

ALASKA LEGISLATURE COMMITTEE FILES 1901-1902

1803 SLC SB 750 - SB 757

LEGISLATIVE ACTIVITY
FINANCE CHARGE RATES

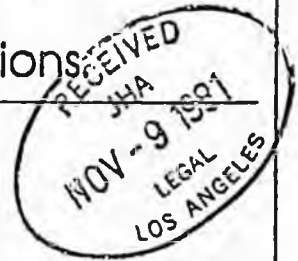
11/10/81

STATE	PROPOSED RATES	INTRO-DUCED	PASSED HOUSE	PASSED SENATE	GOVERNOR SIGNED	NEW RATES IN EFFECT	COMMENTS
ALABAMA	21%	X	X	X	X	5/15/81	Sunset provision extended to 6/1/83
CALIFORNIA	19.2%	X	X	X	X	5/1/81	Corrected bill - Sunset provision to 10/1/82
COLORADO	21%	X	X	X	X	6/7/81	
CONNECTICUT	18%	X	X	X	X	7/1/81	
DELAWARE	Deregulation	X	X	X	X	6/1/81	
FLORIDA	21%	X					Dead
GEORGIA	21%	X	X	X	X	4/15/81	
HAWAII	21%	X		X			Dead
IDAHO	21%	X	X	X	X	7/1/81	
* ILLINOIS	Deregulation	X	X	X	X	9/26/81	
KANSAS	24%	X					
LOUISIANA	21%	X					House rejected: 53-49
MAINE	24%	X					Dead
MASS.	18%	X	X	X	X	10/7/81	Retail cards now included
MINNESOTA	18%	X	X				18% rate applies only to retailers with annual sales volume of \$25 million or less
MISSOURI	18%	X	X	X	X	6/3/81	
MONTANA	Deregulation	X	X	X	X	4/6/81	Mandated Adj. Bal. Method 2-year Sunset Provision
NEVADA	Deregulation	X	X	X	X	6/14/81	
NEW JERSEY	Deregulation	X	X	X	X	3/31/81	
NEW MEXICO	Deregulation	X	X	X	X	7/1/81	2-year Sunset Provision
> * OHIO	Deregulation	X	X	X	X	11/10/81	Passed Senate. Governor declined to sign. Sunset 1/1/82
OKLAHOMA	21%	X	X	X	X	10/19/81	
WISCONSIN	Floating Rate	X					Hearing this week - bad bill
OREGON	Language clarification	X	X	X	X	8/22/81	
PENN.	Deregulation	X		X			Passed Senate: 28-20
RHODE I.	21%	X					Dead
TENNESSEE	21%	X		X			Dead
TEXAS	18% + tie to T. Bill Rate	X	X	X	X	5/8/81	
UTAH	Deregulation	X	X	X	X	5/12/81	
WASHINGTON	18%	X	X	X	X	5/8/81	
W. VIRGINIA	18%	X	X	X	X	4/10/81	Eliminates break rate
WYOMING	21%	X	X	X	X	5/20/81	
MICHIGAN	Deregulation	X					
N. CAROLINA	21%	X					Senate defeated: 41-11

*Changes since last update

Usury: Going legitimate?

As interest-rate ceilings rise or disappear, consumers may lose some hard-won protections



Borrowers and lenders both have important needs, described by Sir Francis Bacon as "the one, that the tooth of usury be grinded that it bite not too much; the other, that there be left open the means to invite moneyed men to lend for the continuing and quickening of trade."

The delicate balance of those two needs now seems to be shifting. Driven by eager lenders, many state legislators and members of Congress appear intent on wiping the concept of usury off the books. If they succeed, consumers will be doubly hurt: Borrowing costs, already extraordinarily high, could soar higher still; vital consumer protections, painfully won over recent years, could be eroded or lost altogether.

Over the last 50 years or so, the states have stitched together a complex patchwork of laws and regulations governing consumer credit. Until recently, one common thread has been the existence of a usury ceiling—a rate of interest, set by law, that a lender cannot exceed.

Within each state, lenders are subject to different usury ceilings depending on the kind of credit activity they engage in—auto installment sales, retail installment sales, revolving credit sales, bank loans, and finance company loans, for example. (The table opposite illustrates how state rate ceilings vary for two types of credit transactions.)

The usury ceiling tied to a particular kind of credit activity is linked—strongly in some states, less so in others—to the degree of consumer protection that creditors engaging in that activity must provide. In general, the higher the usury ceiling, the greater the protection.

For example, most states allow creditors to charge a higher Annual Percentage Rate (APR)* on small loans than on large loans, provided that borrowers also get more protection. The creditors can choose whether to charge higher rates and offer more protection, or to settle for lower ceilings that carry less protection.

Michigan lenders, for instance, can charge up to 31 percent on loans up to \$500 (13 percent above \$500). In return, such lenders must calculate the interest rate in a prescribed fashion; can lend no more than \$3000; must refrain from cer-

tain advertising claims; and must not require "wage assignments," under which borrowers agree in advance that their pay will go directly to the lender if they default. Alternatively, lenders can abide by a 18.5 percent ceiling and ignore those protections.

In states that tie usury ceilings and consumer protections together, high-interest loans often carry controls on such provisions as permissible fees and charges, balloon payments, refinancing terms, and the method of calculating the interest rate.

Bumping the ceiling

As interest rates rose and stayed high, state lawmakers began hearing complaints from creditors that the rates they wanted to charge for consumer credit were bumping up against the usury ceilings. If the ceilings weren't raised (or, more to the lenders' liking, eliminated), the lenders claimed, they would have no choice but to curtail consumer credit.

There was a grain of truth to the claim; loans to consumers have been curtailed. During the 19 months from the end of 1979 to August 1981, the amount of outstanding consumer installment debt—total short-term loans (excluding mortgages)—grew from \$312-billion to \$321-billion, an annual increase of less than 2 percent. During the 1970's, by comparison, outstanding installment debt grew almost 12 percent annually.

The current credit slowdown can be blamed, in part, on a drop in demand, a natural result of high interest rates. But many lenders have restricted the supply of consumer credit. Many banks, for example, have become fussier about their loan customers. In Wisconsin, where an 18 percent APR is the limit on consumer loans, bankers are generally making loans primarily to existing customers.

Other banks use another technique. In March of last year, Bankers Trust of South Carolina tightened the statistical profile it uses to screen credit applicants, dropping the percentage of approvals from 78 percent to 70 percent.

But lenders who argue that they must curtail consumer credit to avoid losses protest too much. Banks that have reduced their level of consumer-credit activity have done so mainly because com-

mercial lending is more profitable, not because they can't make money on consumer credit.

Complaints from retailers and credit-card issuers about low usury ceilings should be viewed with the same skeptical eye. In practice, retailers have been reluctant to raise their charges for revolving credit, even when allowed to, for fear of driving customers away. New York State furnishes an illuminating example of why credit-card issuers cannot be taken literally. When New York removed all restrictions on credit-card finance charges late in 1980, one would have assumed, from the card issuers' repeated claim that the old 18 percent limit was oppressive, that they would immediately hike their finance charges to a much higher level. In fact, most still charge 18 percent.

Instead of raising rates, credit-card issuers in many states are charging fees not in the APR calculation. Many now charge an annual fee of \$10 to \$20.

And an increasing number of card issuers are charging a transaction fee every time the card is used. Crocker Bank in California, for example, already levies a 12-cent fee. Other issuers are changing the terms even for users who have avoided finance charges by paying promptly. The approach varies. Several New Jersey banks have begun charging interest from the date of billing to the date of payment. Banks elsewhere are charging interest from the date a purchase is posted to the merchant's account. Tennessee, Alabama, and Missouri residents who hold a Visa or MasterCard from First Tennessee Bank in Memphis will have to pay a monthly "maintenance fee" between 50¢ and \$1.50 if they pay off the outstanding balance when billed.

What's behind the drive

Creditors are pushing to do away with usury ceilings for several reasons:

- Creditors would like to eliminate any future threat that usury ceilings will interfere with credit activity. If ceilings are simply lifted to some intermediate level consistent with current market rates, creditors fear that they would have to return to state legislators, hat in hand, to ask for another increase if interest rates climb still higher. From the credi-

* The Annual Percentage Rate most accurately expresses the interest rate charged.

tors' viewpoint, that's uncertain and inefficient. Tomorrow's politicians may be less patient than today's, and relief in the form of a new law can take weeks or months to pass.

• Ceilings are an obstacle to the introduction and success of variable-rate loans, in which the interest rate charged moves up or down during the term of the loan in step with a prearranged index. Variable-rate loans shift the burden of rising interest rates from the lender to the borrower, so creditors are enthusiastic about the idea. But usury ceilings prevent loan rates from rising without limit.

• Banks—especially large banks—want to operate across state lines. Interstate consumer banking is now restricted to credit cards. If interstate banking is allowed at some point, it would be much easier if the crazy quilt of state usury ceilings didn't exist, since banks could charge what they wanted, anywhere.

Timing is also significant. The current economic climate lends some support to the creditors' case for eliminating ceilings; if interest rates fall significantly, the lawmakers' interest in granting relief to creditors will fall, too.

So, besides lobbying in the states, creditors are pressing their case in Congress. A bill pending in both the House and Senate would wipe out all state usury ceilings on consumer credit, though a state would have three years in which to override sections of the law by passing its own limits. The bill has little chance of approval on its own in the House, but its sponsors—Representative John J. LaFalce (D., N.Y.) and Senator Richard G. Lugar (R., Ind.)—contemplate attaching it to another banking bill that has garnered broad support.

What the states have done

In 1980, as the prime rate moved past 20 percent, 42 states lifted or eliminated their usury ceilings; this year some of them went even further. Other states took action in 1981 for the first time. Ten states now permit banks that issue credit cards to charge any interest rate. Thirteen states, to all intent, no longer limit the interest rate that banks charge on consumer loans.

Several states, including Delaware, Nevada, and New Mexico, have completely wiped out all interest-rate restrictions for all classes of lenders. Most states, however, have elected to lift rather than abolish their ceilings, and to apply the higher rates only to certain classes of creditors.

Many states are still grappling with the usury question. New York lawmakers, for example, are likely to face a proposal to raise or abolish the state's criminal usury ceiling of 25 percent. (Consumer-credit interest rates aren't specifically regulated in New York but charging any rate

25 percent is a criminal act.) Alaska's legislature will also be making a decision whether to remove interest-rate ceilings on all types of retail credit. South Carolina is likely to rewrite its consumer-credit laws extensively next year, with a good chance that some consumer-credit ceilings will be raised. And Arkansas voters will decide in November of next year, in the fourth such referendum since 1968, whether the state's constitutional usury ceiling of 10 percent should be lifted to 17 percent.

"The pressure is on to raise ceilings in those states that have not done so," says Robert E. Gibson, president of the National Foundation for Consumer Credit, sponsor of more than 200 nonprofit credit counseling centers around the country. "I think those states will act quickly."

The arguments of creditors for higher ceilings are shaky, since usury ceilings,

even admittedly low ones, don't necessarily dry up consumer credit. Moreover, states that have eliminated rate ceilings, or raised them significantly, have attracted lenders engaging in borderline practices.

The case of Arkansas

When lenders complain that low ceilings force them to restrict consumer credit, they invariably bring up Arkansas as an example. With a 10 percent usury ceiling written into the state constitution, Arkansas is hardly a lender's paradise—that's true. But it needs a closer look.

First, most banks and thrift institutions (savings-and-loan associations, primarily) in Arkansas are permitted by Federal law to lend at one percentage point above the Federal discount rate—giving them the right (in September, as this is written) to charge a 15 percent APR on loans,

How state ceilings vary

The table below illustrates state-to-state differences in the maximum Annual Percentage Rate (APR) for two kinds of credit transactions—bank personal loans and retail installment purchases. The first column shows the highest legal APR for a hypothetical personal loan of \$2000, repaid over 24 months, taken from a bank. The second column shows the highest legal APR for a hypothetical purchase of \$500, financed for 12 months, from a retail store. The table was compiled with the help of Financial Publishing Co., a supplier of consumer credit information to the financial trade. All terms were current as of late September.

State	Bank personal loan	Retail installment purchase	State	Bank personal loan	Retail installment purchase
Alabama	21.35%	26.60%	Montana	No limit	No limit
Alaska	19	19	Nebraska	19%	18%
Arizona	No limit	No limit	Nevada	No limit	No limit
Arkansas	15 [1]	10	New Hampshire	No limit	No limit
California	22.76	19.72	New Jersey [2]	30	30
Colorado	22.95	24.03	New Mexico [2]	45	45
Connecticut	No limit	21	New York [2]	25	25
Delaware	No limit	No limit	North Carolina	22.05 [3]	24
District of Columbia	15 [1]	No limit	North Dakota	No limit	No limit
Florida	20.05	21.46	Ohio	22.42	21.80
Georgia	16.43	23.19	Oklahoma	24.67	30
Hawaii	31.13	28.80	Oregon	No limit	No limit
Idaho	28.43	36	Pennsylvania	15	24
Illinois	No limit	No limit	Rhode Island	21	21
Indiana	27.15	36	South Carolina	24.76	34.91
Iowa	21	21	South Dakota	18	21.46
Kansas	17.73	20.43	Tennessee	15 [1]	17.96
Kentucky	18.02	No limit	Texas	24 [4]	24 [4]
Louisiana	34.84	24	Utah [5]	15	45
Maine	24.67	30	Vermont	20.53	18
Maryland	23.35	22	Virginia	No limit	24
Massachusetts	23	21.46	Washington	20.05 [3]	22.05 [6]
Michigan	15 [1]	21.43	West Virginia	18	18
Minnesota	18.5	No limit	Wisconsin	14.4	18
Mississippi	21.57	24	Wyoming	22.95	33.03
Missouri	21.78	26.62			

[1] Federally insured banks, thrifts, and credit unions can charge an APR of 15% (1% above the "Federal discount rate"), although the state ceiling is higher.

[2] No specific regulation of consumer-credit interest rates, but charging any APR above amount indicated constitutes criminal usury.

[3] Rate on 6-month Treasury bills (16.05% as of September 14) plus 6% or 16%, whichever is more.

[4] Twice the rate on 6-month Treasury bills, but no less than 18% or more than 24%.

[5] Rate on 6-month Treasury bills plus 4%.

[6] Rate on 6-month Treasury bills plus 6%.

including purchases by credit card.

Second, Arkansas retailers have raised their prices to offset the effect of the 10 percent ceiling. If an Arkansas and a West Virginia retailer each sell a \$1000 video recorder with 24-month financing, the West Virginia retailer will probably charge an 18 percent APR, the highest allowed in that state. The Arkansas retailer, limited to 10 percent, is likely to raise the price of the recorder by about \$82. So both retailers receive about the same amount each month.

Third, most credit-card issuers located outside Arkansas can levy charges controlled by the state where they are based, not by the state where the holder lives. Thus a card issuer based in New York could charge Arkansas residents 20 percent or even more. Even Arkansas-based card issuers have continued to do business, making up for the 15 percent limit by raising the fee charged to merchants.

Beyond those specifics, the general picture in Arkansas differs little from other states. A 1981 study by the Credit Research Center of Purdue University analyzed the effects of the 10 percent ceiling on credit use and availability, comparing credit patterns in Little Rock with those in similar cities in Illinois, Louisiana, and Wisconsin. The study concluded that, "overall, the data . . . do not support the hypothesis that credit is less readily available in Arkansas than in other credit markets. . . . they are particularly inconsistent. . . . The hypothesis that low-income borrowers receive less credit in Arkansas." The central reason, the researchers found, is that Arkansians have shifted their credit use away from banks and thrifts, where credit has become more difficult to obtain, to "point of sale" sources—retailers, bank cards, and, in some cases, pawn shops.

The Arkansas experience was confirmed to some degree in West Virginia where, until last spring, the APR ceiling for consumer loans from banks was 12 percent. Yet an officer of the West Virginia Bankers Association affirmed that many banks had active loan programs before the APR went to 18 percent.

The dark side of the coin

In states where usury ceilings have been removed, abuses have appeared—particularly if the state did not beef up its consumer-protection provisions.

Arizona, for example, removed its ceilings for most kinds of loans in April of 1980. Never known as a state with vigorous consumer protections ("We're laissez-faire, otherwise known as anything goes," says state banking official Roy Schuetze, his tone ironic), Arizona has become a haven for "carpetbagger" mortgage brokers from California.

These brokers are arranging second trust deeds (which are like second mort-

gages) secured by the borrower's home. The second trusts carry interest rates of 30 to 40 percent or more; the finance charges include excessive loan-origination fees that usually amount to 15 to 20 percent of the loan. The loans are generally written so that payments are for interest only; a balloon payment for the entire loan comes due in as little as seven months. If a borrower can't make the balloon payment, the usual practice is for the broker to "flip" the loan—refinance the whole thing—and include a new origination fee. Borrowers who may want to pay off the loan early must pay a heavy prepayment penalty—a requirement that many states flatly forbid.

Elsewhere, some small loan companies in Texas are charging 200 percent on certain loans. In Oklahoma, creditors can charge more than 170 percent on one kind of small loan. By any standard, such rates and practices are unconscionable.

What should be done?

Removing usury ceilings can easily lead to the kind of serious abuses now current in Arizona. Not only would interest rates be free to soar, but, in the opinion of some state consumer-protection officials, it might encourage wage assignments and other such unsavory loan practices. What's more, it's unnecessary. Where economic conditions clearly restrict lenders' ability to make loans at a reasonable profit, the remedy is to raise ceilings, not abolish them. Wiping them out without strengthening existing consumer protections is doubly objectionable.

The Interagency Task Force on Thrift Institutions, a team of Federal banking officials assigned to study the future of thrifts, last year concluded that eliminating "restrictive [emphasis ours] usury limits would be in the public interest." But the task force warned: ". . . it is important that unwary borrowers be protected from unscrupulous lenders. This is a major reason that usury laws have persisted—to protect the consumer when disclosure requirements are not a sufficient safeguard."

Reconciling the needs of borrowers and lender is entirely practicable. Maine, for example, allows most creditors to charge 30 percent on loans up to \$540, but less for loans above that amount. That's more generous than many other states allow. But an additional provision stipulates that if a loan with an APR of more than 18 percent has a balance remaining after 37 months, the interest rate must then drop to 8 percent, even if the loan is refinanced. Why? "To prevent consumers from getting locked into high-interest, long-term loans," says Barbara Alexander, superintendent of the Maine Bureau of Consumer Protection. Without such a provision, the borrowers

might end up being "flipped," as happens in Arizona.

The tale on the previous page suggests that creditors may be far better off than their piteous cries would lead lawmakers to believe.

The dangers of pre-emption

Federal pre-emption of state usury ceilings, as proposed in the Lugar-LaFalce bill, would abolish even those state ceilings that are above current market rates, remove the ability of each state to set ceilings tailored to its residents, expose consumers to increased risk of default and bankruptcy because of high credit costs, and wipe out a host of strong state consumer-protection laws.

The bill, as drafted, would apparently do away with state controls on maximum finance charges, prepayment penalties, the way that interest rates are calculated, late fees, and balloon payments. The bill's supporters deny the measure would have such a sweeping effect, claiming that various credit provisions would be exempted from Federal pre-emption. The language of the bill, however, is very broad. "Their intent is to make the language look like something other than what it is," charges Maine's Barbara Alexander.

The bill is widely opposed by consumer groups. Another opponent is the American Conference of Uniform Consumer Credit Code States, a group of 11 states that have adopted all or part of the Uniform Consumer Credit Code (UCCC). The UCCC's framework of suggested rate ceilings and consumer protections, while balancing the needs of both consumers and lenders, tends to tip in favor of lenders. Even so, Kathleen Goodpasture Smith, a South Carolina state consumer-affairs official, speaking for the conference, told Congress in July that the bill would wipe out most borrower protections in UCCC states.

"Federal pre-emption of the UCCC would be disastrous for consumers and would not be the quick fix for creditors that some may believe," she cautioned. "State rate and charge limitations are so completely intertwined with consumer-protection provisions that the two concepts cannot be separated. . . . with higher rate ceilings, more consumer-protection provisions are necessary."

CU agrees. In their rush to accommodate creditors, many Federal lawmakers seem to be overlooking the basic consumer protections often provided by the same consumer-credit laws that govern usury ceilings. If state ceilings are abolished, as they would be under the Lugar-LaFalce bill, is it likely that the states will take positive action to reinstate those protections? Or are the people's representatives prepared to let the tooth of usury bite too much?

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Move to Ban Usury Ceilings Starts Fight Over Federal Role, Gouging

By EILEEN ALT POWELL
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—Consumer groups call it the "Loan Shark Revitalization Act." Bankers and retail merchants say it's credit deregulation.

At issue is legislation in Congress to eliminate state interest-rate limits on consumer loans. Despite opposition from consumer groups, supporters of the legislation are optimistic the measure can be enacted.

All but about a dozen states have consumer usury ceilings, ranging from 10% a year in Arkansas to 36% annually on small retail-installment loans in Indiana and Idaho. The laws have evolved in a piecemeal fashion since colonial times, and they vary not only by state but also by the size and type of loan and the lending institutions involved.

The laws started attracting attention about 1980, when market interest rates surpassed some state lending limits. To keep credit flowing, many states raised their interest ceilings, and some abolished their limits. Meanwhile, lenders began pushing for federal legislation to end all state ceilings.

Arizona's Experience

Banks, finance companies and other financial institutions argue that some state ceilings are still so low that they can't cover lending costs. One result, they say, is that consumer credit dries up. In Pennsylvania, where there is a 15% ceiling on credit-card interest charges, Philadelphia National Corp., a bank holding company, has applied to move its operations to neighboring Delaware. And First Pennsylvania Corp., a Philadelphia institution, recently challenged the credit-card ceiling in court. The suit was settled last month with a tentative agreement that would require First Pennsylvania to roll back its rate on credit-card purchases to 15% from 19.8% but would allow it to charge 19.8% interest on credit-card cash advances.

Consumer groups contend that interest ceilings are needed to protect borrowers from excessive credit costs. They point to what has happened in states such as Arizona, which in April 1980 removed most of its usury limits.

Used-car dealers there who used to charge about 21% annual interest now charge about 32%, says Chuck Pyle, an attorney with Southern Arizona Legal Aid in Tucson. He says his agency recently handled a case involving a woman who bought a used car under a contract calling for 50.98% annual interest.

The Reagan administration backs federal preemption of interest rates even though it favors increased governmental powers for the states philosophically. "Usury ceilings only distort financial markets and credit flows and don't reduce the cost of credit in the economy," Treasury Secretary Donald

Regan told the Senate Banking Committee.

The debate is focusing on bills introduced by Democratic Rep. John LaFalce of New York and Republican Sen. Richard Lugar of Indiana. Both bills would eliminate state interest-rate limits on credit extended for personal, family or household use. In addition, states wouldn't be allowed to prohibit lenders from charging borrowers certain fees, such as a fee for obtaining a credit card.

But the states would retain some authority. The bills say other state consumer-protection provisions, such as disclosure requirements and criminal loan-sharking statutes, would be left intact. And, under both bills, states would get three years to override the federal preemption, thus allowing reinstatement of ceilings.

The federal preemption is needed because "we are no longer a series of little

"We are no longer a series of little colonies, each independent of the other," says Rep. John LaFalce, who favors eliminating state interest-rate ceilings.

colonies, each independent of the other," Rep. LaFalce says. "We are dealing with regional, national and world markets." He sees little merit in trying to substitute a federal ceiling. The markets, if unfettered, will produce competitive lending rates, he argues.

The Second Step

Messrs. LaFalce and Lugar see their proposals as the next logical step in a credit deregulation process that began with the Monetary Control Act. That law, enacted in March 1980, nullified state ceilings on home mortgages in the states that had them. For three years, it also overrode state limits on business and agricultural loans of \$25,000 or more.

It also provided an alternate lending limit—set at one percentage point above the Federal Reserve's discount rate, currently at 12%—for federally insured financial institutions. States were given three years to override the Monetary Control Act interest-rate provisions. So far only 11 states have done so in whole or in part.

Backers of the interest-ceiling legislation are optimistic despite the hurdles that remain. Efforts to get the LaFalce bill moving toward the House floor were slowed in October when the House Banking consumer affairs subcommittee voted to table the proposal. But proponents

in both houses of Congress believe the legislation could be enacted if approved in the Senate as part of a controversial omnibus banking bill introduced by Banking Committee Chairman Jake Garn, the Utah Republican.

April Deadline

Still, Sen. Garn's recent decision to delay consideration of the banking bill until after the Christmas holiday recess worries some supporters of the interest-ceiling provision. They figure that for political reasons the bill must pass by April. Federal preemption of usury ceilings, says a Senate aide, "is such an emotional issue" that Congress probably won't deal with it too close to next fall's elections.

The American Bankers Association supports the legislation. Sam Baptista, an ABA lobbyist, argues that for many financial institutions the legislation is "a question of equity." The federal government, primarily at the urging of large banks and over the objections of many small banks and thrift institutions, has begun deregulating the interest rates that financial institutions can pay on deposits. "In fairness, it must deregulate the asset (loan) side, too," he says.

Asked if declining market interest rates won't defuse the issue, Mr. Baptista responds, "Who's to say they won't go back up again?" He adds that even the rate decline "won't help in states like Arkansas, Pennsylvania and Michigan," where he says usury limits are too low to be reasonable.

Consumer Groups Angry

Consumer groups see things differently. "This legislation will eliminate state usury ceilings designed to protect the highest-risk and most-vulnerable group of borrowers," charges the Consumer Federation of America, a coalition of consumer and labor groups. Federal elimination of the rate limits, it says, will cost Americans billions of dollars in additional finance charges, precipitate personal bankruptcies and allow creditors to impose extra fees that will make shopping for credit "difficult, if not impossible."

The consumer groups argue that the issue of interest ceilings should be left to the states. Attorney Ellen Broadman of the Consumers Union, a nonprofit consumer education organization that publishes Consumer Reports magazine, says that more than 40 states acted in 1980 to raise or abolish outdated interest-rate limits. This year more states have revised or are reviewing their laws, some for the second time. "The states, in other words, have moved to respond to changing economic conditions," she says. "There's no need for unfounded federal paternalism."

The Federal Reserve Board also opposes federal legislation. Fed member Nancy Teeeters told Congress that while the board is against rate ceilings, it should let each state's responsibility to correct the problem.

STATES WITH RATES OVER 18%

1. Kentucky
- 2. New York (D) (S) 6-30-83
- 3. Arizona (D)
4. New Hampshire
- 5. Oregon (D)
6. Alabama (S) Extended to June 1983
7. California (S) 10-1-82
8. Kansas (S) 7-1-82
9. Mississippi (S) 6-30-82
10. Nebraska
11. South Carolina (S) 7-30-82
12. South Dakota (S) 7-1-83
- 13. Delaware (D)
14. Georgia
15. Idaho
- 16. Montana (D) (S) 7-1-83
17. New Jersey (D)
- 18. New Mexico (D) (S) 7-1-83
19. Texas
- 20. Utah (D)
21. Wyoming
22. Oklahoma
23. Michigan
- 24. Illinois (D)
- 25. Nevada (D)
26. Colorado
- 27. Ohio (D) (S) 1-1-85

D = Deregulation

S = Sunset and date of expiration

1981 States Recent Activity On Rate Increases

1. Pennsylvania (D) (passed Senate) (held over to September)
2. Minnesota (18%) (for retailers with annual volume under 25 million)
3. Connecticut (18%) (passed and signed by the Governor)
4. Michigan (D) (Introduced)
5. Washington (18%) Passed and signed
6. Wisconsin (Floating Rate Introduced)

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MMF'S/December 21, 1981

Talked today by telephone with Jim McLaughlin, a representative of the American Bankers Association who is the expert on Bank Mutual Funds. His number is 202-467-5778.

He stated that he is not aware of any financial institution offering MMF's, despite the fact it is allowed by law in Washington State, and by interpretive ruling in New York State.

He further says the federal laws which describe the allowable (and prohibitive) securities activities of banks are the Banking Act of 1933 (Glass-Steagle), and the Investment Company Act of 1940. He says the prohibition on MF's in banks is applicable to all national banks and all state-chartered, Fed member banks. Consequently, all state-chartered banks in Alaska would be eligible because they are not Fed members.

He cited the following laws as particularly important:
G-S: sections 20,21,and 32; 12USC24 para Seventh, sections 77,377,378.

In short, Alaskan state-chartered banks would be able to participate provided they followed the rules as delineated in the two federal acts. He also noted that the Securities Subcommittee of one of the Banking Committees will be holding hearings on these in early February. He is sending information.

A contact with the ABA who specializes in Glass-Steagle is
Bob Bevan 202-467-4206

Volcker Opposes Banks' Offering Money Funds

Fed Chief Also Has Qualms On Bank Power for S&Ls But Wants Looser Laws

By a WALL STREET JOURNAL Staff Reporter

WASHINGTON — The chairman of the Federal Reserve Board said many banking laws need to be loosened, but he opposes at least for now some proposals backed by the Reagan administration, including one that would let banks offer money market funds.

Paul Volcker also voiced reservations about granting banking powers to savings and loan associations. The Fed says that idea raises "knotty" problems with the fundamental U.S. philosophy of having a diverse field of financial institutions.

At a Senate Banking Committee hearing, Mr. Volcker sounded a note of restraint to Congress as it takes up far-reaching legislation designed to restructure powers of financial institutions. Mr. Volcker said the issues raised are complex and doubly difficult in this time of high interest rates.

S&L Mergers Supported

He said the Fed supports broader powers for federal regulators to deal with troubled S&Ls, including mergers with healthier S&Ls and, as a last resort, with commercial banks. He also said the board supports federal action that would bar assumptions of low-interest home mortgages.

But he said the Fed opposes a move by Congress to strike down state interest rate ceilings on commercial loans, unless there is "a clear national interest at stake." Otherwise, he said it's a decision that should be left to individual states.

The Fed chief also said the central bank strongly opposes a provision in the Senate legislation that would allow nationally chartered banks to boost the limit on the amount of money they lend to a single borrower. The bill would raise the ceiling to 25% from 10% of a bank's capital and surplus funds. He said the Fed wants banks to spread their loan risk over several borrowers, but conceded an exception might be made for small banks. For them, he suggested lifting the limit to 15%.

White House View

The Fed's opposition to banks running money market funds, as well as its reservations about giving banking power to S&Ls, comes after Treasury Secretary Donald Regan urged Congress last week to give the institutions those powers. The administration has recommended beefing up competition among financial institutions, and is eager for Congress to throw out several of the White House's proposals.

Mr. Volcker said the Fed opposes money market funds for banks and S&Ls because it thinks current interest rates would impose higher costs on the institutions and "bring still heavier pressure on the earnings" of those banks and S&Ls that are being hurt by long-term low interest loans. He suggested it might be better to wait until after interest rates come down before considering the issue.

In the meantime, he said, banks should be given broader powers for offering investment management services. Although the Fed didn't propose it, Mr. Volcker said that if Congress allows banks to set up investment companies, they should be created as bank holding subsidiaries, barred from charging sales commissions and also from using the bank's name.

Mr. Volcker said the Fed supports letting banks underwrite municipal revenue bonds. Mr. Volcker also suggested banks be permitted to offer travel and data processing services and to sell commercial paper.

The Fed's reservations about giving banking powers to S&Ls stem partly from a concern that the thrifts might abandon the housing business they were designed to support, Mr. Volcker said. He said some S&Ls might simply convert to commercial banks, under the provisions in the Senate legislation. Instead of giving S&Ls such sweeping banking powers, he suggested they be allowed to provide insurance and trust services for individuals, as well as being given limited powers to offer commercial loans to small businesses. He urged that steps be taken "within a broad framework of a concept of (S&Ls) as community, family-oriented institutions."

Mutual Funds Set For New York Banks With State Charters

By a WALL STREET JOURNAL Staff Reporter

NEW YORK—The state banking superintendent, Muriel Shoen, said state-chartered banks and trust companies can organize open-end investment funds or mutual funds through subsidiaries.

The ruling is significant because it outlines ways banks can operate mutual funds without violating the Glass-Steagall Act, the federal law that prevents commercial banks from doing many brokerage activities, such as operating a mutual fund. It is limited, however, because it covers only 56 banks and trust companies with assets totaling \$16.7 billion operating in New York that don't have federal charters and excludes the state's banking giants, such as Citicorp, Chase Manhattan Corp. and Manufacturers Hanover Corp. Citicorp's assets alone are \$115 billion.

Still, the ruling was sufficient to raise the ire of the Investment Company Institute, a Washington D.C.-based trade group. Its officials view the New York ruling as a weapon the country's big banks—which have loudly been seeking to operate money funds to compete with the likes of Merrill Lynch, Pierce, Fenner & Smith Inc.—might use to convince Congress to end Glass-Steagall prohibition.

"I'm not saying this is some sort of conspiracy, but clearly the larger money center banks are interested in overturning Glass-Steagall. My guess is that if they could cause enough confusion on the state level, Congress may reconsider," said William Tartkoff, counsel for the institute. "In our opinion the law isn't unclear. It's very clear."

The banking commissioner's ruling came in response to an application from a trust company, which wasn't identified, to operate a mutual fund. To prevent such an operation from violating the Glass-Steagall act, the state superintendent said banks and trust companies must adhere to certain restrictions.

Among the restrictions: limits on how much of the fund's securities could be bought for the bank's customers; the bank and its subsidiary can't advertise or offer sales literature on the fund to the public; the fund must have a separate address from the bank; bank officers and directors can't work for the fund.

New York State
BANKING
DEPARTMENT



NEWS RELEASE

For Release:

Friday, A.M.
September 25, 1981

Muriel Siebert • Superintendent • Two World Trade Center • New York, N.Y. 10047

CONTACT
Kenneth A. Mills
Public Information Officer
212-488-2248 (Office)
212-626-3212 (Home)

NEW YORK STATE SUPERINTENDENT OF BANKS MURIEL SIEBERT
DETERMINES THAT NON-FED-MEMBER
STATE-CHARTERED BANKS AND TRUST COMPANIES
MAY SPONSOR, ORGANIZE AND ADVISE OPEN-END INVESTMENT FUNDS

Muriel Siebert, New York State Superintendent of Banks, announced today that a New-York-State-chartered bank or trust company, which is not a member bank of the Federal Reserve System, could sponsor, organize and advise an open-end investment fund.

The Banking Department reached this conclusion in response to a proposal by a New-York-State-chartered trust company to set up an open-end investment fund through a separate subsidiary. The fund would be registered as an investment company under the Investment Company Act of 1940 and the subsidiary would be registered as an investment adviser under the Investment Advisers Act of 1940.

The Banking Department concluded that it would be permissible under the New York Banking Law for the subsidiary of a bank or trust company to sponsor and organize the fund and, subject to approval by the shareholders of the fund, to advise the fund. The bank or trust company would agree to observe certain restrictions. These include:

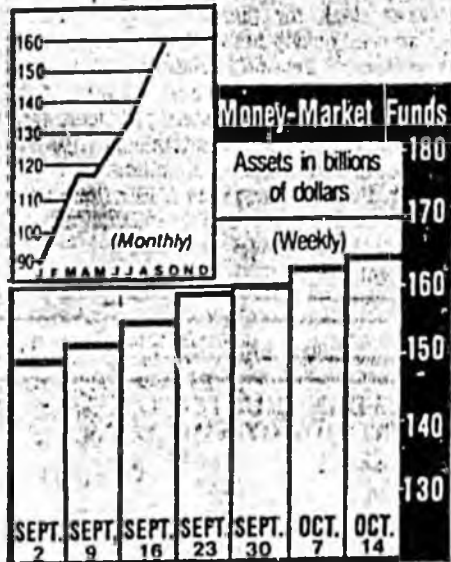
Prohibition on directors, officers or employees of the bank or its subsidiary working for the fund, and on major shareholders of the bank or its subsidiary having similar controlling positions with the fund.

more

Money Fund Assets Kept on Climbing During Past Week

By a WALL STREET JOURNAL Staff Reporter
NEW YORK—Money market fund assets kept climbing in the week ended Wednesday, indicating that investors are getting the money for tax-exempt, "all savers" certificates from other sources.

Assets of the 81 "general purpose" funds geared to individual investors rose \$520 mil-



lion, to \$50.52 billion, for the week, according to the Investment Company Institute, a Washington-based mutual fund trade group. That exceeds last week's asset growth of \$464 million in the general purpose funds.

The 28 funds geared to institutional investors, however, declined \$342 million in assets to \$28.84 billion, in sharp contrast to last week's \$1.4 billion climb. The institute blamed the drop on higher short-term interest rates.

Over all, assets of the nation's 146 funds rose \$1.33 billion, to \$164.55 billion, the trade group said. Last week, the funds grew \$2.5 billion.

Many analysts had predicted that at least some significant portion of the billions of dollars flowing into the new all savers certificates would come from money funds. Since the beginning of the year, investors have turned to money funds in record numbers for their high yields and liquidity.

But so far, those expectations haven't come true. Fund managers say there has been little or no drop in assets at any point since the all saver's program began two weeks ago. "We're doing as well as we ever have," said James Benham, chairman of the Capital Preservation Funds of Palo Alto, Calif.

The money funds continued to outpace other investment vehicles designed for individual investors, even though their own yields dropped slightly. The average seven-day yield for money funds declined to 15.5% from 15.75%, according to William E. Donoghue's Money Fund Report of Holliston, Mass. The average 30-day yield also dipped, to 15.98% from 16.33%. Both are still higher than the 13.75% that banks and thrift institutions can pay on six-month money market certificates.

The decline in assets of the funds geared to institutions stemmed from higher interest rates. Institutions can move money overnight to take quick advantage of a changing rate situation. Yields of money funds don't rise as quickly as interest rates in general, so big investors have been switching to investments such as certificates of deposit and commercial paper, which aren't within the financial reach of most individuals.

The Donoghue report confirmed the money funds' increase in assets, stating that they rose \$1.1 billion, to \$163.7 billion, and

"The fact is, the fraud artist knows the system, strikes early and hard"

and I support it, that Mastercard is a bank product—or, more accurately, a financial institution's product; the board will forgo short-term card growth for long-term marketing advantages.

"We can doubtlessly pick up a couple million cardholders but I don't want to be the president of Mastercard when major retailers become the largest 'Mastercard issuer.'"

Sears' clout. "Speaking of retailers and competition, don't look beyond Sears," Hogg related. "It was inter-

esting that the day we announced our Money Manager Account, Sears also announced its intention to form a money market fund as a major strategic direction.

"When you talk about Sears, the numbers are astounding. Imagine if it diverted 10% of its advertising budget to help launch this major new strategic direction.

"Sears is the second largest advertiser in the U.S. Do you know what 10% of its advertising budget is? Just over \$60 million! Can you imagine the impact of those numbers on

the financial services market?

"The question is, however, whether the Mastercard membership at large shares these concerns. Do you really care whether we are a 'pure' bank card or whether Channel Lumber markets a Mastercard?"

Powerful toes. "I worry about competitors that feel their dominant market holds being loosened, and try to make a case that we are being too aggressive," Hogg declared.

"And I am *not* talking about Visa.

"Mastercard and Visa have both

Banks may get their own money market funds

They're still referred to as the national card associations, but it's obvious that Visa and Mastercard have moved far beyond their original functions as licensors and operators of the two national credit card systems. First came debit cards, then travelers checks. The latest offering from the two associations is money market funds.

Visa was the first to announce its intent to offer a money market product, but Mastercard beat its West Coast rival to the punch by announcing its plan early in September. That was two weeks ahead of Visa's official announcement at a press conference during the ABA National Bank Card Convention.

New Tools. Despite this one-upmanship, the two plans are really designed more as tools to help banks compete against other money market mutual funds rather than as new weapons in the traditional Mastercard/Visa battle.

Neither plan, at press time, had been officially presented to the Securities and Exchange Commission. So neither organization could go into too many details. Yet, sufficient information was provided to show that the two programs are quite different from each other. A description of each follows.

Mastercard plan. The Mastercard people reached an agreement with Fidelity Management Group, the Boston-based investment management and discount brokerage firm, to create the Mastercard Money Manager Account. Essentially, the plan calls for Mastercard to provide the link between customers of participating Mas-

tercard member banks and a new money market fund being established and operated by Fidelity.

The core of the plan is the linkage of a customer's checking/NOW account with the Fidelity money market fund. Funds in the checking account above a certain amount (set by the bank) are swept on a daily basis into the money market fund. Conversely, when the checking account falls below a certain level, funds are drawn out of the money fund to make up the difference. The linkage used is Mastercard's INET electronic settlement system.

Customers do not deal directly with the money fund, the transfers are made by the bank acting as agent for the customer. Fidelity will manage the fund.

Optional accounts. Beyond this basic arrangement, the bank could also arrange for the customer's checking account to be linked to a discount brokerage account which in turn could be linked to a Fidelity margin account. Again, the linkage used would be Mastercard's INET system.

Additional flexibility allows banks to attach their own package of investment accounts (CDs, retail repos, All-Savers Certificates, etc.) to the overall money market/brokerage/checking account.

Access to this multi-faceted account may be by check, by the Mastercard II (debit) card, or by telephone transfer. Mastercard officials acknowledge that their new plan does not fully solve the problem of disintermediation of deposits from banks to money market funds. They expect part of the money sent to the new Fidelity fund to

be reinvested in participating banks' CDs, but not all of it.

However, Mastercard officials believe the new plan allows banks to remain in a pivotal position as suppliers of financial services, rather than operating simply as backroom processors.

Visa plan. Rather than turning to an outside investment firm to provide access to a money market fund, Visa U.S.A. is proposing to set up its own money fund. However, Visa will be advised by Alliance Capital Management Corp., a subsidiary of Donaldson, Lufkin, and Jenrette.

Pooling. The Visa fund is designed to invest primarily in certificates of deposit of participating member banks. The CDs purchased will reflect the amounts of investment in the fund by customers of each institution. Smaller banks will participate through a pooling arrangement with larger, correspondent members.

Other features of the Visa plan:

- The yield will be tied to the daily open market rate on 90-day Treasury bills;

- The fund will carry an indemnification feature so customers cannot suffer a credit loss;

- State Street Bank & Trust, Boston, will serve as custodian and transfer agent.

BASE is link. In operation, the Visa plan would work much like the Mastercard plan. Funds in a transaction account over a certain amount will be swept automatically into the fund.

Visa's electronic BASE system will provide the link. Banks will have the flexibility to set the terms and pricing for their customers, and may combine the fund with other financial services.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 751
Title An Act relating to Money Market Mutual Funds
Requested by Labor and Commerce Date 2/10/82

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development
Program Category Affected Consumer Protection
BRU, Program, Or Subprogram(s) Affected Banking and Securities
(Note: If more than one budget component is affected, separate line-item amounts and rounding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER (Specify Source)	0					

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE February 12, 1982 PREPARED BY Willis F. Kirkpatrick, Director
AGENCY Banking, Securities, Sm. Loans & Corp.
Original: Legislative Finance PHONE 485-2501
cc: Budget and Management
Prime Sponsor: First Legislator Named

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

March 1, 1982

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Senate Bill 751 an Act Providing for
Money Market Mutual Fund Accounts

You have asked for the position of the Department of Commerce and Economic Development on the above subject bill. It is the position of the department not to oppose Senate Bill 751. The previous Director of the Division of Banking, Securities, Small Loans and Corporations was one of the prime movers of this idea nationally. This bill sets in place a vehicle by which State chartered financial institutions could establish a special uninsured account as a money market mutual fund.

The purpose of the bill is to provide a means by which State chartered financial institutions could compete with the money market mutual funds being offered in Alaska. It would, of course, be a management decision by the financial institutions whether to offer this account or not. Surveys done in 1980 and 1981 of the state banks have indicated little or no interest at this time in these accounts.

It is our finding that this form of account is presently prohibited by Federal law. If and when the Federal law should change, Alaska would have in place a vehicle that would allow the State-chartered financial institutions to offer these accounts.

Therefore, the Department of Commerce and Economic Development has a favorable position on this bill based on the attempt to set in place a vehicle to provide financial institutions a means by which to compete in financial services.

Sincerely,

E. W. Eboch

Edward W. Eboch
Deputy Commissioner

involving extraordinary circumstances requiring immediate action, the department may take action without notice and public hearing, but upon application to rescind the action taken, the department shall promptly hold a hearing on the application.

(c) Hearings required or authorized under this title are not subject to AS 44.62.330 — 44.62.630 of the Administrative Procedure Act, except as required by AS 44.62.560 and 44.62.570.

(d) The department shall adopt regulations, consistent with the provisions of this title, establishing procedures for hearings held under this section. The Administrative Procedure Act (AS 44.62) applies to all regulations adopted or authorized under this title.

(e) For the purpose of hearings, investigations or proceedings under this title, and except as otherwise provided in this title, the department or an officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records which the department considers relevant or material to the inquiry. (§ 42 ch 169 SLA 1978)

As to facts requiring hearing under Procedure Act, see 1960 Op. Att'y Gen., former AS 06.05.010 and Administrative No. 7.

Sec. 06.01.040. Examination policy. It shall be the policy of the department to conduct, whenever reasonably possible, joint examinations with the Federal Deposit Insurance Corporation of those institutions subject to this title whose accounts are insured through that corporation. (§ 42 ch 169 SLA 1978)

Sec. 06.01.050. Definitions. As used in this chapter, unless the context otherwise requires,

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

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

(3) "financial institution" means an institution subject to the regulation of the department under this title. (§ 42 ch 169 SLA 1978)

Chapter 05. Alaska Banking Code.

Article

1. Powers of the Department of Commerce (§§ 06.05.005 — 06.05.085)
2. Banking Practices (§§ 06.05.090 — 06.05.280)
3. Organization and Corporate Functions of Banks (§§ 06.05.300 — 06.05.463)
4. Liquidation, Dissolution and Reorganization (§§ 06.05.465 — 06.05.475)
5. Prohibited Practices and Sanctions (§§ 06.05.480 — 06.05.525)
6. General Provisions (§§ 06.05.530 — 06.05.545)

Effect of amendment. — The 1978 amendment, in the second sentence, substituted "conviction of a corporation for violation of this chapter" for "violation by

a corporation" and increased the maximum fine from \$5,000 to \$20,000.

Editor's note. — Section 55, ch. 169, SLA 1978, contains a severability clause.

Sec. 06.05.525. Injunction. If a state bank fails to comply with the provisions of this chapter, or the regulations of the department, or is found by the department to be in an unsafe or unsound condition the result of which will cause substantial injury to the bank or to its depositors, creditors or stockholders, the superior court may, upon the suit of the department, issue an injunction restraining the violation and may issue an order prohibiting the transaction of all or any part of the bank's business until the circumstances upon which the suit is based no longer exist. (§ 3.510 ch 129 SLA 1951; am § 9 ch 63 SLA 1969)

Article 6. General Provisions.

Section

530. Effect on existing banks
535. Construction with subsequent legislation

Section

540. General definitions
545. Short title

Sec. 06.05.530. Effect on existing banks. The charters of state banks existing on March 26, 1951, continue in full force and effect. All state banks and, to the extent applicable, all banks shall thereafter operate in accordance with this chapter. Any state bank, by filing an application for an amendment of its charter or for a merger, consolidation or sale of all, or substantially all, of its assets or the assets of any department of the bank under this chapter and its charter is thereafter subject to this chapter. (§ 1.104 ch 129 SLA 1951)

Sec. 06.05.535. Construction with subsequent legislation. No part of this chapter shall be considered to be impliedly repealed by subsequent legislation not specifically repealing it if that construction can be avoided. (§ 1.106 B ch 129 SLA 1951)

Effect of Business Corporation Act. — This chapter is in no way amended by the Alaska Business Corporation Act (AS 10.05), 1959 Op. Atty. Gen., No. 17.

On formation of banking corporation. — A banking corporation may lawfully be formed under the Alaska Business

Corporation Act (AS 10.05). It is equally certain that a banking corporation may be formed under this chapter, since it has not been repealed in whole or in part by the Alaska Business Corporation Act, 1959 Op. Atty. Gen., No. 17.

Sec. 06.05.540. General definitions. As used in this chapter unless the context otherwise requires

- (1) "action" in the sense of a judicial proceeding includes any proceeding in which rights are determined;
- (2) "bank" means any person doing a banking business whether subject to the laws of this or any other jurisdiction;

(3) "banking" means the negotiation for and the discounting of promissory notes, drafts, bills of exchange and other evidences of indebtedness; receiving deposits, selling and buying exchange, coin, and bullion, and lending money on personal, real and other security, and other kindred financial operations;

(4) "branch bank" includes a branch bank, branch office, branch agency, additional office, or any branch place of business located in the state, at which deposits are received, checks are paid, or money is lent;

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

(6) "community" means a city, town, unincorporated village, or, in absence of any one of the foregoing, a trade area;

(7) "court" means a court of competent jurisdiction;

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

(9) "domestic bank holding company" means a domestic corporation that is organized under AS 10.05 and that has control over a bank or another domestic bank holding company through one of the following:

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 per cent or more of any class of voting securities of the bank or company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the bank or company; or

(C) the department determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management of policies of the bank or company.

(10) "executive officer" when referring to a bank, means the president, vice president, treasurer, cashier, comptroller and secretary, or any person who performs the duties appropriate to those offices or any person designated in the bylaws as an executive officer;

(11) "fiduciary" means trustee, agent, executor, administrator, committee, guardian or conservator for a minor or other incompetent person, receiver, trustee in bankruptcy, assignee for creditors or any holder of a similar position of trust;

(12) "good faith" means honesty in fact in the transaction and some reasonable ground for belief that the transaction is rightful or authorized;

(13) "item" means any instrument for the payment of money negotiable or nonnegotiable but does not include money;

(14) "officer" when referring to a bank means any person designated as an officer in the bylaws and includes, whether or not so designated, any executive officer, the chairman of the board of directors, chairman of the executive committee, and any trust officer, assistant vice president, assistant treasurer, assistant cashier, assistant comptroller, or other person who performs the duties appropriate to those offices;

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(15) "reason to know" means that upon the information available a person of ordinary intelligence in the particular business, or of the superior intelligence or experience which the person in question may have, would infer that the fact in question exists or that there is a substantial chance of its existence that, if exercising reasonable care with reference to the matter in question, conduct would be predicated upon the assumption of its possible existence;

(16) "state bank" means any bank chartered by this state;

(17) "undivided profits" means the accumulated, undistributed net profit of a bank, including any residue after

(A) provision for payment of taxes and expenses on operations,

(B) transfers to reserves allocated to a particular asset or class of assets,

(C) losses estimated or sustained on a particular asset or class of assets in excess of the amount of reserves allocated for it,

(D) transfers to surplus and capital,

(E) amounts declared as dividends to stockholders;

(18) "company" means any bank, corporation, partnership, joint stock company, business trust, association or similar organization, domestic or foreign. (§§ 1.102, 1.103 ch 129 SLA 1951; § 3.167 ch 129 SLA 1951; am § 1 ch 194 SLA 1959; am § 1 ch 139 SLA 1961; am § 1 ch 58 SLA 1962; am § 7 ch 56 SLA 1971; am § 19 ch 218 SLA 1976; am §§ 39, 40, 43 ch 169 SLA 1978)

Effect of amendments. — The 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of commerce" in paragraph (6) and "Department of Commerce and Economic Development" for "Department of Commerce" in paragraph (8).

The 1978 amendment added "or his designee" to the end of paragraph (6), rewrote paragraph (9), and added paragraphs (17) and (18).

Editor's notes. — Section 8 ch. 56, SLA 1971, provides: "Any branch or limited banking facility operating under a charter from the State of Alaska on January 1, 1971, is a duly chartered branch."

Section 55, ch. 169, SLA 1978, contains a severability clause.

Applicability of Alaska Banking Code to building and loan associations. — See *American Bldg. & Loan Ass'n, Inc. v. State*, Sup. Ct. Op. No. 112 (File No. 149), 376 P. (2d) 370.

Commissioner subject to provisions of Administrative Procedure Act. — The Administrative Procedure Act (AS 44.62) provides that the commissioner shall be subject to its provisions. 1960 Op. Atty. Gen., No. 7.

Sec. 06.05.545. Short title. This chapter may be cited as the Alaska Banking Code. (§ 1.101 ch 129 SLA 1951)

Chapter 10. Model Foreign Bank Loan Act.

Section	Section
10. Exemption of foreign banks from laws and taxation	35. [Transferred]
20. Authorized activities	40. Definitions
30. Filing statement	50. Short title

S

B

752

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

February 26, 1982

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce
Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Senate Bill 752 an Act Relating to Savings Associations

You have asked for a position from the Department of Commerce and Economic Development on Senate Bill 752. We are generally in favor of this bill as it clears up some questions under the Savings and Loan Act, i.e., qualifying shares of directors and out-of-state loan participations.

The department is opposed, however, to Section 7 of the bill as we feel it is not needed. It is not clear as to why a savings and loan would wish to be saddled with a federal investment list. The department could publish a list of acceptable investments which can include any investments authorized by the Federal section quoted in the bill. This list can be updated as rapidly as necessary and could allow for more control and yet be flexible enough to meet the needs of the industry.

If you have any further questions concerning our position on Senate Bill 752, you may wish to contact Mr. Kirkpatrick, Director of the Division of Banking, Securities and Corporations, direct at 465-2521.

Sincerely,

Edward W. Eboch

Edward W. Eboch
Deputy Commissioner

EWE/krb 5/4

James M. Kelly
October 7, 1981
Page 4

a member, or stockholder, shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members or stockholders except upon express action and authority of the board of directors.

Sec. 1 & 2
This language closely follows the language of the Model Act (1979 version); the amendments add reference to stockholders and delete subsection (c) of AS 06.30.115. Subsection (c) is a bad provision for at least three reasons. First, as the statutes are presently drafted, subsection (c) contradicts the provisions of AS 06.30.120. Second, it incorporates the common law concept of inspection applicable to business corporations, see AS 10.05.240, to savings associations, but without any of the safeguards as to relevancy and proper purpose. Third, it ignores the difference between business corporations and financial institutions, the latter being dedicated to the public interest (under extensive regulatory control) and subject to annual (if not more frequent) inspection by the Director of Banking and the Federal Home Loan Bank Board.

✓ 4. Ten Percent of Assets Limitation on Second Lien Loans. AS 06.30.555(b)(4) should be repealed. There are no similar limitations on federal savings and loan associations, see 12 C.F.R. §§545.6, et seq., thereby rendering state savings and loan associations noncompetitive.

5. Automatic Tie-In with Federal Powers. AS 06.01.020, as amended by Ch. 63 SLA 1981, gave the commissioner broad regulatory authority to grant state-chartered financial institutions powers enjoyed by federally chartered institutions (and to impose federal limitations on state-chartered institutions). The present administration has indicated a preference for legislation, as opposed to regulation, in order to effect any changes in state powers (and limitations); accordingly, the commissioner has not issued any regulations in the savings and loan area pursuant to AS 06.01.020, despite request for such regulations.

I suggest that it was the intent of AS 06.01.020, as amended, to at least allow state institutions to be competitive with federal institutions; such intent is frustrated if the ad-

from: The Model Savings Association Act

meeting of stockholders shall determine any question unless this Act specifically provides otherwise.

SECTION 13. ACCESS TO BOOKS AND RECORDS; COMMUNICATION WITH MEMBERS OR STOCKHOLDERS

Sec. 13?
(a) **Exclusiveness of Access.** Every member or stockholder shall have the right to inspect such books and records of an association as pertain to his loan, savings account, or the determination of his voting rights. Otherwise, the right of inspection and examination of the books and records shall be limited (1) to the Commissioner or his duly authorized representatives as provided in this Act, (2) to persons duly authorized to act for the association, and (3) to any federal or State instrumentality or agency authorized to inspect or examine the books and records of an insured association. The books and records pertaining to the accounts, loans and voting rights of savers, borrowers, members and stockholders shall be kept confidential by the association, its directors, officers and employees, and by the Commissioner, his examiners and representatives, except where disclosure is expressly or impliedly authorized by such person, or where the disclosure shall be compelled pursuant to applicable law or by a court of competent jurisdiction, and no member, stockholder or any other person shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members or stockholders except upon express action and authority of the board of directors, or to the extent that may be authorized and provided for in the bylaws of the association.

(b) **Communication with Members or Stockholders.** In the event, however, that any member, members, stockholder or stockholders desire to communicate with other members or stockholders of the association with reference to any question pending or to be presented for consideration at a meeting of the members or stockholders the association shall furnish upon request a statement of the approximate number of members or stockholders of the association at the time of such request, and an estimate of the cost of forwarding such communication. The requesting member, members, stockholder or stockholders shall then submit the communication, together with a sworn statement that the proposed communication is not for any reason other than the business welfare of the association, to the Commissioner who, after examination of the facts finds it to be appropriate, truthful and in the best interests of the association and its members or stockholders shall execute a certificate setting out such facts and such findings, forward the certificate together with the communication to the association, and direct that the communication be prepared and mailed by the association to the members or stockholders upon the payment to it by those making the request of the expenses of such preparation and mailing. If the Commissioner finds such proposed communication to be inappropriate, untruthful, or contrary to the best interests of the association and its members or stockholders, he shall have the discretion to deny or make other disposition of the request to communicate which he deems proper and he shall execute a certificate setting out such findings and deliver it to the party or parties making the request together with his order denying or making other disposition of the request.

from: The Model Savings Association Act

(c) Applicability of Section to Federal Associations. Insofar as the provisions of this section are not inconsistent with federal law, such provisions shall apply to federal associations whose home offices are located in this State, and to the members or stockholders thereof, except that the communication and statement provided for in subsection (b) shall be tendered to the Federal Home Loan Bank Board, Washington, D. C., in the case of a federal association and forwarded only upon that Board's certificate and direction.

SECTION 14. FINANCIAL STATEMENT. Every association shall prepare and publish annually in the month following the annual closing of its books in a newspaper of general circulation in the county in which the home office of such association is located, and shall deliver to each member or stockholder upon application therefor, a statement of its financial condition in the form prescribed or approved by the Commissioner.

SECTION 15. DIRECTORS

(a) Association under Direction of Board of Directors. The business of the association shall be directed by a board of directors of not less than five (5) nor more than fifteen (15) adult individuals elected by ballot from among the members or stockholders by a plurality of the votes of the members present or voting by proxy. If authorized by vote of the members or stockholders, the directors may elect all directors. At all times at least two-thirds of the directors shall be bona fide residents of this State.

(b) Qualifications Required of Directors. In order to qualify as a director: a member of a mutual association must hold individually, or jointly with his spouse, a savings account, the unencumbered withdrawal value of which is at least \$1,000; a stockholder of a capital stock association must own individually, or jointly with his spouse, capital stock in the association with a net, unencumbered stated value of at least \$1,000. Except with the written consent of the Commissioner, no member or stockholder shall be eligible for election or shall serve as a director or officer of an association who has been convicted of a criminal offense involving dishonesty or a breach of trust. A director shall automatically cease to be a director when he ceases to be a member, or when he is adjudicated a bankrupt or is convicted of a criminal offense as herein provided, or when the net equity above loans of all savings accounts in the association held by him or minimum stock ownership requirement specified above aggregates less than the minimum required to be eligible for election as a director, but no action of the board of directors shall be invalidated through the participation of such director in such action; provided, that if a director becomes ineligible under the terms of this subsection by reason of the exercise by the association of the right of redemption of savings accounts provided for in Section 36, he shall remain validly in office until the expiration of his term or until he otherwise becomes ineligible, resigns, or is removed, whichever may occur first.

Sec 3

(c) C stockholde nearly equ expire at tl year there election tl succeed tl

(d) ? authorize the limits vote of tl

(e) Director each vac electing holders a term for

(f) der the j such cha the pro number

(g) vacancy by a m: a direc which the cla of dire ity to

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STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2521

November 18, 1981

Mr. Eddie Turner, President
Peninsula Savings and Loan
Association
Blazy Mall - Sterling Highway
Pouch 1000
Soldotna, Alaska 99669

Dear Mr. Turner:

In reference to Ralph E. Duerre's letter of October 7, 1981 to James M. Kelly, Administrative Assistant to Senator Pat Rodey, there are a couple of points that the Division of Banking wishes to discuss.

Regarding nationwide lending, the first item addressed by Mr. Duerre in his letter, the division intends to utilize the "wild-card" statute, AS 06.01.020, to promulgate a regulation which will allow state-chartered associations to participate in conventional loans or pools of conventional loans secured by a mortgage on a one-to-four family residence where the mortgaged property is located outside the state. The contemplated regulation will not provide for direct loan packaging. This instance seems to be a classic case where the application of AS 06.01.020 would bring about the desired result, and thereby eliminate the necessity of seeking statutory change through the legislature.

Regarding AS 06.30.610(9), the seventh point addressed in Mr. Duerre's letter, this division is in the process of preparing a list of other investments. We would appreciate your input as to what investments you think should be placed on the list.

The division would prefer to place on the list that which Mr. Duerre suggested as a new subsection (9) of AS 06.30.610. Thus;

"Assets which qualify as liquid assets as defined in Section 523.10(g), Title 12, Code of Federal Regulations, and other assets, except time deposits and bankers' acceptances, which

*out-of-state
participations*

*Sec 4
§
Sub*

*expanded
investments*

§ 561.37

§ 561.37 Audit period.

The "audit period" of an insured institution means the twelve month period (or other period in the case of a change in audit period) covered by the annual audit conducted to satisfy § 563.17-1.

(41 FR 35821, Aug. 24, 1976)

§ 561.38 Consumer credit.

Credit extended to a natural person for personal, family, or household purposes, including loans secured by liens on real estate and chattel liens secured by mobile homes. Provided, the association relies substantially upon other factors, such as the general credit standing of the borrower, guaranties, or security other than the real estate or mobile home, as the primary security for the loan. Appropriate evidence to demonstrate justification for such reliance should be retained in an association's files. Among the types of credit included within this term are consumer loans; educational loans; unsecured loans for real property alteration, repair or improvement, or for the equipping of real property; loans in the nature of overdraft protection; and credit extended in connection with credit cards.

(Sec. 5(c)(2)(B), 48 Stat. 132, as amended by Title IV, § 401, Public Law 96-221, 94 Stat. 151; § 5(d), 48 Stat. 132, as amended (12 U.S.C. 1464(d)); §§ 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., p. 1071)

(45 FR 76110, Nov. 18, 1980)

§ 561.39 Open-end consumer credit.

"Open-end credit" as defined in Regulation Z (12 CFR 226.2(x)).

(Sec. 5(c)(2)(B), 48 Stat. 132, as amended by Title IV, § 401, Public Law 96-221, 94 Stat. 151; § 5(d), 48 Stat. 132, as amended (12 U.S.C. 1464(d)); §§ 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., p. 1071)

(45 FR 76110, Nov. 18, 1980)

§ 561.40 Closed-end consumer credit.

Consumer credit other than open-end consumer credit.

Title 12—Banks and Banking

(Sec. 5(c)(2)(B), 48 Stat. 132, as amended by Title IV, § 401, Public Law 96-221, 94 Stat. 151; § 5(d), 48 Stat. 132, as amended (12 U.S.C. 1464(d)); §§ 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., p. 1071)

(45 FR 76110, Nov. 18, 1980)

PART 562—APPLICATION FOR INSURANCE OF ACCOUNTS

- Sec.
- 562.1 General provisions.
- 562.2 Application form.
- 562.3 Filing and amendment of application.
- 562.4 Processing of application.
- 562.5 [Reserved]
- 562.6 Exceptions to the foregoing procedures.
- 562.7 Action by Corporation.
- 562.8 Costs of examination, audit, and appraisal.
- 562.9 Effective date of insurance; initial premium payment, issuance of certificate of insurance.
- 562.10 Prohibition against advertising prospective insurance.

AUTHORITY: Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726; Reorg. Plan No. 3 of 1947; 3 CFR, 1943-1948 Comp.

SOURCE: 32 FR 8125, June 7, 1967, unless otherwise noted.

§ 562.1 General provisions.

All requests by interested persons for advice or instructions with respect to any matter arising under this part shall be addressed to the Corporation's Supervisory Agent. As used in this part, the term "Supervisory Agent" means the President of the Federal home loan bank of the district in which the insured institution is to be located or any other officer or employee of such bank designated by the Board as agent of the Corporation as provided by § 501.10 of the general regulations of the Federal Home Loan Bank Board (§ 501.10 of this chapter).

§ 562.2 Application form.

An application for insurance of accounts shall be submitted in form prescribed by the Corporation and shall be supported in accordance with the prescribed "Outline of Information to be Submitted in Support of an Application for Insurance of Accounts or a

Chapter V—Federal Home Loan

Request for a Commitment of Accounts" (hereinafter in this chapter referred to as "Outline of Information")

§ 562.3 Filing and amendment of application.

An application for insurance of accounts shall be filed with the Corporation by delivering four copies of the application, together with four copies of supporting information, to the Supervisory Agent. After an application for insurance of accounts has been filed with the Corporation, and prior to the date of advice by the Supervisory Agent to the applicant to file additional information pursuant to § 562.4, the applicant may not amend the application and may not file any additional support information unless requested to do so by the Supervisory Agent or other officer or employee of the Corporation on behalf of the Corporation.

(36 FR 13682, July 23, 1971)

§ 562.4 Processing of application.

Processing of an application for insurance of accounts (this part) shall follow the procedure set forth in § 543.2 (d), (e), and (f) of this chapter.

(Sec. 101, 91 Stat. 1147, 12 U.S.C. 195-128 (the Community Reinvestment Act of 1977); sec. 5, 48 Stat. 151, as amended; 12 U.S.C. 1464; secs. 408, 48 Stat. 1256, 1257, 1260, 12 U.S.C. 1725, 1726, 1730, 82 Stat. 90-255, 12 U.S.C. 1730a; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

(43 FR 47162, Oct. 12, 1978)

§ 562.5 [Reserved]

§ 562.6 Exceptions to the foregoing procedures.

(a) Procedure prior to State charter. The foregoing provisions of this part shall be applicable to an application submitted to the Corporation for insurance of accounts by a person who has organized a new institution but who has not yet received approval of organization from the State. Such an applicant, but who has not yet received approval of organization from the State, may submit, in lieu of an

04.30.520
Sec 5

James M. Kelly
October 7, 1981
Page 6

NOT BE LIMITED BY LAW UNLESS THAT
LAW EXPRESSLY REFERS TO THIS SEC-
TION.]

In my suggested language, I have deleted reference to the limitations imposed on federally chartered institutions on the theories that automatic imposition of additional restrictions/limitations may upset the state statutory/regulatory framework and that the commissioner already has authority to impose such limitations, see e.g. AS 06.30.025 and 030.

✓6. Director Qualifying Stock. Request is made that AS 06.30.145(b) be amended to read as follows:

In a stock association each director shall own individually, or jointly with his spouse, [IN HIS OWN RIGHT] free of any encumbrance capital stock of the association in an amount equal to at least \$1000 in par value.

This language follows that of the Model Act and is considered necessary pursuant to matters raised in supervisory audits of Peninsula Savings and Loan Association.

Sec 7
✓7. Investment in Securities. AS 06.30.610(9) permits investments in "other stocks, securities or obligations which the commissioner approves and places on a published list." Pursuant to an item which showed up on a recent supervisory audit, Peninsula Savings and Loan Association requested that bankers' acceptances be placed on the published list of approved investments. The commissioner candidly pointed out that the Department has yet (since 1961) to develop such a list and, again, indicated a preference for legislative action (as opposed to administrative). Accordingly, request is made that AS 06.30.610(9) be redesignated as subsection (10), and that a new subsection (9) be added to read as follows:

assets which qualify as liquid assets as defined in Section 523.10(g) of Title 12, Code of Federal Regulations, and other assets, except time deposits and bankers' acceptances, which would so qualify

a member, or stockholder, shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members or stockholders except upon express action and authority of the board of directors.

This language closely follows the language of the Model Act (1979 version); the amendments add reference to stockholders and delete subsection (c) of AS 06.30.115. Subsection (c) is a bad provision for at least three reasons. First, as the statutes are presently drafted, subsection (c) contradicts the provisions of AS 06.30.120. Second, it incorporates the common law concept of inspection applicable to business corporations, see AS 10.05.240, to savings associations, but without any of the safeguards as to relevancy and proper purpose. Third, it ignores the difference between business corporations and financial institutions, the latter being dedicated to the public interest (under extensive regulatory control) and subject to annual (if not more frequent) inspection by the Director of Banking and the Federal Home Loan Bank Board.

Sec 8
✓ 1. Ten Percent of Assets Limitation on Second Lien Loans. AS 06.30.555(b)(4) should be repealed. There are no similar limitations on federal savings and loan associations, see 12 C.F.R. §§545.6, et seq., thereby rendering state savings and loan associations noncompetitive.

no! 5. Automatic Tie-In with Federal Powers. AS 06.01.020, as amended by Ch. 63 SLA 1981, gave the commissioner broad regulatory authority to grant state-chartered financial institutions powers enjoyed by federally chartered institutions (and to impose federal limitations on state-chartered institutions). The present administration has indicated a preference for legislation, as opposed to regulation, in order to effect any changes in state powers (and limitations); accordingly, the commissioner has not issued any regulations in the savings and loan area pursuant to AS 06.01.020, despite request for such regulations.

I suggest that it was the intent of AS 06.01.020, as amended, to at least allow state institutions to be competitive with federal institutions; such intent is frustrated if the ad-

STOCK SUBSCRIPTION

§ 523.4 Subscription.

An applicant shall subscribe for stock when it applies for membership.

§ 523.5 Additional subscription.

At the end of each calendar year, a Bank shall notify any member if additional stock subscription is required.

§ 523.6 Adjustments in holdings.

A Bank may from time to time increase or decrease the amount of stock of any member to conform to section 6(d) of the act. If such amount is decreased upon proper application of the member, the Bank shall pay for each share, on its surrender, the value thereof determined under section 6(i) of the act, or, at its election, credit any part of such payment against the member's debt to the Bank. A Bank may require a member to give 30 days' written notice of intention to apply for such a decrease, and a member's holdings shall not be reduced to an amount less than required by section 10(c) of the act.

§ 523.7 Excess subscription.

With Bank approval, a member may subscribe for stock over the minimum amount, if the law under which the member operates so permits.

§ 523.8 Payment on subscription.

An applicant may, under section 6(d) of the act, pay in installments for subscribed stock. If an applicant's admission to membership is substantially delayed following application, and it has furnished all information required and complied with applicable laws and Board regulations, it may make its second payment on admission, and succeeding payments as prescribed in section 6(d). All other subscriptions shall be paid in full before stock certificates are issued.

LIQUIDITY

§ 523.10 Definitions for purposes of this section, § 523.11 and § 523.12.

(2) Cash. Cash on hand and unpledged demand deposits in a Bank, an insured bank, or the Bank for Savings

and Loan Associations, Chicago, Ill., but not gold in any form.

(b) Insured bank. A commercial bank whose deposits are insured by the Federal Deposit Insurance Corp., not under control of any supervisory authority.

(c) Liquidity base. A member's net withdrawable accounts, or the policy reserve of a member insurance company required by State law, plus the member's short-term borrowings.

(d) Net withdrawable accounts. All withdrawable accounts less the unpaid balance of all loans secured by such accounts, but not including tax and loan accounts or note accounts.

(e) Short-term borrowings. All borrowings payable on demand or in 1 year or less, but not including tax and loan accounts or note accounts.

(f) Obligations of the United States. Evidences of indebtedness issued by the United States, or issued by an agency or instrumentality thereof and fully guaranteed as to principal and interest by the United States.

~~Capital assets.~~ The total of cash, accrued interest on unpledged assets which qualify as liquid assets under this subsection or would so qualify except for their maturities, and the book value of the following unpledged assets (including such assets held subject to repurchase agreement), as long as principal and interest on such assets are not in default:

(1) Time deposits in a Bank or the Bank for Savings and Loan Associations, Chicago, Ill.;

(2) Except as the Board may otherwise direct in a specific case, obligations of the United States maturing in 5 years or less;

(3) Obligations with 5 years or less remaining until maturity, issued, or fully guaranteed as to principal and interest, by:

- (i) A Bank(s);
- (ii) The Federal National Mortgage Association;
- (iii) The Government National Mortgage Association;
- (iv) A Bank(s) for Cooperatives, including the Central Bank for Cooperatives;
- (v) A Federal Land Bank(s);
- (vi) A Federal Intermediate Credit Bank(s);

(vii) The Tennessee Valley Authority;

(viii) The Export-Import Bank of the United States;

(ix) The Commodity Credit Corporation; or

(x) The Federal Financing Bank;

(4) Time and savings deposits in an insured bank, including time deposits held subject to a repurchase agreement and loans of unsecured day(s) funds to an insured bank (Federal funds or similar unsecured loans to insured banks), up to an amount not to exceed the maximum permissible investment in such deposits allowed under § 562.9-6 of this chapter, if:

(i) Except for loans of unsecured day(s) funds such time deposits are (a) negotiable and will mature in 1 year or less, (b) not negotiable and will mature in 90 days or less, or (c) not withdrawable without notice and the notice periods do not exceed 90 days;

(ii) Loans of unsecured day(s) funds will mature in 6 months or less; and

(iii) The priority of claims of a lender of unsecured day(s) funds is not subordinate to claims of depositors in the borrower thereof;

(5) Bankers' acceptances of an insured bank if:

(i) The total of all such acceptances of the same bank held by the same member does not exceed one-fourth of 1 percent of total deposits of such bank (as shown by its last published statement of condition preceding the date of acceptance);

(ii) Such acceptances will mature in 6 months or less;

(6) General obligations (other than gold-related obligations) of any State, territory, or possession of the United States, or political subdivision thereof, if:

(i) Such obligations continue to be either (a) rated in one of the four highest grades by the most recently published rating of such obligations by nationally recognized investment rating service or (b) issued by a public housing agency and have the full faith and credit of the United States pledged under § 1421a(c) or § 1427(a) of Title 42 of the United States Code, as amended; and

(ii) Such obligations will mature in 2 years or less; and

(7) Shares or certificates in any open-end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, while the portfolio of such company is restricted by its investment policy, changeable only by vote of the shareholders, to investments described in the other provisions of this paragraph (g).

(h) *Short-term liquid assets.* The total of cash, accrued interest on unpledged assets which qualify as liquid assets under paragraph (g) of this section, or would so qualify except for their maturities, and the book value of the following unpledged assets (including such assets held subject to repurchase agreement):

(1) Time deposits specified in paragraph (g)(1) of this section;

(2) Obligations specified in paragraphs (g)(2) and (g)(3) of this section, which will mature in 12 months or less;

(3) Time and savings deposits, including loans of unsecured day(s) funds, which qualify as liquid assets under paragraph (g)(4) of this section and, in the case of such time deposits which are negotiable, will mature in 6 months or less;

(4) Bankers' acceptances specified in paragraph (g)(5) of this section which will mature in 6 months or less;

(5) General obligations specified in paragraph (g)(6)(i)(b) of this section which will mature in 6 months or less; and

(6) Shares or certificates of any investment company qualifying under paragraph (g)(7) of this section, to the extent that the investments of such company are eligible under this paragraph (h).

(Sec. 401, 94 Stat. 702, Pub. L. 96-221, § 2 amended (12 U.S.C. 1437) Reorg. Plan No. 5 of 1947, 12 FR 4951, 3 CFR, 1947 Supp.; 143 FR 46839, Oct. 11, 1978, as amended; 44 FR 25648, Mar. 15, 1979; 45 FR 57134, Aug. 27, 1980)

§ 572.11 Liquidity requirements

(a) General. Except as otherwise provided in paragraphs (b) and (c) of this section, for each calendar month, each member, other than a mutual savings



Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 752 Sectional Analysis:

Section 1) Amends AS 06.30.115 pertaining to access to books and records of a savings association. Members and stockholders of an association may inspect records pertaining to his loan, savings account, or voting rights. Retains provision that the commissioner (or his authorized representative), persons authorized by the association, and federal agencies authorized, may inspect the books and records of an insured association.

Section 2) Books and records pertaining to accounts, loans and voting rights of members, stockholders, savers and borrowers shall be kept confidential.

Section 3) In a stock association each director shall own capital stock (\$1,000), individually or jointly with his spouse. Currently "in his own right".

Section 4) Exempts participation loans authorized under AS 06.30.530 from the prohibition against securing loans by mortgages on properties located outside the state.

Section 5) amends As 06.30.520 by the addition of language which would allow property improvement and consumer loans to be secured by liens on real estate and mobile homes.

Section 6) Adds the National Credit Administrator insured loans and loans approved by the Department to the list of eligibility for participation loans.

Section 7) allows investments in liquid assets as defined by federal regulation, as well as assets excluded from the definition because of maturity limitations, but not time deposits and bankers' acceptances.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 752

Title An Act relating to savings associations

Requested by Labor and Commerce Date _____

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development

Program Category Affected Consumer Protection

BRU, Program, Or Subprogram(s) Affected Banking and Securities

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER (Specify Source)	0					

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE February 18, 1982

PREPARED BY Willis E. Kirkpatrick, Director

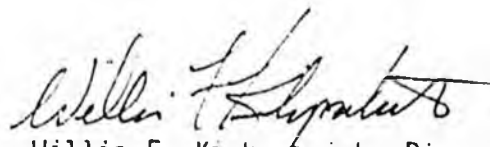
AGENCY Banking, Securities, Sm. Loans, & Corp.

Original: Legislative Finance
cc: Budget and Management

PHONE 465 2521

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)



COMMITTEE REPORT

SENATE

2/11/82

FURTHER: None

Date: 3 MARCH 82

Mr. President:

The Committee on LABOR & COMMERCE has had SB 752
savings associations

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Munkacsy
CHAIRMAN

charge may be made against borrowers for defaults or prepayments. However, nothing contained in this chapter prevents payment being made for the purchase of stock in a stock association. (§ 7 ch 49 SLA 1961; am § 12 ch 164 SLA 1972)

Effect of amendment. — The 1978 amendment substituted "may not charge" for "shall not charge" in the first and second sentences and added the third sentence.

Sec. 06.30.115. Access to books and records of association. (a) Every member may inspect the books and records of an association which pertain to his loan or savings account.

(b) Except as provided in (a) and (c) of this section, the right of inspection and examination of the books and records is limited to (1) the commissioner or his authorized representatives as provided in this chapter, (2) persons authorized to act for the association, and (3) any federal instrumentality or agency authorized to inspect or examine the books and records of an insured association.

(c) In stock associations every stockholder may inspect the general books and records of the association except a stockholder may not have access to the loan and savings records of other members. (§ 8(a) ch 49 SLA 1961; am § 13 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment inserted "and (c)" in subsection (b), and added subsection (c).

Sec. 06.30.120. Books and records pertaining to members' accounts to be kept confidential. The books and records pertaining to the accounts and loans of members shall be kept confidential by the association, its directors, officers and employees, and by the commissioner, his examiners and representatives, except where disclosure is compelled by a court of competent jurisdiction. No person, including a member, shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members except upon express action and authority of the board of directors. (§ 8(a) ch 49 SLA 1961)

Sec. 06.30.125. Communication between members. If a member desires to communicate with another member with reference to a question pending or to be presented for consideration at a meeting of the members, the association shall furnish upon request a statement of the approximate number of members of the association and an estimate of the cost of forwarding the communication. The requesting member shall submit the communication to the commissioner who, if he finds it is appropriate, truthful and in the best interests of the association and its members, shall execute a certificate setting out these findings, forward the certificate together with the communication to the

association, and direct the association to prepare the communication and mail it to the members upon payment to it by the requesting member of the expenses of preparation and mailing. (§ 3(b) ch 49 SLA 1961)

Sec. 06.30.130. Application of §§ 115—125 of this chapter to federal savings and loan associations. To the extent that §§ 115—125 of this chapter are not inconsistent with federal law, they apply to federal savings and loan associations whose home offices are located in this state, and to the members, except that the communication provided for in § 125 of this chapter shall be submitted to the Federal Home Loan Bank Board, Washington, D.C., and forwarded only upon that board's certificate and direction. (§ 8(c) ch 49 SLA 1961)

Sec. 06.30.135. Association to publish and furnish annual financial statement. Every association shall prepare an annual statement of its financial condition in the form prescribed or approved by the commissioner. The statement shall be published annually each January in a newspaper of general circulation in the city in which, or in the immediate vicinity of which, the home office of the association is located. The association shall deliver a copy of the statement to each member upon his request. (§ 9 ch 49 SLA 1961)

Sec. 06.30.140. Association under direction of board of directors. The business of the association is directed by a board of directors of not less than five or more than 25 as determined and elected by ballot from among the members by a plurality of the votes of the members present. If authorized by vote of the members, vacancies on the board of directors may be filled by a simple majority vote of the remaining directors, and those persons so appointed may serve only until the next annual meeting of the association. At all times at least two-thirds of the directors shall be bona fide residents of this state. (§ 10(a) ch 49 SLA 1961; am § 14 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "25" for "15" in the first sentence and the language beginning "vacancies on the board of directors" for "the directors may elect all

directors" at the end of the second sentence.

C.J.S. reference — 9 C.J.S. Banks and Banking § 968 et seq.

Sec. 06.30.145. Qualifications of directors. (a) To qualify as a director, a member of a mutual association shall hold a savings account with the association having a withdrawal value of at least \$1,000. A director automatically ceases to be a director when he ceases to be a member, or when the net equity above loans of all savings accounts in the association held by him aggregates less than the minimum required to be eligible for election as a director. However, no action of the board of directors is invalid through the participation of the director in the action. If a director becomes ineligible under this section by reason of the exercise by the association of the right of redemption of savings

accounts provided for in §§ 475—485 of this chapter, he remains in office until the expiration of his term or until he otherwise becomes ineligible.

(b) In a stock association each director shall own in his own right free of any encumbrance capital stock of the association in an amount equal to at least \$1,000 in par value.

(c) Each director shall take an oath that he will faithfully and honestly perform the duties of his office and will not violate or permit to be violated any provisions of this chapter. The oath shall be filed annually in the office of the department. (§ 10(b) ch 49 SLA 1961; am § 15 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment designated the provisions of this section as subsection (a), and in that subsection, substituted "a mutual association" for "an association" and "\$1,000" for "\$500" in the first sentence, inserted

"with the association" in the first sentence, and deleted the former second sentence, which read "If the assets exceed \$2.5 million, the withdrawal value of the account must be at least \$2,000." The amendment also added subsections (b) and (c).

Sec. 06.30.150. Classification of directors. At the first annual meeting, the directors shall by majority vote be divided into three classes of as nearly equal numbers as possible. The term of office of directors of the first class expires at the first annual meeting following the first election; the term of office of the second class expires one year thereafter; and the term of office of the third class expires two years thereafter. At each annual election thereafter directors shall be chosen for a full term of three years to succeed those whose terms expire. (§ 10(c) ch 49 SLA 1961)

Sec. 06.30.155. Number of directors increased only by members. The number of directors may be subsequently increased only by vote of the members. (§ 10(d) ch 49 SLA 1961)

Sec. 06.30.160. How vacancy on board of directors caused by increase in number of directors is to be filled. If the members fail to elect a director to fill each vacancy created by an increase, the directors may fill the vacancy by electing a director to serve until the next annual meeting of the members, at which time a director shall be elected to fill the vacancy for the unexpired term for the class of director in which the vacancy exists. (§ 10(e) ch 49 SLA 1961)

Sec. 06.30.165. Classification of new directors elected to fill vacancies. Whenever the number of directors is changed and vacancies caused by the change are filled, the directors so elected shall be classified so that each of the three classes contains numbers as nearly equal as possible. (§ 10(f) ch 49 SLA 1961)

Sec. 06.30.170. When vacancy on board of directors is to be filled by directors. A vacancy among directors, not filled by the members, may be filled by a majority vote of the remaining directors, though less than a quorum, by electing a director to serve until the next annual meeting

successor in interest without notice to the original party, except where there is a written agreement to the contrary, and may forbear to sue or may extend time for payment of the secured debt or otherwise modify its terms without discharging or in any way affecting the original liability of the party upon the debt. (§ 23(f) ch 49 SLA 1961)

Sec. 06.30.520. Property improvement and small loans. An association may make property improvement loans to property owners for maintenance, repair, modernization, improvement, and equipment of their properties. A loan may be made with or without security, except that a loan without security may not exceed \$4,500. An association may not make property improvement loans exceeding 25 per cent of its assets. An association may make small loans to members with or without security not exceeding \$2,500. However, an association may not make small loans exceeding 15 per cent of its assets. The total amount of loans made under this section may not exceed 25 per cent of the assets of the association. (§ 23(g) ch 49 SLA 1961)

Sec. 06.30.525. Power to purchase loans and to lend upon loans. The power to make loans includes (1) the power to purchase loans of any type that the association may make and (2) the power to make loans upon the security of loans of any type that the association may make. (§ 23(h) ch 49 SLA 1961)

Sec. 06.30.530. Participation loans. An association may participate with other lenders in loans of any type that an association may otherwise make, if the other lenders are instrumentalities of or corporations owned wholly or in part by the United States or this state, or are associations organized under the laws of this state, or are associations or corporations insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, or are life insurance companies with assets in excess of \$100 million, or are employees' or self-employed persons' trusts qualified and exempt from federal income tax under the laws of the United States. (§ 23(i) ch 49 SLA 1961)

Sec. 06.30.535. Sale of loans. An association may sell without recourse any loan, including its participating interest in a loan, at any time, if the total dollar amount of the loan sold, including the sale, within the calendar year beginning January 1 immediately preceding the date of the sale, does not exceed a sum equal to 25 per cent of the dollar amount of all loans and participating interests in loans held by the association at the beginning of the calendar year. However, the commissioner, upon application of the association showing good cause, may authorize the sale of a greater amount during a calendar year. Notwithstanding the limitations of this section, loans may be assigned with recourse to the Federal Home Loan Bank of which the association is a member. (§ 23(j) ch 49 SLA 1961)

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Article 9. Investments and Borrowing.

Section

610. Investments in securities
615. Investments in real estate

Section

616. Investment in service corporation
620. Power to borrow

Sec. 06.30.610. Investments in securities. An association may invest in the following securities:

(1) obligations of, or guaranteed as to principal and interest by, the United States or this state without limitation;

(2) stock of a Federal Home Loan Bank of which it is eligible to be a member and in obligations or consolidated obligations of any Federal Home Loan Bank;

(3) stock or obligations of the Federal Savings and Loan Insurance Corporation;

(4) stock or obligations of a national mortgage association or its successor;

(5) demand, time, or savings deposits with a bank or trust company whose deposits are insured by the Federal Deposit Insurance Corporation;

(6) stock or obligations of any corporation or agency of the United States or this state, or in deposits therewith to the extent that the corporation or agency assists in furthering or facilitating the association's purposes or powers;

(7) savings accounts of an association operating under this chapter and of a federal savings and loan association;

(8) evidence of indebtedness which is a general obligation of a city, town, village, school district, or other municipal or political subdivision of this state;

(9) other stocks, securities or obligations which the commissioner approves and places on a published list. An association investing in securities listed by the commissioner is not required to dispose of the securities if at a later time the commissioner removes the securities from the list. (§ 26(a) ch 49 SLA 1961)

C.J.S. reference. — 9 C.J.S. Banks and Banking § 1008 et seq.

Sec. 06.30.615. Investments in real estate. (a) An association may invest an amount which does not exceed the sum of its capital stock, surplus, undivided profits and reserve accounts in real estate including buildings and appurtenances as may be or reasonably anticipated to be necessary or convenient for the transaction of its business from portions of which a revenue may be derived by rentals or otherwise. However, the commissioner may approve investment of a larger sum.

(b) An association may also invest in:

(1) real estate purchased at any type of sale upon which it has a lien or claim;

(B) secured in addition to the amortized mortgage by a savings account held by the lending institution in an amount equal to 15 percent of the loan or other collateral acceptable to the department.

(3) No investment may be made in a conventional loan secured by a mortgage on a one-to-four family residence unless the mortgaged property is located inside the state.

(4) Repealed by § 15 ch 71 SLA 1981.

(5) The loan may not be made to a director, officer, or employee except when secured by home property owned and occupied by the director, officer, or employee.

(6) No investment may be made in a mortgage upon a leasehold unless

(A) the leasehold has an unexpired term of not less than two years beyond the maturity of the loan;

(B) the principal amount of the mortgage loan is not in excess of 80 per cent of the appraised value of the leasehold; and

(C) provision is made for completed amortization of the loan within an unexpired term by period payments as the department may prescribe.

(7) No investment may be made in a conventional loan secured by a mortgage on a multiple-family dwelling or improved real estate if the loan exceeds 90 percent of the appraised value of the property or has a maturity exceeding 40 years from the date the loan is made. (§ 23(c) ch 49 SLA 1961; am § 27 ch 164 SLA 1978; am §§ 3-6, 15 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment, in paragraph (1), substituted "the net worth of the association or an amount equal to 10 percent of the savings liabilities of the association, whichever is less, except that a mortgage investment in the aggregate amount of \$100,000 or less may be made notwithstanding the provisions of this paragraph" for "two percent of the assets of the association at the time the investment is made, or \$90,000 on a single-family dwelling or \$90,000 per unit on a multiple-family dwelling or other improved realty, whichever is greater, or other maxima established by the commissioner by regulation." In paragraph (2), the amendment substituted "90" for "two percent of the assets of the association at the time the investment is made, or as specified in (1) of this section, whichever is greater, or more than 80" preceding "percent of the appraised value," substi-

tuted "40" for "30" preceding "years," added "a" preceding "mortgage" and substituted "insurer authorized to do business in Alaska with coverage in an amount acceptable to the department" for "insurance in an amount equal to 20 percent of the loan issued by a mortgage insurer authorized to do business in Alaska" in subparagraph (A) and substituted "15" for "10" preceding "percent" in subparagraph (B). In paragraph (3), the amendment substituted "No" for "except as provided in (1) of this section, no" preceding "investment" and deleted "and the mortgage has a maturity not exceeding 30 years from the date the loan is made" following "inside the state." The 1981 amendment also repealed paragraph (4) and added paragraph (7).

Editor's notes. — For limitation on investments in loans on improved real estate, see paragraph (7) of this section.

Sec. 06.30.505. Other loans. (a) An association may use for loans other than those specified in AS 06.30.500 an aggregate amount not exceeding 30 percent of the assets at the time of use, or a larger amount

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if a loan made after 30 percent of the assets of the association have been used is made with a written commitment by a secondary investor to purchase the loan within a reasonable time and with the approval of the commissioner as follows:

(1) home loans, whether direct-reduction or not, which exceed 90 percent of the appraised value of the home property securing the loan;

(2) [repealed]

(3) home loans of any amount, which are not direct-reduction home loans, regardless of where the home property securing the loan is situated;

(4) other real estate loans, whether amortized or unamortized, regardless of amount or location of real estate securing the loan.

(b) A subsequent reduction of savings liability does not affect outstanding loans made under this section.

(c) An association may, subject to regulations adopted by the commissioner, invest not to exceed 20 percent of its assets in loans secured by mobile homes.

(d) The loans referred to in (a) of this section may not exceed 90 percent of appraised value of the property securing the loans except as provided in AS 06.30.500 and 06.30.510. (§ 23(d) ch 49 SLA 1961; am §§ 28, 29 ch 164 SLA 1978, am § 7 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment, in subsection (a), added "if a loan made after 30 percent of the assets of the association have been used is made with a written commitment by a secondary investor to purchase the loan within a reasonable time and" preceding "with the approval" in the introductory language and in paragraph (1), substituted "90 percent of the appraised value of" for "\$90,000 each, regardless of where" preceding "the home property" and deleted "is situated" following "securing the loan."

In subsection (b), the amendment deleted the former first sentence which read "The power referred to in (a) of this section is referred to as the 30 percent of assets lending power" and substituted "this section" for "the 30 percent of assets lending power" in the second sentence. In subsection (c), the amendment substituted "20" for "10" preceding "percent of its assets" and, in subsection (d), substituted "90" for "80" preceding "percent of appraised value."

Sec. 06.30.507. Lending standards. An association may not make a loan unless it has determined that the type, amount, purpose, and repayment provisions of the loan in relation to the resources and credit standing of the borrower support the reasonable belief that the loan is financially sound, will be repaid according to its terms, and is lawful. (§ 8 ch 71 SLA 1981)

Sec. 06.30.520. Property improvement and consumer loans. An association may make property improvement loans to property owners for maintenance, repair, modernization, improvement, and equipment of their properties. In addition, an association may make consumer loans. A property improvement or consumer loan may be made with or without security. An association may not make property

improvement loans exceeding 25 percent of its assets or consumer loans exceeding 40 percent of its assets. (§ 23(g) ch 49 SLA 1961; am § 9 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment added the present second sentence, added "property improvement or consumer" preceding "loan" and deleted "except that a loan without security may not exceed \$4,500" following "without security" in the third sentence, deleted "an association may make small loans to members with or without security not exceeding \$2,500. However, an association

may not make" from the end of the third and beginning of the fourth sentences, substituted "or consumer" for "small" preceding "loans exceeding," substituted "40" for "15" preceding "percent of its assets" and deleted the former last sentence which read "The total amount of loans made under this section may not exceed 25 percent of the assets of the association."

Sec. 06.30.535. Sale of loans.

Repealed by § 15 ch 71 SLA 1981.

Editor's notes. — The repealed section derived from § 23(j), ch. 49, SLA 1961.

Sec. 06.30.540. Servicing loans. An association may service loans. (§ 23(k) ch 49 SLA 1961; am § 10 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment substituted "loans" for "mortgages and trust deeds made by the association and later sold subject to regulations and restrictions prescribed by the commissioner" following "service" in the first sentence and deleted the former

second sentence which read "The maximum principal amount of mortgages and trust deeds serviced by an association at any one time shall not exceed two-thirds of the amount of the savings liability of the association."

Sec. 06.30.555. Security for real estate loans. (a) Every real estate loan shall be secured by a mortgage, trust deed, or other instrument constituting a first lien, or the equivalent of a first lien, upon the real estate securing the loan, according to lawful or well-recognized practice best suited to the transaction. The instrument, constituting a first lien, is referred to in this chapter as a "mortgage." The mortgage shall provide specifically for full protection to the association for the loan and additional advances and the usual insurance risks, taxes, assessments, other governmental levies, maintenance, and repairs. The mortgage may provide for the assignment of rents which becomes absolute upon the borrower's default and operative upon written demand made by the association. The mortgage shall be recorded in accordance with law.

(b) An association may, subject to the requirements of this chapter, make or acquire a loan by a second lien on improved real estate if

(1) payments on the loan secured by the first mortgage are current and the bank retains in its records a written report of the status and balance of the first lien loan as of the date the second lien loan is made or acquired;

REPEALED;

(2) the total of the balance of the loan secured by the first lien and the loan secured by the second lien does not exceed the maximum percentage of appraised value permitted under AS 06.30.500(2);

(3) the second mortgage agreement contains a provision that the association is entitled to be subrogated to all rights of the borrower under the first mortgage;

(4) the total aggregate amount of such loans outstanding does not exceed 10 per cent of the association's assets. (§ 24 ch 49 SLA 1961; am § 30 ch 164 SLA 1978; am § 11 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment, in subsection (b), substituted "AS 06.30.500(2)" for "AS 06.30.505(d)" in paragraph (2).

Article 9. Investments and Borrowing.

Section

616. Investment in service corporations

Sec. 06.30.616. Investment in service corporations. An association may, subject to the approval of the commissioner, invest in capital stock, obligations, and securities of any service corporation organized under the laws of this state if: (1) the entire capital stock of the service corporation is available for purchase only by one or more savings and loan or banking institutions having their home offices in the state; and (2) substantially all of the activities of the service corporation are similar or incident to activities which may be engaged in by a service corporation in which a federal savings and loan association may invest or such other activities as the commissioner may approve. Investments in service corporations may not exceed five percent of the assets of an association. (§ 33 ch 164 SLA 1978; am § 12 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment rewrote this section.

Article 11. Conservatorship and Receivership.

Section

665. Commissioner may apply for appointment of conservator

Sec. 06.30.665. Commissioner may apply for appointment of conservator. If satisfactory corrective action is not taken within a reasonable time after the order of the commissioner under AS 06.01.030, the commissioner, if he believes that the public interest may be served by the appointment of a conservator, may, acting through the attorney general, apply to the superior court for the appointment of a conservator. (§ 38(b) ch 49 SLA 1961; am § 4 ch 94 SLA 1980)

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STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

March 24, 1982

The Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: SB 756

Dear Senator Mulcahy:

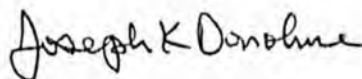
The Department of Revenue would like to propose that the following amendment be added to SB 756 which is presently in your Committee. The amendment would allow the Department to promulgate regulations for multistate financial institutions under Chapter 43.70.

AS 43.70.000. The department may adopt regulations necessary to determine and collect the fees imposed [AND TO ENFORCE] by this chapter and may promulgate regulations defining the necessary methods of combination and apportionment for multistate financial institutions required to file under this chapter.

Financial institutions are not covered by the corporate income tax statute (AS 43.20) in Alaska. They are treated instead under AS 43.70.030(b), the Alaska Business License Act, and the license fee for these institutions is seven percent of their net income. Although the Department feels that it has the authority to promulgate regulations defining methods of combination and apportionment for multistate financial institutions, the amendment would clarify that position and that the treatment for multistate financial institutions is the same as other multistate corporations for taxing purposes.

The attached fiscal note is for an auditor position to monitor the new corporations the bill would permit to operate in the state.

Sincerely,



Joseph K. Donohue
Deputy Commissioner, Taxation

JKD:DLC:jas

Enclosure

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. SB 756
 Title An Act relating to the ownership of financial institutions
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Revenue
 Program Category Affected Audit
 BRU, Program, Or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		45.0	45.0	45.0	45.0	45.0
200 TRAVEL		5.0	5.0	5.0	5.0	5.0
300 CONTRACTUAL						
400 COMMODITIES		.3	.3	.3	.3	.3
500 EQUIPMENT		1.2				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		51.5	50.3	50.3	50.3	50.3

FUNDING (Thousands of Dollars)

GENERAL FUND		51.5	50.3	50.3	50.3	50.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE March 16, 1982 PREPARED BY *R. Keen* N. David Ziemer
 AGENCY Revenue
 Original: Legislative Finance PHONE 465-2319
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

opinion

3/18/82

Anchorage Daily News

Winner, 1976 Pulitzer Prize Gold Medal for Public Service

Katherine Fanning
Editor and Publisher

Stan Abbott
Executive Editor



Gerald E. Grilly
General Manager

Howard Weaver
Managing Editor

Lawrence Fanning, Editor and Publisher 1967 to 1971
Alaska's Only Morning Newspaper • Founded in 1946 by Norman C. Brown

Interstate banking needs close look

An idea that cropped up in a hurry last legislative session — interstate banking in Alaska — is back on the agenda in Juneau. Legislators who Monday took testimony on proposals to lower the barriers against Outside penetration of Alaska's banking industry would do well to study carefully before taking any action on the matter.

The issues are complex. Competition among financial institutions; financial resources and services available to Alaskans; flows of capital into and out of the state; short- and long-term interests of bank shareholders; control over important economic resources; benefits or disadvantages to local consumers . . . all would be affected by a major change in state banking law. Wider political concerns include the desires of major banks to break down interstate banking barriers nationwide — and the resulting concentration of power and resources that could ensue.

Last year, legislators wisely rejected special legislation to allow interstate banking here — a proposal sought by Seattle's Rainier Bancorporation when it wanted to acquire Anchorage's Security National Bank. The abruptness and reach of the plan troubled local bankers and politicians alike, and it was tabled for later consideration. Now the issue is back, and Rainier, among others, is still in the market.

Legislators should move cautiously, as any good banker would do. If Alaskans can benefit by improved services, increased financial resources and more sophisticated financing options, the proposal may have real merit. But state leaders should know well the balance of costs and benefits that go with interstate banking before taking action on any such plan.

and shareholders.

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

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

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

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

(4) principally conducts its *[BANKING] operations [THROUGH OUT-OF-STATE BANKING SUBSIDIARIES], as measured by total deposits held or controlled by it on the date on which it becomes an out-of-state bank holding company;

*[(i) FOR THE PURPOSE OF THIS SECTION, A TRUST COMPANY ORGANIZED UNDER THE LAWS OF THIS STATE WHICH IS CONDUCTING A BANKING BUSINESS SHALL BE DEEMED TO BE A STATE BANK.]

*Sec. 5. [THIS ACT TAKES EFFECT IMMEDIATELY IN ACCORDANCE WITH AS 01.10.070(c).]

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

February 18, 1982

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce
Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Thank you for your request for a position statement and fiscal note on SB 756.

SB 756, an act relating to ownership of financial institutions by out-of-state bank holding companies, this department and the Division of Banking, Securities, Small Loans and Corporations, although not necessarily advocating interstate banking, does support the full legislative process in determining the needs of the state, its citizens and a sound financial community. We opposed the special interest activity noted on this subject during the last legislative session.

SB 756 is acceptable inasmuch as it is not limited or restrictive to any size, condition, location, etc., of the bank holding company or subsidiary bank. We feel if interstate banking is going to be a benefit to the state it should go through the bank holding company structure. This will tend to preserve the dual banking system and also maintain some Alaska (community) management control and local interest of the subsidiary bank.

As to the regulatory scheme toward the proposed legislation, we see no problem as specifics in public protection are covered under the Alaska Banking Code and can be implemented by regulations. If, however, restricted activity or limiting provisions are amended in the bill, there may be serious problems in regulation and enforcement ability by the department.

Sincerely,

Edward W. Eboch

Edward W. Eboch
Deputy Commissioner

EHE/wfs 3/3

08-H2L-

Enclosures



Official Business

Alaska State Legislature

Senate

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

Summary SB 756:

Amends the Alaska Banking Code (AS 06.05) to allow ownership of "in state" banks by out of state bank holding companies. Adds a new subsection to allow an out of state bank holding company to acquire and own all, or a portion of the voting securities or other capital stock of, or all or substantially all of the assets of, one or more state banks, domestic bank holding companies, or national banks conducting business in the state unless the national bank is a "recently formed bank". A recently formed bank is one that has conducted banking business in the state on or after July 1, 1982, and that has not been in existence and continuously operating in the state for a period of three years or more.

Would allow the state to require "out of state" bank holding companies to post a bond to assure full protection of the public. Provides that when the department considers it necessary, an out of state holding company is subject to an examination by the state or its designee.



Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 756 Sectional Analysis

Section 1) Amends AS 06.05.235 (a) which essentially removes the prohibition against a company to own, control, or hold with power to vote 25% or more of a class of voting securities or other capital stock of one or more state banks or domestic bank holding companies; inserts the word state before the word bank, and domestic before the words bank holding company throughout the section. See section 4 which enables the "out of state bank holding company" to participate in the acquisition of domestic banks, and addresses the criteria for the acquisition of a domestic bank.

Section 2) Section relates to domestic bank holding companies, the bond requirement and formula for a bond which may be required of a domestic bank holding company, and the required examination which must be conducted at least once a year.

Section 3) Grants the Alaskan regulator (Department of Commerce and Economic Dev) the right to adopt regulations for both domestic and out of state bank holding companies.

Section 4) enables out of state bank holding companies to acquire all, or a portion of the voting securities or other capital stock and assets of one or more state banks, domestic bank holding companies, or national banks conducting a business in the state. Defines the bond requirement and formula for the bond, and that when necessary, the department shall conduct an examination and the out of state bank holding company shall pay the fee. Further, defines recently formed bank, and the limitations on acquisition of Alaskan banks. Section also defines "out of state bank holding companies" and lists the criteria for becoming an out of state bank holding company.

SEE ATTACHMENT FOR SPECIFICS

Section 5) Effective date of July 1st, 1982.



Official Business

Alaska State Legislature

Senate

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 756 Interstate Banking;

- 1) Enables interstate banking unless the bank is a "recently formed bank".
- 2) "Recently formed bank" is defined as a state or national bank conducting business in the state that commenced that business in the state on or after July 1st, 1982; and that has not been in existence and continuously operating in the state for a period of three years.
- 3) "Recently formed bank" does not include a bank:
 - a) organized solely for the purpose of facilitating acquisition of a bank that had been in existence and continuously operating in the state for a three year period, or conducting business on or before June 30th, 1982.
 - b) a state bank that was not chartered (directly or indirectly) by an acquiring bank holding company, and that the department determines does not have the capacity to conduct business independently in a manner consistent with the public interest.
 - c) a national bank that the Board of Governors of the Federal Reserve or its designee determines was not chartered (directly or indirectly) by an acquiring bank holding company, and that does not have the capacity to conduct its business independently in a fashion consistent with the public interest.
4. "Out of state bank holding company" is defined as:
 - a) a bank holding company as defined in the Bank Holding Company Act of 1956 (12 USC 1841, et seq.)
 - b) must be registered as a bank holding company with the Board of Governors of the Federal Reserve System, with the Federal Reserve Bank of the Federal Reserve District in which the operations are principally conducted, or with a Federal Reserve Bank that the Board of Governors may designate.
 - c) maintain its principal office and place of business outside the state;

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

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

March 5, 1982

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce
Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

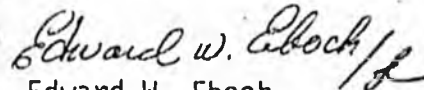
Re: Review on Interstate Banking Activity

You have asked the Division of Banking, Securities, Small Loans, and Corporations for some information concerning current activities in interstate banking. I have enclosed for your consideration a review of some of the activities that we are aware of; please bear in mind, however, that the review is not meant to be all inclusive.

The review mentions electronic automated teller machines as one current form of interstate banking. There are other forms like loan production offices, Edge Act offices, etc. The review also does not include foreign country banks that have branches in various states. California, Oregon, and Washington, for example, have foreign banks in their states. California claims that the Japanese banks in California were one of the major economic forces in California in the early 70's in building their international trade.

If you have any other questions, you may wish to contact Mr. Willis F. Kirkpatrick, Director of Banking, direct at 465-2521.

Sincerely,



Edward W. Eboch
Deputy Commissioner

EWE/krb 4/14

Enclosure
cc: Senator Pat Rodey

Division of Banking, Securities, Small Loans & Corporations
Interstate Activity
Review
March 1, 1982

Citizen Savings of San Francisco, California (3.6 billion) merged with Westside Federal, New York City, New York (2.5 billion) and Washington Savings, Miami Beach, Florida (1 billion). This amounts to 88 offices in California, 18 offices in Florida and 30 offices in New York. The new organization is called First Nationwide Savings.

Glendale Federal of California (5.5 billion) merged with First Federal of Broward County, Fort Lauderdale, Florida (2.6 billion). This amounts to 115 offices in California and 35 offices in Florida.

City Federal, Elizabeth, New Jersey (3 billion) merged with Boca Raton Federal in Florida (294 million) and Mohawk Savings, Newark, New Jersey (88 million). This merger provided for 90 offices in New Jersey and Florida.

Home Savings, Los Angeles, California (12.8 billion) merged with Security Federal, Sikeston, Missouri (83 million), Hamiltonion Federal, Ladue, Missouri (236 million) and Southern Federal, Broward County, Pompano Beach, Florida (612 million). This merger resulted in 143 offices in California, 16 in Missouri and 13 in Florida.

The above mergers were mainly as a result of regulators looking for the cheapest way to salvage ailing thrift institutions. There are additional mergers forthcoming because of continued economic constraints for thrift institutions.

Commercial banks appear to be positioning themselves for a time when interstate banking restrictions fall completely.

Citicorp of New York invested 12 million dollars in the preferred stock and warrants of Central National Bank in Chicago and established nearly 700 lending offices in 40 states. Also, Citicorp of New York has moved its credit card center to South Dakota.

Citicorp has launched an all-out effort in California to create legislation which would permit out-of-state banks to branch in California under the terms of the Douglas Amendment to the Bank Holding Company Act.

Citicorp has also been interested in Connecticut but a state commissioner has retained a moratorium on interstate banking.

First Bank System Incorporated of Minneapolis, a multi-state bank holding company with 92 grandfather banks and trust companies has agreed to buy banks of Iowa, Inc., a ten bank holding company, contingent upon laws changing to permit the purchase.

Northwest Bancorp has agreed to acquire Des Moines based Consumer Finance Company with 500 offices in 37 states.

Other examples of the limited investment by bank holding companies and banks across state lines that are being permitted are the acquisition up to five percent of the outstanding common stock of ten regional banks by National Detroit Corp. and the \$125 million in capital that Chase Manhattan Corp. has sunk into Equimark Corp., a Pittsburg bank holding company.

The International Banking Act of 1978 called for a review of geographic restrictions in banking. Late in the Carter administration, there was a report done called the McFadden Act Report. The context of the McFadden Act Report discussed what might the direction be of geographic deregulation take place in the 1980s.

"First, banking organizations might gain permission to bid for takeovers of failing banks or thrift cross state lines. Second, holding companies or their banks might gain permission to expand or extend their deposits or loan facilities across state lines within metropolitan areas. These activities, however, might be restricted initially to deposits through automatic-teller machines. Third, there might be interstate acquisitions and contiguous states or within special regions through bilateral or multilateral changes in state laws (California, New York, for example) or by changes in the Douglas Amendment to the Bank Holding Company Act. The report states that as a political compromise, permission to cross state lines through merger or acquisitions might be limited to smaller institutions which would limit large holding companies to de novo entry or perhaps to operate across state lines only in large metropolitan areas."

The report goes on to state that geographic deregulation will come eventually, largely because the banking industry already is effectively expanding nationwide (except for direct deposits and loan facilities) and still is losing ground to other industries that can expand nationally without restrictions.

Changing technological forces in the banking industry is also a major factor in promoting interstate banking. Automatic-teller machines (ATMS) and point of sale terminals already are economically viable and are proving increasingly popular with consumers. Such technology will exert further pressure on branching laws and interstate restrictions.

A feature article entitled "Electronic Banking" in Business Week, January 18, 1982 discusses a meeting held in Chicago by executives from a dozen of the largest U.S. and Canadian banks to form a joint venture that would create the first national retail banking network. If the purpose of the meeting becomes a reality, these financial institutions will share their 2,500 automated teller machines so that customers could obtain cash from any one of them simply by inserting their proprietary debit cards issued by each bank for the use in its own automatic teller machines. It will mark the formation of an electronic network potentially capable of delivering on a nationwide scale all manner of retail banking services. This network was named "Cirrus" and is expected to be in operation by April '82.

The following is a quote from the Business Week article.

"To most participants, the race to form national ATM networks, represents an opportunity to speed up dramatically their schedules for achieving nationwide banking. These networks are already conducting some interstate banking, including deposit taking in some cases. The politicians and regulators appear to view the sharing of electronic facilities as a palatable form of interstate banking and are happy to look the other way. It now appears that full service, electronic banks will be up and running nationally by 1985. This is the earliest date that Congress is expected to repeal the 1927 McFadden Acts prohibition against interstate banking."

In a recent bank conference, there was brought out another ATM network in formation in addition to "Cirrus" which would be approximately 4,000 ATMs in major cities throughout the United States and Canada.

Holding companies in Alabama, South Carolina and Georgia have agreed to merge when and if interstate banking is allowed. The combination, if put into effect today, would create the largest bank holding company in southeast, with a combined size of 7.8 billion. Each company has agreed to buy \$2 million of nonvoting, preferred stock of each other until such time that interstate banking restrictions are lifted.

A North Carolina bank holding company, NCNB Corp., \$7.1 billion in assets, has publicly announced plans to buy a "large" Florida banking company by 1983. Through a loophole in Florida law, NCNB last year acquired the \$21.5 million - deposit First National Bank of Lake City, Florida.

Florida National Bank of Florida, Inc., one of the state's largest holding companies, has reached a merger agreement with Chemical New York Corp. This agreement is dependent on authorization of interstate banking.

In February of 1982, the Florida Banker's Association voted to endorse the idea of interstate banking. This position is an attempt to bring some order to an apparently inevitable process.

The new comptroller of currency, C. Todd Conover, testified during recent senate banking committee hearings, stated that the "time has come" to remove geographic limitations on bank branching.

SEN. PATRICK RODEY

CHAIRMAN

(907) 465-3717



SEN. TERRY STANGOR
SEN. ARLISS STURGULEWSKI

ALASKA STATE LEGISLATURE
SENATE BANKING COMMITTEE
PO BOX V, JUNEAU 99811

M E M O R A N D U M

DATE: March 19, 1982

TO: Members, Senate Special Committee on Banking
Members, House Special Committee on Loans

FROM: Jim Kelly, Administrative Assistant *J. K.*

RE: Banking Legislation in Congress

Please find enclosed a copy of a document prepared by the U.S. House Committee on Banking dealing with changes in the banking industry. The questions presented are basic indeed, and similar to those we must ask as the Alaska State Legislature considers amending existing banking statutes.

Handwritten note:
2 copies
to be filed
in the
Senate
Banking
Committee
file

[COMMITTEE PRINT 97-8]

FINANCIAL INSTITUTIONS IN A
REVOLUTIONARY ERA

COMMITTEE ON
BANKING, FINANCE AND URBAN AFFAIRS
HOUSE OF REPRESENTATIVES
97th Congress, First Session



OCTOBER 1981

Printed for the use of the
Committee on Banking, Finance and Urban Affairs

This report has not been officially adopted by the Committee on
Banking, Finance and Urban Affairs and may not therefore necessarily
reflect the views of its members

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON: 1981

85-422 O

LETTER OF TRANSMITTAL

October 28, 1981.

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

FERNAND J. ST GERMAIN, Rhode Island, *Chairman*

HENRY B. REUSS, Wisconsin
HENRY D. GONZALEZ, Texas
JOSEPH G. MINIHAN, New Jersey
FRANK ANNUNZIO, Illinois
PAREN J. MITCHELL, Maryland
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CARROLL HUBBARD, Jr., Kentucky
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STANLEY N. LUNDINE, New York
MARY ROSE OAKAR, Ohio
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DOUG BARNARD, Jr., Georgia
ROBERT GARCIA, New York
MIKE LOWRY, Washington
CHARLES E. SCHUMER, New York
FRANK FRANK, Massachusetts
BILL PATMAN, Texas
WILLIAM J. COYNE, Pennsylvania
BENNY H. HOYER, Maryland

(ii)

To the Committee on Banking, Finance and Urban Affairs:

The following document, entitled "Financial Institutions in a Revolutionary Era", sets forth a wide range of issues and proposals regarding the provision of financial services in this nation. We have previously indicated that we support a two tiered approach to consideration of the major issues involving the financial services industry. This involves separation of emergency assistance legislation from long-range issues and proposals.

The first tier is embodied in H.R. 4603, the Deposit Insurance Flexibility Act, which passed the House on October 28, 1981 by a vote of 371 to 46. That bill provides the deposit insurance agencies more flexibility to deal with financially distressed depository institutions.

The second tier will include a look at issues revolving around expanded lending powers, improved delivery of credit and other financial services to consumers and the economy, interstate banking, the Glass-Steagall Act, usury and other statutes affecting consumer lending, and questions concerning the competitive balances throughout the financial community. These matters require a full airing.

This discussion document was developed by the staff of the Committee as a guide for prospective witnesses and the members of the Committee in discussing the subject of financial institution restructuring. The compilation of questions and proposals is intended to be suggestive and is not all-inclusive.

FERNAND J. ST GERMAIN,
*Chairman, House Committee on
Banking, Finance and Urban Affairs.*

J. WILLIAM STANTON,
*Ranking Republican Member, House Committee on
Banking, Finance and Urban Affairs.*

(iii)

FINANCIAL INSTITUTIONS IN A REVOLUTIONARY ERA

A little over a year and one-half ago, the Depository Institutions Deregulation and Monetary Control Act of 1980 was signed into law in order to deregulate the deposit taking function of financial institutions. Now it appears the pace of change in the financial marketplace is so rapid that a substantial portion of the remaining statutes governing the operation of financial institutions--depository and non-depository--needs to be reviewed. Those laws, many of which were passed in the wake of the Great Depression, established a system of specialized financial institutions differentiated by product lines and markets. The result was a system where commercial banks emphasized demand deposits and commercial and agricultural loans; savings and loan associations and mutual savings banks emphasized savings deposits and home mortgage loans; credit unions provided financial services for a field of membership based primarily on employment; investment companies pooled capital and invested in securities; brokers and dealers packaged equity and debt offerings for sale to investors; finance companies borrowed funds to make commercial and consumer loans; and insurance companies used premiums for all kinds of investments closely related to actuarial needs.

An elaborate framework of Federal and state restraints and protections was created to maintain this system of specialized financial institutions. Market entry was restricted, product lines were limited and the prices of services were controlled. For example, depository institutions were provided deposit insurance, controls on prices paid for funds, and restrictions on competition. Securities dealers and investment firms were provided with distinct product lines and other activities which other financial institutions could not offer, and they were prohibited from accepting "deposits."

Today, however, the marketplace is eroding the justification for this system of specialized financial institutions and its regulatory framework. The following examples reveal the depth and magnitude of the challenges to this system. We cite them not because we consider them improper, but because they reflect the changes which are occurring in the marketplace:

1. Sears, Roebuck and Co., a retailer of merchandise through department stores and its famous catalogs, provides multi-line insurance through its Allstate insurance subsidiary, operates a major savings and loan in California, has one of the largest credit card operations in the nation, plans to offer its own money market mutual fund, and is purchasing one of the nation's largest real estate brokerages and one of the nation's largest securities brokerage houses.

2. National Steel Corporation now has a savings and loan subsidiary which reaches both coasts. Its California savings and loan acquired savings and loans in New York and Florida in a recently publicized case.

3. American Express, which operates a travel and entertainment card system, a multi-line insurance company, and a major international bank, is now linked with one of the largest securities brokerage houses through its merger with Shearson Loeb Rhoades, Inc. That firm recently acquired a trust company in Boston as well.

4. Prudential Insurance Corporation has acquired Bache Group, Inc., another major brokerage house.

5. Banc One in Ohio agreed with Merrill Lynch to assist in the operation of the latter's cash management account. Other depository institutions are considering similar arrangements.

6. Bank holding companies in the West and East have changed operational modes to position themselves for possible nationwide banking. Western Bancorporation in California (which has subsidiaries in eleven Western states) changed its name and that of its subsidiaries to "First Interstate Banks." Financial General (which has subsidiaries throughout the Washington, D.C. metropolitan area) changed the name of its banking subsidiaries so that each has a common name—"First American Banks."

7. Several of the nation's largest banking firms have been purchasing shares of banks in various states—up to the five percent permissible limit—in anticipation of relaxation of restrictions on interstate banking.

8. At least two firms have used a "loophole" in the Bank Holding Company Act to escape the restrictions on non-banking firms owning banks. These companies—major finance companies—have acquired banks and divested them of their commercial loan portfolios. The banks have become consumer banks, dealing in consumer deposits and loans.

9. Savings and loan associations in Washington, D.C., and Florida have announced plans to establish a money market mutual fund.

10. Major banking firms have operated loan production offices for years all over the United States.

11. Federal savings and loans have received regulatory authority to establish electronic fund transfer systems nationwide.

12. Money market mutual funds have continued to expand by offering customers the ability to earn high rates of return on their money with flexible withdrawal capability. These funds move money by wire and mail, do not rely on deposit insurance as an attraction for customers, and are not subject to geographic restrictions on their operations.

13. The international operations of U.S. banks continue to expand in response to the increasing interdependence of the international economy; and foreign banks continue to expand into the U.S., in some cases on more favorable terms than domestically owned banks.

In large measure it is the changing financial needs of individuals and corporations which have led to the increased homogenization of financial institutions. Banks, savings and loans, mutual savings banks, credit unions, mortgage bankers, investment companies, and insurance companies are all offering, in many cases, similar and competing services to customers. The ability of all these institutions to speak to the needs of their customers, however, is limited by the differing

regulatory frameworks under which they operate. Thus, the time has come to examine in more detail the supervisory and regulatory structure governing financial institutions.

The nation needs a rational statutory and regulatory structure for its financial institutions so that the financial services the people and the firms of this country need are provided fairly and efficiently in the evolving financial marketplace. Market forces are shaping the services that are offered now and statutory restrictions keep many depository institutions from providing the services the market demands. Congress must examine the role of government as it affects all customers of financial institutions. The nation's economy and the public interest require a system of financial intermediaries which assures all segments of the population needed services while moving capital efficiently.

To provide guidance in examining the financial structure of the United States, there follows an outline of broad questions and more specific issue areas. The Committee intends to focus discussions first on the needs of the economy system required to fulfill those needs. Thus, rather than first looking at the lending powers of commercial banks, the focus should be on the demand for commercial credit. For example, the rapid development of the commercial paper market in which companies raise short-term funds in the open market rather than rely on bank loans has implications for the type of delivery system needed for this financial service. This one illustration is offered merely to indicate the breadth of the analysis which must be undertaken.

While it is imperative to answer the overall policy questions first, at the same time we must direct the Congress attention to specific proposals, many of which currently exist in legislation now pending before the Committee on Banking, Finance and Urban Affairs. Therefore, in several of the sections that follow, specific proposals are listed which the Committee should discuss in the process of addressing the overall public policy issues.

The Committee on Banking, Finance and Urban Affairs will hold hearings on these issues and proposals in order to elicit views from all affected individuals and groups. The issues and proposals are intended to illustrate the wide variety of issues that need examination and are by no means all-inclusive.

I. DEFINITION OF FINANCIAL SERVICES

The innovations of the last decade suggest that the traditional perception of financial services is not appropriate. Old distinctions among types of financial services are being blurred. Thus, several basic issues need exploration.

A. What financial services do consumers, businesses, and institutions require?

B. Is a deposit different from a security, and, if so, in what ways?

C. Is a loan to a commercial firm different from an equity security offered by that commercial firm?

II. THE ROLE OF SPECIALIZED FINANCIAL INSTITUTIONS

The changes which have occurred in the financial marketplace suggest that money flows rather freely, especially in an inflationary environment. Structures and protections designed to assure flows of funds to specialized institutions or to specific areas of the economy no longer operate as designed. Geographic and product restrictions do not stop funds from flowing to higher rates of return or to alternative uses. Distinctions among institutions, with each type offering some unique services, have become blurred by recent events and statutory changes. The rationale for these distinctions and the need for their perpetuation, at least in institutional form, require examination.

A. Should there be distinct types of financial institutions which provide services to a defined portion of the economy? If so, should these types be determined by statute or by the market?

B. Should new types of institutions with specified powers and protections be created to fill particular needs?

C. Should existing institutions be given parallel powers to allow free competition among these institutions?

D. Should Federal savings and loan associations and Federal mutual savings banks be authorized to switch freely from mutual to stock charters and from savings and loan to mutual savings bank form?

E. Should mutual savings banks, savings and loans, and credit unions be authorized to accept demand deposits from any source?

F. Should Federal mutual savings banks and Federal savings and loans be authorized to invest in or make loans for a broad range of purposes—real estate, agriculture, commerce—without restriction?

G. Should mutual savings banks, savings and loans, and commercial banks be authorized to take equity positions in real estate?

H. Should commercial banks have expanded authority to engage in real estate lending?

I. Should commercial bank and thrift institution service corporation investment limitations be liberalized?

J. Should commercial bank lending and borrowing limitations applicable to loans to one borrower and to affiliates, and applicable to bankers' acceptances, be liberalized?

K. Should Federal credit unions be allowed to make all types of consumer loans without restriction as to loan size or purpose of the loan?

L. Should Federal credit unions be provided authority to engage in expanded real estate lending activities?

M. Should the International Banking Act be modified in light of changing market conditions?

N. Should the procedures and limitations on insider loans by banks be liberalized in light of inflationary effects on loan limits and should these limitations be extended to other depository institutions to reflect homogenization of investment and deposit taking authority?

O. Should the Bank Holding Company Act and the Savings and Loan Holding Company Act be modified to provide parallel treatment of bank and savings and loan holding companies and should the procedures of both be streamlined?

III. THE DISTINCTION BETWEEN DEPOSITORY AND NONDEPOSITORY INSTITUTIONS

A substantial portion of banking statutes was designed to segregate banking and commerce. This segregation was designed to prevent concentrations of economic power, to minimize conflicts of interest involving relationships between the two areas, and to assure a safe and sound banking system, but it has been severely ruptured. Exceptions allowed in earlier years and based on a rationale that was meaningful then have become major factors affecting potential competition in a restructured financial marketplace. For example, savings and loan holding companies exist which combine manufacturing and depository institutions—combinations precluded under laws governing bank holding companies. Nonbank firms now solicit funds and provide services in direct competition with depository institutions. The existing distinctions need to be reexamined.

A. Should existing restrictions on cross-ownership of institutions or on provision of services be eliminated?

B. Can the antitrust laws provide adequate protection against concentration of power involving financial institutions and nonbank firms?

C. Is separation required to provide an ample flow of capital to firms and governments requiring funds for their endeavors? If not, then should all types of firms be subject to the same supervisory and regulatory requirements?

D. Should a Presidential Commission be convened to review and make recommendations regarding modification or elimination of the restrictions on corporate investments and underwriting by depository institutions and on financial/non-financial institution mergers and acquisitions?

E. Should all depository institutions be permitted to establish subsidiaries which would be free to engage in securities operations, provided such subsidiaries are subject to the same restrictions as the securities industry?

F. Should brokerage houses be permitted to establish subsidiaries which would be free to engage in deposit and lending operations, provided such subsidiaries are subject to the same restrictions as depository institutions?

G. Should all depository institutions have the authority to sponsor, sell, or underwrite mutual funds?

H. Should all depository institutions have the authority to underwrite municipal revenue bonds or all forms of bonds?

I. Should all depository institutions have the authority to take equity positions in export trading companies?

K. Should the Depository Institution Management Interlocks Act and the Glass-Steagall Act interlock restrictions be modified in light of the changes being made in the nature and operation of depository institutions and their holding companies and of non-depository institutions?

L. Should all restrictions on interstate depository operations be terminated and, if so, should this be permitted (1) by holding companies, for example, by allowing a phased acquisition of depository institutions by out-of-state depository holding companies unless a state acted to prohibit such acquisitions of its institutions, in which

case holding companies which conducted their business principally in that state would be barred from acquiring institutions in other states; (2) by holding company acquisitions in contiguous states; or (3) in market areas like Standard Metropolitan Statistical Areas?

M. Should electronic fund transfer systems be authorized for nationwide operation?

IV. THE ROLE OF GOVERNMENT IN THE FINANCIAL MARKETPLACE

Government now is intimately involved in the financial marketplace. Laws on both the Federal and state levels of government provide restrictions, protections, supervision and guidance for institutions providing financial services and for those receiving or buying financial services. This involvement must be reconsidered.

A. To what extent should the government continue to provide mechanisms, whether directly or indirectly, to assure that services are provided for such specific sectors of the economy as housing, small business, and agriculture?

B. Should the government remove all of its supports for and impediments to the provision of financial services and allow market forces to determine the shape of the financial system?

C. Should government continue to provide liquidity for financial institutions by maintaining operations which create secondary markets for products of financial institutions and by providing sources of funds to meet liquidity needs or to continue levels of business?

D. Should the Federal secondary market institutions have liberalized Federal charters or should they be allowed to secure charters as non-banking firms do now to allow market forces to determine which secondary market services are provided?

E. Should all Federal depository institution chartering authority be eliminated to allow such institutions to choose charters as nonbanking firms do now?

F. Should controls on the price paid for funds, whether as loans, deposits, or securities, be eliminated and, if so, should protections be provided to assure that all people and institutions have fair access to funds? If not, should existing restrictions be modified to assure that all financial instruments are subject to similar price controls?

G. Should Federal law provide a preemption of state usury ceilings—on consumer loans and in modified form on business and agricultural loans—with states having a time period within which to reimpose state ceilings, or should a national usury law be enacted?

H. Should the Credit Control Act be modified and extended?

I. Should disclosures and protections on alternative mortgage instruments be provided, and should the option of a fixed rate mortgage be required?

J. Should the Home Mortgage Disclosure Act, the Community Reinvestment Act, the Truth-in-Lending Act, and the Equal Credit Opportunity Act be reviewed to determine how best to provide disclosure of community, mortgage, and loan activities of changed financial institutions?

K. Should the government establish direct lending operations to provide credit and other financial services for the provision of housing or other national needs?

V. A REGULATORY STRUCTURE FOR A FUTURE FINANCIAL SYSTEM

There is in many ways a bewildering assortment of regulatory agencies with jurisdiction over institutions providing financial services. The Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank System, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the National Credit Union Administration, the Comptroller of the Currency, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal Trade Commission, the Depository Institutions Deregulation Committee, and the Federal Financial Institutions Examination Council all regulate and supervise financial institutions and products. In many cases the philosophies of the agencies differ significantly. For example, depository institution regulation is characterized by close supervision through examination and through statutory limitations. This system relies on governmental officials for enforcement of statutes and for maintenance of stability in the industry. Securities regulation is characterized, on the other hand, by disclosure to the public and by supervision that relies less on government. These distinctions and the need for these agencies require examination.

A. Should the supervisory and regulatory structure of financial institutions be reconstituted? If so, should a single agency be created?

B. Should the regulatory structure be based on disclosure to the public as is the case with the securities industry or should the current system that relies on government be maintained?

C. Should the deposit insurance system be broadened to include all forms of financial instruments?

D. Should government continue to provide deposit insurance at levels which may tend to insulate depository institutions from market judgments about the riskiness of a depository institution's operations?

E. Does the private market have the capability to develop an insurance product which would provide deposit insurance and, if so, is it sufficient to allow restructuring of the Federal deposit insurance programs?

F. Should the depository institution regulatory agencies be restructured to create one agency responsible for insurance, one for supervision and promotion, and one for control of the money supply?

G. Should the deposit insurance funds be consolidated into one fund with the remaining functions and structures intact?

H. Should deposit insurance assessments be based on risk as in other forms of insurance?

I. Should the Central Liquidity Facility for credit unions be modified to provide more flexibility for its operations?

J. Should the charter of the Depository Institutions Deregulation Committee and the regulations promulgated to phase-out deposit ceilings be modified?

It can be seen from the above that many, if not all, of these issues are related to each other. Answers provided in one area lead to questions and answers in other areas. An examination of these complex issues, however, can assist in the development of a financial system which can meet the nation's future needs.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

March 18, 1982

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce
Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Interstate Banking - Other States

In reponse to your request, the following is a breakdown, by states, of the restrictions imposed.

Delaware - restrictions

1. may not purchase existing banks - may form new bank;
2. minimum \$25 million capital;
3. minimum 100 employees by end of the first year.

Maine - restrictions

1. unlimited but, reciprocity is a requirement. No other state is as liberal, therefore, no out-of-state purchases have been made;
2. \$5 million minimum capital required.

New York - restrictions (proposed legislation)

1. outright purchase of New York banks or may form bank;
2. limited to New York City;
3. reciprocal with other states.

Rhode Island

1. may purchase existing banks and are subject to banking laws of state;

March 18, 1982

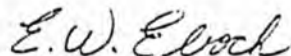
2. may not purchase if insured deposits exceed 20% of deposits located in the state;
3. must maintain 65% of assets or 85% of deposits in state;
4. acquisition must be approved by commissioner.

South Dakota - restrictions

1. may acquire an existing bank but minimum capital must be \$25 million or a new bank with capital of \$5 million;
2. approval of commission required (certain findings must be made somewhat like needs and convenience).

In addition, I have enclosed for your information, two recent articles on the subject from The American Banker. If I may be of further assistance, please feel free to call on me at any time.

Sincerely,



Edward W. Eboch
Deputy Commissioner

EWE/saE/38

Enclosure

White House Looks to Ease Bank Statutes

By JAY ROSENSTEIN

WASHINGTON — The Reagan Administration plans to conduct an analysis of existing consumer credit laws and other banking statutes to determine whether the burdens on financial institutions can be reduced. The White House will review the rules and record-keeping requirements of the Truth-in-Lending Act, the Fair Credit Reporting Act, the Electronic Funds Transfer Act, the Real Estate Settlement Procedures Act, and the Employee Retirement Income Security Act.

The announcement, made last week, said reducing the burdens of the regula-

➔ Disclosure: Page 8

Interstate Banking Gets A Florida 'Yes'

Bankers Association Board Favors It in Surprise Vote

Special to the American Banker

TAMPA, Fla. — Directors of the Florida Bankers Association, in a surprise move, voted here this week to endorse the idea of interstate banking as long as it is "on a phased-in basis."

Although the issue of interstate banking is complex and inspires a variety of

NCNB Corp.'s Big Florida Plans, Page 2.

opinions from Florida bankers, they and their association have generally opposed the concept.

As one Florida banker said after the vote, taken in a specially called meeting, "I think the (new) position will surprise you."

FBA members are being notified by mail this week of the directors' vote.

Florida has been besieged by attempts to cross its borders with trust and loan-production offices and outright acquisitions. C. Carl Mertins, the Pensacola banker who is currently FBA president, explained the vote as a response to the "de facto interstate banking occurring on an accelerated basis."

A principal complaint of Florida bankers has been what they call the "piecemeal" encroachment by out-of-state banks, and their position is an attempt to bring some order to an apparently inevitable process.

The position has five parts:

1. There should be regional reciprocity — in Florida's case among eight southeastern states — effective Jan. 1, 1984.

➔ Florida: Page 34

Metropolitan Bank Feared Ready to

Rescuers Also Sought for Big

By ROBERT E. NORTON and JOHN MORRIS

NEW YORK — Reports were circulating in the financial community Tuesday about the impending failure of a \$200 million-deposit commercial bank in Florida and the forced merger of a billion dollar asset savings and loan association, the largest state-chartered thrift in Illinois.

Talks are continuing in Illinois with several potential rescuers of Unity Savings Association, an official of the Federal Home Loan Bank of Chicago said. All are thrifts and all are in the state.

In Florida, according to industry sources, the Metropolitan Bank of Tampa was set to be closed by the state's banking department last Friday, but a last minute paperwork problem set the timetable back a week.

If the Tampa bank fails, it would be the largest commercial bank failure since 1978, when the \$208 million-deposit Drovers National Bank closed in Chicago. At yearend 1980, the Metropolitan Bank listed \$214.5 million in deposits. Depending on its deposit size at the time of closing, it could be the largest failure since the 1976 closing of the Hamilton National Bank of Chattanooga, which had deposits of \$400 million.

The Federal Deposit Insurance Corp., the sources said, had solicited bids from more than a dozen banking companies to assume certain assets and the deposit liabilities of Metropolitan. The bidders were said to include North Carolina's NCNB Corp. — which has said it is looking to expand further in Florida — as well as major Florida-based bank holding companies.

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INSIDE

West Virginia Debates Branching

Views on branch banking were aired in a hearing on a the bill to revamp the state's restrictive banking laws.....2

Alaska Mutual to Convert

The \$244.4 million-asset Alaska Mutual Bank, Anchorage, has decided to convert from mutual to stock.....2

Chase Rebuffed on Suit Data

A federal judge has turned down a plea by Chase Manhattan that he seal documents relating to a suit by a former officer.....2

ERISA Critic Sees Hopeful Signs

A critic of the Employees Retirement Income Security Act says he sees signs that some of the act's burdens may be lightened.....3

Ferrick Takes Care of Business

The president of Bank of New York makes clear his belief that commercial lending remains the most important aspect of the banking business.....3

Walker Questioned on Capitol Hill

The final installment of Federal Reserve

MORE TRAVELERS DINE ON RADCLIFFE THAN ANY OTHER

ASSETS	
Cash from depository institutions	\$181,751
Treasury securities	43,001
Securities of States and political subdivisions in the United States	57,188
Other bonds, notes, and debentures	2,511
Federal Reserve stock and corporate stock	1,090
Federal funds sold and securities purchased under agreements to resell in domestic offices of bank and of its Edge and Agreement subsidiaries	40,000
Loans, Total (excluding unearned income)	\$2,895,950
Less: Allowance for possible loan losses	5,097
Loans, Net	203,853
Lease financing receivables	8
Bank premises, furniture and fixtures, and other assets representing bank premises	2,899
Real Estate owned other than bank premises	40
Customers' liability to this bank on acceptances outstanding	1,436
Other assets	10,296
TOTAL ASSETS	\$544,073

LIABILITIES	
Demand deposits of individuals, partnerships, and corporations	\$210,789
Time and savings deposits of individuals, partnerships, and corporations	189,377
Deposits of United States Government	621
Deposits of States and political subdivisions in the United States	3,537
Deposits of foreign governments and official institutions	234
Deposits of commercial banks	1,812
Certified and officers' checks	6,496
TOTAL DEPOSITS IN DOMESTIC OFFICES	\$412,866
Total demand deposits	220,939
Total time and savings deposits	191,927
TOTAL DEPOSITS IN FOREIGN OFFICES AND EDGE AND AGREEMENT SUBSIDIARIES	9,870
TOTAL DEPOSITS	\$422,736
Federal funds purchased and securities sold under agreements to repurchase in domestic offices of bank and of its Edge and Agreement subsidiaries	30,968
Interest-bearing demand notes (note balances) issued to the U.S. Treasury	5,534
Banks liability on acceptances executed and outstanding	1,436
Other liabilities	16,773
TOTAL LIABILITIES (excluding subordinated notes and debentures)	\$477,447

EQUITY CAPITAL	
Common stock (par value)	17,926
No. shares authorized	350,526
No. shares outstanding	358,526
Surplus	18,414
Undivided profits	30,286
TOTAL EQUITY CAPITAL	66,626
TOTAL LIABILITIES AND EQUITY CAPITAL	\$544,073

Amounts outstanding as of report date:	
Standby letters of credit:	
Standby letters of credit, total	\$15,438
to U.S. addressees (domicile)	15,438
Time certificates of deposit in denominations of \$100,000 or more in domestic offices	116,374
Other time deposits in amounts of \$100,000 or more in domestic offices	250
Customers' liability on acceptances outstanding	1,436
U.S. addressees (domicile)	1,436
Average for 30 calendar days (or calendar month) ending with report date:	
Cash and due from depository institutions	166,872
Federal funds sold and securities purchased under agreements to resell	10,613
Total loans	212,699
Time certificates of deposit in denominations of \$100,000 or more in domestic offices	114,514
Total deposits	367,133
Federal funds purchased and securities sold under agreements to repurchase	27,329
Total assets	507,679

I, John Eberle, Vice President & Cashier, of the above named bank do hereby declare that this Report of Condition is true and correct to the best of my knowledge and belief.

JOHN EBERLE
January 25, 1982

We the undersigned directors attest the correctness of this statement of resources and liabilities. We declare that it has been examined by us and to the best of our knowledge and belief is true and correct.

THEODORE H. SILBERT
EDNA J. DEMERSTEIN
ARTHUR F. SILBERT
Directors

Florida

Continued from page 1

2. Nationwide reciprocity would come three years later, effective Jan. 1, 1987.

3. There would be no de novo establishment of banks across state lines at anytime.

4. Expansion would ensue only through mergers and acquisition.

5. Eligibility for merger or acquisition would be limited to banks at least three years old.

The directors also registered their opposition to HB 883 before the U.S. House of Representatives and SB 370 before the Senate, both interstate banking bills, unless they incorporate the phased-in aspects supported by their position.

Interstate banking as it relates to Florida has taken several forms, but has almost never been out of the headlines for some five years. Out-of-state banks have won in the courts the right to establish trust offices in Florida.

The issue of out-of-state banks' loan-production offices caused a bitter political fight that led to a gubernatorial veto of the prohibition the FBA managed to get passed in the legislature.

The FBA formally opposed the recent acquisition of First National Bank of Lake City by NCNB Corp., Charlotte, N.C.

Southern Florida has become a focus for Edge Act offices of out-of-state banks, and many Florida bankers see the facilities as just so many brick-and-mortar trojan horses prepared for the advent of interstate banking.

Chemical New York Corp. has reached an agreement with Florida National Banks of Florida, Jacksonville, to merge, though their agreement is hotly contested in the courts by Southeast Banking Corp., Miami.

The competition is over Florida's industrial growth, its relatively dynamic housing market, a per-capita income that is the highest in the growing Southeast, and an affluent retirement community.

This week's vote was seen as important for its acceptance of the tide of support for liberalized interstate banking opportunities, with the FBA no longer trying to turn back that tide but resigned to trying to channel it.

21	12%	Central Bk Sys., Dartmouth, 40s	17
13	9%	CU Bsch of Sth. Birmingham, 80	9%
16	13%	Central Carol Bk of NC, '96	14
17	12%	Central Fidelity Banks Inc., 1.24	17%
8	7%	Central Jersey B&T, Freshid., '80s	8
9	3%	Central Natl Chicago Cp	3%
27	19%	Central Pacific Cp., Bakersfield, '64	25
16	11%	Central Penn Hall Corp., 1.41e	16%
27	15%	Centran Corp., Cleveland, '40	19%
14	8%	Century Banks Inc., Fla., '48	13%
11	7%	Chanter Co., Jacksonville, 1.00	7%
59	42%	Chase Man Corp., NYC, 3.40	58%
61	42%	Chemical New York Corp., 3.84	49%
26	21%	C&S Corp., Charleston, 1.60	22%
9	7%	C&S Georgia Corp., Atlanta, '48	8%
29	20%	Citicorp., New York, 1.56	24%
38	17%	Citizens Fidelity Corp., Ky., 1.08s	18%
38	22%	City N Corp., Beverly Hills, '80	32%
22	12%	Citymut Bcp. Inc., Bridgeport, 1.24	21%
8	6%	Colonial Am Bkshs., Roanoke, '80	7%
18	15%	Colonial Bcp., Waterbury, 1.80	18%
31	20%	Colo N Bkshrs., Denver, 1.00s	22%
29	22%	Commerce Bsch, Kansas C., 1.68	28
8	5%	Commerce S'west Inc., Dallas, '20	7%
17	8%	Commerce S'west Inc., pld., '75	N.A.
23	14%	Commerce S'west Inc., pld., 1.462	20%
18	7%	Commercial Bancorp of Colo.	13%
20	14%	Comm'l Trust, Jersey City, 1.60	15%
30	22%	Commonwealth NB, Pa., 2.32	30
32	18%	Conn. NB, Bridgeport, 1.76	28%
33	21%	Cont'l Bank, Norristown, 2.04s	33%
42	21%	Cont'l Illinois Cp., Chicago, 2.00	34
41	21%	Crocker Natl Corp., S.F., 2.40	28%
30	25%	Cullen Frost Bkshs., San Ant., '84s	25%
49	28%	Dauphin Dep. Corp., Pa., 3.00s	45%
30	24%	Dep. Guar Corp., 1.70	25
38	23%	Depositors Corp., Augusta, 2.32	35%
24	19%	Dist. Bank of N.Y., 2.00	22%
17	13%	Dominion Bksh., Roanoke, 1.00s	12%

E-F			
13%	5%	Ellis Bkg Co., Bradmtn., '40s	11%
12	4%	Equimark Co., Pittsburgh	5%
22	11	Equitable Banc., Baltimore, '76s	21%
18	9%	Exchange Banc., Tampa, '60s	16%
25	8%	Fidelcor Inc., Phila., Pa., 1.00	24%
29	23%	Fidelity Union, Newark, N.J., 2.80	23%
29	17	First Ala Bsch, Montgomery, 1.68	26%
17	11%	1st Amer. Bk. Co., Kalamazoo, '32	15%
13	7%	First American Cp., Nashville, '90	12%
15	15%	First & Merch., Richmond, 1.00s	15%
18	8%	First Ark. Bkstock L.R., '50s	18%
28	10%	First Atlanta Corp., Atlanta, '88s	17
20	13	First Bancgroup, Ala., 1.12	17%
39	16%	First Bancorp Inc., New Haven, 1.60	28%
27	16%	First Bsch. of Louisiana, '80	27%
23	14%	1st Bksh. Co. of Fla., Pmpo. B., 1.0015	21%
23	16%	1st Bksh. Columbia, S.C., 1.40	21%
46	32	1st Bank System, Mnpls., 2.44,	32%
20	15%	First Chicago Corp., 1.20	18
40	30%	First City Banc., Houston, 1.06s	30%
33	14%	First Comm. Cp., New Orleans, 1.20s	29
41	20%	First Conn Bancorp., 1.92	39
20	14	1st Empire State, Buffalo, '80	18%
11	3%	1st Fla Bks Inc., Tampa, '38	8%
32	23	1st Hawaiian Inc., Honolulu, 2.40s	27
16	12	1st Interstate Bancorp., 1.00	13%
43	31%	First Interstate Bancorp., L.A., 2.04	30%
17	12	1st Jersey Natl Corp., JC, 1.60	13%
40	22%	1st Ky Natl Cp., Louisville, 2.36	31%
14	5	First Marine Banks, Inc., '34	14%
24	13%	First Maryland Bncp., Ball., 1.40	19%
35	13%	First Natl Bcp., Denver, 1.40	27%
32	25	First Natl Bsch., Little Rock, 2.00	32
75	30%	First Natl Bk. Midland, Tex., 1.20s	75
20	12%	1st Natl Bk of NJ, Totowa, 1.60	14%
47	24%	First Natl Boston Corp., 2.88	40%
31	21	1st Natl Charter, KC, Mo., 1.68	28%
28	21%	1st Natl Cincinnati Corp., 2.40s	25%
21	14	First Natl Corp., Appleton, Wis., 1.1215	14
25	20	First N State Bcp., Newark, 2.20s	24%
22	13	1st N.M. Bksh., Albuquerque, 1.04	18%
26	12%	First Okla. Bncp., Okla. City, '60	22%
5	2%	First Penn Corp., Phila.	2%
4	3/16	First Penn Corp., Vts.	4
15	9	First Peoples Bank of NJ, 1.32	10
11	8	First RR & Bkg Co. of Ga., '60	10%
26	16%	1st Security Cp., Salt Lake, 1.00	16%
17	9%	First Tenn Natl Cp., Ma., '81s	14%
38	'94	First Tulca Bancorp. Inc., 1.50s	38
24	9%	First Union Corp., 1.12	21%
37	28%	First United Banc., Ft Worth, 1.12s	29%
10	6%	1st Va Bks Inc., Falls Church, '60	7%
35	26	First Wis Corp., Milwaukee, 2.00	27%
28	10%	Flagship Banks, Fla., 1.00	22%
11	6%	Florida Coast Banks Inc., '32	10%
12	9%	Florida Coast Banks pld., 1.00	10%
29	11	Florida Commercial Banks, 1.00	23%
29	11%	Florida Natl Bks of Fla., '80	28%
28	14	Fourth First Corp., Kan., 1.36s	28

G-M			
22%	15	General Bancsh., St. Louis, '88	17%
32	23%	Gir. d Co., Phila., 2.24	29%
10	5%	Great Amr. Banks, Inc., Miami	6%
15	11%	Great Am. Cp. Baton Rouge, '65	14
24	12%	Greater J. Banc., W. Paterson, 1.60	21
5	3	Guarantee Bk., Atlantic City, '20	3%
12	7%	Gulfstream Banks, Inc., Fla., '32	9%
31	24%	Harris Bancorp., Chicago, 2.20	27%
26	18%	Hartford Natl Corp., 1.80	20%
17	13%	Hawkeye Bcp., D.Molins, Iowa, '96s	15%
17	13%	Heritage Bcp., Cherry Hill, 1.44	15
18	8%	Heritage Wisconsin Corp., '60	13%
33	25%	Hibernia Cp., New Orleans, 1.20	26%

Delaware Officials Now Look to Attract Foreign Banks

Special to the American Banker

WILMINGTON, Del. — Delaware, the state that jumped the gun on interstate banking, is now tackling international banking.

While the effort to attract overseas business is not expected to have as big an impact on the local economy as the banks, state officials expect to introduce new legislation welcoming international banking in late March.

Since mid-December, a draft of proposed legislation has been circulating among the legal and banking communities for comment.

The "foreign bank development act" is an effort to find "the mother lode" said David Singleton, administrative assistant to Wilmington's mayor, William T. McLaughlin. "The draft legislation is an effort to crystallize the possibilities."

The most controversial among several proposals in the legislation is one to

allow foreign and U.S. banks to form new subsidiaries with looser requirements for capital and numbers of employees than set forth in the landmark 1981 Financial Center Development Act.

That law, welcoming out-of-state banks and lifting usury ceilings on interest rates, established a capitalization floor of \$25 million and minimum employment of 100 jobs per bank. Last week, Chemical Bank of New York announced plans to open a new bank here, the 10th out-of-state bank to do so.

Investment companies, by comparison, could maintain a minimum capital stock and paid-in surplus of \$2 million and employ a minimum of 10 persons.

The proposed law also would extend favorable tax rates to new foreign banks, just as last year's banking law

did. Tax rates would range from a maximum of 8.7% for banks and trust companies earning up to \$20 million in net income to 2.7% for those with net income of more than \$100 million.

Revisions Are Possible

Glenn C. Kenton, secretary of state said he thought the draft would be subject to "substantial" revisions. "I've heard a lot of suggestions and questions," he said. "In my judgement, it's going to take several weeks to distill the issues."

One issue, he said, is "to what extent are quasi-banks going to be subject to capital and employment requirements." He noted that they couldn't be called banks because they would not make loans nor take deposits.

Under the draft legislation, the new

➔ Delaware: Page 21

Frankfort

Continued from page 2

"outsiders seizing control of deposits in your local bank."

Key members of the Progressive Bankers Association of Kentucky, an organization formed last fall to push multibank legislation, began huddling minutes after the House vote in order to map its next move.

Similar legislation could be introduced in the Kentucky Senate, although House members originally were considered to be more receptive.

Kentucky BA Opposed Measure

Thomas R. Brumley, president of the \$62.2 million-deposit First State Bank in Greenville and of the Progressive Bankers group, said proponents of the multibank measure failed to overcome the opposition of the state's Farm Bureau and of the Kentucky Bankers Association.

A poll by the Kentucky BA just before the general assembly opened in early January found that nearly two-thirds of the group's member banks opposed

multibank formation. The results were similar to an earlier poll conducted by the legislative research commission for an interim House-Senate panel.

C. Merwin Grayson Jr., president of the \$95.7 million-deposit Covington Trust & Banking Co. and a member of the Progressive Bankers group, said, "we don't consider it [the multibank issue] dead."

But getting the bill back for another House vote will be difficult. A motion to table the measure passed, 47-30. It would take a majority of the full House, 51 members, rather than a simple majority of those present, to reconsider the measure.

HB 194 would have permitted a bank holding company to buy up to three banks a year, as long as it did not acquire more than 20% of the overall deposits in the state. Banks in existence for less than five years could not have been purchased.

Kentucky is one of only 10 states that does not have some type of law to permit banks to breach county lines. ■

Delaware

Continued from page 2

bank subsidiaries would accept no domestic deposits other than certificates of deposit of at least \$100,000 from non-individuals. The draft also proposed changes to the state banking code to permit international banking facilities to locate here.

Pennsylvania

Continued from page 2

one-half of their deposits for use in their home communities.

The other House change would bar the state from keeping deposits in banks that sought to circumvent Pennsylvania interest-rate ceilings on consumer loans.

This was amended by the Senate committee to apply to banks that "unlawfully" charge more than the ceilings.

The bill would allow bank holding companies to make acquisitions anywhere in the state. There is a limit

Nathan Hayward 3d, acting director of the state's development office, said he thinks that limited-purpose investment and trust companies — one group of financial institutions dealt with under the proposed law — "may have a great deal more application for us" than some of the other financial activities contemplated in the draft.

The legislation should be constructed to attract outsiders while providing "adequate protection to Delaware's existing institutions," Mr. Hayward said.

Recent efforts by E.F. Hutton & Co., Inc., to set up a trust company in Delaware were thwarted by local bankers. But the New York firm is said to be negotiating with politicians and bankers for another try.

Mr. Hayward said that the state had had "serious inquiries" from two overseas banks and is meeting with another two. He declined to name the banks. ■

LEGAL ADVERTISING

Bank Call Notice

Alaska Statutes

Title 6. Banks and Financial Institutions.

Chapter

- 01. Administration (§§ 06.01.010 — 06.01.050)
- 05. Alaska Banking Code (§§ 06.05.005 — 06.05.545)
- 10. Model Foreign Bank Loan Act (§§ 06.10.010 — 06.10.050)
- 15. Mutual Savings Bank Act (§§ 06.15.010 — 06.15.380)
- 20. Alaska Small Loans Act (§§ 06.20.010 — 06.20.920)
- 25. Trust Companies (§§ 06.25.010 — 06.25.350)
- 30. Alaska Savings Association Act (§§ 06.30.005 — 06.30.915)
- 35. Uniform Common Trust Fund Act (§§ 06.35.010 — 06.35.050)
- 40. Premium Financing Act (§§ 06.40.010 — 06.40.190)

Chapter 01. Administration.

Section

- 10. Examination fees and assessments
- 20. General powers of department
- 30. Orders and injunctions; notice and hearings; regulations

Section

- 40. Examination policy
- 50. Definitions

Editor's note. — Section 55, ch. 169, SLA 1978, contains a severability clause.

Sec. 06.01.010. Examination fees and assessments. (a) The expenses of the department reasonably incurred in the examination or investigation of all financial institutions or applications to establish financial institutions regulated by the department under this title shall be charged to and paid by each financial institution as provided in (b) of this section.

(b) The commissioner shall assess every financial institution, and every applicant to establish a financial institution, a fee for the actual expenses incurred by the department in connection with any examination or investigation, whether regular or special. The fee shall include the proportionate part of the salaries and cost of employee benefits of the examiners while conducting examinations or investigations and while preparing reports of them, and transportation costs and per diem of each examiner while away from his duty station. However, the cost to the financial institution in connection with an examination may not exceed \$7,500 per examination. The assessment shall be made by the commissioner as soon as feasible after the

examination or investigation has been completed. All assessments shall be paid to and received by the department by each institution within 30 days after receipt of notice of the assessment.

(c) Any financial institution which fails to make the payments required by the commissioner under (a) and (b) of this section within the time specified is subject to a penalty of not more than \$100 each day it is late. The penalty, together with the amount due under (a) of this section, may be recovered in a civil action brought by the department. (§ 42 ch 169 SLA 1978)

Sec. 06.01.020. General powers of department. The commissioner may by regulation authorize financial institutions, except licensees subject to ch. 20 of this title, to exercise any of the powers conferred upon a federally chartered bank, trust company, savings association, or other federally chartered institution doing business in this state which is subject to the regulations of the United States Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation or the successor or successors of them, if the commissioner finds that the exercise of the power both:

- (1) serves the public convenience and advantage; and
- (2) equalizes and maintains the quality of competition between state-chartered financial institutions and corresponding federally chartered financial institutions. (§ 42 ch 169 SLA 1978)

Sec. 06.01.030. Orders and injunctions; notice and hearings; regulations. (a) Whenever it appears to the commissioner that a person has engaged in an act or practice in violation of any provision of this title or of a regulation adopted under it, the commissioner may

(1) if he considers it to be in the public interest, issue an order directing the person to stop the act or practice; reasonable notice and an opportunity for a hearing must be given before issuing the order; however, the commissioner may issue a temporary order pending the hearing which remains in effect until 10 days after the hearing is held and which becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this title or a regulation adopted under it; upon a proper showing, the department is entitled to the appropriate remedy, and a receiver or conservator may be appointed for the defendant or the defendant's assets; the commissioner is not required to post a bond.

(b) Except as provided in (a) of this section, the department shall give public notice of each proposed action, but it is not required to hold a hearing before taking the action unless it receives written opposition to the proposed action. Written opposition must be filed with the department within the time specified by the department. In cases

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(e) The term "bank service corporation" means a corporation organized to perform bank services for two or more banks, each of which owns part of the capital stock of the corporation. (§ 8 ch 157 SLA 1970)

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

Sec. 06.05.232. Leasing of real and personal property. (a) The department may authorize a bank to become the owner and lessor of real or personal property acquired upon the specific request of and for the use of a customer, if

(1) the original lease is executed in writing before acquisition of the property to be leased;

(2) the terms of the lease require payment to the bank during the minimum period of the lease of an amount of money that will exceed the total expenditure by the bank for acquisition, ownership, maintenance and protection of the property;

(3) the total of the expenditures by the bank for acquisition, ownership, maintenance and protection of the leased property and other loans to any one lessee by the bank do not exceed the limits on loans to one borrower under § 205 of this chapter;

(4) in the case of real property, the lease agreement provides that upon its expiration the lessee will become owner of the property;

(5) Repealed by § 4 ch 56 SLA 1971.

(b) The aggregate investment in property under this section and §§ 230(1) and 231 of this chapter may not exceed the bank's combined capital, surplus and undivided profits.

(c) Payments by a lessee to a bank for property leased under this section are considered rent rather than interest.

(d) Real property retained by a bank upon termination of a lease authorized under this section, as the result of default by the lessee, shall be utilized or disposed of as provided by regulation of the department. (§ 9 ch 157 SLA 1970; am § 4 ch 56 SLA 1971)

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

Sec. 06.05.235. Bank holding companies. (a) It is unlawful for a company to own, control or hold with power to vote 25 per cent or more of the capital stock of one or more state banks or state bank holding companies subject to regulation under this chapter. Nothing in this subsection prohibits a company from qualifying as a bank holding company under (b) of this section. However, when it becomes a bona fide necessity to avoid loss for a creditor to accept shares of stock in one or more banks or bank holding companies constituting more than 25 per cent of the ownership or control of a bank or bank holding company in payment of indebtedness owing to the creditor, shares of stock may be

accepted, but the shares of the one or more banks or bank holding companies exceeding that 25 per cent shall be promptly disposed of under the supervision of the department.

(b) A domestic bank holding company, as defined in § 540 of this chapter and organized under AS 10.05, which maintains its principal office and place of business in the state and conducts its principal operations in the state, may acquire and own all or any portion of the voting shares or other capital stock of, or all or substantially all of the assets of, one or more banks or bank holding companies. The department may require a holding company to post a bond with the department in an amount equal to the paid-in capital and paid-in surplus represented by the proportion of bank stock directly or indirectly owned, held, or controlled by it under conditions the department may prescribe to assure full protection of the public. The holding company is subject to an examination by the department or a competent person designated by the department when the department considers it necessary, but not less than once each year. The holding company shall pay an examination fee in accordance with AS 06.01.010.

(c) The department may adopt regulations for bank holding companies to assure financially sound banking organization and practice.

(d) A person, or an officer, director, agent, or employee of the person, who violates a regulation adopted under (c) of this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both; and in the case of a corporation, by a fine of not more than \$10,000. (§ 3.167 ch 129 SLA 1951; am § 1 ch 194 SLA 1959; am § 1 ch 139 SLA 1961; am § 1 ch 53 SLA 1962; am § 1 ch 124 SLA 1966; am § 18 ch 218 SLA 1976; am § 16 ch 169 SLA 1978)

Effect of amendments. — The 1976 amendment, in this section as it existed prior to the 1978 amendment, deleted "of commerce" following "commissioner" at the end of the third sentence of subsection (a), in the first, second, and third sentences of subsection (b), and in subsection (c).

The 1978 amendment rewrote this section.

Editor's note. — Section 55, ch. 169, SLA 1978, contains a severability clause.

Sec. 06.05.238. Required directors' meetings and statements to the department. The department may require a meeting of the board of directors of a state bank to be held in the manner and at the time and place it directs, when, in the judgment of the department, a serious violation of this chapter is involved. Any report of an examination required or allowed by this chapter, any conclusions drawn from such an examination by the department, any recommendations made by the department relative to it, and any other matters concerning the operation and condition of the bank may be presented to the board of directors by the department. Each member of the board of directors

Effect of amendment. — The 1978 amendment, in the second sentence, substituted "conviction of a corporation for violation of this chapter" for "violation by

a corporation" and increased the maximum fine from \$5,000 to \$20,000.

Editor's note. — Section 55, ch. 169, SLA 1978, contains a severability clause.

Sec. 06.05.525. Injunction. If a state bank fails to comply with the provisions of this chapter, or the regulations of the department, or is found by the department to be in an unsafe or unsound condition the result of which will cause substantial injury to the bank or to its depositors, creditors or stockholders, the superior court may, upon the suit of the department, issue an injunction restraining the violation and may issue an order prohibiting the transaction of all or any part of the bank's business until the circumstances upon which the suit is based no longer exist. (§ 3.510 ch 129 SLA 1951; am § 9 ch 63 SLA 1969)

Article 6. General Provisions.

Section

530. Effect on existing banks

535. Construction with subsequent legislation

Section

540. General definitions

545. Short title

Sec. 06.05.530. Effect on existing banks. The charters of state banks existing on March 26, 1951, continue in full force and effect. All state banks and, to the extent applicable, all banks shall thereafter operate in accordance with this chapter. Any state bank, by filing an application for an amendment of its charter or for a merger, consolidation or sale of all, or substantially all, of its assets or the assets of any department of the bank under this chapter and its charter is thereafter subject to this chapter. (§ 1.104 ch 129 SLA 1951)

Sec. 06.05.535. Construction with subsequent legislation. No part of this chapter shall be considered to be impliedly repealed by subsequent legislation not specifically repealing it if that construction can be avoided. (§ 1.106 B ch 129 SLA 1951)

Effect of Business Corporation Act. — This chapter is in no way amended by the Alaska Business Corporation Act (AS 10.05). 1959 Op. Atty. Gen., No. 17.

On formation of banking corporation. — A banking corporation may lawfully be formed under the Alaska Business

Corporation Act (AS 10.05). It is equally certain that a banking corporation may be formed under this chapter, since it has not been repealed in whole or in part by the Alaska Business Corporation Act. 1959 Op. Atty. Gen., No. 17.

Sec. 06.05.540. General definitions. As used in this chapter unless the context otherwise requires

- (1) "action" in the sense of a judicial proceeding includes any proceeding in which rights are determined;
- (2) "bank" means any person doing a banking business whether subject to the laws of this or any other jurisdiction;

(3) "banking" means the negotiation for and the discounting of promissory notes, drafts, bills of exchange and other evidences of indebtedness; receiving deposits, selling and buying exchange, coin, and bullion, and lending money on personal, real and other security, and other kindred financial operations;

(4) "branch bank" includes a branch bank, branch office, branch agency, additional office, or any branch place of business located in the state, at which deposits are received, checks are paid, or money is lent;

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

(6) "community" means a city, town, unincorporated village, or, in absence of any one of the foregoing, a trade area;

(7) "court" means a court of competent jurisdiction;

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

(9) "domestic bank holding company" means a domestic corporation that is organized under AS 10.05 and that has control over a bank or another domestic bank holding company through one of the following:

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 per cent or more of any class of voting securities of the bank or company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the bank or company; or

(C) the department determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management of policies of the bank or company.

(10) "executive officer" when referring to a bank, means the president, vice president, treasurer, cashier, comptroller and secretary, or any person who performs the duties appropriate to those offices or any person designated in the bylaws as an executive officer;

(11) "fiduciary" means trustee, agent, executor, administrator, committee, guardian or conservator for a minor or other incompetent person, receiver, trustee in bankruptcy, assignee for creditors or any holder of a similar position of trust;

(12) "good faith" means honesty in fact in the transaction and some reasonable ground for belief that the transaction is rightful or authorized;

(13) "item" means any instrument for the payment of money negotiable or nonnegotiable but does not include money;

(14) "officer" when referring to a bank means any person designated as an officer in the bylaws and includes, whether or not so designated, any executive officer, the chairman of the board of directors, chairman of the executive committee, and any trust officer, assistant vice president, assistant treasurer, assistant cashier, assistant comptroller, or other person who performs the duties appropriate to those offices;

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(15) "reason to know" means that upon the information available a person of ordinary intelligence in the particular business, or of the superior intelligence or experience which the person in question may have, would infer that the fact in question exists or that there is a substantial chance of its existence that, if exercising reasonable care with reference to the matter in question, conduct would be predicated upon the assumption of its possible existence;

(16) "state bank" means any bank chartered by this state;

(17) "undivided profits" means the accumulated, undistributed net profit of a bank, including any residue after

(A) provision for payment of taxes and expenses of operations,

(B) transfers to reserves allocated to a particular asset or class of assets,

(C) losses estimated or sustained on a particular asset or class of assets in excess of the amount of reserves allocated for it,

(D) transfers to surplus and capital,

(E) amounts declared as dividends to stockholders;

(18) "company" means any bank, corporation, partnership, joint stock company, business trust, association or similar organization, domestic or foreign. (§§ 1.102, 1.103 ch 129 SLA 1951; § 3.167 ch 129 SLA 1951; am § 1 ch 194 SLA 1959; am § 1 ch 139 SLA 1961; am § 1 ch 53 SLA 1962; am § 7 ch 56 SLA 1971; am § 19 ch 218 SLA 1976; am §§ 39, 40, 43 ch 169 SLA 1978)

Effect of amendments. — The 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of commerce" in paragraph (6) and "Department of Commerce and Economic Development" for "Department of Commerce" in paragraph (8).

The 1978 amendment added "or his designee" to the end of paragraph (6), rewrote paragraph (9), and added paragraphs (17) and (18).

Editor's notes. — Section 8, ch. 56, SLA 1971, provides: "Any branch or limited banking facility operating under a charter from the State of Alaska on January 1, 1971, is a duly chartered branch."

Section 55, ch. 169, SLA 1978, contains a severability clause.

Applicability of Alaska Banking Code to building and loan associations. — See *American Bldg. & Loan Ass'n, Inc. v. State*, Sup. Ct. Op. No. 112 (File No. 149), 376 P. (2d) 570.

Commissioner subject to provisions of Administrative Procedure Act. — The Administrative Procedure Act (AS 44.62) provides that the commissioner shall be subject to its provisions. 1960 Op. Atty. Gen., No. 7.

Sec. 06.05.545. Short title. This chapter may be cited as the Alaska Banking Code. (§ 1.101 ch 129 SLA 1951)

Chapter 10. Model Foreign Bank Loan Act.

Section	Section
10. Exemption of foreign banks from laws and taxation	35. [Transferred]
20. Authorized activities	40. Definitions
30. Filing statement	50. Short title

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. SB 756
 Title An Act relating to the ownership of financial institutions
 Requested by Labor and Commerce Date 2/18/82

II. FISCAL DETAIL
 Agency Affected Commerce and Economic Development
 Program Category Affected Consumer Protection
 BRU, Program, Or Subprogram(s) Affected Banking and Securities
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0	0				
200 TRAVEL	0	0				
300 CONTRACTUAL	0	0				
400 COMMODITIES	0	0				
500 EQUIPMENT	0	0				
600 LAND & STRUCTURES	0	0				
700 GRANTS, CLAIMS, ETC.	0	0				
TOTAL	0	0				

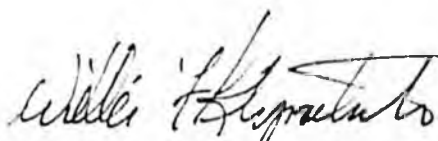
FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	0	0				
FEDERAL FUNDS	0	0				
OTHER (Specify Source)	0	0				

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	0	0				
PART TIME	0	0				
TEMPORARY	0	0				

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)



IV. DATE February 18, 1982 PREPARED BY Willis E. Kirkpatrick, Director
 AGENCY Banking, Securities, Sm. Loans, & Corp.
 Original: Legislative Finance PHONE 465-2521
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

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Official Business

Alaska State Legislature

Senate

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SUNSET PROCEDURES:

Boards and commissions expire on the date set out in statute, however, upon termination, a board or commission shall continue its existence until June 30th of the succeeding year for the purpose of concluding its affairs.

1) Before termination, continuation, or re-establishment of a board:

A. Committee of reference of each house shall hold one or more hearings with attendance by:

1. Commissioner of the Dept having administrative responsibility
2. Members of the board
3. Interested public

B. Not later than the 60th day (11 March 1982) of the legislative session, the committee of reference shall submit a report to the presiding officer of the house. The report shall contain:

1. A summary of the findings of the committee
2. The recommendations of the committee

C. The committee of reference may introduce a bill for the continuation or reorganization of the board or commission. Only one board may be addressed in each bill, and the term of continuation may not exceed 4 years.



Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SUNSET REPORTS:

A summary of the findings and recommendations of the committee shall be submitted to the presiding officer of the house by the 60th day of the legislative session. The report shall contain the following:

- 1) The extent to which the board has operated in the public interest
- 2) The extent to which the operation of the board has been impeded or enhanced by existing statutes, procedures, and practices adopted.
- 3) The extent to which the board has recommended statutory changes in the public interest
- 4) The extent to which the board has encouraged interested persons to report to it, concerning the effects of its regulations and decisions.
- 5) The extent to which the board has encouraged public participation in making its decisions and regulations.
- 6) The efficiency with which the board has handled public inquiries or complaints.
- 7) The extent to which the board regulating occupational entry has presented qualified applicants to the public.
- 8) The extent to which State personnel practices have been complied with
- 9) The extent to which statutory, budgetary, or regulatory changes are necessary to best serve the public.

The report should also contain recommendations as follows:

1. Identification of the problem or needs of the public

2. A statement of the committee's findings and recommendations



Official Business

Alaska State Legislature

Senate

Labor & Commerce Committee

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SUNSET REPORTS (continued):

- 3) An identification of other boards having duplicate objectives
- 4) An assessment of alternative methods for achieving the purposes of the board
- 5) An assessment of the consequences of eliminating the board
- 6) A justification for the continuation of the board
- 7) Any information, which in the judgement of the committee, would improve the performance of the board
- 8) The committee may introduce a bill to effect the continuation or reorganization of the board.