

HOUSE BILL NO. 364

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES KAWASAKI, Tuck

Introduced: 2/24/16

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing a state bank; and providing for an effective date."**

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

3 * **Section 1.** AS 36.30.990(1) is amended to read:

4 (1) "agency"

5 (A) means a department, institution, board, commission,
6 division, authority, public corporation, the Alaska Pioneers' Home, the Alaska
7 Veterans' Home, or other administrative unit of the executive branch of state
8 government;

9 (B) does not include

10 (i) the University of Alaska;

11 (ii) the Alaska Railroad Corporation;

12 (iii) the Alaska Housing Finance Corporation;

13 (iv) a regional Native housing authority created under

14 AS 18.55.996 or a regional electrical authority created under

15 AS 18.57.020;

(v) the Department of Transportation and Public Facilities, in regard to the repair, maintenance, and reconstruction of vessels, docking facilities, and passenger and vehicle transfer facilities of the Alaska marine highway system;

(vi) the Alaska Aerospace Corporation;

(vii) the Alaska Retirement Management Board;

(viii) the Alaska Seafood Marketing Institute;

(ix) the Alaska children's trust and the Alaska Children's Trust Board;

(x) the Alaska Industrial Development and Export Authority;

(xi) the Alaska State Bank;

* **Sec. 2.** AS 43.20.340(2) is amended to read:

(2) "corporation" includes an association, joint-stock company, and an insurance company, **but does not include the Alaska State Bank established under AS 44.90;**

* **Sec. 3.** AS 44 is amended by adding a new chapter to read:

Chapter 90. Alaska State Bank.

Sec. 44.90.010. Alaska State Bank. (a) The Alaska State Bank is established in the department as a public corporation of the state. The exercise by the bank of the powers given to the bank under this chapter is considered to be for a public purpose.

(b) The bank is not subject to regulation by the department under AS 06.01 or AS 06.05, and the bank is exempt from AS 45.45.010 - 45.45.090 when lending money under this chapter. The bank is not subject to AS 10.06 (Alaska Corporations Code) or AS 10.20 (Alaska Nonprofit Corporation Act).

Sec. 44.90.020. Purposes of the bank. The purposes of the bank are to

- (1) increase access to capital for new and existing businesses;
- (2) provide stability to the financial sector in the state;
- (3) reduce the costs paid for basic banking services;
- (4) create long-term economic growth in the state.

Sec. 44.90.030. Board of directors. (a) A board of directors shall operate,

1 manage, and control the bank.

2 (b) The board consists of the governor, the commissioner of commerce,
3 community, and economic development, the commissioner of revenue, and the
4 commissioner of labor and workforce development. Three members of the board
5 constitute a quorum to transact business and exercise the rights, duties, and powers of
6 the board.

7 (c) The governor shall act as the chair of the board.

8 (d) The board shall select the president and other officers of the bank.

9 (e) The board shall operate, manage, and control the bank. The board shall
10 specify locations for and maintain places of business in which the bank will operate
11 and shall adopt and enforce bylaws and procedures for the transaction of the bank's
12 business.

13 **Sec. 44.90.040. Advisory board.** (a) The board shall appoint an advisory
14 board of directors. The advisory board shall consist of seven members.

15 (b) The members of the advisory board shall include representatives of the
16 financial, business, agricultural, and labor sectors of the state.

17 (c) The advisory board shall meet regularly with the management of the bank
18 to review the bank's operations and finances to determine whether the advisory board
19 has recommendations to improve management performance, customer service, and the
20 internal methods, procedures, and operating policies of the bank.

21 (d) The advisory board shall meet regularly with the board to discuss the
22 advisory board's recommendations and to provide advice, expertise, and information at
23 the request of the bank.

24 (e) At the request of the board, the advisory board shall recommend additional
25 objectives for the bank's operations.

26 (f) The advisory board shall provide advice and consultation to the board
27 regarding the appointment of bank officers.

28 (g) The advisory board shall participate on loan committees.

29 **Sec. 44.90.050. Bank deposits.** (a) The bank may accept deposits from private
30 customers and appropriations of money by the legislature.

31 (b) The bank shall pay interest on money received on deposits made by

1 customers of the bank at a rate that is comparable to the average statewide interest
 2 rates paid by financial institutions and may offer other financial products to state
 3 agencies on a competitive basis with other financial institutions.

4 **Sec. 44.90.060. Powers of the bank.** (a) The bank may

5 (1) make, purchase, guarantee, or hold loans

6 (A) to state and federal financial institutions, or to other
 7 financial institutions;

8 (B) that are obtained as security pledged for, or originated in
 9 the restructuring of, a loan that the bank originates or participated in;

10 (C) to agencies or other instrumentalities of this state; or

11 (D) that the United States or an agency of the United States
 12 insures or guarantees in whole or in part;

13 (2) purchase participation interests in loans that are made or held by a
 14 bank, bank holding company, lending agency, or institution that is organized under the
 15 laws of this state or conducts most of its business in this state, if the loan meets
 16 underwriting standards that are generally accepted by state or federal financial
 17 regulatory agencies;

18 (3) invest bank funds consistent with the policies of the board;

19 (4) buy and sell federal funds;

20 (5) lease, assign, sell, exchange, transfer, convey, grant, pledge, or
 21 mortgage real and personal property;

22 (6) perform the acts necessary, convenient, advisable, or desirable to
 23 carry out the powers expressly granted or necessarily implied in this chapter through
 24 its president, officers, agents, or employees, or by contracts with another person;

25 (7) purchase, guarantee, or hold loans originated by a financial
 26 institution organized under the laws of this state or conducting most of its business in
 27 this state;

28 (8) make loans in the form of participation loans to qualified persons
 29 living or doing business in this state if the originator of the loan is a private financial
 30 institution organized under the laws of this state or conducting the majority of its
 31 business in this state;

(9) act as a custodian institution for financial institutions organized under the laws of this state and accept deposits from the financial institutions in connection with acting as a custodian;

(10) issue bank loans to a financial institution organized under the laws of this state and doing most of its business in this state;

(11) take the action necessary to satisfy federal requirements for the operation of the bank, including obtaining insurance for depositors from the Federal Deposit Insurance Corporation;

(12) perform the functions and provide the services of a clearinghouse, including the facilities for providing domestic and foreign exchange, and rediscount commercial paper on terms prescribed by the board.

(b) In addition to the powers listed in (a) of this section, the bank may

(1) issue loans to a partnership or to form a partnership;

(2) make loans for large projects involving state infrastructure, natural resources, industry, and technology;

(3) make loans to schools or for schools.

Sec. 44.90.070. Excess income. As soon as possible after the end of each calendar year, the board shall determine the amount of income, if any, earned by the bank in that calendar year that exceeds the amount of money that is necessary to pay for the expenses of administering the activities of the bank. The bank shall deposit this excess income in the bank fund.

Sec. 44.90.080. Regulations. The department shall adopt regulations under AS 44.62 (Administrative Procedure Act) to

(1) ensure the safety and soundness of the bank, adhere to sound underwriting practices, and reflect applicable standards for safety and soundness as provided in 12 C.F.R. 364;

(2) specify the bank's powers and permissible investments and activities;

(3) authorize specific services that the bank may provide;

(4) specify limits for loans and other obligations the bank makes or undertakes;

1 (5) specify reserve requirements; and

2 (6) set other requirements that the board considers necessary to
3 administer the bank under this chapter.

4 **Sec. 44.90.090. Examinations and audits.** (a) The department shall examine
5 the bank at least once each calendar quarter to verify and ensure that the bank is
6 complying with the regulations of the board under AS 44.90.080. The department shall
7 report the results of the examination to the board. The department's report is a public
8 record subject to disclosure under AS 40.25.110 - 40.25.121.

9 (b) The bank shall have an audit of the accounts and financial affairs of the
10 bank performed by an independent auditor at least once every two years.

11 **Sec. 44.90.100. Tax exemption.** (a) The bank and its property, franchises,
12 capital, reserves, surpluses, other funds, and income are exempt from taxation by the
13 state or a municipality.

14 (b) All obligations issued under this chapter are declared to be issued by a
15 body corporate and public of the state and for an essential public and governmental
16 purpose, and the obligations, and the interest and income on and from the obligations,
17 and all fees, charges, funds, revenue, income, and other money pledged or available to
18 pay or secure the payment of the obligations, or interest on the obligations, are exempt
19 from taxation except for transfer, inheritance, and estate taxes.

20 **Sec. 44.90.110. Civil actions.** A person may bring a civil action against the
21 state for a claim that arises out of a transaction that is connected with the operation of
22 the bank.

23 **Sec. 44.90.120. Use of name.** (a) The bank shall conduct business under the
24 name of "Alaska State Bank."

25 (b) Within the scope of authority that the bank grants, the president of the
26 bank may execute instruments on behalf of the bank, including an instrument that
27 grants, conveys, or otherwise affects an interest in or lien on real or personal property.

28 (c) An officer or employee of the bank may execute instruments on behalf of
29 the bank if the board authorizes the officer or employee to execute the instruments on
30 behalf of the bank.

31 **Sec. 44.90.130. Confidentiality of records.** The following records of the bank

are confidential and are not public records subject to disclosure under AS 40.25.110 - 40.25.121:

(1) commercial and financial information of a customer of the bank, whether obtained directly or indirectly, except as required by a court;

(2) internal or interagency memoranda or letters, except as required by a court;

(3) except as provided in AS 44.90.090, information that is contained in or related to a report of an examination or operating or condition reports prepared by, on behalf of, or for the use of a state or federal agency responsible for regulating or supervising activities of the bank.

Sec. 44.90.140. Procurement. The bank is not subject to the procurement requirements of AS 36.30 when the bank procures services or property for use by the bank.

Sec. 44.90.150. Alaska state bank fund. (a) The Alaska state bank fund is established in the general fund. The fund consists of money appropriated to the bank fund by the legislature for the bank fund, interest received by the bank, and income received by the bank, including the excess income calculated under AS 44.99.040.

(b) The bank may spend the money appropriated to the bank fund to implement the provisions of this chapter without further appropriation. Appropriations to the bank fund do not lapse under AS 37.25.010, but remain in the bank fund for future disbursements.

(c) The legislature may appropriate to the bank fund the income and interest received by the bank.

(d) Nothing in this section creates a dedicated fund.

Sec. 44.90.990. Definitions. In this chapter, unless the context indicates otherwise,

(1) "bank" means the Alaska State Bank established under AS 44.90.010;

(2) "bank fund" means the Alaska state bank fund established under AS 44.90.150;

(3) "board" means the board of directors of the Alaska State Bank;

1 (4) "customer" means a person that has transacted or is transacting
2 business with the bank, that has used or is using the services of the bank, or for whom
3 the bank has acted or is acting as a fiduciary with respect to trust property;

4 (5) "department" means the Department of Commerce, Community,
5 and Economic Development.

6 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 TRANSITION: REGULATIONS. The Department of Commerce, Community, and
9 Economic Development may adopt regulations under AS 44.90.080 necessary to implement
10 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
11 before July 1, 2017.

12 * **Sec. 5.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

13 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect July 1, 2017.