

**HB**

**319**

**HFIN**

**FILE**

(11)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: February 2, 1996

FURTHER REFERRALS:

Date of Committee Action: 2/22/96

The FINANCE Committee considered:

HB 319

HOUSE BILL NO. 319

SMALL LOANS & RETAIL INSTALLMENT SALES

"An Act relating to the regulation of small loan and retail installment transactions."

recommends it be replaced with the following committee substitute CS HB 319 (Fin)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) DLED  zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Bob Kelly</i>	Kelly	<input checked="" type="checkbox"/>			
<i>Paul Therriault</i>	Therriault	<input checked="" type="checkbox"/>			
<i>Mark Hanley</i>	Hanley	<input checked="" type="checkbox"/>			
<i>Leon Mulder</i>	Mulder	<input checked="" type="checkbox"/>			
<i>Sean Parnell</i>	Parnell	<input checked="" type="checkbox"/>			
<i>Vic Kohring</i>	Kohring	<input checked="" type="checkbox"/>			
<i>Jay Brown</i>	Brown	<input checked="" type="checkbox"/>			
<i>Spike Navarre</i>	Navarre			<input checked="" type="checkbox"/>	

CO CHAIR'S SIGNATURE *Mark Hanley*  
Hanley

# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO. CSH 319 (FIN)**

Revision Date: February 22, 1996  
 Title: Regulation of Small Loan and Retail Installment Transactions  
 Sponsor: House Labor and Commerce  
 Requestor: \_\_\_\_\_

Department: Commerce and Economic Development  
 BRU: Banking, Securities and Corporations  
 Component: Banking, Securities and Corporations

COMPONENT SERIAL NO. 1233

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES</b>	0.0	0.0	0.0	0.0	0.0	0.0

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

Sec. 1 - provides for a \$600 increase in revenue incurred by the applicant for the investigation of their application. While the past two years have indicated an expansion of this industry in Alaska, there is no evidence at this time that this expansion will continue.

Sec. 2 - provides for multiple offices on a single license. The increase for the multiple office license will be offset to some degree by the loss of revenue for currently individually licensed offices. Over a period of time, it will be anticipated that the GF will be positively impacted by these changes, but we are unable to forecast at this time. Therefore, the department reports a 0 fiscal note.

*Willis F. Kirkpatrick*

Prepared by: Willis F. Kirkpatrick, Director  
 Division: Banking, Securities and Corporations  
 Approved by Commissioner: William L. Hensley  
 Agency: Commerce and Economic Development

Phone: 465-2521  
 Date: 2-22-96  
 Date: 2-22-96

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# FISCAL NOTE

No. 5

Bill Version: SSHB 75

(H) Publish Date: 1/30/96

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: An act related to vehicle theft... BRU: All  
 Sponsor: Rep. Sanders Component: \_\_\_\_\_  
 Requester: House State Affairs COMPONENT SERIAL NO. # 0694

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	271.5	275.6	279.7	283.9	288.2	292.5
TRAVEL						
CONTRACTUAL	727.0	727.0	727.0	727.0	727.0	727.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	308.2	308.2	308.2	308.2	308.2	308.2
<b>TOTAL OPERATING</b>	<b>1,306.7</b>	<b>1,310.8</b>	<b>1,314.9</b>	<b>1,319.1</b>	<b>1,323.4</b>	<b>1,327.7</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1,306.7	1,310.8	1,314.9	1,319.1	1,323.4	1,327.7
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>1,306.7</b>	<b>1,310.8</b>	<b>1,314.9</b>	<b>1,319.1</b>	<b>1,323.4</b>	<b>1,327.7</b>

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME	5					
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

Based on data supplied by DPS and DOL, the Department of Corrections projects the following fiscal impact :

Thirty-two (32) offenders with a prior felony conviction will be convicted of vehicle theft in the first degree. They will be subject to a presumptive sentence of two years in prison. They will serve 16 months allowing for good time reduction. These people are currently serving an average of 30 days. Thus, they will serve an additional 15 months in prison and 8 months on mandatory parole. Of the additional prison time, it is

CONTINUED ON PAGE 2

Prepared by: Jerry Shriner Phone: 465-4652  
 Division: Office of the Commissioner Date: 1/27/96  
 Approved by Commissioner: Margaret Pugh Date: 1/29/96  
 Agency: Department of Corrections

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**Fiscal Note**

**"An Act relating to Vehicle Theft"**

Page 2 of 2

*(Continued from page 1 of 2)*

assumed they will average 3 months in prison and 12 months in a CRC.

32 Offenders X 90 days X \$107 per day	= \$ 308,160
32 Offenders X 365 days X \$57 per day	= \$ 665,760
32 Offenders X 240 days X \$4.25 per day	= \$ 32,940
<b>TOTAL NEW</b>	<b>= \$1,006,560</b>

Forty-three (43) new "C" Felons will be convicted and sentenced to an average of 30 days in CRC's and 6 months probation. These first time offenders would have been serving an average of 5 days which would have been served in a CRC under the old statute. An average net of 25 additional days will be served per offender and the sentence will be served in a CRC at an average cost of \$ 57.00 per day.

New (43 Offenders X 180 Days X \$ 4.25 per day)	=	\$ 32,895
New (43 Offenders X 25 Days X \$ 57.00 per day)	=	<u>\$ 61,275</u>
<b>TOTAL NEW</b>	=	<b>\$ 94,170</b>

Eighty-five (85) additional "C" felons will be convicted and receive a suspended imposition of sentence for one year. Their conviction will be set aside if these offenders successfully complete their year's probation. The Department assumes that these will be the least serious first time offenders, to be managed at a lower level of probation supervision, and the cost per case will be about 1/2 the average cost of other probationers in this group of offenders.

New (85 Offenders X 365 days X \$ 4.25 per day) = \$ 131,856 [Probation]

Each felony conviction will require a pre-sentence investigation. While the cases would be spread across the state, the incremental equivalent is 1.4 probation officer positions.

A total of four (4) probation officers and an Administrative Clerk will be required.

P.O. II (w/benefits) \$ 52,900 X 1.4 = \$ 74,060 for presentence investigations.

**TOTAL NEW COSTS**

**\$ 1,306,646**

Immediate eff 9-LS1095C

Amended

CS FOR HOUSE BILL NO. 319(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 2/2/96

Referred: Finance

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the regulation of small loan and retail installment  
2 transactions."

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

4 \* Section 1. AS 06.20.030(a) is amended to read:

5 (a) Investigation expenses incurred by the department in processing an  
6 application for licensure shall be charged to and paid by the applicant under  
7 AS 06.01.010. At the time of submitting the application to the commissioner, the  
8 applicant shall pay to the department \$1,000 [\$400] in partial payment of those  
9 investigation expenses incurred by the department. [IF THE INVESTIGATION  
10 EXPENSES INCURRED BY THE DEPARTMENT DO NOT EXCEED \$400, THE  
11 REMAINDER SHALL BE PROMPTLY REFUNDED TO THE APPLICANT.]

12 \* Sec. 2. AS 06.20.030(b) is amended to read:

13 (b) An applicant shall pay to the department at the time of submitting an  
14 application a sum, in addition to that specified in (a) of this section, of \$500 for a

1        single office license, or \$2,000 for a multiple office license [\$200] as an annual  
2        license fee for a period terminating on the last day of the current calendar year. [IF  
3        THE APPLICATION IS FILED AFTER JUNE 30, THE ADDITIONAL SUM IS  
4        \$100.]

5        \* Sec. 3. AS 06.20.040 is amended to read:

6                Sec. 06.20.040. LIQUID ASSETS REQUIRED. An applicant shall prove, in  
7        form satisfactory to the department, that the applicant has available for the operation  
8        of the business at the location specified in the application, liquid assets of at least  
9        \$25,000, or, in the case of a multiple office license, that the equivalent amount is  
10       available to each office from a central account maintained by the applicant  
11       [\$20,000].

12       \* Sec. 4. AS 06.20.050 is amended to read:

13                Sec. 06.20.050. BOND. The applicant shall file with the application a bond  
14       to be approved by the department in which the applicant shall be the obligor, in the  
15       sum of \$25,000 [\$5,000] with one or more sureties. Only one bond is required for  
16       an application for a multiple office license. The bond shall be for the use of the  
17       state and any person who may have a cause of action against the obligor under this  
18       chapter. The bond must state that the obligor will faithfully conform to and abide by  
19       the provisions of this chapter and of all regulations lawfully adopted by the  
20       department, and will pay to the state and to any person all money that may become  
21       due or owing to the state or to the person from the applicant under this chapter.

22       \* Sec. 5. AS 06.20.060 is amended to read:

23                Sec. 06.20.060. ISSUANCE OF LICENSE. Upon the filing of the application,  
24       the payment of the fees and the approval of the bond, the department shall issue a  
25       license to the applicant if it finds upon investigation that (1) the financial  
26       responsibility, experience, character, and general fitness of the applicant and of its  
27       members if the applicant is a copartnership or association, and of its officers and  
28       directors if the applicant is a corporation, are such as to command the confidence of  
29       the community and to warrant belief that the business will be operated honestly, fairly,  
30       and efficiently within the purposes of this chapter, and (2) allowing the applicant to  
31       engage in business at the location will provide accessibility and [PROMOTE THE]

1 convenience for borrowers of money [AND ADVANTAGE OF THE COMMUNITY  
2 IN WHICH THE BUSINESS IS TO BE CONDUCTED], and (3) the applicant has  
3 available for the operation of the business at the specific location liquid assets of at  
4 least \$25,000, or, in the case of a multiple office license, that the equivalent  
5 amount is available to each office from a central account maintained by the  
6 applicant [\$20,000]. The foregoing facts are conditions precedent to the issuance of  
7 a license under this chapter. The license permits the applicant to make loans in  
8 accordance with this chapter at the location or locations specified in the application.  
9 The license remains in full force and effect until it is surrendered by the licensee or  
10 revoked or suspended. If the department denies the application, it shall notify the  
11 applicant of the denial, bill the applicant for any outstanding expenses incurred by the  
12 department during the investigation and return the bond if those expenses have been  
13 paid. The department shall approve or deny every application for license within 60  
14 days from the filing of the application with the fees and the approved bond. If the  
15 application is denied, the department shall, within 20 days thereafter, serve upon the  
16 applicant a copy of the written decision and findings. The decision and findings may  
17 be reviewed in the manner provided in AS 44.62.560 and 44.62.570 (Administrative  
18 Procedure Act).

19 \* Sec. 6. AS 06.20.090 is amended to read:

20 Sec. 06.20.090. PLACES OF BUSINESS. (a) A licensee may maintain only  
21 one place of business under a single office [THE] license, or up to 10 places of  
22 business under each multiple office license. The department may issue more than  
23 one license to the same licensee upon compliance with the provisions of this chapter  
24 governing the original issuance of a license.

25 (b) If a licensee changes the place of business to another location within the  
26 same municipality, the licensee shall give written notice to the department in advance.  
27 Upon approval, the department shall issue an amended license for [THE  
28 DEPARTMENT SHALL ATTACH THE WRITTEN NOTICE OF THE CHANGE TO  
29 THE LICENSE TOGETHER WITH THE DATE. THEREAFTER THE LICENSEE  
30 MAY OPERATE THE BUSINESS UNDER THE LICENSE AT] the new location.  
31 A licensee may not change the place of business to a location outside the municipality

1 in which the licensee is authorized to do business.

2 \* Sec. 7. AS 06.20.180 is amended to read:

3 Sec. 06.20.180. BOOKS AND RECORDS OF LICENSEES. Each licensee  
4 shall keep and use in the licensed premises [BUSINESS] those books, accounts, and  
5 records that will enable the department to determine whether the licensee is complying  
6 with this chapter and with the regulations lawfully adopted by the department under  
7 this chapter. The maintenance of separate books and records for another business  
8 authorized by the department under AS 06.20.210 is not required. The method  
9 of tracking and numbering the loans shall be determined by the licensee, as long  
10 as the system enables the department to perform the department's obligations  
11 under this title. The licensee shall preserve the books, accounts, and records,  
12 including cards used in the card system, if any, for two years after making the final  
13 entry on any recorded loan.

14 \* Sec. 8. AS 06.20.240 is amended to read:

15 Sec. 06.20.240. LOANS FOR PURPOSE OF OBTAINING HIGHER  
16 INTEREST. [A LICENSEE MAY NOT INDUCE OR PERMIT A BORROWER TO  
17 SPLIT UP OR DIVIDE A LOAN.] A licensee may not induce or permit a person, or  
18 a husband and wife jointly or severally, to split up or divide a loan or to become  
19 obligated, directly or contingently or both, under more than one loan contract at the  
20 same time, for the purpose or with the result of obtaining a higher rate of interest than  
21 would otherwise be permitted by AS 06.20.230. However, a licensee may enter into  
22 new or different loan transactions with the borrower or the borrower's spouse at  
23 a different time so long as the purpose of the additional transaction does not  
24 violate this section.

25 \* Sec. 9. AS 06.20.250 is amended by adding new subsections to read:

26 (d) Loan contracts must provide for substantially equal payments, and the  
27 payments must be due at least once a month, with the first payment beginning not later  
28 than 45 days from the date the loan is made.

29 (e) If the irregular payment is confirmed in writing by the borrower, and the  
30 method of repayment is consistent with the maximum term and annual interest rate  
31 provided in this chapter, and if a borrower demonstrates sufficient seasonal or

1 extraordinary income to support repayment of a loan, the loan contract may provide  
2 for irregular payments and first payment loan extensions greater than 45 days from the  
3 date the loan is made.

4 \* Sec. 10. AS 06.20.260(a) is amended to read:

5 (a) A further or other charge or amount for an examination, service, brokerage  
6 commission, expense, fee, bonus, or other thing may not be directly or indirectly  
7 charged, contracted for, or received except

8 (1) lawful fees actually paid out by the licensee to a public officer for  
9 filing, recording, or releasing any instrument securing the loan, or premiums payable  
10 for insurance in lieu of perfecting a security interest if the premiums do not  
11 exceed the fees that would otherwise normally be incurred for perfecting, filing,  
12 recording, and releasing the security interest, or for transferring certificate of title  
13 to a motor vehicle securing the lien or noting a lien on that certificate;

14 (2) premiums actually paid out for insurance on any one or combination  
15 of the following: pledged property of the borrower, or consumer credit insurance; in  
16 this paragraph, "consumer credit insurance" has the meaning given in AS 21.57.160;

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

20 (4) for loans of \$10,000 or less that are secured by an interest in  
21 real estate, reasonable costs and fees paid by a licensee for appraisals, surveys, and  
22 title insurance or reports [IF THE LOAN IS SECURED BY AN INTEREST IN REAL  
23 ESTATE];

24 (5) for loans over \$10,000, whether or not secured by an interest  
25 in real estate, reasonable costs and fees paid by a licensee for appraisals, surveys,  
26 title insurance or reports, and credit reports;

27 (6) a late payment fee of not more than 10 percent of the payment that  
28 is due or \$25 [\$15], whichever is less;

29 (7) a fee for dishonored checks not to exceed \$25 for each  
30 dishonored check;

31 (8) reasonable attorney fees, actual expenses, and costs incurred in

1 connection with the collection of a delinquent debt or a foreclosure if the  
2 collection or foreclosure is referred to an attorney who is not a salaried employee  
3 of the licensee and the balance then owing on the debt exceeds \$5,000;

4 (9) actual expenses and costs incurred in connection with a  
5 repossession.

6 \* Sec. 11. AS 06.20.287 is amended to read:

7 Sec. 06.20.287. CREDIT INSURANCE ON OPEN-END LOANS. (a) A  
8 licensee may obtain consumer credit, credit loss of income, and property insurance on  
9 open-end loans under this chapter. The consumer credit insurance obtained by a licensee  
10 shall satisfy the requirements of AS 21.57. The property insurance obtained by a  
11 licensee shall satisfy the requirements of AS 21.39 and AS 21.42. The licensee shall  
12 comply with AS 21.36.160 and 21.36.165 during all transactions with borrowers  
13 involving consumer credit, credit loss of income, and property insurance.

14 (b) The licensee shall calculate the charge for credit life, credit loss of income,  
15 or disability insurance in each billing cycle by adding to the unpaid balance in the  
16 borrower's account the current monthly premium rate for the coverage required at the  
17 rate set under AS 21.57, using the method specified in the loan agreement for  
18 determining the unpaid balance.

19 (c) A licensee may not cancel credit life, credit loss of income, or disability  
20 insurance obtained for an open-end loan if the borrower is delinquent in paying the  
21 monthly installments unless an installment is delinquent for 90 days or longer. The  
22 licensee shall advance to the insurer amounts necessary to keep the policy in force until  
23 the 90-day delinquency period has elapsed, and the borrower's account may be charged  
24 for the amounts advanced to the insurer.

25 \* Sec. 12. AS 45.10.070(b) is amended to read:

26 (b) Except when the service charge is computed on an add-on or simple  
27 interest basis, the [THE] amount of the refund credit shall be computed according to  
28 the "rule of 78ths"; that is, it shall represent at least as great a proportion of the original  
29 service charge over \$25 in case of a retail installment sale of a motor vehicle, or \$10 in  
30 case of a retail installment sales of goods other than a motor vehicle, as (1) the sum of  
31 the monthly or other periodic unpaid balances under the schedule of payments in the  
32 contract beginning as of the date after the prepayment that [WHICH] is the next

1 succeeding monthly or other periodic anniversary date of the due date of the first  
2 installment under the contract, or, if the prepayment is before the due date of the first  
3 installment under the contract, then as of the date after the prepayment that [WHICH]  
4 is the next succeeding monthly or other periodic anniversary date of the date of the  
5 contract bears to (2) the sum of all the monthly or other periodic unpaid balances under  
6 the schedule of installment payments in the contract.

7 \* Sec. 13. AS 45.10.080(a) is amended to read:

8 (a) If authority to do so is contained in the contract or agreement, the [THE]  
9 holder of a retail installment contract or retail charge agreement may [NOT] collect  
10 any delinquency, [OR] collection or dishonored check charges, [CHARGE OTHER  
11 THAN] attorney fees, court costs, and disbursements [UNLESS THE CONTRACT SO  
12 PROVIDES]. In this case, the charge must [SHALL] be reasonable, and no attorney fee  
13 may be recovered unless the contract is referred for collection to an attorney not a  
14 salaried employee of the holder.

15 \* Sec. 14. AS 45.10.120 is repealed and reenacted to read:

16 Sec. 45.10.120. EXTENT OF SERVICE CHARGE. (a) Notwithstanding any  
17 other law, the service charge included in a retail installment contract, retail charge  
18 agreement, revolving charge agreement, or other retail charge agreement must be at the  
19 rate agreed upon by the retail seller and the buyer.

20 (b) This section does not limit or restrict the method of computing the service  
21 charge, whether by way of add-on, simple interest, or otherwise, so long as that method  
22 is disclosed in the contract and agreed upon by the retail seller and the buyer.

23 \* Sec. 15. AS 45.10.220(3) is amended to read:

24 (3) "official fees" means the amount of the fees set by law for filing,  
25 recording, or otherwise perfecting and releasing or satisfying a retained title, lien, or  
26 other security interest created by a retail installment transaction or premiums payable  
27 for insurance in lieu of perfecting a security interest if the premiums do not exceed  
28 the fees that would otherwise normally be incurred for perfecting, filing, recording,  
29 or otherwise perfecting and releasing or satisfying a retained title, lien, or other  
30 security interest;

Add unmed. effective -

# HOUSE LABOR AND COMMERCE COMMITTEE

## SPONSOR STATEMENT CS HB 319 (L&C)

Alaska's Small Loan Act (AS 6.20) was initially adopted in 1955 and has not significantly been amended since 1982. Our Retail Installment Sales Act was adopted even earlier, and its last significant amendment occurred in 1980.

Over the years, practices within the credit industry have undergone immense changes. However, Alaska's law has not kept pace, thereby unfairly burdening this industry *vis a vis* outside competitors. As a consequence of our archaic approach to credit and lending transactions, Alaskan businesses suffer a competitive disadvantage. CS HB 319 (L&C) is intended to remedy this situation by updating certain provisions that are no longer relevant to contemporary business practices. Among other things, this bill would accomplish the following:

### Small Loan Act

It increases application and annual fees requirements applicable to licensed lending institutions.

It increases the liquid asset requirements that lending institutions must satisfy to do business from \$20,000 to \$25,000.

It increases the bonding requirements imposed on lending institutions from \$5000 to \$25,000 and makes it clear that only one bond is required for multiple office bonds.

It allows licensees to maintain books and records consistent with contemporary data processing and accounting methods.

It authorizes irregular payments when borrowers have a seasonal incomes.

It authorizes lending institutions to operate several branches under a single license, provided that the licensee maintains liquid assets in the amount of \$25,000 for each office it operates.

It broadens the scope of non-interest fees that lenders may charge borrowers and increases the amount of late payment fees that may be charged.

### Retail Installment Sales Act

CS HB 319 (L&C) clarifies and broadens the scope of fees and charges that may be imposed in connection with transactions, including late payment fees. A charge for late payments is currently not allowed.

It eliminates service charge ceilings, permitting this term to be subject to the agreement of the parties. In so doing, it removes the present cumbersome system based on graduated rates.

It respectfully is submitted that CS HB 319 (L&C) removes several anachronisms in Alaska law and serves to make Alaska credit businesses more competitive with outside firms.

# Retail Credit (2 Party)

## States That Authorize Late Payment Fee



Late payment fee permitted



Late fee of \$10.00 or greater permitted



No late fee authorized

RETAIL CREDIT (2 PARTY)

<u>State</u>	<u>Maximum Late Payment Fee Authorized</u>
Arizona	Not to exceed \$5.00 for installment less than \$25.00, \$10.00 for over \$25.00.
Arkansas	No statutory limit. Must equal that assessed in at least one other state
California	Not to exceed \$10.00
Colorado	Not to exceed \$15.00
Connecticut	Lesser of 5% of monthly payment or \$10.00
District of Columbia	Not to exceed \$10.00
Florida	Not to exceed \$10.00
Georgia	Maximum of \$10.00
Hawaii	Lesser of 5% of monthly payment or \$50.00
Idaho	Greater of 5% of payment or \$5.00
Illinois	Not to exceed \$10.00
Indiana	Not to exceed \$15.00 adjusted yearly
Iowa	Not to exceed \$10.00
Kansas	Not to exceed \$10.00 or 5% of monthly payment with a \$25.00 maximum \$5.00 for installment less than \$25.00, \$10.00 for over \$25.00.
Kentucky	Ceiling unspecified
Louisiana	Parity with late fees being exported into state by out of state banks
Maine	Lesser of \$10.00 or 5% of delinquent installment
Maryland	No statutory limit
Massachusetts	Not to exceed the lesser of 10% of balance or \$10.00
Michigan	No statutory limit
Minnesota	Equal to fee permitted by National Banks under MN law (greater of 5% or \$5.00)
Mississippi	Maximum of \$10.00
Missouri	Not to exceed \$5.00 for installments less than \$25.00, \$10.00 for installments over
Montana	Lesser of 5% of monthly payment or \$15.00
Nebraska	The greater of 5% of installment or \$5.00
Nevada	Agreed upon amount, no statutory limit
New Hampshire	Agreed upon amount
New Jersey	Not to exceed \$10.00
New York	Agreed upon amount, no statutory limit
North Carolina	\$5.00 on balance of less than \$100.00 and \$10.00 on balance of \$100 or greater
Ohio	Lesser of 5% of monthly payment or \$3.00
Oklahoma	Greater of 5% of the monthly payment or \$12.50
Oregon	No Statutory limit other than the charge be reasonable
Pennsylvania	Not to exceed \$12.00
Rhode Island	Not to exceed \$12.00
South Carolina	5% of payment not to exceed \$10.00 or 40% of \$10.00
South Dakota	Agreed upon amount
Tennessee	Ceiling unspecified
Texas	Not to exceed \$10.00
Utah	Greater of 5% of monthly payment or \$20.00
Virginia	Agreed upon amount
Washington	No statutory limit other than amount must be reasonable
West Virginia	Lesser of 5% of monthly payment or \$5.00
Wisconsin	Not to exceed of \$10.00

Not intended as legal advise, opinion of local counsel should be obtained

1

**ALASKA RETAIL CREDIT GRANTORS  
CURRENT SERVICE, DELINQUENCY AND DISHONORED CHECK CHARGES**

<b>RETAILER</b>	<b>STATE LAW GOVERNING ACCOUNTS</b>	<b>LEGAL SERVICE CHARGE RATE</b>	<b>SERVICE CHARGE RATE IN ALASKA</b>	<b>DELINQUENCY CHARGE IN ALASKA</b>	<b>DISHONORED CHECK CHARGE IN ALASKA</b>
<b>Chevron</b>	<b>Alaska</b>	<b>18% to \$1,000; 10% above</b>	<b>13% to \$1,000; 8% above</b>		
<b>Firestone</b>	<b>Ohio</b>	<b>25%</b>	<b>21.84%</b>	<b>-0-</b>	<b>-0-</b>
<b>Lamonts</b>	<b>Ohio</b>	<b>25%</b>	<b>19.8%</b>	<b>\$10</b>	<b>\$10</b>
<b>Fred Meyer</b>	<b>South Dakota</b>	<b>No statutory rate limit</b>	<b>22.44%</b>	<b>Lesser of \$10 or 5% of missed payment</b>	<b>\$15</b>
<b>Nordstrom</b>	<b>Colorado</b>	<b>21%</b>	<b>18% to \$1,000; variable above</b>	<b>\$10</b>	<b>\$10</b>
<b>JCPenney</b>	<b>Alaska</b>	<b>18% to \$1,000; 10% above</b>	<b>18% to \$1,000; 7.92% above</b>	<b>-0-</b>	<b>\$10</b>
<b>Radio Shack</b>	<b>Tennessee</b>	<b>24%</b>	<b>22.3%</b>	<b>\$15</b>	<b>\$10</b>
<b>Sears</b>	<b>Arizona</b>	<b>No statutory rate limit</b>	<b>21%</b>	<b>-0-</b>	<b>\$10</b>
<b>Texaco</b>	<b>Nebraska</b>	<b>No statutory rate limit</b>	<b>21%</b>	<b>Lesser of \$5 or 5% of missed payment</b>	<b>\$15</b>
<b>Zales</b>	<b>Alaska</b>	<b>18% to \$1,000; 10% above</b>	<b>18% to \$1,000; 8% above</b>	<b>-0-</b>	<b>-0-</b>

The information in this chart is based upon credit applications collected in 1994 and 1995.

January 22, 1996

## THE CASE FOR LATE FEES FOR ALASKA RETAIL CREDIT GRANTORS

### BACKGROUND FOR ALASKA HOUSE BILL NO. 319

A "late fee" or "delinquency charge" is a fee imposed by a credit grantor on an overdue account. Retail credit customers who fail to remit their monthly minimum payment by the agreed due date cause the retailer to incur additional costs in attempting to collect the past due accounts. These collection costs are in addition to the normal costs incurred in extending credit and servicing the credit customer. (One retail credit grantor operating under Alaska law estimates those costs to average approximately \$7.80). These additional costs, if not recouped by the credit grantor, may show up in higher merchandise prices, meaning that cash customers and those who properly make their payments provide a subsidy to those who don't adhere to agreed payment terms. Besides allowing the retailer to offset the additional costs incurred, late payment fees also provide an incentive for the customer not to miss the payment in the first place.

The best public policy response to this situation is to allow retailers to assess a late payment fee on delinquent credit customers at an amount which encourages the customer to make timely payment and enables the retailer to recover the additional costs which it incurs when the customer does not do so. Thus the Alaska Retail Installment Sales Act (RISA) has, since its enactment in 1962, authorized reasonable late fees on retail installment contracts; that is, closed-end (single purchase) credit contracts. However, unlike the law in over three-quarters of the states in the country, the Alaska act is silent with respect to the imposition of late fees on the now-prevalent revolving credit accounts.

Under federal law, some credit grantors can and do charge late fees on retail charge agreements. Such retailers extend credit through a federally-chartered "credit card bank" or through a national or state bank located in another state under whose laws they can legally impose late charges on delinquent accounts in Alaska. Several such retailers are currently imposing late fees on Alaska resident customers. This puts retailers operating under the Alaska RISA at a competitive disadvantage because customers will first pay those bills with a late fee. As a result, the bills from retailers operating under Alaska law go to the bottom of the stack and those from out-of-state creditors get paid first.

### PROPOSED LEGISLATION - ALASKA HOUSE BILL NO. 319

The proposed legislation, House Bill No. 319, would (in Section 10) correct the current inequity in the Alaska Retail Installment Sales Act by allowing the imposition of a reasonable delinquency fee not only when a payment on a retail installment contract is late, but also when a payment on a retail charge agreement is late. House Bill No. 319 restores fairness to creditors operating under Alaska's law and the vast majority of credit accountholders who pay their bills on time and should not be required to subsidize those who do not.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

February 3, 1996

**SUBJECT:** Sectional Summary of CSHB 319(L&C)  
(Work Order No. 9-LS1095\C)

**TO:** Representative Pete Kott  
Attn: George Dozier

**FROM:**   
Theresa Bannister  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

**Section 1.** Increases to \$1,000 (from \$400) the amount that an applicant is to pay with the application to the Department of Commerce and Economic Development as part payment for the department's expenses of investigating an application for a license under the Alaska Small Loans Act. Deletes a refund requirement.

**Section 2.** Increases the annual license fee to be paid to the department for a license under the Alaska Small Loans Act. Establishes a higher fee for a multiple office license.

**Section 3.** Increases to \$25,000 from \$20,000 the value of the liquid assets that a person applying for a license under the Alaska Small Loans Act must have available to operate the business. A person having multiple offices must demonstrate that an equivalent amount is available to each office from a central account maintained by the applicant.

**Section 4.** Increases to \$25,000 from \$5,000 the amount of the bond required for an applicant for a license under the Alaska Small Loans Act to file with the department. Provides that only one bond is required for a multiple office license application.

**Section 5.** Conforms the language in the license issuance section to the new liquid assets requirements established in sec. 3 of the bill. Also requires the department to determine that allowing the applicant to engage in business at the location will provide accessibility and convenience for borrowers.

**Section 6.** Allows a licensee to maintain one place of business under a single office license or up to 10 places of business under a multiple office license. Directs the department to issue an amended license to a licensee after approving a change of location for the licensee's place of business within the same municipality.

**Section 7.** States that a licensee is not required to maintain separate books and records for another business operated on the premises and authorized by the department. States that the licensee is to determine the method of tracking and numbering the loans as long as the system enables the department to perform the department's obligations under AS 06.

**Section 8.** Prohibits a licensee from inducing or permitting a borrower to split up or divide a loan or become obligated under more than one loan contract at the same time, if the purpose or result is to obtain a higher rate of interest than otherwise allowed by AS 06.20.230. Allows a licensee to enter into new or different loan transactions with a borrower or the borrower's spouse at a different time if the purpose of the new transaction does not violate this section.

**Section 9.** Adds certain requirements for the loan contracts. The contracts must provide for substantially equal payments, payments due at least monthly, and a first payment not later than 45 days from when the loan is made. Allows a loan contract to provide for irregular payments and a later first payment if certain listed conditions are met ("first payment loan extensions" should read "first payment extensions").

**Section 10.** Allows a fee to be charged for certain insurance premiums under certain conditions in place of perfecting a security interest. Allows for loans of \$10,000 or less secured by a real estate interest, a charge for reasonable costs and fees for appraisals, surveys, and title insurance or reports. Allows for loans over \$10,000, whether or not secured by a real estate interest, a charge for reasonable costs and fees for appraisals, surveys, title insurance or reports, and credit reports. Changes the late payment fee that can be charged. Allows a fee not to exceed \$25 per check to be charged for dishonored checks. Allows a charge for reasonable attorney fees, actual expenses, and costs incurred in connection with the collection of a delinquent debt or a foreclosure under certain conditions. Allows a charge for the actual expenses and costs of a repossession.

**Section 11.** Allows a licensee to obtain credit loss of income insurance on open-end loans under this chapter. Requires the licensee to comply with the provisions of two insurance statutes during all transactions with borrowers involving credit loss of income insurance. Specifies how the licensee is to calculate the charge for credit loss of income insurance. Prohibits the licensee from cancelling the credit loss of income insurance under certain circumstances.

Representative Pete Kott  
February 3, 1996  
Page 3

**Section 12.** Establishes an exception for calculating refund credits according to the "rule of 78ths." The exception is when the service charge is computed on an add-on or simple interest basis.

**Section 13.** Authorizes the holder of a retail installment contract or retail charge agreement to collect certain delinquency, collection or dishonored check charges, attorney fees, court costs, and disbursements, if the contract or agreement allows this. Makes a technical change in the second sentence.

**Section 14.** Requires that the service charge be at the rate agreed upon by the parties. States that this section does not limit or restrict the method of computing the service charge as long as the method is disclosed in the contract and agreed to by the parties.

**Section 15.** Includes certain insurance premiums in the definition of "official fees."

If I may be of further assistance, please advise.

TLB:klb:glc  
96-057.klb

# JCPenney

January 22, 1996

VIA FACSIMILE

Mr. George Dozier  
House Labor and Commerce Committee  
State Capitol  
Juneau, Alaska

Re: House Bill No. 319

Dear Mr. Dozier:

At the request of Mr. Jerry Reinwand, I am faxing the accompanying materials for the use of the committee members at the hearing on House Bill No. 319 scheduled for Wednesday, January 24th.

Sections 10 and 11 of House Bill No. 319 would amend the Alaska Retail Installment Sales Act which governs the Penney Company's retail credit arrangements with its Alaska customers. The enclosed materials relate to those amendments. They include, with respect to Section 10:

1) A chart titled "Alaska Retail Credit Grantors - Current Service, Delinquency and Dishonored Check Charges;"

2) A paper titled "The Case for Late Fees for Alaska Retail Credit Grantors;"

3) A chart titled, "Retail Credit (2 Party) - Maximum Late Payment Fee Authorized; and

4) A map titled "Retail Credit (2 Party) - States That Authorize Late Payment Fee."

They also include, with respect to Section 11:

A) A chart titled "Retail Credit Service Charges - Government Imposed Rate Ceilings;"

B) A chart titled "Retail Revolving Credit (2 Party) - Open Competitive Credit Market States;" and

C) Portions of a report titled "The Economic Impacts of Revolving Credit Regulation in Wisconsin, April 1995, including pages 30-32, and Appendix C, Table 2, and Table 3 which are referred to in those pages of the report and the bibliography of the report. This report, which was prepared

Government Relations

Telephone: (916) 441-2796

Fax: (916) 441-1626

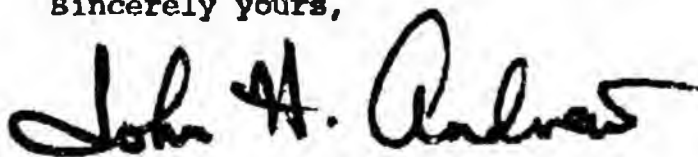
J. C. Penney Company, Inc., 1201 K Street, Suite 1950, Sacramento, California 95814

Mr. George Dozier  
Alaska House Committee on Labor and Commerce  
January 22, 1996  
Page 2

for Governor Tommy Thompson and the Wisconsin Legislature and will be used to support of legislation with the same intent as Section 11 of H.B. 319 which will be introduced in the current session of the Wisconsin legislature. In our experience the conclusions in the "Merchant Credit" section of that report are as relevant to Alaska as they are to Wisconsin.

Your assistance in distributing these materials to the committee members for their consideration is appreciated.

Sincerely yours,



John H. Andrew  
Senior Government Relations Counsel

Enclosures

cc: Jerry Reinwand (w/encl.)  
William J. Doss " [JCPenney, Anchorage]  
Fred C. Lugar "  
Susan Walters Bizé "

### ALASKA RETAIL CREDIT GRANTORS CURRENT SERVICE, DELINQUENCY AND DISHONORED CHECK CHARGES

RETAILER	STATE LAW GOVERNING ACCOUNTS	LEGAL SERVICE CHARGE RATE	SERVICE CHARGE RATE IN ALASKA	DELINQUENCY CHARGE IN ALASKA	DISHONORED CHECK CHARGE IN ALASKA
Chevron	Alaska	18% to \$1,000; 10% above	18% to \$1,000; 8% above		
Firestone	Ohio	25%	21.84%	-0-	-0-
Lamonte	Ohio	25%	19.8%	\$10	\$10
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Zales	Alaska	18% to \$1,000; 10% above	18% to \$1,000; 8% above	-0-	-0-

The information in this chart is based upon credit applications collected in 1994 and 1995.

January 22, 1996

JUN 23 1995 12:39 PM JCF JMI TEL: 1075 91844:1626 TO 19074652815 P. 04/17

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RETAIL CREDIT (2 PARTY)

<u>State</u>	<u>Maximum Late Payment Fee Authorized</u>
Arizona	Not to exceed \$5.00 for installment less than \$25.00, \$10.00 for over \$25.00.
Arkansas	No statutory limit. Must equal that assessed in at least one other state
California	Not to exceed \$10.00
Colorado	Not to exceed \$15.00
Connecticut	Lesser of 5% of monthly payment or \$10.00
District of Columbia	Not to exceed \$10.00
Florida	Not to exceed \$10.00
Georgia	Maximum of \$10.00
Hawaii	Lesser of 5% of monthly payment or \$50.00
Idaho	Greater of 5% of payment or \$5.00
Illinois	Not to exceed \$10.00
Indiana	Not to exceed \$15.00 adjusted yearly
Iowa	Not to exceed \$10.00
Kansas	Not to exceed \$10.00 or 5% of monthly payment with a \$25.00 maximum \$5.00 for installment less than \$25.00, \$10.00 for over \$25.00.
Kentucky	Ceiling unspecified
Louisiana	Parity with late fees being exported into state by out of state banks
Maine	Lesser of \$10.00 or 5% of delinquent installment
Maryland	No statutory limit
Massachusetts	Not to exceed the lesser of 10% of balance or \$10.00
Michigan	No statutory limit
Minnesota	Equal to fee permitted by National Banks under MN law (greater of 5% or \$5.00)
Mississippi	Maximum of \$10.00
Missouri	Not to exceed \$5.00 for instalments less then \$25.00, \$10.00 for installments over
Montana	Lesser of 5% of monthly payment or \$15.00
Nebraska	The greater of 5% of installment or \$5.00
Nevada	Agreed upon amount, no statutory limit
New Hampshire	Agreed upon amount
New Jersey	Not to exceed \$10.00
New York	Agreed upon amount, no statutory limit
North Carolina	\$5.00 on balance of less then \$100.00 and \$10.00 on balance of \$100 or greater
Ohio	Lesser of 5% of monthly payment or \$3.00
Oklahoma	Greater of 5% of the monthly payment or \$12.50
Oregon	No Statutory limit other then the charge be reasonable
Pennsylvania	Not to exceed \$12.00
Rhode Island	Not to exceed \$12.00
South Carolina	5% of payment not to exceed \$10.00 or 40% of \$10.00
South Dakota	Agreed upon amount
Tennessee	Ceiling unspecified
Texas	Not to exceed \$10.00
Utah	Greater of 5% of monthly payment or \$20.00
Virginia	Agreed upon amount
Washington	No statutory limit other than amount must be reasonable
West Virginia	Lesser of 5% of monthly payment or \$5.00
Wisconsin	Not to exceed of \$10.00

**Not intended as legal advise, opinion of local counsel should be obtained**



A

## RETAIL CREDIT SERVICE CHARGES GOVERNMENT-IMPOSED RATE CEILINGS

<u>STATE</u>	<u>ANNUAL RATE CEILING</u>
1. Arizona	Competitive Market Rate (No Government-Imposed Ceiling)
2. California	Competitive Market Rate
3. Connecticut	Competitive Market Rate
4. Delaware	Competitive Market Rate
5. Idaho	Competitive Market Rate
6. Illinois	Competitive Market Rate
7. Kentucky	Competitive Market Rate
8. Maine	Competitive Market Rate
9. Montana	Competitive Market Rate
10. Nevada	Competitive Market Rate
11. New Hampshire	Competitive Market Rate
12. New Jersey	Competitive Market Rate
13. New Mexico	Competitive Market Rate
14. New York	Competitive Market Rate
15. North Dakota	Competitive Market Rate
16. Oregon	Competitive Market Rate
17. Rhode Island	Competitive Market Rate
18. South Carolina	Competitive Market Rate
19. South Dakota	Competitive Market Rate
20. Utah	Competitive Market Rate
21. Virginia	Competitive Market Rate
22. Washington	Competitive Market Rate
23. Florida	Parity (Highest rate imported into state by out-of-state bank)
24. Louisiana	Parity
25. Ohio	25%
26. Hawaii	24%
27. Maryland	24%
28. Colorado	21%
29. Georgia	21%
30. Indiana	21%
31. Mississippi	21%
32. Oklahoma	21%
33. Tennessee	21%
34. Vermont	21%
35. Wyoming	21%
36. Texas	Parity (with maximum of 21%)
37. North Carolina	21% on first \$500 of balance, 18% on remaining balance
38. Alabama	21% on first \$750 of balance, 18% on remaining balance
39. Kansas	21% on first \$1,000 of balance, 14.4% on remaining
40. Nebraska	21% on first \$500 of balance, 18% on remaining
41. Michigan	20.4%
42. Missouri	20.04%
43. Iowa	19.8%
44. Massachusetts	18%
45. Minnesota	18%
46. Pennsylvania	18%
47. West Virginia	18%
48. Wisconsin	18%
49. Alaska	18% on first \$1,000 of balance, 6% plus the Federal Discount Rate (currently 5%) on remaining balance
50. Arkansas	5% plus the Federal Discount Rate (currently 5%) [Constitutional provision]

Note: Legislation which would remove government-imposed rate ceilings is currently pending in Alaska, Indiana and Missouri.

1/22/98

**RETAIL REVOLVING CREDIT (2 PARTY)**

**OPEN COMPETITIVE CREDIT MARKET STATES  
(NO STATUTORY FINANCE CHARGE RATE CEILING)**

- ARIZONA
- CALIFORNIA
- CONNECTICUT
- DELAWARE
- IDAHO
- ILLINOIS
- KENTUCKY
- MAINE
- MONTANA
- NEVADA
- NEW HAMPSHIRE
- NEW JERSEY
- NEW MEXICO
- NEW YORK
- NORTH DAKOTA
- OREGON
- RHODE ISLAND
- SOUTH CAROLINA
- SOUTH DAKOTA
- UTAH
- VIRGINIA
- WASHINGTON

**"PARITY" STATES"**

**(IN-STATE RETAILERS MAY USE HIGHEST RATE  
BEING IMPORTED INTO STATE BY OUT-OF-STATE BANKS)**

- FLORIDA
- LOUISIANA

**Note: Legislation which would remove government-imposed rate ceilings is currently pending in Alaska, Indiana and Missouri.**

**1/22/96**

C

**The Economic Impacts of Revolving Credit  
Regulation in Wisconsin**

**April 1995**

**James M. Johannes  
Professor and Chair  
Department of Finance, Investment & Banking  
School of Business  
University of Wisconsin-Madison**

## Appendix C

### Government and Academic Studies of Usury Laws: Sample Conclusions

"In general, various empirical studies on consumer credit and mortgages support the idea that when usury ceilings are binding the volume of loans declines, lenders try to upgrade quality to the detriment of lower income individuals and noninterest methods of compensation increasingly are employed." (James Van Horne, *Financial Market Rates and Flows*, p. 222).

"Interest rates have always been an object of suspicion. No longer is lending at interest a crime but in most place a maximum rate is set by law. Unfortunately, the ceiling is often far below what would be set by the competitive supply and demand market after account is taken of riskiness and administrative expense connected with small loans. The result? Funds dry up. The cheap money you can't get does you little good. Veterans who tried to get mortgages learned this in the 1950's. College students trying to get tuition loans..learned this in the 1960's and 1970's." (Paul Samuelson, *Economics*, 11th ed., p. 370)

"We have learned too slowly and painfully that while government interest rate ceilings may hold down the cost of a loan, they frequently result in a customer's getting no loan at all." (Peter S. Rose, *Money and Capital Markets*, p. 360).

"A significant finding by this government sponsored study (*Report of the National Commission on Consumer Finance, 1972*) is that 'state legislation especially has tended to restrain competition and unnecessarily segment the consumer credit market'...the commission studied numerous other aspects of consumer lending in terms of their overall effect on the public. Generally, the legislation (such as usury laws) which seeks one improvement produces undesirable side effects such as reduced credit availability or service...In addition to advocating the repeal of restrictive state legislation the commission recommended improving consumer knowledge and industry competition." (Robert Edmister, *Financial Institutions, Markets and Management*, pp. 262-3)

"Nevertheless, a number of states have succeeded in liberalizing their usury laws, in some cases tying the ceiling rate to a market rate. However, other states have encountered serious difficulties in obtaining revision, and their consumers have suffered as a consequence." (*Economic Perspectives*, Federal Reserve Bank of Chicago, Sept/Oct 1980, p. 17)

Table 2

Cost and Revenue Ratios for Selected Types of Bank Credit, 1991<sup>1</sup>

Item	Credit Card		Installment		Real estate mortgage		Commercial and other	
	Percent of outstanding balances <sup>1</sup>	Percentage distribution	Percent of outstanding balances <sup>1</sup>	Percentage distribution	Percent of outstanding balances <sup>2</sup>	Percentage distribution	Percent of outstanding balances <sup>1</sup>	Percentage distribution
<b>Revenue</b>								
Interest	14.9	57	11.5	97	10.2	95	10.0	97
Noninterest <sup>3</sup>	11.0	42	.4	3	.5	5	.3	3
Total Revenue	26.0	100	11.9	100	10.7	100	10.3	100
<b>Cost</b>								
Operating	13.1	57	3.4	33	1.4	18	2.1	23
Credit losses	3.5	15	.7	7	.3	4	.8	9
Cost of funds	6.2	27	6.2	60	6.3	79	6.2	68
Total Cost	22.8	100	10.3	100	8.0	100	9.1	100
<b>Net earnings before taxes</b>	3.1	...	1.7	...	2.7	...	1.1	...

1. Data reflect averages of cost and revenue categories weighted by average outstanding balances for three size groups presented in the 1991 National Average Report. Components may not sum to totals because of rounding.
2. Outstanding balances are average amounts outstanding for the year.
3. For credit cards, includes merchant discounts, and penalty and cash advance fees.

Source: Federal Reserve Bulletin, September 1992

**Table 3**

**Cost and Revenue Ratios for Merchant Provided Credit 1992**

<u>Revenue</u>	<u>Percent of Outstandings</u>	<u>Percent Contribution</u>
Interest	15.10	100
Noninterest	-	
Total	15.10	100
<u>Cost</u>		
Operating	7.28	41
Credit Losses	3.45	20
Cost of Funds	6.94	39
Total	17.67	100
Net Earnings before taxes	-2.57	

Source: Ray McAlister, "Consumer Credit: An Introduction," University of North Texas

## VI. Merchant Credit

This study, like many others, has focused primarily on the bankcard market. Another significant player in the revolving credit market is retail stores. Retail open-end credit, or "merchant credit," is different than bankcard credit.

As Table 5 illustrates, retail credit accounts for about 19% of all outstanding open-end credit, but 48% of all outstanding open-end accounts. The penetration of retail accounts in this market attests to the importance of availability of open end credit to consumers and merchants. One reason 48% of the accounts make up only 19% of the outstanding balances is that balances carried on retail credit cards are typically much smaller. GE Capital, for example, reports average outstanding balances on retail credit it issues for firms like Montgomery Ward, Casual Corner and American TV of about \$230. A recent study by Professor Ray McAlister at the University of North Texas [8] reports that over 80% of retail customers sampled in California had outstanding balances less than \$200.

As mentioned in Section II, there are several significant differences between bankcard and retail card revenues and expenses. Tables 2 and 3 show that retailers receive little fee income and rely primarily, if not exclusively, on finance charges for revenue. They also show that on the expense side, interest expense is typically higher than it is on bankcards because retailers must borrow money from banks.

Less revenue and higher expenses imply that retailers have a very difficult time running profitable credit operations when all they can charge is 18%. Unprofitable operations create three problems. The first is that merchants attempt to recover losses on credit operations not by charging higher fees but by charging higher prices. The problem this creates is that all purchasers, not just credit users, pay the higher prices. As a result, cash payers subsidize credit users. This phenomenon is well-known as the last quote in Appendix C from a Federal Reserve Study of Retail Credit attests.

The second problem is that this can put local merchants at a serious competitive disadvantage when they, because of usury ceilings, cannot charge the market clearing rate for retail open-end credit. In this situation, local merchants must raise prices to cover credit losses such as those illustrated in Table 3. National merchants, who import rates from National Banks they have set up in other States, charge market clearing rates at which their credit programs are profitable. Because the credit operations of those national merchants at least break even at the higher rates, they do not have to charge higher prices to recover losses on credit operations. Hence their prices are lower and put them at a competitive advantage over local merchants.

A third problem usury limits create for merchants is that merchants abandon in house credit in favor of bankcards and thereby lose an important tool to create customer allegiance. In the process consumers lose a local source of credit.

Table 18 illustrates the fact that many national chains operating in Wisconsin are currently importing these higher rates through their banking affiliates. This raises an important issue.

1 merchants who do not want to play this cash price subsidy game can always contract with a national bank to offer credit from a neighboring state. The problem with this is that it results in the export of credit operations and jobs to neighboring states, consumers are denied access to local credit, and local residents just end up paying the higher rate anyway. As interest rates in the economy are again rising, several banks have indeed positioned themselves to provide these credit services from states where finance charges are deregulated. Household Bank, Illinois, for example, issues these "private label" cards for companies like Builders Square. GE Credit issues Home Depot private label cards through its affiliate Monogram Bank in Georgia. The list of merchants they provide credit for in regulated States is growing.

Like the bankcard discussion above, however, it is important to consider two issues. Is there enough competition in retail credit to ensure that consumers will pay a fair price for retail credit, and, what has the experience been on the retail side when retail rates are deregulated?

The answer to the first question is that most merchants accept bankcards as well. If the merchant's rate is not competitive, consumers will just use bankcards to purchase goods. This is true of many major retailers like Penney's, Sears, Goodyear, Marshall Field's, Limited, etc. In other words, for the most part, this market is just as competitive as the bankcard market because they are typically one and the same market.

As for experience with deregulation, a recent study by McAlister [8] found that two years after Washington deregulated open end credit in 1992, nearly 75% of retailers had not changed their finance charge even though State law allowed them to do so. Indeed only one of the largest eight companies raised its finance rate. This evidence is entirely consistent with the view that competition dictates the finance charges on revolving credit, not State Statutes.

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February 20, 1996

The Honorable Mark Hanley  
Co-Chairman, House Finance Committee  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

Re: **HB-319 and SB-157**

Dear Co-Chairman Hanley:

Avco Financial Services, who is headquartered in Costa Mesa, California but has an operating branch located in Anchorage, supports HB-319 and SB-157. These bills make certain positive changes by updating the Alaskan Statutes that affect small loans and retail installment transactions. If passed into law, these bills will help both the industry and the consumer. Their passage will also allow further expansion of our services within the State of Alaska.

I want to thank you and the members of the Finance Committee for considering these bills and would like to urge their passage.

Sincerely,

H. Lee Rowell

HLR:cb

D

HOUSE COMMITTEE REPORT

2/2/96

(7)

Date Referred: April 22, 1995

FURTHER REFERRALS:

Finance

Date of Committee Action: 1-31-96

The LABOR AND COMMERCE Committee considered:

HB 319

HOUSE BILL NO. 319

SMALL LOANS & RETAIL INSTALLMENT SALES

"An Act relating to the regulation of small loan and retain installment transactions."

recommends it be replaced

with the following committee substitute

CS HB 319 (L&C)

[x] the same title  
[ ] a new title

[ ] additional referral to \_\_\_\_\_ Committee

[ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

[x] zero fiscal note(s) CED

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Norm Kokeberg</i>	Kokeberg	✓			
<i>K. Elton</i>	Elton	✓			
<i>Jane Kubina</i>	Kubina	✓			
<i>Brian D. Porter</i>	Porter	✓			
<i>Pepe Kott</i>	Kott	✓			
<i>Jerry Sanders</i>	Sanders	✓			
		(6)			

CHAIR'S SIGNATURE

*Pepe Kott*

Kott