

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8352 SENATE LABOR & COMMERCE

1 (4) publish a notice in a newspaper once each week for three successive
2 weeks, of the times and places where the schedule of determinations will be available
3 for inspection and the date when the department will file its schedule in court; the date
4 may not be sooner than 30 days after the first publication.

5 (e) Within 30 days after the filing with the superior court of the department's
6 schedule under (d)(3) of this section, a creditor, depositor, or stockholder may file with
7 the court an objection to a determination. The court shall hear and determine the filed
8 objections after the notice to the department and interested claimants that the court
9 establishes. If the court sustains an objection, the court shall direct that the schedule
10 be modified appropriately.

11 (f) After filing its schedule, the department may make partial distribution to
12 the holders of the claims that are undisputed or are allowed by the court, if an
13 adequate reserve is established for the payment of disputed claims. As soon as
14 practicable after the determination of all objections, the department shall make the final
15 distribution.

16 (g) The following claims have priority in liquidation proceedings, in the order
17 listed:

- 18 (1) obligations incurred by the department in liquidating the bank;
19 (2) wages and salaries of officers and employees earned during the
20 three-month period preceding the department's possession in an amount not exceeding
21 \$3,000 for each person;
22 (3) fees and assessments owed by the bank to the department;
23 (4) deposits;
24 (5) claims secured by assets pledged under AS 06.05.260(a).

25 (h) After the payment of all other claims, including interest at the rate
26 established under AS 09.30.070, the department shall pay claims that are otherwise
27 valid but that were not filed within the time prescribed.

28 (i) If the sum available for a class of creditors is insufficient to provide
29 payment in full, the sum shall be distributed pro rata to the claimants in the class.

30 (j) When the department has liquidated a bank, any assets remaining after all
31 claims have been paid shall be distributed to the shareholders in accordance with their

1 respective interests.

2 (k) Unclaimed funds remaining after the completion of the liquidation by the
3 department shall be handled under AS 34.45.110 - 34.45.780.

4 (l) When the assets have been distributed in accordance with this chapter, the
5 department shall file an accounting with the superior court. Upon approval of the
6 account, the department is relieved of liability in connection with the liquidation, and
7 the court shall cancel the certificate of authority of the bank and enter an order of
8 dissolution. When the order is filed, the department shall issue a certificate of
9 dissolution of the corporation.

10 Sec. 06.05.474. FEDERAL DEPOSIT INSURANCE CORPORATION AS
11 RECEIVER OR LIQUIDATOR. The department may appoint the Federal Deposit
12 Insurance Corporation as receiver for a state bank that the department has taken
13 possession of, if the deposits of the bank are insured by that corporation. Upon filing
14 with the court a certificate indicating the acceptance of the appointment by the Federal
15 Deposit Insurance Corporation, the possession of and title to all the assets, business,
16 and property of the bank are transferred to that corporation. The department is then
17 relieved of all responsibility and liability with respect to the reorganization or
18 liquidation of the bank. The Federal Deposit Insurance Corporation may liquidate,
19 reorganize, merge, or consolidate the bank in the manner permitted by the laws of the
20 United States or by this chapter, and possesses all the rights, powers, duties and
21 obligations of the department in the liquidation, reorganization, merger, or
22 consolidation of the bank under this chapter.

23 * Sec. 86. AS 06.05.540 is repealed and reenacted to read:

24 Sec. 06.05.540. DEFINITIONS. In this chapter, unless the context otherwise
25 requires,

26 (1) "automated teller machine," means a staffed or unstaffed electronic
27 device or terminal that permits a bank customer to accomplish various financial
28 transactions, including depositing or withdrawing funds, making loans, and transferring
29 funds between accounts, and includes a similar device or facility known or referred to
30 by another name or designation, including customer-bank communication terminal,
31 electronic fund transfer device, or 24-hour teller, but does not include a machine that

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is operated by more than one bank;

(2) "bank" means a person doing a banking business, including persons subject to the law of this or another jurisdiction;

(3) "banking" means performing activities that

(A) include, at a minimum, soliciting, receiving, or accepting money or its equivalent on deposit, whether the deposit is made subject to a check or is evidenced by a certificate of deposit, passbook, note, receipt, or other writing; in this subparagraph, "deposit" does not include a deposit made by an agent for a principal; and

(B) may also include the negotiation for and discounting of promissory notes or other evidences of indebtedness, selling and buying money or its equivalent, lending money on personal or real property or other security, or performing other similar financial operations;

(4) "branch bank" includes an office, agency, or other place of business located in the state and at which deposits are received, checks are paid, or money is lent, but does not include either the principal office of a bank or an automated teller machine;

(5) "capital" means the amount of outstanding common stock plus outstanding and perpetual preferred stock;

(6) "capital accounts" includes capital, surplus, undivided profits, and capital notes and debentures not maturing within one year from the date of the loan;

(7) "commissioner" means the commissioner of commerce and economic development or a designee of the commissioner;

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

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

(10) "domestic bank holding company" means a corporation that maintains its principal office and place of business in the state and that has control over a bank or another domestic bank holding company in one of the following ways:

(A) the corporation directly or indirectly or acting through one

1 or more other persons owns, controls, or has power to vote 25 percent or more
2 of a class of voting securities of the bank or holding company;

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

5 (C) the department determines, after notice and opportunity for
6 hearing, that the corporation directly or indirectly exercises a controlling
7 influence over the management of the policies of the bank or holding company;

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

12 (12) "financial institution" means an institution subject to the regulation
13 of the department under this title;

14 (13) "good faith" means honesty in fact in the transaction and a
15 reasonable ground for belief that the transaction is lawful, proper, or authorized;

16 (14) "impaired capital" or "impairment of capital" means that the value
17 of the bank's assets is less than the bank's liabilities plus 120 percent of the amount
18 of the bank's paid-in capital;

19 (15) "insolvent" means

20 (A) bank assets having a value less than the bank's liabilities,
21 other than liability on account of capital stock, capital notes, and debentures;

22 (B) failure to increase total adjusted capital accounts or reserves
23 after being ordered to do so under AS 06.05.305(c); or

24 (C) inability to meet obligations or demands as they become
25 due in the ordinary course of business;

26 (16) "international bank" means a corporation, partnership, or
27 association that is organized and operates under the laws of a country other than the
28 United States and that is authorized by its license or charter to carry on a banking
29 business;

30 (17) "interstate bank" means

31 (A) a corporation, partnership, or association organized under

1 the laws of another state and holding a charter, license, or certificate of
2 authority from another state to engage in a banking business; or

3 (B) a national bank, except a national bank whose principal
4 office, as designated in its articles of incorporation, is located in the state;

5 (18) "loans" includes

6 (A) all direct or indirect advances of funds to a person made on
7 the basis of an obligation of the person to repay the funds, or repayable from
8 specific property pledged by or on behalf of the person, guarantees, overdrafts,
9 letters of credit;

10 (B) a liability of a bank to advance funds to or on behalf of a
11 person under a contractual commitment;

12 (19) "national bank" means a bank chartered by the United States;

13 (20) "out-of-state bank holding company" means a company that

14 (A) is a bank holding company as defined in 12 U.S.C. 1841
15 (Bank Holding Company Act); is registered as a bank holding company with
16 the Board of Governors of the Federal Reserve System, with the federal reserve
17 bank of the Federal Reserve District in which the operations of the bank
18 holding company are principally conducted, or with a Federal Reserve Bank
19 that the Board of Governors may designate; maintains its principal office and
20 place of business outside the state; and principally conducts its operations out
21 of the state, as measured by total deposits held or controlled by it on the date
22 on which it becomes an out-of-state bank holding company; or

23 (B) a corporation, partnership, or association organized and
24 operating under the laws of a country other than the United States.

25 (21) "recently formed bank" means a state bank or national bank that
26 conducts a banking business in the state and that commenced the banking business in
27 the state on or after July 1, 1982, and that has not been in existence and continuously
28 operating in the state for a period of three years or more; "recently formed bank" does
29 not include

30 (A) a bank organized solely for the purpose of facilitating
31 acquisition of a bank that either has been in existence and continuously

1 operating in the state as a bank for a three-year period, or was conducting a
2 banking business in the state on or before June 30, 1982;

3 (B) a state bank that the department determines was not created
4 directly or indirectly by an acquiring interstate bank, international bank, or
5 out-of-state bank holding company, and that does not have the capacity to
6 continue to conduct its business independently in a manner consistent with the
7 public interest and the interest of depositors, creditors, and shareholders; or

8 (C) a national bank that the board of governors of the Federal
9 Reserve System, or their designee, determines is not chartered directly or
10 indirectly by an acquiring out-of-state bank holding company, and that does not
11 have the capacity to conduct its business independently in a manner consistent
12 with the public interest of depositors, creditors, and shareholders;

13 (22) "state bank" means a bank organized under this chapter;

14 (23) "state financial institution" means a financial institution organized
15 under this title;

16 (24) "subsidiary" means a corporation in which a bank owns more than
17 50 percent of the voting power of the corporation either directly or indirectly through
18 one or more other subsidiaries of the bank;

19 (25) "surplus" includes amounts paid in for stock in excess of the par
20 value of the stock, which are generally called capital surplus or paid-in surplus, plus
21 any amounts transferred to the account from undivided profits, which are generally
22 called earned surplus;

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

25 (A) provision for payment of taxes and expenses of operations;

26 (B) transfers to reserves allocated to a particular asset or class
27 of assets;

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

30 (D) transfers to surplus and capital; and

31 (E) amounts declared as dividends to shareholders;

1 (27) "unsafe or unsound condition," with respect to a bank, means
2 insolvency; impairment of capital; operating in violation of law, order of the
3 department, or its articles or bylaws; having less than the statutory or regulatory
4 requirements for capital, surplus, or reserves; or another condition that the department
5 determines threatens the safety of depositors or the soundness of the state banking
6 system.

7 * Sec. 87. AS 06.05 is amended by adding new sections to read:

8 ARTICLE 9. INTERNATIONAL AND INTERSTATE BANKS AND
9 OUT-OF-STATE BANK HOLDING COMPANIES.

10 Sec. 06.05.550. AUTHORITY OF INTERNATIONAL OR INTERSTATE
11 BANK TO BRANCH. (a) An international bank, or an interstate bank whose deposits
12 are insured by the Federal Deposit Insurance Corporation, may acquire a branch bank
13 as the result of a merger or consolidation of the international or interstate bank with,
14 or the purchase of all or substantially all of the assets of, a state bank, a national bank
15 with its principal office in this state, or a branch of the state bank or national bank,
16 unless the state bank or national bank is a recently formed bank.

17 (b) An international bank may establish a new branch bank in this state or
18 acquire a recently formed bank, if the department approves the establishment or
19 acquisition before the establishment or acquisition occurs. An interstate bank may not
20 establish a branch bank in this state unless the establishment occurs through an
21 acquisition under (a) of this section of a bank located in the state. An interstate bank
22 may not establish a new branch bank in this state.

23 (c) An interstate or international bank that opens, occupies, or maintains a
24 branch bank in the state has the same powers under the laws of the state as a state or
25 national bank of the same type.

26 Sec. 06.05.555. CERTIFICATE OF AUTHORITY FOR INTERSTATE AND
27 INTERNATIONAL BRANCHING. (a) Before acquiring a branch bank under
28 AS 06.05.550(a) or establishing a branch bank under AS 06.05.550(b), an interstate or
29 international bank shall file an application with the department for and receive a
30 certificate of authority to operate a branch bank. The application must include

31 (1) all information and fees required under AS 06.05.399;

1 bank of this state to acquire a branch bank in the home state without conditions
2 or restrictions on the operations of the branch bank; and

3 (B) the bank supervisor of the home state of the bank has
4 agreed to provide to the department the examination reports that the department
5 determines sufficient to permit the department to determine on a current basis
6 the financial condition of the bank;

7 (2) the proposal is consistent with a sound and competitive banking
8 system;

9 (3) the capital structure of the bank is adequate in relation to the
10 anticipated business and costs of operating the branch bank;

11 (4) the name of the bank is not deceptively similar to the name of
12 another branch bank or state bank and is not otherwise misleading; and

13 (5) the other requirements of this chapter have been met.

14 (e) Not later than 150 days after the department accepts an application by an
15 interstate or international bank for a certificate of authority to operate a branch bank,
16 the department shall make a determination whether to approve the application. Within
17 30 days after the second publication of the notice referred to in (c) of this section, a
18 person opposing the pending application may file written objections with the
19 department. When it approves or denies the application, the department shall notify
20 the bank and any other person who requested in writing to be notified, and if the
21 application is denied, the department shall state the reasons for its decision.

22 (f) The department shall issue a certificate of authority to an interstate or
23 international bank to operate a branch bank if

24 (1) the conditions imposed by the department in granting the certificate
25 have been fulfilled; and

26 (2) the requirements of this chapter are satisfied.

27 (g) If the rights conferred by a certificate of authority issued under this section
28 are not exercised within one year from the date of the issuance of the certificate under
29 this section, the certificate lapses.

30 **Sec. 06.05.560. ASSET REQUIREMENTS FOR INTERNATIONAL BANKS.**

31 (a) An international bank that operates one or more branch banks in the state shall

- 1 (2) the name of the bank and the address of its principal office;
- 2 (3) if an international bank, the country under whose laws it is
- 3 organized;
- 4 (4) the amount of the bank's capital actually paid in cash and the
- 5 amount subscribed for and unpaid;
- 6 (5) a complete and detailed statement of the bank's financial condition;
- 7 (6) the names of all other states and countries in which the bank is
- 8 admitted or qualified to do business;
- 9 (7) a copy of the bank's charter, articles of incorporation, and bylaws,
- 10 as applicable;
- 11 (8) if an international bank, evidence satisfactory to the department that
- 12 the bank is authorized to conduct a banking business under the laws of the country of
- 13 its organization, and the nature of the bank's business;
- 14 (9) a properly executed designation of the department as the bank's
- 15 agent for service of process in an action or proceeding arising out of a transaction
- 16 involving the branch bank; the designation must include the name and address of the
- 17 officer, agent, or other person to whom the department is to forward the process; and
- 18 (10) other information necessary or appropriate for the department to
- 19 determine whether the bank is entitled to a certificate of authority from the department.
- 20 (b) The department shall notify the interstate or international bank of its action
- 21 on the application. If the application and the accompanying documents do not comply
- 22 with the requirements of (a) of this section, the department shall return them with an
- 23 explanation of the noncompliance. If the department does not respond within 30 days
- 24 of its receipt of the application, the application is considered to be accepted.
- 25 (c) The interstate or international bank shall publish notice of the application
- 26 in the manner provided in AS 06.05.344(d) - (e). The notice must state the proposed
- 27 location of the branch bank.
- 28 (d) Upon acceptance of the application, the department shall conduct an
- 29 investigation to determine that
- 30 (1) if an interstate bank,
- 31 (A) the laws of the home state of the bank authorize a state

1 maintain in the state assets in an amount acceptable to the department, except that the
2 amount may not be less than the amount of deposits payable at or through the branch
3 banks.

4 (b) The department shall determine the value of the assets maintained by the
5 international bank for purposes of this section. In making its determination, the
6 department may include as assets currency, bonds, notes, debentures, drafts, bills of
7 exchange, and other evidences of indebtedness owed by persons in the United States
8 and collectible in the United States in United States currency or, with the approval of
9 the department, in currency freely convertible into United States currency, but the
10 department may not include as assets prepaid expenses, customers' liability on prepaid
11 expenses, or amounts due from other offices, branches, or wholly owned subsidiaries
12 of the international bank.

13 (c) When the department takes possession of a branch bank of an international
14 bank under AS 06.05.468 and 06.05.470, the assets of the international bank in the
15 state shall be turned over to the department and disbursed as provided in
16 AS 06.05.470 - 06.05.473.

17 Sec. 06.05.565. APPLICABILITY OF TITLE TO INTERSTATE OR
18 INTERNATIONAL BRANCH. (a) An interstate or international bank operating a
19 branch bank in the state is subject to the provisions of this title, and the regulations
20 adopted and orders issued under this title, except for the residency requirements in
21 AS 06.05.435(a).

22 (b) In meeting the reserve requirements of AS 06.05.200(a) and applicable
23 regulations, the bank shall maintain the required reserve fund in the state, except that
24 assets held to meet the requirements of AS 06.05.56J(a) may be applied to meet the
25 requirements of AS 06.05.200.

26 (c) A branch bank of an interstate or international bank operating in the state
27 is subject to examination under AS 06.01.015 and assessments under AS 06.01.010.
28 Assessments under AS 06.01.010(d) are based on the branch bank's total deposits in
29 the state.

30 (d) When the department considers it necessary to protect the public interest,
31 the department or a competent person designated by the department may examine an

1 interstate or international bank with a branch in the state. The interstate or
2 international bank shall pay an examination fee established under AS 06.01.010.

3 Sec. 06.05.570. OUT-OF-STATE BANK HOLDING COMPANIES. (a) An
4 out-of-state bank holding company may acquire and own all or a portion of the voting
5 securities or other capital stock of, or all or substantially all of the assets of, one or
6 more state banks, domestic bank holding companies, or national banks conducting a
7 banking business in the state, unless the state bank or national bank is a recently
8 formed bank. Before an out-of-state bank holding company may acquire a bank or
9 bank holding company doing business in this state, the out-of-state bank holding
10 company shall apply for and obtain a permit from the department. In considering
11 whether to issue a permit, the department shall consider the benefits to the public, the
12 preservation of a competitive banking industry, and the maintenance of a safe and
13 sound bank industry. To assure full protection of the public, the department may
14 require an out-of-state bank holding company that directly or indirectly owns, holds,
15 or controls stock in a state bank or domestic bank holding company to post a bond
16 with the department under conditions established by the department. The amount of
17 the bond may not be more than the product obtained by multiplying the amount of
18 paid-in capital and paid-in surplus of the state bank or domestic bank holding company
19 by the percentage of state bank or domestic bank holding company stock directly or
20 indirectly owned, held, or controlled by the out-of-state bank holding company.

21 (b) When the department considers it necessary, the department or a competent
22 person designated by the department may examine an out-of-state bank holding
23 company directly or indirectly owning, holding, or controlling state bank stock or
24 domestic bank holding company stock. The out-of-state bank holding company shall
25 pay an examination fee established under AS 06.01.010.

26 (c) The provisions of this section do not apply to a company that

27 (1) acquires or holds voting securities or other capital stock of a bank
28 or bank holding company for only a reasonable period of time in connection with the
29 underwriting of securities;

30 (2) is an agency of the United States or of a state, or if the majority of
31 the company is owned by the United States or a state;

1 (3) is an independent federal financial regulatory agency or a trustee
2 or agent of an independent federal financial regulatory agency; or

3 (4) under a plan of financial restructuring that is intended to prevent
4 the failure of a state bank and that is approved by the department,

5 (A) acquires or receives 25 percent or more of a class of voting
6 securities or other capital stock of the bank or bank holding company subject
7 to the plan, and owns, controls, or holds, with the power to vote, the securities
8 acquired or received in excess of 24.99 percent of that class for a period of
9 time that permits the distribution or resale of the securities or other capital
10 stock on a reasonable basis; or

11 (B) purchases or receives securities under the plan and, after the
12 purchase or receipt, owns, controls, or holds, with a power to vote, less than
13 25 percent of a class of voting securities or other capital stock of the bank or
14 bank holding company subject to the plan, if subsequently, solely through the
15 action or inaction of others, including the bank or bank holding company,
16 owns, controls, or holds, with a power to vote, 25 percent or more of a class
17 of voting securities or other capital stock of the bank or bank holding company;
18 the exemption in this subparagraph does not apply if the department
19 determines, after notice and opportunity for hearing under AS 06.01.030, that
20 the ownership, control, or holding of the securities or stock exceeding 24.99
21 percent of a class, other than under a plan to promptly dispose of the securities
22 or stock under the supervision of the department, would permit the organization
23 in any manner to control the election of a majority of the board of directors or
24 trustees, or to directly or indirectly exercise a controlling influence over the
25 management or policies of the bank or bank holding company.

26 * Sec. 88. AS 06.20.330(b) is amended to read:

27 (b) This chapter does not apply to individual loans by pawnbrokers or loan
28 shops where separate and individual loans do not exceed \$500 [\$200].

29 * Sec. 89. AS 06.25.085 is amended to read:

30 Sec. 06.25.085. APPLICATION OF GENERAL BANKING LAWS. The
31 provisions of AS 06.05 that are consistent with this chapter [AS 06.05.005 -

1 06.05.085, 06.05.090, 06.05.270, 06.05.307, 06.05.320 - 06.05.327, 06.05.440 -
2 06.05.445, 06.05.462, 06.05.465 - 06.05.510, AND 06.05.525 - 06.05.545] apply to all
3 trust companies engaged in any phase of the business of banking as that term is
4 defined by AS 06.05.540 or AS 06.25.100.

5 * Sec. 90. AS 06.45.010(b) is amended to read:

6 (b) The commissioner may by regulation define the powers of
7 [STATE-CHARTERED] credit unions formed under this chapter and adopt
8 regulations to carry out the purposes of credit unions consistent with this chapter and
9 AS 06.01.020.

10 * Sec. 91. AS 10.06.005 is amended to read:

11 Sec. 10.06.005. PURPOSES. A corporation may be organized under this
12 chapter for any lawful purpose except for the purpose [PURPOSES] of [BANKING
13 AND] insurance.

14 * Sec. 92. AS 10.06.990(13) is amended to read:

15 (13) "corporation" or "domestic corporation" means a corporation for
16 profit subject to the provisions of this chapter, but does not include a foreign
17 corporation or a [STATE OR] national bank;

18 * Sec. 93. AS 34.45.210 is amended to read:

19 Sec. 34.45.210. PROPERTY OF BUSINESS ASSOCIATIONS HELD IN
20 COURSE OF DISSOLUTION. Intangible [EXCEPT FOR INTANGIBLE
21 PROPERTY DISTRIBUTABLE UNDER AS 06.05.465, INTANGIBLE] property
22 distributable in the course of a dissolution of a business association that remains
23 unclaimed by the owner for more than one year after the date specified for final
24 distribution is presumed abandoned.

25 * Sec. 94. AS 45.50.481 is amended by adding a new subsection to read:

26 (b) The exemption in (a)(3) of this section does not apply to an act or
27 transaction between a bank and its borrowers, depositors, or other customers or
28 potential customers.

29 * Sec. 95. AS 45.50.572(b) is amended to read:

30 (b) AS 45.50.562 - 45.50.596 do not forbid actions or arrangements authorized
31 or regulated under the laws of the United States that [WHICH] exempt these actions

1 or arrangements from application of the antitrust laws of the United States or under
2 the following statutes of this state:

3 (1) AS 06.05.235 and 06.05.570;

4 (2) AS 10.15; and

5 (3) AS 31.05.110.

6 * Sec. 96. AS 06.01.010(c); AS 06.05.015, 06.05.020, 06.05.025, 06.05.030, 06.05.035,
7 06.05.040, 06.05.055, 06.05.060, 06.05.065(d), 06.05.065(e), 06.05.065(f), 06.05.070,
8 06.05.080, 06.05.085, 06.05.090(c), 06.05.130, 06.05.175(c), 06.05.185, 06.05.190, 06.05.195,
9 06.05.200(b), 06.05.200(c), 06.05.205(a), 06.05.205(e), 06.05.205(f), 06.05.206, 06.05.208,
10 06.05.210(b), 06.05.220, 06.05.232, 06.05.235(c), 06.05.235(d), 06.05.235(e), 06.05.235(f),
11 06.05.235(h), 06.05.238, 06.05.255(c), 06.05.260(b), 06.05.270(b), 06.05.275(a), 06.05.275(c),
12 06.05.280(a), 06.05.280(b), 06.05.300, 06.05.307(d), 06.05.307(e), 06.05.325, 06.05.330,
13 06.05.345(b), 06.05.345(c), 06.05.345(d), 06.05.345(e), 06.05.345(f), 06.05.345(g),
14 06.05.345(h), 06.05.345(i), 06.05.345(j), 06.05.345(k), 06.05.360, 06.05.367, 06.05.380,
15 06.05.390, 06.05.395, 06.05.430, 06.05.435(b), 06.05.435(e), 06.05.443, 06.05.465,
16 06.05.470(a), 06.05.470(d), 06.05.470(f), 06.05.470(i), 06.05.470(k), 06.05.470(l),
17 06.05.470(m), 06.05.470(n), 06.05.470(o), 06.05.470(p), 06.05.470(q), 06.05.470(r),
18 06.05.470(s), 06.05.470(t), 06.05.470(u), 06.05.470(v), 06.05.470(w), 06.05.470(x),
19 06.05.470(y), 06.05.470(z), 06.05.480, 06.05.485, 06.05.490, 06.05.495, 06.05.500, 06.05.505,
20 06.05.510, 06.05.520, 06.05.525, 06.05.530; AS 06.20.320(b); AS 06.25.060, 06.25.070,
21 06.25.320; AS 06.30; AS 06.40.160(b); AS 06.45.320, and 06.45.330 are repealed.

22 * Sec. 97. TRANSITIONAL PROVISIONS. (a) On and after the effective date of this
23 Act, a bank incorporated in the state before the effective date of this Act is subject to the
24 provisions of AS 10.06 (Alaska Corporations Code), as amended by secs. 91 and 92 of this
25 Act, as if the bank were incorporated under AS 10.06 on the effective date of this Act.

26 (b) A bank that was formed under AS 06.05 before the effective date of this Act and
27 that is in existence on the effective date of this Act shall amend its articles of incorporation
28 to comply with this Act within 50 days after the date of its next annual shareholders' meeting
29 and shall file the amended articles with the Department of Commerce and Economic
30 Development. A bank that fails to comply with this subsection is guilty of violating
31 AS 06.05, as amended by secs. 9 - 87 of this Act, and is subject to the enforcement and

1 penalty provisions of AS 06.05, as amended in this Act.

2 * Sec. 98. CHANGES IN COURT RULES. AS 06.01.025, enacted by sec. 5 of this Act,
3 changes Alaska Rule of Criminal Procedure 17(c) and Alaska Rule of Civil Procedure 45(b)
4 by making the records of the Department of Commerce and Economic Development not
5 subject to a subpoena.

6 * Sec. 99. This Act takes effect January 1, 1994.

«DATA BANKERS

Senator Tim Kelly

«FIRST NAME» «LAST NAME», «Commision»

January 29, 1993

«Institution»

«Address»

«City», «State» «Zip»

Dear «Title» «Last Name»

Enclosed, please find proposed draft legislation revising Title 6, Alaska Statutes, governing Banks and Financial Institutions. The draft was prepared by Willis Kirkpatrick, Director of Banking, Securities and Corporations, with the help of legal counsel, Jeff Bush. It is currently being reviewed as to form by legislative attorneys. Along with the proposed bill is a sectional analysis. Mr. Kirkpatrick believes a revision of existing banking codes is necessary as our laws are antiquated and may hinder greater opportunities for economic development.

As Chair of the Senate Labor and Commerce Committee I have been asked to introduce the measure as a committee bill but before doing so I want to invite your comments. In addition, Mr. Kirkpatrick has agreed to provide the accompanying regulations based on the code revisions contained in this draft which I will share with you when I receive them. The ability to review regulations before legislation is adopted is an unheard of step but one that I feel is in the best interests of Alaska's banking community.

The Senate Labor and Commerce Committee has tentatively scheduled February 23 and 25th, 1:30 p.m. Beltz Room, State Capitol, for the purpose of reviewing the proposed legislation. Your participation either by teleconference or in person would be greatly appreciated. When I have received the proposed regulations as well as a bill for introduction you will receive copies promptly. Until then, I welcome any comments or suggestions you may have. Please don't hesitate to contact myself or my assistant, Max Gifford, 465-3822. We look forward to hearing from you.

Sincerely,

TIM KELLY
State Senator

«DATA BANKERS

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February 20, 1993

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«Address»
«City», «State» «Zip»

Dear «Title» «Last Name»:

Enclosed, please find a copy of proposed draft regulations from Willis Kirkpatrick, Director of the Division of Banking, Department of Commerce and Economic Development.

These draft regulations are based on a proposed rewrite of the Alaska banking codes which I mailed to you earlier this year.

The Senate Labor & Commerce Committee will begin discussing the possibility of rewriting the banking codes on Tuesday, February 23 and Thursday, February 25, 1:30 p.m., Fahrenkamp Meeting Room. State Capitol, Juneau.

Your input is desired and welcomed. Some have already responded with comments and suggestions which I deeply appreciate. Please feel free to call me or my assistant, Max Gifford, at 465-3822. You may FAX any materials to 465-3756. Your participation at the Labor and Commerce meetings next week is encouraged.

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**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*

July 20, 1993

The Honorable Tim Kelly
Alaska State Senate
3111 C Street
Anchorage, AK 99503-3957

Dear Senator Kelly:


Re: Senate Bill 149 (as amended) Regulations

Enclosed is our final step in our recodification effort the regulations presented for public comment. We have had excellent participation from the bankers and have a high degree of comfort with the end product of the regulations.

I did not have an opportunity to thank you for your excellent work and support that you and your staff gave us in passing the banking bill. We have worked hard to stay clear of a regulatory morass trying to be proactive for the industry and still continue constituent protection.

I wish to thank you, sir, for your assistance and use of your professional legislative skills and dedication in the passage of Senate Bill 149.

Sincerely,



Willis Kirkpatrick
Director

WK/go047.wk
072093b

cc: Paul Fuhs, Commissioner
Department of Commerce and
Economic Development

Kris W. Lethin
Legislative Liaison
Governor's Office

AMENDMENTS TO 2/19/93 WORK DRAFT ON
RECODIFICATION OF ALASKA BANKING CODE

AMENDMENT 1

Add a new subsection (d) to AS 06.01.030, in section 6 of the bill, as follows:

(d) Notwithstanding any provisions of this section, the department may issue a temporary cease and desist order at the same time that notice is issued under (a)(1) of this section. However, a temporary cease and desist order issued prior to a hearing may be for the sole purpose of preserving the *status quo* and preventing damage to a financial institution pending completion of the hearing, if any. A temporary cease and desist order issued under this subsection remains in effect until a final order is issued under (b) of this section, or until otherwise dismissed by the department, but in no event shall an order issued under this subsection remain in effect for more than 60 days.

AMENDMENT 2

In proposed AS 06.05.166(a), section 17 of the bill, change "15 days" to "7 days."

AMENDMENT 3

Change proposed AS 06.05.205(d)(1) to read:

(1) accept as security for a loan the capital stock of
(A) the bank; or
(B) the bank's parent holding companies, unless the stock of the holding company is publicly traded on a nationally recognized exchange.

AMENDMENT 4

Remove proposed AS 06.05.205(h), contained in section 28 of the work draft.

AMENDMENT 5

Remove proposed AS 06.05.275(d), section 49 of the work draft.

AMENDMENT 6

Amend the definition of "banking" in AS 06.05.540(3), page 47 of the bill, to read:

(3) "banking" means soliciting, receiving, or accepting money or its equivalent on deposit, whether the deposit is made subject to check or is evidenced by a certificate of deposit, pass book, note, receipt, or other writing, but does not include deposits of a principal; "banking" may also include the negotiation for and discounting of promissory notes or other evidences of

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Co.		Co.	

CORRECTION

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SENATE LABOR AND COMMERCE COMMITTEE

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

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indebtedness, selling and buying money or its equivalent, lending money on personal or real property or other security, or other similar financial operations;

NOTE: This section may need some minor corrections.

AMENDMENT 7

Add the following paragraph to the definitions section, AS 06.05.540:

(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:

(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;

AMENDMENT 8

New section for the bill: amend AS 06.05.330(b) to read:

(b) This chapter does not apply to individual loans by pawnbrokers or loan shops where separate and individual loans do not exceed \$500 [\$200].

AMENDMENT 9

Amend proposed AS 06.01.035(d), in section 7 of the bill, to read:

(d) A director, officer, or employee of a financial institution who receives a deposit, after having been notified by regulatory authorities that the institution is insolvent and without the department's prior approval, is guilty of a class C felony.

MISCELLANEOUS TECHNICAL AMENDMENTS

A) Page 2, lines 17 and 19: Add, at the beginning of the paragraphs, "the examiner."

B) Page 19, line 18, change "company" to "person."

C) At the end of page 24 should be a period instead of a comma.

D) The citation on page 52, line 9, should be "AS 06.05.399."

SENATE BILL 149
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

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.

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(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.

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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).

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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.

Sections 91 and 92. Makes the Corporation Code applicable to banks.

Section 93. Conforming amendment.

Section 94. 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 95. Technical amendment.

Section 96. Repealers:

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

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 97. 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 98. Notes possible Court Rule change.

Section 99. Effective date 1/1/94.

Confirm.

APUC



STATE OF ALASKA
OFFICE OF THE GOVERNOR
Pouli A
Juneau, Alaska 99811

BOARDS AND COMMISSIONS RESUME

INSTRUCTIONS

A separate application is required for each position for which you apply. Complete and specific answers will aid in rapid and accurate processing of your resume. The initial determination of whether you qualify for the position specified will be based on this application.

Please type or print legibly in ink. Forward to the above address. Be sure your answers are true. A willfully false answer may result in your disqualification or removal from office if you are appointed.

Position for which I am applying:

COMMISSIONER, ALASKA PUBLIC UTILITIES COMMISSION

Please list any other board or commission on which you serve:

NONE

Name JAMES E. CARTER, SR.		Previous Name(s) listed under N/A
Mailing Address Post Office Box 212		Residence Address 36875 Chinulna Drive
City, State and Zip Code Kenai, Alaska 99611		
Home Telephone (907) 283-9272		Business or Message Telephone Same + FAX (907) 283-2518

REPORT ADDRESS AND TELEPHONE CHANGES PROMPTLY

AS 33.05.100 requires that a person appointed to a board or commission be a registered voter before the last general election:

Are you a registered voter? YES NO

Voter Registration Number (Optional) 00879186 Social Security Number (Optional) 220-18-4318

Have you ever been convicted of a misdemeanor within the past five years or a felony within the past ten years? YES NO

If "YES", explain the circumstances on a separate sheet of paper and attach it to this application. A conviction is not necessarily grounds for disqualification. The number of convictions, nature, recency and relationship to the board position applied for will be evaluated and a determination will be made after a review of all relevant facts.

A policy in the Governor's Office pertaining to boards and commissions is that a member attend at least 75% of the meetings. Are there any circumstances in either your professional or personal life which would prevent you from participating at the required authorized meetings? YES NO

If "YES", explain on a separate sheet of paper and attach to this application.

This position may require that the member travel to either urban or rural (or both) areas. Are there any circumstances which would prevent you from participating? NO

CONFLICTS OF INTEREST: Certain Boards and Commissions require full disclosure of personal financial data under AS 33.50.010. If required for the Board or Commission for which you are applying, are you willing to do so? YES NO

Could you or any member of your family be affected financially by decisions to be made by the Board or Commission for which you have applied? YES NO If "YES", explain.

JAMES CARTER'S
RESUME

Resume of
JAMES E. CARTER, SR.
Post Office Box 212
Kenai, Alaska 99611

Objective: Continue to provide a professional leadership role in government, industry, private, non-private corporations as best meets their needs commensurate with my experience and background.

Synopsis: Over forty-five years of employment and volunteer comprehensive involvement in Alaska with notable accomplishments. Example:

Federal Aviation Administration -- Selection of sites and the budgeting and allocation of millions of dollars for the construction of airports, aviation communications, and air traffic control facilities, housing, and hiring of personnel, including Alaska Natives, to provide appropriate aviation services in rural and urban Alaska. In a further complex role was Liaison/Special Assistant to Commanding General Alaskan Command/NORAD Region, assisted with strategic planning National Defense and Air Defense activities, Top Secret/Crypto Clearance.

Civil Air Patrol - Auxiliary U. S. Air Force -- Coordinated and organized an all volunteer Search and Rescue effort consisting of some 450 private and commercial aircraft owners throughout Alaska (Neighbors Helping Neighbors) thus saving the U. S. Government millions of dollars in the allocation of aircraft and personnel to Alaska. Trained selected youth in Aerospace/Aviation matters. History tells us these efforts were successful gaining considerable National and State recognition.

Kenai Peninsula Borough -- Temporary Special Assistant to Mayor during change of Administration, major objective: to determine if there was a satisfactory management organization in place; elimination, change in personnel; amend or develop administrative and policy statements; restructure some management activities and personnel.

Kenai Peninsula Economic Development District, Inc. (EDD) -- Successful in obtaining approval from Federal/State/Borough in organizing the EDD, only such organization in Alaska, Board of Directors 51% public, 49% private, objective to obtain federal assistance for public projects, creation of new jobs and/or job retention focusing on developing new or strengthening existing businesses, promote through varied means the development of undeveloped and underutilized resources in the Borough and State, bringing foreign interest and tourism to the Peninsula; the State ARDOR program was patterned in part after the EDD mandates.

Cook Inlet Regional Citizens Advisory Council, Inc. (CIRCAC) -- Immediate past President and Principal in forming CIRCAC as required under Section 5002, Title V, Oil Pollution Act of 1990 - Active in bringing local public and special interest citizen involvement where crude oil tankers operate and offshore and onshore oil facilities are located in Cook Inlet, in reviewing contingency plans, make recommendations as pertains to spill prevention, safety, and response and environmental issues, promoting a forum of obtaining consensus between Industry and citizens rather than confrontation, obtain in an atmosphere of cooperation appropriate funding of CIRCAC from Industry as provided for in the law - definitely some of the most challenging work.

Prime activities required parzial contacts and meetings to include Congressional Delegation, U. S. Coast Guard, U. S. Department of Transportation, Alaska State Agencies, Alaska State Legislatures, U. S. Economic Development Administration, Local Borough and various municipal governments, U. S. Air Force and others.

Have always strived to be informed, to be professional, to have a positive rapport at all levels of contact, to provide responsible management including personnel supervision, budgeting and the like.

Achievements:

Bronze Bust (Wall), Hall of Honor, U. S. Air Force Museum, Wright Patterson Air Force Base, Ohio.
Air Force Secretary-Civilian Exceptional Service Award
State of Alaska-Alaska National Guard Distinguished Service Award
USAF-CAP-USAF Distinguished Service Award (2)
Anchorage-Anchorage Chamber of Commerce Gold Pan Award
Highlighted in "Arctic War Birds," a book written by Steve Mills
Chosen U. S. Department of Transportation Retiree of the year - 1973

Other:

FAA Certificate of Achievement - Administrator - 1977
Letter of commendation from the late Senator E. L. Bartlett - 1966
(2) Joint Resolutions from Alaska State Legislature for Community Service - 1964, 1973
Outstanding Wing Commander for Year 1970
CAP Exceptional Service Award - 1955
State of Alaska Certificate of Commendation - Governor Egan - 1973
Certificate of Commendation from USAF CINCAL - 1973

Organizations:

Present: President, Kenai Peninsula Caucus

Past: Chairman, 1951 United Way Fund Drive - Kenai Peninsula
President, Cook Inlet Regional Citizens Advisory Council (CIRCAC)
President, Kenai Chamber of Commerce
State Commander, Civil Air Patrol-USAF, Alaska (14 years - Rank of Colonel)
Director, Alaska State Chamber of Commerce
Member, City of Kenai Resource Development Commission
Member, City of Anchorage Parking Commission

Other: Elks
CE's
Pioneers of Alaska
Air Force Association
National Association of Retired Federal Employees

Employment:

Federal Aviation Administration - 1948-1978 (32 years)

Flight Service 1948-1953

Air Traffic Control 1953-1963

Chief, Military Liaison to Alaskan Command/NORAD 1963-1971

Chief, Plans, Programs, Evaluations 1971-1973

Chief, Air Space, Procedures 1973 - 1978

(Retired on early out program - Grade GS-15)

Semi-Retired 1978-1987

Management family business activities

Kenai Peninsula Borough - 1987

Special Assistant to the Mayor

Kenai Peninsula Borough Economic Development District, Inc. - 1988-1991

Executive Director

Semi-Retired - 1991-Present

References:

Mr. John Williams, Mayor
City of Kenai
210 Fidalgo Street
Kenai, Alaska 99611

Mr. Don Gilman, Mayor
Kenai Peninsula Borough
144 North Binkley
Soldotna, Alaska 99669

Mr. Jack Brown, Executive Director
People Count, Inc.
Box 310
Kenai, Alaska 99611

FEDERAL AVIATION ADMINISTRATION (FAA)

MORE DEFINITIVE EXPLANATION OF BUSINESS ADMINISTRATION EXPERIENCE

It was in the capacity of Chief, Plans, Programs, Evaluations and Chief, Air Space, Procedures of the FAA Alaskan Region that, in my opinion, qualifies me to apply for the "five years experience in Business Administration in lieu of degree" for the October 1992 potential vacancy on the APUC Commission.

The FAA management positions afforded me the opportunity to administer a wide range of the Agency's business, some of which were:

A. Developed the FAA Alaska Region, Air Traffic, annual budget submission for staffing, both administrative and operational; for a full-range of transportation needs from airport facilities requirements and aircraft needs for air traffic system checks to that of forecasting costs for personnel travel; for equipment requirements from long line to wireless communication systems and sophisticated radar computers to automated weather monitors; and other resources required for the FAA to provide a safe and efficient operation in Alaska.

B. Managed a team of technical personnel; plan, organize, direct, control and coordinate the work of the team engaged in executing various programs. On call assignments could consist of updating long-range goals/planning, revising personnel and equipment needs due to a reduced fiscal note or determining the need to close a facility, re-assignment of personnel and the like.

C. Managed an evaluation process designed to provide a complete and updated analysis of the quality of services provided to the public from the many FAA facilities in the State. A team of evaluators travelled the Region on a continuous basis.

D. Managed an ongoing Public Relations program throughout the State with major industry users as well as individual users of FAA services. Objective was to seek input as to how we might better serve them. Their influence and input were always most useful in making system improvements.

A. List any professional licenses, certifications, or registrations and dates obtained that may be used as qualifying criteria:

PLEASE SEE RESUME ATTACHED

PLEASE SEE RESUME ATTACHED

C. List any community service positions, municipal government positions, race positions held, and list any awards received. These include both compensated and uncompensated positions (for example, president of a service organization or a mayor). Also include length of time served in the positions.

PLEASE SEE RESUME ATTACHED

D. Employment work history: paid, unpaid or voluntary: (Use additional paper if necessary)

PLEASE SEE RESUME ATTACHED

The Office of the Governor and the State of Alaska have an Affirmative Action Equal Employment Opportunity Program. To assist in this program, you are asked to voluntarily answer the following questions to provide the information necessary for reporting purposes. Under State and Federal law, the information you provide will not be used to illegally discriminate against you.

SEX Male Female
ETHNIC BACKGROUND White Black Hispanic Alaska Native Asian or Pacific Islander American Indian

Date of Birth: 11-17-27 Military Service (if applicable, give dates): 1943-1946, United States Coast Guard

CERTIFICATION: I swear that the information I have entered on this form is true to the best of my knowledge. I understand that if I deliberately conceal or enter false information on the form my application may be rejected, I may be removed from the list of eligible candidates or I may be removed from the position. I agree that the Office of the Governor may contact present or former employers or other persons who know me to obtain additional information about my skills and abilities. I understand that the information on this application is public information and may be released through a legal request for such information.

Signature in Ink: *James E. Carter, Jr.* Date: 9-23-92

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

- 1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1004
PHONE: (907) 278-3550
FAX: (907) 278-3897
- KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4079
PHONE: (907) 452-1588
FAX: (907) 458-1317
- P.O. BOX K— STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 486-3200
FAX: (907) 483-5285

January 4, 1993

James E. Carter, Sr.
Commissioner of APUC
1016 W. 6th Ave., Ste. 400
Anchorage, AK 99501-1963

CONFIDENTIAL

Dear Commissioner Carter:

You have asked the attorney general's office whether a conflict of interest exists as a result of your recent appointment to the Alaska Public Utilities Commission ("APUC") while your spouse serves on the board of and is compensated by the Homer Electric Association, Inc. ("HEA") and Alaska Electric Generation and Transmission Cooperative, Inc. ("AEG&T"). The APUC has jurisdiction over both the HEA and AEG&T. Apparently, many matters that concern HEA and AEG&T have broader implications for Chugach Electric Association, Inc. and Matanuska Electric Association, Inc. and might affect Anchorage Municipal Light and Power and Golden Valley Electric Association, Inc.

I consulted Assistant Attorney General Elizabeth Hickerson, who handles APUC matters for the state. We have decided that your service on the APUC is not in itself a violation of AS 39.52, the Alaska Executive Branch Ethics Act, but that you should abstain from voting and participating in cases in which HEA or AEG&T are parties. You also should be careful not to disclose information gained in the course of your term on the APUC to your spouse unless the information has also been disseminated to the public. AS 39.52.140(a).

You may have to abstain from participating in other matters that might affect HEA or AEG&T, unless the potential effects are too insignificant or conjectural to create a conflict. See AS 39.52.110. The chair of your commission decides whether a conflict may exist. You are required to disclose all potential violations on the public record and in writing to the chair. If you object to a ruling by the chair, you may request the members to vote on whether your participation in a matter will constitute a violation. (You are not allowed to participate in that vote.) AS 39.52.220(a).

James E. Carter, Sr.
Commissioner of APUC

January 4, 1993

Page 2

I hope this letter answers your questions. If you have further questions, please let me know.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERAL

By: 
Tina Kobayashi
Assistant Attorney General

TK:tg

cc: Elizabeth Hickerson

EXCERPT FROM SENATE LABOR AND COMMERCE
COMMITTEE MEETING
March 30, 1993
TAPE 1, SIDE 1
JIM CARTER CONFIRMATION

JIM CARTER

Good afternoon.

SENATOR KELLY

Mr. Carter, we are in the process of confirming your appointment to the Alaska Public Utilities Commission. Representative Phillips did want to say a few words. If you would, please, Gail.

SENATOR PHILLIPS

I would just like to give a personal endorsement for this appointment. I have known Jim Carter for many, many years. I've worked with him in many different organizations and activities on the Kenai Peninsula. He is very knowledgeable about business. He is very knowledgeable about utilities and energy issues and I would make a wholehearted report of support for his appointment.

SENATOR KELLY

Mr. Carter, do you want to make a statement as to why you believe you should be confirmed?

MR. CARTER

Thank you, Mr. Chairman, I think that after being in Alaska for about 47 years and being involved in various activities as my resume' shows. I was 32 years with the Federal Aviation Administration in Anchorage occupying various positions on up through executive management. I think I have had exposure to many state issues. I've also served as the wing commander of a civil air patrol for many years in settling up to rescue in the state back in the late '50's and the early '60's. My resume' shows I also served as the president of the first RCAC, the Cook Inlet RCAC, President of that..and up through last year. I have also had the pleasure of serving as president of the Kenai Peninsula caucus which is made up of the Chambers of Commerce of the Peninsula.

SENATOR KELLY

O.K., Mr. Carter, I don't imagine with that resume' you'd be willing to serve on the legislative ethics committee instead

of the public utilities?...

MR. CARTER

I thought you already had that filled.

SENATOR LINCOLN

Mr. Carter, I have several questions I would like to ask if you don't mind. One is in looking at your resume' I don't see what your educational background is. Could you enlighten us please.

MR. CARTER

Well, I'm a 12th grader, Senator.

SENATOR LINCOLN

Mr. Carter, were you made aware that under a provision of the qualification of members that the seat you're seeking to fill has a requirement which is listed as, and I quote from that, "one member shall be a graduate of an accredited university with a major in finance, accounting, or business administration?"

MR. CARTER

Yes, I am and I believe it goes on to further explain that if you have 5 years of experience that it would substitute for that qualification.

SENATOR LINCOLN

What are your 5 years of experience that you're substituting?

MR. CARTER

I have 32 years with the Federal Aviation Administration. I occupied various management and executive positions. Those that put together the budget and financing for the region, for the traffic control..finance and budgeting for the region. In addition to supervising many people. I don't know if you have my resume' there or not...

SENATOR LINCOLN

Yes, I do.

MR. CARTER

There's a one page in itself that explains the business

administration experience.

SENATOR LINCOLN

Mr. Carter, I'm going to have to look up that provision, again that's under the law, because I wasn't aware that it could be substituted.

What is it in your background that you feel qualifies you for a position on the APUC.

MR. CARTER

In the background - the business administration experience. I believe I fit, as you know, there are 5 commissioners..and 2 of them are consumer related employments and one is an attorney, one is an engineer, and one is a business administration. So I represent that portion of the Commission requirements set out by statute...The business administration background.

SENATOR LINCOLN

Could you tell me what you know about the power cost equalization program and the role APUC plays in that program?

MR. CARTER

I understand..I've been there a few months, but let me say that we have presented to us twice monthly adjustments on the PCE that comes before us. Of course, the aide does the administration of the finance and we do the record keeping of determining whether the various communities are meeting their PCE requirement..if the power equalization is too low or too high..and they come in to us for adjustments of that PCE. Ours is a record keeping/administration part of the PCE program.

SENATOR LINCOLN

Do you support the PCE program?

MR. CARTER

Yes, I do.

SENATOR LINCOLN

I notice that in your resume' that you're quoted in there...in the synopsis you have a "selection of sights, and budgeting and allocation of millions of dollars for construction of airports, aviation, communications, air traffic control

facilities, housing, and hiring of personnel, including Alaska natives"...could you tell me why you used that particular wording in your resume'?

MR. CARTER
Why I used "Alaska natives?"

SENATOR LINCOLN

Right and hiring of personnel including Alaska natives..

MR. CARTER

Well, the reason I used that in there is because there has always been a concern of government agencies in hiring of native people. And I think the FAA has always had a very good record of doing that and I chose to highlight that for that reason..and I think in the air traffic control business we have extended the opportunity for the Alaska native folks to receive that training in Oklahoma City and to become air traffic controllers and to advance in the FAA overall.

SENATOR LINCOLN

I have in the packet a letter that is dated February 16th from Glenn Schrader to the Chair of LNC regarding your wife's position as a member of the Board of Directors of the Homer Electric Association. Do you see this as any potential conflict and, if so, how do envision handling it?

MR. CARTER

Well, I don't see it as a conflict. I believe history tells us that those appointed to APUC most everyone has gone to the Attorney General for interpretation. I know just talking to Susan Knowles when her husband was mayor of Anchorage she had to abstain from participating in certain dockets and so I also asked the Attorney General for an interpretation and they have advised me...

SENATOR KELLY

Mr. Carter, we do have a copy of the Attorney General's opinion here in front of us, so we know what he tells you..that there are certain things you can't do, and you have to be careful of, but, in fact, you don't violate the executive branch ethics act by serving on the APUC.

MR. CARTER

That's correct.

SENATOR LINCOLN

Mr. Carter, I'm reading from the section of the statutes here now that talk about the actual experience equivalent to a degree and it reads, "actual experience for a period of 5 years and in the practice of law or in the field of engineering, or in the field of finance, business administration, or accounting is equivalent to a degree." Which portion of that do you see that you fall under?

MR. CARTER

Business administration.

SENATOR LINCOLN

That you have had the experience for 5 years in the practice of business administration that would be the equivalent to a degree?

MR. CARTER

Yes, Mam.

SENATOR LINCOLN

One final question I would have is if you could tell me what you feel your main duties and responsibilities would be as a member of the Alaska Public Utilities Commission.

MR. CARTER

Actually, it's pretty well set out in statute just what we're to do and not to do..and I think there is also some room for collective interpretation. As you know, we are dealing with many areas in the utility business, the pipeline business, water, sewer..Everyone that does on APUC that I've talked to and those that aren't on there now have all gone through a tremendous learning process. I'm certainly no exception to that. I think that with my executive background and as I proceed to understand more that I will be able to make some very excellent decisions on the APUC.

SENATOR LINCOLN

Thank you, Mr. Carter, for answering my questions.

SENATOR SALO

In the Attorney General's opinion regarding the potential conflict of interest and which votes from which you should abstain, I thought the list was potentially fairly broad. I

note on here that your term on the APUC would be until October of 1998. Can you tell what your wife's term is on the Homer Electric Board.

MR. CARTER

Sue's been on HEA for about 14 years and she will be finishing her last term now. I think she has a little under or over a year to go..and then she will not be seeking reelection to HEA.

SENATOR KELLY

Thank you, Mr. Carter....

STATE OF ALASKA

ALASKA PUBLIC UTILITIES COMMISSION
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

WALTER J. HICKEL, GOVERNOR

1016 WEST 6TH AVENUE
SUITE 400
ANCHORAGE, ALASKA 99501-1863
PHONE: (907) 276-6222
FAX: (907) 276-0160M E M O R A N D U M

TO: Don Schroer, Chairman

FROM: James E. Carter, Sr.

Subject: Conflict of Interest

Date: January 7, 1993

I have received a letter dated January 4, 1993 from the Attorney General's office in response to my potential Conflict of Interest inquiry.

In-essence, the Attorney General has implied that I should abstain from voting and participating in cases in which Homer Electric Association, Inc. ("HEA") and Alaska Electric Generation and Transmission Cooperative, Inc. ("AEG&T") are parties. The reason for the abstention is due to the fact that my spouse, Sue Carter, at the present time serves on the Board of Directors of HEA and AEG&T.

The Attorney General's letter goes on to state that apparently many matters that concern HEA and AEG&T have broader implications for Chugach Electric Association, Inc. and Matanuska Electric Association, Inc. and might affect Anchorage Municipal Light and Power and Golden Valley Electric Association, Inc. as well. In these matters the letter states that the Chairman of the Commission will decide if a conflict may exist. If the potential effects are too insignificant or conjectural to create a conflict then we are guided by AS 39.52.110.

Railbelt electrical entities while significant are but a small number of the whole and thus I do not feel my activities hampered due to the above noted restrictions.

JAMES CARTER'S MEMO ON
POTENTIAL CONFLICT OF INTEREST



Health Insurance Association of America

March 24, 1993

The Honorable Tim Kelly
Chairman, Senate Labor and Commerce Committee
Alaska State Senate
Juneau, Alaska 99811

Re: SB ~~40~~ 173

Dear Senator Kelly:

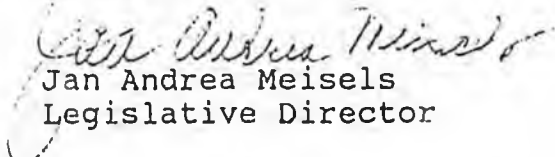
Thank you for prmitting me testify at length on the small employer health insurance reforms contained in SB ~~173~~. As I mentioned during the hearing, it is not possible to determine what the premium will be for the standard or basic plans in Alaska, until the Health Benefits Committee, as established by SB ~~40~~ 173, recommends the benefits to the Alaska Small Employer Reinsurance Association.

However, to give you a frame of reference as to what other states' standard and basic plans include, and what one insurance carrier charges in another state, I asked an HIAA member company to price a specific example: a five employee group, comprised of 3 males and two females all age 40 with employee coverage only (no dependents) for the average geographic rate in Florida. The premiums for this example were \$84/month/employee for the basic plan and \$145/month/employee for the standard plan.

These rates are not be reflective for Alaska as the rates will vary by: the type of benefits determined by the Alaska Health Benefits Committee and Alaska Reinsurance Association, by carrier, by age, gender, family composition, industry, the geographic region within the state and for the difference in health care provider costs. Each carrier will set its own premium rates for the benefits determined for the basic and standard plans, therefore, any given carrier may be above or below other carrier's rates for the same type of coverage.

Attached is a copy of the Florida basic and standard plans for both indemnity carriers and HMOs. If I can be of any additional assistance in answering your or the committee members' questions about the small employer health market reforms, please do not hesitate to contact me.

Sincerely,


Jan Andrea Meisels
Legislative Director

JAM/bhs

221 ~~at~~ ~~achment~~ Street Suite 220 Woodland Hills, CA 91367-6324 818/704-9274 Telecopier 818/704-1053

FLORIDA SMALL GROUP INDEMNITY DESIGNS

	<u>STANDARD PLAN</u>	<u>BASIC PLAN</u>
Maternity Services	Same as Any Other Illness, (80/20)	Same as Any Other Illness, (60/40)
Infertility and Sterilization Services	Not Covered	Not Covered
Prescription Drugs	80/20 Coinsurance	Not Covered
Maximum Copay Out-of-Pocket Limit	\$2,000 Per Person With a Two Person Limit	\$4,800 Per Person With a Two Person Limit
Annual Deductible	\$500 Per Person	\$250 Per Person
Maximum Annual Limit	3 Person Limit	3 Person Limit
Annual Calendar Year Maximum Benefit	N/A	\$50,000
Lifetime Policy Maximum	\$1,000,000	N/A

FLORIDA SMALL GROUP INDEMNITY DESIGNS

	<u>STANDARD PLAN</u>	<u>BASIC PLAN</u>
Physician Services		
-Primary Care Physician Office Visits	80/20 Coinsurance	60/40 Coinsurance - However, first \$150 in physician office services, (including lab tests) will be paid without coinsurance or deductible application.
-Specialist Consultation, Diagnosis, and Treatment		
-Other Outpatient Nonsurgical Physician Care		
-Periodic Physical Exams (Maximum 1/CY)		
-Surgical Care in Physician's Office (Carriers may limit non-surgical back treatments to ten visits)		
Hospital Services		
-Emergency Care through Primary Care Physician's Office	80/20 Coinsurance	60/40 Coinsurance
-Emergency Care Services through Emergency Room Hospital ER visit (waived if admitted or if other safe and adequate care is not available)	\$25 Copay Per Visit	\$25 Copay Per Visit
Ancillary Services		
-Home Health Care	80/20 Coinsurance	Not Covered
-Ambulance	80/20 Coinsurance	60/40 Coinsurance
-Skilled Nursing Facility (Maximum 100 days lifetime)	80/20 Coinsurance	Not Covered
-Durable Medical Equipment	80/20 Coinsurance	60/40 Coinsurance - (These services may be included in case management)
Mental and Nervous Disorders		
-Inpatient Annual Maximum Inpatient Benefit	80/20 Coinsurance \$5,000	60/40 Coinsurance \$500
-Outpatient Visit Maximum Number of Outpatient Visits	80/20 Coinsurance With a Maximum Allowable Charge of \$50 20 Visits/CY	60/40 Coinsurance With a Maximum Charge of \$50 5 Visits/CY
-Lifetime Maximum	\$20,000	
Alcoholism and Chemical Dependency		
-Inpatient Detoxification (as medically appropriate)	Not Covered	Not Covered
-Outpatient Visits	Not Covered	Not Covered

FLORIDA SMALL GROUP HMO PLAN DESIGNS

	<u>STANDARD PLAN</u>	<u>BASIC PLAN</u>
Maternity Services	Same as Any Other Illness	Same as Any Other Illness
Infertility and Sterilization Services	Not Covered	Not Covered
Prescription Drugs	\$ 7 Copay for Generic Drugs/ \$14 Copay for Brand Name Drugs	Not Covered
Maximum Copay Out-of-Pocket Limit	200% of the Total Annual Premium	200% of the Total Annual Premium

FLORIDA SMALL GROUP HMO PLAN DESIGNS

	<u>STANDARD PLAN</u>	<u>BASIC PLAN</u>
Physician Services		
<i>(All must be provided by or authorized by Primary Care Physician)</i>		
-Primary Care Physician Office Visits	\$ 10 Copay Per Visit	\$ 10 Copay Per Visit
-Specialist Consultation, Diagnosis, and Treatment	\$ 10 Copay Per Visit	\$ 20 Copay Per Visit
-Other Outpatient Nonsurgical Physician Care	\$ 10 Copay Per Visit	\$ 20 Copay Per Visit
-Periodic Physical Exams (Maximum 1/CY)	No Charge	No Charge
-Surgical Care in Physician's Office	\$ 25 Copay Per Procedure	\$ 50 Copay Per Procedure
<i>(Carriers may limit non-surgical back treatments to ten visits)</i>		
Hospital Services		
-Inpatient Care at Participating Hospitals <i>(including all general services and semi-private room)</i>	\$100 Per Day, days 1-5 Balance Paid at 100%	\$250 Per Day, days 1-5 Balance Paid at 100%
-Outpatient Surgical Care	\$ 60 Copay Per Procedure Covered in Full	\$100 Copay Per Procedure Covered in Full
-Outpatient Non-Surgical Care (including x-ray and lab)	Covered in Full	Covered in Full
-Preadmission Testing		
Emergency Services		
-Emergency Care through Primary Care Physician's Office	\$ 10 Copay Per Visit	\$ 10 Copay Per Visit
-Emergency Care Services through Emergency Room In Service Area Hospital ER Visit (waived if admitted)	\$ 25 Copay Per Visit	\$ 50 Copay Per Visit
Out of Service Area Hospital ER Visit	\$ 50 Copay Per Visit	\$100 Copay Per Visit
Ancillary Services		
-Home Health Care	\$ 10 Copay Per Visit	Not Covered
-Ambulance	\$ 25 Copay	\$ 25 Copay
-Skilled Nursing Facility (Maximum 100 days lifetime)	\$ 20 Copay Per Day	Not Covered
-Durable Medical Equipment	No Charge	No Charge
Mental and Nervous Disorders		
-Inpatient (Maximum 10 days/CY) Maximum Inpatient Days Covered	\$100 Per Day 10 Days/CY	\$250 Per Day 3 Days/CY
-Outpatient Visit Maximum Number of Outpatient Visits	\$ 10 Copay Per Visit 20 Visits/CY	\$ 20 Copay Per Visit 5 Visits/CY
Alcoholism and Chemical Dependency		
-Inpatient Detoxification (as medically appropriate)	Not Covered	Not Covered
-Outpatient Visits	Not Covered	Not Covered

Post-It™ brand fax transmittal memo 7671 # of pages ▶ 2

To	From
Co.	Co.
Dept.	Phone #
Fax # 465-3756	Fax #

P.O. Box 1264
 Kenai, AK 99611
 February 16, 1993

Senator Tim Kelly, Chair
 Labor & Commerce Committee
 Room 101, Capitol
 Juneau, AK 99801-1182

FAX # 465-3756

Dear Senator Kelly,

RE: confirmation of the Governor's Appointment of James Carter to the Alaska Public Utilities Commission

We believe there is a potential Conflict of Interest regarding this appointment and that conflict needs to be resolved before you confirm Mr. Carter to the Alaska Public Utilities Commission.

Mrs. James (Sue) Carter is a member of the Board of Directors of the Homer Electric Association, Inc. Since APUC is the regulator for the utilities in this State, including electrical utilities, we feel it would be improper for Mr. Carter to be involved in regulatory decisions for a utility of which Mrs. Carter is a Board Member.

The Carter's answer is that Mr. Carter would not vote on issues involving Homer Electric Association, Inc. However, all of the Railbelt Utilities (electric) from Homer to, and including, Fairbanks are tied together in various agreements and contracts. Therefore we feel Mr. Carter would be restricted from involvement in matters concerning Golden Valley Electric, Chugach Electric, Matanuska Electric, Alaska Electrical Generation & Transmission Cooperative, Inc., Anchorage Municipal Power, Seward Electric, Fairbanks Municipal Utilities and Homer Electric Association. We believe Mr. Carter's effectiveness on the Alaska Public Utilities Commission would be severely limited.

We do not have a problem with Mr. Carter's appointment to the Alaska Public Utilities Commission if Mrs. Carter were to resign from the Homer Electric Association Board of Directors; lacking that we feel Mr. Carter should decline the Appointment to the Alaska Public Utilities Commission. There are just too many areas for Conflict of Interest to arise and we believe Homer Electric Association Ltd. members (consumers) will suffer as a result. We question how effective Mr. Carter would be as a Alaska Public Utilities Commission member if he were precluded from any involvement in the oversight needed on the electrical utilities of the Railbelt.

GLENN SCHRADER'S
 LETTER OPPOSING CONFIRMATION

We have been in contact with the Cmsbudsmans Office and they referred us to your Committees. Therefor we direct our concerns over this appointment to the Labor & Commerce Committee, to you as Chair and to your Committee members.

Thank you for addressing our concerns.

Sincerely

Glenn D. Schrader

Glenn D. Schrader

Telephone: 283-4359

<i>Dick N. Dykstra Sr.</i>	<i>Box 7168 Nikiski Alaska</i>	<i>Phone 776-8868</i>
<i>Kenais A. [unclear]</i>	<i>PO Box 4164 Soldotna AK</i>	<i>262-7348</i>
<i>Jennifer McQuady</i>	<i>HC-01 Box 160-3 Kenai</i>	<i>283-3993</i>
<i>Keith [unclear]</i>	<i>HC01 Box 1430 Kenai</i>	<i>796-8357</i>
<i>George Larsen</i>	<i>P.O. Box 8202 N. Kenai</i>	<i>776-5570</i>
<i>John W. Coan</i>	<i>PO Box 3348 KENAI,</i>	<i>283 9545</i>
<i>[unclear]</i>	<i>Box 3831 Soldotna AK</i>	<i>283-7571</i>
<i>Wesley Hampton</i>	<i>11823 KENAI #16 KENAI</i>	<i>283-4500</i>
<i>[unclear]</i>	<i>HC01 Box Kenai, AK 99601</i>	<i>776-8209</i>
<i>[unclear]</i>	<i>3800 E. Huffman Kenai 99516</i>	<i>345-2918</i>
<i>Glenn Schrader</i>	<i>P.O. Box 1264 Kenai</i>	<i>283-4359</i>

STATE OF ALASKA

ALASKA PUBLIC UTILITIES COMMISSION
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

WALTER J. HICKEL, GOVERNOR

1016 WEST 6TH AVENUE
SUITE 400
ANCHORAGE, ALASKA 99501
PHONE: (907) 278-6222

March 2, 1993

The Honorable Bill Hudson
Representative
Chairman, Labor and Commerce Committee
Room 17, State Capitol
Juneau, Alaska 99801-1182

Dear Representative Hudson:

I appreciate you sharing with me the letter of February 16, 1993, from Glenn D. Schrader of Kenai pertaining to my appointment as Commissioner, Alaska Public Utilities Commission.

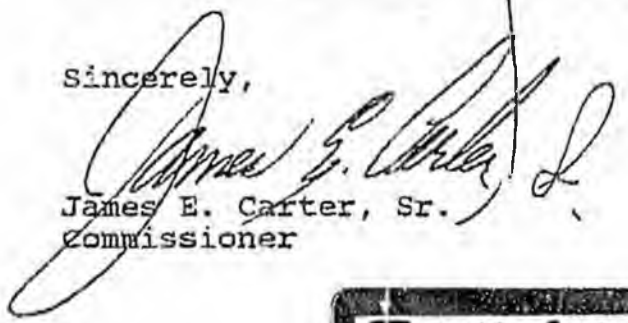
I had some of the same concerns as those expressed by Mr. Schrader when accepting the appointment. As some of the other Commissioners had done where a potential conflict existed, I too contacted the Attorney General's office for an opinion as to what was proper or improper as fit my situation. My letter of January 7, 1993, (copy herewith) to the Chairman of the Commission incorporates the Attorney General's suggestion to me.

Please let me assure you, that while for the time being I will be restricted from participating in certain railbelt electrical utility matters, that restriction does not effect my participation in all of the other railbelt issues, ie., telephone, gas, cable, cellular, sanitation, pipeline, etc., that come before the Commission. Nor, does it effect in anyway my participation in all other statewide matters, and they are numerous, that the Commission must deal with.

As for my wife, she had long ago decided that on the expiration of this term and after 14 years she would not seek re-election to the Homer Electric Board of Directors. She was the first woman on the Board and as most will tell you if not all but a few who may have an ax to grind, she has served with devotion, honesty, dignity and always professionally.

Thanks for allowing me to respond.

Sincerely,



James E. Carter, Sr.
Commissioner

JAMES CARTER'S RESPONSE
TO GLENN SCHRADER'S LETTER

Confirm

P. FUHS

DCEED

Alaska State Legislature

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



SENATE LABOR AND COMMERCE COMMITTEE

WHILE IN JUNEAU
SENATE LABOR & COMMERCE
STATE CAPITOL
JUNEAU, ALASKA 99801-1182
(907) 465-3819

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

MEMORANDUM

TO: Senator Steve Rieger, Vice Chair
Senator Drue Pearce
Senator Judy Salo
Senator Georgianna Lincoln

FROM: Senator Tim Kelly, Chair *TK*

DATE: January 25, 1993

RE: Confirmation of Acting Commerce & Economic Development
Commissioner Paul Fuhs

I have attached Mr. Fuhs resume and other pertinent information for your reference.

Most of us have known Mr. Fuhs for a long time and are familiar with his service to Alaska in various capacities. Accordingly, it is not my intention to utilize committee time holding a confirmation hearing unless I am specifically requested to do so by a member of the committee, or unless the committee receives significant public complaints about his performance.

Thank you.

Alaska State Legislature

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



SENATE LABOR AND COMMERCE COMMITTEE

WHILE IN JUNEAU
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ANCHORAGE, ALASKA 99503
(907) 561-7612

February 2, 1993

The Honorable Rick Hialford
President of the Senate
State Capitol
Juneau, Alaska 99801-1182

Dear Mr. President:

In accordance with AS 39.05.080, the Senate Labor & Commerce Committee reviewed the qualifications of the following and recommends the appointment be forwarded to a joint session for consideration:

Department of Commerce & Economic Development
Commissioner Paul Fuhs

Respectfully submitted,

Recommendation

Confirm
Tim Kelly

Senator, Chair

Recommendation

Drue Pearce

Senator

Judith E. Salo

Senator

Steve Rieger

Senator

January 18, 1992

Senator Tim Kelly
Chairman, Senate Labor and Commerce

Dear Senator Kelly,

Here is an updated version of my resume which is more correct than the old one you received from the Governor's office. Here are the main changes.

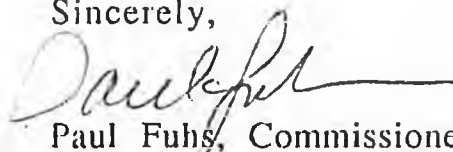
Although I served as the Executive Director of the Bering Sea Marine Institute this project was never completed so I feel it is a bit misleading to list it.

Also, my certification as an EMT is not current so I have deleted it.

In addition, I have a private interest which should be declared although it is not a conflict with the Commissioner's office. The business is a followup to my previous work in oil spill prevention using explosives. The device I hold a share in the patent of would be carried on-board tankers and prevent oil from spilling by containing it around the tanker. I work on this business only during my off work hours.

This update of my resume is now correct.

Sincerely,



Paul Fuhs, Commissioner
Department of Commerce and Economic Development

RESUME

Paul Fuhs

10652 Porter Lane
Juneau, AK 99801
(907) 790-2015 (home)
(907) 465-2500 (office)
(907) 465-5442 (fax)

Date of birth: March 27, 1949
Marital Status: Married, 2 children
Health: Excellent

EMPLOYMENT HISTORY

Acting Commissioner, Department of Commerce and Economic Development, July 1992 to present, directing Alaska's business regulatory, economic development, and international trade programs.

Senior Legislative Liaison, Office of the Governor, January 1992 to July 1992, Chief Lobbyist for Governor Hickel during the 17th Alaska Legislative Session.

State of Alaska, Director of Economic Development, March 1991 to January 1992, coordinating Alaska's economic diversification program.

OTORS, Inc. 1992 to present, Secretary/Treasurer of corporation developing and marketing an on-board tanker oil spill response system.

Aleutian Explosives, 1983-1991, Owner, commercial diving, underwater demolitions and construction, rock blasting, disposal of hazardous materials, explosives consulting.

International Longshoremen's and Warehousemen's Union, 1982-Feb 1991, container crane operator, gang boss, tractor/trailer driver.

Single Side Band, 1985-1991, synthesizer programmer and player, guitarist, vocals, electronic effects, recording for 5 piece dance band.

ILWU, 1980-1983, Union organizer, successfully organized longshoremen, represented workers before NLRB, OSHA, negotiated contracts, etc.

Laborer's Local 341, 1971-1980, Crane operator, logger, powderman, and other duties associated with large building and pipeline construction.

Youth Alternative Services Network, 1976-1977, Information systems specialist, newspaper editor.

Commercial Fisherman, 1973-1974, gillnet fishing in Bristol Bay.

United States Army, 1969-1971, Military Intelligence Agent, North Vietnamese linguist, honorable discharge.

Standard Oil of California, 1967 to 1969, tanker off-loading, tank farm gauging, watchman, etc in Anchorage.

Dr. Lee F. McKinley, 1965 to 1967, dental assistant.

ELECTED POSITIONS, COMMISSIONS AND ORGANIZATIONS:

The Northern Forum, 1992 to present, Founding Secretary Treasurer of international organization to promote economic development, technology exchange, promotion of tourism, etc.

Juneau Economic Development Council, 1993 to present, board member of local council to formulate economic development strategy for Juneau.

City of Unalaska/Dutch Harbor, Mayor, 1985-Feb. 1991.

Ports Alaska, founding Co-Chairman, 1988-1990, coalition of Alaskan ports organized for marketing, port personnel training and port development.

Southwest Alaska Municipal Conference, founding President, 1986-1988, coalition of Southwest Alaska communities focused on fisheries development issues.

Alaska Mariculture Association, founding President, 1986-1990, association organized to promote favorable legislation and provide technical assistance to the Alaska mariculture industry.

Foundation for Social Innovation, Alaska, Director of Business Relations, 1988 to 1992, founding Board Member, initiating and coordinating business relations between the USSR and Alaska, including cultural and educational programs.

Unalaskans Against Sexual Assault and Family Violence, Vice President, founding board member, 1984-1988, organization provides support for victims of abuse and educates for prevention of abuse; I was instructor for self-defense for women.

Alaska Municipal League, Board of Directors, 1987-1990.

University of Alaska, Anchorage, Tanaina Child Development Center, founding Co-Chairman, established child care and student practicum center, wrote grants, hired director, etc.

Coalition for Economic Justice, founding Vice President, organization composed of 19 minority and community action organizations focused on low income residents, community economic development, in Anchorage.

Health Planning: Anchorage Borough Health Board, State Health Plan Task Force, Alaska State Comprehensive Health Planning Commission.

Education: UAA Academic Affairs Board, Anchorage Community College Presidential Search Committee, University of Alaska Presidential Search Committee.

BOARDS AND COMMISSIONS AS COMMISSIONER OF COMMERCE:

Aerospace Development Corporation

Alaska Energy Authority

Alaska Industrial Development and Export Authority

Alaska Seafood Marketing Institute

Coastal Policy Council

Governor's Tourism Coordinating Committee

Health Resource & Access Task Force

Marine Pilots

Prince William Sound Oil Spill Recovery Institute Board

Royalty Oil and Gas Development Advisory Board

Chairman, State Bond Committee

Student Loan Corporation

CONVENTIONS AND CONFERENCES:

1991 Northern Forum, Special Projects coordinator for Secretariat of 11 nation Northern Regions organization

1990 Northern Regions Conference, 11 nation conference, Moderator on Northern Communications and Transportation

1990 Celebration of 30 years of Alaskan Statehood, Speaker on "Alaska, the Next 30 Years"

1989 Alaska Federation of Natives, Economic Development Summit, Panelist on "Identifying Economic Development Options in Rural Alaska"

1989 Conference on Pacific Rim Fisheries: Business Development and Policy, Panelist on "Alaska's Role in International Fisheries Policy"

1988 Alaska Municipal League Annual Conference, Panel Chair on "Economic Development Strategies for Municipal Governments"

1988 North and Northwest Mayor's Conference, Speaker on "Environmental Protection and Enforcement of the MARPOL Treaty in the Bering Sea"

1988 Financing Community Development: A Blueprint for Tomorrow, Fairbanks, Alaska Speaker on "Making the Most of Your Local Assets"

1987 Symposium on Alaska Bottomfish Development, Unalaska, Conference Coordinator

1972 Democratic National Convention, Delegate, member of Rules Committee, current party registration: Non-partisan since 1975

AWARDS:

1992 Alaska Propeller Club, Maritime Person of the Year

1990 Alaska Municipal League, Elected Official of the Year

CERTIFICATIONS:

Alaska Explosives Handlers License
Dive Rescue Specialist
Public Safety Diver
Advanced Open Water Diver

EDUCATION:

West Anchorage High School, graduate 1967

St. Olaf College, Northfield Minnesota
Alaska Methodist University
University of Alaska, Anchorage

I have taken many courses from these institutions in economics, political science, resource management, etc. but I don't hold any degrees.