

CS FOR HOUSE BILL NO. 145(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 5/10/23

Referred: Finance

Sponsor(s): REPRESENTATIVES WRIGHT, Groh, Mina, Tomaszewski, Himschoot, Armstrong, McCormick, Mears

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to loans in an amount of \$25,000 or less; relating to the Nationwide
2 Multistate Licensing System and Registry; relating to deferred deposit advances; and
3 providing for an effective date."

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

5 * **Section 1.** AS 06.01.020(a) is amended to read:

6 (a) Notwithstanding other provisions of this title, the department may by order
7 authorize state financial institutions, except licensees subject to AS 06.20 or [,]
8 AS 06.40 [, OR AS 06.50], to exercise any of the powers conferred on [UPON], or to
9 be subject to any of the limitations imposed on [UPON], a federally chartered
10 financial institution doing business in this state with deposits insured by an agency of
11 the federal government if the department finds that the exercise of the power or
12 imposition of the limitation both

13 (1) serves the public convenience and advantage; and

14 (2) equalizes and maintains the quality of competition between state

1 financial institutions and federally chartered financial institutions.

2 * **Sec. 2.** AS 06.01.050(3) is amended to read:

3 (3) "financial institution" means an institution subject to the regulation
4 of the department under this title; in this paragraph, "institution" includes a
5 commercial bank, savings bank, credit union, premium finance company, small loan
6 company, bank holding company, financial holding company, trust company, savings
7 and loan association, [DEFERRED DEPOSIT ADVANCE LICENSEE UNDER
8 AS 06.50,] and a licensee under AS 06.60;

9 * **Sec. 3.** AS 06.20.010 is amended by adding new subsections to read:

10 (c) A person, including the agent or service provider of another person, is a
11 lender subject to the requirements of this chapter if the interest rate on a loan exceeds
12 the maximum interest rate permitted under AS 06.20.230 and

13 (1) the person directly or indirectly holds, acquires, or maintains the
14 predominant economic interest in a loan in the amount of \$25,000 or less;

15 (2) the person offers, markets, brokers, arranges, facilitates, or services
16 a loan in the amount of \$25,000 or less and holds the right, requirement, or first right
17 of refusal to purchase the loan, a receivable in the loan, or interest in the loan;

18 (3) the person makes a loan disguised as a personal property sale or
19 leaseback transaction; or

20 (4) the totality of the circumstances indicate that the person is a lender
21 in a loan in the amount of \$25,000 or less and the transaction is structured to evade the
22 requirements of this chapter.

23 (d) For the purposes of this chapter, a loan or transaction takes place in the
24 state if the borrower is a resident of the state and the borrower completes the
25 transaction, either in person or electronically, while physically present in the state.

26 * **Sec. 4.** AS 06.20 is amended by adding a new section to read:

27 **Sec. 06.20.025. National registry.** The department may

28 (1) participate in the registry and pay any fees required for
29 participation in the registry;

30 (2) establish by regulation a process for licensees under this chapter to
31 challenge information entered into the registry by the department;

1 (3) contract with entities designated by the registry to collect and
2 maintain records or process fees;

3 (4) adopt regulations to require a licensee to register with the registry
4 and submit applications, renewal applications, surety bonds, reports, and other
5 information and forms to the registry;

6 (5) adopt other regulations under AS 44.62 (Administrative Procedure
7 Act) to implement this section;

8 (6) request other information the department reasonably requires from
9 an applicant.

10 * **Sec. 5.** AS 06.20.030(a) is amended to read:

11 (a) Investigation expenses incurred by the department in processing an
12 application for licensure shall be charged to and paid by the applicant under
13 AS 06.01.010. At the time of submitting the application to the commissioner, the
14 applicant shall pay to the department or through the registry \$1,000 in partial
15 payment of those investigation expenses incurred by the department.

16 * **Sec. 6.** AS 06.20.030(b) is amended to read:

17 (b) An applicant shall pay to the department or through the registry at the
18 time of submitting an application a sum, in addition to that specified in (a) of this
19 section, of \$500 for each location of a branch, Internet website, or mobile
20 application [A SINGLE OFFICE LICENSE,] or \$2,000 for a company [MULTIPLE
21 OFFICE] license as an annual license fee for a period terminating on the last day of
22 the current calendar year.

23 * **Sec. 7.** AS 06.20.090 is repealed and reenacted to read:

24 **Sec. 06.20.090. Places of business.** (a) To apply for a license under this
25 chapter, an applicant or person must submit a separate application to the department or
26 through the registry for each location, including a branch, Internet website, or mobile
27 application, through which the applicant or person conducts business.

28 (b) The department may establish by regulation information that must be
29 submitted by an applicant and licensee, the procedures for determining acceptable
30 criteria for approvals and denials, procedures for paying the fees in the registry, and
31 the effective period of a license.

1 * **Sec. 8.** AS 06.20.170 is amended to read:

2 **Sec. 06.20.170. Periodic examination.** The department shall examine the
3 affairs, business, office, and records of each licensee **as often as necessary to carry**
4 **out the purposes of this chapter** [AT LEAST ONCE EVERY 18 MONTHS].
5 Examination fees are to be charged to and paid by the licensee in accordance with
6 AS 06.01.010. The department may maintain an action for the recovery of the costs in
7 any court of competent jurisdiction, with recourse to the bonds referred to in
8 AS 06.20.050 and 06.20.080.

9 * **Sec. 9.** AS 06.20.230 is amended to read:

10 **Sec. 06.20.230. Maximum interest permitted.** (a) A licensee may lend any
11 sum of money not exceeding \$25,000 and may charge, contract for, and receive on the
12 loan interest at a rate not exceeding three percent a month [ON THAT PART OF THE
13 UNPAID PRINCIPAL BALANCE OF A LOAN NOT IN EXCESS OF \$850; TWO
14 PERCENT A MONTH ON THE UNPAID PRINCIPAL BALANCE EXCEEDING
15 \$850 BUT NOT EXCEEDING \$10,000; AND AT A RATE AGREED BY
16 CONTRACT ON THE REMAINDER OF ANY UNPAID PRINCIPAL BALANCE
17 EXCEEDING \$10,000 BUT NOT EXCEEDING \$25,000].

18 (b) Notwithstanding the provisions of (a) of this section, a licensee who makes
19 open-end loans under this chapter may charge, contract for, and receive interest at a
20 rate not exceeding three percent a month on that part of the unpaid principal balance of
21 a loan not in excess of [\$850; TWO PERCENT A MONTH ON THE UNPAID
22 PRINCIPAL BALANCE EXCEEDING \$850 BUT NOT EXCEEDING \$10,000;
23 AND AT A RATE AGREED BY CONTRACT ON THE REMAINDER OF ANY
24 UNPAID PRINCIPAL BALANCE EXCEEDING \$10,000 BUT NOT EXCEEDING]
25 \$25,000.

26 (c) Interest on loans under (b) of this section shall be computed according to
27 the actuarial method on the entire unpaid principal balance as determined under
28 AS 06.20.285(b). **The interest rate on loans under (a) or (b) of this section shall be**
29 **computed by including all fees, costs, and premiums charged under**
30 **AS 06.20.260(a)(1) - (5).**

31 * **Sec. 10.** AS 06.20.310 is amended to read:

1 **Sec. 06.20.310. Effect of illegal interest rate.** A loan of the amount or value
 2 of \$25,000 or less for which a greater rate of interest, consideration, or charge than is
 3 permitted by this chapter has been charged, contracted for, or received, wherever
 4 made, may not be enforced in the state, and every person participating in such a loan
 5 in the state is subject to this chapter. This section does not apply to loans legally made
 6 in a state or territory of the United States that has in effect a regulatory small loan law
 7 similar in principle to this chapter **but does apply to loans made by a person subject**
 8 **to this chapter under AS 06.20.010(c).**

9 * **Sec. 11.** AS 06.20 is amended by adding a new section to read:

10 **Sec. 06.20.325. Criminal threats.** A licensee under this chapter may not
 11 threaten a borrower with criminal prosecution as a result of the borrower's default.

12 * **Sec. 12.** AS 06.20.900 is amended by adding a new paragraph to read:

13 (4) "registry" means the Nationwide Multistate Licensing System and
 14 Registry.

15 * **Sec. 13.** AS 08.76.500 is amended to read:

16 **Sec. 08.76.500. Exemptions.** This chapter does not apply to

17 (1) a financial institution that is subject to the regulation of the
 18 department under AS 06, including a commercial bank, savings bank, credit union,
 19 premium finance company, small loan company, bank holding company, financial
 20 holding company, trust company, **or** savings and loan association [, AND
 21 DEFERRED DEPOSIT ADVANCE LICENSEE UNDER AS 06.50]; or

22 (2) a financial institution organized under federal law.

23 * **Sec. 14.** AS 45.45.020 is amended by adding a new subsection to read:

24 (b) Interest under AS 45.45.010 - 45.45.070 shall be computed by including
 25 all service charges paid by the borrower, debtor, or mortgagor. In this subsection,
 26 "service charge" means a fee charged by the lender, creditor, or mortgagee for
 27 opening, renewing, or continuing an account but does not include a late payment fee, a
 28 fee for a dishonored check, reasonable attorney fees or other actual expenses and costs
 29 incurred in connection with the collection of a delinquent debt or a foreclosure, or
 30 actual expenses and costs incurred in connection with a repossession.

31 * **Sec. 15.** AS 06.01.035(j); AS 06.20.030(c), 06.20.330; AS 06.50.010, 06.50.020,

1 06.50.030, 06.50.040, 06.50.050, 06.50.060, 06.50.070, 06.50.080, 06.50.090, 06.50.200,
2 06.50.210, 06.50.220, 06.50.230, 06.50.300, 06.50.310, 06.50.320, 06.50.330, 06.50.400,
3 06.50.410, 06.50.420, 06.50.430, 06.50.440, 06.50.450, 06.50.460, 06.50.470, 06.50.480,
4 06.50.490, 06.50.500, 06.50.510, 06.50.520, 06.50.530, 06.50.540, 06.50.550, 06.50.560,
5 06.50.600, 06.50.610, 06.50.900; AS 44.62.330(a)(40); and AS 47.24.900(10)(K) are
6 repealed.

7 * **Sec. 16.** This Act takes effect July 1, 2024.