

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

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of a proposed bank may solicit subscribers until the capital stock is fully subscribed.

(d) Before calling the stock subscriptions or accepting payment for the subscriptions from the subscribers to a proposed bank, the chairperson shall submit [,] to the department, for its approval or disapproval, a list of subscribers which indicates the name, residence address, mailing address, and amount of subscription for each subscriber.

(e) At the time the chairperson calls the stock subscriptions, all funds received from stock subscribers, including paid-in pre-incorporation subscriptions, must be placed in an escrow account approved by the department and over which the department has withdrawal control.

(f) The chairperson shall call the subscriptions and receive payment in full within 30 days from the date of the notice of the call; however, the chairperson may extend the period of the call if the extension is approved in writing by the division.

(g) When the subscriptions are fully paid and deposited in the escrow account, the incorporators on at least 20 days' written [10 DAYS'] notice shall call the first meeting of subscribers. The agenda for the meeting must include those items required under AS 10.06.223 [ELECTION OF DIRECTORS, ADOPTION OF BYLAWS,] and a shareholder resolution that the paid-in subscriptions be converted to stock certificates upon departmental approval. [WITHIN FIVE DAYS OF THE FIRST MEETING, THE DIRECTORS SHALL MEET TO SELECT BANK OFFICERS.]

(h) With prior departmental approval, a portion or all of the organizational expenses may be withdrawn and paid out of the stock subscription escrow account; however, no withdrawals or payments may be made until the stock subscriptions are fully paid into that account [,] and full disclosure is made to subscribers at the first meeting of subscribers.

(i) In this section, "chairperson" means the individual who was appointed by the incorporators to represent them in dealing with the department on the new bank application. (Eff. 4/6/79, Register 70; am / / , Register \_\_)

#### AUTHORITY

[AS 06.01.010]  
AS 06.05.005(a)(2)  
AS 06.05.345  
AS 06.05.385  
AS 10.06.223

#### NOTES:

(a) Expanded to apply to any stock subscriptions, even those that occur to increase capital of an existing bank.

(g) Changed to be consistent with the corporations code provisions.

3 AAC 02.215. APPLICATION FOR BRANCH OR CHANGE OF LOCATION. (a) The bank must apply to the division for a certificate of authority to

operate a branch office or to change the location of the home office or branch office.

(b) The following information must accompany a bank's [the] application for a new branch office or a change of location of an existing branch or home office:

(1) if the bank is insured by the FDIC, a completed FDIC branch or change of location application which may be obtained directly from the FDIC;

(2) a check or money order for the fee required under 3 AAC 02.040 [\$500] made payable to the State of Alaska as a partial prepayment of investigation expenses incurred by the department in accordance with AS 06.01.010;

(3) a statement as to whether the proposed office will operate on [BE] owned or leased property[,] and, if leased, a fully executed copy of all lease documents, which must contain a bankruptcy clause;

(4) statements [A STATEMENT] as to whether the bank plans to finance any improvements to the property[,] and, if it intends to lease, whether the proposed lessor is or will be a borrowing customer of the bank;

(5) the amount of fire and liability insurance coverage to be carried for the proposed office location and equipment, who will pay the premium, and, if paid by the bank, the amount of payment[,] and the annual premium for the coverage at the time of the application;

(6) the total investment in bank premises and equipment to be reflected on the books of the bank for the proposed office;

(7) the itemized book value of the bank's present investment in land, buildings leasehold improvements, furniture, fixtures and equipment, [INVESTMENT IN STOCK OF A BANK BUILDING CORPORATION,] and investment in other assets indirectly representing bank premises, and any depreciation reflected on the books of the bank;

(8) a listing of the income, expenses, loan volume, time deposits, savings deposits, and demand deposits, on a calendar year basis for each branch (including the principal office of the bank) opened within three years of the date of the application and the date of opening of each branch listed;

(9) a daily statement and statement of income and expenses for the bank as of the date of the application;

(10) the amount and type of the bank's fidelity bond in force and any excess coverage bond;

(11) a list of the banking services to be offered by the proposed office;

(12) the names and addresses of potential large deposit customers of the proposed office;

(13) a three-year projection of the bank's capital accounts;

(14) the name and resume of the proposed branch manager or, if none, a resume of the individual who will be directly responsible for the management of the proposed office;

(15) an [A] economic analysis which supports the need in the community for and feasibility of the proposed office; [AND]

(16) if an international bank, the information required under AS 06.05.555; and

(17) other materials as requested by the department.

(c) No bank may conduct a banking business through a branch without a certificate of authority issued by the department and that certificate being prominently and publicly displayed in that branch.

(d) Upon written request from a bank [THE DEPARTMENT], after reviewing the past reports of examination of the bank [REQUIRED UNDER AS 06.05.025] and finding that the bank is in compliance with the department's recommendations in those reports, the department will, in its discretion, waive any of the application requirements set out in (b)(3) - (15) of this section.

[\*NEW SUBSECTION\*] (e) The department may, in its discretion, waive any of the requirements of this section if the bank is simply relocating its home or branch office to another location in the same general market. (Eff. 12/13/70, Register 36; am 4/6/79, Register 70; am 12/31/80, Register 76; am / / , Register \_\_)

#### AUTHORITY

AS 06.05.005(a)(2)

AS 06.05.399

AS 06.05.555

#### NOTES:

(a) This subsection is meaningless and merely reiterates what the statutes require.

(b) I have only made a few technical changes to make this subsection consistent with changes proposed in the recodification. As for the specific requirements, although Northrim wants this simplified, we have decided not to make any changes at this time. Of course, under (d) the department can always waive any of these requirements anyway.

Remember: The provisions of this section will now apply to international branching, i.e. if an international bank wants to set up a de novo branch in Alaska - see (b)(16).

(e) This is new, to allow a bank or branch to relocate in the same area, like across the street, without going through the formal application requirements.

3 AAC 02.217. APPLICATION FOR A MOBILE FACILITY. (a) The following information must accompany a bank's [THE] application for a mobile facility:

(1) materials [AND FEE] required by 3 AAC 02.215(b)(1) and (3)-(10) [SEC. 215(b)(1) - (10) OF THIS CHAPTER];

(2) a map of the area to be served of a scale to show at least the city boundaries and indicating

(A) the locations at which the mobile facility would provide banking services;

(B) the point of origin of and storage location of the proposed mobile facility when not in use; and

(C) the location and identity of financial institutions within a 25-mile radius of the proposed site [MARKED ON THE MAP AND IDENTIFIED];

(3) a list of the banking services to be offered by the proposed mobile facility;

(4) the proposed schedule indicating the time of day and days of the week that the proposed mobile facility would provide banking services at the indicated locations and whether operated on a year-round or seasonal basis;

(5) security procedures to be used when the mobile facility is in use and when not in use;

(6) a description of the type of mobile facility proposed to provide the services indicated and a statement of how assets and liabilities of the proposed mobile facility will be carried on the books of the bank;

(7) the name and resume of the individual who will be directly responsible for the management of the proposed mobile facility;

(8) a brief economic analysis supporting the assertion that the service area needs the proposed services; [AND]

(9) the fee required under 3 AAC 02.040; and

(10) other materials as requested by the department.

(b) Any proposed change in the daily schedule for a [BRANCH OR] mobile facility or any change in the location at which a mobile facility is to provide banking services must be approved in writing by the division at least 30 days before the proposed implementation date.

(c) No bank may conduct a banking business through a mobile facility without a certificate of authority for that facility issued by the department and the certificate being prominently and publicly displayed in the facility.

(d) Upon written request from a bank the department, after reviewing the past reports of examination of the bank [REQUIRED UNDER AS 06.05.025] and finding that the bank is in compliance with the department's recommendations in those reports, will, in its discretion, waive any of the application requirements set out in (a)(6) - (8) of this section and those requirements referred to in (a)(1) of this section other than 3 AAC 02.215(b)(1) [AND (2)]. (Eff. 4/6/79, Register 70; am 12/31/80, Register 76; am / / , Register \_\_)

#### AUTHORITY

AS 06.05.005(a)(2)

AS 06.05.399

#### NOTES:

Same changes as in sec. 215.

3 AAC 02.219. OFF-PREMISES CUSTOMER-BANK COMMUNICATION TERMINALS.  
Repealed.

NOTE: This is repealed, because the requirements for applications for ATM's is now contained in the code, AS 06.05.426.

3 AAC 02.310. MERGER. (a) Any proposed bank merger of an international, [A] national, [BANK] or state [AN ALASKA]-chartered bank with an Alaska state [-CHARTERED] bank must be accomplished under a merger plan filed with and approved by the department.

(b) Each [THE BOARD OF DIRECTORS OF EACH] bank [, OR THE INCORPORATORS OF A PHANTOM BANK,] must [, BY RESOLUTION ADOPTED BY EACH BOARD,] approve a merger plan which sets forth

(1) the names of the banks proposing to merge and the name of the bank into which they propose to merge, referred to in this chapter as the surviving bank;

(2) the terms and conditions of the proposed merger;

(3) the manner and basis of converting the shares of each merging bank into shares, other securities, or obligations of the surviving bank or of any other bank or corporation, in whole or in part, or into cash or other property;

(4) a statement of any amendments to the articles of incorporation of the surviving bank caused by the merger; and

(5) other provisions as required by the department.

(c) [THE CHAIRPERSON OF THE BOARD OF EACH BANK, OR THE INCORPORATORS OF A PHANTOM BANK, SHALL SUBMIT TO THE DIVISION IMMEDIATELY AFTER THE RESOLUTIONS ARE ADOPTED A COPY OF THE RESOLUTIONS ADOPTED UNDER (b) OF THIS SECTION.] (Eff. 4/6/79, Register 70; am / / , Register \_\_)

AUTHORITY

AS 06.05.005(a)(2)

AS 06.05.462

AS 06.05.555

NOTES:

(a) Changed to make the section also apply to the situation where an interstate or international bank branches in Alaska through the purchase of an Alaska bank.

(b) Amended to remove the specific directives relating to internal corporate actions. Under the revision, the merger plan must be approved by each bank in whatever manner their bylaws or articles require (in most cases, this will be by board action).

(c) Current subsection simply states that the resolution must be submitted by the chair to the department; it would seem more reasonable to include this as part of the application under sec. 350.

3 AAC 02.320. CONSOLIDATION. (a) Any proposed bank consolidation of a national bank or state [AN ALASKA]-chartered bank with an Alaska state [-CHARTERED] bank must be accomplished under a consolidation plan filed with and approved by the department.

(b) Each [THE BOARD OF DIRECTORS OF EACH] bank must [, BY A RESOLUTION ADOPTED BY EACH BOARD,] approve a consolidation plan which sets forth

(1) the names of the banks proposing to consolidate and the name of the new bank into which they propose to consolidate, referred to in this chapter as the new bank;

(2) the terms and conditions of the proposed consolidation;

(3) the manner and basis of converting the shares of each bank into shares, other securities, or obligations of the new bank or of any other bank or corporation, in whole or in part, or into cash or other property;

(4) if the new bank will be an Alaska state bank, all of the statements with respect to the new bank required to be set forth in articles of incorporation for banks [ORGANIZED] under AS 06.05.345; and

(5) other provisions as required by the department.

(c) [THE CHAIRPERSON OF THE BOARD OF EACH BANK SHALL SUBMIT TO THE DIVISION IMMEDIATELY AFTER THE RESOLUTIONS ARE ADOPTED A COPY OF THE RESOLUTIONS ADOPTED UNDER (b) OF THIS SECTION.] (Eff. 4/6/79, Register 70; am / / ; Register \_\_)

#### AUTHORITY

AS 06.05.005(a)(2)

AS 06.05.345

AS 06.05.462

AS 06.05.555

**NOTES: Same changes made here as were made in preceding section.**

3 AAC 02.325. CONVERSION. (a) Any proposed conversion of a national bank to an Alaska state [-CHARTERED] bank must be accomplished under a conversion plan filed with and approved by the department.

(b) The board of directors of the converting national bank must, by resolution adopted by the board, approve a conversion plan which sets forth

(1) the name of the bank proposing to convert;

(2) the name of the bank into which it proposes to convert, referred to in this chapter as the "converted bank";

(3) the terms and conditions of the proposed conversion;

(4) the manner and basis of converting the shares of the national bank into shares, other securities, cash, other property, or obligations, in whole or in part, of the converted bank or of any other bank or corporation;

(5) a statement of any amendments to the articles of incorporation of the converted bank caused by the conversion; and

(6) other provisions as required by the department.

[(c) THE CHAIRPERSON OF THE BOARD OF THE CONVERTING NATIONAL BANK SHALL SUBMIT TO THE DIVISION IMMEDIATELY AFTER IT IS ADOPTED A COPY OF THE RESOLUTION REQUIRED UNDER (b) OF THIS SECTION.] (Eff. 5/1/80, Register 74; am / / , Register \_\_)

#### AUTHORITY

AS 06.05.005(a)(2)

AS 06 5.075  
[AS 06.05.452]  
AS 06.05.462

NOTES: Minor technical changes, consistent with changes made in preceding sections.

3 AAC 02.330. ADOPTION OF CONVERSION, MERGER OR CONSOLIDATION PLANS. Repeal.

NOTE: This is repealed - it encroaches too far into the internal operations of the bank corporations.

3 AAC 02.340. ARTICLES OF CONVERSION, MERGER OR CONSOLIDATION. Repeal.

NOTE: See notes to preceding section.

3 AAC 02.350. APPLICATION FOR CONVERSION, MERGER, OR CONSOLIDATION.  
(a) The boards [CHAIRPERSON OF THE BOARD OR THE BOARD REPRESENTATIVE] of each bank proposing to convert, merge, or consolidate shall jointly or independently submit to the department an application for permission to implement the plan.

(b) The application must include

(1) an analysis by the converting bank of why the proposed conversion is in the best interest of promoting and maintaining a sound and competitive banking system;

(2) an analysis by the banks proposing to merge or consolidate of why the proposed merger or consolidation is in the interest of promoting and maintaining a sound and competitive banking system, the security of deposits and customers, the preservation of the liquid position of the banks in general, and the prevention of injurious credit expansions and contractions in the state;

(3) a copy of the articles of incorporation of the converting national bank, merging banks, or consolidating banks;

(4) copies of the resolutions of each bank board approving the plan of merger, consolidation or conversion, or other evidence that necessary corporate approval was obtained;

(5) [THREE FULLY EXECUTED, ORIGINALLY SIGNED AND VERIFIED] copies of the proposed articles of conversion, merger, or consolidation;

(6) [(5)] copies of the bylaws of the converting national bank and the proposed bylaws for the converted bank;

(7) [(6)] if the transaction is a merger or consolidation involving an international or interstate bank, all information required under AS 06.05.555(a) [A CHECK OR MONEY ORDER FOR \$1,000 MADE PAYABLE TO THE STATE OF ALASKA AS A PARTIAL PREPAYMENT OF THE DEPARTMENT'S INVESTIGATION EXPENSES]; and

(8) [(7)] other materials as required by the department.

(c) The department will conduct an investigation of the

application and, if the department finds that the application is in order and that approval of the application is consistent with the maintenance or promotion of a safe and sound banking system [THE PROVISIONS OF AS 06.05.462 HAVE BEEN MET], it will issue a public notice of the department's intent to approve the conversion, merger, or consolidation [,] and to issue a certificate of conversion, merger or consolidation.

(d) If the department does not receive a request for a hearing within 30 days after the final publication of notice under (c) of this section [THE TIME SPECIFIED UNDER AS 06.01.030(b)] or determines after a hearing that the application is in order, the department will approve the application, issue a certificate of conversion, merger or consolidation, and forward the certificate [WITH TWO COPIES] to the chairperson or the board representative of the converted, surviving, or new bank. The certificate of conversion, merger, or consolidation becomes effective upon issuance unless the certificate specifies a later effective date, which must be no later than 15 days after issuance of the certificate.

(e) Conversion, merger, or consolidation has the following effects:

(1) the converting national bank becomes a state-chartered bank as provided in the conversion plan; the merging or consolidating banks become a single bank, designated in the merger plan as the surviving bank and in the consolidation plan as the new bank;

(2) the converting national bank ceases to exist and the existence of the converting bank begins; the separate identities of merging or consolidating banks cease to exist and the existence of the surviving or new bank begins;

(3) the converted, surviving, or new bank has the rights, privileges, immunities and powers, and is subject to the duties and liabilities of a bank [INCORPORATED] under AS 06.05;

(4) the converted, surviving, or new bank possesses the rights, privileges, immunities and franchises, public and private, of the converting national bank, and the respective merging or consolidating banks;

(5) all real, personal, and mixed property, all debts due, including but not limited to subscriptions to shares, all choses in-action, and every other interest in, belonging to or due to each of the banks are transferred to and vested in the converted, surviving, or new bank;

(6) the title to or interest in real estate vested in the converted, surviving, or new bank does not revert nor is it in any way impaired by a conversion, merger, or consolidation;

(7) the converted, surviving, or new bank is liable for the liabilities and obligations of the converting national bank or each of the respectively merged or consolidated banks;

(8) an existing claim or pending action or proceeding by or against the bank may be prosecuted as if the conversion, merger or consolidation has not taken place, or the converted,

surviving, or new bank may be substituted in its place;

(9) neither the rights of creditors nor liens upon the property of a converting, merging, or consolidating bank are impaired by the conversion, merger or consolidation;

(10) the articles of incorporation of the converted bank are amended to comply with the conversion plan;

(11) the articles of incorporation of the surviving bank are amended to comply with the merger plan;

(12) articles of consolidation become the original articles of incorporation of the new bank; and

(13) the net undivided profits of the converting national bank or merging or consolidating banks available for the payment of [THE] dividends immediately before the conversion, merger or consolidation, to the extent that the undivided net profits are not transferred to stated capital by the issuance of shares or otherwise, remain available for the payment of dividends by the converted, surviving or new bank. (Eff. 4/6/79, Register 70; am 5/1/80, Register 74; am / / , Register \_\_)

**AUTHORITY**

[AS 06.01.010]

AS 06.01.030

AS 06.05.005(a)(2)

AS 06.05.075

AS 06.05.462

AS 06.05.555

**NOTES:**

These are generally just technical changes to make sure the section applies to interstate and international bank mergers and consolidations. In (d), since the statutes don't provide when a party must request a hearing in these cases, we decided on 30 days.

3 AAC 02.360. [\*REPEALED AND REENACTED\*] DISSENTING SHAREHOLDER RIGHTS. If a shareholder of an Alaska state bank objects to a consolidation, merger or conversion of the bank, the dissenting shareholder's rights shall be exercised under and governed by AS 10.06.574 - 10.06.582.

**AUTHORITY**

[AS 06.01.010]

[AS 06.01.030]

AS 06.05.005(a)(2)

AS 06.05.075

AS 06.05.462

**NOTE:** The current section is quite similar to the provisions in the corporations code. We have decided to simplify the process and adopt the corp code by reference.

[3 AAC 02.420. DEBT COLLECTION PRACTICES. THE DEBT COLLECTION

PROCEDURES AND REQUIREMENTS AS SET FORTH IN CH. 01 OF THIS TITLE APPLY TO BANKS GRANTED CERTIFICATES OF AUTHORITY UNDER THIS CHAPTER. (Eff. 4/6/79, Register 70)

AUTHORITY

AS 06.05.005  
AS 06.05.015  
AS 06.05.015]

NOTE: Repealed; already covered by 3 AAC 01.910(2).

3 AAC 02.910. DEFINITIONS. (a) In this chapter and AS 06.05,

[ (1) "CUSTOMER-BANK COMMUNICATION TERMINAL" MEANS A STAFFED OR UNSTAFFED ELECTRONIC TERMINAL WHICH PERMITS A BANK CUSTOMER TO ACCOMPLISH VARIOUS FINANCIAL TRANSACTIONS, SUCH AS DEPOSITING AND WITHDRAWING FUNDS, MAKING LOANS, AND TRANSFERRING FUNDS BETWEEN ACCOUNTS, AND ENCOMPASSES ALL SIMILAR DEVICES OR FACILITIES KNOWN OR REFERRED TO BY ANY OTHER NAME OR DESIGNATION INCLUDING BUT NOT LIMITED TO ELECTRONIC FUNDS TRANSFER DEVICES (EFT'S), AUTOMATED OR AUTOMATIC TELLERS, OR '24-HOUR TELLERS';]

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

[ (2) [(3)] "division" means the division of banking, [AND] securities and corporations within the department;

[ (3) [(4)] "FDIC" means Federal Deposit Insurance Corporation;

[ (4) [(5)] "FFIEC" means the Federal Financial Institutions Examination Council ["MOBILE FACILITY" MEANS A BRANCH BANK WHICH MOVES FROM ONE LOCATION TO ANOTHER TO PROVIDE BANKING SERVICES AND IS LOCATED IN OR SERVES REMOTE AREAS OF THE STATE NOT BEING ADEQUATELY SERVED BY PERMANENTLY LOCATED BRANCH BANKS];

[ (6) "OFF-PREMISES" MEANS EITHER

(A) SITUATED BEYOND THE PHYSICAL CONFINES OF THE INITIAL OFFICE OF THE BANK AS DESCRIBED IN ITS CERTIFICATE OF AUTHORITY; OR

(B) SITUATED AT A POINT BEYOND THE PHYSICAL CONFINES OF A BRANCH BANK OR PRINCIPAL OFFICE AS DESCRIBED IN ITS CERTIFICATE OF AUTHORITY;]

[ (7) "PRODUCE IN TRANSIT" MEANS THE FOLLOWING PRODUCTS, THE MAJOR PORTION OF WHICH MUST HAVE ORIGINATED IN ALASKA WITH ADDITIVES PERMITTED ONLY FOR THE PURPOSE OF PROCESSING OR FINISHING ONLY:

(A) HARD MINERAL PRODUCTS IN THE FORM OF ORES OR SMELTED INGOTS, SUCH AS COAL, TIN, IRON, COPPER, AND SILVER;

(B) RAW OR REFINED LIQUID MATERIAL PRODUCTS, SUCH AS GAS, OIL, OR PETROCHEMICALS;

(C) AGRICULTURAL PRODUCTS, SUCH AS POTATOES, GRAINS, CARROTS, HAY, BERRIES, AND MEAT PRODUCTS;

(D) TIMBER PRODUCTS, SUCH AS LOGS, CHIPS, PULP,

LUMBER, AND PEAT MOSS;

(E) MANUFACTURED PRODUCTS USING NATIVE MATERIALS, SUCH AS ANIMAL HIDES AND FURS, VEGETATION, BONE AND HORN PRODUCTS, AND RAW FURS; AND

(F) RAW OR PROCESSED FISH OR FISH PRODUCTS;]

[(8) "SUBSIDIARY" MEANS A COMPANY WHOSE VOTING SHARES ARE DIRECTLY OR INDIRECTLY OWNED OR CONTROLLED BY A DOMESTIC BANK HOLDING COMPANY, OR HELD BY IT WITH POWER TO VOTE; OR A COMPANY THE SELECTION OF A MAJORITY OF WHOSE DIRECTORS, PARTNERS, TRUSTEES OR MANAGING OFFICERS IF CONTROLLED IN ANY MANNER BY THE DOMESTIC BANK HOLDING COMPANY; OR IF THE COMMISSIONER DETERMINES AFTER NOTICE AND OPPORTUNITY FOR HEARING, A COMPANY WHOSE MANAGEMENT OR POLICIES ARE SUBJECT TO A CONTROLLING INFLUENCE BY A DOMESTIC BANK HOLDING COMPANY;]

[(9) "TOTAL CAPITAL ACCOUNTS OF SUBSIDIARY BANK" MEANS CAPITAL, SURPLUS, UNDIVIDED PROFITS, CAPITAL NOTES, AND DEBENTURES NOT MATURING WITHIN ONE YEAR FROM THE DATE OF THE LOAN;]

(5) [(10)] "FHLBB" means the Federal Home Loan Bank Board.

[(b) AS USED IN AS 06.05.235, "COMPANY" DOES NOT INCLUDE A BANK, CORPORATION, PARTNERSHIP, JOINT STOCK COMPANY, BUSINESS TRUST, ASSOCIATION, OR SIMILAR ORGANIZATION, DOMESTIC OR FOREIGN

(1) THAT ACQUIRES OR HOLDS VOTING SECURITIES OR OTHER CAPITAL STOCK OF A BANK OR BANK HOLDING COMPANY ONLY FOR A REASONABLE PERIOD OF TIME IN CONNECTION WITH THE UNDERWRITING OF SECURITIES;

(2) THAT IS AN AGENCY OF THE UNITED STATES OR ANY STATE OR THE MAJORITY OF WHICH IS OWNED BY THE UNITED STATES OR ANY STATE;

(3) THAT IS AN INDEPENDENT FEDERAL FINANCIAL REGULATORY AGENCY OR A TRUSTEE OR AGENT OF SUCH A REGULATORY AGENCY; OR

(4) THAT, UNDER A PLAN OF FINANCIAL RESTRUCTURING WHICH IS INTENDED TO PREVENT THE FAILURE OF AN ALASKA BANK AND WHICH IS APPROVED BY THE DEPARTMENT,

(A) ACQUIRES OR RECEIVES 25 PERCENT OR MORE OF A CLASS OF VOTING SECURITIES OR OTHER CAPITAL STOCK OF THE BANK OR BANK HOLDING COMPANY SUBJECT TO THE PLAN, AND OWNS, CONTROLS, OR HOLDS, WITH THE POWER TO VOTE, THE SECURITIES ACQUIRED OR RECEIVED IN EXCESS OF 24.99 PERCENT OF THAT CLASS FOR A PERIOD OF TIME THAT WILL PERMIT THE DISTRIBUTION OR RESALE OF THE SECURITIES OR OTHER CAPITAL STOCK ON A REASONABLE BASIS; OR

(B) PURCHASES OR RECEIVES SECURITIES UNDER THE PLAN AND, AFTER THE PURCHASE OR RECEIPT, OWNS, CONTROLS, OR HOLDS, WITH A POWER TO VOTE, LESS THAN 25 PERCENT OF A CLASS OF VOTING SECURITIES OR OTHER CAPITAL STOCK OF THE BANK OR BANK HOLDING COMPANY SUBJECT TO THE PLAN BUT SUBSEQUENTLY, SOLELY THROUGH THE ACTION OR INACTION OF OTHERS, INCLUDING THE BANK OR BANK HOLDING COMPANY, OWNS, CONTROLS, OR HOLDS, WITH A POWER TO VOTE, 25 PERCENT OR MORE OF A CLASS OF VOTING SECURITIES OR OTHER CAPITAL

STOCK OF THE BANK OR BANK HOLDING COMPANY; HOWEVER, A COMPANY UNDER THIS CLAUSE WILL BE CONSIDERED A 'COMPANY,' AS USED IN AS 06.05.235, IF THE DEPARTMENT DETERMINES, AFTER NOTICE AND OPPORTUNITY FOR HEARING, THAT THE OWNERSHIP, CONTROL, OR HOLDING OF SECURITIES OR STOCK EXCEEDING 24.99 PERCENT OF A CLASS, OTHERWISE THAN UNDER A PLAN TO PROMPTLY DISPOSE OF THE SECURITIES OR STOCK UNDER THE SUPERVISION OF THE DEPARTMENT, WOULD PERMIT THE COMPANY IN ANY MANNER TO CONTROL THE ELECTION OF A MAJORITY OF THE BOARD OF DIRECTORS OR TRUSTEES, OR TO DIRECTLY OR INDIRECTLY EXERCISE A CONTROLLING INFLUENCE OVER THE MANAGEMENT OR POLICIES, OF THE BANK OR BANK HOLDING COMPANY.] (Eff. 4/6/79, Register 70; am 3/29/80, Register 73; am 12/23/87, Register 105; em am 8/18/88 - 12/15/88, Register 107; am / / , Register \_\_)

**AUTHORITY**

[AS 06.01.020]  
AS 06.05.005(a)(2) [(1)]  
[AS 06.05.075]  
[AS 06.05.235]  
[AS 06.05.462(c)]  
AS 06.05.540

\*EDIT - Sec. 910 is based on definitions in former sec. 180 (Eff. 7/31/69, Register 31; am 12/13/70, Register 36) and former sec. 230 (Eff. 6/8/76, Register 58; am 11/18/76, Register 60) as well as new definitions added with Register 70.

NOTES: We have eliminated most of the definitions. Former (a)(1), (6), and (9) are terms no longer used in the regs. Former (5) and (7) are now defined in the code. Former (8) is different than the definition adopted in the code. Former (b) has been incorporated into AS 06.05.235. [NOTE TO AGO: The Editor's note may no longer be applicable.]



101 Connecticut Avenue, N.W., Suite 1201

Washington, D.C. 20006

202-223-2000

April 7, 1993

Honorable Bill Hudson  
Chairman  
House Labor and Commerce Committee  
State Capitol Building  
Juneau, Alaska 99801  
VIA FAX: (907) 465-6790

Call Back: (907) 465-3744

Attention: Linda Giguere, Esquire

Re: TRAC vehicle leasing and UCC Article 2A-  
Leases in Alaska-- Senate Bill #112

Dear Representative Hudson:

I'm writing to you on behalf of the American Automotive Leasing Association (AALA)<sup>1</sup> to ask your help in obtaining Alaska state legislation. We are concerned about our members' decades-old practice of leasing fleets of motor vehicles to commercial business lessees under lease agreements with terminal rental adjustment clauses (TRACs).

UCC Article 2A-Leases, the new uniform state law governing leasing of motor vehicles and equipment, is silent (or neutral) on the status under state commercial law of TRAC vehicle leases that are widely used in our industry, with the specific approval and endorsement of the federal tax laws. We have no quarrel with UCC 2A. Yet with the clarification of many other aspects of state leasing law in UCC 2A, we submit that the Alaska Vehicle Code should now be amended to make it

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<sup>1</sup> AALA is a national trade association of companies engaged in leasing motor vehicles, primarily to commercial and industrial users. The vehicles are generally leased in fleets, ranging in size from a few automobiles to large fleets of hundreds or thousands of automobiles, for periods of a year or more. The member companies of AALA lease and manage the majority of sales and service vehicles used by businesses throughout our country, a market exceeding three and a half million vehicles. Vehicles leased by AALA members operate in all the States, including Alaska.

American Automotive Leasing Association

clear that TRAC vehicle leases are valid "leases"-- not "sales" or "security interests"-- under state commercial law.

### 1. Background

Terminal rental adjustment clauses (TRACs) have been widely used throughout the motor vehicle leasing industry for well over thirty (30) years. A TRAC clause permits (or requires) an upward or downward adjustment of rent to make up for any difference between the projected value of a vehicle and the actual value upon lease termination. The objective of TRAC vehicle leases is to provide a financial incentive for the lessee/user, who is the party to the transaction best able to control the maintenance of the vehicle, to keep the vehicle in good repair.

Over the years, TRAC vehicle leasing has been increasingly accepted in the law. The federal tax laws were amended in 1983 to codify industry practice and specifically recognize TRAC motor vehicle leases to commercial lessees as true leases. See 26 U.S.C. §7701(h) (1986).<sup>2</sup> Tax law at the state level also generally follows federal tax law in recognizing that TRAC vehicle leases to commercial lessees are true leases for state tax purposes. And today many varieties of TRAC vehicle leases are recognized as true leases for accounting purposes.

TRAC vehicle leases also have been recognized as true leases for state commercial law purposes by some state courts. See Old Wine in New Bottles: UCC Article 2A-Leases, 39 U. Ala-bama L.Rev. 615, 638-641 (1988) (discussing case law). But other courts have disagreed. See id. There appears to be no Alaska court decision on point.<sup>3</sup> Whether TRAC vehicle leases are true leases under state commercial law remains unsettled.

This is troublesome for TRAC vehicle lessors, since the state commercial law validity of TRAC vehicle leases (their

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<sup>2</sup> TRAC vehicle leasing is confined, by virtue of federal tax law, to a commercial business setting. It does not involve leasing to consumers.

<sup>3</sup> TRAC vehicle leasing was not involved in Dischner v. United Bank Alaska, 631 P.2d 107 (Alaska S.Ct. 1981). The vehicle lease in Dischner contained a "nominal" option of the kind that destroys true lease status under newly amended UCC 1-201(37). It was a "bailment lease" that was stipulated to be a secured sale (not a true lease). See 631 P.2d at 108 n.2. By contrast, TRAC vehicle leases do not involve "nominal" options, and newly amended UCC 1-201(37) is deliberately silent as to whether TRAC vehicle leases are, or are not, true leases. See Old Wine in New Bottles, 39 Alabama L.Rev. 615, 639 (1988).

status as "true leases" and not "sales" or "security interests") is important to the lessor in cases where the lessee is in bankruptcy. When this occurs, a TRAC vehicle lessor is entitled to receive full current rental payments or (on appropriate motion) to repossess the vehicles, if the TRAC lease is viewed as a true "lease". By contrast, if the TRAC lease is viewed as a "perfected security interest", then the TRAC lessor in this situation will have the right to receive payments representing only the depreciation on the leased equipment (about 50% to 80% of full rentals, in the recent experience of TRAC vehicle lessors). And if the TRAC vehicle lease is viewed as an "unperfected security interest", the trustee in bankruptcy may be able to keep the vehicles, without making current payments of any kind, and sell them. See id. (citing bankruptcy cases); In re Tulsa Port Warehouse Co., 690 F.2d 809 (10th Cir. 1982). True lessors of vehicles and equipment are thus better off than holders of "perfected security interests" who, in turn, are better off than holders of "unperfected security interests", when the lessee is in bankruptcy. See generally In re Pacific Express, Inc., 780 F.2d 1482 (9th Cir. 1986) (opinion spelling out difference between a true lease and a security interest, where lessee/borrower is in bankruptcy).

Typically, federal bankruptcy courts look to state commercial law to determine whether a transaction is a "lease" or a "sale" or a "security interest". See id. We therefore seek Alaska state legislation clarifying the status of TRAC motor vehicle leases, in major part because of its impact on federal bankruptcy cases. Moreover, the status of TRAC vehicle leases as true leases for tax, accounting and all other purposes would be buttressed, if Alaska state commercial law also clearly recognized the true lease status of TRAC vehicle leases.

To date, sixteen (16) States have enacted our model TRAC/state law: Alabama, the District of Columbia, Florida, Illinois, Michigan, Minnesota, Missouri, New Jersey, New York, North Dakota, Ohio, Oklahoma, Rhode Island, Texas, Virginia, and Wisconsin. Other States including Connecticut, Oregon, New Hampshire, Vermont, and Washington, are actively considering our TRAC proposal, which is being raised in most of the States throughout the country. We think Alaska should follow suit.

The original sponsors of UCC Article 2A-leases-- the Commissioners on Uniform State Laws-- have been advised of our proposed TRAC vehicle amendment and they have no problem with it. See attached letter from the Commissioners on Uniform State Laws' national office on TRAC vehicle leases. Indeed, we do not know of anyone -- in Alaska or anywhere else -- who opposes our amendment.

TRAC vehicle leasing is a well-established form of business that is here to stay. It is a good business. It lowers lease rental rates. It serves the public interest. There is no warrant for imposing any state law or bankruptcy law "penalty" on TRAC vehicle lessors for simply using TRAC leases that federal tax law specifically recognizes and encourages. This is only common sense and simple justice.

2. Validating TRAC vehicle leases  
in Alaska's Vehicle Code

To be very specific, we respectfully suggest that the following new section be added to Senate Bill #112, seeking to enact UCC Article 2A-Leases in Alaska, adding the following new section 28.10.375 to the Alaska Statutes, Title 28 ("Motor Vehicles"), Chapter 10 ("Vehicle Registration and Title"), Article 4 ("Filing Documents Evidencing Liens or Encumbrances"):

**Sec. 28.10.375. TERMINAL RENTAL ADJUSTMENT CLAUSES:  
VEHICLE LEASES THAT ARE NOT SALES OR SECURITY INTERESTS**

In the case of motor vehicles or trailers, notwithstanding any other provision of law, a transaction does not create a sale or security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

This special provision would not be at odds with UCC 2A. Our understanding is that UCC 2A is silent (or neutral) -- not hostile-- towards TRAC vehicle leases. We respectfully ask for your assistance in enacting legislation that supports the public interest by making it clear that TRAC vehicle leases are true "leases"-- not "sales" or "security interests" --under Alaska state commercial law.

Other industry groups support AALA's proposal. Years ago, when TRAC vehicle leasing was discussed by the Commissioners on Uniform State Laws, both AALA and the Equipment Leasing Association of America (ELA) supported validating motor vehicle TRAC leases as true leases under state law. In the view of ELA, the scope of TRAC leasing was properly defined by commercial custom so that it was acceptable for automobiles and other closely-related equipment within the scope of the tax Code/TRAC provision, 26 U.S.C. §7701(h) (1986), though it would be objectionable if applied to leasing for railroad rolling stock, aircraft, or any other kinds of equipment. This accommodation between AALA and ELA reflects an acceptance of the

different commercial customs and traditions that prevail in different industries.

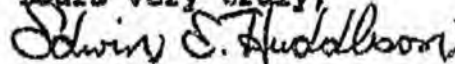
The impact of the provision we urge would simply bring state commercial law into agreement with federal tax law.

### 3. Conclusion

TRAC vehicle leases deserve your support on their merits. Our proposed TRAC amendment serves the public interest. It will benefit both lessors and lessees in Alaska. Our AALA members, engaged in leasing vehicles to commercial business lessees in Alaska and other states, strongly support the TRAC amendment we seek. We ask you to support our TRAC vehicle amendment in the public interest.

Thank you very much for considering our views.

Yours very truly,



Edwin E. Huddleson, III

Volpe Boskey and Lyons  
Counsel for AALA

Attachment

**National Conference of Commissioners on Uniform State Laws**  
676 North St. Clair Street, Suite 1700, Chicago, Illinois 60611-3112) 915-3195

Aug 16, 1990

**John M. McCabe**  
Legislative Director

**Edwin H. Huddleson, III**  
Volpe, Boskey and Lyons  
World Center Building  
819 16th Street, N.W.  
Washington, D.C. 20006

**RE: TRAC Leasing**

**Dear Ed:**

As Legislative Director for the Uniform Law Commissioners, I would be willing to provide a statement by letter or otherwise that corresponds to the following:

As Legislative Director for the Uniform Law Commissioners, I will not oppose or counsel opposition to the adoption of language in the Motor Vehicle Code to the effect that, "In the case of motor vehicles or trailers, notwithstanding any other provision of law, a transaction does not create a security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer." I do not find this language to be in conflict with Uniform Commercial Code, Article 2A or Uniform Commercial Code, Section 1-201(37), nor to impair essential uniformity of law with respect to the subject matter of leases.

Although not an expression of general support for this treatment of the TRAC issue, it does fairly represent how the ULC, as represented through my office, will react to the introduction of provisions of this type in the state statutes. I am willing to provide a letter to this effect in any jurisdiction in which UCC Article 2A is under consideration, and would testify in the same fashion if asked in any legislative hearing.

I reserve the right, however, to make this statement personally from jurisdiction to jurisdiction. I do not intend this letter to be a general statement that may be used

independently of my own personal representations in any forum.  
And I consider it applicable only in jurisdictions in which UCC  
Article 2A is under active consideration.

Is this at all helpful? Thanks for your kind attention.

Sincerely,



John M. McCabe  
Legislative Director

cc: Fred Miller

# shattuck & grummett, inc.

301 SEWARD ST. JUNEAU, ALASKA 99801

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## Facsimile Cover Sheet

**To:** Rep. Bill Hudson  
**Company:** Alaska House of Representatives  
**Phone:**  
**Fax:** 465-6790

**From:** Joe Heueisen  
**Company:** Shattuck & Grummett, Inc.  
**Phone:** (907) 586-2414  
**Fax:** (907) 586-3770

**Date:** April 13, 1993  
**Pages :** 1

**Re:** Senate Bill 149

**Message:** This bill is before your L&C committee and has an amendment in section 47 (AS 06.05) adding 06.05.272 thus allowing subsidiaries of banks to sell insurance. We urge your opposition to this bill as amended or if necessary, the whole bill.

An unfair competitive advantage through the coercive power (stated or not) of the lending institution would be detrimental to the consumer as well.

We already have enough examples of certain credit institutions displaying the inability to perform in their own arena of financial lending. Letting them dabble in the area of insurance won't be of service to anyone.

# Alaska State Legislature

Senator Tim Kelly, Chair  
Senator Steve Rieger, Vice Chair  
Senator Drue Pearce  
Senator Judy Salo  
Senator Georgianna Lincoln



STATE CAPITOL, SUITE 101  
JUNEAU, ALASKA 99801-1182  
PHONE: (907) 465-3822  
FAX: (907) 465-3756

## SENATE LABOR AND COMMERCE COMMITTEE

3111 C STREET, SUITE 550  
ANCHORAGE, ALASKA 99503  
(907) 561-7612

### MEMORANDUM

**TO:** Representative Bill Hudson, Chair  
House Labor & Commerce Committee

**FROM:** Senator Tim Kelly, Chair TK  
Senate Labor & Commerce Committee

**DATE:** April 8, 1993

**RE:** Request for a hearing for SB 149 - Banking Code Revision

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I respectfully request you consider scheduling SB 149 for a hearing before the House Labor & Commerce Committee at the committee's earliest convenience. This legislation passed the Senate on April 1 with a vote of 18 yeas and 2 nays.

The existing banking code was taken from Oregon law at the time of Alaska Statehood in 1959. It is now viewed as obsolete by those in the industry as well as the division of banking. Since the code was adopted the financial market place has changed substantially, and we've experienced numerous bank failures.

For the past few years the Division of Banking, Securities and Corporations has been working to identify areas where the code needs updating and revision. More recently, the 5 state chartered banks in the State have been working with the banking division through the Senate Labor & Commerce Committee to address these needed revisions. The result of these efforts is Senate Bill 149.

This bill not only addresses the new financial marketplace and the problems of failing banks, but could provide additional economic development opportunities for our State banks.

Every banking institution in the state was invited to review and comment on the legislation before introduction. In addition, Mr. Kirkpatrick, the

Representative Bill Hudson, Chair  
House Labor & Commerce Committee  
April 8, 1993  
Page 2

Director of the Division of Banking, agreed to provide a draft of regulations that would result from the implementation of the banking code revision. It has been a constructive and collective effort.

Attached you will find a letter from Mr. Kirkpatrick explaining the need for this revision, a brief overview and description of the bill, and a sectional analysis.

You should note that two other bills in the House Labor & Commerce, SB 86 and SB 112, Uniform Commercial Code Revisions, update obsolete and antiquated laws critical to the efficient flow of commerce and trade in the State. They both passed the Senate unanimously on April 2.

These bills, along with SB 149, will require a 2/3rds vote as they enact court rule changes. For this reason, I believe it is important that they move through the committee process together as a package. Passage of this package of legislation will be a real accomplishment and asset to this legislative session.

To date, I am unaware of any opposition to these bills.

Thank you in advance for your consideration.

Attachments

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES AND CORPORATIONS

WALTER J. HICKEL, GOVERNOR

P.O. BOX 110807  
JUNEAU, ALASKA 99811-0807  
Banking & Securities (907) 465-2521  
Corporation Section (907) 465-2530

ANCHORAGE  
Corporation Information (907) 563-2161

March 17, 1993

The Honorable Tim Kelly  
Alaska State Senate  
State Capitol  
Juneau, AK 99801-1182

Dear Senator Kelly:

Re: Senate Bill 149  
The Need for a New Alaska Banking Code

The current Alaska Banking Code (AS 06.05) is critically obsolete. The existing code was taken from Oregon law at the time of Alaska statehood, and has had only minor revisions since then. The Division of Banking, Securities and Corporations (division) has for the past few years been working to identify areas where changes in the code are needed. These changes fall into three basic categories:

- I. obsolescence concerning today's financial institution marketplace;
- II. obsolescence in addressing problems or failing banks; and
- III. the need for a banking law that could provide additional economic development opportunities.

### Section I, The Marketplace

Since statehood, there have been vast changes in the financial institution marketplace. Interest on deposits is no longer regulated; new competition such as brokerage firms now offer interest on deposits, which also has checking privileges. Credit card issuers have now grown to include a telephone company and an automobile manufacturer. The amended Alaska Banking Code provides more flexibility to change through regulation.

Other amendments address additional banking powers like international banking and international branching, including interstate branching; provisions for bank subsidiaries; and revamps existing lending statutes along with reserves and capital requirements.

Existing law gives the department authority to promulgate regulations in conflict with statutes to provide competitive parity with nationally-chartered banks. The amendments of the banking code bring those prior parity regulations into statutory conformance.

### Number II, Problem and Failing Institutions

The current Alaska Banking Code is completely out-of-step, when addressing failing financial institutions. One of the most obvious provisions is the

assessment of stockholders in situations of "impairment of capital." The assessment of shareholders to increase capital of a bank is virtually a 1930's action in a unit-bank system, where banks are closely held in a small community setting. The amendments to the banking code provide a series of administrative action that provide due process for addressing unsafe and unsound conditions. Under due process, the department is given the authority to address violations of the Alaska Banking Code which could if not corrected, carry civil money penalties.

The amendments also provide for methods of bank closure with FDIC as receiver which would allow meaningful action and preserve due process. This corrects a problem area pointed out by the Alaska Supreme Court in Hoffman v. State.

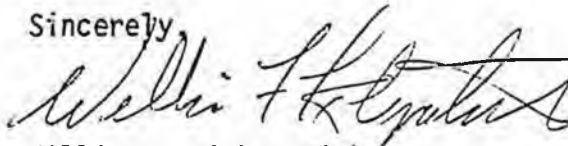
### Section III, Improve Economic Development Opportunities

The current Alaska Banking Code is very restrictive as to what banks can do or invest in. The revised code increases the powers banks will have, especially in subsidiary powers. Investments will be by regulation, rather than a statutory investment menu. The subsidiary provisions will give financial institutions an opportunity to broaden their earning centers, and increase service activities within the community.

The amended banking code could increase potential development by allowing international banks to establish branches in Alaska. This provision alone has been targeted by the department as a need for economic development. Far Eastern financial institutions could establish an operating branch in Alaska, which would be in a beneficial time zone by being equal distance to many money-center markets worldwide. These international offices could also provide capital to develop Alaska resources. This resource development by international branches could be in the form of assisting the bank's customers in processing needed resources from Alaska.

The new code also provides for interstate branching. Alaska is following the State of New York's lead, on the subject of interstate branching. Preemption by Congress would have a detrimental economic impact on the State of Alaska. The amended code provides for the proper vehicle to protect from undue concentrations and some orderly control in instances where there would be interstate branching into Alaska. Through meaningful regulation, interstate branching may then provide some additional available capital to Alaska markets, very much like that of interstate banking brought in 1981.

Sincerely,



Willis F. Kirkpatrick  
Director

WFK/ivs9098t  
031693b

**Summary of Senate Bill 149**  
**Recodification of Alaska Banking Code**

**REVISIONS AND EXPANSIONS OF BANK POWERS**

1. Creates an entirely new article on interstate and international banking, to allow foreign and other US banks to enter the Alaska marketplace. Section 87, beginning on page 52.

A. Either an interstate (a US bank headquartered outside Alaska) or international bank can purchase an Alaska state or national bank. Proposed AS 06.05.550(a), page 52.

B. An international bank may establish a new branch in Alaska; an interstate bank cannot, but rather must purchase an existing Alaska bank or branch. Proposed AS 06.05.550(b), page 52.

C. For an interstate bank, reciprocity with the bank's home state will be required. Proposed AS 06.05.555(d)(1), pages 53-54. This will hopefully open up the availability of other state markets for our banks.

D. Also for an interstate bank, FDIC insurance will be required. Proposed AS 06.05.550(a). An international bank, instead, will have to maintain assets in the state at least equal to 100% of its Alaska deposits. Proposed AS 06.05.560, pages 54-55.

E. Any branches of interstate or international banks will be subject to examination by the department, which also is authorized to examine the home office of the bank to the extent necessary to protect Alaska depositors. Proposed AS 06.05.565(c) and (d), pages 55-56.

2. Provides for banks to have subsidiaries. Proposed AS 06.05.272, section 47, page 24. The new code specifically authorizes subsidiaries engaged in real estate ownership, development and leasing; insurance; and securities brokerage. Other activities for subsidiaries are subject to department approval, and the plan, as set out in the draft regulations (see draft 3 AAC 02.200, at page 28), is to analyze other activities on a case-by-case basis for now.

3. Revamps the bank lending statutes.

A. Adopts general lending limits, i.e. the amount a bank can loan to any one person or entity, that are similar to those used by the Comptroller of the Currency (OCC); these limits have applied in Alaska for several years anyway by regulation adopted under AS 06.01.020, the "wildcard" statute. Proposed AS 06.05.205(b), section 25, page 14. Thus, if adopted, the statutes will be brought into conformity with current practice.

B. Provides that the department may adopt regulations (see draft 3 AAC 02.125(b) and (c), at page 19) to determine when a loan to one person will be attributed to another, for purposes of calculating the lending limits of AS 06.05.205(b). Proposed AS 06.05.205(g), section 28, page 15.

## SB 149 Summary, page 2

C. Eliminates all loan-to-value and term restrictions for real estate lending, requiring instead that lending comply with sound bank policies, subject to examination. Proposed AS 06.05.207, section 29, page 15.

D. At the request of the banks, the new code proposes a change to AS 06.05.215 to provide personal liability for directors or officers for loans made in violation of law or bank policies only when gross negligence is proven. Section 33, page 17.

**REVISIONS TO DEPARTMENT'S REGULATION OF BANKS****1. Changes the capital and reserve requirements for banks.**

A. With respect to reserve requirements, the new code provides that these will be set by regulation. Proposed AS 06.05.200(a), section 23, page 13. Current law provides for reserves of 20% of demand deposits and 8% of time and savings deposits. The draft regulations propose a new figure of 15% of all deposits. See draft 3 AAC 02.110(a), at page 15. Although this figure is arguably higher than the old numbers, the department also proposes greatly expanding the list of assets that can be considered for reserve purposes. Draft 3 AAC 02.110(b), at page 15. According to department calculations, the new proposal will not significantly raise or lower current requirements; the department's intention is to simply try to find a single figure, for ease of calculation, that approximates current requirements.

B. With respect to capital requirements, the new code raises minimum capital requirements to \$1 million in general, and \$2 million for banks in Anchorage and Fairbanks. Proposed AS 06.05.305, section 50, page 25. These are minimums — the department will set the actual requirements in each case. At present, the smallest Alaska state bank has \$7.9 million in capital.

**2. Makes the Alaska Corporations Code, AS 10.06, generally applicable to banks.** Proposed AS 06.05.301, section 49, page 25. This will eliminate the essentially duplicative statutory scheme with respect to bank formation, corporate actions, and filing requirements.

**3. Sets up a permitting system for bank holding companies.** Proposed AS 06.05.235(b), section 38, page 19, and AS 06.05.570(a), section 87, page 56.

**4. Makes FDIC insurance optional, although only with a waiver from the department.** Proposed AS 06.05.355(a), section 61, page 32. If waived, presumably there will need to be some alternative protection for depositors, like the asset requirements for international banks (see, e.g., proposed AS 06.05.560, section 87, pages 54-55).

**5. Repeals Alaska's Savings Association Act, AS 06.30. Section 96, page 59.** At present, there are no existing state S&L's, and if formed, a new one would be subject to duplicative state and federal regulation. Therefore, it would be better to repeal this authorization, and if an organization wishes to form a savings bank, it can do so either under a federal charter, or under the state Mutual Savings Bank Act, AS 06.15.

SB 149 Summary, page 3

## CHANGES TO THE DEPARTMENT'S ENFORCEMENT POWERS

1. The bill consolidates all penalty provisions of Title 06 into one section. Proposed AS 06.01.035, section 7, pages 5-7. The new code also grants the department the authority to assess administrative penalties for violations of the code, regulations or department orders. Proposed AS 06.05.035(e)-(g). See the sectional analysis, page 2, for a description of what other states and the FDIC do in this area.
2. Revises sections relating to bank liquidations. Proposed AS 06.05.466-474, sections 81-85, pages 40-47. During the 1980's when several banks closed, the department discovered that its liquidation statutes were generally pretty good, but needed a few changes. In particular, the Supreme Court held in Hoffman v. State that although the constitution might not require a hearing before the department takes possession of a bank, the statutes do. The changes proposed will clarify that this hearing may be closed to the public (proposed AS 06.01.030(e), section 6, page 4); in fact, it is the department's intention to hold a closed hearing with the board in these cases at a board meeting called by the department.
3. Provides that the department may remove a director from a bank's board under certain, enumerated conditions, generally where the director's actions are threatening the soundness of the bank. Proposed AS 06.05.435(g), section 68, page 36. Also, provides that the department can recommend that a board fire an officer or employee, and if the board refuses, it risks liability for negligent or intentional actions of that employee that cause losses. Proposed AS 06.05.437(c), section 70, page 37.

COMMITTEE SUBSTITUTE FOR SENATE BILL 149 (FIN)  
RECODIFICATION OF THE ALASKA BANKING CODE  
SECTIONAL ANALYSIS

Section 1. Technical change. Alaska no longer issues a "charter," so references to that term are eliminated throughout the statutes.

Section 2. Technical change.

Section 3. This is current AS 06.05.025 and 06.05.040, mostly with minor technical changes. Recognizing that examiners should not be precluded from merely investing in banks, we have changed the provisions to allow an examiner to own up to 5% of the voting stock of another institution; this will allow simple investments but will not permit an examiner to have a controlling ownership interest in a bank.

Since the department examines all financial institutions, not just banks, the provisions relating to exams have been moved to AS 06.01, the chapter that applies to all financial institutions.

Section 4. Changed to bring the section up to date, given that the list of federal agencies in the current statute is inaccurate. The change will make the statute apply regardless of what changes occur in the future to the names of the federal agencies.

Also, at the banks' request, "corresponding" was removed in (2) to allow the department to equalize competition between financial institutions regardless of what they are called.

Section 5. Current AS 06.05.060(a) and (b). Only change is to clarify that this section applies only to records relating to financial institutions, not all records of DCED.

Section 6. (a) - (d). New cease and desist provisions, to more accurately set out the procedure used by the department; existing law has been confusing. These new subsections are generally taken from the FDIC Act (12 USC 1818(b)(1)) and the Alaska Securities Act (AS 45.55.200(a)), both of which have proven track records. (d) will permit the department to issue temporary orders before a hearing, to ensure preservation of the status quo (like a TRO).

(d) Current (b), amended to make it clear that public hearings need not be held in cease and desist proceedings.

(e) Current (c) & part of (d), without substantive change; the rest of (d) has been moved to Section 8 of the bill.

(f) Current (e).

(g) Defines "unsafe or unsound practice."

Section 7. This section consolidates all penalty provisions from AS 06 relating to financial institutions. Existing penalty provisions, scattered throughout the code, are repealed in this bill.

(a). The criminal sentences on individuals are generally kept

the same as in current law. However, this will raise the potential corporate sentences from the current \$20,000 (\$1000 for trust companies) to \$200,000, under AS 12.55.035(c)(B). This subsection supersedes current AS 06.05.065(e), 06.05.090(c), 06.05.210(b), 06.05.235(d), 06.05.520, AS 06.20.320(b), and AS 06.25.320.

(b). Supersedes current AS 06.40.160(b).

(c). This is consistent with current AS 06.05.380(c), 06.05.500, and AS 06.25.060; current AS 06.05.510 seems to make it only a misdemeanor for the same violations, but a single consistent penalty is more appropriate in all these cases. Supersedes current AS 06.05.380(c), 06.05.500, 06.05.510, AS 06.25.060, 06.25.070, and AS 06.45.320.

(d). Penalizes receiving a deposit after being notified by the state or federal regulators that the institution is insolvent. Under the Credit Union Act, this is currently a Class A felony (AS 06.45.330). The general criminal law makes defrauding creditors a misdemeanor for up to \$500, a Class C felony for \$500 to \$25,000, and a Class B felony for more than \$25,000 (AS 11.46.730(c)). We have decided to go with the Class C felony for these cases. Supersedes AS 06.05.490 and AS 06.45.330.

(e) and (f). For intentional violations of the code or the department's orders; taken from Securities Act, AS 45.55.200(b). Note that (e) also applies to people who cause others to violate the code or department orders. A person assessed an administrative penalty would have a right to a hearing under AS 06.01.030. The differential rates for institutions as opposed to individuals is common in other states. See FL and OR below. For point of reference, here is a summary of what some other states allow for administrative fines:

IN allows up to \$15,000 per violation (sec. 28-11-4-9).

GA allows \$1000 per day per violation, until corrected (sec. 7-1-91).

OR allows \$2500 per violation for individuals, \$50,000 for institutions (sec. 708.980).

FL allows \$10,000 per day if the violation is due to recklessness; and \$50,000 per day for individuals and \$500,000 per day for institutions if the violation is intentional (sec. 655.041).

By the way, the FDIC penalties are also very high -- \$25,000 per day for reckless actions, up to \$1 million per day for intentional violations (12 CFR 308.116).

(g). For non-intentional violations, taken from AS 45.55.200(c); also applies to those who cause others to commit a violation.

(h). Supersedes AS 06.01.010(c) and AS 06.05.505. These figures seem consistent with those used in other states. However, for late call reports the FDIC uses a sliding scale based on the size of the institution and whether the conduct is repetitious, charging from \$100 to \$2000 per day (12 CFR 308.132).

(i). Current AS 06.05.065(e).

Section 8. This is part of current AS 06.01.030(d), which is moved

because it did not belong as part of the section on departmental orders.

Section 9. This section lists most of the department's powers with respect to banks. To the extent the list refers to powers contained elsewhere in the code, the reference here is unnecessary, but it does offer a relatively comprehensive laundry list. In addition, (b)(13) and (14) give the department essentially unlimited authority to issue orders to get compliance with the code.

Current AS 06.05.005(3) has been repealed; neither the department nor the banks could determine what it meant or what was its purpose. Some current sections have been repealed elsewhere and included in this section. They are

(a)(2). AS 06.05.070 is repealed, and here it simply states that the department will provide for bank records retention through regulations.

(b)(1). Current AS 06.05.030, although we have removed the authority of the department to relieve a bank from the examination fee; this seemed appropriate given that fees for specific exams have been replaced with an assessment system. See AS 06.01.010(d).

(b)(6). Current AS 06.05.005(2).

(b)(7). Includes current AS 06.05.015. In (J), we have added authority to require loan loss reserves for loans classified as "doubtful." We also eliminated reference to "FDIC" exams and substituted "federal" exams, to include the Federal Reserve Bank.

Section 10. Amended to make the reporting requirements as to signatures consistent with FDIC requirements, so that the same reports can be used by the banks for both state and federal agencies.

Section 11. Here and in Section 12 of the bill, references to state "charter" have been removed as obsolete. Also, we removed reference to "lending" institutions to make the terminology consistent with that used in the rest of the code.

Section 12. Adds an exemption for mortgage loans existing at the time of hire. This section will no longer disqualify a person from working as a bank examiner if the person has a home mortgage loan with a state bank.

Section 13. Amended to clarify that all actions of the department under this chapter, not just the adoption of regulations, are designed to promote a sound banking system.

Section 14. These changes are primarily stylistic, to clarify the section's meaning.

Section 15. Amended to provide that the notice of charges for new accounts need only be provided where accounts are opened; for example, there is no reason to require this at a bank's automated

teller machine (ATM).

We will also clarify in regulation that "clearly post" can include using pamphlets or brochures, provided they are easily accessible and there is some notice or sign indicating their location.

Section 16. The phrase in current statute, "the extent necessary to meet the needs of customers," might be interpreted either to mean "to meet existing orders" or "to meet anticipated demands." This change, proposed by the banks, clarifies the meaning.

Section 17. The repealed language is all contained in other subsections -- the three day maximum closure is now contained in (e); the branch bank variance is now in (f). See Section 19, below. The reduction of necessary prior notice of a holiday closure, from 15 to 7 days, was done at the request of Northrim Bank.

Section 18. Many stylistic changes. We changed the notice requirement to be before closure, if possible, and otherwise as soon as possible after closure. Also, we removed the requirement that the Comptroller of the Currency be notified of these closures -- that is a matter that should be left to the comptroller and federal regulation. Finally, at the suggestion of First Bank, we clarified the final sentence in the subsection.

Section 19. (d). This is new, to cover the Key Bank "neighborhood day" situation.

(e). Currently in (a). The three day maximum closure applies not only to holidays, but also to board declared closures, but it does not apply to branch banks operating under a department approved different schedule.

(f). Currently the last sentence in (a).

Sections 20 & 21. At the request of the banks, we have changed this statute to clarify that bank records need not be released pursuant to subpoena. Given that subpoenas can be obtained routinely from the court clerk without judicial review, to permit release of the info in response to a subpoena would amount to an elimination of any customer confidentiality, and has resulted in a huge burden on the banks.

Section 22. This is new, also at the request of the banks. The current cost of responding to information requests is very high, and it is reasonable to provide the banks with reimbursement for these costs.

Section 23. First, the subsection is modified to apply to all banks -- the distinction of "commercial" banks is meaningless in Alaska law, and there was no reason for the exception for members of the federal reserve system. Second, the subsection has also been changed to provide that reserve requirements will be set by

regulation be based on the bank's liquidity needs (rather than as a means of protecting against capital impairment). There has been confusion in the past over the purpose of the reserve requirements. It should be noted that the Comptroller sets reserve requirements in federal law, but those requirements are not based on a bank's liquidity needs, but rather as a method to manipulate the supply of money in the U.S. Finally, we have changed "reserves" to "reserve fund" to avoid confusion with loan loss reserves.

Section 24. This change will give the department more discretion in regulating problem banks. If a bank falls below the reserve requirements, it will not automatically be prohibited from making loans or paying dividends -- that will be up to the department.

Section 25. This adopts the general lending limits used by the Office of the Comptroller of the Currency (OCC). The definition of "fully secured" will be put in regulation, probably requiring collateral equal to 100% of loan balance. The list of transactions not included in these calculations is generally taken from current subsection (b), with an addition in (3) of loans collateralized with assigned deposit accounts. This list is generally more liberal than OCC regulations, except for the requirement that cannery products and products in transit be insured to be exempt. The definition of "products in transit" in (4) is taken directly from current regulation and is not a change in current law.

Section 26. Amended to make loans unconditionally guaranteed by the state, such as AIDEA, also not count toward the loans to one borrower limitations.

Section 27. Expands the prohibition for bank loans to include loans collateralized by stock of any of the bank's holding companies, unless the stock is publicly traded, and to unsecured loans used to purchase stock of either the bank or its holding companies. Adds an exception to this rule for situations of bank acquisitions or mergers, with department approval.

Section 28. (g). New provision allowing the department to adopt regulations defining when a loan made in the name of one person or entity will be attributed to another for purposes of calculating the lending limits in this section. This is taken from the recommendations of Montana's advisory committee that reviewed that state's banking code.

Section 29. (a). Combines existing (a), (c), and (d). Specific loan-to-value (LTV) and term restrictions have been eliminated and replaced with a requirement that real estate loans be made consistent with sound bank policies. Also, the section's application is expanded to apply to all loans where the primary security for the loan is real estate, not just those on improved real estate; thus, current (e) and (f) were eliminated along with AS 06.05.206 and AS 06.05.211. Existing (g) has been eliminated as

obsolete.

(b). From current subsection (b); changed to apply to all junior liens, not just seconds.

Section 30. Several changes are proposed to this subsection. First, we clarify that all normal lending restrictions apply to loans to directors, officers and bank employees, in addition to the specific limitations of this section. Second, directors are added to those subject to this section. Third, the threshold for application of the section is raised to \$100,000 in the aggregate, and up to \$250,000 for personal primary residences of directors, officers and employees. We have also repealed the final sentence, since loans are defined in AS 06.05.540 to include overdrafts, making this sentence unnecessary.

There has been some confusion in the past whether a bank's board of directors could act through a committee for the approval of these loans. AS 10.06.468, incorporated under this act, would allow this, except for loans to directors which would still require full board approval.

Section 31. This subsection has been amended to remove specific LTV and term restrictions, and make these loans generally subject to the same restrictions as all real estate loans under AS 06.05.207.

Section 32. Changed to make this merely a prohibition; penalties are provided in AS 06.01.035 for all violations of the code, including this section.

Section 33. This section has been confusing and somewhat controversial in the past. We have rewritten it to make sense. The standard adopted here - knowingly or with gross negligence - is strongly supported by the banks, because they feel that a simple negligence standard might discourage people from becoming bank directors.

Section 34. This section probably could be repealed, since federal law arguably preempts the state law. (We have repealed AS 06.05.220 for this reason.) However, for clarity, this section is left in. The reference to AS 06.05.220 has been changed to refer directly to the applicable federal statute.

Section 35. The section currently is incorrect in its reference to "real estate," since it actually applies to both real and personal property, so this has been fixed. Also, the section has been broadened in several respects, to allow a bank to hold

1) property used for promotional purposes, such as a boat; of course, any asset so held will have to be used exclusively for bank purposes;

2) a building in which bank offices are located, even if only a portion of the building is used for the bank (this is already being done by several Alaska banks, arguably in violation of present law); and

3) real estate for future expansion, subject to prior department approval.

As for the reference to bank building corporations, these are now covered under the section relating to subsidiaries, AS 06.05.272.

Section 36. Conforming amendment only.

Section 37. Conforming amendment, since provisions relating to out-of-state bank holding companies (BHC's) have been moved to new AS 06.05.570.

Section 38. We have added a permitting system for all bank holding companies that wish to purchase a bank or bank holding company doing business in Alaska.

Section 39. Conforming amendment.

Section 40. New subsection, taken from current 3 AAC 02.910(b). This provides for an exemption to the normal rules applicable to BHC's, and it is more appropriate for the exemption to be in statute, rather than regulation.

Section 41. Technical changes to make it clearly consistent with AS 06.05.205.

Section 42. Technical changes to make the language consistent with AS 06.05.230.

Section 43. There are several proposed changes to this section. The amendments add an exemption from borrowing limits for repurchase agreements; raise borrowing limits without necessary department approval from 100% of capital and 50% of surplus to 15% of assets -- this will be an approximately 50% increase in the limit for most banks (this new standard, 15% of assets, is currently used in the Mutual Savings Bank Act, AS 06.15.180(2)); remove a redundancy regarding borrowings approved by the department; and finally, the adjective "unimpaired" is meaningless and confusing, and is therefore removed.

Section 44. In (2), the change clarifies that when a bank pledges property for a mortgage, the pledged property must be the subject of the purchase transaction. Also adds a new paragraph (3), as suggested by several banks, to permit a bank to pledge assets to a federal reserve bank or a federal home loan bank. This language was taken from WY, sec. 13-3-203. (However, such borrowings will still be subject to limitations of AS 06.05.255.)

Section 45. This is current AS 06.05.485. The second sentence was added to clarify that this section does not prohibit a bank from issuing warranty deeds.

Section 46. This bill repeals the list of specific permissible bank investments in statute. These specific investments, as well as others that may be appropriate, will now be set out in the regulations. This is important, because new investment opportunities seem to come up frequently, and requiring the department to get legislation passed each time has proven burdensome and unpredictable.

Section 47. (a). Adds a provision to permit banks to have subsidiaries, in most cases subject to department approval. The department intends to approve limited underwriting activities, probably on a case-by-case basis. "Subsidiary" is defined in AS 06.05.540 to be corporation more than 50% owned by the bank.

(b). Sets a limit on the amount a bank may invest in subsidiaries, and clarifies that a bank may not use its lending authority to avoid the investment limits.

(c). Makes it clear that subsidiaries are subject to examination.

Section 48. Clarifies that these are alternative requirements.

Section 49. (a). Makes the Alaska Corporations Code applicable to banks.

(b). Sections of the Corporations Code that are inapplicable to banks are as follows:

AS 10.06.010(4-8). General corporate powers, specifically limited here and elsewhere for banks.

AS 10.06.105(a). Requires a corporation to have "inc.," ltd." etc. in its name.

AS 10.06.325, 10.06.385 - 10.06.388, & 10.06.420(i). Deal with redemption of shares; This revised banking code sets up specific provisions for stock redemption in AS 06.05.320.

AS 10.06.356. Permits shares to be held by nominees. This is inconsistent with the philosophy behind AS 06.05.450, that all shareholders and the department have a right to know all shareholders of a bank.

AS 10.06.358 - 10.06.360. Dividends; covered by AS 06.05.440 - 06.05.445.

AS 10.06.370. Specifically applies only to regulated investment companies.

AS 10.06.430. Provides that the "books and records of account" of a corporation must be available for inspection by shareholders. To avoid anyone misinterpreting the code to allow a shareholder to see a bank examination, this was excluded.

AS 10.06.453. Provides that the number of directors may be one or more, and if not designated, three. Current banking code (AS 06.05.435) requires at least five directors, and we have retained that in this recodification.

AS 10.06.460(b). Restricts reasons a director may be removed. We have provided for removal of bank directors by the department.

AS 10.06.485. Loans to directors, officers and employees; already covered in AS 06.05.210.

AS 10.06.522 - 10.06.526. Reorganization of corporations in bankruptcy; this is covered for banks under liquidation provisions.

Article 8 (AS 10.06.530 - 10.06.582). Organic change (mergers, etc). These are covered under AS 06.05.462.

Article 9 (AS 10.06.605 - 10.06.678). Dissolution; covered under the liquidation article.

Article 10 (AS 10.06.705 - 10.06.788). Foreign corporations; covered under new article on interstate and international banking.

Article 11 (AS 10.06.805 - 10.06.868). Biennial reports and corporate tax. Banks pay an assessment under AS 06.01.010 and are subject to annual examination and frequent reporting requirements.

AS 10.06.863. Appeal of foreign corporation to Superior Court for revocation of certificate of authority; all appeal processes for banks will be handled under AS 06.01.

AS 10.06.865 & 10.06.915. Appeal to commissioner for refusal or cancellation of certificate of authority; all appeal processes for banks will be handled under AS 06.01.

AS 10.06.960. Applies only to native corps.

AS 10.06.990(30) & (36). Definitions for "paid in capital" and "retained earnings"; we have provided definitions for all aspects of a bank's capital accounts in AS 06.05.540.

Section 50. (a). Raises minimum capital requirements to \$2 million for banks in Anchorage and Fairbanks, \$1 million for other communities (to allow possible formation of small community banks). However, this clarifies that these are absolute minimums, and that the actual requirements will be set in each case by the department. (At present, all Alaska banks have capital amounts far greater than these minimums.)

(b). To the extent this may be interpreted as inconsistent with AS 06.05.320, we have amended that section to allow stock redemptions if approved by the department. Otherwise, technical amendments only.

(c). Technical amendments only.

Section 51. Present AS 06.05.310 provides for an assessment of shareholders procedure that the department may purportedly order when a bank's capital is impaired. Since this process is essentially unenforceable and, in our experience, unreasonable, this assessment procedure is repealed here and replaced with a simple process for the department to order a bank to increase capital, in whatever manner the bank chooses. This new section is taken from Indiana (sec. 28-13-4-7).

Section 52. Changed to permit bank stock redemptions with departmental approval.

Section 53. Changed to require prior department approval before any significant change in bank ownership or before a change in bank control.

Section 54. Clarified to ensure that all stock sales are subject to

this requirement, not just those at the corporate formation stage.  
[Note to Revisor: Please amend section title accordingly.]

Section 55. Present AS 06.05.345 is split; new AS 06.05.344 deals with the application for approval process, while AS 06.05.345 retains the provisions relating to articles of incorporation.

(a). Current AS 06.05.345(c). Clarifies that prior approval of director for bank plan is required before articles of incorporation will be issued. Also eliminates requirement for triplicate filing of articles (also changed in (h)).

(b). Current AS 06.05.345(d). The amount that an applicant must submit to the department has been doubled to \$2000; this will afford the department a bit more protection, assuring a better chance of repayment of its costs. Current amounts charged have been in statute at least since 1978 and need raising. By way of comparison, OR charges a non-refundable \$2500 (sec. 707.070).

(c). Current AS 06.05.345(e).

(d). Current AS 06.05.345(f).

(e). Current AS 06.05.345(g).

(f). Current AS 06.05.345(h). Change to (4) is designed to clarify that the capital requirements are those set by the department. Otherwise, one technical change, and one other change to not duplicate the Corporations Code.

(g). Current AS 06.05.345(i).

(h). Current AS 06.05.345(j).

Section 56. Changed to incorporate the Corporations Code, and then eliminates requirements already covered by that code. Also, (2) is clarified to make sure that no-par stock is not allowed, and (3) is clarified to allow articles to say "5 to 25" directors, instead of giving a specific number.

Section 57. Allows amendment of articles by a majority of shareholders, or more -- this is consistent with the Corporations Code, AS 10.06.504 - 10.06.508. As for filing amendments to articles, these will be done in the manner provided in the Corporations Code.

Section 58. Amended to clarify that certificate of incorporation comes first, certificate of authority later. Incorporation allows a bank corporation to set up a facility and get subscriptions paid in, but not to do any banking business. AS 06.05.395 has been merged with this subsection.

Section 59. (b)(1). This is the same as AS 06.05.380(b); the latter has been repealed. Also, the department does not require a bank to carry a specific amount for undivided profits, so that has been removed.

Current (b)(4). This is repealed because we will no longer be requiring FDIC insurance in all cases. See Section 61.

Section 60. Current AS 06.05.480.

Section 61. Changed to make FDIC insurance optional, at the department's discretion. This is primarily designed to allow for the formation of small community banks, and to allow other banks to use alternative insurance if it becomes available. [Note to Revisor: Please correct title to this section.]

Section 62. Conforming amendment.

Section 63. (a). Most of the requirements of this section that are deleted are covered in the Corporations Code, particularly AS 10.06.223.

(b). Provides that the executive offices of the bank must be designated in the articles or bylaws, and a current copy of the bylaws must be kept on file with the department. We are eliminating any definition of executive or managing officers from the code.

Section 64. These are almost all technical changes, except for (f)(3), which is eliminated because we are eliminating the requirement for FDIC insurance. As for (a), the amounts have been raised for processing an application -- see comments to new AS 06.05.344 in section 55 of the bill. The definition for "mobile facility branch bank" is taken from 3 AAC 02.910(a)(5).

Section 65. ATM's will no longer be subject to general branching laws; there is no reason that the lengthy application process for a branch should apply to a bank's opening of an ATM.

(a). Permits banks to set up wholly-owned ATM's in bank offices without department approval; these machines may be exclusively for use of the bank's customers.

(b). Permits a bank to establish a wholly-owned ATM outside the bank with prior approval of the department; these machines must be made available to other banks.

(c). Simplified application process for ATM's that are off bank premises, generally taken from Arkansas sec. 23-32-1304.

(d). Permits bank to invest in an ATM corporation (like Options). These operations will not be directly regulated by the department, although the investments themselves will still be subject to safety and soundness considerations upon examination.

Section 66. Repealed language will permit staggered terms for bank directors like that provided in the Corporations Code, AS 10.06.455.

Section 67. Added language will allow the qualifying minimum amount of stock that a director must own to be jointly held, and will allow the department to approve other situations when a director need not meet the minimum ownership requirements, such as where the bank is wholly owned by a bank holding company.

Section 68. (f). From current AS 06.05.437(b).

(g). New, to give department authority to remove or object to

certain persons as directors. Taken generally from FL and GA.

Section 69. (a). Repealed language is covered by AS 10.06.483(b). Second sentence is amended to allow the board to pick the best possible person for CEO of the bank, even if that person is not on the board; if the bank chooses a non-board member as CEO, that person becomes an ex officio member of the board, to make sure he/she is kept aware of what the board is thinking and doing.

(b). We moved the requirement to report changes in directors to the previous section, which deals specifically with directors.

Section 70. Although the department cannot actually order that an employee of a bank be fired -- that is the sole responsibility of the board -- this subsection will allow the department to essentially recommend an employee's removal, if necessary; if the board refuses, the directors risk personal liability should damages occur thereafter due to the fault of the employee. This change was recommended by the Conference of State Bank Supervisors (CSBS).

Section 71. Minor change to clarify that board meetings are held for many purposes, not just to investigate the affairs of the bank.

Section 72. (e). Allows teleconference board meetings; taken from the Corporations Code, AS 10.06.475(a).

(f). Present AS 06.05.238.

Section 73. Clarifies that dividend distributions are subject to possible restrictions under AS 06.05.307(c).

Section 74. Generally just technical changes; clarifies that requirements of this section are in addition to those in AS 06.05.442.

Section 75. Changed to allow a bank, with department approval, to carry a negative balance in the undivided profits (U.P.) account, and prohibits dividends until this negative U.P. account balance is replaced and the surplus account is fully restored.

Section 76. This section has been combined with AS 06.05.443.

(a). Currently the first part of sec. 443.

(b) (1). Current sec. 443(1) and (2); there was no reason for a one-year provision for judgments, so this was eliminated. This is consistent with departmental powers in AS 06.05.005(b)(8)(K).

(2). Current sec. 445(1); the reference to "debt" is changed to make it clear that this refers to money owed to the bank, not by the bank.

(3). Current sec. 445(2).

(4). Current sec. 443(3).

(5). Current sec. 445(3); under this proposal, stock may also be carried at market value, rather than par.

(6). Current sec. 443(4).

Section 77. Modernized to allow for the maintenance of this record of shareholders in a form other than a book. Also, clarifies that inspection of the record is available for the department, while shareholders will have access to a list of current shareholders. Before each annual meeting, the bank will also need to comply with AS 10.06.413, which requires preparation of a list of shareholders, including names, addresses and numbers of shares owned.

Section 78 - 80. Technical amendments only.

Section 81. AS 06.05.466 currently set out a procedure for dissolution of a bank before issuing a certificate of authority. The proposed revisions to this section retain the same grounds for dissolution in these situations, but permit such a dissolution to be effected as with any other corporation under the Corporations Code.

Section 82. (a). This is generally taken from current AS 06.05.470(a), although it has been expanded to clarify that the department may close and take possession of a bank for violations of the banking laws or orders of the department.

(b) - (c). This clarifies the process for bank takeovers by the department. Under the Supreme Court's decision in Hoffman v. State, \_\_\_ P.2d \_\_\_, No. 3845 (Alaska May 29, 1992), an opportunity for hearing must be provided to interested parties before a bank may be liquidated by state or federal authorities. Since, as a general rule, it is in the best interest of the public and depositors to minimize the time a bank is closed when it is being liquidated/transferred, the procedure set out in these subsections provides for hearing at the time the department first identifies the bank's problems and confronts the board with them.

(d). This is present AS 06.05.470(d); however, we have reduced the time allowed to request a hearing to two days, to expedite the process and enhance the chances that the bank will be reopened.

Section 83. Repealed language is now contained in sec. 468(c).

Section 84. Clarifies that transfers in anticipation of department takeover for whatever reason, not just due to insolvency, are voidable. New language is taken from current AS 06.05.495, which is repealed.

Section 85.

AS 06.05.471. This section is essentially just a recodification of current AS 06.05.470(f), (j) and (k).

AS 06.05.472. Recodification of current sec. 470(1) - (n). In (a)(1) and (2), the values were raised from \$10,000 to \$100,000, because the FDIC has complained that the lower amount requires frequent, unnecessary court appearances. In (a)(3), also at the request of the FDIC, the provision was changed to allow a receiver to make partial distributions before a final accounting is prepared.

AS 06.05.473. Existing sec. 470(j) - (y), generally with only technical amendments.

(c). Present sec. 470(p) and 465(f), but modified to allow the department to turn over unclaimed property and safe deposit box contents to the Department of Revenue under the Unclaimed Property Act at the conclusion of the liquidation, rather than having to hold the property for five years.

(g). Clarifies that secured claims based on pledged assets under sec. 260 fall behind the general depositor preference.

AS 06.05.474. Current sec. 470(z).

Section 86. Many of these definitions are taken from the existing code. Ones that have been changed, or are new, are

(1). Taken from 3 AAC 910(a)(1).

(3). Changed to make the definition primarily focus on accepting deposits (the first part of the definition was generally taken from OR and ID); the rest of the section was updated to remove archaic language.

(4). Changed to take out internal references to "branch" that make the existing definition circuitous, and exempts ATM's from the definition.

(5). All aspects of a bank's capital are defined in this section, to remove the ambiguities that exist in current law. This definition of "capital" is generally taken from IN.

(6). From 3 AAC 02.910(a)(9).

(10). From current AS 06.05.235(h)(1).

(12). From AS 06.01.050(3).

(14). From OR, sec. 711.305 and AS 06.05.305(a).

(15). Loosely adapted from OR, sec. 711.405; (A) and (C) are the two traditional definitions for insolvency - see Annot. 81 ALR 1160.

(16). Defines "international bank" as a bank that is from outside the United States.

(17). Defines "interstate bank" to include any bank chartered in a state other than Alaska and national banks operating outside Alaska.

(18). From IN, sec. 28-1-13-1.2, with some modifications; note that it includes guarantees, overdrafts, letters of credit and loan commitments.

(19). From WY, sec. 13-1-101(a)(xii).

(20). Current AS 06.05.235(h)(2), amended to exclude international bank holding companies from the requirement that they be registered with the federal government.

(21). Current AS 06.05.235(h)(3).

(22). Changed to remove the reference to charters, which no longer exist in Alaska.

(24). In conjunction with new AS 06.05.272, proposed in this bill, this will allow banks to operate subsidiaries that are not directly in the banking business. This definition is taken from the Alaska Corporations Code and is the same as that used by the FDIC.

(25). Current law does not define the essential elements of

capital, which has caused some confusion in the past. This bill simplifies the terminology and makes it consistent throughout, and then all terms used are defined here.

(27). Defines when a bank will be deemed to be in trouble.

#### Section 87.

The new article on interstate and international banking is loosely inspired by NY, IL and GA law. However, we have tried to think of what is specifically needed and desired in Alaska.

AS 06.05.550. (a). Authorizes international and insured non-Alaska banks to branch by purchasing existing Alaska institutions. "Interstate," "international," and "recently formed" banks are defined in AS 06.05.540. Note the FDIC requirement for non-Alaska US banks; OR has a similar requirement. For international banks, there is provided an in-state asset requirement -- see next section. Much of this is taken from IL and NY.

(b). Authorizes international banks, but not interstate banks, to de novo branch.

(c). Guarantees that interstate and international bank branches enjoy the same rights as other Alaska financial institutions; taken from NY.

AS 06.05.555. Application process for interstate and international banks. These provisions are generally taken from AS 06.05.399, the department's procedure for branch bank applications. Thus, these applications would be handled in the same general manner as other branch applications.

(d). Requires reciprocity for banks from other states, but not for international banks (taken from NY).

AS 06.05.560. (a) and (b). Requires an international bank operating a branch in Alaska to maintain assets in this state sufficient to cover all depositors. This section is taken from OR sec. 713.025.

(c). Provides that if the department takes over one of these branches, the in-state assets will be liquidated under the general liquidation statutes; inspired by IL law.

AS 06.05.565. (a). Essentially same as current AS 06.05.367, which is repealed.

(b). Requires branch to meet general reserve requirements applicable to state banks under AS 06.05.200, but allows appropriate assets held for purposes of the minimum asset requirements of preceding section to be applied to this requirement as well.

(c). Provides that these branches will be subject to normal assessments for exams, but the assessment will be based on the branch's deposits, rather than its assets (since it is impossible to determine how much of the assets of a multi-state or multi-national bank are attributable to the Alaska branch).

(d). Provides that the parent interstate or international bank may be examined to protect Alaska's interests, in much the same manner as an out-of-state BHC can be examined.

AS 06.05.570. This is presently part of AS 06.05.235.

(a). Currently sec. 235(e). We have added a permitting system

for all bank holding companies that wish to purchase a bank or bank holding company doing business in Alaska.

(b). Currently sec. 235(f).

(c). Taken from 3 AAC 02.910(b).

Section 88. This amends the exemption from the small loan act for pawnbrokers from \$200 to \$500. The current figure dates back at least to 1981, and inflation makes a higher limit now appropriate.

Section 89. This has been changed to clarify that the provisions of the banking code apply to trust companies engaged in the business of banking.

Section 90. Technical amendment.

Section 91. Allows credit unions to designate executive offices in bylaws. (Added in Finance Committee.)

Section 92. Allows board of directors to appoint credit committee, instead of requiring the committee to be elected at annual meeting. (Added in Finance Committee.)

Section 93. Allows credit union to designate titles and offices of the executive officers. (Added in Finance Committee.)

Section 94. Requires board of credit union to appoint a CEO, called the president, to be in charge of operations. (Added in Finance Committee.)

Section 95. Technical amendments, consistent with Section 92. (Added in Finance Committee.)

Section 96. Allows more than one loan officer to serve on the credit committee. (Added in Finance Committee.)

Sections 97 and 98. Makes the Corporation Code applicable to banks.

Section 99. Conforming amendment.

Section 100. Clarifies that the Consumer Protection Act, while exempting transactions regulated under AS 06.05, applies to all other bank transactions, and in particular those between banks and their customers.

Section 101. Technical amendment.

Section 102. Repealers:

AS 06.01.010(c). Now covered by AS 06.01.035(n).

AS 06.05.015. Included in new AS 06.05.005(b)(7).

AS 06.05.020. (a). All covered elsewhere in the code.

(b). The first sentence is already covered by AS 06.01.030 (in this bill, subsection (f)). The rest duplicates common law, except

for the last sentence, which is a labor law issue and should not be in the code.

AS 06.05.025. All provisions relating to examinations are now in AS 06.01. This section is contained in AS 06.01.015.

AS 06.05.030. Moved to AS 06.05.005(b)(1); see notes to that provision.

AS 06.05.035. Already covered by AS 06.01.010.

AS 06.05.040. Moved to AS 06.01.015(a).

AS 06.05.055. Some of the information ((1) and (2)) is already essentially done, through the governor's legislative requests, and the rest either is unnecessary for legislators or is public information. This is an expensive annual exercise for the division (estimate is 30 person-days) that is unnecessary.

AS 06.05.060. (a) and (b). Moved to AS 06.01.025, to apply to all financial institutions.

(c). Already covered in AS 09.25.110.

AS 06.05.065. (d) and (e). Included in comprehensive penalties section, AS 06.01.035.

(f). Definition no longer used in the code.

AS 06.05.070. Most of this section is obsolete. We have repealed it and simply provided in AS 06.05.005 that the department will adopt regulations for records retention (which it has already done in current 3 AAC 02.010).

AS 06.05.080. Already established in Alaska case law.

AS 06.05.085. Already covered by Alaska case law.

AS 06.05.090(c). This is included in comprehensive penalties section, AS 06.01.035.

AS 06.05.130. This section is essentially superseded in substance by the UCC, AS 45.04.406.

AS 06.05.175(c). This is already covered; any violation of the code is subject to discipline and/or enforcement action under AS 06.01.

AS 06.05.185. The sections relating to trust companies (AS 06.05.185 - 06.05.195) are obsolete and are therefore repealed. These provisions are already covered in the trust company act, specifically AS 06.25.085.

AS 06.05.190. See note to previous section.

AS 06.05.195. See note to repeal of AS 06.05.185.

AS 06.05.200(b) and (c). These are procedural matters that will be put in regulations. Also, the permissible list of deposits will be expanded to include deposits held by the Federal Reserve Bank and the Federal Home Loan Bank, to make the regulations consistent with current practice.

AS 06.05.205. (a). By regulation adopted under AS 06.05.438(c), a requirement will be inserted that when lending reports are made to the board, all loans over a specified amount (higher than \$25,000 - probably \$100,000) will be specifically identified.

(e). Already covered under sound lending practices.

(f). Obsolete.

AS 06.05.206. All special statutory restrictions on real estate loans are repealed in this draft of the code, except those

still remaining in AS 06.05.207. Leasehold and development loans are now covered by that section.

AS 06.05.208. This section is covered by AS 45.10.120(c).

AS 06.05.210(b). This is repealed and the substance moved to the comprehensive penalties section, AS 06.01.035.

AS 06.05.220. Already covered by federal law.

AS 06.05.232. The code has been drafted to provide that only a bank's subsidiary can enter into these types of leases. Thus, the section is repealed here, and a broad authority to enter into leases is included in new AS 06.05.272.

AS 06.05.235. (c). Already covered in powers of the department to adopt regulations.

(d). Covered by comprehensive penalties section.

(e) and (f). We have split this section in half, moving the provisions relating to out-of-state bank holding companies to new AS 06.05.521, in the article on interstate banking.

(h). Definitions have been moved to the general definitions section, AS 06.05.540.

AS 06.05.238. This section belongs with the provisions relating to meetings of the board. Thus, it has been moved to AS 06.05.438(f).

AS 06.05.255(c). This subsection was ambiguous and unnecessary.

AS 06.05.260(b). This subsection was probably unenforceable, definitely unclear and ambiguous, and arguably inconsistent with the state's depositor preference.

AS 06.05.270(b). Specific permissible investments for banks have been repealed and will now be set out in regulations. See comments to bill section 46.

AS 06.05.275. (a). Deleted as unnecessary and obvious.

(c). Deleted as unnecessary. For clarity, if desired, we will put it into regulation.

AS 06.05.280(a) and (b). These are sufficiently handled by market forces, and they are unnecessary.

AS 06.05.300. Covered by AS 10.06.010.

AS 06.05.307. (d). Already covered by AS 06.05.205(b).

(e). Repealed as obsolete.

AS 06.05.325. Covered by the Corporations Code.

AS 06.05.330. Covered by AS 10.06.205. However, the Corporation Code provides that there can be only one incorporator, and this will now be allowed for banks as well.

AS 06.05.345. (b). Covered by the Corporations Code.

(c) - (j). Moved to new AS 06.05.344.

(k). Beginning of corporate existence is already covered in the Corporations Code.

AS 06.05.360. Foreign banks are permitted to engage in banking under new article 9.

AS 06.05.367. Most of this section is incorporated into new AS 06.05.565. Paragraph (2) is removed because we are no longer going to require FDIC insurance.

AS 06.05.380. (a) and (b). are the same as 350(b)(1).

(c). This is included in the comprehensive penalties section.

AS 06.05.390. Covered, with minor variations, by AS 10.06.490.

AS 06.05.395. Substance moved to and incorporated in AS 06.05.350(a).

AS 06.05.430. Covered by AS 10.06.405 and 10.06.415.

AS 06.05.435. (b). Covered by AS 10.06.223.

(e). Covered by AS 10.06.465.

AS 06.05.443. Combined with AS 06.05.445.

AS 06.05.465. Voluntary liquidations will now be covered under the same procedure as involuntary ones, i.e. under the control of the department. See AS 06.05.468(a) in Section 82 of the bill. Of course, if a bank wishes to voluntarily dissolve and there is no reason for the department to get significantly involved, the department can appoint the existing board as receiver.

AS 06.05.470. This section has been split up to make it more manageable. The substance of this section remains essentially unchanged.

(a). Substance moved to sec. 468(a).

(d). Now sec. 468(d).

(f). Now sec. 471(a).

(j) and (k). Now sec. 471(b) and (c).

(l) - (n). Now sec. 472.

(o) - (y). Now sec. 473.

(z). Now sec. 474.

AS 06.05.480. Moved to sec. 350(d).

AS 06.05.485. Moved to new sec. 262.

AS 06.05.490. Included in comprehensive penalties section, AS 06.01.035.

AS 06.05.495. Duplicative; same as sec. 470(g)(2).

AS 06.05.500 - 06.05.520. Covered by comprehensive penalties section.

AS 06.05.525. Covered by AS 06.01.030.

AS 06.05.530. Obsolete.

AS 06.20.320(b). Covered by new comprehensive penalties section, AS 06.01.035.

AS 06.25.060. Covered by comprehensive penalties section.

AS 06.25.070. Also covered by comprehensive penalties section.

AS 06.25.320. Also covered by comprehensive penalties section.

AS 06.30. Repeals state Savings Association Act.

AS 06.40.160(b). Covered by comprehensive penalties section.

AS 06.45.320. Covered by comprehensive penalties section.

AS 06.45.330. Also covered by comprehensive penalties section.

### Section 103. Transitional provisions.

(a) Makes sure that the new Corporations Code applies to all banks.

(b) Requires existing banks to amend their articles to conform to the new code at the next regular annual meeting, and then file the amended articles with the department.

### Section 104. Notes possible Court Rule change.

### Section 105. Effective date 1/1/94.



Alaska Independent  
Insurance Agents & Brokers, Inc.

April 7, 1993

Representative Bill Hudson  
Alaska House of Representatives  
State Capitol  
Juneau, AK 99801-1182

RE: SB 149

Dear Representative Hudson:

I understand the act to revise the banking laws (SB 149) has been referred to the House Labor and Commerce committee, and hearings are to be scheduled in the near future.

Our concern is in item (2) below:

"Sec 47. AS 06.05 is amended by adding a new section to read:

Sec 06.05.272 BANK SUBSIDIARIES. (a) A state bank may purchase or establish, and operate, one or more subsidiaries engaged in any of the following activities, if the subsidiary has the necessary licenses and permits and the operation is not detrimental to the bank's business:

- (1) real property ownership, development, and leasing;
- (2) **insurance sales and service;**
- (3) securities brokerage;
- (4) other activities authorized in regulations adopted under this section;

or

- (5) other activities approved by the department."

We feel that the insurance consumer is best protected by dedicated professional independent insurance agents. We are extremely concerned that if banks are allowed in the insurance business, the consumer may not receive the best insurance coverage, price and professional service that an independent insurance agent is trained to provide. We are also concerned that the status of a requested loan could be affected by the insurance transaction.

We ask that delete item (2) be deleted from this section of the bill. If you would like further information from our association, please feel free to contact me.

Regards,

  
Gina K. McBride, AAI, CIC  
Executive Director

"Down Town Insurance"  
P.O. Box 71410  
Fairbanks, AK. 99707

Located: 330 WENDELL St., Fairbanks.  
Phone: 907/452-6891 Fax: 907/452-4858

Date: 4-7-93 From: Gordon DeGue  
To: L+C CHAIR  
Person: REP. HUDSON  
RE: SENATE BILL 149 BANK SUBSIDIARIES  
This Cover Plus 0 Pages.

Subject: THIS IS VERY DANGEROUS LEGISLATING  
LICENSE. BANKS, ONLY NOW RECOVERING FROM  
THE DISASTROUS 1980'S COULD ONCE AGAIN CREATE  
FINANCIAL HAVOC. THEIR PAST EXPERIENCE  
WITH REAL ESTATE WILL COST TAXPAYERS 300 BILLION.  
AFTER 34 YEARS IN INSURANCE I CAN TESTIFY TO  
A HISTORY OF ATTEMPTED CONSUMER ABUSE. ONE  
OF OUR MAJOR PROBLEMS IS CURBING THE  
BANKS ATTEMPTS TO ABUSE CREDITORS WITH  
REGARD TO INSURANCE OF MANY TYPES.

PLEASE HOLD THIS BILL FOR STUDY OR STOP  
IT. IF ITS WORTH WHILE IT CAN BE BROUGHT  
BACK WITH PROPER SAFEGUARDS.

PLEASE HAVE YOUR STAFF PHONE ME FOR  
MORE INFORMATION!

THANK YOU

## shattuck &amp; grummett, inc.

ESTABLISHED 1908

insurance • bonds

ROOSEWALT STREET

Juneau, Alaska 99801

CERRIL G. SHATTUCK  
ALLEN D. SHATTUCK  
ROGER R. SHATTUCK, C.P.C.U.  
MIDJAGIERMICHAEL A. GRUMMETT  
ROGER GRUMMETT  
NANCY L. GRUMMETT

## F A X T R A N S M I T T A L M E M O

TO: REP. BILL HUDSON      CHAIRMAN HOUSE L&C      465-6790  
FROM: ALLEN SHATTUCK      FAX: 907-586-3770  
DATE: APRIL 7, 1993      TOTAL PAGES INCL. THIS SHEET: 1  
SUBJECT: SENATE BILL 149

UNDERSTAND THE CAPTIONED BILL PASSED THE SENATE AND IS NOW IN HOUSE L&C FOR HEARINGS. APPARENTLY SECTION 47 AMENDS AS 06.05 TO ADD 06.05.272 WHICH ALLOWS AMONG OTHER THINGS FOR SUBSIDIARIES OF BANKS TO SELL AND SERVICE INSURANCE. I WOULD URGE YOUR STRONG OPPOSITION TO THIS SECTION OF THE BILL AND IF NECESSARY TO THE ENTIRE BILL UNLESS THE SECTION CAN BE REMOVED OR AMENDED.

IN SHORT, THE COERCIVE POWER OF CREDIT INSTITUTIONS WOULD GIVE THEM A VERY STRONG AND UNFAIR COMPETITIVE ADVANTAGE WHICH WOULD LIKELY BE DETRIMENTAL TO THE CONSUMER AS WELL. CERTAIN CREDIT INSTITUTIONS HAVE ALSO SHOWN AN INABILITY TO DO WELL IN THEIR FIELD OF SUPPOSED EXPERTISE AND PERMITTING THEM TO VENTURE FURTHER DOESN'T SEEM TO BE IN ANYBODY'S BEST INTEREST.

IF YOU HAVE ANY QUESTIONS OR IF I CAN BE OF ANY ASSISTANCE, PLEASE GIVE ME A CALL. APPRECIATE YOUR CONSIDERATION OF MY COMMENTS.

THANKS---ALLEN

## HARDCASTLE-DAVIES, INC.

*Insurance*PROPERTY, CASUALTY  
LIFE, HEALTH, ACCIDENT

100 MAIN STREET, KETCHIKAN, ALASKA 99901

PHONE: 225-2178

FAX: (807) 225-1639

April 6, 1993

Rep. Bill Williams  
House of Representatives  
State Capital  
Juneau, Alaska 99801-1182

Re: Senate Bill 149

Dear Bill:

I understand that SB 149 has passed the Senate and is now being reviewed by the house. This bill contains a provision which is of great concern to the insurance industry in general, and independent insurance agents in particular. Specifically, please refer to page 24 of the bill where it reads:

"Sec 47. AS 06.05 is amended by adding a new section to read:

Sec.06.05.272 BANK SUBSIDIARIES. (a) A state bank may purchase or establish, and operate, one or more subsidiaries engaged in any of the following activities, if the subsidiary has the necessary licenses and permits and the operation is not detrimental to the bank's business:

- 1) Real property ownership development and leasing;
- 2) Insurance sales and service;
- 3) Securities brokerage;
- 4) Other activities authorized in regulations adopted under this section;

or

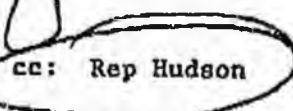
- 5) Other activities approved by the department. "

Our industry has been fighting the banking interests attempts to enter the insurance business on a national level for years. It is our contention that allowing banks to sell insurance is counter to the public good and will give banks an unfair advantage in selling insurance products to clients who are attempting to get loans from the same institution (you can imagine the pressure on a client to buy a homeowner's policy from the bank at the time application is made for a loan). I believe that the banks have their hands full at this time with their traditional operations without trying to get involved in the insurance business.

I urge you to do what you can to remove item #2 from the above list of operations.

Sincerely,

  
Jack Davies

  
cc: Rep Hudson

THE BIG DIFFERENCE



N



**NORTHERN**  
**MARINE INSURANCE INC**

April 7, 1993

TO: REPRESENTATIVE BILL HUDSON/CHAIRMAN, HOUSE LABOR & COMMERCE COMMITTEE

SUBJECT: SENATE BILL 149  
ITEM #2

Dear Mr. Hudson:

#2. Insurance Sales and Service:

Please understand that I as an Alaska resident Insurance Agency Owner do not object to new competitors (new agencies) entering the insurance sales field.

I DO OBJECT TO A COMPETITOR THAT WILL HAVE ACCESS TO THE "TRADE SECRETS" AND THE "INTELLECTUAL PROPERTY" OF MY BUSINESS.

Each time I provide a bank with a certificate showing coverage for a property insured through my agency, I have given the bank competitor the coverage information on the property and the "EXPIRATION DATE" of the clients policy. The expiration date allows THE BANK COMPETITOR TO "TARGET" MY CLIENTS WITH A GREAT DEGREE OF ACCURACY.

CURRENTLY I DO NOT PROVIDE MY COMPETITORS WITH A LIST OF MY CLIENTS, AND THE EXPIRATION DATES OF THEIR POLICIES. If Senate Bill 149 passed, every bank in Alaska will have inside information concerning my clients and a very strong competitive edge on my business.

PLEASE DO NOT PASS SENATE BILL 149, OR IF PASSED PLEASE DELETE ITEM #2.

Cordially,



Mike Miller  
President, Owner



**PORTER • SPAULDING INSURANCE**  
PROPERTY • CASUALTY • PERSONAL & COMMERCIAL INSURANCE

**OUR PHONE NUMBER IS: 1-907-225-9841 • OUR FAX NUMBER IS: 1-907-225-1718**

**FACSIMILE COVER SHEET**

TO: House Labor and Commerce FAX # L-165-6790

Please deliver the following page(s) to: Chairman Rep. Hudson and Committee Members

CLIENT NAME: \_\_\_\_\_

POLICY NUMBER: (if any) \_\_\_\_\_ Expires \_\_\_\_\_

TOTAL NUMBER OF PAGES: (Including cover page) 1 DATE: 4-7-93 FROM: Arno Iversen

COMMENTS: Reference Senate Bill #149 and in particular Sec. 06.05.272 relating to Bank  
Subsidiaries and most importantly the section that says "...if the subsidiary  
has the necessary licenses and permits and the operation is not detrimental to  
the bank's business: (2) Insurance Sales and Services."

The Independent Insurance Agents and Brokers Associations Nation-wide have  
been fighting this intrusion into our industry for many years...To think the  
State of Alaska would entertain a proposal to allow banking into the insurance  
business is unconscionable. The opportunities for a banking institution to  
intimidate borrowers to insure through a given bank is not serving the best  
interests of the public.

I strongly urge your committee to stop this bill or at the very least, have  
the section on insurance sales and services deleted.

Respectfully,

Arno Iversen

CEO

John R. Barry

President

## shattuck &amp; grummett, inc.

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300 SEWARD STREET

Juneau, Alaska 99801

CORRIS G. SHATTUCK  
 ALLIN R. SHATTUCK  
 ROGER H. SHATTUCK, CPCU  
 RUD JACCHI

MICHAEL A. GRUMMETT  
 ROGER GRUMMETT  
 NANCY L. BURNS

## F A X T R A N S M I T T A L M E M O

DATE: APRIL 7, 1993

TO: BILL HUDSON, REPRESENTATIVE  
 CHAIRMAN, LABOR & COMMERCE COMM.  
 JUNEAU, ALASKA

FAX: 465-6790

FROM: ROGER GRUMMETT

TOTAL PAGES INCL.  
 THIS PAGE: 1

FAX: 907-586-3770

RE: SENATE BILL #149

I WOULD APPEAL TO YOU TO REMOVE THE INSURANCE SALES AND SERVICE FROM THIS BILL. THIS PLACES A DISTINCT DISADVANTAGE TO THE INDEPENDENT INSURANCE AGENT WHEN PROSPECTING A POTENTIAL CLIENT WHO IS DEALING WITH A BANK ON HOMEOWNERS AND OTHER PERSONAL INSURANCE NEEDS.

I CAN SPEAK TO THE FACT THAT ALASKA FEDERAL SAVINGS AND LOAN ASSN. WAS ONCE IN THE INSURANCE BUSINESS AND ELECTED TO GET OUT AFTER A COUPLE OF YEARS.

AGAIN, I CAN SEE NO MERIT TO THE BANKS IN THE INSURANCE BUSINESS AND WOULD ASK THAT YOU LOOK AT THIS BILL VERY CLOSELY AND DELETE THAT PORTION.

THANKS

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES AND CORPORATIONS

WALTER J. HICHEL, GOVERNOR

P.O. BOX 110807  
JUNEAU, ALASKA 99811-0807  
Banking & Securities (907) 465-2521  
Corporation Section (907) 465-2530

ANCHORAGE  
Corporation Information (907) 563-2161

April 8, 1993

The Honorable Bill Hudson  
Alaska House of Representatives  
State Capitol  
Juneau, AK 99801-1182

Dear Representative Hudson:

Re: CSSB 149(FIN) The Need for a Revised Alaska Banking Code

The current Alaska Banking Code (AS 06.05) is critically obsolete. The existing code was taken from Oregon Law at the time of Alaska statehood and has had only minor revisions since then. The Division of Banking, Securities and Corporations (division) has for the past few years been working to identify areas where changes in the code are necessary. These changes fall into three basic categories:

- I. obsolescence concerning today's financial institution marketplace;
- II. obsolescence in addressing problems of failing or problem financial institutions; and
- III. the need for a more aggressive banking law that would provide additional economic development opportunities.

To address the most efficient and effective way to determine changes, the division issued an RFP for an experienced person knowledgeable both in drafting, and in experience with the Alaska Banking Code. Mr. Jeff Bush, former Assistant Attorney General, was chosen because of his experience with the Alaska Banking Code at the time of failing financial institutions, and counseling the division in periods of times of problems over examinations.

The division not only used its seasoned-examining force, but also set up a committee of the industry of state banks representatives to address any item they felt obsolete in the Banking Code and to comment on the division's proposed changes and new provisions. At the request of Representative Niilo Koponen of the last Legislature, to have Legislative Affairs on the committee, Terry Banister was selected in order to advise and follow the provisions being considered.

At the time changes in the code were advanced, regulations were also considered. In the past ten years there have been rapid changes in the financial institution industry, and in order to maintain some correlation with these changes, it is felt both by the division and the industry that some items should be covered by regulation. It was a major project to draft proposed regulations to be presented with the revisions of the Banking Code in order that the Legislature and the industry would know exactly what was being considered.

The three areas of change, mentioned before are:

#### Section I, The Marketplace

Since statehood, there have been vast changes in the financial institution marketplace. Interest on deposits is no longer regulated, and new competition such as brokerage firms, and other organizations, now offer interest on deposits and carry various checking privileges; and the issuance of debit and credit cards now expands across many different types of industries. Not only does the amended Alaska Banking Code provide for more flexibility to change through regulation, it also allows, under certain conditions, to diversify its activities through subsidiaries.

Other amendments addressing changes in the marketplace include international banking and international branching, with a new section on interstate branching which provides a lead for state rights.

Existing law gives the department authority to promulgate regulations in conflict with statutes to provide competitive parity with nationally-chartered banks. Some of the amendments being considered in the banking code are those prior parity regulations that need to be brought into statutory conformance.

#### Section II, Problem in Failing Institutions

The current Alaska Banking Code is completely out-of-step when addressing failing financial institutions. One of the most obvious provisions is the assessment of stockholders in situations of "impairment of capital." The assessment of shareholders to increase capital of a bank is virtually a 1930's action in a unit-banking system, where banks are closely held in a small community setting. The amendments to the banking code provide a series of administrative actions that provide due process for addressing unsafe and unsound conditions. Under due process, the department is given the authority to address violations of the Alaska Banking Code which could, if not corrected, carry civil money penalties.

#### Section III, Improve Economic Development Opportunities

The current Alaska Banking Code is very restrictive as to what banks can do or invest in. The revised code increases the powers banks have, especially in subsidiary powers. Investments will be by regulations, rather than a statutory menu. The subsidiary provisions will not only give financial institutions an opportunity to diversify to broaden their earning centers but also to increase services within a community.

The amendment to the banking code could also provide increases in potential development by allowing international banks to establish branches in Alaska. This provision alone has been targeted by the department as a need for economic development. Financial institutions of other countries could establish an operating branch in Alaska, which may be beneficial to them by time and geographic zones, in representing themselves in the money markets worldwide. These international offices could also provide assistance to their foreign customers in procuring resources from Alaska.

The Honorable Bill Hudson

-3-

April 8, 1993

While the bill appears to be voluminous, and many pages long, there are actually very few new regulatory provisions. The bill is mostly updating to the characteristics of the market today and designed to be more flexible to address the problems of tomorrow. We would sincerely appreciate your support by calling the bill up for early consideration by your committee.

Sincerely,

A handwritten signature in cursive script that reads "Willis F. Kirkpatrick".

Willis F. Kirkpatrick  
Director

WFK/lvs9238t  
040793t  
Enclosures

**FISCAL NOTE**

**STATE OF ALASKA**  
**1993 LEGISLATIVE SESSION**

**BILL NO. CSSB 149 (Fin)**

Revision Date: \_\_\_\_\_  
 Title: Laws Governing Financial Institutions and relating  
to Trust Companies, Small Loan Companies  
 Sponsor: Senate Labor and Commerce Committee  
 Requestor: \_\_\_\_\_

Department Affected: Commerce and Economic Development  
 BRU: Banking, Securities and Corporations  
 Component: \_\_\_\_\_  
 COMPONENT SERIAL NO. 1233

**EXPENDITURES/REVENUES:**

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE FUND SOURCE:</b>	0	0	0	0	0	0
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**FUNDING:**

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

**POSITIONS:**

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

Estimate of current year (FY 93) impact: 0

**ANALYSIS:** (Attach a separate page if necessary.)  
 Has no fiscal impact on program.

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

Phone: 465-2521  
 Date: \_\_\_\_\_

Approved by Commissioner: Paul Fuhs  
 Agency: Commerce and Economic Development

Date: 3/23/93

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# NORTHERN MARINE INSURANCE INC

April 7, 1993

TO: REPRESENTATIVE BILL HUDSON/CHAIRMAN, HOUSE LABOR & COMMERCE COMMITTEE

SUBJECT: SENATE BILL 149  
ITEM #2

Dear Mr. Hudson:

#2. Insurance Sales and Service:

Please understand that I as an Alaska resident Insurance Agency Owner do not object to new competitors (new agencies) entering the insurance sales field.

I DO OBJECT TO A COMPETITOR THAT WILL HAVE ACCESS TO THE "TRADE SECRETS" AND THE "INTELLECTUAL PROPERTY" OF MY BUSINESS.

Each time I provide a bank with a certificate showing coverage for a property insured through my agency, I have given the bank competitor the coverage information on the property and the "EXPIRATION DATE" of the clients policy. The expiration date allows THE BANK COMPETITOR TO "TARGET" MY CLIENTS WITH A GREAT DEGREE OF ACCURACY.

CURRENTLY I DO NOT PROVIDE MY COMPETITORS WITH A LIST OF MY CLIENTS, AND THE EXPIRATION DATES OF THEIR POLICIES. If Senate Bill 149 passed, every bank in Alaska will have inside information concerning my clients and a very strong competitive edge on my business.

PLEASE DO NOT PASS SENATE BILL 149, OR IF PASSED PLEASE DELETE ITEM #2.

Cordially,



Mike Miller  
President, Owner



**PORTER • SPAULDING INSURANCE**  
PROPERTY • CASUALTY • PERSONAL & COMMERCIAL INSURANCE

**OUR PHONE NUMBER IS: 1-907-225-9841 • OUR FAX NUMBER IS: 1-907-225-1718**

**FACSIMILE COVER SHEET**

TO: House Labor and Commerce FAX # 1-465-6790

Please deliver the following page(s) to: Chairman Rep. Hudson and Committee Members

CLIENT NAME: \_\_\_\_\_

POLICY NUMBER: (if any) \_\_\_\_\_ Expires \_\_\_\_\_

TOTAL NUMBER OF PAGES: (including cover page) 1 DATE: 4-7-93 FROM: Arno Iverson

COMMENTS: Reference Senate Bill #149 and in particular Sec. 06.05.272 relating to Bank  
Subsidiaries and most importantly the section that says "...if the subsidiary  
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the bank's business: (2) Insurance Sales and Services."

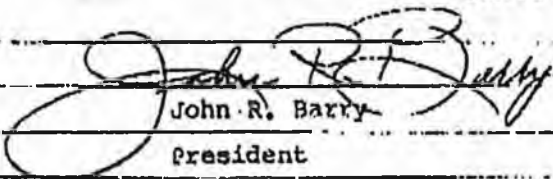
The Independent Insurance Agents and Brokers Associations Nation-wide have  
been fighting this intrusion into our industry for many years...To think the  
State of Alaska would entertain a proposal to allow banking into the insurance  
business is unconscionable. The opportunities for a banking institution to  
intimidate borrowers to insure through a given bank is not serving the best  
interests of the public.

I strongly urge your committee to stop this bill or at the very least, have  
the section on insurance sales and services deleted.

Respectfully,

  
Arno Iverson

CEO

  
John R. Barry

President

## shattuck &amp; grummett, inc.

ESTABLISHED 1904

insurance • bonds

300 SEWARD STREET

Juneau, Alaska 99801

CHARLES G. SHATTUCK  
ALLAN D. SHATTUCK  
ROGER H. SHATTUCK, C.F.C.U.  
RUD JABGER

RICHARD A. GRUMMETT  
ROGER GRUMMETT  
NANCY L. BURNS

## F A X T R A N S M I T T A L M E M O

DATE: APRIL 7, 1993

TO: BILL HUDSON, REPRESENTATIVE  
CHAIRMAN, LABOR & COMMERCE COMM.  
JUNEAU, ALASKA

FAX: 465-6790

FROM: ROGER GRUMMETT

TOTAL PAGES INCL.  
THIS PAGE: 1

FAX: 907-586-3770

RE: SENATE BILL #149

I WOULD APPEAL TO YOU TO REMOVE THE INSURANCE SALES AND SERVICE FROM THIS BILL. THIS PLACES A DISTINCT DISADVANTAGE TO THE INDEPENDENT INSURANCE AGENT WHEN PROSPECTING A POTENTIAL CLIENT WHO IS DEALING WITH A BANK ON HOMEOWNERS AND OTHER PERSONAL INSURANCE NEEDS.

I CAN SPEAK TO THE FACT THAT ALASKA FEDERAL SAVINGS AND LOAN ASSN. WAS ONCE IN THE INSURANCE BUSINESS AND ELECTED TO GET OUT AFTER A COUPLE OF YEARS.

AGAIN, I CAN SEE NO MERIT TO THE BANKS IN THE INSURANCE BUSINESS AND WOULD ASK THAT YOU LOOK AT THIS BILL VERY CLOSELY AND DELETE THAT PORTION.

THANKS

April 7, 1993

Representative Bill Hudson  
Fax 465-6790

Re: Senate Bill 149  
Sec. 47 AS 06.05  
Amendment Sec. 06 05 272 Bank Subsidiaries

I strongly urge you to support removal of items (2) and (3), Insurance Sales and Services or remove the entire ammendment or defeat it in its entirety.

Banks have been seeking loopholes in the law to allow them to become involved in other endeavors that are best served by other businesses. Banks have had plenty of problems dealing with the bank business. What makes people think they are qualified to handle the intricacies of insurance? I certainly don't think they are.

This amendment opens the door for banks to control insurance placement on any loans that they may make, forcing consumers to accept their placement and not allowing the consumer to make a choice.

I hope you will work to stop this amendment.

Sincerely,

*Neneia J. Hamrick*

April 7, 1993

Representative Bill Hudson  
Fax 465-6790

Re: Senate Bill 149  
Sec. 47 AS 06.05  
Amendment Sec. 06 05 272 Bank Subsidiaries

I strongly urge you to support removal of items (2) and (3), Insurance Sales and Services or remove the entire ammendment or defeat it in its entirety.

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This amendment opens the door for banks to control insurance placement on any loans that they may make, forcing consumers to accept their placement and not allowing the consumer to make a choice.

I hope you will work to stop this amendment.

Sincerely,

*Sammy Ferris*

TRANSACTION REPORT

APR- 7-93 WED 14:13

SEND

#	DATE	S. T.	NAME	TIME	PGS	NOTE	DP
01	APR- 7	14:08	84528115	3' 58'	8	COM. E- 4	03



Rentschler Insurance Agency, Inc.

440 Eagle Street  
Anchorage, Ak 99501  
(907) 272-8496  
FAX (907) 277-1969

April 7, 1993

State Capitol  
Juneau, AK 99801-1182

Attn: Representative Hudson

Re: Senate Bill 149

Dear Sir:

As an Independent Insurance Agent in the state of Alaska the above referenced Senate bill causes great concern for my business and our industry as a whole. Your efforts to revise this bill and keep the banking industry separate from the insurance industry will be appreciated.

While the banking industry has a definite responsibility to the financial concerns of the consumers, I do not feel they are qualified as respects the insurance needs of the general public. To allow the banking institutions the opportunity of providing insurance or counsel relative to insurance matters would be a detriment to the insurance professionals as well as the customers.

It is critical that this bill be stopped or at least have "Sec 47.AS 06.05" removed from the bill. Your careful review of the wording and support for our industry as a whole is appreciated.

Sincerely,

*Laron Rentschler*  
Laron C. Rentschler  
President

# Insurance Alaska

April 6, 1993

cc Bill Hudson

~~Mark Hanley, State Representative  
House of Representatives  
Juneau, Alaska 99801~~

Dear Mr. Hanley:

As one of your constituents and a long time Alaska businessman, I respectfully request your support to have Sec. 06.05.272 removed from Senate Bill 149 or at the very least the removal of item (2) of this section.

If this bill is passed without deleting the above section, it will in effect eliminate some 40 or more insurance agencies in Alaska and the loss of more than 150 jobs. Probably the worst part of this senario would be that the banks most likely to engage in these activities would be the out-of-state banks which would mean that the profits from these activities would leave the state to some home office down below.

With things as they are now, Alaska needs to retain all present jobs and we surely don't want any money to leave the state.

Again, I ask for your help on this.

Thank you.

Sincerely,

A. Jay Riggs

Phone: 562-6643 • Fax: 561-5077 • 440 West Benson Blvd., Anchorage, Alaska 99508

April 7, 1993

Representative Bill Hudson  
Fax 465-6790

Re: Senate Bill 149  
Sec. 47 AS 06.05  
Amendment Sec. 06 05 272 Bank Subsidiaries

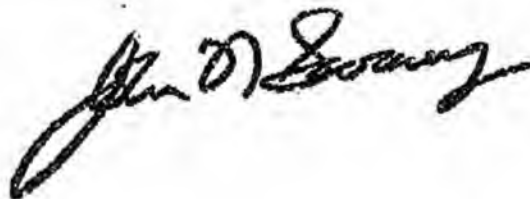
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This amendment opens the door for banks to control insurance placement on any loans that they may make, forcing consumers to accept their placement and not allowing the consumer to make a choice.

I hope you will work to stop this amendment.

Sincerely,



April 7, 1993

Representative Bill Hudson  
Fax 465-6790

Re: Senate Bill 149  
Sec. 47 AS 06.05  
Amendment Sec. 06 05 272 Bank Subsidiaries

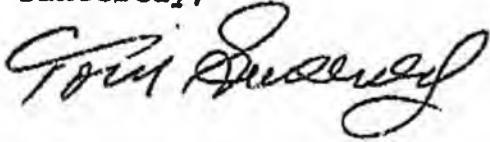
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This amendment opens the door for banks to control insurance placement on any loans that they may make, forcing consumers to accept their placement and not allowing the consumer to make a choice.

I hope you will work to stop this amendment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tom Sweeney".

April 7, 1993

Representative Bill Hudson  
Fax 46 790

Re: Senate Bill 149  
Sec. 47 AS 06.05  
Amendment Sec. 06 05 272 Bank Subsidiaries

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This amendment opens the door for banks to control insurance placement on any loans that they may make, forcing consumers to accept their placement and not allowing the consumer to make a choice.

I hope you will work to stop this amendment.

Sincerely,

*Amalys Agnew*

April 7, 1993

Representative Bill Hudson  
Fax 465-6790

Re: Senate Bill 149  
Sec. 47 AS 06.05  
Amendment Sec. 06 05 272 Bank Subsidiaries

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I hope you will work to stop this amendment.

Sincerely,

*Shari Greene*

April 7, 1993

Representative Bill Hudson  
Fax 465-6790

Re: Senate Bill 149  
Sec. 47 AS 06.05  
Amendment Sec. 06 05 272 Bank Subsidiaries

I strongly urge you to support removal of items (2) and (3), Insurance Sales and Services or remove the entire ammendment or defeat it in its entirety.

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This ammendment opens the door for banks to control insurance placement on any loans that they may make, forcing consumers to accept their placement and not allowing the consumer to make a choice.

I hope you will work to stop this ammendment.

Sincerely,

*Mary Ann Holmes*

April 7, 1993

Representative Bill Hudson  
Fax 465-6790

Re: Senate Bill 149  
Sec. 47 AS 06.05  
Amendment Sec. 06 05 272 Bank Subsidiaries

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This amendment opens the door for banks to control insurance placement on any loans that they may make, forcing consumers to accept their placement and not allowing the consumer to make a choice.

I hope you will work to stop this amendment.

Sincerely,

*Leo Busheon*

April 7, 1993

Representative Bill Hudson  
Fax 465-6790

Re: Senate Bill 149  
Sec. 47 AS 06.05  
Amendment Sec. 06 05 272 Bank Subsidiaries

I strongly urge you to support removal of items (2) and (3), Insurance Sales and Services or remove the entire amendment or defeat it in its entirety.

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Sincerely,



April 7, 1993

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Fax 465-6790

Re: Senate Bill 149  
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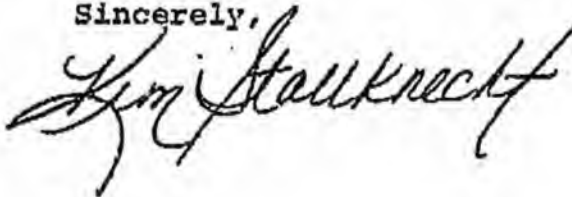
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This amendment opens the door for banks to control insurance placement on any loans that they may make, forcing consumers to accept their placement and not allowing the consumer to make a choice.

I hope you will work to stop this amendment.

Sincerely,



April 6, 1993

Representative Con Bunde  
State Capitol, Room 112  
Juneau, AK 99801-1182

Representative Bunde,

I am writing to express my concern regarding a bill recently passed by the Alaska Senate (SB 149). This bill is now being considered by the House Labor & Commerce and House Judiciary committees.

I would strongly urge you to research the ramifications of a section of this bill:

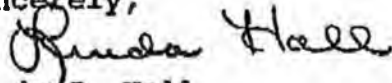
"Sec. 47 AS 06.05 is amended by adding a new section to read

Sec. 06.05.272 (a) A state bank may....operate....  
(1) real property ownership,  
development, and leasing  
(2) insurance sales and service"

To allow banks to operate as insurance sales and service organizations would be detrimental to the insurance industry and especially to the insurance consumer. Insurance is a highly complex profession requiring detailed technical knowledge. The insurance consumer would not be well served by having banks enter this business.

I would urge you to work to remove number (2) above from this bill. I would be pleased to discuss this matter with you if you have questions

Sincerely,



Linda S. Hall  
8100 Red Court  
Anchorage, AK 99516

Home Telephone 907-346-3348  
Work Telephone 907-276-6662

CC: > Representative Hudson  
> Representative Porter

**PIPPEL INSURANCE AGENCY, INC.**

P.O. BOX 1067  
PALMER, AK 99645  
(907) 745-3361  
(907) 745-8417 --FAX--

- COVER -

DATE: 4/12/93

TO: COM/BAK: HOUSE LABOR & COMMERCE/JUDICIARY CHAIR

ATTN: Representative Hudson / Representative Porter.

FROM: Dan Crawford / Pippel Insurance Agency, Inc.

# PAGES: 1

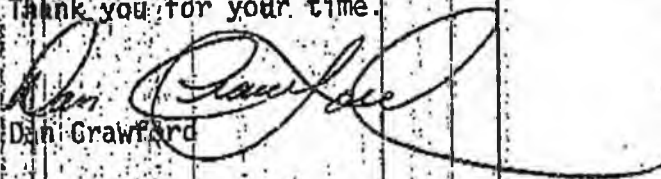
RE: Senate Bill 149 (page 24) Sec. 47.AS06.05.272.

## MESSAGE:

Dear Sirs,

I am writing you this letter to request your support in removing item (2) from the above mentioned bill. It is my opinion that this change would be very detrimental to the insurance industry and their clientele.

Thank you for your time.

  
Dan Crawford

PIPPEL INSURANCE AGENCY, INC.

**Karen J. Hofstad**

P.O. Box 203 • Petersburg, Alaska 99833  
Phone: (907) 772-3858 Days • 772-4770 Evenings • FAX: 907-772-3184  
Salmon Can Label and Related Ephemera Collector

April 12, 1993

Rep. Ben Grussendorf  
House of Representatives  
Juneau, Ak 99801

RE: Senate Bill 149 "an act revising  
laws governing financial institutions..."

Dear Ben:

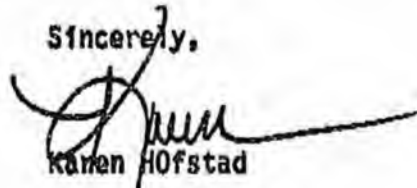
I feel there is a very strong conflict of interest if SB149 stands as passed the Senate.

Sec 06.05.272 Bank Subsidiaries (a) a state bank may purchase or establish.....  
2. insurance sales and service" concerns me very much. I was working in another state where banks were allowed to sell insurance and saw the abuses and how that affected the public!

And I sure don't see the bank industry as setting a very good example with the federal cost involved on mismanagement!

I encourage you to look at this section carefully and delete any opportunity for the banking industry to get into any other industry!

Sincerely,



Karen Hofstad

cc: L&C Chair Rep. Hudson  
Judiciary Chair Rep Porter

# Stedman Insurance Agency, Inc.

ALL LINES OF INSURANCE

PHONE: 747-8618 • 118 AMERICAN STREET • SITKA, ALASKA 99835

TO: House Labor and Commerce Committee

Date: 4/7/93

Representatives Hudson Green

Subject: Senate Bill 149

Mulder Porter Williams Sitton and  
Mackie

Dear Representative.

I urge you to vote no on amending Sec 47 AS 06.05 allowing Banks to enter into the Insurance Sales and Service.


I believe you will be doing the Alaskan Consumer a great disservice if this amendment passes.


It is my firm belief that the separation of banking and insurance serves the consumer best. Passage of this amendment will open the gates for banks to tie insurance sales in with making loans.


For years we have been fighting the banks about entering the insurance business at the Federal level. We have been somewhat successful in keeping them out, but now it appears that they are trying to sneak in thru a small single line amendment to existing law, at the Alaska State level.

It is important that the Alaskan Consumer's interest be considered ahead of the banking industry's interest.

Thank you

  
Ken Stedman  
Licensed Ins Agent

  
Karl Stedman  
Licensed Ins Agent

  
Bonita M Stedman  
Licensed Ins Agent



# J. C. MORRIS INSURANCE SERVICES

April 8, 1993

938 W. 5th AVENUE  
ANCHORAGE, ALASKA 99501  
TELEPHONE: 272-2524  
FAX: 272-3827

Rep. BILL HUDSON  
Labor and Commerce Chairman  
STATE CAPITOL  
Juneau, Alaska 99801-1182

Re: SENATE BILL #149

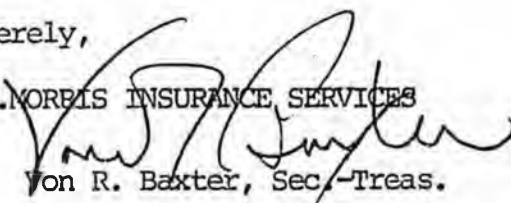
The addition of Sec. 47 AS 06.05 amendment to Sec. 06.05.272 BANK SUBSIDIARIES is of great concern to us, wherein with licenses and permits the Bank could engage in activities other than banking, such as real estate ownership, development and leasing, insurance sales and service, securities and other activities.

These additional activities have historically been prohibited under a Bank's charter and should continue to be. The control of these types of activities would be detrimental to private industry as well as to the general public as it would give the Bank an undue influence for the purchase of insurance or securities at the time a mortgage is consummated.

The Banks have been endeavoring for years to have their operations extended to this type of activity, both thru the Federal and State Legislatures, but the issue has always been disapproved. We ask that this Section be eliminated or removed.

Sincerely,

J. C. MORRIS INSURANCE SERVICES

  
Von R. Baxter, Sec.-Treas.

CC: Rep. Bill Hudson  
Labor and Commerce Chairman

Rep. Brian Porter  
House Judiciary Chairman

Alaska Ind. Insur Agents & Brokers, Inc.

## FACSIMILE TRANSMITTAL MEMO

Shattuck & Grummett, Inc.  
9110 Mendenhall Mall Road #3  
Juneau, AK 99801  
907-789-2446

Total Pages: ~~One~~ Two  
(incl. this sheet)

TO: Rep. Bill Hudson

FROM: Bud Jaeger

Company: Chairman, House L & C Committee  
City: Juneau, AK.  
Fax: 465-6790

Date: 04/12/93  
Fax: 907-789-4363

RE: SB 149

Message: Dear Bill,

I've just been informed that SB149 has been passed by the Senate and has been referred to the House Labor & Commerce Committee. I also understand there is a hearing at approx. 3PM on this Bill tomorrow Tuesday, April 13, 1993. I would like to attend and offer testimony.

I am VERY CONCERNED about this bill! My concern is with :

"Sec 47.AS 06.05 which is amended by adding a new section to read:

SEC 06.05.272 BANK SUBSIDIARIES. (a) A State Bank may purchase or establish, and operate, one or more subsidiaries engaged in any of the following activities, if the subsidiary has the necessary licenses and permits and the operation is not detrimental to the bank's business:

- (1) real property ownership, development, & leasing;
- (2) insurance sales & service;
- (3) securities brokerage;
- (4) other activities authorized in regulations adopted under this section;
- (5) other activities approved by the department."


Item (2) causes my greatest concern and I wonder if sufficient information and input was received from those of us in the insurance business. I am extremely concerned that if banks are allowed in the insurance business, it would offer extremely Unfair Competition to us. Just the implied threat of turning down a loan to a potential loan client, if they did NOT purchase their insurance from the bank is enough in itself. This says nothing of the fact that the consumer may not be getting the best coverage, price, or professional service for his/her insurance needs. Insurance agent's spend a great deal of time searching the market for the best available product, price,

and service for our clients and I think we've done an extremely good job of this for many decades. By allowing Banks to enter the insurance business, it can only lead to less, not more competition, and can cause a great dis-service to the insurance consumers of Alaska.

I am very shocked that this piece of legislation has already passed the Senate and would like to make my points known to you and your committee for consideration.

In case I drop dead tonight, please vote NO on this bill. Thank you.

Yours truly,



Bud Jaeger, V.P.  
Shattuck & Grummett, Inc.