

State of Alaska
FY2004 Governor's Operating Budget

Department of Community & Economic Development
Banking, Securities and Corporations
BRU/Component Budget Summary

BRU/Component: Banking, Securities and Corporations

(There is only one component in this BRU. To reduce duplicate information, we did not print a separate BRU section.)

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Component Mission

The Division of Banking, Securities, and Corporations has four complementary functions. The Banking Section charters, regulates, and examines state banks and trust companies. The Securities Section administers the Alaska Securities Act, which regulates the offer and sale of state licensed securities and the brokers and investment advisors, which issue and trade in securities. The Corporations Section acts as a filing agency and repository for the registration of corporations, limited liability companies, limited liability partnerships, cooperatives, and professional corporations.

Component Services Provided

Banking (Financial Institution Regulation): regulates financial institutions that are chartered or licensed under state law.

- Charters, licenses, and examines state-chartered commercial banks, mutual savings banks, credit unions, trust companies, bank holding companies, interstate branching, small loan offices, premium finance companies, Commercial Fishing and Agriculture Bank (CFAB), and Business and Industrial Development Corporations (BIDCOs); and accepts filings under the Model Foreign Bank Loan Act.
- Monitors aspects of the regulated financial industry, through its examinations, including various financial ratios and management policies, and from information gathered through other reporting by institutions. Makes suggestions to institutions to improve practices and policies. May require an institution to take corrective actions if the division finds material safety and soundness concerns.

Securities Regulation: administers the Alaska Securities Act, which deals with broker-dealers, investment advisers, and the securities and advice they sell.

- Regulates the offer and sale of securities in Alaska. Enforces the anti-fraud and disclosure requirements of the Alaska Securities Act. Regulation and enforcement provide a responsible marketplace that encourages the financing of legitimate business and industry in the state. These statutes and regulations are designed to facilitate small business access to capital while assuring that investor protection is not compromised.
- Regulates proxy solicitations for certain large ANCSA corporations under the Alaska Securities Act by requiring the filing of proxy statements and related materials, and provides authority for the division to order remedial action for violations of the Act and regulations.

The Corporations Section: provides legal recognition to businesses by serving as a filing agency,

- Assisting the private sector in processing documents in compliance with state law.

Examines and files organization documents of corporations (domestic and foreign; non-profit and for profit), Limited Liability Companies, Limited Liability Partnerships, Partnerships, Cooperatives, and Professional Corporations, and documents to register Trademarks and Trade Names. Provides information and copies of documents on file by request.

Component Goals and Strategies

Develop and maintain a stable and responsible state-chartered financial institution system to serve all of Alaska's communities, especially where the institutions draw their deposits and support.

- Monitor institutions for safety and soundness by regular, joint (federal and state) examination, and, where possible, recommend ways to improve the strength and responsiveness of state-chartered financial institutions, and to increase banking services.
- Maintain an adequately sized, well trained, and highly skilled force of examiners capable of recognizing potential problems in Alaska's financial institutions before adverse situations arise that could result in serious degradation of a financial institution's safety and soundness.
- Increase the confidence of the public, the industry, and other state and federal regulators in the division reports of safety and soundness examinations by seeking, attaining, and maintaining program accreditation and examiner certification by the Conference of State Bank Supervisors.

Provide effective investor protection against financial loss due to fraudulent and other illegal activities in the securities business, and efficiently serve the Alaska business and finance community legitimately seeking to raise capital.

- Improve services to the public and businesses by installing, testing, and deploying the securities database which was funded in FY02, by developing the capability to accept filings electronically and to provide public access to information on the Internet.
- Improve investor protection by maintaining a regular examination schedule of the sales practices of state investment advisers and broker-dealers, and by investigating complaints and taking appropriate formal and informal action to enforce securities laws.
- Support a better-informed investing public through investor education, including financial literacy in school programs, curriculum support to teachers, and web-based public educational information.
- Encourage capital formation by providing information to businesses regarding issuing securities in Alaska.

Create and maintain a friendly, helpful service for the general public and business organizations of all types and origins that want to organize and do business in Alaska.

- Improve efficiency in processing filed paperwork by redesigning and improving the corporations database and by installing automated equipment that will reduce processing time, and will improve the ability of the public to access information and make filings via the Internet.
- Increase the public's accessibility to file and receive corporate documents by accepting faxed documents and payments via credit cards or the Automated Clearing House System, and by publishing forms on the Internet that can be filled out and filed electronically.
- Improve service to the public by imaging documents currently in microfilm and microfiche, thereby greatly speeding the ability to respond to information requests and providing the ability to make access to these documents easy and direct over the Internet.

Key Component Issues for FY2003 – 2004

The Division's activities generate revenues equal to more than 6 times the division's appropriation. On an annual basis, the division needs adequate resources to meet its mission of public service and protection.

A competent, well-trained professional staff is critical to the accomplishment of the division's mission. It is critical that the division's examinations and enforcement actions are recognized and accepted by federal and other state regulators.

All examinations of banks and credit unions are conducted jointly with either the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA). The NCUA has always depended on the state of Alaska to be appropriately staffed in order to conduct thorough examinations; NCUA participation in state exams is minimal. In recent years, the FDIC has had rather sizeable cutbacks in staffing and is relying more heavily on states to write examinations. In addition, the FDIC's mission is to protect the insurance fund, not the depositors and borrowers. It is the responsibility of our examination staff to provide public protection for Alaskans and to examine for compliance with state banking laws. This can only be achieved with an adequately staffed and trained field examiner staff.

INCREASE USE OF MODERN TECHNOLOGY TO INCREASE SERVICE AND IMPROVE EFFICIENCY – The division's information technology staff has been working on a project to improve the corporations section database, to automate procedures, and to simplify work processes.

INVESTOR AND DEPOSITOR PROTECTION PROGRAM – Enforcement is a major part of the banking and securities functions. In the last two fiscal years, the securities regulators received 148 securities complaints, issued 20 orders

fining violators \$191,500, and helped Alaskan investors recover \$527,945, one of the highest rates in the country. In extreme cases, the division also may need to take actions against financial institutions that could include removal of officers and taking control of the institution.

REALIGNMENT OF PRIORITIES - The Governor's FY 2004 Operating Budget request proposes the elimination of three positions within the division.

One of the division's priorities will be the examination of FDIC and NCUA insured financial institutions every 12-18 months as mandated by the FDIC and NCUA. Because the FDIC and NCUA will not extend the annual examination requirements and requires the examination be performed by state and/or federal examiners, the examinations performed by the division may be delayed. Additionally, some securities investigations may be delayed.

Major Component Accomplishments in 2002

Banking Section: Two major pieces of legislation passed in the last session of the 22nd Legislature. The first rewrote several chapters in Title 6 to (1) bring statutes into compliance with major provisions of the Gramm Leach Bliley Act (GLBA), (2) provide state chartered institutions with comparable powers of national banks, and (3) maintain opt in privacy protection for Alaskans. The other was a revision of State's trust company act. Banking completed its statutory requirements for examinations on Alaskan financial institutions and investigated and approved several branch relocations and new branches.

Securities Section: During FY02 the securities section received 55 securities and 23 ANCSA corporation proxy complaints; issued 8 enforcement orders imposing \$178,000 in fines; collected \$450 in fines from FY02 and prior years' actions; and was instrumental in having \$182,839 returned directly to Alaska investors.

- During calendar year 2002, the section registered 44,169 individual agents in Alaska, of whom 635 are Alaska residents.
- During calendar year 2002, the section received 2,372 mutual funds notice filings and registered 120 stock offerings. There were 283 exemptions noticed to us. All figures are down slightly as a result of the economic situation.
- The section collected \$500,000 from the Merrill Lynch settlement, and we are due to receive an estimated \$4,100,000 in 2003 from the settlement with the large Wall Street firms.

Corporations Section: The corporations section continued progress on completing in-house revision of corporations' database and procedures. Three separate databases will be combined to reduce the data entry, increase staff productivity, and increase the information provided to the public on the web.

The Corporation staff has kept its data entry current. In previous years, data entry of biennial reports was delayed as much as 18 months. Dissolutions of entities that did not file biennial reports were completed on time for the first time in several years. The processing filings were reduced from 6 weeks to an average 5 – 7 days. The need for expedited service has decreased dramatically as efficiency of the section improved.

The division's revenue in FY01 was \$12,611.1, up 5.6% from FY00 and 433% from FY82. The division's revenue in FY02 was \$11,659.9, which was down slightly from FY01.

Statutory and Regulatory Authority

AS 06	Banks and Financial Institutions
AS 10	File Administration of Corporations Associations, LLC's
AS 10.13	Alaska BIDCO Act
AS 10.35 & 45.50	Trademarks/Trade Names
AS 32.05	Filing of Limited Liability Partnerships
AS 32.11	Filing of Limited Partnerships
AS 34.55	Land Sales Act
AS 44.81	Examination of CFAB

AS 45.55 Supervision of Filing of Securities
AS 45.55 Proxy Solicitations of Native Corporations
AS 45.57 Public Disclosure Takeovers
3 AAC 08.305-365 Proxy Solicitations of Native Corporations

Key Performance Measures for FY2004

Measure:

The percentage of change when compared to the prior fiscal year in the number of members of the public who use forms provided by the division over the Internet for filing complaints and requests for exemptions as a percentage of all filings.

Sec 34(b)(1) Ch 124 SLA 2002(HB 515)

Alaska's Target & Progress:

Beginning in FY99, the division created web-based forms to make it easier for the public to utilize our forms. At this time, 100% of our forms are available on-line for clients to download and print. However, none of our forms are currently available for submission on-line or can be paid on-line. Our goal is to explore the means so that our clients can Complete, and Pay for some of their filing needs.

Benchmark Comparisons:

Not applicable. There are no known benchmarks for this activity.

Background and Strategies:

The division developed Internet-based forms to standardize filings and make it easier for Alaskans to download a form for printing.

The strategy to provide as much information and forms via the Internet as possible in order to improve the ease and accessibility for the public, and to make their availability known through Internet postings, public meetings, and personal contacts.

Measure:

The percentage of uncollected fines that have not been converted to court judgment.

Sec 34(b)(2) Ch 124 SLA 2002(HB 515)

Alaska's Target & Progress:

Beginning in FY99 following a statutory change allowing for converting uncollected fines, the division initiated the practice of converting uncollected fines to court judgment to make it easier for the division to pursue securities violators who refuse to pay their fine, even when they reside outside of Alaska. The division's target for this measure is 0%. Through September 30, 2002, the FY03 percentage was 0%.

Four cases during FY02

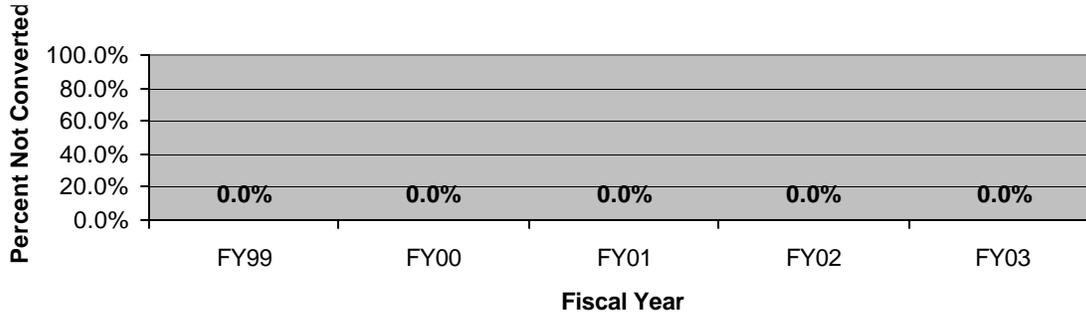
One enforcement effort was against a company from Florida, whose home office was in Venezuela. A fine was levied but not pursued because it is impracticable to go after foreign violators.

Another violation emanated from Florida. The Division levied fines but could not effect service. Therefore, it didn't go to final order and there was nothing to collect.

Fines of \$35,000 were levied against one Alaskan individual. The fines were the subject of some debate and the question remains as to whether the fines were or could be discharged in bankruptcy. Rather than pursue the matter at significant expense against an individual with vastly limited resources, we dropped the matter. The question of dischargeability of state levied fines is the subject of debate in the Congress as they look at amendments to the bankruptcy laws.

The Division is in the process of collecting fines of \$140,000 from a California company and its chief staff. This case went through final order to judgment.

**Percent of Uncollected Fines Not Converted to Court Judgment
(As of September 30, 2002)**



Benchmark Comparisons:

There are no benchmarks for this activity, but the goal is either to collect or to convert to court judgment all levied fines, unless they are suspended for good cause.

Background and Strategies:

Background and Strategies:

Sometimes respondents refuse to pay fines. In order to improve the division's ability to take collection actions against them through the courts of any state, the division may petition to have an administrative fine converted to a court judgment (called "reducing an administrative fine to judgment"). The U.S. Constitution provides that a court judgment from one state is given full faith and credit in all states, so the fines should then be collectible wherever the violators and their property are found. This authority was obtained through amendments to the Alaska Securities Act, effective October 1, 1999.

Strategy: With the change in the law, the division files the appropriate applications to Superior Court to convert uncollected fines to judgment. Once that is achieved, the division attempts to enforce the court's judgment and collect the fine. This is a relatively new process, and the first such application was filed in December 1999.

Measure:

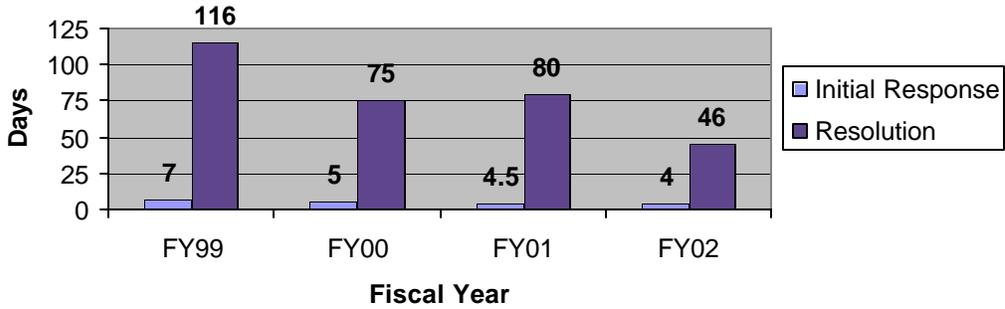
The average time taken to respond to and resolve complaints.

Sec 34(b)(3) Ch 124 SLA 2002(HB 515)

Alaska's Target & Progress:

Beginning in FY99, the division initiated an effort to reduce the amount of time it takes to respond to an initial complaint and to resolve the complaint. Timeliness is important to those who file a complaint with the division. The division's target for this measure is 2 days for the initial response, and 90 days for the resolution. The division recognizes that complex cases may take longer to resolve due to factors beyond the division's control. The division's target is for an average resolution time, with the understanding that individual cases may take longer. Through April 30, 2002, the FY02 achievement for initial response time was just under 4 days, down from a little over 4 days in FY02. The FY02 achievement for resolution time was 46 days, down from 80 days in FY01.

**Days for Initial Response and for Resolution
(As of May 2002)**



Benchmark Comparisons:

Not applicable. There are no benchmarks for this measure. The time it takes to resolve complaints is affected by the complexity of the case.

Background and Strategies:

Assisting Alaskans with their investment problems by responding to their complaints and taking actions to resolve those complaints is a critical part of the division's efforts to protect investors. Timeliness is an important aspect of that process.

Strategy: The division promptly sends a postcard to a complainant acknowledging receipt of the complaint and giving a file number for future reference. Complaints are then put into a database and the division interviews the complainant to obtain alleged facts and related documents.

Banking, Securities and Corporations
Component Financial Summary

All dollars in thousands

	FY2002 Actuals	FY2003 Authorized	FY2004 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	1,476.8	1,733.1	1,567.7
72000 Travel	67.8	80.3	77.3
73000 Contractual	195.7	560.6	523.5
74000 Supplies	37.3	21.9	21.9
75000 Equipment	111.6	9.1	9.1
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
Expenditure Totals	1,889.2	2,405.0	2,199.5
Funding Sources:			
1007 Inter-Agency Receipts	1.2	3.0	3.0
1156 Receipt Supported Services	1,888.0	2,402.0	2,196.5
Funding Totals	1,889.2	2,405.0	2,199.5

Banking, Securities and Corporations

Proposed Changes in Levels of Service for FY2004

REALIGNMENT OF PRIORITIES - The Governor's FY 2004 Operating Budget request proposes the elimination of three positions within the division.

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Summary of Component Budget Changes

From FY2003 Authorized to FY2004 Governor

All dollars in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2003 Authorized	0.0	0.0	2,405.0	2,405.0
Adjustments which will continue current level of service:				
-Annualize FY2003 COLA Increase for General Government and Supervisory Bargaining Units	0.0	0.0	22.1	22.1
-\$75 per Month Health Insurance Increase for Non-covered Staff	0.0	0.0	0.9	0.9
Proposed budget decreases:				
-Realignment of Priorities	0.0	0.0	-244.4	-244.4
Proposed budget increases:				
-Increases in various rate-based services	0.0	0.0	15.9	15.9
FY2004 Governor	0.0	0.0	2,199.5	2,199.5

Banking, Securities and Corporations**Personal Services Information**

	Authorized Positions		Personal Services Costs	
	<u>FY2003</u> <u>Authorized</u>	<u>FY2004</u> <u>Governor</u>		
Full-time	28	25	Annual Salaries	1,212,401
Part-time	0	0	Premium Pay	8,663
Nonpermanent	0	0	Annual Benefits	429,146
			<i>Less 5.00% Vacancy Factor</i>	(82,511)
			Lump Sum Premium Pay	0
Totals	28	25	Total Personal Services	1,567,700

Position Classification Summary

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Administrative Clerk II	0	0	4	0	4
Administrative Clerk III	1	0	3	0	4
Administrative Manager I	0	0	1	0	1
Analyst/Programmer III	0	0	1	0	1
Analyst/Programmer IV	0	0	1	0	1
Business Reg Examiner	0	0	3	0	3
Division Director	0	0	1	0	1
Financial Instit Exam II	1	0	1	0	2
Financial Instit Exam III	1	0	0	0	1
Financial Instit Exam IV	0	0	1	0	1
Records & Licensing Spvr	0	0	1	0	1
Secretary	0	0	1	0	1
Securities Examiner I	1	0	2	0	3
Securities Examiner II	0	0	1	0	1
Totals	4	0	21	0	25