

SENATE BILL NO. 304

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Introduced: 3/8/10

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act adopting the Alaska Entity Transactions Act; relating to changing the form of**
2 **entities, including corporations, partnerships, limited liability companies, business**
3 **trusts, and other organizations; amending Rule 79, Alaska Rules of Civil Procedure, and**
4 **Rules 602(b)(2), 602(c), and 605.5, Alaska Rules of Appellate Procedure; and providing**
5 **for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 *** Section 1.** AS 06.26.650(a) is amended to read:

8 (a) A national bank whose main office is located in the state or a state bank
9 whose main office is located in the state may convert to a trust company or merge or
10 consolidate with a trust company, and a trust company may merge or consolidate with
11 another trust company, if the conversion, merger, or consolidation is consistent with
12 federal and state law and approved by the department. The requirements of
13 **AS 06.26.650 and 06.26.660** [AS 06.26.650 - 06.26.670] are in addition to the merger

1 and consolidation requirements of AS 10.06.

2 * **Sec. 2.** AS 10.06 is amended by adding new sections to article 8 to read:

3 **Sec. 10.06.595. Application of provisions.** AS 10.06.566 - 10.06.568 do not
4 apply to mergers, interest exchanges, conversions, and domestications that are covered
5 by AS 10.55.

6 **Sec. 10.06.600. Definitions.** In AS 10.06.530 - 10.06.590,

7 (1) "consolidation" means a consolidation authorized by AS 10.06.534
8 or 10.06.562;

9 (2) "merger" means a merger authorized by AS 10.06.530 or
10 10.06.562;

11 (3) "share exchange" means a share exchange authorized by
12 AS 10.06.538 or an exchange of shares covered by AS 10.06.562.

13 * **Sec. 3.** AS 10.15.455 is amended to read:

14 **Sec. 10.15.455. Definitions.** In AS 10.15.400 - 10.15.455 [AS 10.15.400 -
15 10.15.450],

16 (1) "new cooperative" means the new cooperative provided for in the
17 plan of consolidation;

18 (2) "surviving cooperative" means the cooperative designated in the
19 plan of merger as the surviving cooperative.

20 * **Sec. 4.** AS 10.50.990(1) is amended to read:

21 (1) "articles of organization" means the articles of organization filed
22 under AS 10.50.070 [OR 10.50.570] and the articles as amended or restated;

23 * **Sec. 5.** AS 10.50.990 is amended by adding new paragraphs to read:

24 (19) "consolidation" means a consolidation authorized by
25 AS 10.50.500;

26 (20) "merger" means a merger authorized by AS 10.50.500.

27 * **Sec. 6.** AS 10 is amended by adding a new chapter to read:

28 **Chapter 55. Alaska Entity Transactions Act.**

29 **Article 1. General Provisions.**

30 **Sec. 10.55.103. Relationship of this chapter to other laws.** (a) Unless
31 displaced by particular provisions of this chapter, the principles of law and equity

1 supplement this chapter.

2 (b) Except as expressly provided in this chapter, this chapter does not
3 authorize an act prohibited by, and does not affect the application or requirements of,
4 law other than this chapter.

5 (c) A transaction accomplished under this chapter may not create or impair
6 any right or obligation of a person under a provision of the law of this state other than
7 this chapter relating to a change in control, takeover, business combination, control-
8 share acquisition, or similar transaction involving a domestic merging, acquired,
9 converting, or domesticating corporation unless,

10 (1) if the corporation does not survive the transaction, the transaction
11 satisfies any requirements of the provision; or

12 (2) if the corporation survives the transaction, the approval of the plan
13 is by a vote of the shareholders or directors that would be sufficient to create or impair
14 the right or obligation directly under the provision.

15 **Sec. 10.55.104. Required notice or approval.** (a) A domestic or foreign entity
16 that is required to give notice to, or obtain the approval of, a governmental agency or
17 officer in order to be a party to a merger shall give the notice or obtain the approval in
18 order to be a party to an interest exchange, conversion, or domestication.

19 (b) Property held for a charitable purpose under the law of this state by a
20 domestic or foreign entity immediately before a transaction under this chapter
21 becomes effective may not, as a result of the transaction, be diverted from the objects
22 for which it was donated, granted, or devised unless, to the extent required by or under
23 the law of this state concerning the nondiversion of charitable assets, the entity obtains
24 an appropriate order of the superior court specifying the disposition of the property.

25 **Sec. 10.55.105. Status of filings.** A filing under this chapter becomes part of
26 the public organic document of the entity.

27 **Sec. 10.55.106. Nonexclusivity.** The fact that a transaction under this chapter
28 produces a certain result does not preclude the same result from being accomplished in
29 any other manner permitted by law other than this chapter.

30 **Sec. 10.55.107. Reference to external facts.** A plan may refer to facts
31 ascertainable outside of the plan if the manner in which the facts will operate on the

1 plan is specified in the plan. The facts may include the occurrence of an event or a
2 determination or action by a person, whether or not the event, determination, or action
3 is within the control of a party to the transaction.

4 **Sec. 10.55.108. Alternative means of approval of transactions.** Except as
5 otherwise provided in the organic law or organic rules of a domestic entity, approval
6 of a transaction under this chapter by the unanimous vote or consent of its interest
7 holders satisfies the requirements of this chapter for approval of the transaction.

8 **Sec. 10.55.109. Appraisal rights.** (a) An interest holder of a domestic
9 merging, acquired, converting, or domesticating entity is entitled to appraisal rights in
10 connection with the transaction if the interest holder would have been entitled to
11 appraisal rights under the entity's organic law in connection with a merger in which
12 the interest of the interest holder was changed, converted, or exchanged unless

13 (1) the organic law permits the organic rules to limit the availability of
14 appraisal rights; and

15 (2) the organic rules provide the limit described in (1) of this
16 subsection.

17 (b) An interest holder of a domestic merging, acquired, converting, or
18 domesticating entity is entitled to contractual appraisal rights in connection with a
19 transaction under this chapter to the extent provided

20 (1) in the entity's organic rules;

21 (2) in the plan; or

22 (3) in the case of a business corporation, by action of its governors.

23 (c) If an interest holder is entitled to contractual appraisal rights under (b) of
24 this section and the entity's organic law does not provide procedures for the conduct of
25 an appraisal rights proceeding, the interest holder is entitled to a reasonable appraisal
26 by an independent person.

27 **Sec. 10.55.110. Excluded entities and transactions.** The following entities
28 may not participate in a transaction under this chapter:

29 (1) a financial institution; in this paragraph, "financial institution" has
30 the meaning given in AS 06.05.990, and includes a mutual savings bank under
31 AS 06.15, a credit union under AS 06.45, a mortgage lender under AS 06.60, and a

1 mortgage broker under AS 06.60;

2 (2) an insurer regulated by AS 21;

3 (3) a BIDCO under AS 10.13;

4 (4) a cooperative under AS 10.25 (Electric and Telephone Cooperative
5 Act);

6 (5) a public corporation; or

7 (6) a municipality.

8 **Sec. 10.55.120. Names.** Notwithstanding the other provisions of this chapter, if
9 a domestic entity is created under this chapter or if the name of a domestic entity is
10 changed under this chapter, the name of the domestic entity may not be a name that is
11 reserved or registered to another entity under AS 10.35 and must comply with the
12 name requirements of any organic law that applies to the domestic entity.

13 **Article 2. Merger.**

14 **Sec. 10.55.201. Merger authorized.** (a) Except as otherwise provided in
15 AS 10.55.201 - 10.55.206, by complying with AS 10.55.201 - 10.55.206,

16 (1) one or more domestic entities may merge with one or more
17 domestic or foreign entities into a domestic or foreign surviving entity; and

18 (2) two or more foreign entities may merge into a domestic entity.

19 (b) Except as otherwise provided in this section, by complying with the
20 provisions of AS 10.55.201 - 10.55.206 applicable to foreign entities, a foreign entity
21 may be a party to a merger under AS 10.55.201 - 10.55.206 or may be the surviving
22 entity in a merger if the merger is authorized by the law of the foreign entity's
23 jurisdiction of organization.

24 (c) The provisions of AS 10.55.201 - 10.55.206 do not apply to

25 (1) a merger or consolidation under

26 (A) AS 10.06.530 - 10.06.600 or 10.06.960 (Alaska
27 Corporations Code); or

28 (B) AS 10.50.500 - 10.50.590 (Alaska Revised Limited
29 Liability Company Act); or

30 (2) a merger under

31 (A) AS 10.15.400 - 10.15.455 (Alaska Cooperative

1 Corporation Act);

2 (B) AS 10.20.216 - 10.20.280 (Alaska Nonprofit Corporation
3 Act); or

4 (C) AS 32.06.905 - 32.06.907 (Uniform Partnership Act).

5 **Sec. 10.55.202. Plan of merger.** (a) A domestic entity may become a party to
6 a merger under AS 10.55.201 - 10.55.206 by approving a plan of merger. The plan
7 must be in a record and contain

8 (1) as to each merging entity, the merging entity's name, jurisdiction of
9 organization, and type;

10 (2) if the surviving entity is to be created in the merger, a statement to
11 that effect and the surviving entity's name, jurisdiction of organization, and type;

12 (3) the manner of converting the interests in each party to the merger
13 into interests, securities, obligations, rights to acquire interests or securities, cash, or
14 other property, or any combination of interests, securities, obligations, rights to
15 acquire interests or securities, cash, or other property;

16 (4) if the surviving entity exists before the merger, any proposed
17 amendments to the surviving entity's public organic document or private organic rules
18 that are, or are proposed to be, in a record;

19 (5) if the surviving entity is to be created in the merger, the surviving
20 entity's proposed public organic document, if any, and the full text of the surviving
21 entity's private organic rules that are proposed to be in a record;

22 (6) the other terms and conditions of the merger; and

23 (7) any other provision required by the law of a merging entity's
24 jurisdiction of organization or the organic rules of a merging entity.

25 (b) A plan of merger may contain any other provision not prohibited by law.

26 **Sec. 10.55.203. Approval of merger.** (a) A plan of merger is not effective
27 unless it has been approved

28 (1) by a domestic merging entity

29 (A) in accordance with the requirements, if any, in the merging
30 entity's organic law and organic rules for approval of,

31 (i) in the case of an entity that is not a business

1 corporation, a merger; or

2 (ii) in the case of a business corporation, a merger
3 requiring approval by a vote of the interest holders of the business
4 corporation; or

5 (B) if neither the merging entity's organic law nor organic rules
6 provide for approval of a merger described in (A)(ii) of this paragraph, by all
7 of the interest holders of the entity entitled to vote on or consent to any matter;
8 and

9 (2) in a record, by each interest holder of a domestic merging entity
10 that will have interest-holder liability for liabilities that arise after the merger becomes
11 effective, unless, in the case of an entity that is not a business corporation or nonprofit
12 corporation,

13 (A) the organic rules of the entity provide in a record for the
14 approval of a merger in which some or all of the entity's interest holders
15 become subject to interest-holder liability by the vote or consent of fewer than
16 all of the interest holders; and

17 (B) the interest holder voted for or consented in a record to that
18 provision of the organic rules or became an interest holder after the adoption of
19 that provision.

20 (b) A merger involving a foreign merging entity is not effective unless it is
21 approved by the foreign entity in accordance with the law of the foreign entity's
22 jurisdiction of organization.

23 **Sec. 10.55.204. Amendment or abandonment of plan of merger.** (a) A plan
24 of merger of a domestic merging entity may be amended

25 (1) in the same manner as the plan was approved, if the plan does not
26 provide for the manner in which it may be amended; or

27 (2) by the governors or interest holders of the entity in the manner
28 provided in the plan; however, an interest holder that was entitled to vote on or
29 consent to approval of the merger is entitled to vote on or consent to any amendment
30 of the plan that will change

31 (A) the amount or kind of interests, securities, obligations,

1 rights to acquire interests or securities, cash, or other property, or any
2 combination of interests, securities, obligations, rights to acquire interests or
3 securities, cash, or other property, to be received by the interest holders of any
4 party to the plan;

5 (B) the public organic document or private organic rules of the
6 surviving entity that will be in effect immediately after the merger becomes
7 effective, except for changes that do not require approval of the interest holders
8 of the surviving entity under its organic law or organic rules; or

9 (C) any other terms or conditions of the plan, if the change
10 would adversely affect the interest holder in any material respect.

11 (b) After a plan of merger has been approved by a domestic merging entity
12 and before a statement of merger becomes effective, the plan may be abandoned

13 (1) as provided in the plan; or

14 (2) unless prohibited by the plan, in the same manner as the plan was
15 approved.

16 (c) If a plan of merger is abandoned after a statement of merger has been filed
17 with the department and before the filing becomes effective, a statement of
18 abandonment, signed on behalf of a merging entity, must be filed with the department
19 before the time the statement of merger becomes effective. The statement of
20 abandonment takes effect on filing, and the merger is abandoned and does not become
21 effective. The statement of abandonment must contain

22 (1) the name of each merging or surviving entity that is a domestic
23 entity or a qualified foreign entity;

24 (2) the date on which the statement of merger was filed; and

25 (3) a statement that the merger has been abandoned in accordance with
26 this section.

27 **Sec. 10.55.205. Statement of merger; effective date.** (a) A statement of
28 merger shall be signed on behalf of each merging entity and filed with the department.

29 (b) A statement of merger must contain

30 (1) the name, jurisdiction of organization, and type of each merging
31 entity that is not the surviving entity;

1 (2) the name, jurisdiction of organization, and type of the surviving
2 entity;

3 (3) if the statement of merger is not to be effective upon filing, the
4 later date and time on which it will become effective, which may not be more than 90
5 days after the date of filing;

6 (4) a statement that the merger was approved by each domestic
7 merging entity, if any, in accordance with AS 10.55.201 - 10.55.206 and by each
8 foreign merging entity, if any, in accordance with the law of the foreign merging
9 entity's jurisdiction of organization;

10 (5) if the surviving entity exists before the merger and is a domestic
11 filing entity, any amendment to the surviving entity's public organic document
12 approved as part of the plan of merger;

13 (6) if the surviving entity is created by the merger and is a domestic
14 filing entity, the surviving entity's public organic document, as an attachment;

15 (7) if the surviving entity is created by the merger and is a domestic
16 limited liability partnership, the surviving entity's statement of qualification, as an
17 attachment; and

18 (8) if the surviving entity is a foreign entity that is not a qualified
19 foreign entity, a mailing address to which the department may send any process served
20 on the commissioner under AS 10.55.206(e).

21 (c) In addition to the requirements of (b) of this section, a statement of merger
22 may contain any other provision not prohibited by law.

23 (d) If the surviving entity is a domestic entity, the surviving entity's public
24 organic document, if any, must satisfy the requirements of the law of this state, except
25 that it does not need to be signed and may omit any provision that is not required to be
26 included in a restatement of the public organic document.

27 (e) A plan of merger that is signed on behalf of all of the merging entities and
28 meets all of the requirements of (b) of this section may be filed with the department
29 instead of a statement of merger and, on filing, has the same effect as a statement of
30 merger. If a plan of merger is filed as provided in this subsection, references in this
31 chapter to a statement of merger refer to the plan of merger filed under this subsection.

1 (f) A statement of merger becomes effective on the date and time of filing or
2 the later date and time specified in the statement of merger under (b)(3) of this section.

3 **Sec. 10.55.206. Effect of merger.** (a) When a merger becomes effective,

4 (1) the surviving entity continues or comes into existence;

5 (2) each merging entity that is not the surviving entity ceases to exist;

6 (3) all property of each merging entity vests in the surviving entity
7 without assignment, reversion, or impairment;

8 (4) all liabilities of each merging entity are liabilities of the surviving
9 entity;

10 (5) except as otherwise provided by law other than this chapter or the
11 plan of merger, all of the rights, privileges, immunities, powers, and purposes of each
12 merging entity vest in the surviving entity;

13 (6) if the surviving entity exists before the merger,

14 (A) all of the surviving entity's property continues to be vested
15 in it without reversion or impairment;

16 (B) the surviving entity remains subject to all of its liabilities;
17 and

18 (C) all of the surviving entity's rights, privileges, immunities,
19 powers, and purposes continue to be vested in it;

20 (7) the name of the surviving entity may be substituted for the name of
21 any merging entity that is a party to any pending action or proceeding;

22 (8) if the surviving entity exists before the merger,

23 (A) the surviving entity's public organic document, if any, is
24 amended as provided in the statement of merger and is binding on its interest
25 holders; and

26 (B) the surviving entity's private organic rules that are to be in
27 a record, if any, are amended to the extent provided in the plan of merger and
28 are binding on and enforceable by

29 (i) the surviving entity's interest holders; and

30 (ii) in the case of a surviving entity that is not a
31 business corporation or a nonprofit corporation, any other person that is

1 a party to an agreement that is part of the surviving entity's private
2 organic rules;

3 (9) if the surviving entity is created by the merger,

4 (A) and if the surviving entity is a domestic entity, the
5 surviving entity is subject to the organic law in this state that governs the
6 internal affairs of the type of entity of the surviving entity;

7 (B) the surviving entity's public organic document, if any, is
8 effective and is binding on its interest holders; and

9 (C) the surviving entity's private organic rules are effective and
10 are binding on and enforceable by

11 (i) the surviving entity's interest holders; and

12 (ii) in the case of a surviving entity that is not a
13 business corporation or a nonprofit corporation, any other person that
14 was a party to an agreement that was part of the organic rules of a
15 merging entity if that person has agreed to be a party to an agreement
16 that is part of the surviving entity's private organic rules; and

17 (10) the interests in each merging entity that are to be converted in the
18 merger are converted, and the interest holders of those interests are entitled only to the
19 rights provided to them under the plan of merger and to any appraisal rights they have
20 under AS 10.55.109 and the merging entity's organic law.

21 (b) Except as otherwise provided in the organic law or organic rules of a
22 merging entity, the merger does not give rise to any rights that an interest holder,
23 governor, or third party would otherwise have upon a dissolution, liquidation, or
24 winding up of the merging entity.

25 (c) When a merger becomes effective, a person that did not have interest-
26 holder liability with respect to any of the merging entities and that becomes subject to
27 interest-holder liability with respect to a domestic entity as a result of a merger has
28 interest-holder liability only to the extent provided by the organic law of the entity and
29 only for those liabilities that arise after the merger becomes effective.

30 (d) When a merger becomes effective, the interest-holder liability of a person
31 that ceases to hold an interest in a domestic merging entity with respect to which the

1 person had interest-holder liability is as follows:

2 (1) the merger does not discharge any interest-holder liability under the
3 organic law of the domestic merging entity to the extent the interest-holder liability
4 arose before the merger became effective;

5 (2) the person does not have interest-holder liability under the organic
6 law of the domestic merging entity for any liability that arises after the merger
7 becomes effective;

8 (3) the organic law of the domestic merging entity continues to apply
9 to the release, collection, or discharge of any interest-holder liability preserved under
10 (1) of this subsection as if the merger had not occurred and the surviving entity were
11 the domestic merging entity; and

12 (4) the person has whatever rights of contribution from any other
13 person as are provided by the organic law or organic rules of the domestic merging
14 entity with respect to any interest-holder liability preserved under (1) of this
15 subsection as if the merger had not occurred.

16 (e) When a merger becomes effective, a foreign entity that is the surviving
17 entity

18 (1) may be served with process in this state for the collection and
19 enforcement of any liabilities of a domestic merging entity; and

20 (2) appoints the commissioner as the foreign entity's agent for service
21 of process for collecting or enforcing those liabilities.

22 (f) When a merger becomes effective, the certificate of authority or other
23 foreign qualification of any foreign merging entity that is not the surviving entity is
24 cancelled.

25 **Article 3. Interest Exchange.**

26 **Sec. 10.55.301. Interest exchange authorized.** (a) Except as otherwise
27 provided in this section, by complying with AS 10.55.301 - 10.55.306,

28 (1) a domestic entity may acquire all of one or more classes or series of
29 interests of another domestic or foreign entity in exchange for interests, securities,
30 obligations, rights to acquire interests or securities, cash, or other property, or any
31 combination of interests, securities, obligations, rights to acquire interests or

1 securities, cash, or other property; or

2 (2) all of one or more classes or series of interests of a domestic entity
3 may be acquired by another domestic or foreign entity in exchange for interests,
4 securities, obligations, rights to acquire interests or securities, cash, or other property,
5 or any combination of interests, securities, obligations, rights to acquire interests or
6 securities, cash, or other property.

7 (b) Except as otherwise provided in this section, by complying with the
8 provisions of AS 10.55.301 - 10.55.306 applicable to foreign entities, a foreign entity
9 may be the acquiring or acquired entity in an interest exchange under AS 10.55.301 -
10 10.55.306 if the interest exchange is authorized by the law of the foreign entity's
11 jurisdiction of organization.

12 (c) Unless the provision is amended after July 1, 2011, if a protected
13 agreement contains a provision that applies to a merger of a domestic entity but does
14 not refer to an interest exchange, the provision applies to an interest exchange in
15 which the domestic entity is the acquired entity as if the interest exchange were a
16 merger.

17 (d) The provisions of AS 10.55.301 - 10.55.306 do not apply to a share
18 exchange under AS 10.06.530 - 10.06.582 or 10.06.960; in this subsection, "share
19 exchange" means a share exchange authorized by AS 10.06.538 or an exchange
20 regulated by AS 10.06.960.

21 **Sec. 10.55.302. Plan of interest exchange.** (a) A domestic entity may be the
22 acquired entity in an interest exchange under AS 10.55.301 - 10.55.306 by approving a
23 plan of interest exchange. The plan must be in a record and contain

24 (1) the name and type of the acquired entity;

25 (2) the name, jurisdiction of organization, and type of the acquiring
26 entity;

27 (3) the manner of converting the interests in the acquired entity into
28 interests, securities, obligations, rights to acquire interests or securities, cash, or other
29 property, or any combination of interests, securities, obligations, rights to acquire
30 interests or securities, cash, or other property;

31 (4) any proposed amendments to the public organic document or

1 private organic rules that are, or are proposed to be, in a record of the acquired entity;

2 (5) the other terms and conditions of the interest exchange; and

3 (6) any other provision required by the law of this state or the organic
4 rules of the acquired entity.

5 (b) A plan of interest exchange may contain any other provision not prohibited
6 by law.

7 **Sec. 10.55.303. Approval of interest exchange.** (a) A plan of interest
8 exchange is not effective unless it has been approved

9 (1) by a domestic acquired entity

10 (A) in accordance with the requirements, if any, in the acquired
11 entity's organic law and organic rules for approval of an interest exchange;

12 (B) except as otherwise provided in (d) of this section, if
13 neither the acquired entity's organic law nor organic rules provide for approval
14 of an interest exchange, in accordance with the requirements, if any, in the
15 acquired entity's organic law and organic rules for approval of,

16 (i) in the case of an entity that is not a business
17 corporation, a merger, as if the interest exchange were a merger; or

18 (ii) in the case of a business corporation, a merger
19 requiring approval by a vote of the interest holders of the business
20 corporation, as if the interest exchange were that type of merger; or

21 (C) if neither its organic law nor organic rules provide for
22 approval of an interest exchange or a merger described in (B)(ii) of this
23 paragraph, by all of the interest holders of the entity entitled to vote on or
24 consent to any matter; and

25 (2) in a record, by each interest holder of a domestic acquired entity
26 that will have interest-holder liability for liabilities that arise after the interest
27 exchange becomes effective, unless, in the case of an entity that is not a business
28 corporation or nonprofit corporation,

29 (A) the organic rules of the entity provide in a record for the
30 approval of an interest exchange or a merger in which some or all of the
31 entity's interest holders become subject to interest-holder liability by the vote

1 or consent of fewer than all of the interest holders; and

2 (B) the interest holder voted for or consented in a record to that
3 provision of the organic rules or became an interest holder after the adoption of
4 that provision.

5 (b) An interest exchange involving a foreign acquired entity is not effective
6 unless it is approved by the foreign entity in accordance with the law of the foreign
7 entity's jurisdiction of organization.

8 (c) Except as otherwise provided in the acquiring entity's organic law or
9 organic rules, the interest holders of the acquiring entity are not required to approve
10 the interest exchange.

11 (d) A provision of the organic law of a domestic acquired entity that would
12 permit a merger between the acquired entity and the acquiring entity to be approved
13 without the vote or consent of the interest holders of the acquired entity because of the
14 percentage of interests in the acquired entity held by the acquiring entity does not
15 apply to approval of an interest exchange under (a)(1)(B) of this section.

16 **Sec. 10.55.304. Amendment or abandonment of plan of interest exchange.**

17 (a) A plan of interest exchange of a domestic acquired entity may be amended

18 (1) in the same manner as the plan was approved, if the plan does not
19 provide for the manner in which it may be amended; or

20 (2) by the governors or interest holders of the entity in the manner
21 provided in the plan; however, an interest holder that was entitled to vote on or
22 consent to approval of the interest exchange is entitled to vote on or consent to any
23 amendment of the plan that will change

24 (A) the amount or kind of interests, securities, obligations,
25 rights to acquire interests or securities, cash, or other property, or any
26 combination of interests, securities, obligations, rights to acquire interests or
27 securities, cash, or other property, to be received by any of the interest holders
28 of the acquired entity under the plan;

29 (B) the public organic document or private organic rules of the
30 acquired entity that will be in effect immediately after the interest exchange
31 becomes effective, except for changes that do not require approval of the

1 interest holders of the acquired entity under its organic law or organic rules; or

2 (C) any other terms or conditions of the plan, if the change
3 would adversely affect the interest holder in any material respect.

4 (b) After a plan of interest exchange has been approved by a domestic
5 acquired entity and before a statement of interest exchange becomes effective, the plan
6 may be abandoned

7 (1) as provided in the plan; or

8 (2) unless prohibited by the plan, in the same manner as the plan was
9 approved.

10 (c) If a plan of interest exchange is abandoned after a statement of interest
11 exchange has been filed with the department and before the filing becomes effective, a
12 statement of abandonment, signed on behalf of the acquired entity, must be filed with
13 the department before the time the statement of interest exchange becomes effective.
14 The statement of abandonment takes effect on filing, and the interest exchange is
15 abandoned and does not become effective. The statement of abandonment must
16 contain

17 (1) the name of the acquired entity;

18 (2) the date on which the statement of interest exchange was filed; and

19 (3) a statement that the interest exchange has been abandoned in
20 accordance with this section.

21 **Sec. 10.55.305. Statement of interest exchange; effective date.** (a) A
22 statement of interest exchange shall be signed on behalf of a domestic acquired entity
23 and filed with the department.

24 (b) A statement of interest exchange must contain

25 (1) the name and type of the acquired entity;

26 (2) the name, jurisdiction of organization, and type of the acquiring
27 entity;

28 (3) if the statement of interest exchange is not to be effective upon
29 filing, the later date and time on which it will become effective, which may not be
30 more than 90 days after the date of filing;

31 (4) a statement that the plan of interest exchange was approved by the

1 acquired entity in accordance with AS 10.55.301 - 10.55.306; and

2 (5) any amendments to the acquired entity's public organic document
3 approved as part of the plan of interest exchange.

4 (c) In addition to the requirements of (b) of this section, a statement of interest
5 exchange may contain any other provision not prohibited by law.

6 (d) A plan of interest exchange that is signed on behalf of a domestic acquired
7 entity and meets all of the requirements of (b) of this section may be filed with the
8 department instead of a statement of interest exchange and, on filing, has the same
9 effect as a statement of interest or exchange. If a plan of interest exchange is filed as
10 provided in this subsection, references in this chapter to a statement of interest
11 exchange refer to the plan of interest exchange filed under this subsection.

12 (e) A statement of interest exchange becomes effective on the date and time of
13 filing or the later date and time specified in the statement of interest exchange.

14 **Sec. 10.55.306. Effect of interest exchange.** (a) When an interest exchange
15 becomes effective,

16 (1) the interests in the acquired entity that are the subject of the interest
17 exchange cease to exist or are converted or exchanged, and the interest holders of
18 those interests are entitled only to the rights provided to them under the plan of interest
19 exchange and to any appraisal rights they have under AS 10.55.109 and the acquired
20 entity's organic law;

21 (2) the acquiring entity becomes the interest holder of the interests in
22 the acquired entity stated in the plan of interest exchange to be acquired by the
23 acquiring entity;

24 (3) the public organic document, if any, of the acquired entity is
25 amended as provided in the statement of interest exchange and is binding on the
26 acquired entity's interest holders; and

27 (4) the private organic rules of the acquired entity that are to be in a
28 record, if any, are amended to the extent provided in the plan of interest exchange and
29 are binding on and enforceable by

30 (A) the acquired entity's interest holders; and

31 (B) in the case of an acquired entity that is not a business

1 corporation or nonprofit corporation, any other person that is a party to an
2 agreement that is part of the acquired entity's private organic rules.

3 (b) Except as otherwise provided in the organic law or organic rules of the
4 acquired entity, the interest exchange does not give rise to any rights that an interest
5 holder, governor, or third party would otherwise have upon a dissolution, liquidation,
6 or winding up of the acquired entity.

7 (c) When an interest exchange becomes effective, a person that did not have
8 interest-holder liability with respect to the acquired entity and that becomes subject to
9 interest-holder liability with respect to a domestic entity as a result of the interest
10 exchange has interest-holder liability only to the extent provided by the organic law of
11 the entity and only for those liabilities that arise after the interest exchange becomes
12 effective.

13 (d) When an interest exchange becomes effective, the interest-holder liability
14 of a person that ceases to hold an interest in a domestic acquired entity with respect to
15 which the person had interest-holder liability is as follows:

16 (1) the interest exchange does not discharge any interest-holder
17 liability under the organic law of the domestic acquired entity to the extent the
18 interest-holder liability arose before the interest exchange became effective;

19 (2) the person does not have interest-holder liability under the organic
20 law of the domestic acquired entity for any liability that arises after the interest
21 exchange becomes effective;

22 (3) the organic law of the domestic acquired entity continues to apply
23 to the release, collection, or discharge of any interest-holder liability preserved under
24 (1) of this subsection as if the interest exchange had not occurred; and

25 (4) the person has whatever rights of contribution from any other
26 person as are provided by the organic law or organic rules of the domestic acquired
27 entity with respect to any interest-holder liability preserved under (1) of this
28 subsection as if the interest exchange had not occurred.

29 **Article 4. Conversion.**

30 **Sec. 10.55.401. Conversion authorized.** (a) Except as otherwise provided in
31 this section, by complying with AS 10.55.401 - 10.55.406, a domestic entity may

1 become

2 (1) a domestic entity of a different type; or

3 (2) a foreign entity of a different type, if the conversion is authorized
4 by the law of the foreign jurisdiction.

5 (b) Except as otherwise provided in this section, by complying with the
6 provisions of AS 10.55.401 - 10.55.406 applicable to foreign entities, a foreign entity
7 may become a domestic entity of a different type if the conversion is authorized by the
8 law of the foreign entity's jurisdiction of organization.

9 (c) Unless the provision is amended after July 1, 2011, if a protected
10 agreement contains a provision that applies to a merger of a domestic entity but does
11 not refer to a conversion, the provision applies to a conversion of the entity as if the
12 conversion were a merger.

13 **Sec. 10.55.402. Plan of conversion.** (a) A domestic entity may convert to a
14 different type of entity under AS 10.55.401 - 10.55.406 by approving a plan of
15 conversion. The plan must be in a record and contain

16 (1) the name and type of the converting entity;

17 (2) the name, jurisdiction of organization, and type of the converted
18 entity;

19 (3) the manner of converting the interests in the converting entity into
20 interests, securities, obligations, rights to acquire interests or securities, cash, or other
21 property, or any combination of interests, securities, obligations, rights to acquire
22 interests or securities, cash, or other property;

23 (4) the proposed public organic document of the converted entity, if
24 the converted entity will be a filing entity;

25 (5) the full text of the private organic rules of the converted entity that
26 are proposed to be in a record;

27 (6) the other terms and conditions of the conversion; and

28 (7) any other provision required by the law of this state or the organic
29 rules of the converting entity.

30 (b) A plan of conversion may contain any other provision not prohibited by
31 law.

1 **Sec. 10.55.403. Approval of conversion.** (a) A plan of conversion is not
2 effective unless it has been approved

3 (1) by a domestic converting entity

4 (A) in accordance with the requirements, if any, in the
5 converted entity's organic rules for approval of a conversion;

6 (B) if the converted entity's organic rules do not provide for
7 approval of a conversion, in accordance with the requirements, if any, in the
8 converted entity's organic law and organic rules for approval of,

9 (i) in the case of an entity that is not a business
10 corporation, a merger, as if the conversion were a merger; or

11 (ii) in the case of a business corporation, a merger
12 requiring approval by a vote of the interest holders of the business
13 corporation, as if the conversion were that type of merger; or

14 (C) if neither its organic law nor organic rules provide for
15 approval of a conversion or a merger described in (B)(ii) of this paragraph, by
16 all of the interest holders of the entity entitled to vote on or consent to any
17 matter; and

18 (2) in a record, by each interest holder of a domestic converting entity
19 that will have interest-holder liability for liabilities that arise after the conversion
20 becomes effective, unless, in the case of an entity that is not a business or nonprofit
21 corporation,

22 (A) the organic rules of the entity provide in a record for the
23 approval of a conversion or a merger in which some or all of the entity's
24 interest holders become subject to interest-holder liability by the vote or
25 consent of fewer than all of the interest holders; and

26 (B) the interest holder voted for or consented in a record to that
27 provision of the organic rules or became an interest holder after the adoption of
28 that provision.

29 (b) A conversion of a foreign converting entity is not effective unless it is
30 approved by the foreign entity in accordance with the law of the foreign entity's
31 jurisdiction of organization.

1 **Sec. 10.55.404. Amendment or abandonment of plan of conversion.** (a) A
2 plan of conversion of a domestic converting entity may be amended

3 (1) in the same manner as the plan was approved, if the plan does not
4 provide for the manner in which it may be amended; or

5 (2) by the governors or interest holders of the entity in the manner
6 provided in the plan; however, an interest holder that was entitled to vote on or
7 consent to approval of the conversion is entitled to vote on or consent to any
8 amendment of the plan that will change

9 (A) the amount or kind of interests, securities, obligations,
10 rights to acquire interests or securities, cash, or other property, or any
11 combination of interests, securities, cash, or other property, to be received by
12 any of the interest holders of the converting entity under the plan;

13 (B) the public organic document or private organic rules of the
14 converted entity that will be in effect immediately after the conversion
15 becomes effective, except for changes that do not require approval of the
16 interest holders of the converted entity under its organic law or organic rules;
17 or

18 (C) any other terms or conditions of the plan, if the change
19 would adversely affect the interest holder in any material respect.

20 (b) After a plan of conversion has been approved by a domestic converting
21 entity and before a statement of conversion becomes effective, the plan may be
22 abandoned

23 (1) as provided in the plan; or

24 (2) unless prohibited by the plan, in the same manner as the plan was
25 approved.

26 (c) If a plan of conversion is abandoned after a statement of conversion has
27 been filed with the department and before the filing becomes effective, a statement of
28 abandonment, signed on behalf of the entity, must be filed with the department before
29 the time the statement of conversion becomes effective. The statement of
30 abandonment takes effect on filing, and the conversion is abandoned and does not
31 become effective. The statement of abandonment must contain

- 1 (1) the name of the converting entity;
2 (2) the date on which the statement of conversion was filed; and
3 (3) a statement that the conversion has been abandoned in accordance
4 with this section.

5 **Sec. 10.55.405. Statement of conversion; effective date.** (a) A statement of
6 conversion shall be signed on behalf of the converting entity and filed with the
7 department.

8 (b) A statement of conversion must contain

9 (1) the name, jurisdiction of organization, and type of the converting
10 entity;

11 (2) the name, jurisdiction of organization, and type of the converted
12 entity;

13 (3) if the statement of conversion is not to be effective upon filing, the
14 later date and time on which it will become effective, which may not be more than 90
15 days after the date of filing;

16 (4) if the converting entity is a

17 (A) domestic entity, a statement that the plan of conversion was
18 approved in accordance with AS 10.55.401 - 10.55.406; or

19 (B) foreign entity, a statement that the conversion was
20 approved by the foreign converting entity in accordance with the law of its
21 jurisdiction of organization;

22 (5) if the converted entity is a domestic filing entity, the text of the
23 converted entity's public organic document, as an attachment;

24 (6) if the converted entity is a domestic limited liability partnership,
25 the text of the converted entity's statement of qualification, as an attachment; and

26 (7) if the converted entity is a foreign entity that is not a qualified
27 foreign entity, a mailing address to which the department may send any process served
28 on the commissioner under AS 10.55.406(e).

29 (c) In addition to the requirements of (b) of this section, a statement of
30 conversion may contain any other provision not prohibited by law.

31 (d) If the converted entity is a domestic entity, the converted entity's public

1 organic document, if any, must satisfy the requirements of the law of this state, except
2 that it does not need to be signed and may omit any provision that is not required to be
3 included in a restatement of the public organic document.

4 (e) A plan of conversion that is signed on behalf of a domestic converting
5 entity and meets all of the requirements of (b) of this section may be filed with the
6 department instead of a statement of conversion and, on filing, has the same effect as a
7 statement of conversion. If a plan of conversion is filed as provided in this subsection,
8 references in this chapter to a statement of conversion refer to the plan of conversion
9 filed under this subsection.

10 (f) A statement of conversion becomes effective on the date and time of filing
11 or the later date and time specified in the statement of conversion under (b)(3) of this
12 section.

13 **Sec. 10.55.406. Effect of conversion.** (a) When a conversion becomes
14 effective,

15 (1) the converted entity is

16 (A) organized under and subject to the organic law of the
17 converted entity; and

18 (B) the same entity without interruption as the converting
19 entity;

20 (2) all property of the converting entity continues to be vested in the
21 converted entity without assignment, reversion, or impairment;

22 (3) all liabilities of the converting entity continue as liabilities of the
23 converted entity;

24 (4) except as provided by law other than this chapter or the plan of
25 conversion, all of the rights, privileges, immunities, powers, and purposes of the
26 converting entity remain in the converted entity;

27 (5) the name of the converted entity may be substituted for the name of
28 the converting entity in any pending action or proceeding;

29 (6) if a converted entity is a filing entity, the converted entity's public
30 organic document is effective and is binding on its interest holders;

31 (7) if the converted entity is a limited liability partnership, the

1 converted entity's statement of qualification is effective simultaneously;

2 (8) the private organic rules of the converted entity that are to be in a
3 record, if any, approved as part of the plan of conversion are effective and are binding
4 on and enforceable by

5 (A) the converted entity's interest holders; and

6 (B) in the case of a converted entity that is not a business
7 corporation or nonprofit corporation, any other person that is a party to an
8 agreement that is part of the entity's private organic rules; and

9 (9) the interests in the converting entity are converted, and the interest
10 holders of the converting entity are entitled only to the rights provided to them under
11 the plan of conversion and to any appraisal rights they have under AS 10.55.109 and
12 the converting entity's organic law.

13 (b) Except as otherwise provided in the organic law or organic rules of the
14 converting entity, the conversion does not give rise to any rights that an interest
15 holder, governor, or third party would otherwise have upon a dissolution, liquidation,
16 or winding up of the converting entity.

17 (c) When a conversion becomes effective, a person that did not have interest-
18 holder liability with respect to the converting entity and that becomes subject to
19 interest-holder liability with respect to a domestic entity as a result of a conversion has
20 interest-holder liability only to the extent provided by the organic law of the entity and
21 only for those liabilities that arise after the conversion becomes effective.

22 (d) When a conversion becomes effective,

23 (1) the conversion does not discharge any interest-holder liability
24 under the organic law of a domestic converting entity to the extent the interest-holder
25 liability arose before the conversion became effective;

26 (2) a person does not have interest-holder liability under the organic
27 law of a domestic converting entity for any liability that arises after the conversion
28 becomes effective;

29 (3) the organic law of a domestic converting entity continues to apply
30 to the release, collection, or discharge of any interest-holder liability preserved under
31 (1) of this subsection as if the conversion had not occurred; and

1 (4) a person has whatever rights of contribution from any other person
2 as are provided by the organic law or organic rules of the domestic converting entity
3 with respect to any interest-holder liability preserved under (1) of this subsection as if
4 the conversion had not occurred.

5 (e) When a conversion becomes effective, a foreign entity that is the converted
6 entity

7 (1) may be served with process in this state for the collection and
8 enforcement of any of the foreign entity's liabilities; and

9 (2) appoints the commissioner as the foreign entity's agent for service
10 of process for collecting or enforcing those liabilities.

11 (f) If the converting entity is a qualified foreign entity, the certificate of
12 authority or other foreign qualification of the converting entity is cancelled when the
13 conversion becomes effective.

14 (g) A conversion does not require the entity to wind up its affairs and does not
15 constitute or cause the dissolution of the entity.

16 **Article 5. Domestication.**

17 **Sec. 10.55.501. Domestication authorized.** (a) Except as otherwise provided
18 in this section, by complying with AS 10.55.501 - 10.55.506, a domestic entity may
19 become a domestic entity of the same type in a foreign jurisdiction if the
20 domestication is authorized by the law of the foreign jurisdiction. In this subsection,
21 "domestic entity," means an entity whose internal affairs are governed by the law of
22 the foreign jurisdiction.

23 (b) Except as otherwise provided in this section, by complying with the
24 provisions of AS 10.55.501 - 10.55.506 applicable to foreign entities a foreign entity
25 may become a domestic entity of the same type in this state if the domestication is
26 authorized by the law of the foreign entity's jurisdiction of organization.

27 (c) Unless the provision is amended after July 1, 2011, if a protected
28 agreement contains a provision that applies to a merger of a domestic entity but does
29 not refer to a domestication, the provision applies to a domestication of the entity as if
30 the domestication were a merger.

31 **Sec. 10.55.502. Plan of domestication.** (a) A domestic entity may become a

1 foreign entity in a domestication by approving a plan of domestication. The plan must
2 be in a record and contain

3 (1) the name and type of the domesticating entity;

4 (2) the name and jurisdiction of organization of the domesticated
5 entity;

6 (3) the manner of converting the interests in the domesticating entity
7 into interests, securities, obligations, rights to acquire interests or securities, cash, or
8 other property, or any combination of interests, securities, obligations, rights to
9 acquire interests or securities, cash, or other property;

10 (4) the proposed public organic document of the domesticated entity, if
11 the domesticated entity is a filing entity;

12 (5) the full text of the private organic rules of the domesticated entity
13 that are proposed to be in a record;

14 (6) the other terms and conditions of the domestication; and

15 (7) any other provision required by the law of this state or the organic
16 rules of the domesticating entity.

17 (b) A plan of domestication may contain any other provision not prohibited by
18 law.

19 **Sec. 10.55.503. Approval of domestication.** (a) A plan of domestication is not
20 effective unless it has been approved

21 (1) by a domestic domesticating entity

22 (A) in accordance with the requirements, if any, in the domestic
23 domesticating entity's organic rules for approval of a domestication;

24 (B) if the domestic domesticating entity's organic rules do not
25 provide for approval of a domestication, in accordance with the requirements,
26 if any, in its organic law and organic rules for approval of

27 (i) in the case of an entity that is not a business
28 corporation, a merger, as if the domestication were a merger; or

29 (ii) in the case of a business corporation, a merger
30 requiring approval by a vote of the interest holders of the business
31 corporation, as if the domestication were that type of merger; or

1 (C) if neither the domestic domesticating entity's organic law
2 nor organic rules provide for approval of a domestication or a merger
3 described in (B)(ii) of this paragraph, by all of the interest holders of the entity
4 entitled to vote on or consent to any matter; and

5 (2) in a record, by each interest holder of a domestic domesticating
6 entity that will have interest-holder liability for liabilities that arise after the
7 domestication becomes effective, unless, in the case of an entity that is not a business
8 corporation or nonprofit corporation,

9 (A) the organic rules of the entity in a record provide for the
10 approval of a domestication or merger in which some or all of the entity's
11 interest holders become subject to interest-holder liability by the vote or
12 consent of fewer than all of the interest holders; and

13 (B) the interest holder voted for or consented in a record to that
14 provision of the organic rules or became an interest holder after the adoption of
15 that provision.

16 (b) A domestication of a foreign domesticating entity is not effective unless it
17 is approved in accordance with the law of the foreign entity's jurisdiction of
18 organization.

19 **Sec. 10.55.504. Amendment or abandonment of plan of domestication.** (a)
20 A plan of domestication of a domestic domesticating entity may be amended

21 (1) in the same manner as the plan was approved, if the plan does not
22 provide for the manner in which it may be amended; or

23 (2) by the governors or interest holders of the entity in the manner
24 provided in the plan; however, but an interest holder that was entitled to vote on or
25 consent to approval of the domestication is entitled to vote on or consent to any
26 amendment of the plan that will change

27 (A) the amount or kind of interests, securities, obligations,
28 rights to acquire interests or securities, cash, or other property, or any
29 combination of interests, securities, obligations, rights to acquire interests or
30 securities, cash, or other property, to be received by any of the interest holders
31 of the domesticating entity under the plan;

1 (B) the public organic document or private organic rules of the
 2 domesticated entity that will be in effect immediately after the domestication
 3 becomes effective, except for changes that do not require approval of the
 4 interest holders of the domesticated entity under its organic law or organic
 5 rules; or

6 (C) any other terms or conditions of the plan, if the change
 7 would adversely affect the interest holder in any material respect.

8 (b) After a plan of domestication has been approved by a domestic
 9 domesticating entity and before a statement of domestication becomes effective, the
 10 plan may be abandoned

11 (1) as provided in the plan; or

12 (2) unless prohibited by the plan, in the same manner as the plan was
 13 approved.

14 (c) If a plan of domestication is abandoned after a statement of domestication
 15 has been filed with the department and before the filing becomes effective, a statement
 16 of abandonment, signed on behalf of the entity, shall be filed with the department
 17 before the time the statement of domestication becomes effective. The statement of
 18 abandonment takes effect upon filing, and the domestication is abandoned and does
 19 not become effective. The statement of abandonment must contain

20 (1) the name of the domesticating entity;

21 (2) the date on which the statement of domestication was filed; and

22 (3) a statement that the domestication has been abandoned in
 23 accordance with this section.

24 **Sec. 10.55.505. Statement of domestication; effective date.** (a) A statement
 25 of domestication shall be signed on behalf of the domesticating entity and filed with
 26 the department.

27 (b) A statement of domestication must contain

28 (1) the name, jurisdiction of organization, and type of the
 29 domesticating entity;

30 (2) the name and jurisdiction of organization of the domesticated
 31 entity;

1 (3) if the statement of domestication is

2 (A) not to be effective upon filing, the later date and time on
3 which it will become effective, which may not be more than 90 days after the
4 date of filing;

5 (4) if the domesticating entity is a

6 (A) domestic entity, a statement that the plan of domestication
7 was approved in accordance with AS 10.55.501 - 10.55.506; or

8 (B) foreign entity, a statement that the domestication was
9 approved in accordance with the law of its jurisdiction of organization;

10 (5) if the domesticated entity is a domestic filing entity, the
11 domesticated entity's public organic document, as an attachment;

12 (6) if the domesticated entity is a domestic limited liability partnership,
13 the domesticated entity's statement of qualification, as an attachment; and

14 (7) if the domesticated entity is a foreign entity that is not a qualified
15 foreign entity, a mailing address to which the department may send any process served
16 on the commissioner under AS 10.55.506(e).

17 (c) In addition to the requirements of (b) of this section, a statement of
18 domestication may contain any other provision not prohibited by law.

19 (d) If the domesticated entity is a domestic entity, the domesticated entity's
20 public organic document, if any, must satisfy the requirements of the law of this state,
21 except that it does not need to be signed and may omit any provision that is not
22 required to be included in a restatement of the public organic document.

23 (e) A plan of domestication that is signed on behalf of a domestic
24 domesticating entity and meets all of the requirements of (b) of this section may be
25 filed with the department instead of a statement of domestication and, on filing, has
26 the same effect as a statement of domestication. If a plan of domestication is filed as
27 provided in this subsection, references in this chapter to a statement of domestication
28 refer to the plan of domestication filed under this subsection.

29 (f) A statement of domestication becomes effective on the date and time of
30 filing or the later date and time specified in the statement of domestication.

31 **Sec. 10.55.506. Effect of domestication.** (a) When a domestication becomes

1 effective,

2 (1) the domesticated entity is

3 (A) organized under and subject to the organic law of the
4 domesticated entity; and

5 (B) the same entity without interruption as the domesticating
6 entity;

7 (2) all property of the domesticating entity continues to be vested in
8 the domesticated entity without assignment, reversion, or impairment;

9 (3) all liabilities of the domesticating entity continue as liabilities of
10 the domesticated entity;

11 (4) except as provided by law other than this chapter or the plan of
12 domestication, all of the rights, privileges, immunities, powers, and purposes of the
13 domesticating entity remain in the domesticated entity;

14 (5) the name of the domesticated entity may be substituted for the
15 name of the domesticating entity in any pending action or proceeding;

16 (6) if the domesticated entity is a filing entity, the domesticated entity's
17 public organic document is effective and is binding on its interest holders;

18 (7) if the domesticated entity is a limited liability partnership, the
19 domesticated entity's statement of qualification is effective simultaneously;

20 (8) the private organic rules of the domesticated entity that are to be in
21 a record, if any, approved as part of the plan of domestication are effective and are
22 binding on and enforceable by

23 (A) the domesticated entity's interest holders; and

24 (B) in the case of a domesticated entity that is not a business
25 corporation or nonprofit corporation, any other person that is a party to an
26 agreement that is part of the domesticated entity's private organic rules; and

27 (9) the interests in the domesticating entity are converted to the extent
28 and as approved in connection with the domestication, and the interest holders of the
29 domesticating entity are entitled only to the rights provided to them under the plan of
30 domestication and to any appraisal rights they have under AS 10.55.109 and the
31 domesticating entity's organic law.

1 (b) Except as otherwise provided in the organic law or organic rules of the
2 domesticating entity, the domestication does not give rise to any rights that an interest
3 holder, governor, or third party would otherwise have upon a dissolution, liquidation,
4 or winding up of the domesticating entity.

5 (c) When a domestication becomes effective, a person that did not have
6 interest-holder liability with respect to the domesticating entity and that becomes
7 subject to interest-holder liability with respect to a domestic entity as a result of the
8 domestication has interest-holder liability only to the extent provided by the organic
9 law of the entity and only for those liabilities that arise after the domestication
10 becomes effective.

11 (d) When a domestication becomes effective,

12 (1) the domestication does not discharge any interest-holder liability
13 under the organic law of a domestic domesticating entity to the extent the interest-
14 holder liability arose before the domestication became effective;

15 (2) a person does not have interest-holder liability under the organic
16 law of a domestic domesticating entity for any liability that arises after the
17 domestication becomes effective;

18 (3) the organic law of a domestic domesticating entity continues to
19 apply to the release, collection, or discharge of any interest-holder liability preserved
20 under (1) of this subsection as if the domestication had not occurred; and

21 (4) a person has whatever rights of contribution from any other person
22 as are provided by the organic law or organic rules of a domestic domesticating entity
23 with respect to any interest-holder liability preserved under (1) of this subsection as if
24 the domestication had not occurred.

25 (e) When a domestication becomes effective, a foreign entity that is the
26 domesticated entity

27 (1) may be served with process in this state for the collection and
28 enforcement of any of the foreign entity's liabilities; and

29 (2) appoints the commissioner as the foreign entity's agent for service
30 of process for collecting or enforcing those liabilities.

31 (f) If the domesticating entity is a qualified foreign entity, the certificate of

1 authority or other foreign qualification of the domesticating entity is cancelled when
2 the domestication becomes effective.

3 (g) A domestication does not require the entity to wind up its affairs and does
4 not constitute or cause the dissolution of the entity.

5 **Article 6. Filings.**

6 **Sec. 10.55.601. Requirements for documents.** (a) To be entitled to filing by
7 the department under this chapter, a document must satisfy the following requirements
8 and the requirements of any other provision of this chapter that adds to or varies these
9 requirements:

10 (1) this chapter must require or permit filing the document with the
11 department;

12 (2) the document must contain the information required by this chapter
13 and may contain other information;

14 (3) the document must be in a record;

15 (4) the document must be in the English language; however, the name
16 of an entity need not be in English if written in English letters or Arabic or Roman
17 numerals;

18 (5) the document must be signed

19 (A) by an officer of a domestic or foreign corporation;

20 (B) by a person authorized by a domestic or foreign entity that
21 is not a corporation; or

22 (C) if the entity is in the hands of a receiver, trustee, or other
23 court-appointed fiduciary, by that fiduciary;

24 (6) the document must state the name and capacity of the person that
25 signed it; the document may contain a corporate seal, attestation, acknowledgment, or
26 verification; and

27 (7) the document must be delivered to the department for filing;
28 delivery may be made by electronic transmission if and to the extent permitted by the
29 department; if a document is filed in typewritten or printed form and not transmitted
30 electronically, the department may require one exact or conformed copy to be
31 delivered with the document.

1 (b) When a document is delivered to the department for filing, the correct
 2 filing fee and any franchise tax, license fee, or penalty required to be paid for the filing
 3 by this chapter or other law must be paid or provision for payment made in a manner
 4 permitted by the department.

5 **Sec. 10.55.602. Forms.** The department may prescribe and furnish on request
 6 forms for documents required or permitted to be filed by this chapter, but their use is
 7 not mandatory.

8 **Sec. 10.55.603. Filing, service, and copying fees.** (a) The department shall
 9 collect a fee each time process is served on the commissioner under this chapter. The
 10 party to a proceeding causing service of process may recover this fee as costs if the
 11 party prevails in the proceeding.

12 (b) The department shall collect the fees for copying and certifying the copy
 13 of any document filed under this chapter for copying and for the certificate.

14 (c) The department shall collect fees when the following documents are
 15 delivered for filing:

- 16 (1) statement of merger;
- 17 (2) statement of abandonment of merger;
- 18 (3) statement of interest exchange;
- 19 (4) statement of abandonment of interest exchange;
- 20 (5) statement of conversion;
- 21 (6) statement of abandonment of conversion;
- 22 (7) statement of domestication;
- 23 (8) statement of abandonment of domestication.

24 (d) The department shall establish by regulation under AS 44.62
 25 (Administrative Procedure Code) the amount of the fees to be collected under this
 26 section.

27 **Sec. 10.55.604. Effective time and date of document.** Except as provided in
 28 AS 10.55.605, a document accepted for filing is effective

29 (1) at the date and time of filing, as evidenced by the means used by
 30 the department for recording the date and time of filing;

31 (2) at the time specified in the document as its effective time on the

1 date it is filed;

2 (3) at a specified delayed effective time and date, if permitted by this
3 chapter; or

4 (4) if a delayed effective date but no time is specified, at the close of
5 business on the date specified.

6 **Sec. 10.55.605. Correcting filed document.** (a) A domestic or foreign entity
7 may correct a document filed by the department if

8 (1) the document contains an inaccuracy;

9 (2) the document was defectively signed; or

10 (3) the electronic transmission of the document to the department was
11 defective.

12 (b) A document is corrected by filing with the department a statement of
13 correction that

14 (1) describes the document to be corrected and states the filing date of
15 the document to be corrected or has attached a copy of the document;

16 (2) specifies the inaccuracy or defect to be corrected; and

17 (3) corrects the inaccuracy or defect.

18 (c) A statement of correction is effective on the effective date of the document
19 it corrects except as to persons relying on the uncorrected document and adversely
20 affected by the correction. As to those persons, a statement of correction is effective
21 when filed.

22 **Sec. 10.55.606. Filing duty of department.** (a) A document delivered to the
23 department for filing that satisfies the requirements of AS 10.55.601 shall be filed by
24 the department.

25 (b) The department files a document by recording it as filed on the date and
26 time of receipt. After filing a document, the department shall deliver to the domestic
27 or foreign entity or its representative a copy of the document with an
28 acknowledgement of the date and time of filing.

29 (c) If the department refuses to file a document, the department shall return the
30 document to the domestic or foreign entity or its representative within five days after
31 the document was delivered, together with a brief, written explanation of the reason

1 for the refusal.

2 (d) The duty of the department to file documents under this section is
3 ministerial. The filing or refusal to file a document does not

4 (1) affect the validity or invalidity of the document in whole or in part;

5 (2) relate to the correctness or incorrectness of information contained
6 in the document; or

7 (3) create a presumption that the document is valid or invalid or that
8 information contained in the document is correct or incorrect.

9 **Sec. 10.55.607. Appeal from refusal to file a document.** (a) If the department
10 refuses to file a document delivered for filing, the domestic or foreign entity that
11 submitted the document for filing may, within 30 days after the return of the
12 document, appeal the refusal to the superior court of the judicial district where the
13 entity's principal office, or, if the entity does not have a principal office in this state,
14 where its registered office is or will be located. The appeal is begun by petitioning the
15 court to compel filing the document and by attaching to the petition the document and
16 the explanation of the department for the refusal to file.

17 (b) The court may summarily order the department to file the document or
18 take other action the court considers appropriate.

19 (c) The court's final decision may be appealed as in other civil proceedings.

20 **Sec. 10.55.608. Evidentiary effect of copy of filed document.** A certificate
21 from the department, delivered with a copy of a document filed by the department,
22 conclusively establishes that the original document is on file with the department.

23 **Sec. 10.55.609. Penalty for signing false document.** A person who signs a
24 document the person knows is false in any material respect with intent that the
25 document be delivered to the department for filing under this chapter is guilty of a
26 class A misdemeanor.

27 **Sec. 10.55.610. Interrogatories by department; judicial review.** (a) The
28 department may propound to a domestic or foreign entity that is a party to a
29 transaction under this chapter interrogatories reasonably necessary and proper to
30 enable the department to ascertain whether the entity has complied with the provisions
31 of this chapter.

1 (b) Interrogatories shall be answered within 30 days or within the additional
2 time fixed by the department. Answers shall be full and complete, in writing and under
3 oath. If the interrogatories are directed to an individual, the interrogatories shall be
4 answered by that person, and, if directed to an entity, the interrogatories shall be
5 answered by the president, vice-president, secretary, or assistant secretary of the
6 corporation or, in the instance of a foreign corporation, the person or persons
7 functioning as comparable officers in accordance with the laws of the state of
8 incorporation.

9 (c) A petition stating good cause to extend the date to answer, modify, or set
10 aside the interrogatories propounded by the department, or to enforce compliance with
11 AS 10.55.620 may be filed in the superior court before the expiration of the 30 days
12 fixed in this section for answer.

13 **Sec. 10.55.615. Confidentiality of information disclosed by interrogatories.**

14 Interrogatories and answers propounded and obtained under AS 10.55.610 are not
15 open to public inspection and the department may not disclose facts or information
16 obtained from the interrogatories except as the official duty of the department requires
17 or unless the interrogatories or the answers are required for evidence in criminal
18 proceedings or other action by the state.

19 **Sec. 10.55.620. Failure or refusal to answer interrogatories.** Unless
20 otherwise provided by an order of court issued in response to a petition filed under
21 AS 10.55.610,

22 (1) an entity that fails or refuses to answer truthfully and fully
23 interrogatories propounded by the department within the time prescribed by
24 AS 10.55.610(b) is guilty of a class A misdemeanor; and

25 (2) the department need not file a document to which the
26 interrogatories relate until the interrogatories are properly answered and need not file a
27 document to which the interrogatories relate if the answers disclose that the document
28 does not conform to the provisions of this chapter.

29 **Sec. 10.55.625. Powers of department.** The department has the power
30 reasonably necessary to perform the duties required by this chapter.

31 **Article 7. Miscellaneous Provisions.**

1 **Sec. 10.55.701. Consistency of application.** In applying and construing this
2 chapter, consideration shall be given to the need to promote consistency of the law
3 with respect to its subject matter among states that enact it.

4 **Sec. 10.55.702. Relation to Electronic Signatures in Global and National**
5 **Commerce Act.** This chapter modifies, limits, and supersedes 15 U.S.C. 7001 - 7031
6 (Electronic Signatures in Global and National Commerce Act), but does not modify,
7 limit, or supersede 15 U.S.C. 7001(c), or authorize electronic delivery of any of the
8 notices described in 15 U.S.C. 7003(b).

9 **Sec. 10.55.703. Dissenter's rights.** (a) If an interest holder in an entity would
10 be entitled under the organic law to dissenter's rights if the entity were merged into an
11 entity of the same form, the owner is entitled to the same dissenter's rights with respect
12 to a merger, interest exchange, conversion, or domestication of the entity under this
13 chapter.

14 (b) Unless otherwise provided in a plan, if there is a merger, interest exchange,
15 conversion, or domestication of an entity under this chapter and dissenter's rights are
16 available to an interest holder, an interest holder of the entity who consents or who
17 does not consent but who does not exercise the dissenter's rights becomes an interest
18 holder of the surviving entity, the acquiring entity, the converted entity, or the
19 domesticated entity, and is a party to and bound by the organic rules of the surviving
20 entity, the acquiring entity, or the converted entity.

21 **Article 8. Definitions and Title.**

22 **Sec. 10.55.901. Definitions.** In this chapter,

23 (1) "acquired entity" means the entity, all of one or more classes or
24 series of interests in which are acquired in an interest exchange;

25 (2) "acquiring entity" means the entity that acquires all of one or more
26 classes or series of interests of the acquired entity in an interest exchange;

27 (3) "approve" means, in the case of an entity, for its governors and
28 interest holders to take whatever steps are necessary under its organic rules, organic
29 law, and other law to

30 (A) propose a transaction subject to this chapter;

31 (B) adopt and approve the terms and conditions of the

1 transaction; and

2 (C) conduct any required proceedings or otherwise obtain any
3 required votes or consents of the governors or interest holders;

4 (4) "business corporation" means a corporation whose internal affairs
5 are governed by AS 10.06;

6 (5) "commissioner" means the commissioner of commerce,
7 community, and economic development;

8 (6) "conversion" means a transaction authorized by AS 10.55.401 -
9 10.55.406;

10 (7) "converted entity" means the converting entity as it continues in
11 existence after a conversion;

12 (8) "converting entity" means the domestic entity that approves a plan
13 of conversion under AS 10.55.403 or the foreign entity that approves a conversion
14 under the law of its jurisdiction of organization;

15 (9) "department" means the Department of Commerce, Community,
16 and Economic Development;

17 (10) "domesticated entity" means the domesticating entity as it
18 continues in existence after a domestication;

19 (11) "domesticating entity" means the domestic entity that approves a
20 plan of domestication under AS 10.55.503 or the foreign entity that approves a
21 domestication under the law of its jurisdiction of organization;

22 (12) "domestication" means a transaction authorized by AS 10.55.501
23 - 10.55.506;

24 (13) "domestic entity" means an entity whose internal affairs are
25 governed by the law of this state;

26 (14) "entity" means

27 (A) a business corporation;

28 (B) a nonprofit corporation;

29 (C) a general partnership, including a limited liability
30 partnership;

31 (D) a limited partnership, including a limited liability limited

- 1 partnership;
- 2 (E) a limited liability company;
- 3 (F) a business trust or statutory trust entity;
- 4 (G) an unincorporated nonprofit association;
- 5 (H) a cooperative; or
- 6 (I) any other person that has a separate legal existence or has
- 7 the power to acquire an interest in real property in its own name, other than
- 8 (i) an individual;
- 9 (ii) a testamentary, inter vivos, or charitable trust, with
- 10 the exception of a business trust, statutory trust entity, or similar trust;
- 11 (iii) an association or relationship that is not a
- 12 partnership solely by reason of AS 32.06.202(c) (Uniform Partnership
- 13 Act) or a similar provision of the law of any other jurisdiction;
- 14 (iv) a decedent's estate; or
- 15 (v) a government, a governmental subdivision, agency,
- 16 or instrumentality, or a quasi-governmental instrumentality;
- 17 (15) "filing entity" means an entity that is created by the filing of a
- 18 public organic document;
- 19 (16) "foreign entity" means an entity other than a domestic entity;
- 20 (17) "governance interest" means the right under the organic law or
- 21 organic rules of an entity, other than as a governor, agent, assignee, or proxy, to
- 22 (A) receive or demand access to information concerning, or the
- 23 books and records of, the entity;
- 24 (B) vote for the election of the governors of the entity; or
- 25 (C) receive notice of or vote on any or all issues involving the
- 26 internal affairs of the entity;
- 27 (18) "governor" means a person by or under whose authority the
- 28 powers of an entity are exercised and under whose direction the business and affairs of
- 29 the entity are managed under the organic law and organic rules of the entity;
- 30 (19) "interest" means
- 31 (A) a governance interest in an unincorporated entity;

- 1 (B) a transferable interest in an unincorporated entity; or
 2 (C) a share or membership in a corporation;
- 3 (20) "interest exchange" means a transaction authorized by
 4 AS 10.55.301 - 10.55.306;
- 5 (21) "interest holder" means a direct holder of an interest;
- 6 (22) "interest-holder liability" means
 7 (A) personal liability for a liability of an entity that is imposed
 8 on a person
 9 (i) solely by reason of the status of the person as an
 10 interest holder; or
 11 (ii) by the organic rules of the entity under a provision
 12 of the organic law authorizing the organic rules to make one or more
 13 specified interest holders or categories of interest holders liable in their
 14 capacity as interest holders for all or specified liabilities of the entity;
 15 or
 16 (B) an obligation of an interest holder under the organic rules
 17 of an entity to contribute to the entity;
- 18 (23) "jurisdiction of organization" of an entity means the jurisdiction
 19 whose law includes the organic law of the entity;
- 20 (24) "liability" means a debt, obligation, or any other liability arising
 21 in any manner, regardless of whether it is secured or whether it is contingent;
- 22 (25) "merger" means a transaction in which two or more merging
 23 entities are combined into a surviving entity under a filing with the department;
- 24 (26) "merging entity" means an entity that is a party to a merger and
 25 exists immediately before the merger becomes effective;
- 26 (27) "nonprofit corporation" means a corporation whose internal
 27 affairs are governed by AS 10.20 (Alaska Nonprofit Corporation Act);
- 28 (28) "organic law" means the statutes, if any, other than this chapter,
 29 governing the internal affairs of an entity;
- 30 (29) "organic rules" means the public organic document and private
 31 organic rules of an entity;

1 (30) "person" means an individual, corporation, estate, trust,
2 partnership, limited liability company, business or similar trust, association, joint
3 venture, public corporation, government or governmental subdivision, agency, or
4 instrumentality, or any other legal or commercial entity;

5 (31) "plan" means a plan of merger, interest exchange, conversion, or
6 domestication;

7 (32) "private organic rules" means the rules, whether or not in a record,
8 that govern the internal affairs of an entity, are binding on all of its interest holders,
9 and are not part of its public organic document, if any;

10 (33) "protected agreement" means

11 (A) a record evidencing indebtedness and any related
12 agreement in effect on July 1, 2011;

13 (B) an agreement that is binding on an entity on July 1, 2011;

14 (C) the organic rules of an entity in effect on July 1, 2011; or

15 (D) an agreement that is binding on any of the governors or
16 interest holders of an entity on July 1, 2011;

17 (34) "public organic document" means the public record, the filing of
18 which creates an entity, and any amendment to or restatement of that record;

19 (35) "qualified foreign entity" means a foreign entity that is authorized
20 to transact business in this state under a filing with the department;

21 (36) "record" means information that is inscribed on a tangible
22 medium or that is stored in an electronic or other medium and is retrievable in
23 perceivable form;

24 (37) "sign" means, with present intent to authenticate or adopt a
25 record,

26 (A) to execute or adopt a tangible symbol; or

27 (B) to attach to or logically associate with the record an
28 electronic sound, symbol, or process;

29 (38) "surviving entity" means the entity that continues in existence
30 after or is created by a merger;

31 (39) "transferable interest" means the right under an entity's organic

1 law to receive distributions from the entity;

2 (40) "type," with regard to an entity, means a generic form of entity

3 (A) recognized at common law; or

4 (B) organized under an organic law, whether or not some
5 entities organized under that organic law are subject to provisions of that law
6 that create different categories of the form of entity.

7 **Sec. 10.55.902. Short title.** This chapter may be cited as the Alaska Entity
8 Transactions Act.

9 * **Sec. 7.** AS 32.06.401(i) is amended to read:

10 (i) **Except as provided in AS 10.55 (Alaska Entity Transactions Act), a** [A]
11 person may become a partner only with the consent of all the partners.

12 * **Sec. 8.** AS 32.06.502 is amended to read:

13 **Sec. 32.06.502. Partner's transferable interest in partnership. Except as**
14 **provided in AS 10.55 (Alaska Entity Transactions Act), the** [THE] only
15 transferable interest of a partner in the partnership is the partner's share of the profits
16 and losses of the partnership and the partner's right to receive distributions. The
17 interest **of a partner, whether or not transferable,** is personal property.

18 * **Sec. 9.** AS 32.06.702(a) is amended to read:

19 (a) For two years after a partner dissociates without the dissociation resulting
20 in a dissolution and winding up of the partnership business, the partnership, including
21 a surviving partnership under **AS 32.06.905 - 32.06.908** [AS 32.06.902 - 32.06.908],
22 is bound by an act of the dissociated partner that would have bound the partnership
23 under AS 32.06.301 before dissociation only if, at the time of entering into the
24 transaction, the other party

25 (1) reasonably believed that the dissociated partner was then a partner;

26 (2) did not have notice of the partner's dissociation; and

27 (3) is not considered to have had knowledge under AS 32.06.303(e) or
28 notice under AS 32.06.704(c).

29 * **Sec. 10.** AS 32.06.703(b) is amended to read:

30 (b) A partner who dissociates without the dissociation resulting in a
31 dissolution and winding up of the partnership business is liable as a partner to the

1 other party in a transaction entered into by the partnership, or a surviving partnership
 2 under AS 32.06.905 - 32.06.908 [AS 32.06.902 - 32.06.908], within two years after
 3 the partner's dissociation only if the partner is liable for the obligation under
 4 AS 32.06.306 and, at the time of entering into the transaction, the other party

- 5 (1) reasonably believed that the dissociated partner was then a partner;
- 6 (2) did not have notice of the partner's dissociation; and
- 7 (3) is not considered to have had knowledge under AS 32.06.303(e) or
 8 notice under AS 32.06.704(c).

9 * **Sec. 11.** AS 32.06.905(a) is amended to read:

10 (a) Under a plan of merger approved under (c) of this section, a partnership
 11 may be merged with one or more partnerships [OR LIMITED PARTNERSHIPS].

12 * **Sec. 12.** AS 32.06.905(b) is amended to read:

13 (b) The plan of merger must state

- 14 (1) the name of each partnership [OR LIMITED PARTNERSHIP] that
 15 is a party to the merger;
- 16 (2) the name of the surviving entity into which the other partnerships
 17 [OR LIMITED PARTNERSHIPS] will merge;
- 18 (3) [WHETHER THE SURVIVING ENTITY IS A PARTNERSHIP
 19 OR A LIMITED PARTNERSHIP AND THE STATUS OF EACH PARTNER;
- 20 (4)] the terms and conditions of the merger;
- 21 (4) [(5)] the manner and basis of converting all or part of the interests
 22 of each party to the merger into interests or obligations of the surviving entity or into
 23 money or other property; and
- 24 (5) [(6)] the street address of the surviving entity's chief executive
 25 office.

26 * **Sec. 13.** AS 32.06.905(c) is amended to read:

27 (c) The plan of merger must be approved

28 [(1) IN THE CASE OF A PARTNERSHIP THAT IS A PARTY TO
 29 THE MERGER,] by all of the partners or a number or percentage specified for merger
 30 in the partnership agreement [; AND

31 (2) IN THE CASE OF A LIMITED PARTNERSHIP THAT IS A

1 PARTY TO THE MERGER, BY THE VOTE REQUIRED FOR APPROVAL OF A
 2 MERGER BY THE LAW OF THE STATE OR FOREIGN JURISDICTION WHERE
 3 THE LIMITED PARTNERSHIP IS ORGANIZED AND, IN THE ABSENCE OF
 4 SUCH A SPECIFICALLY APPLICABLE LAW, BY ALL OF THE PARTNERS,
 5 NOTWITHSTANDING A PROVISION TO THE CONTRARY IN THE
 6 PARTNERSHIP AGREEMENT].

7 * **Sec. 14.** AS 32.06.905(e) is amended to read:

8 (e) The merger takes effect on the later of

9 (1) [THE APPROVAL OF THE PLAN OF MERGER BY ALL
 10 PARTIES TO THE MERGER UNDER (c) OF THIS SECTION;

11 (2)] the filing of all documents required by law to be filed as a
 12 condition to the effectiveness of the merger; or

13 (2) [(3)] an effective date specified in the plan of merger.

14 * **Sec. 15.** AS 32.06.905 is amended by adding a new subsection to read:

15 (f) A merger in which a partnership and another form of entity are parties is
 16 governed by AS 10.55 (Alaska Entity Transactions Act).

17 * **Sec. 16.** AS 32.06.906 is amended to read:

18 **Sec. 32.06.906. Effect of merger.** (a) When a merger takes effect,

19 (1) the separate existence of every partnership [OR LIMITED
 20 PARTNERSHIP] that is a party to the merger, other than the surviving **partnership**
 21 [ENTITY], ceases;

22 (2) all property owned by each of the merged partnerships [OR
 23 LIMITED PARTNERSHIPS] vests in the surviving **partnership** [ENTITY];

24 (3) all obligations of every partnership [OR LIMITED
 25 PARTNERSHIP] that is a party to the merger become the obligations of the surviving
 26 **partnership** [ENTITY]; and

27 (4) an action or proceeding pending against a partnership [OR
 28 LIMITED PARTNERSHIP] that is a party to the merger may be continued as if the
 29 merger had not occurred, or the surviving **partnership** [ENTITY] may be substituted
 30 as a party to the action or proceeding.

31 (b) The commissioner is the agent for service of process in an action or

1 proceeding against a surviving foreign partnership [OR LIMITED PARTNERSHIP] to
 2 enforce an obligation of a domestic partnership [OR LIMITED PARTNERSHIP] that
 3 is a party to a merger. The surviving **partnership** [ENTITY] shall promptly notify the
 4 department of the mailing address of its chief executive office and of any change of
 5 address. Upon receipt of process, the department shall mail a copy of the process to
 6 the surviving foreign partnership [OR LIMITED PARTNERSHIP].

7 (c) A partner of the surviving partnership [OR LIMITED PARTNERSHIP] is
 8 liable for

9 (1) all obligations of a party to the merger for which the partner was
 10 personally liable before the merger;

11 (2) all obligations of the surviving **partnership** [ENTITY] incurred
 12 before the merger by a party to the merger and not covered by (1) of this subsection,
 13 but the obligations under this paragraph may be satisfied only out of property of the
 14 **surviving partnership** [ENTITY]; and

15 (3) except as otherwise provided in AS 32.06.306, all obligations of
 16 the surviving **partnership** [ENTITY] incurred after the merger takes effect [, BUT
 17 THE OBLIGATIONS UNDER THIS PARAGRAPH MAY BE SATISFIED ONLY
 18 OUT OF PROPERTY OF THE ENTITY IF THE PARTNER IS A LIMITED
 19 PARTNER].

20 (d) **Except as provided in this section, if** [IF] the obligations incurred before
 21 the merger by a party to the merger are not satisfied out of the property of the
 22 surviving partnership [OR LIMITED PARTNERSHIP], the general partners of the
 23 party to the merger immediately before the effective date of the merger shall
 24 contribute the amount necessary to satisfy the party's obligations to the surviving
 25 **partnership** [ENTITY], in the manner provided in AS 32.06.807 **or** [,] in AS 32.11,
 26 [OR IN THE LIMITED PARTNERSHIP LAW OF THE JURISDICTION WHERE
 27 THE PARTY WAS FORMED, AS THE CASE MAY BE,] as if the merged party
 28 were dissolved.

29 (e) As of the date the merger takes effect, a partner of a party to a merger who
 30 does not become a partner of the surviving partnership [OR LIMITED
 31 PARTNERSHIP] is dissociated from the entity of which that partner was a partner. **A**

1 [THE] surviving **partnership** [ENTITY SHALL CAUSE THE PARTNER'S
 2 INTEREST IN THE ENTITY TO BE PURCHASED UNDER AS 32.06.701 OR
 3 ANOTHER STATUTE SPECIFICALLY APPLICABLE TO THAT PARTNER'S
 4 INTEREST WITH RESPECT TO A MERGER. THE SURVIVING ENTITY] is
 5 bound under AS 32.06.702 by an act of a general partner dissociated under this
 6 subsection, and the partner is liable under AS 32.06.703 for transactions entered into
 7 by the surviving **partnership** [ENTITY] after the merger takes effect.

8 * **Sec. 17.** AS 32.06.907 is amended to read:

9 **Sec. 32.06.907. Statement of merger.** (a) After a merger, the surviving
 10 partnership [OR LIMITED PARTNERSHIP] may file a statement that **the parties to**
 11 **the merger** [ONE OR MORE PARTNERSHIPS OR LIMITED PARTNERSHIPS]
 12 have merged into the surviving **partnership** [ENTITY].

13 (b) A statement of merger must contain

14 (1) the name of each partnership [OR LIMITED PARTNERSHIP] that
 15 is a party to the merger;

16 (2) the name of the surviving **partnership** [ENTITY] into which the
 17 other partnerships [OR LIMITED PARTNERSHIP] are merged; **and**

18 (3) the street address of the surviving **partnership's** [ENTITY'S] chief
 19 executive office and of any office in this state [; AND

20 (4) WHETHER THE SURVIVING ENTITY IS A PARTNERSHIP
 21 OR A LIMITED PARTNERSHIP].

22 (c) Except as otherwise provided in (d) of this section, in AS 32.06.302,
 23 property of the surviving partnership [OR LIMITED PARTNERSHIP] that, before the
 24 merger, was held in the name of another party to the merger is property held in the
 25 name of the surviving **partnership** [ENTITY] upon filing a statement of merger.

26 (d) In AS 32.06.302, real property of the surviving partnership [OR LIMITED
 27 PARTNERSHIP] that, before the merger, was held in the name of another party to the
 28 merger is property held in the name of the surviving **partnership** [ENTITY] upon
 29 recording a certified copy of the statement of merger in the office for recording
 30 transfers of the real property.

31 (e) A filed and, if appropriate, recorded statement of merger, executed and

1 declared to be accurate under AS 32.06.970(c), stating the name of a partnership [OR
2 LIMITED PARTNERSHIP] that is a party to the merger in whose name property was
3 held before the merger and the name of the surviving **partnership** [ENTITY], but not
4 containing all of the other information required by (b) of this section, operates with
5 respect to the partnerships [OR LIMITED PARTNERSHIPS] named to the extent
6 provided in (c) and (d) of this section.

7 * **Sec. 18.** AS 32.06.908 is amended to read:

8 **Sec. 32.06.908. Nonexclusivity.** AS 32.06.905 - 32.06.907 [AS 32.06.902 -
9 32.06.908] are not exclusive. Partnerships or limited partnerships may be converted or
10 merged in any other manner provided by law.

11 * **Sec. 19.** AS 32.06.995(7) is amended to read:

12 (7) "limited liability partnership" **or "domestic limited liability**
13 **partnership"** means a partnership that has filed a statement of qualification under
14 AS 32.06.911 and does not have a similar statement in effect in another jurisdiction;

15 * **Sec. 20.** AS 32.06.995 is amended by adding new paragraphs to read:

16 (17) "domestic partnership" means a partnership whose internal
17 relations are governed by the laws of this state;

18 (18) "foreign partnership" means a partnership other than a domestic
19 partnership;

20 (19) "surviving partnership" means a domestic or foreign partnership
21 into which one or more domestic or foreign partnerships are merged, whether or not
22 preexisting the merger or created by the merger.

23 * **Sec. 21.** AS 32.11.020 is amended by adding a new subsection to read:

24 (g) A certificate of limited partnership may also be amended by filing a plan
25 of merger, interest exchange, conversion, or domestication under AS 10.55 (Alaska
26 Entity Transactions Act).

27 * **Sec. 22.** AS 32.11.320 is amended to read:

28 **Sec. 32.11.320. Nature of partnership interest.** **The** [A PARTNERSHIP]
29 interest **of a partner, whether or not transferable,** is personal property.

30 * **Sec. 23.** AS 32.11.840(a) is amended to read:

31 (a) A limited partnership shall keep at the office referred to in

1 AS 32.11.830(a)(1) the following:

2 (1) a current list of the full name and last known business address of
3 each partner, separately identifying the general partners in alphabetical order and the
4 limited partners in alphabetical order;

5 (2) a copy of the certificate of limited partnership and all certificates of
6 amendment to it, together with executed copies of a power of attorney under which a
7 certificate has been executed;

8 (3) copies of the limited partnership's federal, state, and local income
9 tax returns and reports, if any, for the three most recent years;

10 (4) copies of a then effective written partnership agreement and of a
11 financial statement of the limited partnership for the three most recent years; [AND]

12 (5) unless contained in a written partnership agreement, a writing
13 setting out

14 (A) the amount of cash and a description and statement of the
15 agreed value of the other property or services contributed by each partner and
16 that each partner has agreed to contribute;

17 (B) the times at which or events on the happening of which
18 additional contributions agreed to be made by each partner are to be made;

19 (C) the right of a partner to receive, or of a general partner to
20 make, distributions to a partner that include a return of all or a part of the
21 partner's contribution; and

22 (D) events upon the happening of which the limited partnership
23 is to be dissolved and its affairs wound up;

24 **(6) a copy of any statement of merger, interest exchange,**
25 **conversion, or domestication filed under AS 10.55 (Alaska Entity Transactions**
26 **Act).**

27 * **Sec. 24.** AS 32.11.890 is amended to read:

28 **Sec. 32.11.890. Rules for [CONVERSIONS AND OTHER] cases not**
29 **covered by chapter.** In a case not provided for in this chapter, [INCLUDING
30 CONVERSION OF A LIMITED PARTNERSHIP TO A PARTNERSHIP,] the
31 provisions of AS 32.06 govern, **except as provided by AS 10.55 (Alaska Entity**

1 **Transactions Act).**

2 * **Sec. 25.** AS 32.11.900(9) is amended to read:

3 (9) "limited partnership," **except when used in the phrases "foreign**
 4 **limited partnership" and "foreign limited liability limited partnership,"** and
 5 "domestic limited partnership" mean a partnership formed by two or more persons
 6 under **this chapter, or that becomes subject to this chapter** [THE LAWS OF THIS
 7 STATE] and having one or more general partners and one or more limited partners;

8 * **Sec. 26.** AS 06.26.670; AS 10.06.590; AS 10.15.450; AS 10.50.505, 10.50.570;
 9 AS 32.06.902, 32.06.903, 32.06.904, 32.06.909; and AS 32.11.095 are repealed.

10 * **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to
 11 read:

12 (a) AS 10.55.603(a), added by sec. 6 of this Act, amends Rule 79, Alaska Rules of
 13 Civil Procedure, by directing that the process service fee be allowed to a prevailing party,
 14 whether or not the fee amount exceeds the \$45 allowed by Rule 11, Alaska Rules of
 15 Administration.

16 INDIRECT COURT RULE AMENDMENTS. (b) AS 10.55.607(a), added by sec. 6 of
 17 this Act, amends Rule 602(b)(2), Alaska Rules of Appellate Procedure, by establishing special
 18 venue rules for appealing the refusal of the Department of Commerce, Community, and
 19 Economic Development to file a document.

20 (c) AS 10.55.607(a), added by sec. 6 of this Act, amends Rule 602(c), Alaska Rules
 21 of Appellate Procedure, by requiring that certain documents be filed with a petition appealing
 22 the refusal of the Department of Commerce, Community, and Economic Development to file
 23 a document.

24 (d) AS 10.55.607(b), added by sec. 6 of this Act, amends Rule 605.5, Alaska Rules of
 25 Appellate Procedure, by allowing the superior court to summarily order the filing, because a
 26 summary order may not allow for oral argument.

27 * **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to
 28 read:

29 SAVING CLAUSE. This Act does not affect an action or proceeding begun or a right
 30 accrued before July 1, 2011.

31 * **Sec. 29.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 TRANSITION: REGULATIONS. The Department of Commerce, Community, and
3 Economic Development may adopt regulations necessary to implement the changes made by
4 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
5 before July 1, 2011.

6 * **Sec. 30.** Sec. 29 of this Act takes effect immediately under AS 01.10.070(c).

7 * **Sec. 31.** Except as provided in sec. 30, this Act takes effect July 1, 2011.