

State of Alaska FY2005 Governor's Operating Budget

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

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RDU/Component: Banking, Securities and Corporations

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

Contribution to Department's Mission

The Division of Banking, Securities and Corporations charters and examines State financial institutions, administers the Alaska Securities Act, and allows for the creation and maintenance of business entities.

Core Services

Banking Section

This Section's core service is the examination of State chartered banks, State chartered credit unions, State chartered trusts companies, State licensed small loan companies, State licensed premium finance companies, and BIDCOs.

Securities Section

The Securities Section administers the Alaska Securities Act, which includes the registration of securities, broker/dealers and investment advisors.

The Securities Section also investigates complaints and at times issue enforcement orders and civil fines.

This Section by statute provides oversight to the form and content proxies issued in conjunction with corporate elections held by Alaska Native Settlement Act Corporations.

Corporations Section

The Corporations Sections provides for the creation and maintenance of business entities.

The Section also registers and reserves business names, and registers state trademarks.

| End Results | Strategies to Achieve Results |
|--|---|
| <p>(1) Maintain a sound banking system.</p> <p><u>Target:</u> Complete examinations of State chartered institutions on or before statutory deadlines. <u>Measure:</u> Time interval between examinations.</p> <p><u>Target:</u> Take regulatory action in the event that a rating is inappropriate and is not corrected. <u>Measure:</u> Action taken as appropriate.</p> <p>(2) Identification and registration of securities subject to the Alaska Securities Act.</p> <p><u>Target:</u> Register eligible broker/dealers. <u>Measure:</u> Number of successful applicants and number of applicants rejected.</p> <p><u>Target:</u> Register new securities. <u>Measure:</u> Fees collected by securities registrations.</p> | <p>(1) Monitor institution performance of institutions subject to on-site examination (every eighteen or twelve months) by a review of financial information provided by the institution.</p> <p><u>Target:</u> Review financial reports in a timely fashion. <u>Measure:</u> Timeliness of review of financials and analysis of same.</p> <p>(2) Conduct onsite examinations of securities dealers and investment advisors.</p> <p><u>Target:</u> Onsite examinations every 24 months. <u>Measure:</u> Time of each examination.</p> <p>(3) All exemption requests processed within 120 days of receipt.</p> <p><u>Target:</u> 90% of exemption requests processed within 60 days of receipt.</p> |

| End Results | Strategies to Achieve Results |
|--|---|
| <p>(3) The prompt processing of exemption requests.</p> <p><u>Target:</u> Process securities exemption requests. <u>Measure:</u> Number of exemptions requests processed and the time taken to process each request.</p> <p><u>Target:</u> Examination of securities dealers and investment advisors at least once every 24 months. <u>Measure:</u> Whether securities and investment advisors have been examined at least every 24 months.</p> <p>(4) Receive complaints and investigate sales of unregistered securities.</p> <p><u>Target:</u> Securities examiners promptly identify possible violations and refer matters to security investigators. <u>Measure:</u> Number of cease and desist orders, civil fines imposed and cases referred to the Dept. of Law or federal authorities.</p> <p>(5) Prompt examination of new business entity filings and issue appropriate certificate within days of examination.</p> <p><u>Target:</u> Receipt and filing of new business entities. <u>Measure:</u> Number of new entities filed on an annual basis</p> <p>(6) Maintain an accurate corporations data base by dissolving entities which fail to file biannual reports.</p> <p><u>Target:</u> Receipt of corporate biannual reports. <u>Measure:</u> Time it takes to process biannual reports and fees.</p> | <p><u>Measure:</u> Number of exemption requests processed within 60 days of receipt.</p> <p>(4) Hire and train securities investigators.</p> <p><u>Target:</u> Within 48 hours of contact, open a file. Investigators will then prepare reports that can let the administrator close files, take appropriate action, or refer matters to law enforcement agencies. <u>Measure:</u> Within 48 hours of contact, open a file. Investigators will then prepare reports that can let the administrator close files, take appropriate action, or refer matters to law enforcement agencies.</p> <p>(5) Process new filings promptly and efficiently.</p> <p><u>Target:</u> Reduce the frequency of requests for expedited consideration for the processing of new entity filings. <u>Measure:</u> Maintain a prompt turn-a-round time for the processing of incorporation and limited liability company creation documents so that requests for expedited consideration are limited to emergency situations.</p> <p>(6) Maintain an accurate corporations database.</p> <p><u>Target:</u> Reduce telephone and written inquiries regarding the status of corporations, limited liability partnerships, and limited liability companies. <u>Measure:</u> Number of requests for expedited consideration on an annual basis.</p> |

| Major Activities to Advance Strategies | |
|--|--|
| <ul style="list-style-type: none"> • BANKING SECTION: • Complete examinations on time by careful scheduling of staff and training staff to current standards. • SECURITIES SECTION: • Improve services to the public and businesses with the operation of the newly purchased STAR securities database. • Further develop 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. | <ul style="list-style-type: none"> • Investigate complaints and take 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. • CORPORATIONS SECTION: • Develop a prompt system for the examination of corporate documents. • Eliminate conflicts in name registrations with the Division of Occupational Licensing. |

| FY2005 Resources Allocated to Achieve Results | | | | | | | | | |
|---|--|-------------------|--|-----------|----|-----------|---|--------------|-----------|
| FY2005 Component Budget: \$2,733,400 | <table style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2">Personnel:</td> </tr> <tr> <td style="padding-left: 20px;">Full time</td> <td style="text-align: right;">31</td> </tr> <tr> <td style="padding-left: 20px;">Part time</td> <td style="text-align: right;">0</td> </tr> <tr> <td style="padding-left: 20px; border-top: 1px solid black;">Total</td> <td style="text-align: right; border-top: 1px solid black;">31</td> </tr> </table> | Personnel: | | Full time | 31 | Part time | 0 | Total | 31 |
| Personnel: | | | | | | | | | |
| Full time | 31 | | | | | | | | |
| Part time | 0 | | | | | | | | |
| Total | 31 | | | | | | | | |

Performance Measure Detail

(1) Result: Maintain a sound banking system.

Target: Complete examinations of State chartered institutions on or before statutory deadlines.

Measure: Time interval between examinations.

Analysis of results and challenges: This is a new measure and will be calculated starting in FY04.

Target: Take regulatory action in the event that a rating is inappropriate and is not corrected.

Measure: Action taken as appropriate.

Analysis of results and challenges: This is a new measure and will be calculated starting in FY04.

(2) Result: Identification and registration of securities subject to the Alaska Securities Act.

Target: Register eligible broker/dealers.

Measure: Number of successful applicants and number of applicants rejected.

Analysis of results and challenges: This is a new measure and will be calculated starting in FY04.

Target: Register new securities.

Measure: Fees collected by securities registrations.

Analysis of results and challenges: This is a new measure and will be calculated starting in FY04.

(3) Result: The prompt processing of exemption requests.

Target: Process securities exemption requests.

Measure: Number of exemptions requests processed and the time taken to process each request.

Analysis of results and challenges: This is a new measure and will be calculated starting in FY04.

Target: Examination of securities dealers and investment advisors at least once every 24 months.

Measure: Whether securities and investment advisors have been examined at least every 24 months.

Analysis of results and challenges: This is a new measure and will be calculated starting in FY04.

(4) Result: Receive complaints and investigate sales of unregistered securities.

Target: Securities examiners promptly identify possible violations and refer matters to security investigators.

Measure: Number of cease and desist orders, civil fines imposed and cases referred to the Dept. of Law or federal authorities.

Analysis of results and challenges: This is a new measure and will be calculated starting in FY04.

(5) Result: Prompt examination of new business entity filings and issue appropriate certificate within days of examination.

Target: Receipt and filing of new business entities.

Measure: Number of new entities filed on an annual basis

Analysis of results and challenges: This is a new measure and will be calculated starting in FY04.

(6) Result: Maintain an accurate corporations data base by dissolving entities which fail to file biannual reports.

Target: Receipt of corporate biannual reports.

Measure: Time it takes to process biannual reports and fees.

Analysis of results and challenges: This is a new measure and will be calculated starting in FY04.

(1) Strategy: Monitor institution performance of institutions subject to on-site examination (every eighteen or twelve months) by a review of financial information provided by the institution.

Target: Review financial reports in a timely fashion.

Measure: Timeliness of review of financials and analysis of same.

Analysis of results and challenges: This is a new measure and will be calculated starting in FY04.

(2) Strategy: Conduct onsite examinations of securities dealers and investment advisors.

Target: Onsite examinations every 24 months.

Measure: Time of each examination.

Analysis of results and challenges: This is a new measure and will be calculated starting in FY04.

(3) Strategy: All exemption requests processed within 120 days of receipt.

Target: 90% of exemption requests processed within 60 days of receipt.

Measure: Number of exemption requests processed within 60 days of receipt.

Analysis of results and challenges: This is a new measure and will be calculated starting in FY04.

(4) Strategy: Hire and train securities investigators.

Target: Within 48 hours of contact, open a file. Investigators will then prepare reports that can let the administrator close files, take appropriate action, or refer matters to law enforcement agencies.

Measure: Within 48 hours of contact, open a file. Investigators will then prepare reports that can let the administrator close files, take appropriate action, or refer matters to law enforcement agencies.

Analysis of results and challenges: This is a new measure and will be calculated starting in FY04.

(5) Strategy: Process new filings promptly and efficiently.

Target: Reduce the frequency of requests for expedited consideration for the processing of new entity filings.

Measure: Maintain a prompt turn-a-round time for the processing of incorporation and limited liability company

creation documents so that requests for expedited consideration are limited to emergency situations.

Analysis of results and challenges: This is a new measure and will be calculated starting in FY04.

(6) Strategy: Maintain an accurate corporations database.

Target: Reduce telephone and written inquiries regarding the status of corporations, limited liability partnerships, and limited liability companies.

Measure: Number of requests for expedited consideration on an annual basis.

Analysis of results and challenges: This is a new measure and will be calculated starting in FY04.

Key Component Challenges

The Banking Section is in the process of obtaining program accreditation and examiner certification by the Conference of State Bank Supervisors (CSBS). Successfully completing this accreditation program will permit state examinations to be accepted by the Federal Deposit Insurance Corporation (FDIC) and it would put Alaska on par with 44 out of 50 states have already achieved their nationally recognized accreditation status with CSBS.

The Securities Section is working to increase our presence in Alaska by increasing and improving 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. The section is also attempting to provide effective investor protection against financial loss due to fraudulent and other illegal activities in the securities business, and has begun to work with the Securities and Exchange Commission (SEC) and other federal agencies to enforce the Alaska Securities Act when violations may have occurred that involve interstate activities and commerce. Training for the section is a goal and will continue through the fiscal year since previously, securities staff did not regularly attend training. The securities field is undergoing changes as new products and types of investments are offered to the public. The section's goal is to monitor these developments and investigate sales of unregistered securities. New regulations regarding the section's role in the Alaska Native Claims Settlement Act corporations proxy issues have been promulgated and should be implemented during the fiscal year.

Maintaining the stability of the Division's databases and maintaining the information that they post to the Internet are critical challenges to the division. The Corporations Section has had difficulties with its data base and continues to work with the Department's Information Technology Section to resolve the issues. With stable databases, the Division is able to provide its clients with up-to-date information, quick turn around time for the processing of filings, timely processing of checks (deposits) to treasury, as well as accurate and live data on our Internet search page.

Significant Changes in Results to be Delivered in FY2005

Community Quota Development (CDQ) program Transfer. The CDQ program has had enormous success and rapid growth. The administrative demands of the program have become fiscally complex to the extent that the highly specialized financial analytical skills of professional staff in the Division of Banking, Securities, and Corporations are needed for the effective oversight of the CDQ program. Consequently the CDQ program is transferred from the Division of Community Advocacy to the Division of Banking, Securities, and Corporations.

Securities Investigators. The Securities Section has started to conduct more on site examinations of broker dealers and investment advisors. These securities examinations revealed the need for experienced investigators. Additionally, recent events have indicated that the securities field is undergoing a series of problems that make on site examinations and investigations by state securities regulators important. Two underutilized investigator positions from the Division of Occupational Licensing are transferred to conduct securities investigations and make cases based on violations of rules, regulations and statutes. Source of Funding for the investigators is receipt supported services.

Major Component Accomplishments in 2003

The Division in General

The division had expenditures of \$2.4 million and revenues of \$12.1 million during FY03. The revenue estimate for FY04 is \$16.3 which includes \$4.1 million in additional revenues for our participation in the nation wide Merrill Lynch settlement.

Banking Section

One major piece of legislation passed in the first session of the 23rd Legislature. HB 159 relieved the Division of its responsibility to examine the Commercial Fishing and Agricultural Bank (CFAB), which no longer has State funds and is not a depository banking institution. This elimination of the CFAB examination allowed the Division to not fill an open bank examiner position.

In addition, there were three major packages advertised for revisions to regulations. One of the packages was for regulations to accompany the Revised Alaska Trust Company Act that was passed in the last session of the 22nd Legislature. The other two regulation packages address other legislation that was also passed in that session, and to address other changes needed to modernize banking regulations.

Securities Section

In FY 2003, the section registered 1,280 broker-dealers, 44,702 agents, 30 state investment advisers, 483 federal covered advisers, and 585 investment adviser representatives. During this time period there were 32 general securities complaints lodged and 28 complaints involving ANCSA corporations.

Of these, 33 were resolved without order or hearing and 14 orders were issued. One order was vacated and four were ended by consent agreements. Three hearings were requested, though none were held and the matters resolved.

Fines of \$470,500 were imposed by temporary order and \$244,250 in fines were levied under final orders or consents. The section took actions which resulted in \$4,000 being returned to an investor, collected \$13,250 of the fines imposed, and reduced to Judgment over \$140,000 in fines which will be collected by execution. Two cases, representing temporary fines of \$250,000 and \$90,000 saw the principals sent to federal prison which made collection impossible.

The section started to conduct field examinations of brokerage firms, and has begun to work with the federal Securities and Exchange Commission on interstate enforcement cases and in identifying possible securities violations.

Corporations Section

The section has continued to service Alaskans starting new businesses.

As of May 2003 the corporations section processed 3,173 filings for formation of new entities.

As of May 2003 the corporations section processed 9,986 biennial reports.

As of May 2003 the corporations section processed 1,000 trade names and trade marks.

As of May 2003 the corporations section processed 5,036 amendments.

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 44.33.020 (11) | Community Development Quota |
| AS 44.33.113 | Community Development Quota |
| 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

Contact Information

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

All dollars shown in thousands

| | FY2003 Actuals | FY2004 Authorized | FY2005 Governor |
|---------------------------------|----------------|-------------------|-----------------|
| Non-Formula Program: | | | |
| Component Expenditures: | | | |
| 71000 Personal Services | 1,637.9 | 1,601.2 | 2,067.0 |
| 72000 Travel | 82.0 | 77.3 | 100.8 |
| 73000 Contractual | 542.1 | 510.5 | 522.5 |
| 74000 Supplies | 31.3 | 21.9 | 22.9 |
| 75000 Equipment | 52.8 | 9.1 | 20.2 |
| 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 | 2,346.1 | 2,220.0 | 2,733.4 |
| Funding Sources: | | | |
| 1007 Inter-Agency Receipts | 1.0 | 3.0 | 0.0 |
| 1156 Receipt Supported Services | 2,345.1 | 2,217.0 | 2,733.4 |
| Funding Totals | 2,346.1 | 2,220.0 | 2,733.4 |

Estimated Revenue Collections

| Description | Master Revenue Account | FY2003 Actuals | FY2004 Authorized | FY2005 Governor |
|---------------------------------|------------------------------|-------------------|----------------------|--------------------|
| Unrestricted Revenues | | | | |
| Receipt Supported Services | 51073 | 7,174.6 | 8,268.5 | 7,752.1 |
| Unrestricted Fund | 68515 | 1,774.5 | 1,193.6 | 1,193.6 |
| Unrestricted Total | | 8,949.1 | 9,462.1 | 8,945.7 |
| Restricted Revenues | | | | |
| Interagency Receipts | 51015 | 1.0 | 3.0 | 0.0 |
| Receipt Supported Services | 51073 | 2,345.1 | 2,217.0 | 2,733.4 |
| Restricted Total | | 2,346.1 | 2,220.0 | 2,733.4 |
| Total Estimated Revenues | | 11,295.2 | 11,682.1 | 11,679.1 |

**Summary of Component Budget Changes
From FY2004 Authorized to FY2005 Governor**

All dollars shown in thousands

| | <u>General Funds</u> | <u>Federal Funds</u> | <u>Other Funds</u> | <u>Total Funds</u> |
|--|----------------------|----------------------|--------------------|--------------------|
| FY2004 Authorized | 0.0 | 0.0 | 2,220.0 | 2,220.0 |
| Adjustments which will continue current level of service: | | | | |
| -Transfer Community Development Quota Staff to Banking, Securities & Corporations from Community Advocacy ADN 840077 | 0.0 | 0.0 | 313.2 | 313.2 |
| -Changes to Retirement and Other Personal Services Rates | 0.0 | 0.0 | 45.7 | 45.7 |
| -Transfer 2 Investigator to Banking Securities & Corporations positions from Occupational Licensing | 0.0 | 0.0 | 157.5 | 157.5 |
| Proposed budget decreases: | | | | |
| -Cancel Child Support Enforcement Program Reimbursable Service Agreement | 0.0 | 0.0 | -3.0 | -3.0 |
| FY2005 Governor | 0.0 | 0.0 | 2,733.4 | 2,733.4 |

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

| Authorized Positions | | Personal Services Costs | | |
|----------------------|------------------------------------|----------------------------------|----------------------------------|------------------|
| | <u>FY2004</u> <u>Authorized</u> | <u>FY2005</u> <u>Governor</u> | | |
| Full-time | 25 | 31 | Annual Salaries | 1,558,152 |
| Part-time | 0 | 0 | Premium Pay | 8,779 |
| Nonpermanent | 0 | 0 | Annual Benefits | 628,718 |
| | | | <i>Less 5.86% Vacancy Factor</i> | <i>(128,649)</i> |
| | | | Lump Sum Premium Pay | 0 |
| Totals | 25 | 31 | Total Personal Services | 2,067,000 |

Position Classification Summary

| Job Class Title | Anchorage | Fairbanks | Juneau | Others | Total |
|---------------------------|------------------|------------------|---------------|---------------|--------------|
| Administrative Clerk II | 0 | 0 | 3 | 0 | 3 |
| Administrative Clerk III | 1 | 0 | 4 | 0 | 5 |
| 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 | 4 | 0 | 4 |
| Dev Spec I, Option A | 0 | 0 | 2 | 0 | 2 |
| Dev Spec II, Option A | 0 | 0 | 1 | 0 | 1 |
| Division Director | 1 | 0 | 0 | 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 |
| Investigator III | 2 | 0 | 0 | 0 | 2 |
| 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 | 7 | 0 | 24 | 0 | 31 |