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

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

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

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

   (1) "agency"

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

   (B) does not include

       (i) the University of Alaska;

       (ii) the Alaska Railroad Corporation;

       (iii) the Alaska Housing Finance Corporation;

       (iv) a regional Native housing authority created under AS 18.55.996 or a regional electrical authority created under 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,
manage, and control the bank.

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

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

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

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

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

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

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

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

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

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

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

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

(b) The bank shall pay interest on money received on deposits made by
customers of the bank at a rate that is comparable to the average statewide interest
rates paid by financial institutions and may offer other financial products to state
agencies on a competitive basis with other financial institutions.

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

(1) make, purchase, guarantee, or hold loans
    (A) to state and federal financial institutions, or to other
    financial institutions;
    (B) that are obtained as security pledged for, or originated in
the restructuring of, a loan that the bank originates or participated in;
    (C) to agencies or other instrumentalities of this state; or
    (D) that the United States or an agency of the United States
insures or guarantees in whole or in part;

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

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

(4) buy and sell federal funds;

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

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

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

(8) make loans in the form of participation loans to qualified persons
living or doing business in this state if the originator of the loan is a private financial
institution organized under the laws of this state or conducting the majority of its
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;
(5) specify reserve requirements; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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