

AS § 06.45.060

§ 06.45.060. Powers of a credit union; remedy for interest violations

(a) A credit union has succession in its corporate name during its existence and may

(1) enter into a contract;

(2) sue and be sued;

(3) adopt, use, and alter a common seal;

(4) purchase, hold, and dispose of property;

(5) make loans, the maturities of which may not exceed 20 years except as provided in this chapter, and extend lines of credit to its members, to other credit unions, and to credit union organizations and participate with other credit unions, credit union organizations, or financial organizations in making loans to credit union members in accordance with the following:

(A) loans to members shall be made in conformity with regulations adopted by the commissioner, except that

(i) a residential real estate loan that is made to finance the acquisition of a one- to four-family dwelling for the principal residence of a credit union member that is secured by a first lien on the dwelling may have a maturity not exceeding 30 years;

(ii) a loan to finance the purchase of a manufactured home that is secured by a first lien on the manufactured home, to be used as the residence of a credit union member, or for the repair, alteration, or improvement of a residential dwelling that is the residence of a credit union member must have a maturity not to exceed 20 years unless the loan is insured or guaranteed under (iii) of this subparagraph;

(iii) a loan secured by the insurance or guarantee of the federal government, of a state government, or an agency of either may be made for the maturity and under the terms and conditions specified in the law under which the insurance or guarantee is provided;

(iv) a loan or aggregate of loans to a director or member of the supervisory or credit committee of the credit union making the loan that exceeds \$20,000 plus pledged shares shall be approved by the board of directors;

(v) loans to other members for which directors or members of the supervisory or credit committee act as guarantor or endorser shall be approved by the board of directors when the loans standing alone or when added to an outstanding loan or loans of the guarantor or endorser exceed \$20,000;

(vi) the rate of interest may not exceed the greater of 15 percent a year or the rate specified in [AS 45.45.010\(b\)](#);

(vii) the taking, receiving, reserving, or charging of a rate of interest greater than is allowed by this paragraph, when knowingly done, is considered a forfeiture of the entire interest that the note, bill, or other evidence of debt carries with it, or that has been agreed to be paid on the note, bill, or other evidence of debt; if a greater rate of interest has been paid, the person by whom it has been paid or the person's legal representatives may recover back from the credit union taking or receiving it the entire amount of interest paid, but the action must be commenced within two years from the time the usurious collection was made;

(viii) a borrower may repay a loan before maturity in whole or in part on any business day without penalty;

(ix) loans shall be paid or amortized under regulations adopted by the commissioner that consider the needs or conditions of the borrowers, the amounts and duration of the loans, the interests of the members and the credit union, and other factors established in regulations adopted by the commissioner;

(x) the total dollar amount of real estate loans and manufactured home loans outstanding may not exceed 25 percent of the assets of the credit union without the written approval of the commissioner;

(xi) a credit union with assets of less than \$3,000,000 may make real estate loans with maturities in excess of 15 years only with the approval of the commissioner;

(B) a self-replenishing line of credit to a borrower may be established to a stated maximum amount on terms and conditions that may be different from terms and conditions established for another borrower;

(C) loans to other credit unions require the approval of the board of directors of the loaning credit union;

(D) loans to credit union associations require the approval of the board of directors of the credit union and may not exceed one percent of the paid-in and unimpaired capital and surplus of the credit union;

(E) participation loans with other credit unions, credit union associations, or financial organizations shall be made in accordance with written policies of the board of directors of the credit union, except that a credit union that originates a loan for which participation arrangements are made in accordance with this section shall retain an interest not less than 10 percent of the face amount of the loan;

(6) receive from its members and from others payments on shares that may be issued at varying dividend rates, and payments on share certificates that may be issued at varying dividend rates and maturities, and establish share draft accounts, subject to terms, rates, and conditions as may be established by the board of directors of the credit union, within limitations prescribed by the commissioner;

(7) invest its funds

(A) in loans exclusively to members;

(B) in obligations of the United States or securities fully guaranteed as to principal and interest by the United States;

(C) in loans to other credit unions in the total amount not exceeding 25 percent of its paid-in and unimpaired capital and surplus in accordance with regulations adopted by the commissioner;

(D) in shares or accounts of savings and loan associations or mutual savings banks that are insured by the Federal Deposit Insurance Corporation;

(E) in obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, or a corporation designated in [31 U.S.C. 9101](#) as a wholly owned federal government corporation; in obligations, participations, or other instruments of or issued by or fully guaranteed as to principal and interest by the Federal National Mortgage Association or the Government National Mortgage Association; in mortgages, obligations, or other securities that are or have been sold by the Federal Home Loan Mortgage Corporation under [12 U.S.C. 1454](#) or [12 U.S.C. 1455](#) (Federal Home Loan Mortgage Corporation Act); or in obligations or other instruments or securities of the Student Loan Marketing Association;

(F) in participation certificates evidencing beneficial interests in obligations, or in the right to receive interest and principal collections from obligations, that have been subjected by one or more federal agencies to a trust or trusts for which an executive department, agency, or instrumentality of the United States or its head has been named to act as trustee;

(G) in shares or deposits of a central credit union in which such investments are authorized by the board of directors of the credit union making the investment;

(H) in shares, share certificates, or share deposits of federally insured credit unions;

(I) in the shares, stocks, or obligations of another organization providing services that are associated with the routine operations of credit unions, up to one percent of the total paid-in and unimpaired capital and surplus of the credit union with the approval of the commissioner;

(J) in the capital stock of the National Credit Union Central Liquidity Facility;

(K) in the stocks, bonds, and other securities of

(i) a corporation licensed under AS 10.13; or

(ii) a corporation attempting to become licensed under AS 10.13 if the corporation intends to use the proceeds to fulfill the tasks necessary to become licensed under AS 10.13;

(L) in bankers' acceptances issued by a financial institution whose accounts are insured by an agency of the federal government;

(M) in stock of a federal home loan bank; the investment must be limited to the minimum amount of stock required for membership in the federal home loan bank, plus any additional stock purchase required to obtain an advance of funds from a federal home loan bank; and

(N) in obligations of, or issued by, a state or political subdivision of the state, except that a credit union may not invest more than 10 percent of its unimpaired capital and surplus in the obligations of any one issuer, exclusive of general obligations of the issuer; in this subparagraph, "political subdivision of the state" includes an agency, corporation, or instrumentality of a state or political subdivision;

(8) make deposits in national banks and in state banks, trust companies, and mutual savings banks operating in accordance with the laws of the state;

(9) borrow in accordance with regulations adopted by the commissioner from any source, in an aggregate amount not exceeding 50 percent of its paid-in and unimpaired capital and surplus, except that a credit union may discount with or sell to a federal intermediate credit bank an eligible obligation up to the amount of its paid-in and unimpaired capital;

(10) levy late charges, in accordance with the bylaws, for failure of members to meet promptly their obligations to the credit union;

(11) levy and enforce a lien upon the shares and dividends of a member to the extent of a loan made to, and any dues or charges payable by, the member;

(12) in accordance with regulations adopted by the commissioner, sell to members negotiable checks, travelers checks, and money orders, and cash checks and money orders for members, for a fee which does not exceed the direct and indirect costs incident to providing the service;

(13) in accordance with regulations adopted by the commissioner, purchase, sell, pledge, discount, or otherwise receive or dispose of, in whole or in part, eligible obligations of its members and purchase from a liquidating credit union notes made by individual members of the liquidating credit union at prices agreed upon by the board of directors of the liquidating credit union and the board of directors of the purchasing credit union; a purchase may not be made under authority of this paragraph if, upon the making of the purchase, the aggregate of the unpaid balances of notes purchased under authority of this paragraph exceeds five percent of the unimpaired capital and surplus of the credit union;

(14) sell all or a part of its assets to another credit union, purchase all or part of the assets of another credit union, and assume the liabilities of the selling credit union and those of its members subject to regulations of the commissioner;

(15) issue solicited or unsolicited credit cards or other similar credit granting devices to a member for obtaining money, goods, services or anything else of value; notwithstanding (5)(A)(vi) of this subsection and [AS 45.45.010](#), when credit is extended under this section, the credit union may impose a service charge at a monthly rate as agreed upon by contract between the credit union and the member receiving the credit granting device, but the credit union may not hold the member liable for charges made on a credit card or other credit granting device before its acceptance by the member; before an unsolicited card is considered accepted by the member, the member shall execute and furnish to the credit union a written statement of acceptance; in addition, a credit union may charge fees for credit cards or other similar credit granting devices; and

(16) exercise incidental powers as are necessary or required to enable it to carry on effectively the business for which it is incorporated.

(b) In this section, “manufactured home” has the meaning given in [AS 45.29.102](#).

#### **Credits**

SLA 1980, ch. 47, § 2; SLA 1981, ch. 99, §§ 3--6; [SLA 1992, ch. 133, § 8](#); [SLA 1995, ch. 23, § 6](#); [SLA 2002, ch. 75, §§ 51--53](#). Amended by [SLA 2012, ch. 64, §§ 4 and 5](#), eff. Jan. 1, 2013.

AS § 45.45.010

§ 45.45.010. Legal rate of interest; prepayment of interest

(a) The rate of interest in the state is 10.5 percent a year and no more on money after it is due except as provided in (b) of this section.

(b) Interest may not be charged by express agreement of the parties in a contract or loan commitment that is more than the greater of 10 percent or five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the day on which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds \$25,000 is exempt from the limitation of this subsection.

(c) to (e) Repealed.

(f) A bank, credit union, savings and loan institution, pension fund, insurance company, or mortgage company may not require or accept any percent of ownership or profits above its interest rate. This subsection does not apply to a loan if the principal amount of the loan is \$1,000,000 or more and the term of the loan is five years or more, or to a negatively amortizing loan secured by owner-occupied real property originated under a program approved or sponsored by

(1) the federal government, including congressionally chartered national corporations; or

(2) the state if

(A) the real property that secures the loan is not subject to forced sale provided the owner has not violated the terms of the loan agreement including terms regarding

(i) payment of property taxes;

(ii) payment of hazard or fire insurance premiums;

(iii) keeping the property in reasonable repair;

(iv) not vacating the property for a period longer than 12 months;

(B) the owner may not be evicted from the real property that secures the loan unless a term of the loan agreement regarding a matter listed in (A)(i)--(iv) of this paragraph has been violated;

(C) neither the estate nor any heir of the former owner may be compelled to pay a deficiency judgment related to the loan; and

(D) the estate or an heir of the former owner has a right of first refusal and may either pay off the loan balance in full, if the former owner had equity in the property, or pay a sum not to exceed 95 percent of the value of the property at the time of exercise of the right of first refusal as determined by an independent real estate appraiser licensed under AS 08.87.

(g) Loan contracts and commitments covering one- to four-family dwellings may be prepaid without penalty, except federally insured loans that require a prepayment penalty.

(h) If the limitations on interest rates provided for in this section are inconsistent with the provisions of any other statute covering maximum interest, service charges, or discount rates, then the provisions of the other statute prevail.

#### **Credits**

SLA 1968, ch. 143, § 20; SLA 1969, ch. 69, § 2; SLA 1969, ch. 94, §§ 1, 2; SLA 1970, ch. 239, §§ 1, 2; SLA 1973, ch. 84, §§ 1--3; SLA 1974, ch. 146, §§ 1--4; SLA 1976, ch. 110, § 1; SLA 1976, ch. 159, § 1; SLA 1980, ch. 107, § 2; SLA 1981, ch. 94, §§ 1, 2; SLA 1982, ch. 56, § 1; [SLA 1998, ch. 51, § 1](#). Amended by [SLA 2011, ch. 29, § 1](#), *eff. Oct. 20, 2011*.

**Prior Codifications:** ACLA 1949, § 25-1-1.

AS § 45.45.030

§ 45.45.030. Action for recovery of double amount of usurious interest paid

If interest greater than that prescribed in [AS 45.45.010](#) and [45.45.020](#) is received or collected, the person paying it may, by action brought within two years after the payment, recover from the person receiving the payment double the amount of the interest received or collected.

**Credits**

**Prior Codifications:** ACLA 1949, § 25-1-3.