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SENATE COMMITTEE REPORT

FURTHER

2/28/89  
Mr. President:

DATE TURNED INTO OFFICE 3/2/89

FINANCE

Committee considered SB 174

letters of credit issued by banks

and recommended

- replace with \_\_\_\_\_ CS \_\_\_\_\_ )  same title
- or adopt \_\_\_\_\_ CS \_\_\_\_\_ )  new title
- attached amendment(s) and \_\_\_\_\_ )  technical title change (HB only)
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

- FISCAL NOTE(S)**  zero  fiscal impact  appropriation no FN
- new  updated  previous
- same as previous fiscal note(s) published \_\_\_\_\_

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*Frank C. Murphy*

*John D. Walker*

*Frank*

*George*

*Paul Frank*

*Fichter*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Chairman signature and recommendation

Committee Backup attached

*John P. Daley* Co-CHAIR

Do PASS

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: SB 174  
PUBLISH DATE: 2/28/89

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Relating to letters of credit  
issued by banks  
Sponsor: Sturoulewski and Pearce  
Requester: Senate Labor & Commerce

Agency Affected: Commerce & Econ. Dev.  
BRU: Banking, Securities  
and Corporations  
Components: Banking

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	- FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Willis F. Kirkpatrick, Director  
Division: Banking, Securities and Corporations

Phone: 465-2521  
Date: 2-22-89

Approved by Commissioner: Larry Merculief  
Agency: Department of Commerce & Economic Development

Phone: \_\_\_\_\_  
Date: 2/24/89

Distribution (by preparer):

Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

page \_\_\_\_\_ of \_\_\_\_\_

3388D-2/022289a

1 IN THE SENATE

BY STURGULEWSKI AND PEARCE

2

SENATE BILL NO. 174

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to letters of credit issued by  
7 banks."

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

9 \* Section 1. AS 06.05.275(a) is amended to read:

10 (a) A bank may issue and confirm letters of credit authorizing  
11 the principal or beneficiary to draw upon the institution or its  
12 correspondents. [A LETTER OF CREDIT SHALL EXPIRE BY ITS TERMS WITHIN  
13 ONE YEAR OF DATE OF ISSUANCE, BUT MAY BE RENEWED ON WRITTEN REQUEST OF  
14 THE PRINCIPAL.]

# Alaska State Legislature



SENATOR  
ARLISS STURGULEWSKI  
Senate President Pro Tempore  
Chairman, Senate Rules Committee

2957 SHELDON JACKSON STREET  
ANCHORAGE, ALASKA 99508

While in Juneau  
P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-3818

## Senate

M E M O R A N D U M

March 2, 1989

TO: Senator Rick Uehling, Co-Chairman  
Senate Finance Committee

FROM: Senator Arliss Sturgulewski, <sup>AS</sup> Chairman  
Senate Rules Committee

RE: SB 174 "An Act relating to letters of credit issued by  
banks."

Senate Bill 174 was heard in the Senate Labor and Commerce Committee and passed with no changes. I have enclosed background material for this bill and hope you can give it an early hearing.

Thank you.

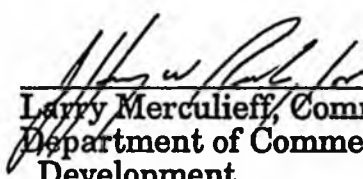
Attachments

SB 174: "An Act relating to letters of credit issued by banks."

The department urges passage of SB 174 as it will provide parity between state and nationally chartered banks in providing letters of credits. Banks operating with national charters have no time restrictions concerning letters of credit. SB 174 deletes the time restrictions from Alaska law.

Banks and their customers have been at a disadvantage when their business sometimes requires letters of credit for greater periods than one year. This may be a common requirement in governmental construction contracts and export transactions with long contract periods.

This type of bank function is considered lending and is regulated and examined for sound lending practices. Letters of credit do convey elements of risk but are generally provided to a bank's customers with long-term satisfactory credit history.

  
\_\_\_\_\_  
Larry Mercurieff, Commissioner  
Department of Commerce and Economic  
Development

Date: 2/24/89

LM/WFK/dgl3399D  
022389a

**Key Bank of Alaska**

A KeyCorp Bank



Post Office Box 100420  
Anchorage, Alaska 99510-0420  
(907) 582-8100

March 8, 1989

Senator Rick Uehling, Co-Chairman  
Senate Finance Committee  
Alaska State Legislature  
Box V  
Juneau, Alaska 99811

RE: Senate Bill #174 - Letters of Credit

Dear Mr. Uehling:

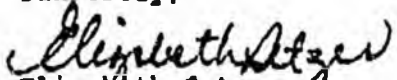
I am writing to express Key Bank of Alaska's support of SB 174 which proposes to amend Alaska Statute 06.05.275. The proposed amendment will be of great benefit to the bank because it eliminates the one year maturity requirement on letters of credit, a limitation which does not constrain our nationally chartered competitors.

In the past, Alaska Pacific Bank's ("APB") affiliate, 1st National Bank of Fairbanks issued letters of credit with a duration beyond one year on behalf of APB. With the merger of these two banks and the subsequent retention of a state charter, suddenly this issue became a problem for the bank, now known as Key Bank of Alaska.

Many situations arise wherein our customers require letters of credit extending beyond one year. Beneficiaries typically requiring terms beyond one year include government agencies, (ie. Corps of Engineers), municipalities, the Alaska Court System, bonding, surety and insurance companies, large oil companies (ie. Texaco, Exxon), and other banks or long term lenders. For example, the Municipality of Anchorage requires a performance bond or standby letter of credit guaranteeing the work of a contractor (our customer) for as much as a year after construction work has been completed. Generally, the letter of credit is less expensive than the performance bond. Often, the letter of credit language is presented to us on an "all or nothing" basis, with no negotiation with the beneficiary possible. Sureties and municipalities are the most inflexible with regard to this. Thus, without the ability to issue a letter of credit with a maturity extending beyond one year we are unable to meet our customers' needs, clearly placing us at a competitive disadvantage.

We are pleased to learn of a Senate hearing on this matter and would be more than happy to provide you with any further information or clarification on this issue if necessary.

Sincerely,

  
Elizabeth Setzer  
Assistant Vice President

**Key Bank of Alaska**  
A KeyCorp Bank



Post Office Box 100420  
Anchorage, Alaska 99510-0420  
(907) 562-6100

February 23, 1989

Mr. Frank Homan  
Professional Assistant  
Office of  
Senator Arliss Sturgelewski  
P.O. Box V  
Juneau, Alaska 99811

Re: SB 174 - Letters of Credit

Dear Mr. Homan:

This letter will describe briefly letters of credit and explain why we support SB 174 which amends Alaska Statute 06.05.275(a) to remove its durational limit on letters of credit issued by state banks.

A letter of credit is the undertaking by a bank to pay the person to whom the letter of credit is issued (the beneficiary) upon presentation of a draft or other documentary demand specified in the credit. The bank's customer (the account party) requests issuance of the letter of credit and specifies the terms of the credit, based on the beneficiary's requirements. If the letter of credit is drawn upon, the account party (the bank's customer) has an unqualified obligation to pay the bank.

Letters of credit fall into two general categories. Commercial letters of credit are the type which are frequently used in foreign trade. There, the bank agrees to pay upon receipt of a draft and accompanying documents which often represent title to goods in shipment. The bank compares the documents with the requirements of the letter of credit and, if they are in conformity, pays the draft. A standby letter of credit is usually issued so that the beneficiary has a source of payment if the account party defaults on some obligation to the beneficiary. It acts as security for some performance by the account party. Once again, the bank does not make any decision about the facts of the transaction, but simply pays if it receives a draft and documents (frequently a certification by the beneficiary) as required by the terms of the letter of credit. In either type, the dollar amount of the credit is limited.

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letters.cre

Involved Innovative Professional.

*SPONSOR'S BACKGROUND MATERIALS*

There exists a competitive inequality between national and state banks in durational limitations on standby and commercial letters of credit detrimental to state-chartered banks.

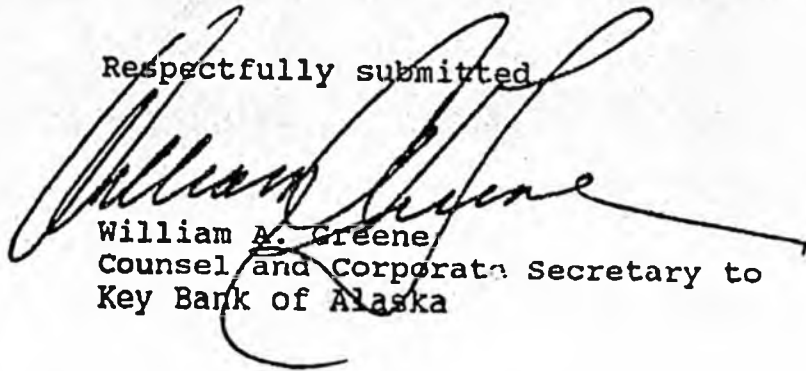
There is no durational limitation on letters of credit which national banks may issue, but AS 06.05.275(a) limits state-chartered banks' letters of credit to a duration of one year. It is interesting to note that the original legislative purpose in adopting this statute was "to improve the competitive balance between state and national banks." 1970 House Journal 1085.

It has been demonstrated that durational limits thwart competitive equality between state and national banks in the marketing and providing of letters of credit according to customer requirements. This is particularly true where the beneficiaries are government agencies, municipalities, the Alaska Court System, bonding, surety, and insurance companies. They are beneficiaries of letters of credit for a variety of reasons such as to secure completion of utility infrastructure construction on subdivisions, appeal bonds, and as security for cash flow requirements for debt service of term loans to operating businesses or income property construction projects. Those beneficiaries in particular have no reason to negotiate with state banks for letters of credit as they may simply go to national banks without having to address the issue of durational limitations. Further, most such beneficiaries are totally inflexible in their requirements and will not even consider durational requirements. They simply avoid the issue by obtaining their letters of credit elsewhere. As to commercial letters of credit, there are situations in which the one-year limitation would exclude their use in connection with manufactured goods and equipment and in connection with some export situation. Accordingly, state banks cannot always service their good customers as can national banks.

Letters of credit are extensions of credit not basically different than any loan or a loan commitment and are analyzed and underwritten like a loan or loan commitment. Most are secured. If not secured they are supported by adequate financial standing of the account party on whose behalf they are issued in the same manner as an unsecured loan. Adequate internal lending and underwriting policies and procedures, competent bank management, internal financial review and reporting requirements and procedures, and bank examinations by regulators are, like loans, the means of controlling and maintaining sound banking practices in issuing letters of credit. Durational limitations, however, are irrelevant to preventing unsound banking practices or to ensuring sound banking practices at the most critical times - when the letters of credit are issued and during the permitted period. They only shut the door after the horse is out at the expense of preventing state-chartered banks from competing equally with national banks.

Accordingly, it is recommended and urged that SB 174 be adopted to delete the second sentence of AS 06.05.275(a) as unnecessary and anticompetitive.

Respectfully submitted

A large, stylized handwritten signature in black ink, which appears to read "William A. Greene". The signature is written over the typed name and title.

William A. Greene  
Counsel and Corporate Secretary to  
Key Bank of Alaska

WAG/ag

## INTRODUCTION OF BILLS (Senate)

### SB 173 (cont'd)

been recalled cannot be appointed to fill a vacant seat in the office from which the person was recalled.

The bill takes effect 90 days after it is signed by the Governor.

Introduced February 14, 1989 and referred to Community & Regional Affairs; State Affairs; Finance.

### Letters of Credit

SENATE BILL NO. 174, by Senators Sturgulewski and Pearce. Amends AS 06.05.275(a) (Alaska Banking Code. Miscellaneous and incidental banking practices) to read: "(a) A bank may issue and confirm letters of credit authorizing the principal or beneficiary to draw upon the institution or its correspondents." The section currently reads: "(a) A bank may issue and confirm letters of credit authorizing the principal or beneficiary to draw upon the institution or its correspondents. A letter of credit shall expire by its terms within one year of date of issuance, but may be renewed on written request of the principal."

The bill takes effect 90 days after it is signed by the Governor.

Introduced February 14, 1989 and referred to Labor & Commerce; Finance.

### Consumption of Alcohol During Pregnancy

SENATE BILL NO. 175, by Senators Binkley, Adams, Zharoff, Pourchot, Frank and Pearce. Will require the holder of a license or permit that allows a person to sell or serve alcohol to post signs warning patrons that ". . . Drinking alcoholic beverages such as beer, wine, wine coolers, and other distilled spirits during pregnancy can cause birth defects." The signs will have to be displayed ". . . in a manner that will make them conspicuous to a person purchasing or consuming alcoholic beverages on the designated premises. . ." The Alcoholic Beverage Control Board (ABC Board) will have to determine how many signs have to be displayed, and whether they are sufficiently conspicuous after they are posted.

The ABC Board will furnish signs, and peace officers and ABC Board employees can issue citations for violations of this law. A person who is found guilty of a violation can be punished by a fine of not less than \$20 and not more than \$300. Each day a violation continues after a citation has been issued, constitutes a separate violation.

The bill takes effect 90 days after it is signed by the Governor.

Introduced February 15, 1989 and referred to Health, Education & Social Services; Finance.

# Alaska Business News Summaries

Edited by Shehla A. Bradner

## KeyBank Purchases Failed Alaska Statebank Assets

Key Bank of Alaska, the state's fourth largest bank, bought Alaska Statebank after its closure by state banking regulators. Statebank had \$8.8 million in negative worth, mostly due to problem loans. The bank's \$100 million in deposits and some loans were transferred to Key Bank, which will operate six Statebank branches. The transaction also includes a cash payment to KeyBank from the Federal Deposit Insurance Corporation. Key Bank Alaska assets will grow by \$100 million to \$700 million. Some 15,000 Statebank's depositors are protected by FDIC, including those with deposits above the federally insured limit of \$100,000. KeyBank will also purchase about \$67 million of Statebank's assets including \$2.6 million in small loans, not including problem loans. *Statebank President H. Derrell Smith said the bank tried to raise sufficient capital, but FDIC chose the more expensive alternative of liquidation. Smiths thinks the bank needed about \$25 million to clear up problem loans, and that FDIC will pay \$35 million or more to liquidate. FDIC has indicated it would advance Key Bank \$30 million as part of the deal.*

### KEYBANK MAY BEGIN INTERNATIONAL OPERATIONS FROM ALASKA

KeyCorp, parent of KeyBank Alaska, is examining use of its Alaska operation as a center for international banking in the Pacific Northwest. Ivan Jacques, vice president of International Banking at Key Bank of Puget Sound is impressed with the state's trade opportunity in fishing and timber. Jacques, met recently with Key Bank of Alaska officials and will submit recommendations this summer to the bank's corporate headquarters in Albany, N.Y. KeyCorp, with assets of \$15 billion, operates banks in Alaska, Oregon, Washington and Idaho. KeyCorp expanded into western states because of the potential for a big future in the Pacific Rim countries. The Alaska banks already provide some international services, including letters of credit for companies doing business overseas. Besides fish and timber, oil, minerals and tourism are also good Alaska contenders for international markets, say local Key Bank officials.

### U.S. POSTAL SERVICE REVENUES INCREASE IN 1988:

The U.S. Postal Service has escaped the economic downturn plaguing most of Alaska, showing increases in almost every revenue-producing service in 1988. Revenue from postage and fees was up 8 percent, from \$66,250,000 in 1987 to \$71,642,394. Express Mail rose 5 percent from \$4,227,734 in 1987 to \$4,459,219 in 1988. Volume was up for the oft-used first-class letter; the Anchorage Division processed 1 percent more first class mail in 1988. Most mail comes to Alaska by ship or plane and it cost the Postal Service \$70,825,969 in 1988 to move that mail within the state, including a \$5 million retroactive rate payment. The cost of shipping mail throughout the state is expected to rise by about \$4 million in 1989. The post office also disbursed \$84,367,477 in salaries to its 2,100 employees in Alaska.

### ALASKA RAILROAD POSTS \$5.8 MILLION PROFIT:

A 14 percent increase in freight revenues and a marked decline in expenses helped the Alaska Railroad show a profit of \$5.8 million in 1988. About 10 percent of the profits, or \$620,000, was distributed as bonuses to employees. The bonuses, said railroad officials, were justified because the employees had taken pay cuts of 10 percent for seven months of 1987 and deserved to share in 1988's prosperity. The profits will help the corporation reduce borrowing and finance major improvements of road beds and tracks. Railroad officials expect 1989 results to be as good as 1988. The corporation has cut \$10 million from its annual budget since its transfer to the state in 1985.

### TEXAS GROUP WILL BUY LUXURY THEATRES:

Act 3, a San Antonio, Texas group, will purchase Luxury Theatres, Alaska's largest chain of movie houses. Ticket prices will remain the same. But the new owners will spiff up some of the Anchorage theaters, bring first run movies quicker and perhaps even show controversial movies, such as the "Last Temptation of Christ," banned by the former owner. Act 3 is in the process of acquiring 87 movie houses nationwide.

# Alaska journal of Commerce

Volume 13, Number 3, 24 Pages 1/16/87

## KeyCorp picks Alaska for first

By IMRE NEMETH

**J**ust as Alaska became its first entry on the West Coast, Key Corp has chosen the state to launch its foray into the realm of international banking.

The Albany, N.Y. based bank plans to use its Alaska locations to spearhead a plan officials hope will unlock commercial trade opportunities and profitable business ties with financially active Pacific Rim markets.

Ivan Jock, vice president of international banking at Key Bank of Puget Sound, says the Alaska is a natural site to begin the effort. With its location and current ties in the fishing and timber industries, the state is considered by bank leaders to have enormous potential, he adds.

"Certainly they've come to realize that Alaska's ties with the Pacific Rim are so large and important," Jock said from his Seattle office last week. "They are looking now at how best to approach the market and support it.

"It didn't take too much to see the potential in Alaska with the Pacific Rim."

Since the purchase of the Alaska contingent (formerly known as Alaska Pacific Bank), KeyCorp has moved into five other states in the Pacific Northwest, including Washington, Oregon and Idaho.

Jock said Alaska's importance is quite well known. To support the

See INTERNATIONAL, Page 2

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# Industrial St

# • International banking

Continued from Page 1

export market, which is the bank's first interest in this matter, Key Bank of Alaska plans to help facilitate the movement of goods through financing promising projects.

This doesn't mean, however, that the bank will be moving into territory already populated by the larger international financiers. Far from it. Bank officials will probably start a lot smaller and cultivate the market over time. The competitive factor will come from other banks moving into the Alaska territory.

"They would do well to come there and invest," Jock admitted.

Jock labeled immediate opportunities in the timber and fisheries sectors. He pointed to upcoming breaks due to the full utilization of the state's 200-mile territorial waters and further development in the surimi industry.

But all the focus can't remain concentrated on the United States or domestic markets. Jock says the long-term outlook must include analysis of the overseas markets and what products will sell there.

To do that U.S. vendors must provide the quality, he says.

"Success is on secondary processing," said the vice president. "There

must be movement beyond just the supplying of fresh fish and that's preparing it for the consumer."

He calls the Japanese market, for instance, quite demanding. The market has rigid standards for quality.

Eventually, KeyCorp plans to expand the international banking segment into more of its locations.

"I think (the bank's international effort) is going to all locations but there's no question in my mind that Alaska presents the biggest opportunity and biggest challenge," he said. "I think the numbers will bear out this optimism of mine."

Jock recently traveled to the state to oversee the establishing of the new international division. He said what he saw just reinforced his impressions of impending success. One reason he cited for this opinion was the low dollar and the perception in Japan and other Pacific Rim countries that American products are low cost.

Prior to its acquisition by KeyCorp, Jock's particular bank had all the international banking facilities in place. With the lines already established, Jock feels his branch will be able to easily guide the Alaska banks into operation and do it quickly.

"The key is now be able to go ahead and provide the service," he said.

As evidence, Wescott says he has been approached by one Japanese com-

issued an opinion saying such farmi

Sec, I'M NO, Page 3

## MEET ALASKA '89

6th annual opportunities conference for Alaska's business executives, featuring key speakers from the energy community and government.

# NEW STRATEGIES

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Registration 9:00 am-10:00 am

Program 10:00 am-5:00 pm

Gourmet Luncheon

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