

sections of Article III shall be renumbered accordingly.

Sec. 26. This Act takes effect on the

day after its passage and approval or on the day it becomes law without such approval.

Approved April 15, 1960

## CHAPTER 132

### AN ACT

**To authorize mutual savings banks; and authorizing an appropriation.**

(H.B. 291)

**Be it enacted by the Legislature of the State of Alaska:**

Section 1. **Short Title.** This Act may be cited as the "Mutual Savings Bank Act."

Sec. 2. **Declaration of Policy.** In providing authority for the establishment of mutual savings banks it is the intent of the legislature to make available the benefits of mutual savings banking, thereby encouraging the practice of thrift and promoting the accumulation of funds for investment to develop the economy. For the accomplishment of these purposes, the legislature intends by this Act to vest in such mutual banks those powers generally possessed by state-chartered mutual savings banks and to grant to the Department of Commerce of the State of Alaska authority to define such powers and to promulgate rules and regulations designed to enable mutual savings banks to perform their functions and to carry out the above purposes, subject to the provisions of the Alaska Banking Code not inconsistent with this Act.

Sec. 3. **Definitions.** As used in this Act

(1) the term "Department" means the Department of Commerce of the State of Alaska;

(2) the term "conventional loan" means a loan secured by a first mortgage on unencumbered real property or leasehold estates other than a loan guaranteed or insured by a Federal agency;

(3) the term "financial institution" means a thrift institution, a commercial bank, a trust company, or an insurance company;

(4) the term "mutual bank" means

a mutual savings bank chartered under this Act;

(5) the term "thrift institution" means a cooperative bank, a homestead association, a mutual savings and loan association, or a mutual bank.

Sec. 4. **Chartering of Mutual Banks.**  
a. Upon written application by five signatories from among not less than 21 individuals acting in the capacity of qualified incorporators named in said application, the department may from time to time issue a charter for a mutual bank.

b. Such a charter shall be issued whenever the department finds that a mutual bank will serve a useful purpose in the community in which it is proposed to be established, that there is reasonable expectation of its financial success, and that its operation will not unduly injure existing banking institutions.

Sec. 5. **Qualifications of Corporators.**  
a. Each corporator of a mutual bank shall be an individual whom the department shall have found to be of financial responsibility and good character. Without in any way limiting, by enactment of this subsection, the general regulatory power granted the department, by this or any other Act, the department is herein expressly authorized to regulate the activities of corporators and to prescribe standards of conduct for corporators in their dealings with their mutual bank.

b. No person acting as corporator of a mutual bank shall hold office as a corporator, trustee, director or officer of another banking institution.

c. At least a majority of the corporators of a mutual bank shall be residents of this state.

d. At their organizational meeting, the incorporators shall adopt rules governing their activities as incorporators and may amend the same from time to time. Such rules shall set forth the number of incorporators and shall prescribe that any number of incorporators not less than one-quarter of those at the time in office shall constitute a quorum for the purpose of doing business. At such organizational meeting, or any adjournment thereof, the incorporators shall, by majority vote of those present, elect one-third of the total number of incorporators to serve for a term of four years, one-third to serve for a term of seven years, and one-third to serve for a term of ten years. Thereafter each incorporator shall be elected for a term of ten years in such manner that the term of not more than one-third of the incorporators will expire in any three year period. The office of any incorporator who shall reach the age of 70 shall thereupon become vacant, and any person who shall have reached the age of 70 shall be ineligible for election as a incorporator. Successor and additional incorporators shall be elected by majority vote of the incorporators present at a duly constituted meeting. Any incorporator may be removed from office for cause upon the affirmative vote of two-thirds of the whole number of incorporators.

Sec. 6. **Trustees.** a. The board of trustees of a mutual bank shall be elected by and from the incorporators and shall consist of not less than seven nor more than 25 or one-half the whole number of incorporators less one, whichever shall be less. At least a majority of the trustees shall be residents of this state. The incorporators shall by majority vote of those present at their organizational meeting, elect a board of trustees in the following manner: one-third for a term of one year; one-third for a term of two years; and one-third for a term of three years. Thereafter trustees shall be elected to serve for a term of three years. The office of any trustee shall become vacant if he shall cease for any reason to hold office as a incorporator.

b. The management and control of the affairs of a mutual bank shall be vested in the trustees. The trustees may adopt, amend and repeal by-laws governing the affairs of the mutual bank.

c. The office of a trustee shall become vacant whenever he shall have failed to attend regular meetings of the trustees for a period of six months, unless excused during such period by a resolution duly adopted by the trustees.

d. It shall be unlawful for any trustee

(1) to receive remuneration as trustee except reasonable fees for attendance at meetings of trustees or for services as a member of a committee of trustees;

(2) to borrow funds or in any manner become an obligor for funds borrowed from the mutual bank for which he is trustee;

(3) to make a profit from any property sold to or services performed for the mutual bank for which he is trustee; or

(4) to use his position as trustee, or knowingly allow it to be used, to induce any actual or prospective borrower from the mutual bank for which he is trustee to purchase goods or services at a direct or indirect profit to him.

e. Nothing contained in subsec. d shall be deemed to prohibit or in any way limit any right of a trustee who is also an officer or attorney of the mutual bank from receiving compensation for services as an officer or attorney.

f. Upon application by a mutual bank, exceptions may be granted to any prohibition contained in subsec. d following a determination by the department that the exception sought is equitable, is supported by evidence, and that such exception is in the best interests of the depositors of the mutual bank.

g. No mutual bank shall deposit any of its funds except with a depository approved by vote of a majority of all trustees of the mutual bank, exclusive of any trustee who is an officer, partner, director or trustee of the depository so designated.

Sec. 7. **Commencement of Operation.** No mutual bank may commence operations except upon approval by the department, which shall not be granted prior to qualification by such mutual bank as an insured bank under the Fed-

eral Deposit Insurance Act and complied with the provisions of the Alaska Banking Code not inconsistent with this Act. No mutual bank shall continue operations if it shall at any time cease to be so qualified.

No mutual bank may commence operations until there shall be deposited in cash to the credit of such mutual bank as an expense fund such sums as the department may require, to be evidenced by transferable deferred payment certificates.

**Sec. 8. Surplus.** a. Prior to authorizing the issuance of a charter for a mutual bank, the department shall require that there be deposited in cash to the credit of such mutual bank not less than \$50,000.00, which shall constitute the initial surplus. All sums so advanced as initial surplus shall be evidenced by transferable deferred payment certificates. Outstanding certificates may have such maturities and may be repaid pro rata in such installments, and shall be entitled to receive interest at such rate, as may be approved by the department.

b. As soon as practicable following the close of each of its first 10 years, each mutual bank shall credit to surplus an amount not less than 10 percent of its net earnings before interest for such preceding fiscal year and at the close of each fiscal year following the first 10 years shall credit to surplus such proportion of its net earnings for such preceding fiscal year, not exceeding 10 percent, as the department may by regulation prescribe: Provided, that such credits to surplus need be made only until surplus shall be equal to 12 percent of deposit liabilities, and thereafter and so long as surplus shall be equal to 12 percent of deposit liabilities such mutual bank may credit such further amounts to surplus as it may determine.

c. The surplus of an operating mutual bank shall be available only for the purpose of meeting losses.

**Sec. 9. Borrowing.** Each mutual bank may borrow from any source and in any manner such amounts without limit as may be required to satisfy its obligations to its depositors and may borrow for other purposes an aggregate outstanding amount not to exceed five percent of its

total assets at the time of borrowing, exclusive of any sums borrowed pursuant to sections 7 and 8.

**Sec. 10. Deposits.** a. A mutual bank may accept any savings deposit unless its liability to any depositor, including his pro rata share of all amounts credited to him and others would thereby exceed \$25,000.00, exclusive of interest credited thereon. In computing such liability, there may be excluded all amounts credited to such depositor as a trustee, provided that the aggregate of all amounts credited to a depositor as a trustee under voluntary trusts shall not exceed \$25,000.00, exclusive of interest credited thereon. Deposits not to exceed \$25,000.00 to the credit of any non-profit organization may be accepted by a mutual bank, but no mutual bank shall accept any deposit to the credit of any partnership, corporation, association or other organization for profit.

b. Each mutual bank may (1) reject any sums offered for deposit; (2) repay any deposit at any time; and (3) classify and differentiate among deposits on such bases as it may determine.

c. Except as otherwise provided in this Act, a mutual bank may pay interest on deposits from net earnings and undivided profits at such rates and at such intervals as shall be approved by its trustees, provided that no mutual bank shall contract with its depositors in advance to pay any specific rate of interest.

d. A mutual bank may at any time by resolution of its board of trustees require that up to 90 days' advance notice be given to it by each depositor before the withdrawal of any deposit or portion thereof, and whenever the board of trustees shall adopt such resolution, no deposit need be paid until the expiration of the notice period applicable thereto in accordance with such resolution. A mutual bank shall notify the department in writing on the day of the adoption of such resolution. Notwithstanding adoption of such resolution, a mutual bank may, in its discretion, permit withdrawal of all or any part of any deposit prior to the expiration of the notice period prescribed by such resolution. Any such resolution may be rescinded at any time.

**Sec. 11. Investments.** a. Subject to

the provisions of this Act and any regulation hereunder, a mutual bank may invest in the following:

(1) obligations of the United States and those for which the faith of the United States is pledged to provide for the payment of the interest and principal, obligations for which annual contributions to be paid pursuant to contract by the United States government or any of its instrumentalities in accordance with an Act of Congress entitled the "Housing Act of 1949", are pledged as security for the payment of the interest and principal, and obligations of any agency of the United States;

(2) obligations of any state of the United States and those for which the faith of any state of the United States is pledged to provide for the payment of the interest and principal;

(3) obligations issued by a city, village, town, county, department, agency, district, authority, commission or other public body of any state of the United States, but in so doing shall exercise the same degree of care and prudence that persons prompted by self-interest generally exercise in their own affairs;

(4) any property improvement note issued pursuant to the provisions of Title 1, of the National Housing Act;

(5) obligations of the Dominion of Canada or Provinces of the Dominion of Canada payable in United States funds;

(6) first mortgages on unencumbered real property, including leasehold estates, subject to the following:

(a) no investment in mortgages executed by any one mortgagor shall in the aggregate exceed two percent of the assets of the mutual bank at the time the investment is made or \$25,000.00, whichever is greater;

(b) no investment in any one mortgage shall exceed two percent of the assets of the mutual bank at the time the investment is made, or \$25,000.00, whichever is greater, or more than 80 percent of the appraised value of a one-to-four family residence securing a conventional loan or more than 75 percent of the appraised value of any other real property securing a conventional loan;

(c) no investment shall be made in a conventional loan secured by a mortgage on a one-to-four family residence unless the mortgaged property is located within this state and unless the mortgage has a maturity of not longer than 25 years from the date the loan is made;

(d) no investment shall be made in a conventional loan if the aggregate unpaid principal of all conventional loans exceed 80 percent of deposits;

(e) no participation in mortgage loans with others as co-mortgagees shall be permitted except with one or more financial institutions, trusts, or pension funds;

(f) no investment shall be made in a mortgage upon a leasehold unless (i) such leasehold has an unexpired term of not less than 21 years, (ii) the principal amount of the mortgage loan is not in excess of 70 percent of the appraised value of the leasehold, and (iii) provision is made for complete amortization of the loan within such unexpired term by periodic payments as the department may prescribe;

(7) bankers' acceptances which have been accepted by a bank, a trust company, a national bank, an investment company, or a banking corporation, organized under the laws of the United States or of any state thereof, which is a member of the Federal Reserve System;

(8) corporate securities, but in so doing shall exercise the same degree of care and prudence that persons prompted by self-interest generally exercise in their own affairs, and subject to the following further conditions:

(a) no mutual bank shall invest in any corporate obligation, other than pursuant to subsec. (9), that will mature by its terms within one year from the date of its issuance, or if issued or made in series, or repayable in installments, will have an average maturity of less than one year;

(b) no mutual bank shall (i) invest in stocks an amount greater than 10 per cent of its assets or 100 per cent of its surplus and undivided profits,

whichever is the lesser, (ii) invest in common stock an amount greater than 6 per cent of its assets or 60 per cent of its surplus and undivided profits, whichever is the lesser, (iii) invest in the common and preferred stocks of one issuer an amount greater than one per cent of its assets, or (iv) invest in more than two per cent of the total issued and outstanding shares of stock of any one issuer;

(9) promissory notes, subject to the following restrictions:

(a) any promissory note payable to the order of the mutual bank within 90 days from date, which is:

1. secured by the assignment of one or more mortgages in which a mutual bank may invest, if the amount so invested in any such note shall not exceed 90 per cent of the principal sum secured by such mortgage or mortgages. The assignment of every mortgage taken as security for any such note shall be recorded or registered in the office of the proper recording officer of the recording precinct in which the real property described in such mortgage is located;

2. secured by any of the bonds in which a mutual bank may invest, if the amount so invested in any such note shall not exceed 90 per cent of the market value of such bonds at the time of such investment;

3. secured by an insurance policy to the extent of such policy's cash surrender value;

4. made by a savings and loans association which has been incorporated three years or more and has an accumulated capital of at least \$50,000.00;

(b) any promissory note payable to the order of the mutual bank within one year from its date which is secured by the assignment of a deposit in any mutual bank, if the amount of the investment in any such note is not in excess of the amount of such deposit.

**Sec. 12. Branches.** a. A mutual bank may, with the approval of the department, establish and operate one or more

branches within this state.

b. Before approving establishment and operation of a branch office by a mutual bank, the department shall make with respect thereto the findings required prior to the granting of a charter to a mutual bank.

**Sec. 13. Conversion.** a. With the approval of the department, any thrift institution other than a mutual bank may convert itself into a mutual bank upon the affirmative vote of not less than a majority of the votes cast by those entitled to vote upon the affairs of such thrift institution at a meeting duly called and held, and shall thereupon possess the powers of, and be subject to the duties imposed upon mutual banks under the provisions of this Act.

b. Before approving any such conversion, the department shall find that the thrift institution seeking conversion has the ability to discharge the duties and conform to the restrictions upon mutual banks and has previously so conformed to the extent required by the department. However, such institution may retain and service all accounts lawfully held by it on the date of its conversion.

c. Any mutual bank upon the affirmative vote of a majority of its incorporators may convert itself into any type of thrift institution organized pursuant to federal law or the laws of this state, but subject to requisite approval of any regulatory authority having jurisdiction over the creation of the thrift institution.

**Sec. 14. Merger and Consolidation.** a. Any two or more mutual banks may, with the approval of the department, and upon the affirmative vote of not less than two-thirds of the incorporators of each such mutual bank, enter into an agreement of merger or consolidation. Thereafter, the merger or consolidation shall be effective in accordance with the terms of such agreement.

b. Before approving a merger or consolidation the department shall give consideration to the purposes of this Act and the prospects of the surviving or consolidated mutual bank for financial success and ability to discharge the duties and conform to the restrictions imposed upon a mutual bank.

c. All rights, franchises and property interests of the merged or consolidating mutual bank or banks shall be transferred to and vested in the surviving or consolidated mutual bank by virtue of the merger or consolidation without the requirement under this Act of any deed or other instrument of transfer; and the surviving or consolidated mutual bank shall be entitled to exercise all rights and privileges of the merged or consolidating mutual bank or banks in accordance with the terms of the merger or consolidation agreement.

d. The surviving or consolidated mutual bank shall be responsible for all debts and obligations of the merged or consolidating mutual bank or banks in accordance with the terms of the merger or consolidation agreement.

Sec. 15. **General Powers.** a. For the purpose of carrying out its functions under this Act, a mutual bank

(1) shall have indefinite succession;  
 (2) may adopt and use a seal;  
 (3) may sue and be sued;  
 (4) may adopt, amend and repeal rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;

(5) may make and carry out such contracts and agreements, provide such

benefits to its personnel and take such other action, as it may deem necessary or desirable in the conduct of its business;

(6) may appoint and fix the compensation of such officers, attorneys, and employees as may be desirable for the conduct of its business, define their authority and duties, delegate to them such powers as the trustees may determine, require bonds of such of them as the trustees may designate and fix the penalties and pay the premiums on such bonds; and

(7) acquire by purchase or lease such real property or interest therein as the trustees may deem necessary or desirable for the conduct of its business, and sell, lease or otherwise dispose of such real property or interest therein.

b. The foregoing enumeration of powers shall not be deemed to exclude other powers appropriate for the achievement of the objects and purposes of a mutual bank under the provisions of this Act, and a mutual bank may provide for the exercise of such other powers in its by-laws, rules or regulations, with the approval of the department.

Sec. 16. **Authorization of Appropriations.** There are hereby authorized to be appropriated such sums as may be necessary and appropriate for carrying out the provisions and purposes of this Act.

Approved April 15, 1960

## CHAPTER 133

### AN ACT

**Providing for detention, confinement and transportation of persons held under authority of law; and providing for an effective date.**

(C.S.H.B. 321)

**Be it enacted by the Legislature of the State of Alaska:**

Section 1. **Definitions.** As used in this Act, unless the context otherwise requires:

a. "Commissioner" means the Commissioner of the Department of Health and Welfare of the State of Alaska or his designee.

b. "Court" means the supreme court, the superior court, or any judge thereof,

the district magistrate courts, or judges thereof.

c. "Prisoner" means any person detained or confined for any period of time in a prison facility, whether by arrest, conviction, order of court, or held as a witness, or otherwise.

d. "Prison facility" means any building, camp, farm, place or area established for detention or confinement of persons