



# LAWS OF ALASKA

2016

**Source**

SCS CSHB 12(L&C)

**Chapter No.**

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**AN ACT**

Relating to mortgage lending, mortgage loan originators, and depository institutions; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1



AN ACT

1 Relating to mortgage lending, mortgage loan originators, and depository institutions; and  
2 providing for an effective date.

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4 \* **Section 1.** AS 06.60.012(b) is amended to read:

5 (b) An individual required to be licensed as a mortgage loan originator shall

6 (1) register with the registry and maintain a valid unique identifier  
7 issued by the registry;

8 (2) work under

9 (A) an exclusive contract for, or as an employee of, a mortgage  
10 licensee; **or**

11 (B) an exclusive contract for a registered depository  
12 institution; and

13 (3) be sponsored in the registry by a mortgage licensee under a  
14 sponsorship approved in the registry by the department or be sponsored by a

1 **registered depository institution under AS 06.60.014**; in this paragraph,  
2 "sponsored" means authorized to conduct business as a mortgage loan originator under  
3 the supervision of a mortgage licensee **or a registered depository institution**.

4 \* **Sec. 2.** AS 06.60 is amended by adding a new section to read:

5 **Sec. 06.60.014. Registered depository institutions.** (a) A depository  
6 institution may sponsor a mortgage loan originator under AS 06.60.012(b) if the  
7 depository institution is registered with the department under this section, has an  
8 exclusive written contract to sponsor a mortgage loan originator licensed under this  
9 chapter, is otherwise in compliance with this chapter, and satisfies the other  
10 requirements of this section. Registration under this section does not affect the  
11 exemption of the depository institution under AS 06.60.015(a).

12 (b) To register under (a) of this section, a depository institution shall

13 (1) complete a registration form established by the department; the  
14 form must identify the mortgage loan originator to be sponsored by the depository  
15 institution and each mortgage lending location of the registered depository institution;  
16 and

17 (2) pay a registration fee established by the department.

18 (c) Registration under (b) of this section expires after one year. To renew a  
19 registration, the depository institution shall file a renewal application with the  
20 department and pay a renewal fee established by the department.

21 (d) The department may deny an initial or renewal registration under this  
22 section or may suspend or revoke the registration of a depository institution that is  
23 registered under (b) of this section if the department determines that the depository  
24 institution

25 (1) failed to satisfy a requirement of this section;

26 (2) failed to supervise its sponsored mortgage loan originator  
27 adequately; or

28 (3) made a material misstatement or withheld information on the  
29 application for registration, on an application for the renewal of the registration, or on  
30 another document required to be filed with the department.

31 \* **Sec. 3.** AS 06.60.015(a) is amended to read:

1 (a) The following persons are exempt from the mortgage lender or mortgage  
2 broker licensing requirements of this chapter:

3 (1) a depository institution;

4 (2) a subsidiary that is

5 (A) owned and controlled by a depository institution; and

6 (B) regulated by a federal banking agency; [OR]

7 (3) an institution regulated by the Farm Credit Administration; or

8 **(4) a federal, state, or local government agency, including an**  
9 **agency that arranges or provides financing for mortgage loans.**

10 \* **Sec. 4.** AS 06.60.045(a) is amended to read:

11 (a) An applicant for a mortgage license shall file with the application  
12 submitted to the department under AS 06.60.020, **and an applicant for registration**  
13 **under AS 06.60.014 shall file with the application filed under AS 06.60.014,** a  
14 bond with one or more sureties. The department shall establish by regulation the  
15 amount of the required bond and the standards and procedures for recovery on the  
16 bond. The bond must be satisfactory to the department.

17 \* **Sec. 5.** AS 06.60.045(c) is amended to read:

18 (c) An applicant for a mortgage license that covers more than one location or  
19 **an applicant for registration that covers more than one location** is not required to  
20 file more than one bond.

21 \* **Sec. 6.** AS 06.60.045(d) is amended to read:

22 (d) The bond required under (a) of this section must be continuous until three  
23 years after the department revokes or otherwise terminates the license **or registration.**

24 \* **Sec. 7.** AS 06.60.045(e) is amended to read:

25 (e) If the department determines that the bond required under (a) of this  
26 section is unsatisfactory for any reason, the department may require the mortgage  
27 licensee **or the registered depository institution** to file with the department, within  
28 10 days after the receipt of a written demand from the department, an additional bond  
29 that complies with the provisions of this section.

30 \* **Sec. 8.** AS 06.60.100 is amended to read:

31 **Sec. 06.60.100. Annual report.** (a) Annually, on or before a date established

1 by the department by regulation, a mortgage licensee **and a registered depository**  
2 **institution** shall file a report with the department providing relevant information that  
3 the department requires concerning the business and operations of the mortgage  
4 licensee **or registered depository institution**. The mortgage licensee **and the**  
5 **registered depository institution** shall make the report under oath or on affirmation.  
6 The content and form of the report shall be established by the department by  
7 regulation.

8 (b) A mortgage licensee who **or registered depository institution that** fails  
9 to file a report as required by this section is subject to a civil penalty of \$25 for each  
10 day's failure to file the report.

11 (c) A mortgage licensee **and a registered depository institution** shall submit  
12 to the registry, as required by the registry, reports of the condition of the licensee **or**  
13 **registered depository institution**, which must be in the form and contain the  
14 information that the registry may require.

15 \* **Sec. 9.** AS 06.60.135(a) is amended to read:

16 (a) The requirements of this section apply to the business transactions of a  
17 mortgage licensee **or registered depository institution** that occur entirely or partially  
18 in this state.

19 \* **Sec. 10.** AS 06.60.135(b) is amended to read:

20 (b) A mortgage licensee **or registered depository institution** shall keep and  
21 use in the [MORTGAGE LICENSEE'S] business **of the mortgage licensee or**  
22 **registered depository institution** the accounting records that are in accord with  
23 generally accepted accounting principles.

24 \* **Sec. 11.** AS 06.60.135(c) is amended to read:

25 (c) A mortgage licensee **and a registered depository institution** shall  
26 maintain a record of the account of each borrower and for each mortgage loan or  
27 mortgage loan application that is related to the purchase or refinancing of an existing  
28 mortgage loan. This record must contain all documents, work papers, electronic  
29 correspondence, and forms that are produced or prepared for the mortgage loan by the  
30 mortgage licensee **or registered depository institution**, and the mortgage licensee  
31 **and registered depository institution** shall retain each document, work paper,

1 electronic correspondence, and form for 36 months from the date they were created.

2 \* **Sec. 12.** AS 06.60.135(d) is amended to read:

3 (d) A mortgage licensee **and a registered depository institution** shall retain,  
4 for at least three years after final payment is made on a mortgage loan, or three years  
5 after a mortgage loan is sold, whichever occurs first, the original contract for the  
6 [MORTGAGE LICENSEE'S] compensation **of the mortgage licensee or registered**  
7 **depository institution**, copies of the note, settlement statement, and truth-in-lending  
8 disclosure, an account of fees received in connection with the loan, and other papers or  
9 records relating to the loan that may be required by department order or regulation.

10 \* **Sec. 13.** AS 06.60.135(e) is amended to read:

11 (e) If a mortgage licensee **or registered depository institution** conducts  
12 business as a mortgage loan servicing agent for mortgage loans that the mortgage  
13 licensee **or registered depository institution** owns, or as an agent for other mortgage  
14 lenders or investors, the mortgage licensee **or registered depository institution** shall,  
15 in addition to complying with (b) and (c) of this section, maintain a record for each  
16 mortgage loan. The record of each mortgage loan must include the amount of the  
17 mortgage loan, the total amount of interest and finance charges on the mortgage loan,  
18 the interest rate on the mortgage loan, the amount of each payment to be made on the  
19 mortgage loan, a description of the collateral taken for the mortgage loan, a history of  
20 all payments received by the mortgage licensee **or registered depository institution**  
21 on the mortgage loan, a detailed history of the amount of each payment that is applied  
22 to the reduction of the mortgage loan principal, the interest that accrues on the  
23 mortgage loan, and any other fees and charges that are related to the mortgage loan, as  
24 well as other papers required by law, department order, or regulation. The mortgage  
25 licensee **or registered depository institution** shall retain the record required by this  
26 subsection for three years after the loan is sold to another mortgage loan servicing  
27 agent or after the mortgage loan is satisfied, whichever occurs first.

28 \* **Sec. 14.** AS 06.60.140 is amended to read:

29 **Sec. 06.60.140. Availability of out-of-state records.** A mortgage licensee  
30 who **or registered depository institution that** operates an office or other place of  
31 business outside this state shall, at the request of the department,

1 (1) make the records of the office or place of business available to the  
2 department at a location within this state; or

3 (2) reimburse the department its reasonable costs, as provided in  
4 AS 06.60.250(k), that are incurred by the department in conjunction with an  
5 investigation or examination conducted at the office or place of business.

6 \* **Sec. 15.** AS 06.60.250(a) is amended to read:

7 (a) For the purpose of initial licensing, license renewal, license suspension,  
8 license conditioning, license revocation, license termination, or general or specific  
9 inquiry or investigation to determine compliance with this chapter, **including**  
10 **compliance by a registered depository institution**, the department may access,  
11 receive, use, and copy any books, accounts, records, files, documents, information, or  
12 evidence, including

13 (1) criminal, civil, and administrative history information, including  
14 nonconviction information; in this paragraph, "nonconviction information" has the  
15 meaning given in AS 12.62.900;

16 (2) personal history and experience information, including independent  
17 credit reports obtained from a consumer reporting agency; and

18 (3) other documents, information, and evidence the department  
19 considers relevant to the inquiry or investigation, regardless of the location,  
20 possession, or custody of the documents, information, or evidence.

21 \* **Sec. 16.** AS 06.60.250 is amended by adding a new subsection to read:

22 (l) In this section, "person" and "person subject to this chapter" include a  
23 registered depository institution.

24 \* **Sec. 17.** AS 06.60.410 is amended to read:

25 **Sec. 06.60.410. Censure, suspension, or bar.** (a) In addition to any other  
26 remedy provided under this chapter, the department may, by order after appropriate  
27 notice and opportunity for a hearing, censure a person, suspend the license of a person  
28 for a period not to exceed 12 months, or bar a person from a position of employment,  
29 management, or control of a licensee **or registered depository institution** if the  
30 department finds that

31 (1) the censure, suspension, or bar is in the public interest;

1 (2) the person has knowingly committed or caused a violation of this  
2 chapter or a regulation adopted under this chapter; and

3 (3) the violation has caused material damage to the licensee, **to the**  
4 **registered depository institution**, or to the public.

5 (b) When a person who is the subject of a proposed order under this section  
6 receives a notice of the department's intention to issue an order under this section, the  
7 person is immediately prohibited from engaging in any activities for which a license is  
8 required under this chapter **or for which registration is required under**  
9 **AS 06.60.014**.

10 (c) A person who is suspended or barred under this section is prohibited from  
11 participating in a business activity of a licensee **or registered depository institution**  
12 and from engaging in a business activity on the premises where a licensee **or**  
13 **registered depository institution** is conducting the [LICENSEE'S] business **of a**  
14 **licensee or registered depository institution**. This subsection may not be construed  
15 to prohibit a suspended or barred person from having the person's personal  
16 transactions processed by a licensee **or registered depository institution**.

17 \* **Sec. 18.** AS 06.60.900 is amended to read:

18 **Sec. 06.60.900. Applicability of administrative procedures.** Notwithstanding  
19 AS 06.01.030(f), the provisions of AS 44.62 (Administrative Procedure Act) apply to  
20 an action of the department to deny, revoke, or suspend a license **or registration**  
21 under this chapter, to censure, suspend, or bar a person under AS 06.60.410, to take  
22 other disciplinary action under this chapter, to hold disciplinary hearings, and to issue  
23 disciplinary orders. **In this section, "registration" means the registration of a**  
24 **depository institution under AS 06.60.014**.

25 \* **Sec. 19.** AS 06.60.990 is amended by adding a new paragraph to read:

26 (35) "registered depository institution" means a depository institution  
27 that is registered under AS 06.60.014.

28 \* **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 TRANSITION: REGULATIONS. The Department of Commerce, Community, and  
31 Economic Development may proceed under AS 06.60.910 to adopt regulations necessary to

1 implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure  
2 Act), but not before January 1, 2017.

3 \* **Sec. 21.** Section 20 of this Act takes effect immediately under AS 01.10.070(c).

4 \* **Sec. 22.** Except as provided in sec. 21 of this Act, this Act takes effect January 1, 2017.