberg, Jr.  
Fritz Pettyjohn  
Randy Phillips  
John L. Sund  
Robin L. Taylor

4/2/85  
2830 Concord Ln  
Anchorage AK 99502

APR 8 1985

Rep. Mike Miller  
Alaska Legislature  
Pouch V  
Juneau AK 99811

Re HB 217 - An act relating to interest.

Dear Representative Miller:

I am writing in support of the above referenced bill. Since bank deregulation I have enjoyed the benefits of higher interest rates on my deposits in banks and other financial institutions. I feel strongly that one cannot deregulate one side of a bank's operation, deposits, and not the other; the states current regulation of maximum interest rates on loans likely impair their ability to pay me the highest rate possible on my deposits.

I am in support of HB 217 and would appreciate your vote in favor of this law.

Respectfully

Michael P in / owner

UCC # 05479373

- c/c Rep Alyce A Hanley
- Rep Don Pearce
- Rep John L Lund
- Rep Max Greenberg
- Rep Robin Taylor

- Rep Don Clokin
- Rep Fring Aittajohn
- Rep Sandy Phillips
- Sen Mitch Abund

2608 Kona Lane  
Anchorage, Alaska 99503

APR 6 1985

April 2, 1985

The Honorable Mike Miller  
Chairperson, Judiciary Committee  
State of Alaska, House of Representatives  
Pouch V  
Juneau, AK 99811

Re: House Bill 217

Dear Mr. Miller:

I am writing to urge your support for House Bill 217 relating to interest rates.

As a stockholder in the National Bank of Alaska, I am concerned that the value of my investment is clouded by a State law which hampers the bank's ability to make a reasonable return on small loans.

As a consumer I would hate to see the banks quit making small loans. My understanding from sources in the financial community is that it is quite possible that small loans will become scarce as profits are squeezed.

It is in the best interest of all of us for the price of money to be set by the marketplace.

I again urge your support for House Bill 217.

Sincerely,

Patricia Jelley Benz

sc

cc: The Honorable John L. Sund  
The Honorable Max Gruenberg, Jr.  
The Honorable Robin Taylor  
The Honorable Don Clocksin  
The Honorable Fritz Pettyjohn  
The Honorable Randy Phillips

April 2, 1985

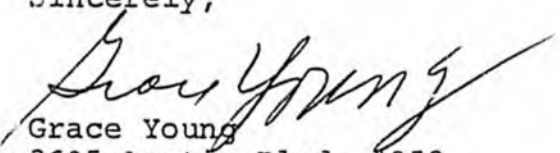
Representative M. Mike Miller  
Chairman, Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

Dear Representative Miller:

I support and encourage passage of HB 217.

Consumers should be encouraged to shop for  
low cost loans the same way they shop for high  
paying deposits.

Sincerely,



Grace Young  
3605 Arctic Blvd. #953  
Anchorage, Alaska 99503

CC:  
John L. Sund , Vice Chairman  
Max F. Gruenberg, Jr.  
Robin L. Taylor  
Don Clocksin  
Fritz Pettyjohn  
Randy Phillips

April 4, 1985

APR 5 1985  
8 1985

Representative M. Mike Miller  
Chairman of House Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

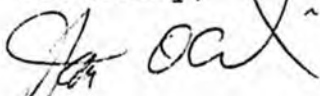
Re: HB-217

Dear Representative Miller:

Rates of interest on the deposit taking side of banks, savings and loans, credit unions, etc. are deregulated. Rates on the loan side of these institutions are regulated under Alaska law. Several states where the cost of doing business is considerably less than Alaska, are allowed to charge much higher rates than Alaska usury rates currently allow. I see evidence of that through credit card offerings out of places such as South Dakota and California. Rates of interest offered are in the 19% area.

I support HB-217.

Sincerely,



James O'Connell  
2203 Vanderbilt Cr.  
Anchorage, AK. 99508

CC:  
H. A. Boucher  
Virginia M. Collins  
Don Clocksin  
Jim Duncan  
Max F. Gruenberg, Jr.  
Fritz Pettyjohn  
Randy Phillips  
John L. Sund  
Robin L. Taylor

APR 8 1985

April 3, 1985

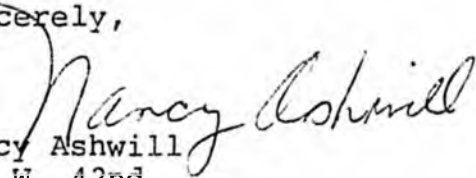
M. Mike Miller  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Miller:

I would like to express my firm support of HB 217.

It is not right to regulate the interest rates the financial institutions can charge and not the rates they pay. The market will establish the rates charged and, by the nature of competition, they will fall in line with the rates paid. Thank you.

Sincerely,

  
Nancy Ashwill  
603 W. 42nd  
Anchorage, Alaska 99503

cc: Don Clocksin  
Max Gruenberg  
Fritz Pettyjohn  
Randy Phillips

APR 8 1985

The Honorable M. Mike Miller  
Pouch V  
Juneau, Alaska 99811

April 3, 1985

House Bill 217

My dear Mr. Miller:

I support passage of HB 217.

The rate of interest the banking industry pays on deposits is going through deregulation. The allowable price charged in putting those funds to use through lending must also be deregulated!

Sincerely yours,

David R. Dohle  
David R. Dohle  
2321 Belmont Drive  
Anchorage, Alaska 99503  
276-7358

April 3, 1985

Representative Mike Miller  
Chairman, Judiciary Committee  
House of Representatives  
Pouch V  
Juneau, Alaska 99811

APR 8 1985

Re: HB-217

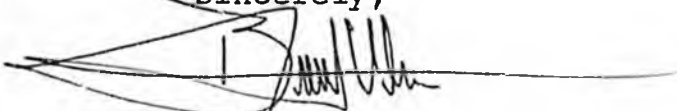
Dear Representative Miller:

I understand that the above referenced bill, which deals with the modification of Alaska's usury law, is currently before your committee. The current law places restrictions on the rate of interest that can legally be charged by our State's financial institutions, which makes the present law somewhat unique. I'm not aware of any other laws that restrict the price a business might charge for its products.

The trend in recent years has been towards de-regulation of nearly all industries. Recent de-regulation in the transportation industry is a good example. I am a firm advocate of the free market system that lets supply and demand establish prices. I would urge you and your committee to approve HB-217, which would allow the financial community the same freedom to set price as is now enjoyed by the rest of the business community.

Thank you for your support.

Sincerely,



Brent Ulmer  
3649 Mary Ann Ct.  
Anchorage, Alaska 99502

CC:  
Representatives:  
Don Clocksin  
Jim Duncan  
Max F. Gruenberg, Jr.  
Fritz Pettyjohn  
Randy Phillips  
John L. Sund  
Robin L. Taylor

APR 8 1985

April 3, 1985

Representative Alyce A. Hanley  
Pouch V  
Juneau, Alaska 99811

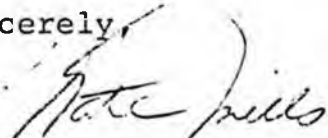
Dear Representative Hanley:

It was a pleasure to meet you during my recent visit to Juneau.

I am writing to you to request your support of HB 217. Banking is a business like any other. The product is money. Limiting the price at which banks can sell their product could create an unprofitable banking environment. As in any business, the market place should establish the selling price, in this instance the interest rates.

I strongly encourage passage of this bill and appreciate your support. Thank you.

Sincerely,



Kate Mills  
3400 W. 86th #21  
Anchorage, Alaska 99502

cc: Representative M. Mike Miller ✓  
Representative Marco Pignalberi  
Representative Randy Phillips  
Representative Drue Pearce

APR 8 1985

April 3, 1985

Representative M. Mike Miller  
Pouch V  
Juneau, Alaska 99811

Dear Representative Miller:

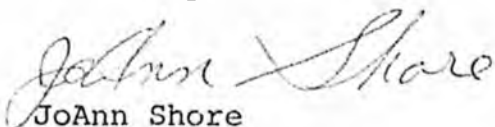
I am writing to express my support of HB 217, an act relating to interest rates.

Now that the banking industry has some experience regarding the effects of deregulation on cost of funds, we have seen how the economic law of supply and demand keeps rates at a reasonable, competitive level. The consumer is becoming smarter and is shopping for the best rate for his money.

If the banking industry is not given the opportunity to respond to market needs regarding interest rates on loans, the consumer will be forced to seek other markets.

Please work to encourage passage of HB 217.

Sincerely,



JoAnn Shore  
4860 Mills Drive  
Anchorage, AK 99508

cc: Representative John L. Sund  
Representative Randy Phillips  
Representative Fritz Pettyjohn  
Representative Don Clocksin  
Representative Robin L. Taylor  
Representative Max F. Gruenberg, Jr.  
Senator Arliss Sturgulewski

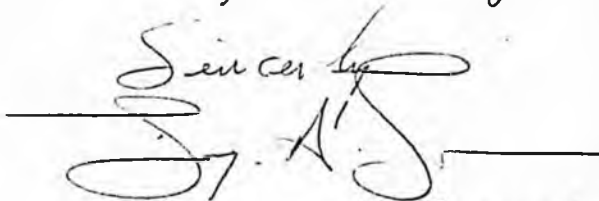
Rep. Mr. Miller

11/1/75

A quick note to voice my support for  
H.B. 217. A bill relating to interest.

My reasons are many, the strongest of which is  
my belief in the free market system — and the ability  
individuals have in determining their needs and willingness  
to pay for those needs. I have passed on paying \$2.29 lb  
for tomatoes often, but I can also remember the time  
I paid that amount because they were essential to  
the meal. The same logic — basic as it may be — I feel  
applies to all functions of the economy. The fact remains  
that if the tomatoes are not purchased at \$2.29 lb during  
their ripe period, the price will drop as they get older  
and spoil. Also remember that there is more than one  
source of tomatoes in most areas — or substitutes.

Thank you for your time. I again ask that  
you vote for passage of H.B. 217.

Sincerely,  


BENJAMIN A. BARRERA  
200 W. 34<sup>th</sup> Ave #399

April 2, 1985

APR 9 1985

Representative M. Mike Miller  
Chairman, Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

Dear Representative Miller:

I had the opportunity to listen to Dick Hall's presentation on HB 217 to a group in Anchorage.

Frankly, I can see no reason why the legislature is taking the position of limiting the selling price of a product.

I support the passage of HB-217.

Very truly yours,

*Linda Hehnlín*

Linda Hehnlín  
SR 3 Box 5193  
Chugiak, Alaska 99567

APRIL 2, 1985

DEAR REPRESENTATIVES:

I SUPPORT AND ENCOURAGE THE PASSAGE OF HOUSE BILL 217!

AS YOU KNOW THE BANK INDUSTRY IS GOING THROUGH A DEREGULATION ON ITS COST OF FUNDS. WHILE THIS PERIOD IS, AND MUST BE, A REAL CHALLENGE TO ALL BANKS, I THINK THE ALASKAN BANKS HAVE DONE AN EXCELLENT JOB IN PROVIDING SERVICES. I AS A DEPOSITOR AND LOAN CUSTOMER DEMAND MORE FOR MY DEPOSITS IN THE FORM OF THE HIGHEST POSSIBLE RATES. EQUALLY, I THINK MY BANK AND ALL BANKS SHOULD BE ABLE TO EARN A FAIR PROFIT.

I THINK THE STATE LEGISLATURE SHOULD STOP TRYING TO DEREGULATE THE PRICE OF THE BANKS PRODUCT IN A DEREGULATED ENVIRONMENT. LET OUR FREE MARKET SYSTEM WORK! CUSTOMERS WILL SHOP FOR THE LOWEST COST LOANS IN THE SAME WAY THEY SHOP FOR THE HIGHEST RATES ON DEPOSITS. I THINK THE TOUGH COMPETITIVE MARKET IS ALL THE PROTECTION, IF YOU WILL, MYSELF AND OTHER CUSTOMERS NEED. AFTER ALL WE DON'T HAVE TO BORROW FROM THE BANK, OR ANY LENDER, WHO CHARGES THE HIGHEST.

HIGHER LOAN RATES DON'T FRIGHTEN ME, BUT A POSSIBLE PROBLEM IN GETTING A LOAN WHEN I WANT AND NEED THE FUNDS DOES! IN MY OPINION, THE RATES BEING PROPOSED AS A MAX, 24%, IS NOT TOO HIGH. AS THE PAPERS HAVE STATED, APPROX. SEVEN STATE BANKS COULD CHANGE HIGHER NOW, BUT WANT, WHY - COMPETITION!

PLEASE PASS HB 217.

CC: MR. MIKE WELER

JOHN L. SUND

GAUENBERG, TAYLOR, CLOCKSIN, PETERSON, PHILLIPS

Jordynne  
1027 BEACH COURT  
ANCHORAGE, AK 99504

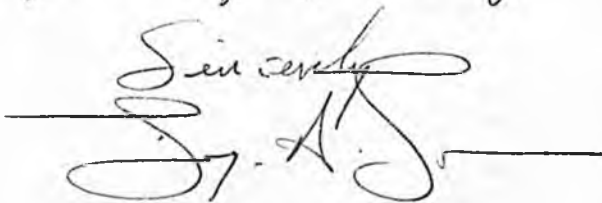
Rep. Mike Miller.

11/95

A quick note to voice my support for  
H.B. 217. A bill relating to interest.

My reasons are many, the strongest of which is  
my belief in the free market system — and the ability  
individuals have in determining their needs and willingness  
to pay for those needs. I have passed on paying \$2.29 lb  
for tomatoes often, but I can also remember the time  
I paid that amount because they were essential to  
the meal. The same logic — basic as it may be — I feel  
applies to all functions of the economy. The fact remains  
that if the tomatoes are not purchased at \$2.29 lb during  
their ripe period, the price will drop as they get older  
and spoil. Also remember that there is more than one  
source of tomatoes in most areas — or substitutes.

Thank you for your time. I again ask that  
you vote for passage of HB 217.

Sincerely,  


BENJAMIN A. BARREIRA  
200 W. 34<sup>th</sup> Ave #399  
Auch. 99503

April 2, 1985

Mr. M. Mike Miller  
Chairman, House Judiciary Committee  
Pouch V  
Juneau, Ak. 99811

Re: HB 217

Dear Mr. Miller

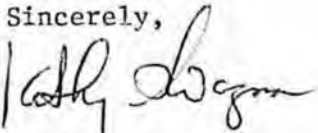
I support and encourage passage of HB 217. The rates of interest paid by banks on deposits and the rates charged on loans were both previously regulated by legislation. Federal deregulation has removed ceilings from interest rates to the benefit of the consumer by allowing banks to pay higher rates of interest on smaller deposits. I feel that the same deregulation should be allowed to banks on loan rates.

The banks' working capital comes from the difference between their cost of funds (interest on deposits) and their income (loan interest rates). A reasonable spread must be maintained between the two to allow banks the income needed to continue operation. Without the passage of this bill, maximum allowable rates would be too low. This could result in several possible problems for the consumer:

1. Banks would need to tighten credit standards to avoid losses or discontinue loans to consumers because they are not profitable. Consumers would be forced to other markets that already charge a higher rate,
2. Credit card facilities could be moved out of state where more competitive rates are allowed. This would result in loss of jobs to Alaskans.

I feel that we should allow the free market system to work in the banking industry as well as other industries. Loan rates would not necessarily rise to the new limits. Banks must be competitive or lose customers. I believe that the consumer will shop for the best loan rates just as he does for the best interest rates.

Sincerely,

  
Kathy Swagman  
503 Targhee Ln  
Eagle River, Ak. 99577

cc: Randy Phillips  
Eagle River

Mr Mike Miller  
Pouch V  
Juneau, Alaska 99811

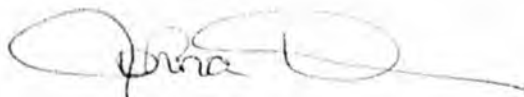
Dear Mr Miller;

I support HB 217. Financial institutions should be allowed to set lending rates which are competitive within the market area. If this bill is defeated, many financial institutions within the state will close their doors in favor of more favorable states. I have personally worked for a bank who moved their credit card department to Yankton, So. Dakota. This resulted in a loss of over 60 jobs and much revenue for the state.

The government should no longer regulate the banking industry. Competition and the consumer will set the rates.

Thank you for your consideration,

Sincerely



John Turcic

CC: John L. Sund  
Max F. Gruenburg Sr.  
Robin L. Taylor  
Don Clocksin  
Fritz Pettyjohn  
Alyce A. Hanley

Address:  
130 Meadow Creek  
Eagle River, Alaska 99577

Kathleen Knowles Scott  
P.O. Box 4-211  
Anchorage, Alaska 99502

April 2, 1985

The Honorable Mike M. Miller  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

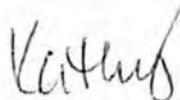
Dear Representative Miller:

I would like to express my opinion regarding HB 217 which is before the Judiciary Committee.

I know that this is not a popular bill to vote for, however, I think, as legislators, you must do what is best for everyone. If you restrict the interest rate you will restrict the supply of money. The marketplace should be establishing the rate.

Thank you for your consideration of this matter.

Very truly yours,



Kathleen Knowles Scott

1513 Crescent Avenue  
Anchorage, Alaska 99508

April 2, 1985

Representative M. Mike Miller  
Chairman, Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

Re: HB-217

Dear Representative Miller:

I am a 58 year resident of the State of Alaska having been born and raised in Anchorage.

I urge passage of HB-217 so that we may have a safe, sound and viable financial community. And also have reasonable equality between the various financial institutions doing business in Alaska. By keeping the interest rate unreasonably low on credit cards it forecloses the opportunity for marginal credit risks to receive credit cards issued by Alaskan banks. There are other financial institutions headquartered outside of Alaska that offer credit at a rate that is either higher or equal to the rate proposed in this bill. The effect of unrealistically low credit card interest rates is to force these marginal credit risks to financial institutions doing business outside the state of Alaska, therefore, reducing the number of jobs in Alaskan banks' credit card departments.

It is also unfair to allow different types of financial institutions to charge different rates of interest on similar loans. Credit Unions and banks doing business outside of the State of Alaska, as well as small loan companies in Alaska, can charge higher rates of interest than a commercial bank. Under the "Most Favored Lender" doctrine, national banks are permitted to charge the same rate on a loan as any other lender in the state. Some national banks currently operate under this doctrine. It has not been clearly established that a state bank can operate under the "Most Favored Lender" doctrine. As the situation now exists national banks can charge a higher rate of interest than state banks. HB-217 would correct this inequity.

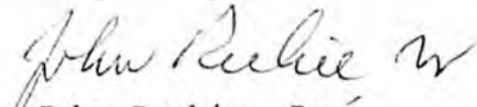
There has been some question raised by certain consumer groups that to lift the interest rate on small loans would cause financial institutions to charge the maximum rate permissible. This is not true because national banks now operating under the "Most Favored Lender" doctrine have been able to charge much higher rates than they are currently charging. Competition will prevent financial institutions from charging unreasonably high rates.

Representative M. Mike Miller  
Page 2  
April 2, 1985

Government regulatory agencies have stopped regulating interest paid to depositors and this allows competition to set that rate. On the other side of the equation there is no logical reason to have legislation that controls the interest rate that a borrower pays. Artificially low interest rates on loans deprives marginal credit risks from receiving loans from Alaskan financial institutions.

Please share my comments with other members of your committee.

Very truly yours,

  
John Reekie, Jr.

CC:  
Representatives:  
Don Clocksin  
Jim Duncan  
Max F. Gruenberg, Jr.  
Fritz Pettyjohn  
Randy Phillips  
John L. Sund  
Robin L. Taylor

TO REP. M.M. MILLER AND DUNCAN

FROM ANDY ANDERSON  
BOX 1347  
JUNEAU 99802

3

789-9021

RE: HB 217 RETAIL INTEREST

I SUPPORT THIS BILL

EQM

\*\*\*\*\*

.....  
TO REP. DUNCAN AND M.M. MILLER 3

FROM JUDITH JOHNSTON-LENTZ  
P.O. BOX 101 DOUGLAS 99824  
789-1727

RE: 217 RELATING TO RETAIL INTEREST

PLEASE SUPPORT THIS BILL

EOM

.....

\* \* \* \* \*  
\*  
\* DELIVER TO: JFOM \*  
\* \* \* \* \*  
\* ORIGINAL \*  
\* SENT: 04/08/85 TIME: 16:38 \*  
\* FROM: DAN HARMOND \*  
\* SUBJECT: JFOM \*  
\* PRINT DATE: 04/08/85 TIME: 16:38 \*  
\* \* \* \* \*

TO SENATOR RAY, REP. M.M. MILLER, AND REP. DUNCAN

FROM LAURA BARTON  
8247 ASPEN AVE.  
JUNEAU 99801  
PH. 789-7508

RE: HB 217 INTERESTRATES

I URGE YOU TO SUPPORT PASSAGE OF THIS BILL

EOM

\*\*\*\*\*

Offered: 3/15/85  
Referred: Judiciary

Original sponsors: Duncan, Pearce,  
Ringstad and Boucher

1 IN THE HOUSE

BY THE HOUSE SPECIAL  
COMMITTEE ON STATE LOANS

2

CS FOR HOUSE BILL NO. 217 (Loans)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to interest rates; and providing for  
7 an effective date."

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

9 \* Section 1. AS 06.20.320(a) is amended to read:

10 (a) A licensee or lender who, in the making or collection of a  
11 loan contract, does any act that [WHICH] violates AS 06.20.230 -  
12 06.20.260 or 06.20.280 - 06.20.310 shall at the option of the commis-  
13 sioner reimburse the portion of the interest and charges in excess of  
14 that provided in those sections, or, in the case of repeated viola-  
15 tions of those sections by the licensee, the commissioner may, upon a  
16 hearing, require the licensee to adjust the loan contract interest or  
17 other charges down to 10.5 percent a year [THE CONTRACT INTEREST  
18 LIMITATION SPECIFIED IN AS 45.45.010(a)].

19 \* Sec. 2. AS 06.40.160(a) is amended to read:

20 (a) A lender who, in the making of any contract, loan or premium  
21 finance agreement or the collection of interest or charges, does any  
22 act that [WHICH] violates AS 06.40.010, 06.40.020, 06.40.090, or  
23 06.40.110 - 06.40.130 shall at the option of the commissioner reim-  
24 burse that portion of the interest and charges in excess of that  
25 provided in those sections, or, in the case of repeated violations of  
26 those sections by the lender, the lender shall adjust the contract,  
27 loan, or premium finance agreement interest and other charges down to  
28 10.5 percent a year [THE CONTRACT INTEREST LIMITATION SPECIFIED IN  
29 AS 45.45.010(a)].

wild card  
AS 06.01.020

1 \* Sec. 3. AS 06.45.060(5)(A)(vi) is amended to read:  
2 (vi) the rate of interest may not exceed [THE  
3 GREATER OF] 15 percent a year [OR THE RATE SPECIFIED BY  
4 AS 45.45.010(b)];



5 \* Sec. 4. AS 45.10.120(c) is repealed and reenacted to read:  
6 (c) A seller or holder of a retail charge agreement, revolving  
7 charge agreement or other retail charge agreement may charge, receive  
8 and collect a service charge at a rate of 1.5 percent a month computed  
9 on the outstanding balance from month to month. If the service charge  
10 so computed is less than \$1 for any month, then the service charge is  
11 \$1. The service charge may be computed on a schedule of fixed amounts  
12 if as so computed it is applied to all amounts of outstanding balances  
13 equal to the fixed amount minus a differential of not more than \$5  
14 provided that it is also applied to all amounts of outstanding bal-  
15 ances equal to the fixed amount plus at least the same differential.

16 \* Sec. 5. AS 45.45.010(b) is repealed and reenacted to read:  
17 (b) Parties to a contract or loan commitment may charge by  
18 express agreement a rate of interest that does not exceed 24 percent a  
19 year. A contract or loan commitment in which the principal amount  
20 exceeds \$25,000 is exempt from the limitation of this subsection.

applies  
to all  
businesses

21 \* Sec. 6. AS 44.33.020(11) is repealed.  
22 \* Sec. 7. This Act takes effect July 1, 1985.

06.20.230(b) -  
same as  
deregulation

delete

- senior citizens  
- bounced checks