

# **State of Alaska FY2002 Governor's Operating Budget**

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

## **Component: Banking, Securities and Corporations**

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### **Component Mission**

The mission of the Division of Banking, Securities, and Corporations is to

- 1) maintain a stable financial network in the state for the safe conduct of financial services;
- 2) protect securities investors;
- 3) provide in-state and out-of-state businesses with a legal structure enabling them to transact commerce in the state.

### **Component Services Provided**

Banking Section: regulates financial institutions that are chartered or licensed under state law.

- Charters, licenses, and supervises 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 all aspects of the regulated financial industry, including various financial ratios and management policies through examinations and from information gathered through other reporting by institutions. Suggestions are made to institutions for improvement of weak practices and policies. The division may require an institution to take corrective actions when material safety and soundness concerns are found. The division seeks industry ideas on ways to improve banking services.
- The Banking Section undertook a major project to revise Title 06 as a result of passage of the Gramm-Leach-Bliley Act. We are developing a proposed bill for introduction during this legislative session.

Securities Section: 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 provides a responsible marketplace that encourages the financing of legitimate business and industry in the state. Seeks to increase small business access to capital while assuring that investor protection is not compromised.
- Regulates proxy solicitations for certain ANCSA corporations, affecting thousands of Alaska natives who are shareholders of corporations with billions of dollars of assets. The Alaska Securities Act provides for the filing of proxy statements and remedial action authority for violations of the act and regulations.

The Corporations Section: provides legal recognition to a business by serving as a filing agency, assisting the private sector in processing documents in compliance with state law. The section also fulfills requests for information and provides copies of documents on file. The section 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 along with registration of Trademarks and Trade Names.

### **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 they draw their deposits and support.

- Monitor and where possible recommend ways to improve the strength and responsiveness of state-chartered financial institutions, and increase banking services.

Efficiently serve the Alaska business and finance community and provide effective public protection against financial loss due to fraudulent and other illegal activities in the securities business.

- Seek to improve investor protection by examining the sales practices of broker-dealers and investment advisers, investigating complaints and taking appropriate formal and informal action.
- Encourage capital formation by providing information regarding issuing securities in Alaska.

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

- Reduce the bureaucratic barrier with increased assistance in filling out forms for those who wish to establish businesses or qualify to do business in Alaska.
- Increase the public's accessibility to file and receive corporate documents by accepting faxed documents and credit cards, publishing forms on Internet, and imaging public documents for all three sections of the division.
- Improve efficiency in processing filed paperwork by installing automated equipment, such as E-Commerce.

### **Key Component Issues for FY2001 – 2002**

Additional data processing resources are needed to allow the division to handle increased workloads with increased productivity rather than a commensurate increase in staff. These resources are also necessary to enable the division to provide adequate services to the public through use of the Internet and electronic filing. Considerable work is needed to update and create improved databases for all three sections in the division to improve productivity and public service.

Due to increased filings in the corporation section, processing backlogs have grown longer which has a negative impact on the entities that are required to file in order to do business in Alaska. These delays impose a real cost on the private sector. Additional resources are needed in the corporations section to stem the growth of these backlogs and improve public service.

The division's activities generate revenues equal to more than 6 times the division's appropriation. It is imperative that the division receives increased resources in the coming years to be able to meet its mission of public service. Years of "hold-the-line" levels of appropriation have resulted in an inability to complete adequate examination of securities firms, to provide sufficient training for professional staff, and to pay for basic non-discretionary contractual items.

### **Major Component Accomplishments for FY2000**

**Banking:** Continued development of a financial institution database in Oracle. This database will increase efficiencies within the section, and will provide more up-to-date information to the public via the Internet.

**Securities:** Received 40 securities and 18 ANCSA corporation proxy complaints; issued 9 enforcement orders imposing \$103,250 in fines, of which \$18,275 was collected and \$50,000 was reduced to judgment; and was instrumental in having \$179,000 returned directly to Alaska investors.

**Corporations:** Made Biennial Reports easier to file by putting the form on the Internet for retrieval. We receive about 14,000 of these filings each year. The next step needed is to make it possible for filers to "submit" the Biennial Reports and fees via the Internet. In the mean time the section has made all other forms available as on-line, fill-in documents via the Internet.

In general: The division relocated the Juneau office from the 9th floor State Office Building to the Community Building located at 150 3rd Street. The move was accomplished with a minimum of downtime and disruption to Alaskans and to those seeking our services.

The division's revenue in FY2000 was \$11,934.3, up 23% from FY1999 and 404% from FY1982. In FY2000, the division was authorized 26 positions compared to 25 positions in FY1982.

### **Statutory and Regulatory Authority**

AS 06 - Supervision of Banking and other Financial Institutions

- 06.01 Administration
- 06.05 Alaska Banking Code
- 06.10 Model Foreign Bank Loan Act
- 06.10 Mutual Savings Bank Act
- 06.20 Alaska Small Loans Act
- 06.25 Trust Companies
- 06.35 Uniform Common Trust Fund Act
- 06.40 Premium Financing Act
- 06.45 Alaska Credit Union Act

AS 10-File Administration Of Corps Associations, LLC's

AS 10.13-BIDCO's

AS 10.35 & 45.50 -Trademarks/Tradenames

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 45.55/3 AAC 08.305-365-Proxy Solicitations of Native Corporations

AS 45.57-Public Disclosure Takeovers

### **Key Performance Measures for FY2002**

**Measure: Have no Securities or ANCSA related administrative orders overturned at hearing or in court if challenged.**

*(Not yet addressed by Legislature.)*

**Current Status:**

The number of complaints resolved without formal action (formal orders): FY99....59; FY00....24; FY01....7 (as of 10/27/00)

The number of complaints resolved through formal orders: FY99....7; FY00....9; FY01....9 (as of 10/27/00)

The number of formal orders challenged: FY99....2; FY00....3; FY01....0 (as of 10/27/00)

The number of formal orders challenged successfully: FY99....0; FY00....0; FY01....0 (as of 10/27/00)

**Benchmark:**

Generally, the benchmark is to have no orders overturned. However, some orders may be more aggressive than others in dealing with Securities Act violations, and it is possible that some may be overturned.

**Background and Strategies:**

When the division investigates a complaint, if appropriate it attempts to resolve the complaint quickly and without formal action (issuing an order). Any time the division issues an order, the law provides the respondent an opportunity to request a hearing and, ultimately, a judicial review. The division cannot control whether a respondent requests a hearing, but the division vigorously defends its position in a hearing or in a court review.

The strategy: to thoroughly document a complaint and keep formal actions well grounded in the law and regulations in order to reduce their vulnerability to being overturned on any technical grounds.

**Measure: The number of members of the public who use forms provided by the division over the Internet for filing complaints and requests for exemptions.**

*(Added by Legislature in FY2001 version.)*

**Current Status:**

In FY99, the division provided no Internet-based forms, so there was no use of this medium by Alaskans.

In FY00, about 80% of complaints and exemption filings have utilized the web-based forms provided by the division.

In FY01, about 90% of complaints and exemption filings have utilized the web-based forms provided by the division. The vast majority of filers using these forms are completing them on-line and then mailing them in. The section is working towards providing a "submit" feature on these forms for complete on-line processing.

**Benchmark:**

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 who want to file a complaint or an application for exemption from registration.

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 advertising, public meetings, and personal contacts.

**Measure: The number of uncollected fines that have not been converted to court judgment.**

*(Added by Legislature in FY2001 version.)*

**Current Status:**

- FY99 of 8 fines levied, 4 fines were collected, leaving 4 needing action.
- FY00 through FY01, as of 10/27/00, there were 4 fines reduced to judgment, 1 partially collected, and one abandoned, leaving 2 needing action.

**Benchmark:**

The goal is to reach a point where all fines are either collected or converted to court judgment.

**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.

With the change in the law, the division will file the appropriate applications to Superior Court to convert these fines to judgment. This is a new process, and the first such application was filed in December 1999. Once that is achieved, the division will attempt to enforce the court's judgment and collect the fine. Once the procedures are developed, it will become the division's routine to take these actions.

**Measure: The time taken to respond to and resolve complaints.**

*(Added by Legislature in FY2001 version.)*

**Current Status:**

Complaint response time

- FY99....7 days
- FY00....5 days
- FY01....5 days, as of 10/27/00

Complaint resolution time:

- FY99....116 days
- FY00....75 days
- FY01....80 days, as of 10/27/00

**Benchmark:**

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.

**Status of FY2001 Performance Measures**

	<i>Achieved</i>	<i>On track</i>	<i>Too soon to tell</i>	<i>Not likely to achieve</i>	<i>Needs modification</i>
<ul style="list-style-type: none"> <li>• Maintain investor protection by reducing the time of response to and resolution of complaints by 10% within 2 years.</li> </ul>					X
<ul style="list-style-type: none"> <li>• Have no Securities or ANCSA related administrative orders overturned at hearing or in court if challenged.</li> </ul>		X			
<ul style="list-style-type: none"> <li>• Improve service to the public and standardize filings through public use of Internet-provided division forms to file complaints and exemption filings at least 50% of the time by July 1, 2000.</li> </ul>					X
<ul style="list-style-type: none"> <li>• By June 30, 2001, reduce to zero the number of uncollected fines that have not been converted to court judgment.</li> </ul>					X
<ul style="list-style-type: none"> <li>• The number of members of the public who use forms provided by the division over the Internet for filing complaints and requests for exemptions.</li> </ul>		X			
<ul style="list-style-type: none"> <li>• The number of uncollected fines that have not been converted to court judgments.</li> </ul>		X			
<ul style="list-style-type: none"> <li>• The time taken to respond to and resolve complaints.</li> </ul>		X			

**Banking, Securities and Corporations**  
**Component Financial Summary**

All dollars in thousands

	FY2000 Actuals	FY2001 Authorized	FY2002 Governor
<b>Non-Formula Program:</b>			
<b>Component Expenditures:</b>			
71000 Personal Services	1,381.8	1,545.0	1,588.8
72000 Travel	52.9	76.3	76.3
73000 Contractual	212.4	170.8	212.3
74000 Supplies	26.9	18.9	19.9
75000 Equipment	44.2	2.1	6.1
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
<b>Expenditure Totals</b>	<b>1,718.2</b>	<b>1,813.1</b>	<b>1,903.4</b>
<b>Funding Sources:</b>			
1005 General Fund/Program Receipts	1,717.1	0.0	0.0
1007 Inter-Agency Receipts	1.1	1.7	1.7
1053 Investment Loss Trust Fund	0.0	39.8	0.0
1156 Receipt Supported Services	0.0	1,771.6	1,901.7
<b>Funding Totals</b>	<b>1,718.2</b>	<b>1,813.1</b>	<b>1,903.4</b>

**Estimated Revenue Collections**

Description	Master Revenue Account	FY2000 Actuals	FY2001 Authorized	FY2001 Cash Estimate	FY2002 Governor	FY2003 Forecast
<b>Unrestricted Revenues</b>						
General Fund Program Receipts	51060	9,177.3	0.0	0.0	0.0	0.0
Unrestricted Fund	68515	0.0	8,818.1	10,300.2	10,388.8	10,564.7
<b>Unrestricted Total</b>		<b>9,177.3</b>	<b>8,818.1</b>	<b>10,300.2</b>	<b>10,388.8</b>	<b>10,564.7</b>
<b>Restricted Revenues</b>						
Interagency Receipts	51015	1.1	1.7	1.7	1.7	1.7
General Fund Program Receipts	51060	1,717.1	0.0	0.0	0.0	0.0
Receipt Supported Services	51073	0.0	1,771.6	1,771.6	1,901.7	1,901.7
Investment Loss Trust Fund	51393	0.0	39.8	39.8	0.0	0.0
<b>Restricted Total</b>		<b>1,718.2</b>	<b>1,813.1</b>	<b>1,813.1</b>	<b>1,903.4</b>	<b>1,903.4</b>
<b>Total Estimated Revenues</b>		<b>10,895.5</b>	<b>10,631.2</b>	<b>12,113.3</b>	<b>12,292.2</b>	<b>12,468.1</b>

## Banking, Securities and Corporations

### Proposed Changes in Levels of Service for FY2002

Two new fee supported positions are requested. The first is a new Administrative Clerk II. The position is needed in Anchorage to support the Business Registration Examiner to reduce the large backlog of corporation filings, many of which originate in Anchorage.

The second position is a new Analyst Programmer. This position will develop and maintain the new Securities Database requested in the Capital Budget. In addition, the position will work with current Data Processing staff to move the division to on-line filing and processing. The positions are to be funded with fees through receipt supported services.

Increments for the Divisions of Insurance, Occupational Licensing, and Banking, Securities, & Corporations are requested to cover rent expenses in FY02. An increment for the DCED State Facilities Rent Component is requested to receive the rent payments, in the form of interagency receipts. General funds, in the amount of FY01 rental rates paid by the 3 divisions, are transferred to the Department of Administration.

### Summary of Component Budget Changes

#### From FY2001 Authorized to FY2002 Governor

*All dollars in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2001 Authorized</b>	<b>39.8</b>	<b>0.0</b>	<b>1,773.3</b>	<b>1,813.1</b>
<b>Adjustments which get you to start of year:</b>				
-Update Executive Administration and Support Cost Allocation Plan	0.0	0.0	-47.6	-47.6
<b>Adjustments which will continue current level of service:</b>				
-Convert Special FY2001 Labor Cost Fund Sources to Rcpt Svcs	-39.8	0.0	39.8	0.0
-Year 2 Labor Costs - Net Change from Fy 2001	0.0	0.0	11.7	11.7
<b>Proposed budget increases:</b>				
-New Positions and Related Expenses	0.0	0.0	101.5	101.5
-State Facilities Rent	0.0	0.0	24.7	24.7
<b>FY2002 Governor</b>	<b>0.0</b>	<b>0.0</b>	<b>1,903.4</b>	<b>1,903.4</b>

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

Authorized Positions			Personal Services Costs	
	FY2001 Authorized	FY2002 Governor		
Full-time	26	27	Annual Salaries	1,217,759
Part-time	0	0	COLA	18,223
Nonpermanent	0	0	Premium Pay	8,378
			Annual Benefits	421,978
			<i>Less 4.65% Vacancy Factor</i>	<i>(77,538)</i>
			Lump Sum Premium Pay	0
<b>Totals</b>	<b>26</b>	<b>27</b>	<b>Total Personal Services</b>	<b>1,588,800</b>

**Position Classification Summary**

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Administrative Clerk II	1	0	5	0	6
Administrative Clerk III	0	0	2	0	2
Administrative Manager II	0	0	1	0	1
Analyst/Programmer III	0	0	2	0	2
Business Reg Examiner	1	0	3	0	4
Division Director	0	0	1	0	1
Financial Instit Exam II	1	0	1	0	2
Financial Instit Exam III	2	0	0	0	2
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	0	0	3	0	3
Securities Examiner II	0	0	1	0	1
<b>Totals</b>	<b>5</b>	<b>0</b>	<b>22</b>	<b>0</b>	<b>27</b>