



LAWS OF ALASKA

1978

Source

FCCS HCS CSSB 98

Chapter No.

169

AN ACT

Relating to banks and other financial institutions.

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

* Section 1. AS 06.05.035 is repealed and re-enacted to read:

Sec. 06.05.035. EXAMINATION FEE. A bank examined under the provisions of sec. 25 of this chapter shall pay an examination fee as provided in AS 06.01.010.

* Sec. 2. AS 06.05.045(a) is amended to read:

(a) Every state bank shall make at least four reports of condition each year to the department on days designated by it, and on forms prescribed by it. The report shall be verified by an oath of the president, vice president, or cashier and by at least three directors, certifying and subscribing under oath that they and each of them have personal knowledge of the facts stated in the report and that the facts are true. The reports shall exhibit in detail and under appropriate heads the resources and liabilities of the bank, and shall be transmitted or mailed to the department within 10 days of the receipt of the request from the department.

* Sec. 3. AS 06.05.050 is amended to read:

Sec. 06.05.050. PUBLICATION OF REPORTS. All reports of condition required by sec. 45(a) of this chapter shall be published immediately in condensed form at least once in a newspaper of general circulation published in the place where the bank is located. If no newspaper is published in that place, then the report shall be published in the newspaper published nearest to that place.

* Sec. 4. AS 06.05.055(a) is amended to read:

(a) The department shall report to the governor annually, within 120 days after the end of each fiscal year. The report shall include

(1) the text of all rules of general application, adopted or altered by the department since its last report;

(2) recommendations for legislation;

(3) a statement of the status and assets and liabilities of all banking organizations which are in the possession of the department;

(4) a summary of all changes occurring since its last report by reason of opening new state banks, mergers and conversions, increases and decreases in capital and similar changes;

(5) a statement of condition of each state bank as of the date of the most recent report of condition submitted to the department.

* Sec. 5. AS 06.05.065 is repealed and re-enacted to read:

Sec. 06.05.065. BANKING INTEREST OF DEPARTMENT OFFICERS AND EMPLOYEES. (a) No bank examiner of the department who deals with the regulation of lending institutions, special agent selected by the department to do work relating to lending institutions, the commissioner or deputy commissioner of the department, or the director of banking may be an officer, employee, director, trustee, attorney, stockholder, or partner of a lending institution, or receive, directly or indirectly, a payment or gratuity from a lending institution. A person subject to this section may not borrow money from a state-chartered lending institution except as provided in this section.

(b) A person subject to this section may

(1) be a depositor in a lending institution;

(2) purchase shares of a savings and loan association on the same terms available to the public;

(3) be a member of an employee credit union;

(4) be indebted to a state-chartered lending institution upon an installment debt transferred to the lending institution in the regular course of business by a seller of goods, including but not limited to household goods, mobile homes, motor vehicles, or boats purchased by the employee for personal use only.

(c) This section does not limit the authority of an officer or employee of the department acting in his official capacity in the business of the department.

(d) An officer or employee who violates this section shall be dismissed and is forever disqualified from holding any position in the department relating to the regulation of state lending institutions. A nonexempt employee

dismissed under this section may appeal his dismissal under the State Personnel Act (AS 39.25).

(e) Any person who violates this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both, and may also be fined an amount equal to the value of the property given or received or the money loaned or borrowed.

(f) As used in this section, the term "lending institution" means a state-chartered bank, mutual savings bank, savings and loan association, bank holding company, any other state-chartered financial institution, a foreign banking corporation or institution, or other state-chartered institution doing banking business in the state.

- * Sec. 6. AS 06.05.075 is amended to read:

Sec. 06.05.075. STANDARDS IN REGULATIONS. The department, in the exercise of the power to adopt regulations under this chapter, shall act in the interests of promoting and maintaining a sound and competitive banking system, the security of deposits and customers, the preservation of the liquid position of banks and in the interest of preventing injurious credit expansions and contractions.

- * Sec. 7. AS 06.05.166(a) is amended to read:

(a) A bank organized under or doing business under the laws of the state or a national bank may remain closed on the legal holidays described in AS 44.12.010, 44.12.020 and 44.12.025, except that no bank may be closed for more than three consecutive days. The bank shall post a notice of holiday closing in the place of business affected at least 15 days in advance. A bank may operate a branch bank on a different schedule approved by the department if operation on a different schedule will provide better service.

- * Sec. 8. AS 06.05.175 is amended to read:

Sec. 06.05.175. DEPOSITOR AND CUSTOMER RECORDS CONFIDENTIAL. (a) The bank records pertaining to depositors and customers are confidential and shall not be made public except (1) when the bank, customer or depositor is compelled to disclose the contents of the records by a court, (2) when their disclosure is required by federal or state law or regulation, (3) when disclosure is authorized in writing by the depositor or customer, (4) when disclosure is made to the holder of a negotiable instrument drawn on the bank as to whether the drawer has sufficient funds in the bank to cover the instrument, or (5) when an inquiry has been made by a bank, savings association, or savings and loan association regulated under this title, or by a credit-reporting agency regulated under the Fair Credit Reporting Act (P.L. 91-508; 15 U.S.C. 1681) solely for the express purpose of determining the credit worthiness of the depositor or customer as an applicant for credit and the information disclosed by the bank or any entity making the inquiry under this paragraph pertains only to the payment habits of the depositor or customer in connection with loans and other credit accommodations and does not pertain to records

concerning deposit balances in savings or checking accounts.

(b) When disclosure of bank records is required or allowed under (a)(1) or (2) of this section, the bank shall notify the depositor or customer of the disclosure. If notification before disclosure is not possible, the bank shall immediately notify the customer or depositor of the disclosure or inquiry. However, no notification shall be made if disclosure is made under a search warrant or under a subpoena issued by or at the behest of a grand jury.

(c) A person who discloses or misrepresents the purpose for disclosure of information from bank records pertaining to depositors and customers, except as specifically authorized under (a) of this section, is engaging in an act or practice subject to action by the commissioner under ch. 1 of this title.

* Sec. 9. AS 06.05.200(a) is amended to read:

(a) Each commercial bank which is not a member of the federal reserve system shall maintain total reserves equal to the following percentages of the aggregate amount of its deposits, exclusive of deposits of the United States, the State of Alaska, borough and municipal governments and other deposits of public money which are secured as required by law:

- (1) 20 per cent of its demand deposits; and
- (2) eight per cent of its time and savings deposits.

* Sec. 10. AS 06.05.200(b) is amended to read:

(b) Only vault cash and the amount due from good and solvent banks located in the state or within the United States, the deposits of which are insured by the Federal Deposit Insurance Corporation, may be used in computing the reserves required under (a) of this section and the computation shall be made on the basis of average daily net deposit balances covering bi-weekly periods.

* Sec. 11. AS 06.05.205(a) is amended to read:

(a) If an officer or employee of a bank loans funds of the bank in an amount exceeding \$25,000 to a person he must notify the board of directors of the bank.

* Sec. 12. AS 06.05.205(b) is amended to read:

(b) It is unlawful for an officer or employee of a state bank to loan funds of the bank to a person in a sum exceeding 15 per cent of its combined capital, surplus, and undivided profits. Unearned income may not be included in determining the amount a bank may loan under this subsection. In the case of a corporation the total of any sum loaned directly to the corporation, and of any sum loaned in such manner or to such person that the capital stock of the corporation is received by the bank as collateral security for such loan or loans, shall never exceed 15 per cent of the combined capital, surplus and undivided profits of the bank. The discount of bills of exchange drawn in good

faith against actual existing values, or loans upon gold, gold dust, bullion, cannery products, or other produce in transit, or upon warehouse receipts as collateral security, and the discount of commercial or business paper actually owned by a person negotiating the same, are not considered as money borrowed.

- * Sec. 13. AS 06.05.210 is repealed and re-enacted to read:

Sec. 06.05.210. LOANS TO OFFICERS AND EMPLOYEES. (a) Any officer or employee of a state bank may borrow up to \$10,000 from the bank at the discretion of the executive or managing officer of the bank. Loans in excess of \$10,000, or loans of any amount to the executive or managing officer of the bank, shall have the prior approval of the board of directors, shall be reported to the department within 30 days and shall be secured by adequate collateral. For the purpose of this section, an overdraft is considered a loan.

(b) An officer or employee of a state bank who violates this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both.

- * Sec. 14. AS 06.05.215 is repealed and re-enacted to read:

Sec. 06.05.215. LIABILITY OF DIRECTORS AND OFFICERS FOR CARELESS OR EXCESSIVE LOANS. An issuing officer, director, executive or managing officer of a state bank who knowingly approves or permits the funds of the bank to be lent or overdrafts to be made in a grossly excessive, negligent or dishonest manner is personally liable for all such loans or overdrafts. The liability may be enforced against the issuing officer, director, executive or managing officer by an action in a court of competent jurisdiction.

- * Sec. 15. AS 06.05.230 is repealed and re-enacted to read:

Sec. 06.05.230. INVESTMENT IN REAL ESTATE AND BANKING PREMISES. A bank may acquire, purchase, hold, convey and hypothecate real property for the following purposes only:

(1) real property necessary for the convenient transaction of its business, including banking offices, equipment, furniture and fixtures, leasehold improvements, and parking lots, if the book asset value of the purchase or investment does not exceed 60 per cent of the capital account and the surplus account of the bank; the purchase or investment may consist of stock in a bank building corporation, in which case it must include all obligations of the building corporation to the bank;

(2) the satisfaction of or on account of debts previously contracted in the course of its business;

(3) the purchase at sale under judgment, decree, lien, or mortgage foreclosure, against security held by it.

- * Sec. 16. AS 06.05.235 is repealed and re-enacted to read:

Sec. 06.05.235. BANK HOLDING COMPANIES. (a) It is unlawful for a company to own, control or hold with power to vote 25 per cent or more of the capital stock of one or more state banks or state bank holding companies subject to

regulation under this chapter. Nothing in this subsection prohibits a company from qualifying as a bank holding company under (b) of this section. However, when it becomes a bona fide necessity to avoid loss for a creditor to accept shares of stock in one or more banks or bank holding companies constituting more than 25 per cent of the ownership or control of a bank or bank holding company in payment of indebtedness owing to the creditor, shares of stock may be accepted, but the shares of the one or more banks or bank holding companies exceeding that 25 per cent shall be promptly disposed of under the supervision of the department.

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

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

(d) A person, or an officer, director, agent, or employee of the person, who violates a regulation adopted under (c) of this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both; and in the case of a corporation, by a fine of not more than \$10,000.

* Sec. 17. AS 06.05 is amended by adding a new section to read:

Sec. 06.05.238. REQUIRED DIRECTORS' MEETINGS AND STATEMENTS TO THE DEPARTMENT. The department may require a meeting of the board of directors of a state bank to be held in the manner and at the time and place it directs, when, in the judgment of the department, a serious violation of this chapter is involved. Any report of an examination required or allowed by this chapter, any conclusions drawn from such an examination by the department, any recommendations made by the department relative to it, and any other matters concerning the operation and condition of the bank may be presented to the board of directors by the department. Each member of the board of directors shall furnish to the department a statement on forms to be supplied by the department that he has read and is familiar with the recommendations of the department.

* Sec. 18. AS 06.05.255(a) is amended to read:

(a) The aggregate amount of outstanding liabilities of a state bank for money borrowed exclusive of (1) capital notes and debentures issued under sec. 307 of this chapter, (2) obligations incurred in connection with the purchase of bank premises as set out in sec. 230(1) of this chapter, and (3) borrowing for emergency purposes as permitted by the department, may not at any time exceed the total amount of its unimpaired capital and one-half of its unimpaired surplus or a larger amount if approved by the department.

* Sec. 19. AS 06.05.270(a) is amended by adding a new paragraph to read:

(10) stock in the Federal National Mortgage Association or a Federal Reserve Bank.

* Sec. 20. AS 06.05 is amended by adding a new section to read:

Sec. 06.05.280. BANK FEES AND CHARGES CONNECTED WITH MORTGAGE LOANS. (a) A bank may require borrowers to pay only the necessary expenses incurred in connection with the making, closing, disbursing, extending, readjusting or renewing of mortgage loans, including, when appropriate, documented secretarial expenses, documented loan supervision expenses, appraisal, attorney, abstract, filing, recording and registration fees, title examinations, title insurances, mortgage insurances, credit reports, surveys, drawings of papers, escrow services, mortgage loan collection account services, and taxes or charges imposed upon or in connection with the making, recording or filing of a mortgage, deed of trust, or other security instrument intended to perfect a security interest related to the mortgage loan. A bank may also require borrowers to pay the cost of all other necessary and incidental services furnished by the bank or by others in connection with mortgage loans, including the costs of services of inspectors, engineers, architects or others reasonably required to evaluate or administer the mortgage loan. The charges by a bank may be collected by the bank from the borrower or added to the mortgage loan amount, and charges by a third party may be collected by the bank from the borrower and paid to the third party, or may be paid directly to the third party by the borrower.

(b) The fees and charges authorized by (a) of this section are in addition to the interest authorized by law, and are not a part of the interest collected or agreed to be paid on a mortgage loan within the meaning of any law of the state which limits the rate of interest. Any such fees and charges or possible fees and charges shall be disclosed and explained to the borrower in advance, in a manner that the department may direct.

(c) No director, officer or employee of a bank may receive a fee or other compensation of any kind in connection with obtaining a mortgage loan from a bank, except for services actually rendered as provided in this chapter.

* Sec. 21. AS 06.05.305 is repealed and re-enacted to read:

Sec. 06.05.305. CAPITAL STRUCTURE. (a) It is

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unlawful for a corporation to commence and operate a banking business in the state unless the corporation has paid-in capital of at least \$250,000 and paid-in surplus equal to 20 per cent of paid-in capital; and it is unlawful for a bank to operate any branches unless it has an aggregate paid-in capital and paid-in surplus of at least \$800,000.

(b) No reduction of capital stock of a state bank may be made to an amount less than is required in this chapter for capital. No reduction of capital stock, cancellation of stock certificates, or reducing of the liability of the stockholders is valid until it is approved by the department.

(c) If a state bank fails to maintain its total adjusted capital accounts and reserves in an amount equal to the substandard assets as reported by the Federal Deposit Insurance Corporation or the state in a bank's latest report of examination, the department shall consider the failure as endangering the safety of the depositor and may direct the bank's directors to increase the capital accounts in an amount sufficient to cover substandard assets.

* Sec. 22. AS 06.05.307(d) is amended to read:

(d) The amount of outstanding notes and debentures not maturing within one year shall be added to the capital, surplus account, and undivided profits of the issuing bank for the purpose of determining the maximum amount that may be loaned by the bank as provided in sec. 205 of this chapter.

* Sec. 23. AS 06.05.310(c) is amended to read:

(c) At any time after the expiration of the 60-day period, the board of directors may proceed, by action or otherwise, to collect the assessment from any delinquent stockholder, or it may, whether an action has been commenced or not, at any time before the assessment is actually collected sell the stock of the stockholder and forfeit all the amounts previously collected on the stock.

* Sec. 24. AS 06.05.340 is repealed and re-enacted to read:

Sec. 06.05.340. REMUNERATION FOR ORGANIZING STATE BANKS. A bank may not pay directly or indirectly a fee, commission, or bonus of any kind for its promotion and organization or for securing a subscription to the original capital or to any increase in capital. However, this section does not prohibit the payment of reasonable compensation for legal, accounting, and econometric services, or payments to a securities broker-dealer registered under AS 45.55 for services that have been performed in connection with the sale of bank securities.

* Sec. 25. AS 06.05 is amended by adding a new section to read:

Sec. 06.05.342. SUBSCRIPTIONS FOR SHARES. (a) Any subscription agreements and accompanying prospectuses or offering circulars, whether for a proposed state bank or for an increase in capital of an existing state bank, shall be submitted to the department for approval before their use.

The department shall determine whether the subscription agreements provide full and accurate disclosure of the material terms of the offering. The department may order the incorporators not to accept any stock subscriptions or to cease accepting subscriptions if it determines that the incorporators are not acting lawfully or in good faith.

(b) In the case of a proposed state bank, the incorporators shall submit a list of subscribers, providing the name, residence address, and occupation of each subscriber and the number of shares for which he has subscribed.

* Sec. 26. AS 06.05.345 is repealed and re-enacted to read:

Sec. 06.05.345. ARTICLES OF INCORPORATION. (a) The incorporators shall execute articles of incorporation, which shall specify

- (1) the name assumed by the bank;
- (2) the judicial district in which the bank is to be located and the community where the bank is to conduct its principal place of business;
- (3) the nature of its business;
- (4) the amount of its capital stock which shall be divided into shares of not less than \$1 each;
- (5) the number of directors of whom there must be at least five but no more than 25;
- (6) the period for which the bank is organized, if limited.

(b) The articles of incorporation must be signed by all of the incorporators and acknowledged before an officer authorized to take acknowledgements.

(c) Before commencing business, the incorporators of a proposed state bank shall obtain the approval of the department. In applying for the approval the incorporators shall submit to the department

(1) an application in the form and containing the information the department requires, including but not limited to the following:

(A) any past and present connection with any bank other than as a customer on terms generally available to the public of each incorporator and proposed director and each pre-incorporation subscriber of more than five per cent of the capital stock;

(B) the name, residence and occupation of each pre-incorporation subscriber and the number of shares subscribed for by each;

(C) the address of the proposed place of business of the bank or, if an address is not available, a legal description of the proposed place of business;

(2) the proposed articles of incorporation executed in triplicate together with applicable fees, payable to the department for the filing.

(d) Investigation expenses incurred by the department in processing an application for approval of a proposed bank shall be charged to and paid by the applicant in accordance with AS 06.01.010. At the time of submitting the application to the department, the applicant shall pay to the department \$1,000 in partial payment of the investigation expenses incurred by the department. If the investigation expenses incurred by the department do not exceed \$1,000, the remainder shall be promptly refunded to the applicant.

(e) The department shall notify the incorporators of its decision on an application for a proposed state bank. If the application and accompanying documents required by (c) of this section do not conform to the requirements of this chapter and to the regulations adopted under this chapter, the department shall return the documents with an explanation of the defects. If the department does not act within 30 days of receipt of the application, the application shall be considered accepted; however, acceptance of the application does not constitute approval.

(f) The incorporators shall publish notice of the department's acceptance of the application for a proposed state bank and articles of incorporation once each week for two successive weeks in a newspaper of general circulation published in the community proposed as the bank's principal place of business. If there is no newspaper in the proposed principal place of business, the notice shall be published in a newspaper of general circulation near the community. The first publication of the notice shall appear within 15 days after the application and articles of incorporation have been accepted by the department. The notice shall state:

(1) the name of the proposed state bank;

(2) that the proposed bank is to be incorporated under this chapter;

(3) the purpose of the proposed bank;

(4) the names and addresses of the incorporators and the initial board of directors as they appear in the articles of incorporation.

(g) Proof of publication under (f) of this section shall be by affidavit of the publisher of the newspaper in which it was made and shall be filed with the department.

(h) Upon acceptance of an application for approval of a proposed state bank, the department shall conduct an investigation to ascertain whether

(1) the convenience and needs of the public will be served by the bank;

(2) the population density or other economic characteristics of the area primarily to be served by the bank afford reasonable promise of adequate support for the bank;

(3) the character and fitness of the incorporators and the members of the initial board of directors are of a nature which commands the confidence of the community and warrants the belief that the business of the bank will be honestly and efficiently conducted;

(4) the capital structure of the bank is adequate in relation to the amount of the anticipated business of the bank and the safety of prospective depositors;

(5) the bank will have personnel with adequate knowledge and experience to conduct its business and officers that are of good character and financial responsibility;

(6) the addition of the bank is not detrimental to a sound and competitive banking system;

(7) the name is not deceptively similar to that of another bank and is not otherwise misleading; and

(8) other facts and circumstances exist bearing on the bank and its relation to the community which the department considers relevant.

(i) No later than six months after the application for approval has been accepted the department shall approve or deny it. The time may be extended by up to six additional months when warranted by exceptional circumstances, as determined by the department. Within 60 days after the second publication of the notice required by (f) of this section, any person opposing the application may file with the department written objections to it. When it approves or denies the application, the department shall notify the incorporators and any other person who requested in writing that he or she be notified, and, if the application is denied, the department shall state the reasons for its decision and return all copies of the articles of incorporation.

(j) If the department approves the application, the approval shall be endorsed on the articles of incorporation, and the articles of incorporation shall be filed and a certificate of incorporation issued. The department shall retain one copy of the approved articles for its files, file one copy with the Department of Revenue, and return one copy to the incorporators.

(k) At the time of the issuance of the certificate of incorporation by the department the corporate existence begins, unless the certificate provides that it will begin on a stated day in the future in conformity with a provision of the articles of incorporation, in which event the corporate existence begins on the date stated, without further action by either the incorporators or the department. The certificate of incorporation is conclusive evidence that the state bank has been incorporated except as against the department in a proceeding instituted by it to dissolve the bank under sec. 466 of this chapter.

(l) A bank may amend its articles of incorporation in any manner consistent with this chapter by a vote of its stockholders representing two-thirds of the capital at any

regular meeting or at a special meeting called for that purpose. A certificate of the terms of the amendments shall be executed by a majority of the directors and filed in the same manner as the articles of incorporation.

* Sec. 27. AS 06.05.350 is repealed and re-enacted to read:

Sec. 06.05.350. CERTIFICATE OF AUTHORITY. (a) Until it receives a certificate of authority from the department to engage in the banking business, a state bank may not accept deposits or transact any business except what is incidental to its commencement of business or to obtaining subscriptions and payment for its shares. If, in violation of this subsection, a state bank transacts business before it receives a certificate of authority to engage in the banking business, the directors and officers who wilfully authorized or participated in the action are personally, jointly, and severally liable for the debts and liabilities of the bank incurred before the certificate of authority to engage in the banking business is received.

(b) The department shall issue a certificate of authority to engage in the banking business to a proposed state bank if, upon review of the information required by this chapter, including the following, it approves the application:

(1) certification by an officer to the department by affidavit that the capital surplus and undivided profits required by the department have been fully paid in cash;

(2) a list of stockholders, giving the name, address, and number of shares held by each has been filed with the department;

(3) bylaws have been adopted and filed with the department;

(4) the bank has received approval of its application for insurance from the Federal Deposit Insurance Corporation;

(5) the bank has complied with all the requirements of this chapter and any conditions imposed by the department and has advised the department in writing of any changes that have occurred in the facts reflected in the material it filed under sec. 345 of this chapter.

(c) If the rights conferred by a certificate of authority are not exercised within one year from the date of its issuance, the certificate lapses.

* Sec. 28. AS 06.05.355 is repealed and re-enacted to read:

Sec. 06.05.355. DEPOSIT INSURANCE REQUIRED. (a) A bank incorporated under this chapter may not begin business until it is a member in the Federal Deposit Insurance Corporation.

(b) A bank which is a member of the Federal Deposit Insurance Corporation may not voluntarily relinquish membership without the consent of the department. Request for the consent must be made at least 180 days before the

proposed date of relinquishment.

(c) Relinquishment of membership without giving notice and obtaining the department's consent, involuntary loss of membership, or failure to become a member constitutes cause for the department to take possession of the bank in the manner provided by this chapter.

* Sec. 29. AS 06.05 is amended by adding a new section to read:

Sec. 06.05.399. APPLICATION FOR CERTIFICATE OF AUTHORITY FOR BRANCH BANK OR CHANGE OF LOCATION. (a) Before operating a branch bank as a permanent location or mobile facility branch bank or changing the location of the principal office or of a branch of the bank at a permanent location, a state bank must apply to the commissioner for a certificate of authority to do so. The application must be in the form and contain the information the commissioner requires to enable him to determine whether a certificate of authority should be issued, including but not limited to the address at which the state bank or branch at a permanent location will operate. Investigation expenses incurred by the department in processing applications shall be charged to and paid by the applicant as provided in AS 06.01.010. At the time of submitting the application to the commissioner, the applicant shall pay to the department \$500 in partial payment of those investigation expenses incurred by the department. If the investigation expenses incurred by the department do not exceed \$500, the remainder shall be promptly refunded to the applicant.

(b) The department shall notify the state bank of its action on the application for a branch bank or for a change of location. If the application and the accompanying documents do not conform to the requirements of (a) of this section, the department shall return them with an explanation of the defects in them. If the department does not respond within 30 days of its receipt of the application, it shall be considered to have been accepted.

(c) The state bank shall publish notice of the acceptance by the department of the application for a branch bank or for approval to change location in the manner provided in sec. 345(f) and (g) of this chapter. The notice shall state the proposed location.

(d) Upon acceptance of an application for a certificate of authority to operate a branch bank or for approval to change location, the department shall conduct an investigation to ascertain whether

(1) the addition of the proposed facility in the community is not detrimental to a sound and competitive banking system;

(2) the population density and other economic characteristics of the area primarily to be served afford reasonable promise of adequate support for a branch at a permanent location or mobile facility branch bank or a re-located principal office or branch at a permanent location;

(3) the capital structure of the state bank is

adequate in relation to the anticipated business and costs of operating at the proposed location;

(4) the name is not deceptively similar to that of another branch or bank and is not otherwise misleading.

(e) No later than 150 days after the application for a certificate of authority to operate a branch bank or to change location has been accepted, the department shall make a determination whether to approve the application. Within 30 days after the second publication of the notice referred to in (c) of this section, any person opposing the pending application may file written objections with the department. When it approves or denies the application, the department shall notify the bank and any other person who requested in writing that he be notified; and if the application is denied, the department shall state the reasons for its decision.

(f) The department shall issue a certificate of authority to operate a branch bank or to change location if

(1) all conditions imposed by the department in granting the certificate have been fulfilled;

(2) the requirements of this chapter are satisfied;

(3) approval of the application for insurance has been received from the Federal Deposit Insurance Corporation.

(g) If the rights conferred by a certificate of authority are not exercised within one year from the date of its issuance, the certificate lapses.

* Sec. 30. AS 06.05.437(a) is amended to read:

(a) The officers of a bank shall be elected by the board of directors. No officer may be elected for a period longer than one year. An officer may be removed by the board of directors at any time but removal shall not prejudice any rights that he may have to damages for breach of contract of employment. The president of a bank or other chief officer responsible for the management of the bank must be a member of the board of directors.

* Sec. 31. AS 06.05.441(a) is amended to read:

(a) Before a bank dividend is declared, or the net profits for the period covered by the dividend disposed of, not less than one-fifth of these net profits shall be carried to the bank surplus account until the surplus account amounts to 100 per cent of the paid-in capital of the bank.

* Sec. 32. AS 06.05.443(3) is amended to read:

(3) all assets or depreciation which the department may have required to be charged off;

* Sec. 33. AS 06.05.450 is amended to read:

Sec. 06.05.450. STOCKHOLDERS LIST. Each bank shall keep a book in which it shall enter the name and residence of each stockholder of the bank, the class and number of shares held by each, the time when each person became a stockholder, and all transfers of stock, stating the time when made, the number of shares, and by whom transferred. A list of the stockholders shall be available for inspection in the bank office showing the number of shares held by each stockholder of record.

* Sec. 34. AS 06.05.465 is repealed and re-enacted to read:

Sec. 06.05.465. VOLUNTARY LIQUIDATION; REQUIREMENTS FOR APPROVAL. (a) With the approval of the department, a bank may voluntarily liquidate and dissolve. This approval shall be granted if the department finds that

(1) the proposal to liquidate and dissolve has been approved by a vote of two-thirds of the outstanding voting stock at a meeting called for the purpose of considering that action;

(2) the bank is solvent and has sufficient liquid assets to promptly pay off depositors and creditors.

(b) Upon approval by the department of voluntary liquidation under (a) of this section a bank shall immediately cease to do business and retain only the powers necessary to effect an orderly liquidation. It shall proceed to pay its depositors and creditors and to conclude its affairs.

(c) Within 30 days after the approval, a notice of voluntary liquidation shall be

(1) mailed to the last known post office address of each depositor, creditor, person interested in funds held as a fiduciary, lessee of a safe deposit box, or bailor of property;

(2) posted conspicuously on the premises of the bank; and

(3) published as the department requires.

(d) The bank shall mail with the notice sent under (c)(1) of this section a statement of the amount shown on its books to be the claim of the depositor or creditor. The notice shall also demand that property held by the bank as bailee or in a safe deposit box be withdrawn by the person entitled to it within 30 days. That notice shall direct that objections of depositors and creditors, if the amount claimed differs from that in the statement, be filed with the bank in accordance with the procedure described in the notice, before a specified date which is not less than 60 days from the date of first publication. The notice shall also include other information the department or the bank considers necessary.

(e) As soon after approval as is practicable, the bank shall resign all fiduciary positions and take whatever action may be necessary to settle its fiduciary accounts.

(f) The contents of safe deposit boxes which have not been removed within 30 days after demand shall be opened and the contents dealt with in the manner provided for boxes upon which the payment of rental is in default, and the sealed packages containing the contents and the certificates together with any other unclaimed property held by the bank as bailee and certified inventories of that property shall be transferred to the department which shall retain it for five years unless claimed by the person entitled to it before that time. After five years the department shall sell or otherwise appropriately dispose of the property. The proceeds of any sale shall be transferred to the state treasury and shall be deposited in the general fund.

(g) The approval of an application for voluntary liquidation does not impair any right of a depositor or creditor to payment in full, and all lawful claims of creditors and depositors shall promptly be paid. The unearned portion of the rental of a safe deposit box shall be returned to the lessee.

(h) Any assets remaining after the discharge of all obligations shall be distributed to the stockholders in accordance with their respective interests. No distribution may be made before

(1) all claims of depositors and creditors have been paid, or, in the case of any disputed claim, the bank has transmitted to the department a sum adequate to meet any liability that may be judicially determined;

(2) any unclaimed funds payable to a depositor or creditor have been transmitted to the department; and

(3) approval of the department.

(i) Any unclaimed distribution to a stockholder or a depositor shall be held until 90 days after the final distribution and then transmitted to the department. Unclaimed funds of a stockholder or a depositor shall be held by the department for five years and, unless claimed by the person entitled to them before that date, shall be transferred to the state treasury and deposited in the general fund.

* Sec. 35. AS 06.05 is amended by adding a new section to read:

Sec. 06.05.466. INVOLUNTARY DISSOLUTION BEFORE COMMENCEMENT OF BUSINESS. (a) Before the issuance of a certificate of authority, the department may dissolve and cause the liquidation of a state bank if the department discovers, after its approval of the articles of incorporation, a reason why the bank should not have been incorporated, or if a certificate of authority has not been issued within one year after the issuance of the certificate of incorporation or within the time the department allowed for satisfaction of conditions precedent to the issuance of a certificate of authority. After giving the bank notice and an opportunity for hearing, the department shall file a statement of facts and issue a certificate of dissolution.

(b) A bank dissolved under (a) of this section shall immediately proceed to liquidate under sec. 465(c) and (d)

of this chapter. The department may take possession of the bank if it considers it necessary to effect a liquidation that complies with sec. 465(c) and (d) of this chapter.

* Sec. 36. AS 06.05.470 is repealed and re-enacted to read:

Sec. 06.05.470. DEPARTMENT IN POSSESSION. (a) After a hearing and upon notice prescribed by the department, the department may take possession of a bank if the department finds

- (1) the bank's capital is impaired or it is otherwise in an unsound condition;
- (2) the bank's business is being conducted in an unlawful or unsound manner;
- (3) the bank is unable to continue normal operations;
- (4) the department's examination has been obstructed or impeded;
- (5) the bank voluntarily places its affairs and assets under the department's control;
- (6) the bank holding corporation which controls the bank refuses to permit an examination as provided in sec. 235 of this chapter;
- (7) the bank has lost, or received notice of the termination or suspension of, its membership in the Federal Deposit Insurance Corporation or has relinquished its membership in the Federal Deposit Insurance Corporation without the consent of the department.

(b) The department shall take possession under (a) of this section by posting upon the bank premises a notice stating that it is assuming possession under this chapter. Its possession is considered to commence at the time of posting of the notice. The notice shall also be filed in the superior court of the judicial district in which the bank is located. The department shall notify the Federal Reserve Bank if the bank in the possession of the department is a member of the Federal Reserve System. When the department has taken possession, it is vested with the full and exclusive power of management and control, including the power to assess outstanding capital stock under sec. 310 of this chapter, to continue or discontinue the business, to stop or limit the payment of its obligations, to employ necessary assistants, to execute any instrument in the name of the bank, to commence, defend and conduct in its name any action or proceeding in which it may be a party, to terminate its possession by restoring the bank to its board of directors, and to reorganize or liquidate the bank in accordance with this chapter. As soon as practicable after taking possession, the department shall make an inventory of the assets and file a copy of it with the superior court.

(c) When the department has taken possession, there shall be a postponement, until six months after the commencement of that possession, of the date upon which any period of limitation fixed by a statute or agreement would

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otherwise expire on a claim or right of action of the bank, or upon which an appeal must be taken or a pleading or other document must be filed by the bank in any pending action or proceeding.

(d) If, in the opinion of the department, an emergency exists which will result in serious losses to the depositors, it may take possession of a bank without prior hearing. Within 10 days after the department has taken possession, any interested party may file with it an application for an order vacating the possession. The department shall grant the application if it finds that its action was unauthorized under this chapter.

(e) If the department decides to liquidate a bank, it shall give notice to the directors, stockholders, depositors, and creditors as it may prescribe. Any objection to the liquidation shall be filed with the department within 15 days after that notice has been mailed. The department may proceed to liquidate the bank within 15 days after notice has been mailed.

(f) If the department decides to reorganize a bank or, after staying the liquidation, orders a reorganization, the department, after according a hearing to all interested parties, shall enter an order proposing a reorganization plan. A copy of the plan shall be sent to each depositor and creditor who will not receive payment of his claim in full under the plan together with notice that unless within 30 days the plan is disapproved in writing by persons holding one-third or more of the aggregate amount of such claims the department will proceed to effect the reorganization.

(g) No judgment, lien, or attachment may be executed upon any asset of the bank while it is in possession of the department. Upon the election of the department in connection with a liquidation or reorganization,

(1) any lien or attachment, other than an attorney's or mechanic's lien, obtained upon any asset of the bank during the department's possession or within four months before commencement of that possession shall be vacated except liens created by the department while in possession; and

(2) any transfer of an asset of the bank made after or in contemplation of its insolvency with intent to effect a preference is void.

(h) The department may borrow money in the name of the bank in its possession and may pledge assets of the bank as security for the loan.

(i) All necessary and reasonable expenses resulting from the department's possession of a bank and of its reorganization or liquidation shall be paid from the assets of the bank.

(j) A plan of reorganization may not be prescribed under this chapter unless, in the opinion of the department,

(1) the plan is fair to all classes of depositors, creditors, and stockholders;

(2) the face amount of the interest accorded to any class of depositors, creditors, or stockholders under the plan does not exceed the value of the assets upon the liquidation less the full amount of the claims of all prior classes, subject, however, to any fair adjustment for new capital that any class will pay under the plan;

(3) the plan provides for the issuance of common stock in an amount that will provide an adequate ratio to deposits;

(4) any exchange of new common stock for obligations or stock of the bank will be effected in inverse order of the priorities in liquidation of the classes that will retain an interest in the bank and upon terms that fairly adjust any change in the relative interest of the respective classes that will be produced by the exchange;

(5) the plan assures the removal of any director, officer, or employee responsible for an unsound or unlawful action or the existence of an unsound condition;

(6) any merger or consolidation provided by the plan conforms to the requirements of this chapter.

(k) When in the course of reorganization supervening conditions render a plan of reorganization unfair or its execution impractical, the department may modify the plan or liquidate the bank. This action shall be taken by order upon reasonable notice.

(l) In liquidating a bank, the department may exercise any power incidental to liquidating a bank, but it may not, without the approval of the superior court,

(1) sell any asset of the bank having an appraised value in excess of \$10,000;

(2) compromise or release any claim which exceeds \$10,000, exclusive of interest;

(3) make payment on a claim, other than a claim upon an obligation incurred by the department, before preparing and filing a schedule of its determinations in accordance with (q) of this section.

(m) Within six months after the commencement of involuntary liquidation, the department may terminate any executory contract for services or advertising to which a bank is a party or any obligation of a bank as a lessee. A lessor who receives 60 days notice of the department's decision to terminate a lease has no claim for rent, other than rent accrued to the date of termination, and has no claim for damages due to the termination.

(n) As soon after the commencement of involuntary liquidation as is practicable, the department shall take the necessary steps to terminate all fiduciary positions held by a bank and take action necessary to surrender all property held by the bank as a fiduciary and to settle its fiduciary accounts.

(o) As soon after commencement of liquidation by the

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department as practicable, it shall proceed as in sec. 465(c) and (d) of this chapter relating to voluntary liquidation by banks, except that no notice need be sent relating to fiduciary accounts.

(p) The contents of safe deposit boxes in banks being liquidated by the department shall be disposed of by the department as in sec. 465(f) of this chapter.

(q) Within six months after the last day specified in the notice for the filing of claims, or within a longer period if allowed by the superior court, the department shall

(1) reject any claim that it determines to be invalid;

(2) determine the amount, if any, owing to each known creditor or depositor and the priority class of his claim under this chapter;

(3) prepare a schedule of its determinations for filing in the superior court;

(4) provide for publication in newspapers once a week for three successive weeks, a notice of the times and the places the schedule of determinations will be available for inspection and the date, no sooner than 30 days after the first publication, when the department will file its schedule in court.

(r) Within 30 days after the filing of the department's schedule under (q)(3) of this section, any creditor, depositor, or stockholder may file with the superior court an objection to any determination made. Objections filed shall be heard and determined by the court, upon notice to the department and interested claimants as the court may prescribe. If the objection is sustained, the court shall direct an appropriate modification of the schedule.

(s) After filing its schedule, the department may make partial distribution to the holders of claims which are undisputed or have been allowed by the court if an adequate reserve is established for the payment of disputed claims. As soon as it is practicable after the determination of all objections, the department shall make final distribution.

(t) The following claims have priority in liquidation proceedings, in the order listed:

(1) obligations incurred by the department;

(2) wages and salaries of officers and employees earned during the three-month period preceding the department's possession in an amount not exceeding \$3,000 for each person;

(3) fees and assessments due to the department;

(4) deposits to the extent of \$1,000 for each depositor.

(u) After the payment of all other claims with

interest at the legal rate applicable to court judgments, the department shall pay claims otherwise valid which were not filed within the time prescribed.

(v) If the sum available for any class of creditors is insufficient to provide payment in full, that sum shall be distributed pro rata to the claimants in the class.

(w) When the department has liquidated a bank, any assets remaining after all claims have been paid shall be distributed to the stockholders in accordance with their respective interests.

(x) Unclaimed funds remaining after the completion of the liquidation by the department shall be retained for five years by it unless sooner claimed by the owner. After that, the remaining sum shall be transferred to the general fund.

(y) When the assets have been distributed in accordance with this chapter, the department shall file an account with the superior court. Upon approval of the account, the department is relieved of liability in connection with the liquidation and the court shall cancel the certificate of authority and enter an order of dissolution. Upon the filing of the order, the department shall issue a certificate of dissolution of the corporation.

(z) The department may appoint the Federal Deposit Insurance Corporation as receiver for a bank of which it has taken possession and whose deposits are insured by that corporation. Upon filing with the court a certificate indicating the acceptance by the Federal Deposit Insurance Corporation, the possession of and title to all the assets, business, and property are considered transferred to that corporation. The department is then relieved from all responsibility and liability in respect to the liquidation of the bank. The Federal Deposit Insurance Corporation may liquidate, reorganize, merge or consolidate the bank in the manner permitted by the laws of the United States or by this chapter, possessing all rights, powers, duties and obligations of the department.

* Sec. 37. AS 06.05.505 is amended to read:

Sec. 06.05.505. UNLAWFUL FAILURE TO TRANSMIT REPORTS REQUIRED BY DEPARTMENT. Every bank which fails to make, transmit and publish any report required under sec. 45 of this chapter is subject to a penalty of \$100 a day for each day's delay after the period specified in that section. Any bank is considered to have transmitted a report to the department on the day when the bank has deposited it in a United States post office in the state, properly addressed to the department, postage prepaid, and registered if the post office is a registry office.

* Sec. 38. AS 06.05.520 is amended to read:

Sec. 06.05.520. PENALTY. Any person who violates any provision of this chapter for which no specific penalty is provided is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both. In case of conviction of a corporation for violation of this chapter,

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the corporation is punishable by a fine of not more than \$20,000.

* Sec. 39. AS 06.05.540(9) is repealed and re-enacted to read:

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

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

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

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

* Sec. 40. AS 06.05.540 is amended by adding new paragraphs to read:

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

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

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

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

(D) transfers to surplus and capital,

(E) amounts declared as dividends to stockholders;

(18) "company" means any bank, corporation, partnership, joint stock company, business trust, association or similar organization, domestic or foreign.

* Sec. 41. AS 06.30.105(c) is amended to read:

(c) At a meeting of the members, voting may be in person or by proxy. Every proxy shall be in writing and signed by the member or his authorized attorney in fact and, when filed with the secretary, shall, unless otherwise specified in the proxy, continue in force from year to year until revoked by a writing delivered to the secretary or until superseded by another proxy. A member's proxy shall be considered to be temporarily revoked by the physical presence of the member or his authorized attorney in fact at a meeting of the members, for the duration of the physical

presence of the member or his authorized attorney in fact at that meeting.

* Sec. 42. AS 06 is amended by adding a new chapter to read:

CHAPTER 1. ADMINISTRATION.

Sec. 06.01.010. EXAMINATION FEES AND ASSESSMENTS.

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

(b) The commissioner shall assess every financial institution, and every applicant to establish a financial institution, a fee for the actual expenses incurred by the department in connection with any examination or investigation, whether regular or special. The fee shall include the proportionate part of the salaries and cost of employee benefits of the examiners while conducting examinations or investigations and while preparing reports of them, and transportation costs and per diem of each examiner while away from his duty station. However, the cost to the financial institution in connection with an examination may not exceed \$7,500 per examination. The assessment shall be made by the commissioner as soon as feasible after the examination or investigation has been completed. All assessments shall be paid to and received by the department by each institution within 30 days after receipt of notice of the assessment.

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

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

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

Sec. 06.01.030. ~~RECORDS AND INJUNCTIONS; NOTICE AND HEARINGS; REGULATIONS.~~ (a) Whenever it appears to the commissioner that a person has engaged in an act or practice

in violation of any provision of this title or of a regulation adopted under it, the commissioner may

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

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

(b) Except as provided in (a) of this section, the department shall give public notice of each proposed action, but it is not required to hold a hearing before taking the action unless it receives written opposition to the proposed action. Written opposition must be filed with the department within the time specified by the department. In cases involving extraordinary circumstances requiring immediate action, the department may take action without notice and public hearing, but upon application to rescind the action taken, the department shall promptly hold a hearing on the application.

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

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

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

Sec. 06.01.040. EXAMINATION POLICY. It shall be the policy of the department to conduct, whenever reasonably possible, joint examinations with the Federal Deposit Insurance Corporation of those institutions subject to this title whose accounts are insured through that corporation.

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

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

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

(3) "financial institution" means an institution subject to the regulation of the department under this title.

* Sec. 43. AS 06.05.540(5) is amended to read:

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

* Sec. 44. AS 06.20.030 is repealed and re-enacted to read:

Sec. 06.20.030. FEES AND CHARGES. (a) Investigation expenses incurred by the department in processing an application for licensure shall be charged to and paid by the applicant in accordance with AS 06.01.010. At the time of submitting the application to the commissioner, the applicant shall pay to the department \$400 in partial payment of those investigation expenses incurred by the department. If the investigation expenses incurred by the department do not exceed \$400, the remainder shall be promptly refunded to the applicant.

(b) An applicant shall pay to the department at the time of submitting an application a sum, in addition to that specified in (a) of this section, of \$200 as an annual license fee for a period terminating on the last day of the current calendar year. If the application is filed after June 30, the additional sum is \$100.

(c) The license fee required by this section is in place of the tax levied by the Alaska Business License Act (AS 43.70).

* Sec. 45. AS 06.20.060 is amended to read:

Sec. 06.20.060. ISSUANCE OF LICENSE. Upon the filing of the application, the payment of the fees and the approval of the bond, the department shall issue a license to the applicant if it finds upon investigation that (1) the financial responsibility, experience, character, and general fitness of the applicant and of its members if the applicant is a copartnership or association, and of its officers and directors if the applicant is a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter, and (2) allowing the applicant to engage in business will promote the convenience and advantage of the community in which the business is to be conducted, and (3) the applicant has available for the operation of the business at the specific location liquid assets of at least \$10,000. The foregoing facts are conditions precedent to the issuance of a license under this chapter. The license permits the applicant to make loans in accordance with this chapter at the location specified in the application. The license remains in full force and effect until it is surrendered by the licensee or revoked or suspended. If the department denies the

application, it shall notify the applicant of the denial, bill the applicant for any outstanding expenses incurred by the department during the investigation and return the bond if those expenses have been paid. The department shall approve or deny every application for license within 60 days from the filing of the application with the fees and the approved bond. If the application is denied, the department shall, within 20 days thereafter, serve upon the applicant a copy of the written decision and findings. The decision and findings may be reviewed in the manner provided in AS 44.-62.560 and 44.62.570 of the Administrative Procedure Act (AS 44.62).

- * Sec. 46. AS 06.20.100 is amended to read:

Sec. 06.20.100. NEW BOND. On or before December 20 of each year, every licensee shall file a new bond which complies with sec. 50 of this chapter.

- * Sec. 47. AS 06.20.170 is amended to read:

Sec. 06.20.170. ANNUAL EXAMINATION. The department shall make the examination of the affairs, business, office, and records of each licensee at least once each year. Examination fees are to be charged to and paid by the licensee in accordance with AS 06.01.010. The department may maintain an action for the recovery of these costs in any court of competent jurisdiction, with recourse to the bonds referred to in secs. 50 and 80 of this chapter.

- * Sec. 48. AS 06.30.310 is amended to read:

Sec. 06.30.310. INVESTIGATION, FEES, AND APPROVAL. Investigation expenses incurred by the department in processing an application shall be charged to and paid by the applicant in accordance with AS 06.01.010. At the time of submitting the application to the commissioner, the applicant shall pay to the department \$1,000 in partial payment of those investigation expenses incurred by the department. If the investigation expenses incurred by the department do not exceed \$1,000, the remainder shall be promptly refunded to the applicant. The commissioner shall conduct an investigation of the applicant at its expense and shall approve the application if the investigation discloses that savers and investors are reasonably protected as provided in this chapter and that the applicant's home-financing operation is sound and consistent with the law of this state. Approval shall be withdrawn when these conditions do not exist.

- * Sec. 49. AS 06.30.790 is repealed and re-enacted to read:

Sec. 06.30.790. INCORPORATION FEE. Investigation expenses incurred by the department in processing an application to incorporate an association or for a certificate of authority for an association shall be charged to and paid by the organizers in accordance with AS 06.01.010. At the time of submitting the application to the department, the organizers shall pay to the department \$1,000 in partial payment of those investigation expenses incurred by the department. If the investigation expenses incurred by the department do not exceed \$1,000, the remainder shall be promptly refunded to the applicant.

- * Sec. 50. AS 06.30.795 is repealed and re-enacted to read:

Sec. 06.30.795. FEE FOR CHANGE OF LOCATION, ESTABLISHING OF BRANCH OFFICE, CHANGE OF NAME. Investigation expenses incurred by the department in processing an application to change the location of the home office, to establish a branch office or an agency, or to change the name of an association shall be charged to and paid by the applicant in accordance with AS 06.01.010. At the time of submitting the application to the commissioner to establish a branch office or an agency, the applicant shall pay to the department \$500 in partial payment of those investigation expenses incurred by the department. If the investigation expenses incurred by the department do not exceed \$500, the remainder shall be promptly refunded to the applicant.

- * Sec. 51. AS 06.30.800 is repealed and re-enacted to read:

Sec. 06.30.800. EXAMINATION FEE. An association examined under the provisions of sec. 635 of this chapter shall pay an examination fee in accordance with AS 06.01.010.

- * Sec. 52. AS 06.30.805 is repealed and re-enacted to read:

Sec. 06.30.805. MERGER FEE. The associations proposing to merge or consolidate shall be charged and shall pay the investigation expenses incurred by the department, in accordance with AS 06.01.010. The fee shall be paid in equal parts by the associations which are parties to the proposed merger or consolidation.

- * Sec. 53. AS 06.30.810 is repealed and re-enacted to read:

Sec. 06.30.810. FEE FOR REORGANIZATION. An applicant proposing a plan of reorganization, transfer of assets in bulk, or certificate of dissolution shall be charged and shall pay the investigation expenses incurred by the department, in accordance with AS 06.01.010.

* Sec. 54. AS 06.05.005(3)(B), 06.05.005(4), 06.05.010, 06.05.315, 06.05.335, 06.05.365, 06.05.370, 06.05.375, 06.05.400 - 06.05.425, 06.05.455, 06.05.475; AS 06.30.020, 06.30.660; AS 44.62.330(a)(19) and 44.62.330(a)(21) are repealed.

* Sec. 55. If any provision of this Act, or the application of it to any person or circumstance is held invalid, the remainder of this Act and the application to other persons or circumstances shall not be affected thereby.