

NOTICE OF PROPOSED CHANGES ON BANKING, MUTUAL SAVINGS
BANKS, AND CREDIT UNIONS IN THE REGULATIONS OF THE
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC
DEVELOPMENT

BRIEF DESCRIPTION

The Department of Commerce, Community, and Economic Development proposes regulations to modernize banking regulations to implement amendments made in HB 85 through updates and to clarify various sections throughout 3 AAC 01, 3 AAC 02, 3 AAC 03, and 3 AAC 06 and to make conforming amendments.

This is a SUPPLEMENTAL NOTICE adding to the NOTICE OF PROPOSED CHANGES issued on November 29, 2022, concerning the proposed revisions below, contained in Department of Law File No. 202200490. The department has released this SUPPLEMENTAL NOTICE to advise the public that the department will take public comment for 30 days as described below.

The Department of Commerce, Community, and Economic Development proposes to adopt regulation changes in Title 3, Chapters 01, 02, 03, and 06, of the Alaska Administrative Code, dealing with banking regulations, including the following:

- (1) Repeal 3 AAC 01.020. Repeal publication requirements and fact-finding hearings.
- (2) Repeal 3 AAC 02.197. Repeal language no longer necessary. HB85 amended AS 06.05.260(a) to include the language in the proposed repeal.
- (3) Repeal 3 AAC 0.205(a)(9) and amend 3 AAC 02.205(a)(12). Allow state-chartered banks to make same type of investments as national banks are permitted to make under federal law.
- (4) Amend 3 AAC 209(c)(2). Amend language no longer necessary due to HB85 change in statute that requires FDIC insurance for a new bank application.
- (5) Amend 3 AAC 02.215. Amend requirements for an application for a branch bank, operating a mobile facility branch bank, and repeal branch bank application requirements to match what is required of a credit union chartered in Alaska.
- (6) Amend 3 AAC 02.215(b)(2). Amend the form of payment the Department will accept.
- (7) Repeal 3 AAC 02.215(b)(8), (12), (13) and Amend 3 AAC 02.25(b)(9) and (15). Repeal or amend items needed for an application for a branch office or change of location. Reduce burden on bank.
- (8) Amend 3 AAC 02.215 to add a new subsections (e – i). Add details for application process of a branch bank or change of location.
- (9) Amend 3 AAC 02.910. Add a definition of a mobile facility branch as required by HB85.
- (10) Amend 3 AAC 03.260. Amend to modernize fee requirements for a credit union to complete an application for a branch to have parity with state-chartered banks,

amend the form of payment the Department will accept, and add the term “mobile facility branch”.

- (11) Amend 3 AAC 03.910. Add a definition of a mobile facility branch.
- (12) Amend 3 AAC 06.005. Add a new section related to bank investments for a mutual savings bank to match the bank regulations.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Tracy Reno, Division of Banking and Securities, Department of Commerce, Community, and Economic Development, 550 W. 7th Avenue, Suite 1850, Anchorage, AK 99501. Additionally, the Department of Commerce, Community, and Economic Development (“Department”) will accept comments by facsimile at (907) 269-8146 and by electronic mail at dbsregs@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. **The comments must be received not later than 5:00 p.m. March 31, 2023.**

You may submit written questions relevant to the proposed action to Tracy Reno by electronic mail at dbsregs@alaska.gov or by mail at Division of Banking and Securities, Department of Commerce, Community, and Economic Development, 550 W. 7th Avenue, Suite 1850, Anchorage, AK 99501. **The questions must be received at least 10 days before the end of the public comment period.** The Department will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and the Division of Banking and Securities’ website at <https://www.commerce.alaska.gov/web/dbs>. The Department may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Tracy Reno at dbsregs@alaska.gov or (907) 269-8812 not later than March 17, 2023, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Division of Banking and Securities’ website at <https://www.commerce.alaska.gov/web/dbs> and the Alaska Online Public Notice System. You may also request a copy by contacting Tracy Reno at dbsregs@alaska.gov or (907) 269-8812.

After the public comment period ends, the Department will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. **You should comment during the time allowed if your interests could be affected. Written comments and questions received are public records and are subject to public inspection.**

Statutory authority: AS 44.33.020.

Statutes being implemented, interpreted, or made specific: AS 06.01.020; AS 06.01.030; AS 06.01.048; AS 06.05.005; AS 06.05.070; AS 06.05.270; AS 06.05.399; AS 06.05.555; AS 06.15.010; AS 06.15.180; AS 06.15.250; AS 06.15.360; AS 06.26.900; AS 06.45.010.

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

2/24/2023

/s/ Robert H. Schmidt

Date

Director

The Department of Commerce, Community, and Economic Development, Division of Banking and Securities keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all the Division's Notice of Proposed Regulation Changes. To be added to or removed from the list, send the request to the Division of Banking and Securities, Department of Commerce, Community, and Economic Development, 550 W. 7th Avenue, Suite 1850, Anchorage, AK 99501 or to dbsregs@alaska.gov. Please include your name and either your electronic mail address or mailing address, as you prefer for receiving notices.

Chapter 3. Banking, Securities, Small Loans and Corporations

3 AAC 01.020 is repealed:

3 AAC 01.020 **Fact-finding hearings.** Repealed. (Eff. 4/4/79, Register 70; am 1/10/94, Register 129; am 3/29/2008, Register 185, repealed ___/___/___, Register ___)

3 AAC 02.197 is repealed:

3 AAC 02.197. Pledge of Assets. Repealed. (Eff. 1/10/94, Register 129; am 10/2/94, Register 132; repealed ___/___/___, Register ___)

3 AAC 02.205(a)(9) is repealed:

(9) repealed ___/___/___;

3 AAC 02.205(a) is amended by adding a new paragraph to read:

(12) obligations permitted under 12 U.S.C. 24 (Seventh) and (Eleventh), as amended, subject to the same restrictions and limitations imposed on national banks and except as prohibited elsewhere in this chapter.

(Eff. 1/10/94, Register 129, am ___/___/___, Register ___)

Authority: AS 06.05.005 AS 06.05.270

3 AAC 02.209(c)(2) is amended to read:

(2) a completed FDIC new bank application, which may be obtained directly from the FDIC[, IF THE BANK INTENDS TO BECOME A MEMBER OF THE FDIC];

(Eff. 1/10/94, Register 129; am ___/___/___, Register ____)

Authority: AS 06.01.010 AS 06.05.344 AS 06.05.345
AS 06.06.005

3 AAC 02.215(a) is amended to read:

(a) A bank shall apply to the department for a certificate of authority to operate a branch office or to change the location of an existing branch or the home office. **Before operating a branch bank at a permanent location or a mobile facility branch bank or changing the location of the principal office or a branch of the bank at a permanent location, a state bank must apply for a certificate of authority from the department. The application must be on a form provided by the department and contain the information the department requires under (b) of this section, including the address of the permanent location at which the state bank or branch will operate, to enable the department to determine whether a certificate of authority should be issued.**

3 AAC 02.215(b)(2) is amended to read:

(2) **payment of** [A CHECK OR MONEY ORDER FOR] \$1000 made payable to the State of Alaska, **in a format determined by the department,** in partial payment of the investigation expenses incurred by the department under AS 06.01.010;

3 AAC 02.215(b)(8) is repealed:

(8) repealed ___/___/___;

3 AAC 02.215(b)(9) is amended to read:

(9) a **balance sheet** [DAILY STATEMENT] and a statement of income and expenses for the bank current as of a date not later than 30 days preceding the application[, PROVIDED THERE HAS BEEN NO MATERIAL CHANGE IN THE BANK'S CONDITION SINCE THE STATEMENTS WERE PREPARED];

3 AAC 02.215(b)(12) is repealed:

(12) repealed ___/___/___;

3 AAC 02.215(b)(13) is repealed:

(13) repealed ___/___/___;

3 AAC 02.215(b)(15) is amended to read:

(15) **brief** [AN] economic analysis which supports the need [IN THE COMMUNITY] for and feasibility of the proposed office;

3 AAC 02.215 is amended by adding new subsections to read:

(e) The department shall notify the state bank of its action regarding 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 under (a) of this section, the department shall return the

application and documents with an explanation of the defects. If the department does not respond not later than 30 days of its receipt of the application, the application is considered accepted.

(f) 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 consistent with 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 the proposed facility;

(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 deceptively similar to that of another branch or bank or is otherwise misleading.

(g) Not 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 determine whether to approve the application. After the department approves or denies the application, the department shall notify the bank and any other person who requested in writing to be notified. If the application is denied, the department shall state the reasons for its decision.

(h) 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; and

(2) the requirements of this chapter are satisfied.

(i) If the rights conferred by a certificate of authority are not exercised within one year from the date of its issuance under this section, the certificate lapses unless the bank requests an extension in writing and the extension is approved by the department. (Eff. 12/13/70, Register 36; am 4/6/79, Register 70; am 12/31/80, Register 76; am 1/10/94, Register 129; am ___/___/___, Register ___)

Authority: AS 06.05.005 AS 06.05.555 AS 44.33.020
AS 06.05.399 AS 06.05.990

3 AAC 02.910 is amended by adding a new paragraph to read:

(8) "mobile facility branch bank" means a branch bank that moves from one location to another to provide banking services or that is located in or serves a remote area of the state not being adequately served by a permanently located bank or bank branch. (Eff. 4/6/79, Register 70; am 3/29/80, Register 73; am 12/23/87, Register 105; em am 8/18/88 - 12/15/88, Register 107; am 1/10/94, Register 129; am 10/23/94, Register 132; am ___/___/___, Register ___)

Authority: AS 06.01.020 AS 06.05.540 AS 06.05.250
AS 06.05.005 AS 06.15.010 AS 06.15.360
AS 06.05.075 AS 06.15.180

3 AAC 03.260(a) is amended to read:

(a) A [THE] credit union must apply to the department for a certificate of authority to operate a branch office, **including a mobile facility branch**, or to change the location of the principal office or a branch office.

3 AAC 03.260(b)(1) is amended to read:

(1) **payment of** [A CHECK OR MONEY ORDER FOR] **\$1000** [\$500] made payable to the State of Alaska, **in a format determined by the department**, in partial payment of the investigation expenses incurred by the department under AS 06.01.010; (Eff. 1/21/81, Register 77; am ___/___/___, Register ___)

Authority: AS 06.45.010 AS 06.45.300

3 AAC 03.910 is amended by adding a new paragraph to read:

(11) “mobile facility branch” means a branch that moves from one location to another to provide services allowed under AS 06.45 or that is located in or serves a remote area of the state not being adequately served by a permanently located branch. (Eff. 1/21/81, Register 77; am 4/16/2000, Register 154; am ___/___/___, Register ___)

3 AAC 06 is amended by adding a new section to Article 2 to read:

3 AAC 06.005. Bank investments. The provisions of 3 AAC 02.205 apply to a mutual savings bank. (Eff. ___/___/___, Register ___)

Authority: AS 06.15.240 AS 06.15.270 AS 44.33.020



ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

Supplemental Notice

1. Adopting agency: DCCED – Division of Banking and Securities
2. General subject of regulation: Banking - modernize and reduce regulatory burden
3. Citation of regulation (may be grouped): 3 AAC 01, 02, 03, 06
4. Department of Law file number, if any: 2022200490

5. Reason for the proposed action:
 - () Compliance with federal law or action (identify): _____ ()
 - Compliance with new or changed state statute
 - () Compliance with federal or state court decision (identify): _____ ()
 - Development of program standards
 - (X) Other (identify): Create and amend regulations to implement HB85.

6. Appropriation/Allocation: DCCED Banking and Securities/Banking and Securities

7. Estimated annual cost to comply with the proposed action to:
 - A private person: 0
 - Another state agency: 0 _____
 - A municipality: 0 _____

8. Cost of implementation to the state agency and available funding (in thousands of dollars):⁶

	Initial Year	Subsequent
	FY <u>2023</u>	Years
Operating Cost	\$ <u>0</u>	\$ <u>0</u>
Capital Cost	\$ <u>0</u>	\$ <u>0</u>

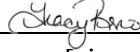
1002 Federal receipts	\$ <u>0</u>	\$ <u>0</u>
1003 General fund match	\$ <u>0</u>	\$ <u>0</u>
1004 General fund	\$ <u>0</u>	\$ <u>0</u>
1005 General fund/ program	\$ <u>0</u>	\$ <u>0</u>
Other (identify)	\$ <u>0</u>	\$ <u>0</u>

1. The name of the contact person for the regulation:

Name: Tracy Reno
 Title: Financial Examiner 4
 Address: 550 W. 7th Avenue, Suite 1850
Anchorage, AK 99501
 Telephone: 907-269-8112
 E-mail address: tracy.reno@alaska.gov

2. The origin of the proposed action:

Staff of state agency
 Federal government
 General public
 Petition for regulation change⁷
 Other (identify): _____

3. Date: 2/24/2023 Prepared by: 
 [signature]

Name (printed): Tracy Reno
 Title (printed): Financial Examiner 4
 Telephone: 907-269-8112