

**SB**

**157**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 2/2/96

DATE TURNED INTO OFFICE: 2-21-96

The Finance Committee considered SB 157

Regulation of small loan and retail installment transactions.

and recommends:

- be replaced with \_\_\_\_\_ CS SB 157 (FIN)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:
- same title
  - new title
- House Bill:
- same title
  - technical change
  - new: SCR# \_\_\_\_\_

SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Steve Rice</i>	✓	<i>KEO E. [unclear]</i>	✓		
<i>Christ [unclear]</i>	✓	<i>[unclear]</i>	✓		
Co-Chair: <i>Rick Halford</i>		Co-Chair: <i>[unclear]</i>	✓		
Co-Chair: _____		Co-Chair: <i>[unclear]</i>	✓		

**NEW FISCAL NOTE(S):**

Department                      Date    Zero    Fiscal

DCUED	2/2/96	0	

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date    Zero    Fiscal


APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

*Updated by  
2/22/96 note*

Bill No. 1  
 Bill Version: CS SB157(LFC)  
 (S) Publish Date: 2/2/96

STATE OF ALASKA  
 1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department: Commerce and Economic Development  
 Title: Regulation of Small Loan and Retail Installment BRU: Banking, Securities and Corporations  
Transactions Component: Banking, Securities and Corporations  
 Sponsor: Senate Labor and Commerce  
 Requestor: Senate Labor and Commerce COMPONENT SERIAL NO. 1233

Expenditures/Revenues	(Thousands of Dollars)					
	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
<b>OPERATING EXPENDITURES</b>						
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)					
	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by: Wills F. Kirkpatrick, Director Phone: 465-2521  
 Division: Banking, Securities and Corporations Date: \_\_\_\_\_  
 Approved by Commissioner: William L. Hensley Date: 1-31-96  
 Agency: Commerce and Economic Development

2/20  
- F.P.

SB 157 & HB 319

**Purpose:** To modernize and up date the Alaska Small Loan Act. Expand the availability of credit to the Alaska consumer. Allow Alaska based lenders to compete with out-of-state lenders who import interest rate structures from their home states into Alaska.

**Result:** To create and retain jobs in Alaska's financial industry. To provide more local financing to rural communities. Provide credit to a broader base of Alaskan consumers who other wise might not have access to the credit they deserve.

Example: Monogram Bank of Georgia currently provides financing for customers at many Audio / Video dealerships in Alaska. Lets say the dealer runs a 12 month no payments, no interest financing special program for their customers. The dealer is charged, and must pay 2.5% to the Georgia Bank on every item that is sold, and financed under the special program. IE: Dealer sells a big screen T.V. for \$4000. Dealer will receive a check for \$3900 from the Georgia Bank. The dealer must pay \$100.00 to the Georgia bank for the use of the special program. The Interest rate the customer will pay later if they do not pay off the contract during the special financing program is 21.84% with the Georgia Bank.

Alaskan lenders offer similar special financing programs. However, the cost to the dealer is 10.5%. Dealer sell: a big screen T.V. for \$4000. Dealer will receive a check for \$3580 from the Alaskan lender. The dealer must pay \$420.00 to the Alaskan lender for the use of the special financing program. Interest rate the customer will pay later if they do not pay off the contract during the special financing program is approx. 12.9% with the Alaskan Lender.

Georgia can import it's rate structure(21.84%) into Alaska. The Georgia bank charges a lower discount to the dealer ship for these special financing programs. The dealer chooses to do business with the out-of-state lender as it is clearly more profitable. The Alaska lender can not match the 2.5% discount structure given to the dealer by the Georgia bank due to Alaska's more restrictive rate structure (12.9%).

In the above scenario the retail dealer does not even have the Alaskan lenders applications on the counter. The dealer ship does not want the customer to do their financing through Alaskan lenders because the Alaskan lenders cost the dealer more money.

# FISCAL NOTE

STATE OF ALASKA

BILL NO. CS SB 157(FIN)

1996 LEGISLATIVE SESSION

Revision Date: February 22, 1996

Department: Commerce and Economic Development

Title: Regulation of Small Loan and Retail Installment Transactions

BRU: Banking, Securities and Corporations

Component: Banking, Securities and Corporations

Sponsor: Senate Labor and Commerce

Requestor: Senate Finance

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>	00	00	00	00	00	00
<b>CAPITAL EXPENDITURES</b>	00	00	00	00	00	00
<b>CHANGE IN REVENUES</b>	00	00	00	00	00	00

**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>	00	00	00	00	00	00

Estimate of any current year (FY 96) cost: \$ 00

**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.

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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② Motion - Add immediate effective date. Adopted  
9-1.S0854V0

Phoned to:  
Legal Services  
10:55am

*Fin*  
CS FOR SENATE BILL NO. 157(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 2/2/96  
Referred: Finance

Sponsor(s): SENATE 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." *and providing for an immediate effective date.*

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 and  
9 agreed to by the parties, the [THE] holder of a retail installment contract or retail  
10 charge agreement may [NOT] collect any delinquency, [OR] collection or dishonored  
11 check charges, [CHARGE OTHER THAN] attorney fees, court costs, and disbursements  
12 [UNLESS THE CONTRACT SO PROVIDES]. In this case, the charge must [SHALL]  
13 be reasonable, and no attorney fee may be recovered unless the contract is referred for  
14 collection to an attorney not a 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 shall 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 immediate effective date.*

1

**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		
Frostone	Ohio	25%	21.84%	-0-	-0-
Lamonts	Ohio	25%	19.8%	\$10	\$10
Fred Meyer	South Dakota	No statutory rate limit	22.44%	Lesser of \$10 or 5% of missed payment	\$15
Nordstrom	Colorado	21%	18% to \$1,000; variable above	\$10	\$10
JCPenney	Alaska	18% to \$1,000; 10%% above	18% to \$1,000; 7.92% above	-0-	\$10
Radio Shack	Tennessee	24%	22.3%	\$15	\$10
Sears	Arizona	No statutory rate limit	21%	-0-	\$10
Texaco	Nebraska	No statutory rate limit	21%	Lesser of \$5 or 5% of missed payment	\$15
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

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

### BACKGROUND FOR ALASKA SENATE BILL NO. 157

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 these 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 SENATE BILL NO. 157

The proposed legislation, Senate Bill No. 157, 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. Senate Bill No. 157 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.



## 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

# 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:

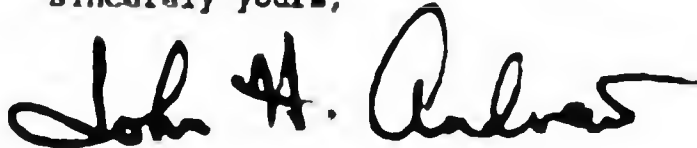
- A) A chart titled "Retail Credit Service Charges - Government Imposed Rate Ceilings;"
- B) A chart titled "Retail Revolving Credit (2 Party) - Open Competitive Credit Market States;" and
- C) Portions of a report titled "The Economic Impacts of Revolving Credit Regulation in Wisconsin, April 1995, 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

Mr. George Dozier  
Alaska House Committee on Labor and Commerce  
January 22, 1986  
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 Bizo "

## SB 157

Purpose: To modernize the Alaska Small Loan Act and to allow Alaska lenders to compete with out-of-state lenders doing business in Alaska.

Result: To create and retain jobs in Alaska's financial industry and to expand the availability of credit to the Alaska consumer.

### Alaska Small Loan Act

Adopted into law in 1955; last significant amendment in 1982.

#### Principal changes:

1. Application fee increased from \$400 to \$1,000 and annual fee increased from \$200 to \$500; multiple office license created with \$2,000 annual fee for 10 offices.
2. Liquid Asset and bond requirements increased to \$25,000 each from \$20,000 and \$5,000, respectively.
3. Standards for books and records made consistent with modern data processing concepts.
4. Irregular repayments authorized for Alaskans with seasonal income, e.g., fishermen or construction workers.
5. Loan agreements include cost of credit reports, \$25 late payment fee and costs incurred in collections.

### Alaska Retail Installment Sales Act ("ARISA")

Adopted into law in 1962; last significant amendment in 1980.

#### Principal changes:

1. Clarifies appropriate costs to be included in loans.
2. Amends service charges for fixed term and revolving charge agreements to 1 1/2% per month or 18% per year, simplifying the current complex rate structure.

**MAXIMUM SERVICE CHARGES ALLOWED FOR  
CONSUMER CREDIT**

(Interest Rates on Consumer Loans)

**CURRENT ANNUAL RATES IN ALL 15 WESTERN STATES  
In Effect in April 1995**

<u>State</u>	<u>Revolving Credit Loan Assume \$3,000 balance</u>	<u>Fixed Term Auto Loan Assume \$10,000 balance</u>
Arizona	No Limit	No Limit
California	No Limit	19.2%
Colorado	21.0%	16.4%
Hawaii	24.0%	24.0%
Idaho	No Limit	No Limit
Montana	No Limit	No Limit
Nevada	No Limit	No Limit
New Mexico	No Limit	No Limit
North Dakota	No Limit	No Limit
Oregon	No Limit	No Limit
South Dakota	No Limit	No Limit
Utah	No Limit	No Limit
Washington	No Limit (exp. 6-30-95)	No Limit (exp. 6-30-95)
Wyoming	21.0%	22.5%
<u>Alaska:</u>		
Current Law	12.8%	14.5%
SB 157 Proposal	18.0%	18.0%
Industry Request	24.0% or No Limit	24.0% or No Limit



**RETAIL REVOLVING CREDIT (2 PARTY)**

B

**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.

1/22/88

**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, Sep/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>2</sup>	Percentage distribution	Percent of outstanding balances <sup>2</sup>	Percentage distribution	Percent of outstanding balances <sup>2</sup>	Percentage distribution	Percent of outstanding balances <sup>2</sup>	Percentage distribution
Revenue								
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
Cost								
Operating	13.1	57	3.4	33	1.4	18	2.1	23
Credit losses	3.5	13	.7	7	.5	4	.8	9
Cost of funds	6.2	27	6.2	61	6.3	79	6.2	68
Total Cost	22.8	100	10.3	100	8.0	100	9.1	100
Net earnings before taxes	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. Local 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.

## Bibliography

1. Board of Governors of the Federal Reserve System. "The Economic Effects of Proposed Ceilings on Credit Card Interest Rates". Federal Reserve Bulletin (January, 1987), pp. 1-13.
2. Board of Governors of the Federal Reserve System. "Developments in the Pricing of Credit Card Services", Federal Reserve Bulletin (September, 1992), pp. 652-666.
3. Calom, Paul S., "The Strange Behavior of the Credit Card Market," Business Review, Federal Reserve Bank of Philadelphia (January/February 1992), pp. 3-14.
4. Data Resources Incorporated/McGraw-Hill, "A Study of the Attractiveness of States to Credit Card Issuing Firms," (April, 1994)
5. Evans, David S. and Schmalensee, Richard L., "The Economics of the Payments Card Industry", National Economic Research Associates, Cambridge, MA (1993)
6. Government Accounting Office, "U.S. Credit Card Industry: Competitive Developments Need to be Closely Monitored," GAO/GGF-94-23, Washington, D.C. (April, 1994)
7. Litan, Robert E., "The Impact of Price Controls on the Credit Card Industry", Brookings Institution, Washington, D.C. (March, 1992)
8. McAlister, Ray, "Retail Credit in Washington: Two Years Under a Free Market," University of North Texas (1994).
9. National Credit Union Administration, "Regional Directors Action Taken Under Authority Report", Washington, DC (1994)
10. Villegas, Daniel J., "The Impact of Usury Ceilings on Consumer Credit," *Southern Economic Journal*, (July, 1985) pp. 126-141

**GOVERNMENT-IMPOSED RATE CEILINGS  
REVOLVING RETAIL CREDIT**

<u>STATE</u>	<u>ANNUAL RATE CEILING</u>
1. Arizona	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
2. California	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
3. Connecticut	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
4. Delaware	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
5. Idaho	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
6. Illinois	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
7. Kentucky	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
8. Montana	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
9. Nevada	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
10. New Hampshire	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
11. New Jersey	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
12. New Mexico	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
13. New York	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
14. North Dakota	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
15. Oregon	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
16. South Carolina	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
17. South Dakota	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
18. Utah	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
19. Virginia	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
20. Washington	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
21. Florida	Parity (Highest rate imported into state by out of state lenders)
22. Louisiana	Parity
23. Texas	Parity
24. Ohio	25%
25. Hawaii	24%
26. Maryland	24%
27. Colorado	21%
28. Georgia	21%
29. Indiana	21%
30. Mississippi	21%
31. Oklahoma	21%
32. Tennessee	21%
33. Vermont	21%
34. Wyoming	21%
35. North Carolina	21% on 1st \$800, 18% there after.
36. Alabama	21% on 1st \$750, 18% there after.
37. Kansas	21% on 1st \$1000, 14.4% there after.
38. Nebraska	21% on 1st \$500, 18% there after.
39. Michigan	20.4%
40. Missouri	20%
41. Iowa	19.8%
42. Massachusetts	18%
43. Maine	18%
44. Minnesota	18%
45. Pennsylvania	18%
46. Rhode Island	18%
47. West Virginia	18%
48. Wisconsin	18%
49. Alaska	15% on 1st \$1000, Federal Discount rate plus 5 points there after (currently 10.25% there after)
50. Arkansas	Federal Discount rate plus 5 points. (currently 10.25%)

H. Lee Rowell  
Vice President  
Director  
Government Affairs



Avco  
Financial  
Services.

600 Anton Boulevard  
P.O. Box 5011  
Costa Mesa, CA 92628-5011  
714 445 7311  
FAX: 714 445 7167

January 31, 1996

Members of the Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801

Re: HB-319 and SB-157

Dear Members of the Legislature:

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 the members for considering these bills and would like to urge their passage.

Sincerely,

H. Lee Rowell

HLR:cb

## SB 157 & HB 319

**Purpose:** To modernize and up date the Alaska Small Loan Act. Expand the availability of credit to the Alaska consumer. Allow Alaska based lenders to compete with out-of-state lenders who import interest rate structures from their home states into Alaska.

**Result:** To create and retain jobs in Alaska's financial industry. To provide more local financing to rural communities. Provide credit to a broader base of Alaskan consumers who other wise might not have access to the credit they deserve.

Example: Monogram Bank of Georgia currently provides financing for customers at many Audio / Video dealerships in Alaska. Lets say the dealer runs a 12 month no payments, no interest financing special program for their customers. The dealer is charged, and must pay 2.5% to the Georgia Bank on every item that is sold, and financed under the special program. IE: Dealer sells a big screen T.V. for \$4000. Dealer will receive a check for \$3900 from the Georgia Bank. The dealer must pay \$100.00 to the Georgia bank for the use of the special program. The Interest rate the customer will pay later if they do not pay off the contract during the special financing program is 21.84% with the Georgia Bank.

Alaskan lenders offer similar special financing programs. However, the cost to the dealer is 10.5%. Dealer sells a big screen T.V. for \$4000. Dealer will receive a check for \$3580 from the Alaskan lender. The dealer must pay \$420.00 to the Alaskan lender for the use of the special financing program. Interest rate the customer will pay later if they do not pay off the contract during the special financing program is approx. 12.9% with the Alaskan Lender.

Georgia can import it's rate structure(21.84%) into Alaska. The Georgia bank charges a lower discount to the dealer ship for these special financing programs. The dealer chooses to do business with the out-of-state lender as it is clearly more profitable. The Alaska lender can not match the 2.5% discount structure given to the dealer by the Georgia bank due to Alaska's more restrictive rate structure (12.9%).

In the above scenario the retail dealer does not even have the Alaskan lenders applications on the counter. The dealer ship does not want the customer to do their financing through Alaskan lenders because the Alaskan lenders cost the dealer more money.

## ***Evidence of Competition in Deregulated Markets***

---

There is ample evidence that competition does work in the area of consumer credit finance charge rates when markets are free from restrictive statutory ceilings. Such rates rise to the legal ceiling only where that ceiling is below the level required to recover fully the costs of providing credit services.

---

*... competition does work in the  
area of consumer credit finance  
charge rates ...*

---

Evidence to this effect is available from a number of sources. For example, in Kentucky, New Hampshire, and Oregon, ceilings have never been imposed on retail credit cards. In these states without cell-

---

*In these states without ceilings, competition has always provided creditworthy consumers with ample supplies of credit at a variety of rates.*

ings, competition has always provided creditworthy consumers with ample supplies of credit at a variety of rates. For the most part, finance charge rates in these three states have been comparable to the most common statutory ceilings found in a majority of other states. Until about 1980, that level was 17 percent. Since then, the prevailing rate, where allowed, has risen to near 21 percent.

More recently, evidence has been obtained from other states which have "deregulated" retail finance charge rates -- that is, where all statutory ceilings have been removed. As of April, 1995, there were twenty-eight (28) jurisdictions without any ceilings or where ceilings were at least 21 percent. These are as follows:

Arizona	Idaho	Nevada	Oregon
California	Illinois	New Hampshire	Rhode Island
Connecticut	Kentucky	New Jersey	S. Carolina
Delaware	Louisiana <sup>2</sup>	New Mexico	S. Dakota
D. of Col <sup>1</sup>	Maine <sup>3</sup>	New York	Utah
Florida <sup>2</sup>	Maryland <sup>1</sup>	North Dakota <sup>4</sup>	Virginia
Hawaii <sup>1</sup>	Montana	Ohio <sup>5</sup>	Washington
<sup>1</sup> 24% ceiling <sup>2</sup> "Parity" states--rate can equal that being charged by out-of-state firms			
<sup>3</sup> Effective about 9/15/95 <sup>4</sup> Effective August 1, 1995 <sup>5</sup> 25% Ceiling			

Alabama <sup>1</sup>	Indiana	Nebraska <sup>1</sup>	Tennessee
Colorado	Kansas <sup>1</sup>	North Carolina <sup>2</sup>	Texas <sup>3</sup>
Georgia	Mississippi	Oklahoma	Vermont
			Wyoming
<sup>1</sup> Lower rate required on larger balances. <sup>2</sup> Basic rate 18%, but law allows a \$2 per month charge, producing the equivalent of 21% on balances up to \$800. <sup>3</sup> Another "parity" state where law allows a rate equal to that being charged by out-of-state firms up to a maximum of 21%.			

In addition to these twenty-eight, there are thirteen states where retail finance charge ceilings are 21 percent. These are listed here:

Dr. Ray McAllister of the University of North Texas completed a study in 1988 of retail finance charge rates and other credit terms in states which had ceilings of 21 percent or more (including those with no ceilings) -- 31 states total at that time. The study documented the terms in effect on more than 1,300 different retail credit plans representing over 13,500 retail stores and almost 70 million customer accounts.

X Evidence from the seventeen states without ceilings at that time showed that customers in these states had a total of twenty (20) different rate structures from which to choose. In no state were there fewer than five different rates charged. In California, a total of thirteen (13) different rates were being imposed. More than 87 percent of all rates were less than 22 percent; the average rate charged was 20.8 percent -- slightly LESS THAN the average rate imposed in the eleven states with 21 percent ceilings (20.9 percent).

X Similar patterns were found in the fourteen states where ceilings were 21 percent or more. In these, the number of different rates imposed ranged from five to eleven; the average rate was 20.9 percent.

Clearly, consumers in states without ceilings or where ceilings are at least 21 percent, have ample choices as to the source of retail credit to be used. In addition, of course, customers could choose to use any one of a large number of bank credit cards, most of which are priced somewhat differently from retail cards. Thus, the market seems to be working in that a large number of alternatives are available and at prices which, for the most part, are reasonable in light of the cost increases which have occurred in the past ten to twenty years.

... consumers in states without ceilings ... have ample choices as to the source of retail credit to be used.

Dr. Ray McAllister, CALIFORNIA RETAIL CREDIT: ITS USE AND PRICE RELATIVE TO OTHER STATES, Management Information Series No. 11, Merchants Research Council, Chicago, Illinois December, 1989.

4/95

**SENATE COMMITTEE REPORT  
First Committee of Referral**

B  
7

DATE: 4/12/95

FURTHER: Finance

Date of 5-Day Notice: 1/24/96  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2/1/96

Labor and Commerce Committee considered SB 157

Regulation of small loan and retail installment transactions.

and recommends:

- be replaced with CS 53157 (L.C.)
- adopt previous CS (    )
- attached amendment(s)
- adopt Letter of Intent by      Committee
- further referral to the      Committee

Senate Bill:  
 same title  
 new title  
House Bill:  
 same title  
 technical title  
 new SCR     

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Mike Miller</i>	✓				
<i>John Loggins</i>	✓				
<i>    </i>	✓				
<i>J. E. Sali</i>	✓				
CHAIR: <i>Tom Kelly</i>	-				

**NEW FISCAL NOTE(S):**

Department      Date      Zero      Fiscal

CS- DCE D	1/31/96	✓	

**PREVIOUS FISCAL NOTE(S):\***

Department      Date      Zero      Fiscal


APPROPRIATION - no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

5-5-95  
3(210) Fin

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SB 157

Revision Date: \_\_\_\_\_  
 Title: Regulation of Small Loan and Retail Installment Transactions  
 \_\_\_\_\_  
 Sponsor: Senate Labor and Commerce  
 Requestor: \_\_\_\_\_

Department Affected: 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 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ( )	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTA	0	0	0	0	0	0
Other	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimate of current year (FY 95) cost: \$ 0

**POSITIONS**

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Willis F. Krippatrick  
 Division: Banking, Securities and Corporations  
 \_\_\_\_\_  
 Approved by Commissioner: William L. Hershey  
 Agency: Commerce and Economic Development

Phone: 465-2521  
 Date: 5-2-95  
 Date: 5/3/95

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2/2/96

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SB 157

Revision Date: \_\_\_\_\_  
Title: Regulation of Small Loan and Retail Installment  
Transactions  
Sponsor: Senate Labor and Commerce  
Requestor: Senate Labor and Commerce

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>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>
<b>CAPITAL EXPENDITURES</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>
<b>CHANGE IN REVENUES</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF Program Receipts						
1006 GFA/HTIA						
Other						
<b>TOTAL</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>

Estimate of any current year (FY 96) cost: \$ 00

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Willis F. Kirkpatrick, Director Phone: 465-2521  
Division: Banking, Securities and Corporations Date: \_\_\_\_\_  
Approved by Commissioner: William L. Mensley Date: 1-31-96  
Agency: Commerce and Economic Development

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