

ALASKA LEGISLATIVE COMMITTEE FILES 1900-1900 00/2

3309

HJUD

HB 217

185



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STATE OF ALASKA THE LEGISLATURE

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May, 1986

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

Jeanie Henry

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

COMMITTEE REPORT
HOUSE

4/23
(Signature)

(7)

FURTHER:

3/15/85

Date: 4/15

The Committee on JUDICIARY has had HB 217

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

under consideration and recommends:

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

MEMBERS SIGNING
DO PASS

(Signature)
(Signature)
(Signature)

MEMBERS HAVING
OTHER RECOMMENDATIONS:

(Signature)
(Signature)

(Signature)
CHAIRMAN

Bannister
4/22/85/

Original sponsors: Duncan, Pearce,
Ringstad and Boucher

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IN THE HOUSE

BY THE JUDICIARY COMMITTEE

CS FOR HOUSE BILL NO. 217 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AMENDMENT TO CS FOR HB 217 (Loans)

By Representative Gruenberg

1. Add a new section 4 as follows:

AS 09.30.070 is amended to read:

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

2. Renumber all following sections.

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

A M E N D M E N T

#1

Offered in the HOUSE

By Clocksin

TO: Proposed CSHB 217 (Judiciary)

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

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

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

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

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

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

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

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

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

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

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

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

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

Renumber remaining bill sections accordingly.

A M E N D M E N T

#6

Offered in the HOUSE

By Clocksin

To: PROPOSED CSHB 217(Jud)

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

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

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

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

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

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

Page 2, line 29, delete all material.

A M E N D M E N T

#6

Offered in the HOUSE

By Clocksin

To: PROPOSED CSHB 217(Jud)

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

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

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

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

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

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

Page 2, line 29, delete all material.

A M E N D M E N T

Offered in the HOUSE

By Clocksin

TO: CSHB 217 (Loans)

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

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

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

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

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

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

(A) one and one-half percent; or

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

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

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

Renumber succeeding bill sections accordingly.

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

IN THE HOUSE

BY THE HOUSE SPECIAL
COMMITTEE ON STATE LOANS

CS FOR HOUSE BILL NO. 217 (Loans)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MAY, 1983

Retail Banking in
New York State:
Customer Beware

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

Glenn von Nostitz
Legislative Counsel

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Research assistance provided by Marie Ferzan and Douglas Fried

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

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

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

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

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

Essentially, banks have increased their profits by:

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

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

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

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

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

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

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

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

RETAIL BANKING: THE SMALL CUSTOMER PAYS MORE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Amalgamated Bank still charges only 50 cents.

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

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

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

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

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

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

SPECIAL SERVICES FOR THE AFFLUENT: COURTESY OF EVERYONE ELSE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONCLUSIONS AND RECOMMENDATIONS: THE PUBLIC NEEDS PROTECTION

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

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

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

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

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

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

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

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

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

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

Bill would hike loan interest to 24%

By JIM ERICKSON
Daily News business reporter

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

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

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

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

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

former employee of the Alaska Bank of the North.

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

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

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

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

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

Under the state's Small Loan

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

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

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

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

AKPIRG this week asked the

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Bill would allow lenders to hike loan interest to 24 percent

Continued from Page D-1

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ALASKA

CONSUMER LOAN INTEREST RATES
As of April 8, 1985

NEW CARS:

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

USED CARS:

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

NEW BOATS:

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

USED BOATS:

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Alaska Federal	13.75%
Bank of the North	13.0%

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

UNSECURED LOANS:

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

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ALASKA CREDIT UNION LEAGUE

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

19 March 1985

*Sharon Sturrock
586-3592*

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

Dear Representative Miller:

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

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

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

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

Sincerely,

David L. Chatfield
Governmental Affairs Committee Chairman

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



MEMBERS OF THE COMMITTEE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WHG/pm

Comments By:

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

§ 06.15.250

§ 06.15.350

BANKS AND FINANCIAL INSTITUTIONS

§ 06.20.010

Article 4. General Powers of Mutual Banks.

Section
350. General powers

Sec. 06.15.350. General powers. A mutual bank

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

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

Chapter 20. Alaska Small Loans Act.

Section	Section
10. License required	285. Open-end loans
200. Advertising of misleading statements prohibited	287. Credit insurance on open-end loans
230. Maximum interest permitted	290. Purchase of wages for \$25,000 or less
250. Computation and payment of interest	300. Maximum charges by nonlicensee on loans
260. Charges prohibited	310. Illegal interest rate
270. Requirements for making and payment of loans	320. Civil and criminal penalties
280. Maximum charge by licensee	330. Exemptions
	900. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The 1980 amendment, in subsection (c),

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 06.35.030 BANKS AND FINANCIAL INSTITUTIONS § 06.35.050

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

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

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

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

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

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

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

Chapter 40. Premium Financing Act.

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

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

Article 1. Licensing.

Section

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

Section

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 2. Operations.

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

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

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

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

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

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

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

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

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

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

(3) set out the following items where applicable:

(A) the total amount of the premiums;

(B) the amount or the down payment;

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

(D) the annual percentage rate of interest; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 3. General Provisions.

Section

160. Civil and criminal penalties

170. Filing not required to perfect validity of agreement

Section

180. Regulations, orders

190. Definitions

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

(b) Any person, copartnership, association, or corporation, and its members, officers, directors, agents, and employees, who violates or participates in a violation of the provisions of § 10 of this chapter, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both. In case of conviction of a corporation for violation of this chapter, the corporation is punishable by a fine of not more than \$20,000. (§ 1 ch 170 SLA 1978)

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

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

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

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

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

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

security agreement is considered to be a premium finance agreement;

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

Chapter 45. Alaska Credit Union Act.

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

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

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

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

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

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

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

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

"and AS 06.01.020" following "this chapter."

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

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

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

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

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

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

- (1) whether the articles of incorporation and bylaws conform to the provisions of AS 06.45.010 — 06.45.400 and to regulations of the commissioner;
- (2) the general character and fitness of the subscribers; and
- (3) the economic advisability of establishing the proposed credit union.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) invest its funds

(A) in loans exclusively to members;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The board of directors shall

(1) act upon applications for membership;

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

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

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

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

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

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

(8) provide for compensation of officers and employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 10. Alaska Retail Installment Sales Act.

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

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

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

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

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

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