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Referred: Labor & Commerce
and Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
COUNCIL (for the Code
Revision Commission)

1 IN THE SENATE

2 SENATE BILL NO. 873

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to corporations; and providing for an
7 effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 10 is amended by adding a new chapter to read:

10 CHAPTER 06. ALASKA CORPORATIONS CODE.

11 ARTICLE 1. CORPORATE PURPOSES AND POWERS.

12 Sec. 10.06.005. PURPOSES. A corporation may be organized under
13 this chapter for any lawful purpose except for the purposes of banking
14 and insurance.

15 Sec. 10.06.010. GENERAL POWERS. Subject to the limitations in
16 its articles of incorporation, the provisions of this chapter and other
17 applicable law, a corporation has all the powers of a natural person in
18 carrying out its business activities, including, without limitation,
19 the power to

- 20 (1) have perpetual succession by its corporate name;
- 21 (2) sue and be sued in its corporate name;
- 22 (3) adopt a corporate seal and alter it, and use it by
23 having it or a facsimile of it impressed, affixed or reproduced;
- 24 (4) buy, take, receive, lease, or otherwise acquire, own,
25 hold, improve, use, and otherwise deal in, real or personal property or
26 an interest in the property, wherever situated;
- 27 (5) sell, convey, mortgage, pledge, lease, exchange,
28 transfer, and otherwise dispose of all or a part of its property and
29 assets;

1 (6) lend money to its employees and, if properly approved,
2 to its officers and directors, and otherwise assist its employees,
3 officers, and directors;

4 (7) buy, take, receive, subscribe for, or otherwise acquire,
5 own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise
6 dispose of, and otherwise use and deal in shares or other interests in,
7 or obligations of, other domestic or foreign corporations, associations,
8 partnerships or individuals, or direct or indirect obligations of the
9 United States or of any other government, state, territory, governmental
10 district or municipality or an instrumentality of these;

11 (8) make contracts and incur liabilities, borrow money at
12 the rates of interest the corporation determines, issue notes, bonds,
13 and other obligations, and secure its obligations by mortgage or pledge
14 of all or any of its property, franchise and income;

15 (9) lend money for its corporate purposes, invest and re-
16 invest its money, and take and hold real and personal property as secur-
17 ity for the payment of money loaned or invested;

18 (10) conduct business, carry on operations, and have offices
19 and exercise the powers granted by this chapter in a state, territory,
20 district, or possession of the United States, or in a foreign country;

21 (11) elect or appoint officers and agents of the corporation
22 and define their duties and fix their compensation;

23 (12) make and alter bylaws not inconsistent with its articles
24 of incorporation or with state law, for the administration and regula-
25 tion of the affairs of the corporation;

26 (13) donate for the public welfare or for charitable, scienti-
27 fic or educational purposes, and in time of war donate in aid of war
28 activities;

29 (14) transact lawful business in time of war in aid of the

1 United States in the prosecution of the war;

2 (15) pay pensions and establish pension plans, pension trusts,
3 profit-sharing plans, stock bonus plans, stock option plans and other
4 incentive plans for its directors, officers, and employees;

5 (16) cease its corporate activities and surrender its cor-
6 porate franchise;

7 (17) have and exercise the powers of a limited or general
8 partnership or a joint adventurer in association with one or more
9 persons, corporations, partnerships, or associations;

10 (18) have and exercise all powers necessary or convenient to
11 carry out the purposes for which the corporation is organized.

12 Sec. 10.06.015. DEFENSE OF ULTRA VIRES. (a) An act of a corpora-
13 tion or a transfer of real or personal property to or by a corporation,
14 otherwise lawful, is not invalid because the corporation was without
15 capacity or power to do the act or to make or receive the transfer, but
16 the lack of capacity or power may be asserted

17 (1) in an action by a shareholder against the corporation to
18 enjoin the doing of an act or the transfer of real or personal property
19 by or to the corporation; if the unauthorized act or transfer sought to
20 be enjoined is being, or is to be, performed or made under a contract
21 to which the corporation is a party, the court may, if all of the
22 parties to the contract are parties to the action, set aside and enjoin
23 the performance of the contract, and in so doing may allow to the
24 corporation or to the other parties to the contract, compensation as
25 may be equitable for the loss or damage sustained by any of them from
26 the action of the court in setting aside and enjoining the performance
27 of the contract; however, anticipated profits to be derived from the
28 contract may not be awarded by the court as a loss or damage sustained;

29 (2) in an action by or in the right of the corporation to

1 obtain a judgment in its favor against an incumbent or former officer,
2 director, or incorporator of the corporation for loss or damage due to
3 that individual's unauthorized act;

4 (3) in an action or special proceeding by the commissioner
5 to annul or dissolve the corporation or to enjoin it from the doing of
6 unauthorized business.

7 (b) This section applies to contracts and conveyances made by
8 foreign corporations in this state and to conveyances by foreign corpora-
9 tions of real property situated in this state.

10 Sec. 10.06.020. LIMITATIONS ON AUTHORITY OF CORPORATE AGENTS. A
11 limitation upon the powers of the shareholders, officers, or directors,
12 or the manner or exercise of their powers, contained in or implied by
13 the articles of incorporation, bylaws, or action of the board, or by
14 AS 10.06.605 - 10.06.678 or 10.06.705 - 10.06.788 or by a shareholders'
15 agreement may not be asserted as between the corporation or a share-
16 holder and a third person, except in a proceeding

17 (1) by a shareholder or the state to enjoin the doing or
18 continuance of unauthorized business by the corporation or its officers,
19 or both, in a case where a third party has not acquired rights under
20 AS 10.06.025(a);

21 (2) to dissolve the corporation; or

22 (3) by the corporation or by a shareholder suing in a rep-
23 resentative suit against the officers or directors of the corporation
24 for violation of their duty.

25 Sec. 10.06.025. CONTRACTS OR CONVEYANCES BINDING DOMESTIC AND
26 FOREIGN CORPORATIONS. (a) A contract or conveyance made in the name
27 of the corporation which is authorized or ratified by the board, or is
28 done within the scope of the authority, actual or apparent, conferred
29 by the board or within the agency power of the officers executing it,

1 except as the board's authority is limited by law other than this
2 chapter, binds the corporation, and the corporation acquires rights
3 under the contract, whether the contract is executed or is wholly or in
4 part executory.

5 (b) This section applies to contracts and conveyances made by
6 foreign corporations in this state and to conveyances by foreign corpora-
7 tions of real property situated in this state.

8 ARTICLE 2. DOMESTIC CORPORATIONS.

9 Sec. 10.06.105. CORPORATE NAME. (a) A corporate name shall
10 contain the word "corporation", "company", "incorporated", or "limited",
11 or an abbreviation of one of these words. The corporate name may not
12 contain a word or phrase which indicates or implies that the corporation
13 is organized for a purpose other than the purpose contained in its
14 articles of incorporation. The corporate name may not be the same as,
15 or deceptively similar to, the name of a domestic corporation existing
16 under the laws of this state or a foreign corporation authorized to
17 transact business in this state, or a name which has been reserved or
18 registered as provided in this title.

19 (b) The corporate name may not contain the word "city", "borough",
20 or "village" or otherwise imply that the corporation is a municipality.
21 The name of a city, borough, or village may be used in the corporate
22 name.

23 (c) A person may not adopt a name which contains the word "cor-
24 poration", "incorporated", or "limited", or an abbreviation of one of
25 these words, unless the person has been issued a certificate of incor-
26 poration, or, in the case of a foreign corporation, a certificate of
27 authority, by the commissioner.

28 Sec. 10.06.110. RESERVATION OF CORPORATE NAME. The exclusive
29 right to the use of a corporate name may be reserved by

1 (1) a person intending to organize a corporation under this
2 chapter;

3 (2) a domestic corporation intending to change its name;

4 (3) a foreign corporation intending to apply for a certifi-
5 cate of authority to transact business in this state;

6 (4) a foreign corporation authorized to transact business in
7 this state and intending to change its name; or

8 (5) a person intending to organize a foreign corporation and
9 to have it apply for a certificate of authority to transact business in
10 this state.

11 Sec. 10.06.115. APPLICATION TO RESERVE CORPORATE NAME. Reserva-
12 tion of a corporate name is made by filing an application with the
13 commissioner. If the commissioner finds that the name is available for
14 corporate use, and not a reserved or registered business name as set
15 out in AS 10.35, he shall reserve it for the exclusive use of the
16 applicant for a period of 120 days.

17 Sec. 10.06.120. TRANSFER OF RESERVED NAME. The holder of a
18 reserved corporate name may transfer the right to the exclusive use of
19 the corporate name to another person by filing a notice of transfer
20 with the commissioner, signed by the holder of the name, and specifying
21 the name and address of the transferee.

22 Sec. 10.06.125. REGISTRATION OF CORPORATE NAME. A corporation
23 organized and existing under the laws of any state or territory of the
24 United States may register its corporate name if the name is not the
25 same as, or deceptively similar to, the name of a domestic corporation,
26 the name of a foreign corporation authorized to transact business in
27 this state, or a corporate name reserved or registered under this
28 chapter or a business name reserved or registered under AS 10.35.

29 Sec. 10.06.130. USE OF SAME OR DECEPTIVELY SIMILAR NAME. Regis-

1 tration of a corporate name gives the exclusive right to the use of the
2 name. The person who has registered the corporate name may enjoin the
3 use of the same or deceptively similar name and has a cause of action
4 for damages against a person who uses the same or deceptively similar
5 name.

6 Sec. 10.06.135. PROCEDURE FOR REGISTRATION OF CORPORATE NAME.

7 Registration of a corporate name is made by filing with the commissioner

8 (1) an application for registration executed by an officer
9 of the corporation setting out the name of the corporation, the state
10 or territory under the laws of which it is incorporated, the date of
11 incorporation, a statement that it is doing business, and a brief
12 statement of its business; and

13 (2) a certificate from an official of the state or territory
14 where the corporation is organized who has custody of the records
15 pertaining to corporations stating that the corporation is in good
16 standing under the laws of that state or territory.

17 Sec. 10.06.140. FEE FOR AND DURATION OF REGISTERED NAME. (a)

18 The fee for registration of a corporate name shall be established by the
19 department by regulation subject to AS 10.06.860.

20 (b) The registration is effective until the close of the calendar
21 year in which the application for registration is filed unless ter-
22 minated earlier by involuntary dissolution in accordance with AS 10.-
23 06.633.

24 Sec. 10.06.145. RENEWAL OF REGISTERED NAME. A corporation which

25 has registered its corporate name may renew the registration each year
26 by (1) filing an application for renewal each year setting out the
27 facts required in an original application for registration; (2) filing
28 a certificate of good standing required for an original registration;
29 and (3) paying a fee established by the department by regulation subject

1 to AS 10.06.860. An application for renewal shall be filed between
2 October 1 and December 31 in each year. The renewal extends the regis-
3 tration for the following calendar year.

4 Sec. 10.06.150. REGISTERED OFFICE AND REGISTERED AGENT. A cor-
5 poration shall continuously maintain in this state a registered agent
6 and a registered office. The registered office may be the same as the
7 place of business of the corporation. The registered agent may be
8 either an individual resident of this state whose business office is
9 the same as the registered office, or a domestic or foreign corporation
10 authorized to transact business in this state whose business office is
11 the same as the registered office.

12 Sec. 10.06.155. REGISTRATION OF AGENT BY NONRESIDENT WITH CON-
13 TROLLING INTEREST. (a) If a person who is not a resident of this
14 state or a foreign corporation not authorized to do business in this
15 state possesses a controlling interest in a corporation subject to the
16 reporting requirements of this chapter, the person or corporation shall
17 designate in writing an agent in this state upon whom service of notices
18 and process and orders, decisions, and requirements of the department
19 or the commissioner may be made for or on behalf of that person or
20 corporation. The designation shall be filed in the office of the
21 commissioner and may be amended by filing written notice in the office
22 of the commissioner. Service of notices, process, orders, decisions,
23 and requirements of the department or the commissioner may be made upon
24 the person or corporation who designates an agent under this section by
25 service upon the designated agent at his office or usual place of
26 residence. Service upon a designated agent has the same effect as
27 service made personally upon the person or corporation who designates
28 the agent.

29 (b) A person or foreign corporation required to designate an

1 agent under (a) of this section and the corporation subject to that
2 controlling interest may not initiate an action in the courts of this
3 state until the person or corporation complies with the provisions of
4 (a) of this section. If a person or foreign corporation or corporation
5 subject to that controlling interest initiates an action in the courts
6 of this state and the court finds that there has been noncompliance
7 with (a) of this section, the court shall dismiss the action without
8 prejudice.

9 Sec. 10.06.160. FILING LIST OF REGISTERED CORPORATIONS WITH
10 SUPERIOR COURT; UPDATING AND PUBLISHING. The commissioner shall file a
11 list of the names of each domestic and authorized foreign corporation,
12 and the name and address of the registered agent of the corporations
13 with the superior court of each judicial district. The commissioner
14 shall provide a weekly update of the list indicating additions, dele-
15 tions, and changes by mechanical or electronic means which can be
16 reduced to legible written copy. Upon request, the commissioner shall
17 make available a copy of the list and weekly updates for a fee estab-
18 lished by the department by regulation. The commissioner shall publish
19 an updated compilation of the entire list at least once each year.

20 Sec. 10.06.165. CHANGE OF REGISTERED OFFICE OR AGENT. (a) A
21 corporation may change its registered office, agent, or both, by filing
22 with the department a verified statement signed by the president or
23 vice-president including

- 24 (1) the name of the corporation;
25 (2) the address of its registered office;
26 (3) the address of its new registered office if the regis-
27 tered office is to be changed;
28 (4) the name of its registered agent;
29 (5) the name of its new registered agent, if the registered

1 agent is to be changed; and

2 (6) a statement that the change is authorized by resolution
3 of its board of directors.

4 (b) If the commissioner finds that the verified statement complies
5 with this chapter, he shall file it in his office. The change becomes
6 effective when the statement is filed.

7 Sec. 10.06.170. REGISTRATION CHANGE OR RESIGNATION OF REGISTERED
8 AGENT. (a) If the registered agent of a domestic or foreign corpora-
9 tion changes the location of his office from one address to another in
10 this state, he may change the registered office for each corporation
11 for which he is acting as registered agent by filing in the office of
12 the commissioner a statement setting out

- 13 (1) the name of the agent;
14 (2) the address of his office before change;
15 (3) the address to which the office is changed; and
16 (4) a list of corporations for which he is the registered
17 agent.

18 (b) The statement in (a) of this section shall be executed by the
19 registered agent in his individual name and, if the agent is a corpora-
20 tion, it shall be executed by its president or a vice-president and
21 verified by him. The statement shall be delivered to the commissioner
22 and if he finds that the statement complies with this chapter, he shall
23 file it in his office. The change becomes effective when the statement
24 is filed.

25 (c) A registered agent may resign by filing a written notice,
26 executed in duplicate, with the commissioner. The written notice of
27 resignation shall set out the latest address of the principal office of
28 the corporation and the names, addresses, and titles of the most recent
29 officers of the corporation known by the agent. The commissioner shall

1 immediately mail a copy of the notice to the corporation at its princi-
2 pal office. The resignation becomes effective 30 days after the filing
3 of the written notice, unless the corporation sooner appoints a succes-
4 sor registered agent, as provided in AS 10.06.165.

5 Sec. 10.06.175. SERVICE OF PROCESS ON CORPORATION. (a) The
6 registered agent of a corporation is an agent upon whom process, notice,
7 or demand required or permitted by law to be served upon the corporation
8 may be served.

9 (b) If a corporation fails to appoint or maintain a registered
10 agent in this state, or if its registered agent cannot, with reasonable
11 diligence, be found at the registered office, the commissioner is an
12 agent of the corporation upon whom the process, notice, or demand may
13 be served. A person may serve the commissioner under this subsection
14 by

15 (1) serving on the commissioner or his designee a copy of
16 the process, notice, or demand, with any papers required by law to be
17 delivered in connection with the service, and a fee established by the
18 department by regulation subject to AS 10.06.860;

19 (2) sending to the corporation being served by certified
20 mail a notice that service has been made on the commissioner under this
21 subsection and a copy of the process, notice, or demand and accompanying
22 papers; notice to the corporation shall be sent to

23 (A) the address of the last registered office of the
24 corporation as shown by the records on file in the office of the
25 commissioner; and

26 (B) the address, the use of which the person initiating
27 the proceedings knows or, on the basis of reasonable inquiry, has
28 reason to believe is most likely to result in actual notice; and

29 (3) filing with the appropriate court or other body, as part

1 of the return of service, the return receipt of mailing and an affidavit
2 of the person initiating the proceedings that this section has been
3 complied with.

4 (c) The commissioner shall keep a record of processes, notices,
5 and demands served upon him under this section.

6 (d) This section does not affect the right to serve process,
7 notice, or demand required or permitted by law to be served upon a
8 corporation in any other manner permitted.

9 ARTICLE 3. FORMATION OF CORPORATIONS.

10 Sec. 10.06.205. INCORPORATORS. One or more natural persons at
11 least 19 years of age may act as incorporators of a corporation by
12 signing, verifying, and delivering in duplicate to the commissioner
13 articles of incorporation for the corporation.

14 Sec. 10.06.208. ARTICLES OF INCORPORATION. The articles of
15 incorporation shall set out

16 (1) the name of the corporation;

17 (2) the purpose or purposes for which the corporation is
18 organized which may be stated to be, or to include, the transaction of
19 any or all lawful business for which corporations may be incorporated
20 under this chapter;

21 (3) the address of its initial registered office, and the
22 name of its initial registered agent at that address;

23 (4) the name and address of each alien affiliate or a state-
24 ment that there are no alien affiliates;

25 (5) if the corporation is authorized to issue only one class
26 of shares, the total number of shares which the corporation is autho-
27 rized to issue;

28 (6) if the corporation is authorized to issue more than one
29 class of shares, or if a class of shares is to have two or more series,

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(A) the total number of shares of each class the corporation is authorized to issue, and the total number of shares of each series which the corporation is authorized to issue or of which the board is authorized to fix the number of shares;

(B) the designation of each class, and the designation of each series or that the board may determine the designation of any series;

(C) the rights, preferences, privileges, and restrictions granted to or imposed on the respective classes or series of shares or the holders of the shares, or that the board, within any limits and restrictions stated, may determine or alter the rights, preferences, privileges, and restrictions granted to or imposed on a wholly unissued class of shares or a wholly unissued series of any class of shares; and

(D) if the number of shares of a series is authorized to be fixed by the board, the articles of incorporation may also authorize the board, within the limits and restrictions stated in the articles or stated in a resolution of the board originally fixing the number of shares constituting a series, to increase or decrease, but not below the number of shares of the series then outstanding, the number of shares of a series after the issue of shares of that series; if the number of shares of a series are decreased, the shares constituting the decrease shall resume the status they had before the adoption of the resolution originally fixing the number of shares of the series.

Sec. 10.06.210. ARTICLES OF INCORPORATION: OPTIONAL PROVISIONS.

The articles of incorporation may set out

(1) any of the following provisions, which are not effective unless expressly provided in the articles:

1 (A) a provision granting, with or without limitations,
2 the power to levy assessments upon the shares or class of shares;

3 (B) a provision removing from shareholders preemptive
4 rights to subscribe to any or all issues of shares or securities;

5 (C) special qualifications of persons who may be share-
6 holders;

7 (D) a provision limiting the duration of the corpora-
8 tion's existence to a specified date;

9 (E) a provision requiring, for any corporate action
10 except as provided in AS 10.06.460 and 10.06.605, the vote of a
11 larger proportion or of all of the shares of a class or series, or
12 the vote or quorum for taking action of a larger proportion or of
13 all of the directors, than is otherwise required by this chapter;

14 (F) a provision limiting or restricting the business in
15 which the corporation may engage or the powers which the corpora-
16 tion may exercise or both;

17 (G) a provision conferring upon the holder of an evi-
18 dence of indebtedness, issued or to be issued by the corporation,
19 the right to vote in the election of directors and on any other
20 matters on which shareholders may vote;

21 (H) a provision conferring upon shareholders the right
22 to determine the consideration for which shares shall be issued;

23 (I) a provision requiring the approval of the share-
24 holders or the approval of the outstanding shares for any corporate
25 action, even though not otherwise required by this chapter;

26 (J) a provision that one or more classes or series of
27 shares are redeemable as provided in AS 10.06.325;

28 (K) a provision, in the case of a corporation with less
29 than 100 holders of record of its shares as determined in AS 10.-

1 06.408, waiving the requirements of AS 10.06.433(a);

2 (L) a provision which confers or imposes the powers,
3 duties, privileges, and liabilities of directors upon delegates
4 under AS 10.06.450;

5 (2) reasonable restrictions upon the right to transfer or
6 hypothecate shares of a class or series, but a restriction is not
7 binding on shares issued before the adoption of the restriction unless
8 the holders of those shares voted in favor of the restriction;

9 (3) the names and addresses of the persons appointed to act
10 as initial directors;

11 (4) any other provision not in conflict with this chapter
12 for the management of the business and for the conduct of the affairs
13 of the corporation, including any provision which is required or per-
14 mitted by this chapter to be stated in the bylaws.

15 Sec. 10.06.213. FILING OF ARTICLES OF INCORPORATION. Duplicate
16 originals of the articles of incorporation shall be delivered to the
17 commissioner for processing in accordance with AS 10.06.910 and for
18 issuance of a certificate of incorporation.

19 Sec. 10.06.215. DISCLOSURE OF CORPORATE PURPOSES. An incorporator
20 presenting articles of incorporation under AS 10.06.213 shall deliver,
21 with the articles, a separate statement of the codes, from the identi-
22 fication codes established under AS 10.06.873, which most closely
23 describe the activities in which the corporation will initially engage.

24 Sec. 10.06.218. EFFECT OF ISSUANCE OF CERTIFICATE OF INCORPORA-
25 TION. The corporate existence begins on the issuance of the certifi-
26 cate of incorporation. That certificate is conclusive evidence that
27 all precedent conditions required to be performed by the incorporators
28 have been satisfied and that the corporation has been incorporated.
29 Issuance does not affect the right of the state to bring a proceeding

1 to cancel or revoke the certificate or for involuntary dissolution of
2 the corporation. The doctrines of de jure compliance, de facto corpora-
3 tions, and corporations by estoppel are abolished.

4 Sec. 10.06.220. ASSUMPTION OF PURPORTED POWERS OF NONEXISTENT
5 CORPORATION: LIABILITY. (a) Except as provided in (b) of this sec-
6 tion persons who assume to act as a corporation for which there has
7 been no issuance of a certificate of incorporation (AS 10.06.218) are
8 jointly and severally liable for debts and liabilities incurred or
9 arising as a result of that action.

10 (b) The terms of a written contract between a third party and
11 persons acting on behalf of a corporation for which there has been no
12 issuance of a certificate of incorporation may modify or preclude the
13 liability created by this section.

14 (c) An oral promise, agreement or understanding is not effective
15 to modify or preclude the liability created in (a) of this section.

16 Sec. 10.06.223. ORGANIZATION MEETING. After the commencement of
17 corporate existence by the issuance of a certificate of incorporation,
18 an organization meeting of either the incorporators or the board of
19 directors named in the articles of incorporation shall be held, either
20 inside or outside the state, at the call of a majority of the incorpora-
21 tors or directors named in the articles of incorporation, for the
22 purpose of adopting bylaws, electing directors if none have been named
23 in the articles, electing officers, and transacting such other business
24 as may come before the meeting. Those calling the meeting shall give
25 at least 20 days notice of the meeting by mail to each incorporator or
26 director named. The notice shall state the time and place of the
27 meeting.

28 Sec. 10.06.225. POWER OF INCORPORATORS BEFORE DIRECTORS' ELECTION.
29 If initial directors have not been named in the articles of incorpora-

1 tion, the incorporator or incorporators may do whatever is necessary
2 and proper to perfect the organization of the corporation until the
3 directors are elected, including the adoption and amendment of bylaws
4 of the corporation and the election of directors.

5 Sec. 10.06.228. BYLAWS: ADOPTION, AMENDMENT OR REPEAL. Bylaws
6 may be adopted, amended, or repealed either by approval of the out-
7 standing shares or by approval of the board, except as provided in
8 AS 10.06.230. The articles of incorporation may restrict or eliminate
9 the power of the board to adopt, amend, or repeal bylaws.

10 Sec. 10.06.230. BYLAWS: NUMBER OF DIRECTORS AND OTHER CONTENT.

11 (a) Unless a provision is contained in the articles, the bylaws shall
12 state the number of directors of the corporation or state that the
13 number of directors may not be less than a stated number nor more than
14 a stated number, with the exact number of the directors to be fixed,
15 within the limits specified, by approval of the board or the shareholders
16 in the manner provided in the bylaws. The stated maximum number of
17 directors may not be greater than two times the stated minimum number
18 minus one and the number of minimum number of directors may not be less
19 than three. If the articles provide for the number of directors, the
20 number of directors may be changed by an amendment to the articles.

21 (b) Notwithstanding (a) of this section the number of directors
22 may be

23 (1) one or two before shares are issued or so long as the
24 corporation has only one shareholder; and

25 (2) two so long as the corporation has only two shareholders.

26 (c) After the issuance of shares, a bylaw specifying or changing
27 a fixed number of directors, or the maximum or minimum number of direc-
28 tors or changing from a fixed to a variable board or vice versa, shall
29 be adopted by approval of the outstanding shares.

1 (d) Notwithstanding (c) of this section, a bylaw or amendment of
2 the articles of incorporation reducing the fixed or minimum number of
3 directors to a number less than five may not be adopted if the number
4 of votes cast against its adoption at a meeting are more than 16-2/3
5 percent of the outstanding shares entitled to vote.

6 (e) The bylaws may contain any provision, not in conflict with
7 law or the articles or incorporation, for the management of the busi-
8 ness of the corporation and for the conduct of the affairs of the
9 corporation, including but not limited to,

- 10 (1) a provision referred to in AS 10.06.210(2), (3), or (4);
11 (2) the time, place, and manner of calling, conducting and
12 giving notice of meetings of shareholders, directors, and committees;
13 (3) the manner of execution, revocation, and use of proxies;
14 (4) the qualifications, duties, and compensation of direc-
15 tors; the time of their annual election; and the requirements of a
16 quorum for directors' and committee meetings;
17 (5) the appointment and authority of committees of the
18 board;
19 (6) the appointment, duties, compensation, and tenure of
20 officers;
21 (7) the mode of determination of holders of record of the
22 shares of the corporation;
23 (8) the making of annual reports and financial statements to
24 the shareholders.

25 Sec. 10.06.233. BYLAWS TO BE KEPT AT OFFICE; INSPECTION BY SHARE-
26 HOLDERS. Each corporation shall keep at its principal executive office
27 in this state or, if its principal executive office is not in this
28 state, at its principal business office in this state, the original or
29 a copy of its bylaws with amendments to date, which shall be open to

1 inspection by the shareholders at all reasonable times during office
2 hours. If the principal executive office of the corporation is outside
3 this state and the corporation has no principal business office in this
4 state, it shall upon the written request of a shareholder furnish to a
5 shareholder a copy of the bylaws with amendments to date.

6 ARTICLE 4. CORPORATE FINANCE.

7 Sec. 10.06.305. CREATION, CLASSES, AND ISSUANCE OF SHARES. (a)
8 Subject to the provisions of this chapter, a corporation may issue one
9 or more classes or series of shares or both, with full, limited, or no
10 voting rights and with other rights, preferences, privileges, and
11 restrictions as are stated or authorized in its articles of incorpora-
12 tion. A denial or limitation of voting rights is not effective unless
13 at the time one or more classes or series of outstanding shares or debt
14 securities, singly or in the aggregate, are entitled to full voting
15 rights. A denial or limitation of dividend or liquidation rights is
16 not effective unless at the time one or more classes or series of
17 outstanding shares, singly or in the aggregate, are entitled to unlimited
18 dividend or liquidation rights.

19 (b) All shares of a class shall have the same voting, conversion,
20 and redemption rights and other rights, preferences, privileges, and
21 restrictions, unless the class is divided into series. If a class is
22 divided into series, all the shares of a series shall have the same
23 voting, conversion, and redemption rights and other rights, preferences,
24 privileges, and restrictions.

25 Sec. 10.06.308. ISSUANCE OF PREFERRED OR SPECIAL CLASSES OF
26 SHARES. If authorized by the articles of incorporation, a corporation
27 may issue preferred or special classes of shares

28 (1) subject to the right of the corporation to redeem any of
29 the shares at the price fixed by the articles for redemption;

1 (2) entitling the holders to cumulative, noncumulative, or
2 partially cumulative dividends;

3 (3) having preferences over another class or classes of
4 shares for the payment of dividends;

5 (4) having preference in the assets of the corporation over
6 another class of shares upon the voluntary or involuntary liquidation
7 of the corporation;

8 (5) convertible into shares of another class or into shares
9 of a series of the same or another class, except a class having prior
10 or superior rights and preferences as to dividends or distribution of
11 assets upon liquidation.

12 Sec. 10.06.310. ISSUANCE OF SHARES IN SERIES. If authorized by
13 the articles of incorporation, the shares of a preferred or special
14 class may be divided into and issued in series. Each series shall be
15 designated to distinguish the shares of the series from the shares of
16 other series and classes.

17 Sec. 10.06.313. VARIATION IN RIGHTS AND PREFERENCES OF SHARES.
18 Any or all of the rights and preferences of a series of a preferred or
19 special class of shares and the variations in the relative rights and
20 preferences between different series may be fixed and determined by the
21 articles of incorporation, but shares of the same class shall be identi-
22 cal except for the following relative rights and preferences as to
23 which there may be variations between series:

24 (1) the rate of dividend;

25 (2) the price and the terms and conditions on which shares
26 may be redeemed;

27 (3) the amount payable upon shares in the event of involun-
28 tary liquidation;

29 (4) the amount payable upon shares in the event of voluntary

1 liquidation;

2 (5) sinking fund provisions for the redemption or purchase
3 of shares;

4 (6) the terms and conditions on which shares may be con-
5 verted, if the shares of a series are issued with the privilege of
6 conversion;

7 (7) voting rights, if any.

8 Sec. 10.06.315. SERIES RIGHTS AND PREFERENCES ESTABLISHED BY
9 BOARD. If the articles of incorporation expressly vest authority in
10 the board, then, to the extent that the articles have not established
11 series and fixed and determined the variations in the relative rights
12 and preferences between series, the board may divide a class into
13 series and, within the limitations set out in AS 10.06.305 - 10.06.323
14 and in the articles, fix and determine the relative rights and pref-
15 erences of the shares of a series.

16 Sec. 10.06.318. MANNER OF ESTABLISHING SERIES. If the authority
17 to establish a series is contained in the articles of incorporation,
18 the board shall adopt a resolution setting out the designation of the
19 series and fixing and determining the relative rights and preferences
20 of the series to the extent not fixed and determined by the articles.

21 Sec. 10.06.320. FILING OF STATEMENT BEFORE ISSUANCE OF SERIES.

22 (a) Before the issuance of shares of a class the rights, preferences,
23 privileges, and restrictions of which have been fixed by resolution of
24 the board, or before the issuance of shares of a series established by
25 resolution of the board, the corporation shall file with the commis-
26 sioner a statement in duplicate signed by the president or vice-presi-
27 dent and the secretary or assistant secretary, verified by one of the
28 officers signing the statement, and setting out:

29 (1) the name of the corporation;

1 (2) a copy of the resolution determining the rights, pref-
2 erences, privileges, and restrictions of the wholly unissued class, or
3 of the resolution establishing and designating a series, and fixing and
4 determining the relative rights and preferences of the series;

5 (3) the date of the adoption of the resolution;

6 (4) that the resolution was adopted by the board.

7 (b) The commissioner shall process the statement in accordance
8 with AS 10.06.910.

9 Sec. 10.06.323. EFFECT OF FILING STATEMENT. When the commissioner
10 has filed the statement under AS 10.06.320, the resolution fixing the
11 rights, preferences, privileges, and restrictions of a wholly unissued
12 class of shares or the resolution establishing and designating a series
13 of shares and fixing and determining the relative rights and preferences
14 of the series becomes effective and constitutes an amendment of the
15 articles of incorporation.

16 Sec. 10.06.325. REDEMPTION OF SHARES; CREATION OF SINKING FUND;
17 REPURCHASE AGREEMENTS. (a) Except as provided in (b) of this section,
18 a corporation may provide in its articles of incorporation for one or
19 more classes or series of shares which are redeemable, in whole or in
20 part, at the option of the corporation, at the price or prices, within
21 the time or upon the happening of one or more specified events and upon
22 the terms and conditions as are stated in its articles.

23 (b) A corporation may not issue redeemable or other shares which
24 purport by their terms to grant to a holder of the shares the right to
25 compel the corporation to redeem the shares, except that an open-end
26 investment company registered under the United States Investment Company
27 Act of 1940 may, if its articles of incorporation so provide, issue
28 shares which are redeemable at the option of the holder at a price
29 approximately equal to the shares' proportionate interest in the net

1 assets of the corporation and a shareholder may compel redemption of
2 the shares in accordance with their terms.

3 (c) Nothing in this section prevents a corporation from creating
4 a sinking fund or similar provision or entering into an agreement for
5 the redemption or purchase of its shares to the extent permitted by
6 this chapter.

7 Sec. 10.06.328. IRREVOCABILITY OF SUBSCRIPTIONS FOR SHARES. A
8 subscription for shares of a corporation to be organized is irrevocable
9 for a period of six months, unless the subscription agreement provides
10 otherwise or unless all of the subscribers consent to the revocation of
11 the subscription.

12 Sec. 10.06.330. PAYMENT OF SUBSCRIPTION FOR SHARES. Unless
13 otherwise provided in the subscription agreement, subscriptions for
14 shares, whether made before or after the organization of a corporation,
15 shall be paid in full at the time or in installments as determined by
16 the board. A call made by the board for payment on subscriptions shall
17 be uniform for shares of the same class or shares of the same series.

18 Sec. 10.06.333. FORFEITURE OF SHARES FOR DEFAULT IN PAYMENT. In
19 case of default in the payment of an installment or call when payment
20 is due, the corporation may proceed to collect the amount due as any
21 debt due the corporation. The bylaws may prescribe other remedies for
22 failure to pay installments or calls which become due. No remedy
23 working a forfeiture of a subscription, or of the amounts paid on a
24 subscription, may be declared against a subscriber unless the amount
25 due remains unpaid for a period of 20 days after written demand has
26 been made. If mailed, written demand is considered to be made when it
27 is deposited in the United States mail in a sealed envelope addressed
28 to the subscriber at his last post office address known to the corpora-
29 tion, with postage prepaid. On a sale of shares by reason of forfei-

1 ture, the excess of proceeds realized over the amount due and unpaid on
2 the shares shall be paid to the delinquent subscriber or to his legal
3 representative.

4 Sec. 10.06.335. CONSIDERATION FOR SHARES. Shares may be issued
5 for consideration expressed in dollars fixed by the board unless the
6 articles of incorporation reserve to the shareholders the right to fix
7 the consideration. If this right is reserved as to any shares, the
8 shareholders shall, before the issuance of the shares, fix the con-
9 sideration to be received for the shares by approval of the outstanding
10 shares.

11 Sec. 10.06.338. PAYMENT FOR SHARES. (a) Consideration for the
12 issuance of shares may be paid, in whole or in part, in money, in other
13 property, tangible or intangible, or in labor or services actually
14 performed for the corporation. Unless otherwise provided in the
15 articles of incorporation, when payment of the consideration for shares
16 is received by the corporation, the shares are considered fully paid
17 and nonassessable.

18 (b) A promissory note or future service does not constitute
19 payment or part payment for shares of a corporation.

20 Sec. 10.06.340. JUDGMENT OF BOARD OR SHAREHOLDERS AS TO VALUE OF
21 CONSIDERATION CONCLUSIVE. In the absence of fraud, the judgment of the
22 board or the shareholders as to the value of the consideration received
23 for shares is conclusive.

24 Sec. 10.06.343. STOCK RIGHTS AND OPTIONS. Subject to a provision
25 in its articles, a corporation may create and issue, whether or not in
26 connection with the issuance and sale of any of its shares or other
27 securities, rights or options entitling the holders of the shares to
28 purchase from the corporation shares of any class or classes. These
29 rights or options shall be evidenced in the manner the board approves

1 and, subject to the provisions of the articles, shall set out the terms
2 upon which, the time within which, and the price at which the shares
3 may be purchased from the corporation upon the exercise of the right or
4 option. If the rights or options are to be issued to directors, offi-
5 cers, or employees of the corporation or of a subsidiary of the corpora-
6 tion and not to the shareholders generally, their issuance shall be
7 authorized by the approval of the outstanding shares or shall be consis-
8 tent with a plan so approved or ratified. In the absence of fraud in
9 the transaction, the judgment of the board as to the adequacy of the
10 consideration received for the rights or options is conclusive.

11 Sec. 10.06.345. EXPENSES OF ORGANIZATION, REORGANIZATION, AND
12 FINANCING. The reasonable charges and expenses of organization or
13 reorganization of a corporation, and the reasonable expenses of and
14 compensation for the sale or underwriting of its shares, may be paid or
15 allowed by the corporation out of the consideration received by the
16 corporation in payment for its shares without rendering the shares not
17 fully paid or assessable.

18 Sec. 10.06.348. CERTIFICATES REPRESENTING SHARES. The shares of
19 a corporation shall be represented by certificates signed by the presi-
20 dent or vice-president and the secretary or an assistant secretary of
21 the corporation, and may be sealed with the seal of the corporation or
22 a facsimile of the seal. The signatures of the president or vice-presi-
23 dent and the secretary or assistant secretary upon a certificate may be
24 facsimiles if the certificate is countersigned by a transfer agent, or
25 registered by a registrar, other than the corporation itself or an
26 employee of the corporation. If an officer who has signed or whose
27 facsimile signature has been placed on the certificate ceases to be an
28 officer before the certificate is issued, the certificate may be issued
29 by the corporation with the same effect as if the officer were an

1 officer at the date of its issue.

2 Sec. 10.06.350. INFORMATION REQUIRED TO BE STATED ON CERTIFICATE.

3 (a) Each certificate representing shares issued by a corporation
4 authorized to issue shares of more than one class shall set out upon
5 the face or back of the certificate, or state that the corporation will
6 furnish to a shareholder upon request and without charge, a full or
7 summary statement of the designations, preferences, limitations, and
8 relative rights of the shares of each class authorized to be issued
9 and, if the corporation is authorized to issue preferred or special
10 class in series, the variations in the relative rights and preferences
11 between the shares of each series so far as they have been fixed and
12 determined and the authority of the board to fix and determine the
13 relative rights and preferences of subsequent series.

14 (b) Each certificate representing shares shall state upon its
15 face

16 (1) that the corporation is organized under the laws of the
17 state;

18 (2) the name of the person to whom issued;

19 (3) the number and class of shares, and the designation of
20 the series, if any, which the certificate represents.

21 Sec. 10.06.353. FULL PAYMENT REQUIRED FOR CERTIFICATE. A certifi-
22 cate may not be issued for a share until the share is fully paid.

23 Sec. 10.06.355. ISSUANCE OF FRACTIONAL SHARES OR SCRIP. (a) A
24 corporation may issue a certificate for a fractional share, and, by
25 action of its board, may issue, instead of a fractional certificate,
26 scrip in registered or bearer form which entitles the holder to receive
27 a certificate for a full share upon the surrender of the scrip aggre-
28 gating a full share.

29 (b) A certificate for a fractional share entitles the holder to

1 exercise voting rights, to receive dividends, and to participate in the
2 assets of the corporation in the event of liquidation. Unless otherwise
3 provided in the scrip, scrip does not entitle the holder to exercise
4 voting rights, to receive dividends, or to participate in the assets of
5 the corporation in the event of liquidation.

6 (c) The board may issue scrip subject to the condition that it is
7 void if not exchanged for certificates representing full shares before
8 a specified date, or subject to the condition that the shares for which
9 the scrip is exchangeable may be sold by the corporation and the pro-
10 ceeds distributed to the holders of that scrip, or subject to other
11 conditions which the board considers advisable.

12 Sec. 10.06.358. DISTRIBUTIONS; CONDITIONS. (a) A corporation or
13 a subsidiary of the corporation may not make a distribution to the
14 corporation's shareholders, AS 10.06.990(17), unless

15 (1) the amount of the retained earnings of the corporation
16 immediately before the distribution equals or exceeds the amount of the
17 proposed distribution; or

18 (2) immediately after giving effect to the distribution

19 (A) the sum of the assets of the corporation, exclusive
20 of goodwill, capitalized research and development expenses, evi-
21 dences of debts owing from directors or officers or secured by the
22 corporation's own shares, and deferred charges, would be at least
23 equal to one and one-fourth times its liabilities, not including
24 deferred taxes, deferred income, and other deferred credits; and

25 (B) the current assets of the corporation would be at
26 least equal to its current liabilities or, if the average of the
27 earnings of the corporation before taxes on income and before
28 interest expense for the two preceding fiscal years was less than
29 the average of the interest expense of the corporation for those

1 fiscal years, at least equal to one and one-fourth its current
2 liabilities.

3 (b) For purposes of this section,

4 (1) in determining the amount of the assets of the corpora-
5 tion, profits derived from an exchange of assets may not be included
6 unless the assets received are currently realizable in cash;

7 (2) "current assets" may include net amounts which the board
8 has determined in good faith may reasonably be expected to be received
9 from customers during the 12-month period used in calculating current
10 liabilities under existing contractual relationships obligating the
11 customers to make fixed or periodic payments during the term of the
12 contracts after in each case giving effect to future costs not then
13 included in current liabilities but reasonably expected to be incurred
14 by the corporation in performing the contracts.

15 (c) For the purposes of this chapter, the amount of a distribution
16 payable in property shall be determined on the basis of the value at
17 which the property is carried on the corporation's financial statements
18 in accordance with generally accepted accounting principles.

19 (d) Subparagraph (a)(2)(B) of this section only applies to a
20 corporation which classifies its assets as current assets and fixed
21 assets under generally accepted accounting principles.

22 Sec. 10.06.360. PROHIBITED DISTRIBUTION; INABILITY TO MEET MATUR-
23 ING DEBTS AND LIABILITIES. A corporation or subsidiary of a corporation
24 may not make a distribution to the corporation's shareholders if the
25 corporation or the subsidiary making the distribution is, or as a
26 result of the distribution would be, likely to be unable to meet its
27 liabilities as they mature.

28 Sec. 10.06.363. PROHIBITED DISTRIBUTION OF JUNIOR SHARES; LIQUIDA-
29 TION PREFERENCE. A corporation or subsidiary of a corporation may not

1 make a distribution to the corporation's shareholders on any shares of
2 its stock of a class or series which are junior to outstanding shares
3 of another class or series with respect to distribution of assets on
4 liquidation if, after giving effect to the distribution, the excess of
5 its assets, exclusive of goodwill, capitalized research and development
6 expenses, evidences of debts owing from directors or officers or secured
7 by the corporation's own shares, and deferred charges, over its liabilities,
8 not including deferred taxes, deferred income and other deferred
9 credits, would be less than the liquidation preference of all shares
10 having a preference on liquidation over the class or series to which
11 the distribution is made.

12 Sec. 10.06.365. PROHIBITED DISTRIBUTION TO JUNIOR SHARES; RATIO
13 OF RETAINED EARNINGS. A corporation or a subsidiary of a corporation
14 may not make a distribution to the corporation's shareholders on any
15 shares of its stock of a class or series which are junior to outstanding
16 shares of another class or series with respect to payment of dividends
17 unless the amount of the retained earnings of the corporation immediately
18 before the distribution equals or exceeds the amount of the proposed
19 distribution plus the aggregate amount of the cumulative dividends in
20 arrears on all shares having a preference with respect to payment of
21 dividends over the class or series to which the distribution is made.

22 Sec. 10.06.368. EXCEPTION FOR PURCHASE OR REDEMPTION OF SHARES OF
23 DECEASED SHAREHOLDER. The provisions of AS 10.06.358, 10.06.360,
24 10.06.363, and 10.06.365 do not apply to a purchase or redemption of
25 shares of a deceased shareholder from the proceeds of insurance on the
26 life of the shareholder in excess of the total amount of all premiums
27 paid by the corporation for the insurance, in order to carry out the
28 provisions of an agreement between the corporation and the shareholder
29 to purchase or redeem the shares upon the death of the shareholder.

1 Sec. 10.06.370. INAPPLICABILITY TO REGULATED INVESTMENT COMPANY.

2 The provisions of AS 10.06.358 do not apply to a dividend declared by a
3 regulated investment company, as defined in the United States Internal
4 Revenue Code, to the extent that the dividend is necessary to maintain
5 the status of the corporation as a regulated investment company under
6 the provisions of that code. The provisions of this chapter do not
7 apply to a purchase or redemption of shares redeemable at the option of
8 the holder by a registered open-end investment company under the United
9 States Investment Company Act of 1940, so long as the right of redemption
10 remains unsuspending under the provisions of that statute and the articles
11 and bylaws of the corporation.

12 Sec. 10.06.373. SHARE DIVIDENDS: RESTRICTIONS. A dividend
13 payable in shares of a class may not be paid to the holders of shares
14 of another class unless authorized by the articles of incorporation or
15 unless payment is authorized by the affirmative vote or the written
16 consent of the holders of at least a majority of the outstanding shares
17 of the class in which the payment is to be made.

18 Sec. 10.06.375. ADDITIONAL RESTRICTIONS IN ARTICLES, BYLAWS,
19 INDENTURES OR AGREEMENTS. Nothing in this chapter prohibits additional
20 restrictions upon the declaration of dividends or the purchase or
21 redemption of a corporation's own shares by provision in the articles
22 or bylaws of the corporation or in any indenture or other agreement
23 entered into by the corporation.

24 Sec. 10.06.378. LIABILITY OF SHAREHOLDERS RECEIVING PROHIBITED
25 DISTRIBUTIONS; SUIT AGAINST SHAREHOLDERS. (a) A shareholder who
26 receives a distribution prohibited by this chapter with knowledge of
27 facts indicating the impropriety of the distribution is liable to the
28 corporation for the benefit of all of the creditors or shareholders
29 entitled to institute an action under (b) of this section for the

1 amount received by the shareholder with interest at the legal rate on
2 judgments until paid. The liability of the shareholder under this
3 subsection may not exceed the liabilities of the corporation owed to
4 nonconsenting creditors at the time of the violation and the injury
5 suffered by nonconsenting shareholders.

6 (b) Suit may be brought in the name of the corporation to enforce
7 the liability

8 (1) to creditors arising under (a) of this section for a
9 violation of AS 10.06.358 or 10.06.360 against any or all shareholders
10 liable by any one or more creditors of the corporation whose debts or
11 claims arose before the time of the distribution to shareholders and
12 who have not consented to the distribution, whether or not they have
13 reduced their claims to judgment; or

14 (2) to shareholders arising under (a) of this section for a
15 violation of AS 10.06.363 or 10.06.365 against any or all shareholders
16 liable by any one or more holders of preferred shares outstanding at
17 the time of the distribution who have not consented to the distribution,
18 without regard to the provisions of AS 10.06.435.

19 (c) A shareholder sued under this section may implead all other
20 shareholders liable under this section and may compel contribution,
21 either in that action or in an independent action against shareholders
22 not joined in that action.

23 (d) This section does not affect the liability which a shareholder
24 may have under other applicable law.

25 Sec. 10.06.380. IDENTIFICATION OF DISTRIBUTION IN NOTICE TO
26 SHAREHOLDERS. A distribution other than one chargeable to retained
27 earnings shall be identified in a notice to shareholders as being made
28 from a source other than retained earnings, and shall include a state-
29 ment of the accounting treatment of the distribution. The notice shall

1 accompany the distribution or shall be given within three months after
2 the end of the fiscal year in which the distribution is paid.

3 Sec. 10.06.383. INAPPLICABILITY TO WINDING UP AND INVOLUNTARY OR
4 VOLUNTARY DISSOLUTION. AS 10.06.305 - 10.06.390 do not apply in a
5 proceeding for winding up and dissolution under AS 10.06.605 - 10.06.678.

6 Sec. 10.06.385. REDEMPTION OF SHARES AT THE OPTION OF CORPORATION;
7 MANNER. (a) A corporation may redeem any or all shares which are
8 redeemable at its option by

9 (1) giving notice of redemption; and

10 (2) payment or deposit of the redemption price of the shares
11 as provided in its articles of incorporation or deposit of the redemp-
12 tion price in accordance with (d) of this section.

13 (b) Subject to any provisions in its articles of incorporation
14 with respect to the notice required for redemption of shares, the
15 corporation may give notice of the redemption of any or all shares
16 subject to redemption by publishing a notice of redemption in a news-
17 paper of general circulation in the judicial district in which the
18 principal executive office of the corporation is located at least once
19 a week for two successive weeks, beginning not earlier than 60 nor
20 later than 20 days before the date fixed for redemption. The notice of
21 redemption shall set out the following:

22 (1) the class or series of shares or part of any class or
23 series of shares to be redeemed;

24 (2) the date fixed for redemption;

25 (3) the redemption price; and

26 (4) the place at which the shareholders may obtain payment
27 of the redemption price upon surrender of their share certificates.

28 (c) If the corporation gives notice of redemption under (b) of
29 this section, it shall also mail a copy of the notice of redemption to

1 each holder of record of shares to be redeemed as of the date of mailing
2 or record date fixed in accordance with AS 10.06.408, addressed to the
3 holder at the address of the holder appearing on the books of the
4 corporation or given by the holder to the corporation for the purpose
5 of notice not earlier than 60 nor later than 20 days before the date
6 fixed for redemption. Failure to comply with this subsection does not
7 invalidate the redemption of the shares.

8 (d) On or before the date fixed for redemption of redeemable
9 shares, a corporation may deposit with a bank or trust company in this
10 state as a trust fund a sum sufficient to redeem the shares called on
11 the date fixed for redemption, with irrevocable instructions to the
12 bank or trust company to publish a notice of redemption, or to complete
13 the publication if begun, and to pay, on and after or before the date
14 fixed for redemption, the redemption price of the shares to holders of
15 the shares upon the surrender of their share certificates. From and
16 after the date of the deposit with the bank or trust company, although
17 before the date fixed for redemption, the shares called for redemption
18 are redeemed and dividends on those shares cease to accrue after the
19 date fixed for redemption. The deposit constitutes full payment of the
20 shares to their holders and from and after the date of the deposit the
21 shares are no longer outstanding and the holders of the shares cease to
22 be shareholders with respect to the shares and have no rights with
23 respect to the shares except the right to receive from the bank or
24 trust company payment of the redemption price of the shares without
25 interest, upon surrender of the certificates for the shares, and any
26 right to convert the shares which may exist and continue for a period
27 fixed by the terms of the shares.

28 Sec. 10.06.388. ACQUISITION OF CORPORATION'S OWN SHARES; REISSU-
29 ANCE OR RETIREMENT. (a) When a corporation purchases or redeems or

1 otherwise acquires its own shares, the shares are restored to the
2 status of authorized but unissued shares unless the articles prohibit
3 their reissuance.

4 (b) If the articles prohibit the reissuance of shares upon their
5 acquisition by the corporation, then upon the acquisition of those
6 shares the authorized number of shares of the class and series, if any,
7 to which the shares belonged is reduced by the number of shares acquired
8 and the articles shall be amended to reflect the reduction in authorized
9 shares. If all of the authorized shares of a class or series are
10 acquired and their reissue is prohibited by the articles of incorpora-
11 tion, then the articles shall also be amended to eliminate any statement
12 of rights, preferences, privileges, and restrictions relating solely to
13 that class or series. Articles of amendment shall be filed within 60
14 days of the acquisition of the shares in accordance with the require-
15 ments of AS 10.06.512 - 10.06.514. Approval by the outstanding shares
16 is not required to adopt such articles of amendment.

17 Sec. 10.06.390. CAPITALIZATION OF RETAINED EARNINGS. The paid-in
18 capital of a corporation may be increased by resolution of the board
19 directing that all or a part of the retained earnings of the corpora-
20 tion be transferred to the paid-in capital account.

21 ARTICLE 5. SHAREHOLDERS.

22 Sec. 10.06.405. MEETINGS OF SHAREHOLDERS. (a) Meetings of
23 shareholders shall be held at a place inside or outside this state as
24 provided in the bylaws. In the absence of a provision in the bylaws,
25 meetings shall be held at the registered office of the corporation.

26 (b) An annual meeting of the shareholders shall be held at the
27 time as provided in the bylaws. If the annual meeting is not held
28 within any 13-month period, the superior court may on the application
29 of a shareholder summarily order a meeting to be held.

1 (c) Special meetings of the shareholders may be called by the
2 board, the chairman of the board, the president, the holders of not
3 less than one-tenth of all the shares entitled to vote at the meeting,
4 or other persons as may be authorized in the articles of incorporation
5 or the bylaws.

6 Sec. 10.06.408. CLOSING OF TRANSFER BOOKS AND FIXING RECORD DATE.

7 (a) To determine the shareholders entitled to notice of or to vote at
8 a meeting of shareholders or an adjournment of a meeting, or to deter-
9 mine the shareholders entitled to receive payment of a dividend, or to
10 determine the shareholders for any other proper purpose, the board of a
11 corporation may provide that the stock transfer books shall be closed
12 for a stated period not exceeding 50 days. If the stock transfer books
13 are closed to determine shareholders entitled to notice of or to vote
14 at a meeting of shareholders, they shall be closed for at least 20 days
15 immediately preceding the meeting.

16 (b) Instead of closing the stock transfer books, the bylaws or,
17 in the absence of an applicable bylaw, the board may fix a date as the
18 record date for the determination of shareholders. This record date
19 may not be more than 50 days and, in case of a meeting of shareholders,
20 not less than 20 days before the date on which the particular action
21 requiring the determination of shareholders is to be taken. If the
22 stock transfer books are not closed and a record date is not fixed for
23 the determination of shareholders entitled to notice of or to vote at a
24 meeting of shareholders or for the determination shareholders entitled
25 to receive payment of a dividend, the date on which notice of the
26 meeting is mailed or the date on which the resolution of the board
27 declaring the dividend is adopted, is the record date for the determina-
28 tion of shareholders. When a determination of shareholders entitled to
29 vote at a meeting of shareholders has been made as provided in this

1 section, the determination applies to an adjournment of the meeting of
2 shareholders.

3 Sec. 10.06.410. NOTICE OF SHAREHOLDERS' MEETINGS. Written or
4 printed notice stating the place, day and hour of the meeting and, in
5 case of a special meeting, the purpose for which the meeting is called,
6 shall be delivered not less than 20 nor more than 50 days before the
7 date of the meeting, either personally or by mail, by or at the direc-
8 tion of the president, the secretary, the officer, or persons calling
9 the meeting, to each shareholder of record entitled to vote at the
10 meeting. If mailed, the notice is considered delivered when deposited
11 with postage prepaid in the United States mail addressed to the share-
12 holder at his address as it appears on the stock transfer books of the
13 corporation.

14 Sec. 10.06.413. VOTING LIST; LIABILITY. (a) At least 20 days
15 before each meeting of shareholders, the officer or agent having charge
16 of the stock transfer books for shares of a corporation shall make a
17 list of the shareholders entitled to vote at the meeting or an adjourn-
18 ment of the meeting arranged in alphabetical order, with the address of
19 and the number of shares held by each shareholder. The list shall be
20 kept on file at the registered office of the corporation and is subject
21 to inspection by a shareholder or his agent or attorney at any time
22 during usual business hours for a period of 20 days before the meeting.
23 The list shall also be produced and kept open at the time and place of
24 the meeting and shall be subject to the inspection of a shareholder
25 during the meeting. The original stock transfer books are prima facie
26 evidence as to the shareholders who are entitled to examine the list or
27 transfer books or to vote at a meeting of shareholders.

28 (b) Failure to comply with the requirements of this section does
29 not affect the validity of the action taken at the meeting.

1 (c) An officer or agent having charge of the stock transfer books
2 who fails to prepare the list of shareholders, keep it on file for a
3 period of 20 days, or produce and keep it open for inspection at the
4 meeting, as provided in this section, is liable to a shareholder suffer-
5 ing damage because of the failure to the extent of the damage.

6 Sec. 10.06.415. QUORUM OF SHAREHOLDERS. (a) Unless otherwise
7 provided in the articles of incorporation, a majority of the shares
8 entitled to vote, represented in person or by proxy, constitutes a
9 quorum at a meeting of shareholders, but in no event may a quorum
10 consist of less than one-third of the shares entitled to vote at the
11 meeting. If a quorum is present, the affirmative vote of the majority
12 of shares represented at the meeting and entitled to vote on the subject
13 matter is the act of the shareholders, unless the vote of a greater
14 number or voting by classes is required by this chapter, the articles
15 of incorporation, or the bylaws.

16 (b) Shareholders present at a meeting at which a quorum is present
17 may continue to transact business until adjournment, notwithstanding
18 the withdrawal of enough shareholders to leave less than a quorum, if
19 any action taken other than adjournment is approved by at least a
20 majority of shares required to constitute a quorum.

21 Sec. 10.06.418. PROXIES. (a) Each person entitled to vote
22 shares may authorize another person or persons to act by proxy with
23 respect to the shares. A proxy purporting to be executed in accordance
24 with the provisions of this chapter is presumed valid.

25 (b) A proxy is not valid after the expiration of 11 months from
26 the date of the proxy unless it qualifies as an irrevocable proxy under
27 (e) of this section. A proxy continues in full force and effect until
28 revoked by the person executing it, except as provided in this section.
29 A person may revoke a proxy by a writing delivered to the corporation

1 stating that the proxy is revoked, by a subsequent proxy executed by
2 the person executing the prior proxy and presented to the meeting, or
3 by attendance at the meeting and voting in person by the person execut-
4 ing the proxy. The dates contained on the forms of proxy presumptively
5 determine the order of execution, regardless of the postmark dates on
6 the envelopes in which the proxies are mailed.

7 (c) A proxy is not revoked by the death or incapacity of the
8 maker unless, before the vote is counted, written notice of the death
9 or incapacity is received by the corporation.

10 (d) Except as provided otherwise by written agreement of the
11 parties, the record holder of shares held by a person as pledgee or
12 otherwise as security or which belong to another shall, upon demand and
13 payment of necessary expenses, issue a proxy to vote to the pledgor or
14 to the owner of the shares.

15 (e) Notwithstanding (c) of this section, a proxy which states
16 that it is irrevocable is irrevocable for the period specified in the
17 proxy when it is held by the following or a nominee of the following:

18 (1) a pledgee;

19 (2) a person who has purchased or agreed to purchase or
20 holds an option to purchase the shares or a person who has sold a
21 portion of his shares in the corporation to the maker of the proxy;

22 (3) a person who has contracted to perform services as an
23 employee of the corporation, if a proxy is required by the contract of
24 employment and if the proxy states that it was given in consideration
25 of the contract of employment, the name of the employee, and the period
26 of employment contracted for;

27 (4) a person designated by or under an agreement under
28 AS 10.06.425(b); or

29 (5) a beneficiary of a trust with respect to shares held by

1 the trust.

2 (f) Notwithstanding the period of irrevocability specified in a
3 proxy, the proxy becomes revocable when the pledge is redeemed, the
4 option or agreement to purchase is terminated or the seller no longer
5 owns any shares of the corporation or dies, the period of employment
6 provided for in the contract of employment has terminated, the agree-
7 ment under AS 10.06.425(b) has terminated, or the person ceases to be a
8 beneficiary of the trust. In addition, a proxy may be made irrevocable
9 if it is given to secure the performance of a duty or to protect a
10 title, either legal or equitable, until the happening of events which,
11 by its terms, discharge the obligations secured by it.

12 (g) Notwithstanding a provision making a proxy irrevocable, a
13 proxy may be revoked by a transferee of shares without knowledge of the
14 existence of the provision unless the existence of the proxy and its
15 irrevocability appears on the certificate representing the shares.

16 Sec. 10.06.420. VOTING OF SHARES. (a) An outstanding share,
17 regardless of class, is entitled to one vote on each matter submitted
18 to a vote at a meeting of shareholders, except as may be otherwise
19 provided in the articles of incorporation. If the articles provide for
20 more or less than one vote for any share, on any matter, every reference
21 in this chapter to a majority or other proportion of shares shall refer
22 to a majority or other proportion of the votes entitled to be cast.

23 (b) Shares held by the corporation, or shares held by another
24 corporation if a majority of the shares entitled to vote for the elec-
25 tion of directors of the other corporation is held by the corporation,
26 may not be voted at a meeting or counted in determining the total
27 number of outstanding shares at a given time.

28 (c) A shareholder may vote either in person or by proxy executed
29 in writing by the shareholder or by his authorized attorney-in-fact.

1 (d) Unless the articles of incorporation provide otherwise, at an
2 election for directors each shareholder entitled to vote at the elec-
3 tion may vote, in person or by proxy, the number of shares owned by him
4 for as many persons as there are directors to be elected and for whose
5 election he has a right to vote, or to cumulate his votes by giving one
6 candidate votes equal to the number of directors multiplied by the
7 number of his shares, or by distributing his votes on the same principle
8 among any number of candidates. The rights created by this subsection
9 may not be limited by amendment to the articles when the votes cast
10 against the amendment would be sufficient to elect one director if
11 voted cumulatively at an election of the entire board.

12 (e) Shares standing in the name of another corporation, other
13 than a subsidiary as defined in AS 10.06.990(39)(B), may be voted by
14 the officer, agent or proxy as the bylaws of the other corporation may
15 prescribe, or, in the absence of a provision, as the board of the other
16 corporation may determine.

17 (f) Shares held by an administrator, executor, guardian, or
18 conservator may be voted by him, either in person or by proxy, without
19 a transfer of the shares into his name. Shares standing in the name of
20 a trustee may be voted by the trustee, either in person or by proxy,
21 but a trustee is not entitled to vote shares held by him without a
22 transfer of the shares into his name.

23 (g) Shares standing in the name of a receiver may be voted by the
24 receiver, and shares held by or under the control of a receiver may be
25 voted by the receiver without a transfer of the shares into his name if
26 authority to transfer the shares is contained in an appropriate court
27 order by which the receiver was appointed.

28 (h) A shareholder whose shares are pledged is entitled to vote
29 the shares until the shares have been transferred into the name of the

1 pledgee, and thereafter the pledgee is entitled to vote the shares so
2 transferred.

3 (1) Beginning on the date on which written notice of redemption
4 of redeemable shares has been mailed to the holders of the shares and a
5 sum sufficient to redeem the shares has been deposited with a bank or
6 trust company with irrevocable instruction and authority to pay the
7 redemption price to the holders of the shares upon surrender of the
8 certificates for the shares, the shares may not vote on any matter and
9 are not considered to be outstanding shares.

10 Sec. 10.06.423. ACTIONS TAKEN WITHOUT MEETING: WRITTEN CONSENT;
11 REVOCATION OF CONSENT. (a) Unless prohibited by the articles or the
12 bylaws, whenever under this chapter shareholders are required or per-
13 mitted to take action by vote, the action may be taken without a meeting
14 by written consents, identical in content, setting out the action
15 taken, signed by the holders of all outstanding shares entitled to vote
16 on the action.

17 (b) A shareholder giving a written consent, or the shareholder's
18 proxy holder, or a transferee of the shares or a personal representative
19 of the shareholder or his proxy holder, may only revoke the consent by
20 a writing received by the corporation before the time that written con-
21 sents of the shares required to authorize the proposed action have been
22 filed with the secretary of the corporation. The revocation is effec-
23 tive upon receipt by the secretary of the corporation.

24 Sec. 10.06.425. VOTING TRUSTS AND AGREEMENTS AMONG SHAREHOLDERS.

25 (a) Any number of shareholders of a corporation may create a voting
26 trust for the purpose of conferring upon a trustee or trustees the
27 right to vote or otherwise represent their shares, for a period not to
28 exceed 10 years, by entering into a written voting trust agreement
29 specifying the terms and conditions of the voting trust, by depositing

1 a copy of the agreement with the corporation at its registered office,
2 and by transferring their shares to the trustee or trustees for the
3 purpose of the agreement. The trustee or trustees shall keep a record
4 of the holders of voting trust certificates evidencing a beneficial
5 interest in the voting trust, giving the names and addresses of all the
6 holders and the number and class of the shares for which the voting
7 trust certificates are issued, and shall deposit a copy of the record
8 with the corporation at its registered office. The copies of the
9 voting trust agreement and the record deposited with the corporation
10 are subject to the same right of examination by a shareholder of the
11 corporation, in person or by agent or attorney, as are the books and
12 records of the corporation under AS 10.06.430, and the copies of the
13 agreement and the record are subject to examination by a holder of
14 record of voting trust certificates, either in person or by agent or
15 attorney, at a reasonable time for a proper purpose.

16 (b) This section does not invalidate a voting or other agreement
17 among shareholders or an irrevocable proxy complying with AS 10.06.-
18 418(e) not otherwise illegal.

19 Sec. 10.06.428. SHAREHOLDERS' PREEMPTIVE RIGHTS. (a) Except to
20 the extent limited or denied by this section or by the articles of
21 incorporation, shareholders have a preemptive right to acquire unissued
22 or treasury shares or securities convertible into such shares or carry-
23 ing a right to subscribe to or acquire shares.

24 (b) Unless otherwise provided in the articles of incorporation,

25 (1) there is no preemptive right

26 (A) to acquire any shares issued to directors, officers,
27 or employees if approved by the outstanding shares or if authorized
28 by and consistent with a plan previously approved by the outstand-
29 ing shares; or

1 (B) to acquire shares sold for consideration other than
2 for cash;

3 (2) holders of shares of a class that is preferred or limited
4 as to dividends or assets are not entitled to a preemptive right;

5 (3) holders of shares of common stock are not entitled to a
6 preemptive right to shares of a class that is preferred or limited as
7 to dividends or assets or to any obligations, unless convertible into
8 shares of common stock or carrying a right to subscribe to or acquire
9 shares of common stock;

10 (4) holders of common stock without voting power are not
11 entitled to a preemptive right to shares of common stock with voting
12 power;

13 (5) a preemptive right is only an opportunity to acquire
14 shares or other securities under the terms and conditions as the board
15 may fix for the purpose of providing a fair and reasonable opportunity
16 for the exercise of the preemptive right.

17 Sec. 10.06.430. BOOKS AND RECORDS. (a) A corporation organized
18 under this chapter shall keep correct and complete books and records of
19 account, minutes of proceedings of its shareholders, board and com-
20 mittees of the board, and a record of its shareholders, containing the
21 names and addresses of all shareholders and the number and class of the
22 shares held by each. The books, records, and minutes may be in written
23 form or in any other form capable of being converted into written form
24 within a reasonable time.

25 (b) A corporation organized under this chapter shall make its
26 books and records, or certified copies of them, reasonably available
27 for inspection and copying at the registered office or principal place
28 of business in the state by the department or by a shareholder of the
29 corporation. Shareholder inspection shall be upon written demand

1 stating the purpose of the inspection. The inspection may be in person
2 or by agent or attorney, at a reasonable time and for a proper purpose.
3 Only books and records of account, minutes, and the record of share-
4 holders relevant to the stated purpose of the inspection may be in-
5 spected or copied.

6 (c) An officer or agent who, or a corporation which, refuses to
7 allow a shareholder, or his agent or attorney, to examine and make
8 copies from its books and record of account, minutes, and record of
9 shareholders, for a proper purpose, is liable to the shareholder for a
10 penalty in the amount of 10 percent of the value of the shares owned by
11 the shareholder or \$5,000, whichever is greater, in addition to other
12 damages or remedy given the shareholder by law. It is a defense to an
13 action for penalties under this section that the person suing has
14 within two years sold or offered for sale a list of shareholders of the
15 corporation or any other corporation or has aided or abetted a person
16 in procuring a list of shareholders for this purpose, or has improperly
17 used information secured through a prior examination of the books and
18 records of account, or minutes, or record of shareholders of the cor-
19 poration or any other corporation, or was not acting in good faith or
20 for a proper purpose in making his demand.

21 (d) Nothing in this chapter impairs the power of a court, upon
22 proof by a shareholder of a demand properly made and for a proper
23 purpose, to compel the production for examination by the shareholder of
24 the books and records of account, minutes, and record of shareholders
25 of a corporation.

26 Sec. 10.06.433. ANNUAL REPORT TO SHAREHOLDERS: CONTENT; FINANCIAL
27 STATEMENT ON REQUEST. (a) The board shall send an annual report to
28 the shareholders not later than 120 days after the close of the fiscal
29 year, unless in the case of a corporation with less than 100 holders of

1 record of its shares, as determined under AS 10.06.408, this requirement
2 is expressly waived in the articles of incorporation. The annual
3 report shall contain a balance sheet as of the end of the fiscal year
4 and an income statement and statement of changes in financial position
5 for the fiscal year, accompanied by a report on the fiscal year by
6 independent accountants or, if there is no such report, the certificate
7 of an authorized officer of the corporation that the statements were
8 prepared without audit from the books and records of the corporation.
9 Unless waived, the report shall be sent to the shareholders at least 20
10 days before the annual meeting of shareholders to be held during the
11 next fiscal year, but this requirement does not limit the requirement
12 for holding an annual meeting under AS 10.06.405.

13 (b) In addition to the financial statement required by (a) of
14 this section, the annual report of a corporation having 100 or more
15 holders of record of its shares, as determined under AS 10.06.408, and
16 having no class of securities registered under section 12 of the Securi-
17 ties Exchange Act of 1934 or exempted from registration by section 12-
18 (g)(2) of that Act, shall also briefly describe

19 (1) all transactions, excluding compensation of officers and
20 directors, during the previous fiscal year involving an amount in
21 excess of \$40,000, other than contracts let at competitive bid or
22 services rendered at prices regulated by law, to which the corporation
23 or its parent or subsidiary was a party, and in which a director or
24 officer of the corporation or of a subsidiary or, if known to the
25 corporation, its parent, or subsidiary, a holder of more than 10 per-
26 cent of the outstanding voting shares of the corporation had a direct
27 or indirect material interest; the report shall include the name of the
28 person, the person's relationship to the corporation, the nature of the
29 person's interest in the transaction and, if practicable, the amount of

1 the interest; in the case of a transaction with a partnership of which
2 the person is a partner, only the interest of the partnership need be
3 stated; a report is not required in the case of transactions approved
4 by the shareholders under AS 10.06.478;

5 (2) the amount and circumstances of indemnifications or
6 advances aggregating more than \$10,000 paid during the fiscal year to
7 an officer or director of the corporation under AS 10.06.490; a report
8 is not required in the case of indemnification approved by the share-
9 holders under AS 10.06.490(d)(3).

10 (c) A shareholder or shareholders holding at least five percent
11 of the outstanding shares of a class of a corporation may make a written
12 request to the corporation for an income statement of the corporation
13 for the three-month, six-month, or nine-month period of the current
14 fiscal year ended more than 30 days before the date of the request and
15 a balance sheet of the corporation as of the end of the period and, in
16 addition, if an annual report for the last fiscal year has not been
17 sent to shareholders, the statements required by (a) of this section
18 for the last fiscal year. The statement shall be delivered or mailed
19 to the person making the request within 30 days of the request. A copy
20 of the statements shall be kept on file in the principal office of the
21 corporation for 12 months and they shall be exhibited at all reasonable
22 times to a shareholder demanding an examination of the statements or a
23 copy of the statements shall be mailed to that shareholder.

24 (d) A corporation shall, upon the written request of a share-
25 holder, mail to the shareholder a copy of the last annual, semiannual
26 or quarterly income statement which it has prepared and a balance sheet
27 as of the end of the period.

28 (e) The quarterly income statements and balance sheets referred
29 to in this section shall be accompanied by any report on those state-

1 ments by independent accountants engaged by the corporation or the
2 certificate of an authorized officer of the corporation that the finan-
3 cial statements were prepared without audit from the books and records
4 of the corporation.

5 (f) A corporation which neglects, fails, or refuses to prepare or
6 submit the financial statements required by this section is subject to
7 a penalty of \$25 for each day that the failure or refusal continues,
8 beginning 30 days after receipt of written request that the duty be
9 performed from one entitled to make the request, up to a maximum of
10 \$1,500. The penalty shall be paid to the shareholder or shareholders
11 jointly making the request for performance of the duty or duties imposed
12 by this section. In addition to this penalty, the court may enforce
13 the duty of making and mailing or delivering the information and finan-
14 cial statements required by this section and, for good cause shown, may
15 extend the time limits under this section.

16 (g) This section applies to a domestic corporation and a foreign
17 corporation having its principal executive office in this state or
18 customarily holding meetings of its board in this state.

19 Sec. 10.06.435. SHAREHOLDERS' DERIVATIVE ACTION. (a) An action
20 may be brought in the right of a domestic or foreign corporation to
21 procure a judgment in its favor by a holder of shares of the corporation
22 of voting trust certificates of the corporation, or of a beneficial
23 interest in shares or certificates of the corporation.

24 (b) In a derivative action, the complaint shall be verified and
25 shall allege that plaintiff was a shareholder, of record or benefi-
26 cially, or the holder of voting trust certificates at the time or
27 during any part of the transaction of which the plaintiff complains or
28 that the plaintiff's shares or voting trust certificates devolved upon
29 the plaintiff by operation of law from a holder who was a holder at the

1 time or during any part of the transaction complained of. A shareholder
2 who does not meet the requirements of this section may be allowed in
3 the discretion of the court to maintain the action on a preliminary
4 showing to and determination by the court, by motion and after a hearing
5 at which the court considers evidence, by affidavit or testimony, as it
6 considers material, that

7 (1) there is a strong prima facie case in favor of the claim
8 asserted on behalf of the corporation;

9 (2) no other similar action has been or is likely to be
10 instituted;

11 (3) the plaintiff acquired the shares before there was
12 disclosure to the public or to the plaintiff of the wrongdoing of which
13 the plaintiff complains;

14 (4) unless the action can be maintained the defendant may
15 retain a gain derived from the defendant's wilful breach of a fiduciary
16 duty; and

17 (5) the requested relief will not result in unjust enrich-
18 ment of the corporation or a shareholder of the corporation.

19 (c) In a derivative action, the complaint shall set out with
20 particularity the efforts, if any, made by the plaintiff to obtain the
21 action he desires from the directors or comparable authority and, if
22 necessary, from the shareholders, and the reasons for his failure to
23 obtain the action or for not making the effort. A decision by a dis-
24 interested majority of the board or a committee of the board to which
25 the decision may have been delegated that, in its business judgment,
26 the derivative action is not in the best interest of the corporation
27 may not defeat the right of a shareholder who complies with this section
28 to maintain the derivative suit. The derivative action may not be
29 maintained if it appears that the plaintiff does not fairly and ade-

1 quately represent the interests of the shareholders or holders of
2 voting trust certificates similarly situated in enforcing the right of
3 the corporation.

4 (d) In an action instituted or maintained in the right of a
5 corporation by the holder or holders of record of less than five percent
6 of the outstanding shares of any class of the corporation or of voting
7 trust certificates for these shares, the corporation in whose right the
8 action is brought or the defendants may at any time before final judgment
9 move the court to require the plaintiff to give security for the reason-
10 able expense, including attorney fees, that may be incurred by the
11 moving party. The amount of the security may be increased or decreased
12 from time to time in the discretion of the court upon a showing that
13 the security has become inadequate or excessive. The corporation or
14 other defendants may have recourse to the security in an amount as the
15 court may determine upon the termination of the derivative action,
16 whether or not the court finds the action was brought without reasonable
17 cause.

18 (e) A derivative action may not be discontinued, abandoned, com-
19 promised or settled without the approval of the court having juris-
20 diction of the action. If the court determines that the interests of
21 the shareholders or any class or classes of shareholders will be sub-
22 stantially affected by a discontinuance, abandonment, compromise, or
23 settlement, the court in its discretion may direct that notice, by
24 publication or otherwise, shall be given to the shareholders or class
25 or classes of shareholders whose interests will be affected. If the
26 court directs notice to be given, it shall determine which of the
27 parties to the action shall bear the expense of giving the notice, in
28 an amount the court determines to be reasonable in the circumstances.
29 Such amount shall be awarded as special costs of the action.

1 (f) If the derivative action is successful, in whole or in part,
2 or if anything is received as a result of the judgment, compromise, or
3 settlement of that action, the court may award the plaintiff or plain-
4 tiff's reasonable expenses, including reasonable attorney fees, and
5 shall direct an accounting to the corporation for the remainder of the
6 proceeds. This subsection does not apply to a judgment rendered only
7 for the benefit of injured shareholders and limited to a recovery of
8 the loss or damage sustained by them.

9 Sec. 10.06.438. LIABILITY OF SHAREHOLDERS AND SUBSCRIBERS. (a)
10 A holder or subscriber to shares of a corporation is under no obligation
11 to the corporation or its creditors as holder or subscriber with respect
12 to the shares other than the obligation to pay the corporation the full
13 consideration for which the shares were issued or to be issued.

14 (b) An assignee or transferee of shares, or of a subscription for
15 shares, in good faith and without knowledge or notice that the full
16 consideration has not been paid, is not personally liable to the cor-
17 poration or its creditors for any unpaid portion of the consideration.

18 (c) An executor, administrator, conservator, guardian, trustee,
19 assignee for the benefit of creditors, or receiver is not personally
20 liable to the corporation or its creditors for any unpaid portion of
21 the consideration.

22 (d) A pledgee or other holder of shares as collateral security is
23 not personally liable as a shareholder.

24 ARTICLE 6. DIRECTORS AND OFFICERS.

25 Sec. 10.06.450. BOARD OF DIRECTORS; DUTY OF CARE; RIGHT OF INSPEC-
26 TION; FAILURE TO DISSENT. (a) All corporate powers shall be exercised
27 by or under the authority of, and the business and affairs of a corpora-
28 tion shall be managed under the direction of, a board of directors
29 except as may be otherwise provided in this chapter or the articles of

1 incorporation. If a provision is made in the articles, the powers,
2 duties, privileges, and liabilities conferred or imposed upon the board
3 by this chapter shall be exercised, performed, extended and assumed to
4 the extent and by the person or persons as provided in the articles.
5 Directors need not be residents of this state or shareholders of the
6 corporation unless required by the articles or bylaws. The articles or
7 bylaws may prescribe other qualifications for directors. The board may
8 fix the compensation of directors unless otherwise provided in the
9 articles.

10 (b) A director shall perform his duties as a director, including
11 duties as a member of a committee of the board on which he may serve,
12 in good faith, in a manner he reasonably believes to be in the best
13 interests of the corporation, and with the care, including reasonable
14 inquiry, that an ordinarily prudent person in a like position would use
15 under similar circumstances. Except as provided in (c) of this section,
16 a director is entitled to rely on information, opinions, reports or
17 statements, including financial statements and other financial data, in
18 each case prepared or presented by

19 (1) one or more officers or employees of the corporation
20 whom the director reasonably believes to be reliable and competent in
21 the matters presented;

22 (2) counsel, public accountants, or other persons as to
23 matters which the director reasonably believes to be within the person's
24 professional or expert competence; or

25 (3) a committee of the board upon which he does not serve,
26 designated in accordance with a provision of the articles or the bylaws,
27 as to matters within the authority of the committee if the director
28 reasonably believes the committee to merit confidence.

29 (c) A director is not considered to be acting in good faith if he

1 knows, or as a reasonable person ought to know, that, as to the matter
2 in question, reliance under (b) of this section is unwarranted.

3 (d) A director has the absolute right at a reasonable time to
4 inspect and copy all books, records, and documents of every kind and to
5 inspect the physical properties of the corporation or a domestic or
6 foreign subsidiary of the corporation. Inspection by a director may be
7 made in person or by agent or attorney and the right of inspection
8 includes the right to copy and make contracts. This section applies to
9 a director of a foreign corporation having its principal executive
10 office in this state or customarily holding meetings of its board in
11 this state.

12 (e) A director of a corporation who is present at a meeting of
13 its board at which action on a corporate matter is taken is presumed to
14 have assented to the action taken unless his dissent is entered in the
15 minutes of the meeting or unless he files his written dissent to the
16 action with the secretary of the meeting before adjournment or forwards
17 his dissent by certified mail to the secretary of the corporation
18 immediately after adjournment. The right to dissent does not apply to
19 a director who voted in favor of the action.

20 Sec. 10.06.453. NUMBER AND ELECTION OF DIRECTORS. (a) The
21 number of directors constituting the entire board may not be less than
22 three. If all of the shares of a corporation are owned beneficially
23 and of record by less than three shareholders, the number of directors
24 may be less than three but not less than the number of shareholders.
25 Subject to the limitation of this section, the number of directors may
26 be fixed by the articles of incorporation, the bylaws of the corpora-
27 tion, or by the action of the board or shareholders under the specific
28 provisions of an article or a bylaw adopted by approval of the outstand-
29 ing shares. If the number of directors is not otherwise set, the

1 number of directors is three. As used in AS 10.06.450 - 10.06.490,
2 "entire board" means the total number of directors which the corpora-
3 tion has if there are no vacancies.

4 (b) The number of directors may be increased or decreased by
5 amendment of the articles or the bylaws or by action of the board or
6 the shareholders under the specific provisions of an article or a bylaw
7 adopted by approval of the outstanding shares, subject to the following
8 limitations:

9 (1) If the board is authorized by the articles or the bylaws
10 to change the number of directors, whether by amending the bylaws or by
11 taking action under the specific provision of an article or a bylaw
12 adopted by approval of the outstanding shares, the amendment or action
13 shall require the vote of a majority of the entire board.

14 (2) A decrease in the number of directors may not shorten
15 the term of an incumbent director.

16 (c) The articles may provide for the election of one or more
17 directors by the holders of the shares of a class or series voting as a
18 class or series.

19 (d) The names and addresses of the members of the first board may
20 be stated in the articles. The members of the first board hold office
21 until the first annual meeting of shareholders, and until their succes-
22 sors have been elected and qualified.

23 (e) At the first annual meeting of shareholders and at each
24 subsequent annual meeting the shareholders shall elect directors to
25 hold office until the next succeeding annual meeting, except in the
26 case of the classification of directors as permitted by AS 10.06.455.
27 A director, including a director elected to fill a vacancy, shall hold
28 office until the expiration of the term for which elected and until a
29 successor has been elected and qualified.

1 Sec. 10.06.455. CLASSIFICATION OF DIRECTORS. (a) If the board
2 consists of nine or more members, the articles of incorporation may
3 provide that instead of electing all the directors annually the direc-
4 tors be divided into either two or three classes, each class to be as
5 nearly equal in number as possible, with the term of office of directors
6 of the first class to expire at the first annual meeting of shareholders
7 after their election, that of the second class to expire at the second
8 annual meeting after their election, and that of the third class, if
9 any, to expire at the third annual meeting after their election. At
10 each annual meeting after the classification the number of directors
11 equal to the number of the class whose term expires at the time of the
12 meeting shall be elected to hold office until the second succeeding
13 annual meeting if there are two classes, or until the third succeeding
14 annual meeting if there are three classes. A classification of direc-
15 tors is not effective before the first annual meeting of shareholders.

16 (b) Unless cumulative voting rights have been eliminated by the
17 articles of incorporation (AS 10.06.420(d)), an amendment of the
18 articles which would establish or require classification of the board
19 under (a) of this section may not be adopted if the votes cast against
20 the amendment would be sufficient to elect a director if voted cumula-
21 tively at an election of the entire board.

22 Sec. 10.06.458. VACANCIES ON THE BOARD. The board may declare
23 vacant the office of a director who has been declared of unsound mind
24 by a court order or who has had his civil rights suspended due to
25 imprisonment as provided in AS 33.30.310.

26 Sec. 10.06.460. REMOVAL OF DIRECTOR WITHOUT CAUSE. (a) Any or
27 all of the directors may be removed without reason if the removal is
28 approved by the outstanding shares, subject to the following:

29 (1) unless cumulative voting rights have been eliminated by

1 the articles of incorporation (AS 10.06.420(d)), a director may not be
2 removed, unless the entire board is removed, if the votes cast against
3 removal, or not consenting in writing to the removal, would be suffi-
4 cient to elect a director if voted cumulatively at an election at which
5 the same total number of votes were cast or, if that action is taken by
6 written consent, all shares entitled to vote were voted, and all direc-
7 tors authorized at the time of the director's most recent election were
8 then being elected; and

9 (2) if by provision in the articles of incorporation the
10 holders of the shares or any class or series, voting as a class or
11 series, are entitled to elect one or more directors, a director elected
12 in that manner may be removed only by the applicable vote of the holders
13 of the shares of that class or series.

14 (b) Except as provided in this section and AS 10.06.458, 10.06.-
15 463, and 10.06.465(c), a director may not be removed before the expira-
16 tion of his term of office.

17 Sec. 10.06.463. REMOVAL OF DIRECTOR BY SUPERIOR COURT. The
18 superior court may, at the suit of shareholders holding at least 10
19 percent of the number of outstanding shares of any class, remove from
20 office a director for fraudulent or dishonest acts or gross abuse of
21 authority or discretion with reference to the corporation and may bar
22 from reelection a director removed in that manner for a period pre-
23 scribed by the court. The corporation shall be made a party to the
24 suit.

25 Sec. 10.06.465. VACANCIES AND RESIGNATION; SPECIAL MEETING OF
26 SHAREHOLDERS. (a) Unless otherwise provided in the articles or bylaws
27 of the corporation and except for a vacancy created by the removal of a
28 director, vacancies on the board may be filled by a majority of the
29 directors then in office, whether or not less than a quorum, or by a

1 sole remaining director. Unless the articles or a bylaw adopted with
2 approval of the outstanding shares provide that the board may fill
3 vacancies occurring in the board by reason of removal of directors, the
4 vacancies may be filled only by approval of the shareholders.

5 (b) The shareholders may elect a director to fill a vacancy not
6 filled by the directors. An election by written consent to fill a
7 vacancy requires the consent of a majority of the outstanding shares
8 entitled to vote.

9 (c) If, after the filling of a vacancy by the directors, the
10 directors who have been elected by the shareholders constitute less
11 than a majority of the directors, a holder or holders of an aggregate
12 of 10 percent or more of the shares outstanding at the time may call a
13 special meeting of shareholders (AS 10.06.405) to elect the entire
14 board. The term of office of a director terminates upon the election
15 and qualification of a successor.

16 (d) A director may resign effective upon giving written notice to
17 the chairman of the board, the president, the secretary, or the board
18 of directors of the corporation, unless the notice specifies a later
19 time for the effectiveness of the resignation. Notwithstanding the
20 effectiveness of his resignation, a director holds office until a
21 successor has been elected and qualified (AS 10.06.453(d)). If the
22 resignation is effective at a future time, a successor may be elected
23 to take office when the resignation becomes effective.

24 Sec. 10.06.468. EXECUTIVE AND OTHER BOARD COMMITTEES. (a) If
25 authorized by the articles or the bylaws of the corporation, the board,
26 by resolution adopted by a majority of the entire board, may designate
27 from among its members an executive committee and other committees of
28 the board. Each committee, to the extent provided in the resolution or
29 the articles or bylaws of the corporation, has the authority of the

1 board, except that a committee may not

2 (1) declare dividends or distributions;

3 (2) approve or recommend to shareholders actions or proposals
4 required by this chapter to be approved by shareholders;

5 (3) designate candidates for the office of director, for
6 purposes of proxy solicitation or otherwise, or fill vacancies on the
7 board or any committee of the board;

8 (4) amend the bylaws;

9 (5) approve a plan or merger not requiring shareholder
10 approval;

11 (6) capitalize retained earnings;

12 (7) authorize or approve the reacquisition of shares unless
13 under a general formula or method specified by the board;

14 (8) authorize or approve the issuance or sale of, or a
15 contract to issue or sell, shares or designate the terms of a series of
16 a class of shares, unless the board, having acted regarding general
17 authorization for the issuance or sale of shares, a contract to issue
18 or sell, or the designation of a series, authorizes a committee, under
19 a general formula or method specified by the board by resolution or by
20 adoption of a stock option or other plan, to fix the terms of a contract
21 for the sale of the shares and to fix the terms upon which the shares
22 may be issued or sold, including, without limitation, the price, the
23 dividend rate, provisions for redemption, sinking fund, conversion,
24 voting or preferential rights, and provisions for other features of a
25 class of shares, or a series of a class of shares, with full power in
26 the committee to adopt a final resolution setting out all the terms of
27 a series for filing with the commissioner under this chapter; or

28 (9) authorize, approve, or ratify contracts or other trans-
29 actions between the corporation and one or more of its directors, or

1 between the corporation and a corporation, firm, or association in
2 which one or more of its directors has a material financial interest
3 (AS 10.06.478).

4 (b) The designation of a committee, the delegation to the commit-
5 tee of authority, or action by the committee under that authority does
6 not alone constitute compliance by a member of the board or the commit-
7 tee in question with his responsibility to act in good faith, in a
8 manner he reasonably believes to be in the best interests of the corpo-
9 ration, and with the care, including reasonable inquiry, as an ordin-
10 arily prudent person in a like position would use under similar circum-
11 stances.

12 Sec. 10.06.470. MEETINGS: CALL, PLACE, NOTICE, AND WAIVER. (a)
13 A regular or special meeting of the board or a committee of the board
14 may be called by the chairman of the board, the president, a vice-presi-
15 dent, the secretary, or two directors and may be held at any place
16 inside or outside this state.

17 (b) A regular meeting of the board or a committee designated by
18 the board may be held without notice if the time and place of the
19 meeting is fixed by the bylaws or the board. A special meeting of the
20 board or a committee designated by the board shall be held upon either
21 notice in writing sent 20 days before the meeting or notice by elec-
22 tronic means, personal messenger, or comparable person-to-person commu-
23 nication given at least 72 hours before the meeting. In the case of a
24 special meeting the notice shall include disclosure of the business to
25 be transacted and the purpose of the meeting.

26 (c) Notice of a meeting need not be given to a director who signs
27 a waiver of notice, whether before or after the meeting, or who attends
28 the meeting without protesting before the meeting or at its commence-
29 ment the lack of notice.

1 Sec. 10.06.473. QUORUM OF DIRECTORS. (a) A majority of the
2 number of directors fixed by the articles or bylaws of a corporation
3 constitutes a quorum for the transaction of business unless a greater
4 number is required by the articles or bylaws. The act of the majority
5 of the directors present at a meeting at which a quorum is present is
6 the act of the board, unless the act of a greater number is required by
7 the articles or the bylaws.

8 (b) The provisions of this section apply with equal force to
9 committees of the board (AS 10.06.468) and action by committees.

10 Sec. 10.06.475. INFORMAL ACTION BY DIRECTORS. (a) Unless pro-
11 hibited by the articles or bylaws of the corporation, the board of a
12 corporation or a committee designated by the board can validly conduct
13 a meeting by communicating simultaneously with each other by means of
14 conference telephones or similar communications equipment.

15 (b) Unless prohibited by the articles or bylaws of the corpora-
16 tion, action required or permitted to be taken by the board or a com-
17 mittee designated by the board may be taken without a meeting on written
18 consents, identical in content, setting out the action taken and signed
19 by all the members of the board or the committee. The written consents
20 shall be filed with the minutes. The consents have the same effect as
21 a unanimous vote.

22 Sec. 10.06.478. DIRECTOR CONFLICTS OF INTEREST. (a) A contract
23 or other transaction between a corporation and one or more of the
24 directors of the corporation, or between a corporation and a corpora-
25 tion, firm, or association in which one or more of the directors of the
26 corporation has a material financial interest, is neither void nor
27 voidable because the director or directors or the other corporation,
28 firm, or association are parties or because the director or directors
29 are present at the meeting of the board which authorizes, approves, or

1 ratifies the contract or transaction, if

2 (1) the material facts as to the transaction and as to the
3 director's interest are fully disclosed or known to the shareholders
4 and the contract or transaction is approved by the shareholders in good
5 faith, with the shares owned by the interested director or directors
6 not being entitled to vote; or

7 (2) the material facts as to the transaction and as to the
8 director's interest are fully disclosed or known to the board, and the
9 board authorizes, approves, or ratifies the contract or transaction in
10 good faith by a sufficient vote without counting the vote of the inter-
11 ested director or directors, and the person asserting the validity of
12 the contract or transaction sustains the burden of proving that the
13 contract or transaction was just and reasonable as to the corporation
14 at the time it was authorized, approved, or ratified.

15 (b) A common directorship does not alone constitute a material
16 financial interest within the meaning of this section. A director is
17 not interested within the meaning of this section in a resolution
18 fixing the compensation of another director as a director, officer, or
19 employee of the corporation, notwithstanding the fact that the first
20 director is also receiving compensation from the corporation.

21 (c) A contract or other transaction between a corporation and a
22 corporation or association of which one or more directors of the cor-
23 poration are directors is neither void nor voidable because the director
24 or directors are present at the meeting of the board which authorizes,
25 approves, or ratifies the contract or transaction, if the material
26 facts of the transaction and the director's other directorship are
27 fully disclosed or known to the board and the board authorizes, ap-
28 proves, or ratifies the contract or transaction in good faith by a
29 sufficient vote without counting the vote of the common director or

1 directors or the contract or transaction is approved by the share-
2 holders in good faith. This subsection does not apply to contracts or
3 transactions covered by (a) of this section.

4 (d) Interested or common directors may be counted in determining
5 the presence of a quorum at a meeting of the board which authorizes,
6 approves, or ratifies a contract or transaction.

7 (e) Nothing in this section affects the prohibitions or restraints
8 imposed by AS 45.50 and AS 45.52.

9 Sec. 10.06.480. LIABILITY OF DIRECTORS. (a) In addition to
10 other liabilities, a director is liable in the following circumstances
11 unless he complies with the standard provided in AS 10.06.450(b) for
12 the performance of the duties of directors:

13 (1) A director who votes for or assents to a distribution to
14 the corporation's shareholders contrary to the provisions of AS 10.06.-
15 358, 10.06.360, 10.06.363, and 10.06.365 or contrary to a restriction
16 in the articles of incorporation, is liable to the corporation, jointly
17 and severally with all other directors voting for or assenting to the
18 distribution, for the amount of the distribution which is paid or the
19 value of the assets which are distributed in excess of the amount of
20 the distribution which could have been paid or distributed without
21 violation of AS 10.06.405 - 10.06.438 or the restrictions of the
22 articles of incorporation.

23 (2) A director who votes for or assents to a distribution to
24 the corporation's shareholders during the liquidation of the corporation
25 without the payment and discharge of, or making adequate provision for,
26 all known debts, obligations, and liabilities of the corporation is
27 liable to the corporation, jointly and severally with all other direc-
28 tors voting for or assenting to distribution, for the value of the
29 assets which are distributed, to the extent that the debts, obligations,

1 and liabilities of the corporation are not thereafter paid and dis-
2 charged.

3 (3) A director who votes for or assents to a loan of assets
4 of the corporation to an officer or employee or a loan secured by the
5 corporation's shares contrary to the provisions of AS 10.06.485 or
6 contrary to a restriction in the articles of incorporation, is liable
7 to the corporation, jointly and severally with all other directors
8 voting for or assenting to the loan, for the amount of the loan which
9 is in excess of a loan which could have been extended without a viola-
10 tion of AS 10.06.485 or the restriction in the articles of incorpora-
11 tion.

12 (b) A director against whom a claim is asserted under this section
13 for the distribution of assets of the corporation is entitled to contri-
14 bution from shareholders who accepted or received the assets, knowing
15 the distribution to have been made in violation of this chapter, in
16 proportion to the amounts received by them. A director against whom a
17 claim is asserted under this section for the extension of a loan is
18 entitled to contribution from the person receiving the loan.

19 (c) A director against whom a claim is asserted under this section
20 is entitled to contribution from other directors who voted for or
21 assented to the action upon which the claim is asserted.

22 Sec. 10.06.483. OFFICERS: TENURE, RESIGNATION, AGENCY, DUTY OF
23 CARE. (a) A corporation shall have a president, a secretary, a trea-
24 surer and other officers with titles and duties as stated in the bylaws
25 of the corporation or determined by the board and as may be necessary
26 to enable the corporation to sign instruments and share certificates.
27 Any two or more offices may be held by the same person, except the
28 offices of president and secretary. When all of the issued and out-
29 standing stock of the corporation is owned by one person, the person

1 may hold all or any combination of offices.

2 (b) Except as otherwise provided in the articles or bylaws of the
3 corporation, officers shall be chosen by the board and serve at the
4 pleasure of the board, subject to the rights, if any, of an officer
5 under a contract of employment. An officer may resign at any time upon
6 written notice to the corporation without prejudice to the rights, if
7 any, of the corporation under a contract to which the officer is a
8 party.

9 (c) All officers as between themselves and the corporation have
10 the authority and shall perform the duties in the management of the
11 corporation as provided in the bylaws of the corporation or, to the
12 extent not provided in the bylaws, as provided by the board.

13 (d) Subject to the provisions of AS 10.06.020(a), a note, mort-
14 gage, evidence of indebtedness, contract, share certificate, conveyance,
15 or other instrument in writing, and an assignment or endorsement of
16 these, executed or entered into between the corporation and another
17 person, if signed by two individuals, one of whom is the chairman of
18 the board, the president, or a vice-president and the other of whom is
19 the secretary, an assistant secretary, the treasurer, or an assistant
20 treasurer of the corporation, is not invalidated as to the corporation
21 by a lack of authority of the signing officers in the absence of actual
22 knowledge on the part of the other person that the signing officers had
23 no authority to execute the instrument.

24 (e) An officer shall perform his duties as an officer in good
25 faith and with that degree of care, including reasonable inquiry, which
26 an ordinarily prudent person in a like position would use under similar
27 circumstances.

28 Sec. 10.06.485. LOANS TO DIRECTORS, OFFICERS, AND EMPLOYEES. (a)
29 A loan may not be extended to an officer or employee without authoriza-

1 tion by the board. A loan may not be extended to a director without
2 the approval of two-thirds of the voting shares. An employee or officer
3 who is also a director is considered a director for purposes of this
4 section. A shareholder is not disqualified from voting on a loan to
5 himself as a director because of personal interest.

6 (b) A loan to a director, officer, or employee and a loan secured
7 by the shares of the corporation may not be made unless the loan would
8 be permissible as a distribution under AS 10.06.358 - 10.06.365. A
9 loan under this subsection impairs the retained earnings or paid-in
10 capital accounts to the extent of the loan.

11 (c) For purposes of this section, a loan may consist of cash,
12 securities, or personal or real property.

13 (d) If a corporation acts as a guarantor on a loan to a director,
14 officer, or employee, the guarantee is treated as a loan under this
15 section.

16 (e) A director, officer, or employee of an affiliate corporation
17 is a director, officer, or employee of the lending corporation for
18 purposes of this section.

19 (f) A loan is to be judged by the duties of directors and officers
20 to act in good faith in a manner reasonably believed to be in the best
21 interests of the corporation and with the care, including reasonable
22 inquiry, that an ordinarily prudent person in a like position would use
23 under similar circumstances.

24 Sec. 10.06.488. SECONDARY LIABILITY OF DIRECTORS AND OFFICERS.

25 (a) Except as exempted in (b) of this section and limited in (c) of
26 this section, incorporators, directors, other than a provisional direc-
27 tor appointed under AS 10.06.640, or individuals exercising the author-
28 ity of directors as permitted in AS 10.06.450(a), and the president,
29 secretary and treasurer, or individuals performing the functions of

1 these offices in a domestic or foreign corporation doing business in
2 this state, are, to the extent that the assets of the corporate entity
3 prove insufficient, jointly and severally liable for contract indebted-
4 ness, whether formal or otherwise, for materials, supplies, inventory,
5 or services furnished in the state during their period of service.

6 (b) The terms of a written contract between a corporation and a
7 third party may modify or preclude the liability created by this
8 section.

9 (c) Notwithstanding division by assignment or otherwise, the
10 total secondary liability created by this section for the benefit of a
11 creditor under (a) of this section may not exceed \$25,000 exclusive of
12 costs of collection.

13 (d) A party against whom a claim is asserted under this section
14 is entitled to contribution from other persons enumerated in (a) of
15 this section.

16 Sec. 10.06.490. INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES,
17 AND AGENTS: INSURANCE. (a) A corporation may indemnify a person who
18 was, is, or is threatened to be made a party to a completed, pending,
19 or threatened action or proceeding, whether civil, criminal, administra-
20 tive, or investigative, other than an action by or in the right of the
21 corporation, by reason of the fact that he is or was a director, officer,
22 employee, or agent of the corporation, or is or was serving at the
23 request of the corporation as a director, officer, employee, or agent
24 of another corporation, partnership, joint venture, trust, or other
25 enterprise. Indemnification may include reimbursement of expenses,
26 attorney fees, judgments, fines, and amounts paid in settlement actually
27 and reasonably incurred by the person in connection with the action or
28 proceeding if he acted in good faith and in a manner he reasonably
29 believed to be in or not opposed to the best interests of the corpora-

1 tion, and, with respect to a criminal action or proceeding, had no
2 reasonable cause to believe his conduct was unlawful. The termination
3 of an action or proceeding by judgment, order, settlement, conviction,
4 or upon a plea of nolo contendere or its equivalent, does not create a
5 presumption that the person did not act in good faith and in a manner
6 which he reasonably believed to be in or not opposed to the best inter-
7 ests of the corporation, and, with respect to a criminal action or
8 proceeding, had reasonable cause to believe that his conduct was un-
9 lawful.

10 (b) A corporation may indemnify a person who was, is, or is
11 threatened to be made a party to a completed, pending, or threatened
12 action by or in the right of the corporation to procure a judgment in
13 its favor by reason of the fact that he is or was a director, officer,
14 employee, or agent of the corporation, or is or was serving at the
15 request of the corporation as a director, officer, employee, or agent
16 of another corporation, partnership, joint venture, trust, or other
17 enterprise. Indemnification may include reimbursement for expenses and
18 attorney fees actually and reasonably incurred by the person in connec-
19 tion with the defense or settlement of the action if he acted in good
20 faith and in a manner he reasonably believed to be in or not opposed to
21 the best interests of the corporation. Indemnification may not be made
22 in respect of any claim, issue, or matter as to which the person has
23 been adjudged to be liable for negligence or misconduct in the perform-
24 ance of his duty to the corporation except to the extent that the court
25 in which the action was brought determines upon application that,
26 despite the adjudication of liability, in view of all the circumstances
27 of the case, the person is fairly and reasonably entitled to indemnity
28 for expenses which the court considers proper.

29 (c) To the extent that a director, officer, employee, or agent of

1 a corporation has been successful on the merits or otherwise in defense
2 of an action or proceeding referred to in (a) or (b) of this section,
3 or in defense of a claim, issue, or matter in the action or proceeding,
4 he shall be indemnified against expenses and attorney fees actually and
5 reasonably incurred by him in connection with the defense.

6 (d) Unless otherwise ordered by a court, indemnification under
7 (a) or (b) of this section may only be made by a corporation upon a
8 determination that indemnification of the director, officer, employee,
9 or agent is proper in the circumstances because he has met the appli-
10 cable standard of conduct set out in (a) and (b) of this section. The
11 determination shall be made

12 (1) by the board by a majority vote of a quorum consisting
13 of directors who were not parties to the action or proceeding; or

14 (2) by independent legal counsel in a written opinion if

15 (A) a quorum under (1) of this subsection is not obtain-
16 able; or

17 (B) a quorum under (1) of this subsection is obtainable
18 but a majority of disinterested directors so directs; or

19 (3) by approval of the outstanding shares.

20 (e) Expenses incurred in defending a civil or criminal action or
21 proceeding may be paid by the corporation in advance of the final
22 disposition of the action or proceeding as authorized in the manner
23 provided in (d) of this section upon receipt of an undertaking by or on
24 behalf of the director, officer, employee, or agent to repay the amount
25 if it is ultimately determined that he is not entitled to be indemnified
26 by the corporation as authorized in this section.

27 (f) The indemnification provided by this section is not exclusive
28 of any other rights to which a person seeking indemnification may be
29 entitled under a bylaw, agreement, vote of shareholders or disinterested

1 directors, or otherwise, both as to action in his official capacity and
2 as to action in another capacity while holding the office. The right
3 to indemnification continues as to a person who has ceased to be a
4 director, officer, employee, or agent, and inures to the benefit of the
5 heirs, executors, and administrators of the person.

6 (g) A corporation may purchase and maintain insurance on behalf
7 of a person who is or was a director, officer, employee, or agent of
8 the corporation, or is or was serving at the request of the corporation
9 as a director, officer, employee, or agent of another corporation,
10 partnership, joint venture, trust, or other enterprise against any
11 liability asserted against him and incurred by him in that capacity, or
12 arising out of that status, whether or not the corporation has the
13 power to indemnify him against the liability under the provisions of
14 this section.

15 ARTICLE 7. AMENDMENTS AND CHANGES.

16 Sec. 10.06.502. AUTHORIZATION: PERMITTED AND PROHIBITED AMEND-
17 MENTS. (a) By complying with the provisions of this chapter a corpora-
18 tion may amend its articles of incorporation from time to time and in
19 as many respects as desired if its articles as amended contain only
20 provisions that would be lawful to insert in original articles filed at
21 the time of the filing of the amendment.

22 (b) In particular, and without limitation upon the general power
23 of amendment, a corporation may amend its articles of incorporation to

24 (1) change its corporate name;

25 (2) extend a limitation upon its period of duration;

26 (3) change, enlarge, or diminish a limitation upon its
27 corporate purpose;

28 (4) increase or decrease the aggregate number of shares, or
29 shares of a class, which the corporation has authority to issue;

1 (5) exchange, classify, reclassify, or cancel all or part of
2 its shares, whether issued or unissued;

3 (6) change the designation of all or a part of its shares,
4 whether issued or unissued, and to change the preferences, limitations,
5 and the relative rights of all or part of its shares, whether issued or
6 unissued;

7 (7) change shares of a class, whether issued or unissued,
8 into a different number of shares of the same class or into the same or
9 a different number of shares of other classes;

10 (8) create new classes of shares having rights and pref-
11 erences either prior and superior or subordinate and inferior to the
12 shares of a class then authorized, whether issued or unissued;

13 (9) cancel or otherwise affect the right of the holders of
14 the shares of a class to receive dividends which have accrued but have
15 not been declared;

16 (10) divide a preferred or special class of shares, whether
17 issued or unissued, into series and fix and determine the designation
18 of the series and the variations in the relative rights and preferences
19 as between the shares of the series;

20 (11) authorize the board to establish, out of authorized but
21 unissued shares, series of a preferred or special class of shares and
22 fix and determine the relative rights and preferences of the shares of
23 the series;

24 (12) authorize the board to fix and determine the relative
25 rights and preferences of the authorized but unissued shares of series
26 in which either the relative rights and preferences have not been fixed
27 and determined or the relative rights and preferences are to be changed;

28 (13) revoke, diminish, or enlarge the authority of the board
29 to establish series out of authorized but unissued shares of a pre-

1 ferred or special class and fix and determine the relative rights and
2 preferences of the shares of that series; and

3 (14) limit, deny, or grant to shareholders of a class the
4 preemptive right to acquire additional shares of the corporation,
5 whether then or thereafter authorized.

6 (c) A corporation may not amend its articles of incorporation to
7 alter a statement which may appear in the original articles of the
8 names and addresses of the first directors, or the name and address of
9 the initial agent, except to correct an error in the statement or to
10 delete either after the corporation has filed a notice under AS 10.06.-
11 165 or 10.06.813.

12 Sec. 10.06.504. PROCEDURE TO AMEND ARTICLES OF INCORPORATION.

13 (a) A corporation shall amend its articles of incorporation in the
14 following manner:

15 (1) If shares have not been issued, the board shall adopt a
16 resolution setting out the proposed amendment or amendments.

17 (2) Subject to AS 10.06.506, if shares have been issued, an
18 amendment shall be approved by the board and the outstanding shares.
19 Approval may be initiated by the shareholders either before or after
20 consideration by the board. If the board adopts a resolution setting
21 out a proposed amendment, the board shall direct that the amendment be
22 submitted to a vote at a meeting of shareholders which may be either
23 the annual or a special meeting. If approval of the outstanding shares
24 is obtained before action by the board, the board shall consider and
25 either approve or reject the amendment at the next regular or special
26 meeting.

27 (b) A proposed amendment may be contained in restated articles of
28 incorporation which contain

29 (1) a statement that except for the designated amendment the

1 restated articles correctly set out without change the provisions of
2 the articles being amended; and

3 (2) a statement that the restated articles together with the
4 designated amendment supersede the original articles and all amendments
5 to the original articles.

6 (c) Written notice setting out the proposed amendment or amend-
7 ments or a summary of the changes to be made shall be given to each
8 shareholder of record entitled to vote thereon within the time and in
9 the manner provided in this chapter for the giving of notice of meetings
10 of shareholders. If the amendment is to be considered at an annual
11 meeting, the proposed amendment or summary may be included in the
12 notice of the annual meeting.

13 Sec. 10.06.506. CLASS VOTING ON AMENDMENTS. (a) The holders of
14 the outstanding shares of a class may vote as a class upon a proposed
15 amendment, whether or not the holders are entitled to vote on the
16 amendment by the provisions of the articles of incorporation, if the
17 amendment

18 (1) increases or decreases the aggregate number of autho-
19 rized shares of the class;

20 (2) exchanges, reclassifies, or cancels all or part of the
21 shares of the class;

22 (3) exchanges or creates a right of exchange of all or part
23 of the shares of another class into the shares of the class;

24 (4) changes the designations, preferences, limitations, or
25 relative rights of the shares of the class;

26 (5) changes the shares of the class into the same or a
27 different number of shares of the same class or another class;

28 (6) creates a new class of shares having rights and pref-
29 erences prior and superior to the shares of the class, or increases the

1 rights and preferences or the number of authorized shares of a class
2 having rights and preferences prior or superior to the shares of the
3 class;

4 (7) divides the shares of a preferred or special class into
5 series and fixes and determines the designation of the series and the
6 variations in the relative rights and preferences between the shares of
7 the series or authorizes the board to do so;

8 (8) limits or denies the existing preemptive rights of the
9 shares of the class;

10 (9) cancels or otherwise affects dividends on the shares of
11 the class which are accrued but not declared.

12 (b) If the holders of the outstanding shares of a class are
13 entitled to vote as a class under (a) of this section, the amendment is
14 not approved unless it receives a majority vote of the outstanding
15 shares of that class and approval of the outstanding shares.

16 Sec. 10.06.508. GREATER VOTING REQUIREMENTS. If the articles of
17 incorporation require the vote of a larger proportion or of all of the
18 shares of a class or series, or of a larger proportion or of all the
19 directors, than is otherwise required by this chapter, the provision in
20 the articles requiring the greater vote may not be altered, amended, or
21 repealed except by that greater vote unless otherwise provided in the
22 articles.

23 Sec. 10.06.510. ARTICLES OF AMENDMENT. The articles of amendment
24 shall be executed in duplicate by the corporation by its president or
25 vice-president and by its secretary or an assistant secretary, and
26 verified by one of the officers signing the articles of amendment, and
27 shall set out

- 28 (1) the name of the corporation;
29 (2) the amendment adopted;

1 (3) the date of the approval of the amendment by the board
2 and outstanding shares, or by the board if shares have not been issued;

3 (4) the number of shares outstanding and the number of
4 shares entitled to vote, and if the shares of a class are entitled to
5 vote as a class, the designation and number of outstanding shares of
6 each class entitled to vote;

7 (5) the number of shares voted for and against the amendment
8 and, if the shares of a class are entitled to vote as a class, the
9 number of shares of each class voted for and against the amendment, or
10 if shares have not been issued, a statement to that effect; and

11 (6) the manner in which an exchange, reclassification, or
12 cancellation of issued shares is to be carried out if the amendment
13 provides for an exchange, reclassification, or cancellation of issued
14 shares and is not set out in the amendment.

15 Sec. 10.06.512. FILING OF ARTICLES OF AMENDMENT. Duplicate
16 originals of the articles of amendment shall be delivered to the commis-
17 sioner for processing according to AS 10.06.910 and for issuance of a
18 certificate of amendment.

19 Sec. 10.06.514. EFFECT OF CERTIFICATE OF AMENDMENT. (a) An
20 amendment is effective upon the issuance of a certificate of amendment
21 by the commissioner, or on a later date, not more than 30 days after
22 the filing of the certificate with the commissioner, as provided in the
23 articles of amendment.

24 (b) An amendment may not affect an existing cause of action in
25 favor of or against the corporation, or a pending suit to which the
26 corporation is a party, or the existing rights of persons other than
27 shareholders. If the corporate name is changed by amendment, a suit
28 brought by or against the corporation under its former name does not
29 abate.

1 Sec. 10.06.516. RESTATED ARTICLES OF INCORPORATION. A domestic
2 corporation may, by resolution adopted by the board, restate its
3 articles of incorporation as amended up to that time. Upon the adoption
4 of the resolution, restated articles shall be executed in duplicate by
5 the corporation by its president or a vice-president and by its secre-
6 tary or assistant secretary and verified by one of the officers signing
7 the articles and shall set out all of the operative provisions of the
8 articles as amended up to that time together with a statement that the
9 restated articles correctly set out without change the corresponding
10 provisions of the articles as amended up to that time and that the
11 restated articles supersede the original articles and all amendments to
12 them.

13 Sec. 10.06.518. FILING OF RESTATED ARTICLES OF INCORPORATION.
14 Duplicate originals of restated articles of incorporation shall be
15 delivered to the commissioner for processing according to AS 10.06.910
16 and for issuance of a restated certificate of incorporation.

17 Sec. 10.06.520. EFFECT OF ISSUANCE OF RESTATED CERTIFICATE OF
18 INCORPORATION. Upon the issuance of a restated certificate of corpora-
19 tion, the restated articles of incorporation become effective and
20 supersede the original articles and all amendments.

21 Sec. 10.06.522. AMENDMENT OF ARTICLES OF INCORPORATION IN RE-
22 ORGANIZATION PROCEEDINGS. (a) If a plan of reorganization of a cor-
23 poration has been confirmed by decree or order of a court in proceedings
24 for the reorganization of the corporation under an applicable statute
25 of the United States relating to reorganization of corporations, the
26 articles of the corporation may be amended as necessary in the manner
27 provided in (c) of this section, in order to carry out the plan and put
28 it into effect, only if the articles as amended contain provisions that
29 might be lawfully contained in original articles at the time of the

1 making of the amendment.

2 (b) In particular, and without limitation upon the general power
3 of amendment, the articles of incorporation may be amended to

4 (1) change the corporate name, period of duration, or cor-
5 porate purposes of the corporation;

6 (2) repeal, alter, or amend the bylaws of the corporation;

7 (3) change the aggregate number of shares or shares of a
8 class which the corporation has authority to issue;

9 (4) change the preferences, limitation, and relative rights
10 of all or part of the shares of the corporation, and classify, re-
11 classify, or cancel all or part of the shares, whether issued or un-
12 issued;

13 (5) authorize the issuance of bonds, debentures, or other
14 obligations of the corporation, whether or not convertible into shares
15 of a class or bearing warrants or other evidences of optional rights to
16 purchase or subscribe for shares of a class, and fix the terms and
17 conditions of the bonds, debentures, or other obligations; and

18 (6) constitute or reconstitute and classify or reclassify
19 the board of the corporation, and appoint directors and officers in
20 place of or in addition to all or any of the directors or officers then
21 in office.

22 (c) Articles of amendment approved by decree or order of a court
23 shall be executed and verified in duplicate by the person or persons
24 the court designates or appoints for the purpose, and shall set out the
25 name of the corporation, the amendments of the articles approved by the
26 court, the date of the decree or order approving the articles of amend-
27 ment, the title of the proceedings in which the decree or order was
28 entered, and a statement that the decree or order was entered by a
29 court having jurisdiction of the proceedings for the reorganization of

1 the corporation under an applicable statute of the United States.

2 Sec. 10.06.524. FILING OF AMENDMENT OF ARTICLES IN REORGANIZATION
3 PROCEEDINGS. Duplicate originals of the articles of amendment in
4 reorganization proceedings shall be delivered to the commissioner for
5 processing according to AS 10.06.910 and for issuance of a certificate
6 of amendment.

7 Sec. 10.06.526. EFFECT OF ISSUANCE OF CERTIFICATE OF AMENDMENT IN
8 REORGANIZATION PROCEEDINGS. An amendment becomes effective upon the
9 issuance of a certificate of amendment in reorganization proceedings,
10 and the articles are considered to be amended without action by the
11 directors or shareholders of the corporation and with the same effect
12 as if the amendments had been adopted by unanimous action of the direc-
13 tors and shareholders of the corporation.

14 ARTICLE 8. ORGANIC CHANGE.

15 Sec. 10.06.530. MERGER. Two or more domestic corporations may
16 merge into one of such corporations under a plan of merger approved in
17 the manner provided in AS 10.06.530 - 10.06.586.

18 Sec. 10.06.532. PROCEDURE FOR MERGER. A plan of merger approved
19 by a resolution of the board of each corporation shall be proposed
20 setting out

21 (1) the names of the corporations proposing to merge and the
22 name of the surviving corporation into which they propose to merge;

23 (2) the terms and conditions of the proposed merger;

24 (3) the manner and basis of converting the shares of each
25 merging corporation into shares or other securities or obligations of
26 the surviving corporation;

27 (4) a statement of changes in the articles of incorporation
28 of the surviving corporation caused by the merger; and

29 (5) other provisions of the merger considered necessary or

1 desirable.

2 Sec. 10.06.534. CONSOLIDATION. Two or more domestic corporations
3 may consolidate into a new domestic corporation under a plan of consoli-
4 dation approved in the manner provided in AS 10.06.530 - 10.06.586.

5 Sec. 10.06.536. PROCEDURE FOR CONSOLIDATION. A plan of consoli-
6 dation approved by a resolution of the board of each corporation shall
7 be proposed setting out

8 (1) the names of the corporations proposing to consolidate
9 and the name of the new corporation into which they propose to consoli-
10 date;

11 (2) the terms and conditions of the proposed consolidation;

12 (3) the manner and basis of converting the shares of each
13 corporation into shares or other securities or obligations of the new
14 corporation;

15 (4) the statements with respect to the new corporation
16 required to be set out in the articles of incorporation for corporations
17 organized under this chapter; and

18 (5) other provisions of the consolidation considered neces-
19 sary or desirable.

20 Sec. 10.06.538. SHARE EXCHANGE. All of the issued or outstanding
21 shares of one or more classes of a domestic corporation may be acquired
22 through the exchange of all of the issued or outstanding shares of such
23 class or classes by another domestic or foreign corporation under a
24 plan of exchange approved in the manner provided in AS 10.06.530 -
25 10.06.586.

26 Sec. 10.06.540. PROCEDURE FOR SHARE EXCHANGE. (a) A plan of
27 exchange approved by a resolution of the board of each corporation
28 shall be proposed setting out

29 (1) the name of the corporation the shares of which are

1 proposed to be acquired by exchange and the name of the acquiring
2 corporation;

3 (2) the terms and conditions of the proposed exchange;

4 (3) the manner and basis of exchanging the shares to be
5 acquired for shares, obligations, or other securities of the acquiring
6 corporation or another corporation, or, in whole or in part, for cash
7 or other property;

8 (4) other provisions of the proposed exchange considered
9 necessary or desirable.

10 (b) The procedure authorized by this section does not limit the
11 power of a corporation to acquire all or part of the shares of any
12 class or classes of a corporation through voluntary exchange or other-
13 wise by agreement with the shareholders.

14 Sec. 10.06.542. DISPARATE TREATMENT OF SHARES OF THE SAME CLASS
15 OR SERIES PROHIBITED: EXCEPTIONS. (a) Except as provided in (b) of
16 this section all shares of the same class or series shall be treated
17 equally with respect to a distribution of shares, cash, property,
18 rights, or securities in any plan of merger, consolidation, or share
19 exchange.

20 (b) Disparate treatment of shares of the same class or series may
21 be proposed in a plan of merger, consolidation, or share exchange if

22 (1) disparate treatment is necessary to preserve a sub-
23 chapter S election under the Internal Revenue Code of 1954;

24 (2) there is a sound business reason for disparate treatment
25 and proponents of the plan prove it is consistent with fiduciary duties
26 owed to all shareholders; or

27 (3) there is unanimous consent of all shareholders.

28 Sec. 10.06.544. NOTICE TO AND APPROVAL BY SHAREHOLDERS. Upon
29 approval by the board of each corporation of a plan of merger, consoli-

1 dation, or exchange, each board shall, by resolution, direct that the
2 plan be submitted for approval, at either an annual or special meeting,
3 by the outstanding shares of each corporation. Written notice shall be
4 given to each shareholder of record, whether or not his share or shares
5 have voting rights under the articles of the corporation, not less than
6 20 days before the meeting, in the manner provided in this chapter for
7 the giving of notice of meetings of shareholders. Whether the meeting
8 is an annual or special meeting, the notice shall state that the purpose
9 or one of the purposes of the meeting is to consider the proposed plan
10 of merger, consolidation, or exchange. A copy or summary of the plan
11 of merger, consolidation, or exchange, as well as a copy of AS 10.06.574
12 and 10.06.576, concerning the rights of a dissenting shareholder, shall
13 be included with the notice.

14 Sec. 10.06.546. MANNER OF APPROVAL BY SHAREHOLDERS. At each
15 meeting for which notice is given under AS 10.06.544 a vote of the
16 shareholders shall be taken on the proposed plan of merger, consolida-
17 tion, or exchange. Each outstanding share of each corporation may vote
18 on the proposed plan whether or not the share has voting rights under
19 the articles of the corporation. The plan is approved if it receives
20 the affirmative vote of at least two-thirds of the outstanding shares
21 of each corporation. If a class of shares of a corporation is entitled
22 to vote on the plan as a class, the plan is approved if it receives the
23 affirmative vote of at least two-thirds of the outstanding shares of
24 each class of shares entitled to vote on the plan as a class and the
25 affirmative vote of at least two-thirds of the total shares entitled to
26 vote on the plan. A class of shares of a corporation is entitled to
27 vote as a class if a plan contains a provision which, if contained in a
28 proposed amendment to the articles of incorporation, would entitle the
29 class of shares to vote as a class and, in the case of an exchange, if

1 the class is included in the exchange.

2 Sec. 10.06.548. ABANDONMENT OF PLAN OF MERGER, CONSOLIDATION, OR
3 EXCHANGE. After approval of the outstanding shares of each corporation
4 under AS 10.06.546 and before the filing of the articles of merger,
5 consolidation, or exchange, the merger, consolidation, or exchange may
6 be abandoned under provisions set out in the plan.

7 Sec. 10.06.550. ARTICLES OF MERGER, CONSOLIDATION, OR EXCHANGE.
8 After approval, articles of merger, articles of consolidation, or
9 articles of exchange shall be executed in duplicate by each corporation
10 by its president or a vice-president and by its secretary or an assis-
11 tant secretary, and verified by one of the officers of each corporation
12 signing the articles, and shall set out

13 (1) the plan of merger, consolidation, or exchange;

14 (2) the number of shares outstanding of each corporation,
15 and, if the shares of a class were entitled to vote as a class, the
16 designation and number of outstanding shares of the class; and

17 (3) the number of shares voted for and against the plan,
18 and, if the shares of a class were entitled to vote as a class, the
19 number of shares of the class voted for and against the plan.

20 Sec. 10.06.552. FILING OF ARTICLES OF MERGER, CONSOLIDATION, OR
21 EXCHANGE. Duplicate originals of the articles of merger, consolida-
22 tion, or exchange shall be delivered to the commissioner for processing
23 according to AS 10.06.910 and for the issuance of a certificate of
24 merger, consolidation, or exchange.

25 Sec. 10.06.554. MERGER OF SUBSIDIARY CORPORATION. A corporation
26 owning at least 90 percent of the outstanding shares of each class of
27 another corporation may merge the other corporation into itself without
28 approval by a vote of the shareholders of either corporation.

29 Sec. 10.06.556. PROCEDURE FOR MERGER OF SUBSIDIARY CORPORATION.

1 (a) The board of a proposed surviving corporation shall, by resolution,
2 approve a plan of merger setting out

3 (1) the name of the subsidiary corporation and the name of
4 the corporation owning at least 90 percent of its shares;

5 (2) subject to AS 10.06.542, the manner and basis of convert-
6 ing the shares of the subsidiary corporation into shares, obligations,
7 or other securities of the surviving or other corporation or, in whole
8 or in part, into cash or other property.

9 (b) A copy of a plan of merger shall be mailed to each shareholder
10 of record of the subsidiary corporation.

11 (c) Articles of merger shall be executed in duplicate by the
12 surviving corporation by its president or a vice-president and by its
13 secretary or an assistant secretary, and verified by one of its officers
14 signing the articles, and shall set out

15 (1) the plan of merger;

16 (2) the number of outstanding shares of each class of the
17 subsidiary corporation and the number of those shares of each class
18 owned by the surviving corporation; and

19 (3) the date of the mailing to shareholders of the subsidiary
20 corporation of the plan of merger.

21 Sec. 10.06.558. FILING OF ARTICLES OF MERGER OF SUBSIDIARY COR-
22 PORATION. Duplicate originals of the articles of merger of a subsidiary
23 corporation shall be delivered to the commissioner for processing
24 according to AS 10.06.910 and for the issuance of a certificate of
25 merger.

26 Sec. 10.06.560. EFFECT OF MERGER, CONSOLIDATION, OR EXCHANGE.

27 (a) A merger, consolidation, or exchange is effective upon the issuance
28 of a certificate of merger, consolidation, or exchange by the commis-
29 sioner, or on a later date, not more than 30 days after the filing of

1 the certificate with the commissioner, as provided in the plan.

2 (b) When a merger or consolidation becomes effective,

3 (1) the corporations parties to the plan of merger or con-
4 solidation shall be a single corporation, which, in the case of a
5 merger, shall be that corporation designated in the plan of merger as
6 the surviving corporation, and, in the case of a consolidation, shall
7 be the new corporation provided for in the plan of consolidation;

8 (2) the separate existence of all corporations parties to
9 the plan of merger or consolidation, except the surviving or new cor-
10 poration, ceases;

11 (3) a surviving or new corporation has all the rights,
12 privileges, immunities, and powers and is subject to all the duties and
13 liabilities of a corporation organized under this chapter;

14 (4) the surviving or new corporation possesses all the
15 public and private rights, privileges, immunities, and franchises of
16 each of the merging or consolidating corporations; all property, real,
17 personal, and mixed, and all debts due on whatever account, including
18 subscriptions to shares, and all other choses in action, and every
19 other interest of, belonging to, or due to each of the merged or con-
20 solidated corporations, shall be transferred to and vested in the
21 surviving or new corporation without further act; and the title to real
22 estate, or an interest in real estate, vested in any of the corpora-
23 tions may not revert or be in any way impaired by reason of a merger or
24 consolidation;

25 (5) a surviving or new corporation is responsible and liable
26 for all the liabilities and obligations of each of the merged or con-
27 solidated corporations; a claim existing or action or proceeding pend-
28 ing by or against the merged or consolidated corporations may be prose-
29 cuted as if the merger or consolidation has not taken place, or the

1 surviving or new corporation may be substituted in its place; and the
2 rights of creditors or any liens upon the property of the merged or
3 consolidated corporations may not be impaired by the merger or consoli-
4 dation;

5 (6) in the case of a merger, the articles of incorporation
6 of the surviving corporation are considered to be amended to the extent
7 that changes in its articles are stated in the plan of merger; and, in
8 the case of a consolidation, the statements set out in the articles of
9 consolidation which are required or permitted to be set out in the
10 articles of incorporation of corporations organized under this chapter
11 are considered to be the original articles of the new corporation.

12 (c) When a merger, consolidation, or exchange becomes effective,
13 the shares of the corporation or corporations party to the plan that
14 are to be converted or exchanged under the terms of the plan cease to
15 exist, in the case of a merger or consolidation, or are considered to
16 be exchanged, in the case of an exchange, and the holders of the shares
17 are entitled only to the shares, obligations, other securities, cash,
18 or other property into which the shares have been converted or for
19 which they have been exchanged, in accordance with the plan, subject to
20 the rights under AS 10.06.574.

21 Sec. 10.06.562. MERGER, CONSOLIDATION, OR EXCHANGE OF SHARES
22 BETWEEN DOMESTIC AND FOREIGN CORPORATION. One or more foreign corpora-
23 tions and one or more domestic corporations may be merged or consoli-
24 dated, or participate in an exchange, if the merger, consolidation, or
25 exchange is permitted by the laws of the state under which each foreign
26 corporation is organized and

27 (1) each domestic corporation complies with the provisions
28 of this chapter with respect to the merger, consolidation, or exchange
29 of domestic corporations and each foreign corporation complies with the

1 applicable provisions of the laws of the state under which it is orga-
2 nized; and

3 (2) if the surviving or new corporation is to be governed by
4 the laws of another state, it complies with the provisions of this
5 chapter concerning foreign corporations if it is to transact business
6 in this state and it files with the commissioner

7 (A) an agreement that the surviving or new foreign
8 corporation may be served with process in this state in a proceed-
9 ing for the enforcement of an obligation of a domestic corporation
10 which is a party to the merger or consolidation and in a proceeding
11 for the enforcement of the rights of a dissenting shareholder of a
12 domestic corporation against the surviving or new corporation;

13 (B) an irrevocable appointment of the commissioner as
14 the agent of the surviving or new corporation to accept service of
15 process in a proceeding described in (A) of this paragraph; and

16 (C) an agreement that it will promptly pay to the
17 dissenting shareholders of a domestic corporation the amount to
18 which they are entitled under provisions of this chapter with
19 respect to the rights of dissenting shareholders.

20 Sec. 10.06.564. REORGANIZATION: DISCLOSURE OF ALIEN AFFILIATES.
21 Not less than 20 days before the consummation of an organic change
22 under AS 10.06.530 - 10.06.562, the surviving or new corporation shall
23 deliver to the commissioner

24 (1) a list of the names and addresses of each alien affiliate
25 of the surviving or new corporation;

26 (2) the percentage of outstanding shares controlled by each
27 alien affiliate; and

28 (3) a specific description of the nature of the relationship
29 between the surviving or new corporation and its alien affiliate.

1 Sec. 10.06.566. SALE OF ASSETS IN REGULAR COURSE OF BUSINESS,
2 MORTGAGE OR PLEDGE OF ASSETS. The board of the corporation, without
3 the approval of the shareholders or outstanding shares of the corpora-
4 tion, may authorize the sale, lease, exchange, or other disposition of
5 all, or substantially all, the property and assets of a corporation in
6 the usual and regular course of its business and the mortgage or pledge
7 of any or all property and assets of a corporation whether or not in
8 the usual and regular course of business, upon terms and conditions and
9 for consideration, which may consist in whole or in part of cash or
10 other property, including shares, obligations, or other securities of
11 another domestic or foreign corporation.

12 Sec. 10.06.568. SALE OF ASSETS NOT IN REGULAR COURSE OF BUSINESS.

13 (a) A sale, lease, exchange, or other disposition of all, or substan-
14 tially all, of the property and assets, with or without the good will,
15 of a corporation, if not in the usual and regular course of its busi-
16 ness, may be made upon terms and conditions and for consideration,
17 which may consist in whole or in part of cash or other property, includ-
18 ing shares, obligations or other securities of another foreign or
19 domestic corporation, as authorized in (b) of this section.

20 (b) A sale, lease, exchange, or other disposition shall be recom-
21 mended to the shareholders by resolution approved by the board and
22 submitted to a vote of the shareholders at a regular or special meeting.
23 Written notice shall be given to each shareholder of record of the
24 corporation, whether or not his shares have voting rights under the
25 articles of the corporation, not less than 20 days before the meeting,
26 in the manner provided in this chapter for the giving of notice of
27 meetings of shareholders. Whether the meeting is an annual or special
28 meeting the notice shall state that the purpose or one of the purposes
29 of the meeting is to consider the proposed sale, lease, exchange, or

1 other disposition, and include a copy of AS 10.06.574 - 10.06.576,
2 concerning the rights of a dissenting shareholder.

3 Sec. 10.06.570. APPROVAL OF TRANSACTION BY SHAREHOLDERS. (a) At
4 a meeting for which notice is given under AS 10.06.568(b) a vote of the
5 shareholders shall be taken on the recommended sale, lease, exchange,
6 or other disposition and the shareholders may fix, or may authorize the
7 board to fix, the terms and conditions and the consideration to be
8 received by the corporation. The transaction is approved if the recom-
9 mendation of the board receives the affirmative vote of at least two-
10 thirds of the outstanding shares of the corporation, unless a class of
11 shares is entitled to vote as a class, in which event the transaction
12 shall be approved upon receiving the affirmative vote of at least
13 two-thirds of the outstanding shares of each class of shares entitled
14 to vote as a class and of the total shares entitled to vote.

15 (b) If the buyer in a sale of assets under AS 10.06.568 is in
16 control of or under common control with the seller, the principal terms
17 of the sale must be approved by at least 90 percent of the outstanding
18 shares of the seller unless the sale is to a domestic or foreign corpo-
19 ration in consideration for the nonredeemable common shares of the
20 purchasing corporation or its parent.

21 Sec. 10.06.572. ABANDONMENT OF TRANSACTION BY BOARD. The board
22 in its discretion may abandon a sale, lease, exchange, or other disposi-
23 tion of assets after approval by the shares without further action or
24 approval by the shares, subject to the rights of third parties under
25 contracts relating to the sale, lease, exchange, or other disposition.

26 Sec. 10.06.574. RIGHT OF SHAREHOLDERS TO DISSENT. (a) A share-
27 holder may dissent from the following corporate actions:

28 (1) a plan of merger, consolidation, or exchange to which
29 the corporation is a party; or

1 (2) a sale or exchange of all or substantially all of the
2 property and assets of the corporation not made in the usual and regular
3 course of its business, including a sale in dissolution, but not includ-
4 ing a sale under a court order or a sale for cash on terms requiring
5 that all or substantially all of the net proceeds of the sale be dis-
6 tributed to the shareholders in accordance with their respective inter-
7 ests within one year after the date of sale.

8 (b) The rights of a shareholder who dissents as to less than all
9 of the shares registered in his name shall be determined as if the
10 shares as to which he dissents and his other shares are registered in
11 the names of different shareholders.

12 (c) This section does not apply to the shareholders of the sur-
13 viving corporation in a merger if a vote of shareholders of the sur-
14 viving corporation is not necessary to authorize the merger.

15 (d) This section does not apply to the holders of shares of a
16 class or series if the shares of the class or series were registered on
17 a national securities exchange on the date fixed to determine the
18 shareholders entitled to vote at the meeting of shareholders at which
19 the plan of merger, consolidation, or exchange or the proposed sale or
20 exchange of property and assets is to be acted upon unless the articles
21 of the corporation provide otherwise.

22 Sec. 10.06.576. RIGHTS OF DISSENTING SHAREHOLDERS: WITHDRAWAL OF
23 DEMAND. (a) A shareholder electing to exercise a right of dissent
24 shall file with the corporation, before or at the meeting of share-
25 holders at which the proposed corporate action is submitted to a vote,
26 a written objection to the proposed corporate action. If the proposed
27 corporate action is approved by the required vote and the shareholder
28 did not vote in favor of the action, the shareholder may, within 10 days
29 after the date on which the vote was taken or if a corporation is to be

1 merged without a vote of its shareholders into another corporation, any
2 of its shareholders may, within 20 days after the plan of merger has
3 been mailed to the shareholders, make written demand on the corporation,
4 or, in the case of a merger or consolidation, on the surviving or new
5 corporation, for payment of the fair value of the shareholder's shares.
6 If the proposed corporate action is effected, the corporation shall pay
7 to the dissenting shareholder, upon surrender of the certificate or
8 certificates representing his shares, the fair value of the shares as
9 of the day before the date on which the vote was taken approving the
10 proposed corporate action, excluding any appreciation or depreciation
11 in anticipation of the corporate action. A shareholder failing to make
12 timely demand under this section is bound by the terms of the proposed
13 corporate action. A dissenting shareholder making demand under this
14 section is entitled only to payment as provided in this section and is
15 not entitled to vote or to exercise any other rights of a shareholder.

16 (b) A demand may not be withdrawn without the consent of the
17 corporation. If a demand is withdrawn with consent, or if the proposed
18 corporate action is abandoned or rescinded or the shareholders revoke
19 the authority for the action, or if, in the case of a merger, on the
20 date of the filing of the articles of merger the surviving corporation
21 is the owner of all the outstanding shares of the other corporations
22 that are parties to the merger, or if no demand or petition for the
23 determination of fair value by a court has been made or filed within
24 the time provided in AS 10.06.582, or if a court determines that a
25 shareholder is not entitled to the relief provided by AS 10.06.582,
26 then the right of the shareholder to be paid the fair value of his
27 shares ceases and his status as a shareholder shall be restored, without
28 prejudice to any corporate proceedings which may have been taken during
29 the interim.

1 Sec. 10.06.578. NOTICE TO DISSENTING SHAREHOLDER. Within 10 days
2 after the corporate action is effected, the corporation or in the case
3 of a merger or consolidation, the surviving or new corporation shall
4 give written notice of the action to each dissenting shareholder who
5 has made demand under AS 10.06.576, and shall make a written offer to
6 each dissenting shareholder to pay a specified price considered by the
7 corporation to be the fair value for his shares. The notice and offer
8 shall be accompanied by a balance sheet of the corporation the shares
9 of which the dissenting shareholder holds as of the latest available
10 date but not more than 12 months before the making of the offer, and a
11 profit and loss statement of that corporation for the 12-month period
12 ending on the date of the balance sheet.

13 Sec. 10.06.580. PAYMENT TO DISSENTING SHAREHOLDER AFTER AGREEMENT
14 ON VALUE OF SHARES. If within 30 days after the date on which such
15 corporate action is effected the fair value of the shares is agreed
16 upon between the dissenting shareholder and the corporation, payment
17 for the shares shall be made to the dissenting shareholder within 90
18 days after the action was effected. Upon payment of the agreed value
19 the dissenting shareholder ceases to have any interest in the shares.

20 Sec. 10.06.582. ACTION TO DETERMINE VALUE OF SHARES UPON FAILURE
21 TO AGREE. (a) If, within 30 days after a corporation effects an
22 organic change to which a shareholder dissents under AS 10.06.574, a
23 dissenting shareholder and the corporation do not agree on the fair
24 value of the shares, the corporation, within 30 days after receipt of
25 written demand from a dissenting shareholder given within 60 days after
26 the corporate action was effected, shall, or at its election any time
27 within 60 days of the corporate action, may, file a petition in a court
28 in the judicial district where the registered office of the corporation
29 is located, requesting that the fair value of the shares be found and

1 determined. If, in the case of a merger or consolidation, the surviv-
2 ing or new corporation is a foreign corporation without a registered
3 office in the state, the petition shall be filed in the judicial dis-
4 trict where the registered office of the domestic corporation was last
5 located. If the corporation fails to institute a proceeding as provided
6 in this section, a dissenting shareholder may institute a proceeding in
7 the name of the corporation. All dissenting shareholders, wherever
8 residing, shall be made parties to the proceeding as an action against
9 their shares quasi in rem. A copy of the petition shall be served by
10 certified mail on each dissenting shareholder who is a nonresident.
11 Service on nonresidents shall also be made by publication as provided
12 by law. The jurisdiction of the court shall be plenary and exclusive.
13 All shareholders who are parties to the proceeding are entitled to
14 judgment against the corporation for the amount of the fair value of
15 their shares. The court may appoint one or more persons as appraisers
16 to receive evidence and recommend a decision on the question of fair
17 value of the shares. The appraisers shall have the power and authority
18 as specified in the order of their appointment or as amended. The
19 judgment shall be payable only upon and concurrently with the surrender
20 to the corporation of the certificate or certificates representing the
21 shares. Upon payment of the judgment, the dissenting shareholder
22 ceases to have an interest in the shares.

23 (b) The judgment shall include an allowance for interest at a
24 rate the court finds to be fair and equitable, from the date on which
25 the vote was taken on the proposed corporate action to the date of
26 payment.

27 (c) The costs and expenses of a proceeding under this section
28 shall be determined by the court and shall be assessed against the
29 corporation. All or any part of the costs and expenses may be appor-

1 tioned and assessed as the court considers equitable against any or all
2 of the dissenting shareholders who are parties to the proceeding to
3 whom the corporation made an offer to pay for the shares if the court
4 finds that the action of the shareholders in failing to accept the
5 offer was arbitrary, vexatious, or not in good faith. The expenses
6 shall include the reasonable compensation and expenses of the apprais-
7 ers, but shall exclude the fees and expenses of counsel for and experts
8 employed by any party. If the fair value of the shares as determined
9 by the court materially exceeds the amount which the corporation offered
10 to pay, or if no offer was made, the court in its discretion may award
11 to a shareholder who is a party to the proceeding reasonable compensa-
12 tion for an expert or experts employed by the shareholder in the pro-
13 ceeding.

14 Sec. 10.06.584. PRESENTATION OF DISSENTERS' SHARES TO CORPORATION.
15 Within 20 days after demanding payment for his shares, a shareholder
16 demanding payment shall submit the certificate or certificates repre-
17 senting his shares to the corporation for notation on the shares that a
18 demand for payment has been made. If the shareholder fails to submit
19 his certificates, the corporation may terminate his rights under AS 10.-
20 06.530 - 10.06.586 unless a court orders otherwise. If shares repre-
21 sented by a certificate on which a notation of demand for payment has
22 been made are transferred, each new certificate issued for the shares
23 shall bear a similar notation, together with the name of the original
24 dissenting holder of the shares, and a transferee of the shares acquires
25 only those rights in the corporation which the original dissenting
26 shareholder had after making demand for payment of the fair value of
27 the shares.

28 Sec. 10.06.586. STATUS OF SHARES ACQUIRED FROM DISSENTING SHARE-
29 HOLDERS. Shares acquired by a corporation under AS 10.06.582 and

1 10.06.584 shall be held and disposed of by the corporation as other
2 reacquired shares (AS 10.06.388), except that, in the case of a merger
3 or consolidation, they shall be held and disposed of as the plan of
4 merger or consolidation may otherwise provide.

5 ARTICLE 9. DISSOLUTION.

6 Sec. 10.06.605. VOLUNTARY DISSOLUTION BY VOTE, WRITTEN CONSENT OF
7 SHARES, OR ELECTION OF THE BOARD. (a) A corporation may elect volun-
8 tarily to wind up and dissolve by

9 (1) the vote of shareholders taken at a special or annual
10 meeting with notice to each shareholder entitled to vote at the meeting
11 (AS 10.06.410) and stating that the purpose, or one of the purposes, of
12 the meeting is to consider approval of voluntary dissolution of the
13 corporation; at the meeting the election to voluntarily dissolve is
14 adopted upon receiving the affirmative votes of two-thirds or more of
15 the shares of the corporation entitled to vote, unless any class of
16 shares is entitled to vote as a class, in which case the election is
17 adopted upon receiving the affirmative vote of two-thirds or more of
18 the shares of each class entitled to vote as a class and of two-thirds
19 or more of the shares entitled to vote; or

20 (2) written consent of the shares taken without a meeting
21 (AS 10.06.423).

22 (b) The following corporations may elect by approval of the board
23 to wind up and dissolve:

24 (1) a corporation which has been adjudicated bankrupt;

25 (2) a corporation which has disposed of all of its assets
26 and has not conducted any business for a period of five years immedi-
27 ately preceding the adoption of the resolution to dissolve the corpora-
28 tion; and

29 (3) a corporation which has issued no shares.

1 Sec. 10.06.608. CERTIFICATE OF ELECTION: CONTENTS, SIGNING,
2 VERIFICATION AND FILING. (a) A corporation which has elected to wind
3 up and dissolve shall immediately file a certificate evidencing the
4 election as provided in this section.

5 (b) The certificate shall be an officers' certificate or shall be
6 signed and verified by at least a majority of the directors then in
7 office, by one or more shareholders authorized to do so by the share-
8 holders holding shares representing 50 percent or more of the voting
9 power, or by the officer or shareholder designated in the written
10 consent and shall set out

11 (1) the name of the corporation, the names and addresses of
12 its officers (AS 10.06.483), the names and addresses of its directors,
13 and the statement that the corporation has elected to wind up and
14 dissolve;

15 (2) the number of shares voting for the election if the
16 election was made by the vote of shareholders and a statement that the
17 election was made by shareholders representing at least two-thirds of
18 the voting power (AS 10.06.605(a)(1));

19 (3) a copy of the written consent signed by all shareholders
20 of the corporation if the election was made by the written consent of
21 the shares;

22 (4) circumstances showing the corporation to be within one
23 of the categories described in AS 10.06.605(b) if the election was made
24 by the board under that subsection.

25 (c) Duplicate originals of the certificate conforming to (b) of
26 this section shall be delivered to the commissioner for processing
27 according to AS 10.06.910.

28 Sec. 10.06.610. CERTIFICATE OF REVOCATION OF ELECTION: CONTENTS,
29 SIGNING, VERIFICATION, AND FILING. (a) A voluntary election to wind

1 up and dissolve under AS 10.06.605 may be revoked before distribution
2 of assets by an election to revoke made in the same manner as an elec-
3 tion under AS 10.06.605. A certificate evidencing the election to
4 revoke shall be signed, verified, and filed in the manner prescribed in
5 AS 10.06.608.

6 (b) The certificate shall set out .

7 (1) that the corporation has revoked its election to wind up
8 and dissolve;

9 (2) that no assets have been distributed as a result of the
10 election;

11 (3) the number of shares voting for the revocation and the
12 total number of outstanding shares the holders of which were entitled
13 to vote on the revocation, if the election to revoke was made by the
14 vote of shareholders;

15 (4) a copy of the written consent signed by all shareholders
16 of the corporation if the election to revoke was made by the written
17 consent of the shares;

18 (5) the resolution of the board if the election to revoke
19 was made by the board.

20 Sec. 10.06.613. EFFECT OF CERTIFICATE OF REVOCATION OF ELECTION.
21 Revocation of a voluntary dissolution proceeding is effective upon
22 compliance with AS 10.06.610 and the corporation may again carry on its
23 business.

24 Sec. 10.06.615. COMMENCEMENT AND CONDUCT OF VOLUNTARY PROCEEDINGS
25 FOR WINDING UP; CESSATION OF BUSINESS; NOTICE. (a) Voluntary proceed-
26 ings for winding up the corporation commence upon the resolution of
27 shareholders or directors of the corporation electing to wind up and
28 dissolve, or upon the filing with the corporation of a written consent
29 of the shareholders.

1 (b) If a voluntary proceeding for winding up has commenced, the
2 board shall continue to act as a board and has powers as provided in
3 (c) of this section to wind up and settle its affairs, both before and
4 after the filing of the certificate of dissolution.

5 (c) If a voluntary proceeding for winding up has commenced, the
6 corporation shall cease to carry on business except to the extent
7 necessary for the beneficial winding up of its business and except
8 during the period the board considers necessary to preserve the corpo-
9 ration's goodwill or going-concern value pending a sale of its business
10 or assets, in whole or in part. The board shall give written notice of
11 the commencement of the proceeding for voluntary winding up by mail to
12 all shareholders and all known creditors and claimants whose addresses
13 appear on the records of the corporation. It is unnecessary to give
14 notice to shareholders who voted in favor of winding up and dissolving
15 the corporation.

16 Sec. 10.06.618. JUDICIAL SUPERVISION OF WINDING UP; PETITION AND
17 NOTICE; ORDER PROTECTING SHAREHOLDERS AND CREDITORS. If a corporation
18 is in the process of voluntary winding up, a court, upon the petition
19 of the corporation, a five percent shareholder, or three or more credi-
20 tors, and upon notice to the corporation and to other persons interested
21 in the corporation as shareholders and creditors as the court may
22 order, may take jurisdiction over the voluntary winding-up proceeding
23 if it appears necessary for the protection of any parties in interest.
24 The court, if it assumes jurisdiction, may make orders as to any and
25 all matters concerning the winding up of the affairs of the corporation
26 and for the protection of its shareholders and creditors of the corpora-
27 tion.

28 Sec. 10.06.620. ARTICLES OF DISSOLUTION: CONTENTS. If a corpo-
29 ration has been completely wound up without court proceedings, a major-

1 ity of the directors then in office shall sign and verify articles of
2 dissolution stating

3 (1) that the corporation has been completely wound up;

4 (2) that its known debts and liabilities have been actually
5 paid, or adequately provided for (AS 10.06.668), or paid or adequately
6 provided for as far as the assets of the corporation permit, or that it
7 has incurred no known debts or liabilities; if there are known debts or
8 liabilities for which adequate provision for payment has been made, the
9 articles of dissolution shall state what provision has been made,
10 setting out the name and address of the corporation, person, or govern-
11 mental agency that has assumed or guaranteed payment, or the name and
12 address of the depository with which deposit has been made and such
13 other information as may be necessary to enable the creditor or other
14 person to whom payment is to be made to appear and claim payment of the
15 debt or liability;

16 (3) that its known assets have been distributed to share-
17 holders, or, if there are no shareholders, to persons entitled to the
18 assets, or wholly applied or deposited on account of its debts and
19 liabilities or that it acquired no known assets;

20 (4) that the corporation is dissolved.

21 Sec. 10.06.623. FILING OF ARTICLES OF DISSOLUTION. Duplicate
22 originals of the articles of dissolution shall be delivered to the
23 commissioner for processing according to AS 10.06.910 and for issuance
24 of a certificate of dissolution.

25 Sec. 10.06.625. EFFECT OF CERTIFICATE OF DISSOLUTION. Upon the
26 issuance of a certificate of dissolution, the existence of the corpora-
27 tion ceases, except for the purpose of suits, other proceedings, and
28 appropriate corporate action by shareholders, directors, and officers
29 as provided in this chapter.

1 Sec. 10.06.628. INVOLUNTARY DISSOLUTION BY VERIFIED COMPLAINT;
2 FILING; INTERVENTION BY SHAREHOLDER OR CREDITOR. (a) A verified
3 complaint for involuntary dissolution of a corporation on any of the
4 grounds specified in (b) of this section may be filed in the superior
5 court by the following persons:

6 (1) one-half or more of the directors in office;

7 (2) a shareholder or shareholders who hold shares represent-
8 ing not less than 33-1/3 percent of the total number of outstanding
9 shares, assuming conversion of preferred shares convertible into common
10 shares, or of the outstanding common shares, or of the equity of the
11 corporation, exclusive of shares owned by persons who have personally
12 participated in any of the transactions enumerated in (b)(4) of this
13 section;

14 (3) any shareholder if the ground for dissolution is that
15 the period for which the corporation was formed has terminated without
16 extension; or

17 (4) any other person expressly authorized to do so in the
18 articles.

19 (b) The grounds for involuntary dissolution are:

20 (1) the corporation has abandoned its business for more than
21 one year;

22 (2) the corporation has an even number of directors who are
23 equally divided and cannot agree as to the management of its affairs,
24 so that its business can no longer be conducted to advantage or so that
25 there is danger that its property and business will be impaired or
26 lost, and the holders of the voting shares of the corporation are so
27 divided into factions that they cannot elect a board consisting of an
28 uneven number;

29 (3) there is internal dissension and two or more factions of

1 shareholders in the corporation are so deadlocked that its business can
2 no longer be conducted with advantage to its shareholders, or the
3 shareholders have failed at two consecutive annual meetings at which
4 all voting power was exercised to elect successors to directors whose
5 terms have expired or would have expired upon election of their succes-
6 sors;

7 (4) those in control of the corporation have been guilty of
8 or have knowingly countenanced persistent and pervasive fraud, mis-
9 management or abuse of authority or persistent unfairness toward share-
10 holders, or the property of the corporation is being misapplied or
11 wasted by its directors or officers;

12 (5) in the case of any corporation with 35 or fewer share-
13 holders of record, liquidation is reasonably necessary for the protec-
14 tion of the rights or interests of the complaining shareholder or
15 shareholders; or

16 (6) the period for which the corporation was formed has
17 terminated without extension.

18 (c) Before the trial of the action a shareholder or creditor of
19 the corporation may intervene.

20 (d) For purposes of this section, "shareholder" includes a bene-
21 ficial owner of shares who has entered into an agreement under AS 10.-
22 06.425.

23 Sec. 10.06.630. AVOIDING DISSOLUTION BY VERIFIED COMPLAINT;
24 PURCHASE OF PLAINTIFF'S SHARES; DETERMINATION OF FAIR VALUE; STAY;
25 APPRAISAL; AWARD, APPEAL. (a) Subject to a contrary provision in the
26 articles of incorporation, in a suit for involuntary dissolution
27 (AS 10.06.628) the corporation or, if it does not elect to purchase,
28 the holders of 50 percent or more of the voting power of the corpora-
29 tion, the "purchasing parties" may avoid the dissolution of the corpora-

1 tion and the appointment of a receiver by purchasing for cash the
2 shares owned by the plaintiffs, the "moving parties" at their fair
3 value. The fair value shall be determined on the basis of the liquida-
4 tion value, taking into account the possibility of sale of the entire
5 business as a going concern in a liquidation. The election of the
6 corporation to purchase may be made by the approval of the outstanding
7 shares excluding shares held by the moving parties.

8 (b) If the purchasing parties elect to purchase the shares owned
9 by the moving parties, and are unable to agree with the moving parties
10 upon the fair value of the shares, and give bond with sufficient secur-
11 ity to pay the estimated reasonable expenses, including attorney fees,
12 of the moving parties if the expenses are recoverable under (c) of this
13 section, the court upon application of the purchasing parties shall
14 stay the winding up and dissolution proceeding and shall proceed to
15 ascertain and fix the fair value of the shares owned by the moving
16 parties.

17 (c) The court shall appoint three disinterested appraisers to
18 appraise the fair value of the shares owned by the moving parties, and
19 shall make an order referring the matter to the appraisers for the
20 purpose of ascertaining the value of the shares. The order shall
21 prescribe the time and manner of producing evidence if evidence is
22 required. The award of the appraisers or of a majority of the ap-
23 praisers, when confirmed by the court, is final and conclusive upon all
24 parties. The court shall enter a decree which provides in the alterna-
25 tive for winding up and dissolution of the corporation unless payment
26 is made for the shares within the time specified by the decree. If the
27 purchasing parties do not make payment for the shares within the time
28 specified, judgment shall be entered against the purchasing parties and
29 the surety or sureties on the bond for the amount of the expenses,

1 including attorney fees, of the moving parties. A shareholder aggrieved
2 by the action of the court may appeal.

3 (d) If the purchasing parties desire to prevent the winding up
4 and dissolution, they shall pay to the moving parties the value of
5 their shares as provided under this section less an allowance for the
6 costs of the appraisal as the court shall determine. In the case of an
7 appeal, the purchasing parties shall pay to the moving parties the
8 value of the shares and costs of appraisal as fixed on appeal. On
9 receiving payment or the tender of payment as determined by the court,
10 the moving parties shall transfer their shares to the purchasing par-
11 ties.

12 (e) For the purposes of this section, "shareholder" includes a
13 beneficial owner of shares who has entered into an agreement under
14 AS 10.06.425.

15 Sec. 10.06.633. INVOLUNTARY DISSOLUTION BY THE COMMISSIONER:
16 GROUNDS, PROCEDURE, REINSTATEMENT. (a) A corporation may be dissolved
17 involuntarily by the commissioner if

18 (1) the corporation is delinquent six months in filing its
19 biennial report or in paying a license filing fee or penalty;

20 (2) the corporation has failed for 30 days to appoint and
21 maintain a registered agent in the state;

22 (3) the corporation has failed for 30 days after change of
23 its registered office or registered agent to file in the office of the
24 commissioner a statement of the change;

25 (4) the corporation has failed for two years to complete
26 dissolution under a certificate of election (AS 10.06.608(d)) to dis-
27 solve;

28 (5) a vacancy on the board of the corporation is not filled
29 within six months or the next annual meeting, whichever occurs first;

1 (6) a misrepresentation of material facts has been made in
2 the application, report, affidavit, or other document submitted under
3 this chapter;

4 (7) the corporation is 90 days delinquent in filing notice
5 of change of an officer, director, alien affiliate, or five percent
6 shareholder, as required by this chapter; or

7 (8) the corporation is controlled by a person who wilfully
8 fails to comply with AS 10.06.155 within 30 days after receipt by the
9 corporation or its registered agent of notice of noncompliance sent by
10 the department by certified mail.

11 (b) A corporation may not be dissolved under this section unless
12 the commissioner has given the corporation at least 60 days notice of
13 its delinquency, failure, or noncompliance by certified mail addressed
14 to its registered office or in care of its registered agent, president,
15 or secretary at the last known address as shown by the records of the
16 commissioner, and the corporation has failed, within 30 days after
17 receipt of the notice, to contest the alleged neglect, omission, delin-
18 quency, or noncompliance at a hearing before the commissioner or,
19 having failed to request a hearing, has failed to correct the asserted
20 neglect, omission, delinquency, or noncompliance.

21 (c) If, following a hearing, the commissioner determines the
22 presence of neglect, omission, delinquency, or noncompliance providing
23 grounds for involuntary dissolution under this section, the corporation
24 may appeal to the superior court by filing with the clerk of the court
25 a petition setting out a copy of the notice given by the commissioner
26 under (b) of this section together with a copy of a timely demand for a
27 hearing by the corporation, and a copy of an affirmation by the commis-
28 sioner of an intention to dissolve under (d) of this section. The
29 matter shall be tried de novo by the superior court, and the court

1 shall either sustain the commissioner or direct him to take action the
2 court considers proper.

3 (d) If a corporation has given cause for involuntary dissolution
4 and has failed to correct the neglect, omission, delinquency, or non-
5 compliance as provided in this section, and there has been no order of
6 the superior court, the commissioner shall dissolve the corporation by
7 issuing a certificate of involuntary dissolution containing a statement
8 that the corporation has been dissolved, the date, and the reason for
9 which it was dissolved. The original certificate of dissolution shall
10 be placed in the department files and a copy of it mailed to the corpo-
11 ration at its registered office or in care of its registered agent,
12 president, or secretary at the last known address, as shown by the
13 records of the commissioner. Upon the issuance of the certificate of
14 involuntary dissolution the existence of the corporation ceases, except
15 as otherwise provided in this section, and its name shall be available
16 to and may be adopted by another corporation no less than six months
17 after the dissolution.

18 (e) A corporation dissolved under this section may be reinstated
19 within two years from the date of the certificate of involuntary dis-
20 solution if it is established to the satisfaction of the commissioner
21 that in fact there was no cause for the dissolution, or if the neglect,
22 omission, delinquency, or noncompliance resulting in dissolution has
23 been corrected and payment made of double the amount delinquent along
24 with the amount the corporation would have paid had it not been dis-
25 solved during the two-year period. Reinstatement may not be authorized
26 if the same or a deceptively similar corporate, reserved, or registered
27 name is currently on file with the commissioner, unless the corporation
28 being reinstated amends its articles of incorporation to change its
29 name to conform with the provisions of this chapter.

1 (f) Nothing in this section relieves a corporation reinstated
2 under this section from penalty or forfeiture of its powers in a case
3 of failure to pay subsequently accruing licenses and taxes imposed by a
4 law of the state.

5 (g) An action arising out of a contract assigned by a corporation
6 dissolved under this section may be brought in the name of the assignee.
7 The fact of assignment and of purchase by the plaintiff shall be set
8 out in the complaint or other process. The defendant may avail himself
9 of any matter of defense of which he might have availed himself in a
10 suit upon the claim by the corporation had it not been dissolved under
11 this section.

12 (h) Service of process on a corporation dissolved under this
13 section shall be made in the same manner prescribed by law as if the
14 corporation had not been dissolved.

15 Sec. 10.06.635. COMMISSIONER'S AUTHORITY TO BRING ACTION FOR
16 INVOLUNTARY DISSOLUTION; GROUNDS; RELIEF. (a) In addition to other
17 remedies provided by law, a corporation may be dissolved involuntarily
18 by a decree of the superior court in an action filed by the commissioner
19 when it is established that

20 (1) the corporation has procured its certificate of incorpo-
21 ration through fraud;

22 (2) the corporation has continued to exceed or abuse the
23 authority conferred upon it by law;

24 (3) the corporation has seriously violated a statute regulat-
25 ing corporations; or

26 (4) the corporation has violated a provision of law by an
27 act or default which under the law is a ground for forfeiture of cor-
28 porate existence.

29 (b) The court may order dissolution or such other or partial

1 relief as it considers just and expedient. The court also may appoint
2 a receiver under AS 10.06.643 for winding up the affairs of the corpora-
3 tion or may order that the corporation be wound up by its board subject
4 to the supervision of the court.

5 Sec. 10.06.638. VENUE AND PROCESS FOR COMMISSIONER'S ACTION. (a)
6 An action for the involuntary dissolution of a corporation under AS 10.-
7 06.633 shall be commenced by the commissioner in the superior court.

8 (b) Summons shall issue and be served as in civil actions. If no
9 registered agent or office is found to serve, the commissioner shall
10 publish notice as in civil cases in a newspaper published in the judi-
11 cial district where the registered office of the corporation is sit-
12 uated, containing a notice of the pendency of the action, the title of
13 the court, the title of the action, and the date on or after which
14 default may be entered. The commissioner may include in one notice the
15 names of any number of corporations against which actions are pending
16 in the same court.

17 (c) The commissioner shall mail a copy of the notice to the
18 corporation at its registered office within 10 days after the first
19 publication of the notice.

20 (d) Notice shall be published at least once each week for two
21 successive weeks, and the first publication may begin after the summons
22 has been returned.

23 (e) Unless a corporation is served with summons, a default may
24 not be taken against the corporation earlier than 30 days after the
25 first publication of notice.

26 Sec. 10.06.640. APPOINTMENT OF PROVISIONAL DIRECTOR: DEADLOCK.

27 (a) If the ground for the complaint for involuntary dissolution of the
28 corporation is a deadlock in the board as set out in AS 10.06.628(b)(2),
29 the court may appoint a provisional director.

1 (b) A provisional director shall be an impartial person, who is
2 neither a shareholder nor a creditor of the corporation, nor related
3 according to the common law by consanguinity or affinity within the
4 third degree to a director of the corporation or to a judge of the
5 court by which the provisional director is appointed. A provisional
6 director has all the rights and powers of a director until the deadlock
7 in the board is broken or until the provisional director is removed by
8 order of the court or by approval of the outstanding shares.

9 (c) Unless otherwise agreed the compensation of the provisional
10 director shall be fixed by the court.

11 Sec. 10.06.643. APPOINTMENT OF RECEIVER: APPLICATION, HEARING AND
12 NOTICE, SECURITY, QUALIFICATIONS, POWERS, COMPENSATION. (a) If, at the
13 time of the filing of a complaint for involuntary dissolution (AS 10.-
14 06.628) or at any time after the filing, the court has reasonable
15 grounds to believe that unless a receiver of the corporation is
16 appointed the interests of the corporation and its shareholders will
17 suffer pending the hearing and determination of the complaint, upon the
18 application of the plaintiff and after a hearing upon such notice to the
19 corporation as the court may direct, the court may appoint a receiver to
20 take over and manage the business and affairs of the corporation and to
21 preserve its property pending the hearing and determination of the com-
22 plaint for dissolution.

23 (b) A receiver shall be a citizen of the United States or a cor-
24 poration authorized to act as receiver. A corporate receiver may be
25 a domestic corporation or a foreign corporation authorized to transact
26 business in the state. A receiver shall give bond and provide sureties
27 as the court may require.

28 (c) The compensation of the receiver shall be paid out of the
29 assets of the corporation and unless otherwise agreed shall be fixed by

1 the court.

2 Sec. 10.06.645. DECREE FOR WINDING UP AND DISSOLUTION: FURTHER
3 JUDICIAL RELIEF. After hearing, the court may decree a winding up and
4 dissolution of the corporation as provided in AS 10.06.625 or, with or
5 without winding up and dissolution, may make orders and decrees and
6 issue injunctions in the case as justice and equity may require.

7 Sec. 10.06.648. COMMENCEMENT AND CONDUCT OF INVOLUNTARY PROCEED-
8 INGS FOR WINDING UP; CESSATION OF BUSINESS; NOTICE. (a) Involuntary
9 proceedings for winding up commence when an order for winding up is
10 entered under AS 10.06.635(b) or 10.06.645.

11 (b) If an involuntary proceeding for winding up has commenced,
12 the board shall conduct the winding up of the affairs of the corpora-
13 tion, subject to the supervision of the court, unless other persons are
14 appointed by the court to conduct the winding up. The directors or
15 other persons may, subject to any restrictions imposed by the court,
16 exercise all their powers through the executive officers of the corpo-
17 ration without an order of the court.

18 (c) If an involuntary proceeding for winding up has commenced,
19 the corporation shall cease to carry on business except to the extent
20 necessary for the beneficial winding up of the business and except
21 during a period as the board may consider necessary to preserve the
22 corporation's goodwill or going-concern value pending a sale of its
23 business or assets, in whole or in part. The directors shall mail
24 written notice of the commencement of the proceeding for involuntary
25 winding up to all shareholders and to all known creditors and claimants
26 whose addresses appear on the records of the corporation, unless the
27 order for winding up has been stayed by appeal or otherwise or the
28 proceeding or the execution of the order has been enjoined.

29 Sec. 10.06.650. JURISDICTION OF COURT. If an involuntary proceed-

1 ing for winding up has been commenced, the jurisdiction of the court
2 includes

3 (1) the determination of the validity of all claims and
4 demands against the corporation, whether due or not yet due, contingent,
5 unliquidated, or sounding only in damages, and the barring from partici-
6 pation of creditors and claimants failing to make and present claims
7 and proof as required by an order;

8 (2) the determination or compromise of all claims against
9 the corporation or any of its property, and the determination of the
10 amount of money or assets required to be retained to pay or provide for
11 the payment of claims;

12 (3) the determination of the rights of shareholders in and
13 to the assets of the corporation;

14 (4) the supervision of the presentation and filing of inter-
15 mediate and final accounts of the directors or other persons appointed
16 to conduct the winding up and hearing thereon, the allowance, disallow-
17 ance or settlement of the accounts, and the discharge of the directors
18 or the other persons from their duties and liabilities;

19 (5) the appointment of a master to hear and determine any or
20 all matters, with the power or authority the court considers proper;

21 (6) the filling of vacancies on the board which the directors
22 or shareholders are unable to fill;

23 (7) the removal of a director if it appears that the director
24 has been guilty of dishonesty, misconduct, neglect, or abuse of trust
25 in conducting the winding up or if the director is unable to act; the
26 court may order an election to fill the vacancy, and may enjoin, for
27 the time it considers proper, the reelection of the removed director.
28 The court, in place of ordering an election, may appoint a director to
29 fill the vacancy caused by the removal; a director appointed by the

1 court serves until the next annual meeting of shareholders or until a
2 successor is elected or appointed;

3 (8) staying the prosecution of a suit, proceeding, or action
4 against the corporation and requiring the parties to present and prove
5 their claims in the manner required of other creditors;

6 (9) the determination of whether adequate provision has been
7 made for payment or satisfaction of all debts and liabilities not
8 actually paid;

9 (10) the making of orders for the withdrawal or termination
10 of proceedings to wind up and dissolve, subject to conditions for the
11 protection of shareholders and creditors;

12 (11) the making of an order, after the allowance or settlement
13 of the final accounts of the directors or other persons, that the
14 corporation is legally wound up and is dissolved;

15 (12) the making of orders for the bringing in of new parties
16 as the court considers proper.

17 Sec. 10.06.653. CLAIMS AGAINST CORPORATION; COURT AND NON-COURT
18 DIRECTED WINDING UP; PRESENTATION; NOTICE; PAYMENT; SECURED CLAIMS;
19 REJECTED CLAIMS. (a) In a court-directed winding up of a corporation
20 (AS 10.06.618, 10.06.633(b) and 10.06.645) creditors and claimants may
21 be barred from participation in a distribution of the general assets of
22 the corporation if they fail to make and present claims and proofs
23 within the time the court may order. The time in which to present
24 claims may not be less than four nor more than six months after the
25 first publication of notice to creditors unless it appears by affidavit
26 that there are no claims, in which case the time may not be less than
27 three months. If it is shown that a claimant did not receive notice
28 because of absence from the state or other cause, the court may allow a
29 claim to be filed or presented at any time before distribution is

1 completed.

2 (b) Notice to creditors in a court-directed winding up shall be
3 published not less than once a week for three consecutive weeks in a
4 newspaper of general circulation, published in the judicial district in
5 which the proceeding is pending or, if a newspaper is not published in
6 that judicial district, in a newspaper designated by the court. The
7 notice shall direct creditors and claimants to make claims and proofs
8 to the person, at the place, and within the time specified in the
9 notice. A copy of the notice shall be mailed to the last known address
10 of each person shown as a creditor or claimant on the books of the
11 corporation.

12 (c) A holder of a secured claim in a court-directed winding up
13 may prove for the whole debt in order to secure payment of a deficiency.
14 If a creditor fails to present his claim, he is barred only as to any
15 right against the general assets for a deficiency in the amount realized
16 on his security.

17 (d) Before a distribution in a court-directed winding up is made,
18 the amount of an unmatured, contingent, or disputed claim against the
19 corporation which has been presented and has not been disallowed, or
20 the part of such a claim to which the holder would be entitled if the
21 claim were due, established, or absolute, shall, if presently reduced
22 to cash, be paid to the commissioner of revenue. The amount shall be
23 paid to the party entitled to the amount when the party becomes entitled
24 or, if the party fails to establish a claim, the amount shall be dis-
25 tributed with the other assets of the corporation; the court may make
26 other provision for payment of a claim, as it considers adequate. A
27 creditor who has a claim which has been allowed but is not yet due is
28 entitled to the present value of the claim upon distribution.

29 (e) Assets of the corporation subject to claims under this section

1 and not reduced to cash shall be held pending distribution as creditors
2 and claimants agree or as the court directs.

3 (f) In a noncourt-directed winding up of a corporation, the
4 assets distributable to a creditor or shareholder who is unknown,
5 cannot be found, or is under a disability and without a legally com-
6 petent person to receive his distributive portion, shall be reduced to
7 cash and deposited with the commissioner of revenue. If the ownership
8 of shares of stock is in dispute, or if the existence or amount of a
9 claim of a creditor or shareholder is contingent, contested, or not
10 determined, the maximum amount of the claims shall be reduced to cash
11 and deposited with the commissioner of revenue. Amounts deposited with
12 the commissioner of revenue under this subsection shall be paid to the
13 creditor, shareholder, or his legal representative as the disputing
14 parties may agree or a court may direct.

15 (g) Suits against the corporation on claims which have been
16 rejected under (d) or (f) of this section shall be commenced within 30
17 days after written notice of rejection is given to the claimant.

18 Sec. 10.06.655. ORDER DECLARING CORPORATION WOUND UP AND DIS-
19 SOLVED; DECLARATIONS; EFFECT; ADDITIONAL ORDERS; DISCHARGE OF DIRECTORS.

20 (a) Upon the final settlement of the accounts of the directors or
21 other persons appointed under AS 10.06.648 and the determination that
22 the corporation's affairs are in a condition for it to be dissolved,
23 the court shall make an order declaring the corporation legally wound
24 up and dissolved. The order shall declare

25 (1) that the corporation has been legally wound up, that any
26 tax or penalty due under AS 10.06.806 - 10.06.873 has been paid or
27 secured and that the other known debts and liabilities of the corpora-
28 tion have been paid or adequately provided for, or that taxes, penal-
29 ties, debts, and liabilities have been paid as far as its assets permit;

1 if adequate provision has been made for the payment of all known debts
2 or liabilities, the order shall state what provision has been made,
3 setting out the name and address of the corporation, person, or govern-
4 mental agency that has assumed or guaranteed the payment, or the name
5 and address of the depositary with which deposit has been made or other
6 information as may be necessary to enable the creditor or other person
7 to whom payment is to be made to appear and claim payment of the debt
8 or liability;

9 (2) that the known assets of the corporation have been
10 distributed to the persons entitled to the assets or that it acquired
11 no known assets;

12 (3) that the accounts of directors or other persons appointed
13 under AS 10.06.648 have been settled and that they are discharged from
14 their duties and liabilities to creditors and shareholders;

15 (4) that the corporation is dissolved.

16 (b) The court may make additional orders and grant further relief
17 as it considers proper upon the evidence submitted.

18 (c) Upon the making of the order declaring the corporation dis-
19 solved, corporate existence ceases except for the purposes of further
20 winding up if needed. The directors or other persons appointed under
21 AS 10.06.648 shall be discharged from their duties and liabilities,
22 except as may be established under AS 10.06.488 or except as needed to
23 complete the winding up.

24 Sec. 10.06.658. FILING OF DECREE OF DISSOLUTION. The clerk of
25 the court shall file with the commissioner a certified copy of a court
26 decree dissolving a corporation. A fee may not be charged for the
27 filing of a decree of dissolution.

28 Sec. 10.06.660. POWERS AND DUTIES OF DIRECTORS IN DISSOLUTION
29 PROCEEDINGS. The powers and duties of the directors or other persons

1 appointed by the court under AS 10.06.648 and officers after commence-
2 ment of a dissolution proceeding include, but are not limited to, the
3 following acts in the name and on behalf of the corporation:

4 (1) to elect officers and to employ agents and attorneys to
5 liquidate or wind up the affairs of the corporation;

6 (2) to continue the conduct of the business insofar as
7 necessary for the disposal or winding up of the business;

8 (3) to carry out contracts and collect, pay, compromise, and
9 settle debts and claims for or against the corporation;

10 (4) to defend suits brought against the corporation;

11 (5) to sue, in the name of the corporation, for sums due or
12 owing to the corporation or to recover property of the corporation;

13 (6) to collect amounts remaining unpaid on subscriptions to
14 shares or to recover unlawful distributions;

15 (7) to sell at public or private sale, exchange, convey, or
16 otherwise dispose of all or any part of the assets of the corporation
17 for cash in an amount considered reasonable by the board with or without
18 compliance with the provisions of AS 10.06.568 and 10.06.570 and without
19 dissenters' rights (AS 10.06.574 - 10.06.586) and upon terms, condi-
20 tions, and other considerations the board considers reasonable or
21 expedient;

22 (8) to execute bills of sale and deeds of conveyance in the
23 name of the corporation;

24 (9) in general to make contracts and to do any and all
25 things in the name of the corporation which may be proper or convenient
26 for the purposes of winding up, settling, and liquidating the affairs
27 of the corporation.

28 Sec. 10.06.663. PROCEEDING TO DETERMINE IDENTITY OF DIRECTORS OR
29 TO APPOINT DIRECTORS. If the identity of a director or his right to

1 hold office is in doubt, if he is dead or unable to act, if he fails or
2 refuses to act, or if his whereabouts cannot be ascertained, an inter-
3 ested person may petition the superior court to determine the identity
4 of the director or, if there are no directors, to appoint directors to
5 wind up the affairs of the corporation, after hearing upon such notice
6 as the court may direct.

7 Sec. 10.06.665. DISTRIBUTION OF CORPORATE ASSETS AMONG SHARE-
8 HOLDERS; WHEN TO BE MADE. After determining that all of the known
9 debts and liabilities of a corporation in the process of winding up
10 have been paid or adequately provided for, the board shall distribute
11 all the remaining corporate assets among the shareholders according to
12 their respective rights and preferences or, if there are no share-
13 holders, to the persons entitled to the assets. If the winding up is
14 by court proceeding or subject to court supervision, the distribution
15 may not be made until after the expiration of any period for the pres-
16 entation of claims which has been prescribed by order of the court.

17 Sec. 10.06.668. PROVISION FOR PAYMENT OF DEBT OR LIABILITY. The
18 payment of a debt or liability, whether the whereabouts of the creditor
19 is known or unknown, has been adequately provided for if

20 (1) payment of the debt or liability has been assumed or
21 guaranteed in good faith by one or more financially responsible corpora-
22 tions or other persons or by the United States government or an agency
23 of the United States, and the provision was determined in good faith
24 and with reasonable care by the board to be adequate at the time of a
25 distribution of the assets by the board under AS 10.06.605 - 10.06.678;
26 or

27 (2) the amount of the debt or liability has been deposited
28 as provided in AS 10.06.653.

29 Sec. 10.06.670. DISTRIBUTION IN MONEY OR IN KIND; INSTALLMENTS.

1 Distribution of assets may be made in money, in property, or in securi-
2 ties and either in installments or as a whole, if the distribution is
3 done fairly and ratably and in conformity with the articles of incorpor-
4 ation and the rights of the shareholders, and shall be made as soon as
5 reasonably consistent with the beneficial liquidation of the corporate
6 assets.

7 Sec. 10.06.673. PLAN OF DISTRIBUTION; ADOPTION; BINDING EFFECT;
8 NOTICE; PAYMENT TO DISSENTING SHAREHOLDERS; ABANDONMENT. (a) If a
9 corporation in the process of winding up has both preferred and common
10 shares outstanding, a plan of distribution of the shares, obligations,
11 or securities of another corporation, or of the assets of the corpora-
12 tion, other than money, which is not in accordance with the liquidation
13 rights of the preferred shares as specified in the articles of incorpor-
14 ation may be adopted if approved by the board and by approval of the
15 outstanding shares of each class. The plan may provide that the distri-
16 bution is in complete or partial satisfaction of the rights of the
17 preferred shareholders upon distribution and liquidation of the assets.

18 (b) A plan of distribution approved under (a) of this section is
19 binding upon the shareholders except as provided in (c) of this section.
20 The board shall mail notice of the adoption of the plan within 20 days
21 after its adoption to all holders of shares having a liquidation pref-
22 erence.

23 (c) Shareholders having a liquidation preference who dissent from
24 the plan of distribution are entitled to be paid the amount of their
25 liquidation preference in cash if they file written demand for payment
26 with the corporation within 30 days after the date of mailing of the
27 notice of the adoption of the plan of distribution unless the plan of
28 distribution is abandoned. The demand shall state the number and class
29 of the shares held of record by the shareholder for which the share-

1 holder claims payment.

2 (d) If a demand for cash payment is filed under (c) of this
3 section, the board in its discretion may abandon the plan without
4 further approval by the outstanding shares and the shareholders shall
5 be entitled to distribution according to their rights and liquidation
6 preferences in the process of winding up.

7 Sec. 10.06.675. RECOVERY OF AMOUNTS IMPROPERLY DISTRIBUTED. (a)
8 If a distribution of assets has been made in the process of winding up
9 a corporation without a court order and without prior payment or ade-
10 quate provision for payment of the debts and liabilities of the corpo-
11 ration, the amount improperly distributed to a shareholder may be re-
12 covered by the corporation. Shareholders who received an improper
13 distribution may be joined as a party in the same action.

14 (b) Suit may be brought in the name of the corporation to enforce
15 the liability under (a) of this section against a shareholder receiving
16 an improper distribution by a creditor of the corporation, whether or
17 not the creditor has reduced his claim to judgment.

18 (c) A shareholder who satisfies a liability under this section
19 has the right of ratable contribution from other distributees who are
20 similarly liable. A shareholder who has been compelled to return to
21 the corporation more than the shareholder's ratable share of the amount
22 needed to pay the debts and liabilities of the corporation may require
23 that the corporation recover from any or all of the other distributees
24 the proportion of the amounts received by them by the improper distri-
25 bution necessary to give contribution to shareholders held liable under
26 this section and to make the distribution of the assets fair and rat-
27 able, according to the respective rights and preferences of the shares,
28 after payment or adequate provision for payment of all the debts and
29 liabilities of the corporation.

1 (d) As used in this section, "process of winding up" includes
2 proceedings under AS 10.06.605 - 10.06.678 and other distributions of
3 assets to shareholders made in contemplation of termination or abandon-
4 ment of the corporate business.

5 Sec. 10.06.678. CONTINUED EXISTENCE OF DISSOLVED CORPORATIONS;
6 PURPOSES; ABATEMENT OF ACTIONS; DISTRIBUTION OF OMITTED ASSETS. (a)
7 A corporation which is dissolved voluntarily or involuntarily continues
8 to exist for the purpose of winding up its affairs, prosecuting and
9 defending actions by or against it, and enabling it to collect and
10 discharge obligations, dispose of and convey its property, and collect
11 and divide its assets. A dissolved corporation does not continue to
12 exist for the purpose of continuing business except so far as necessary
13 for winding up the business.

14 (b) An action or proceeding to which a corporation is a party
15 does not abate by the dissolution of the corporation or by reason of
16 proceedings for winding up and dissolution of the corporation.

17 (c) Assets inadvertently or otherwise omitted from the winding up
18 continue as assets of the dissolved corporation for the benefit of
19 persons entitled to the assets upon dissolution of the corporation and
20 on realization the assets shall be distributed to the persons entitled.

21 (d) The directors of the corporation on the date of its dissolu-
22 tion or as determined under AS 10.06.663 shall exercise and enjoy the
23 powers necessary to act under the terms of this section.

24 ARTICLE 10. FOREIGN CORPORATIONS.

25 Sec. 10.06.705. ADMISSION OF FOREIGN CORPORATION. A foreign
26 corporation may not transact business in this state until it has been
27 issued a certificate of authority by the commissioner. A foreign
28 corporation may not be issued a certificate of authority to transact
29 business in this state which a corporation organized under this chapter

1 is not permitted to transact. A foreign corporation may not be denied
2 a certificate of authority because the laws of the state or country
3 under which it is organized governing its organization and internal
4 affairs differ from the laws of this state.

5 Sec. 10.06.708. APPLICATION TO CORPORATIONS NOW AUTHORIZED TO
6 TRANSACT BUSINESS IN THE STATE. A foreign corporation authorized to
7 transact business in this state on March 29, 1957, for a purpose for
8 which a corporation may secure authority under this chapter is, subject
9 to the limitations set out in its certificate of authority, entitled to
10 all the rights and privileges applicable to a foreign corporation
11 holding a certificate of authority and is subject to the limitations,
12 restrictions, liabilities, and duties prescribed in this chapter for a
13 foreign corporation holding a certificate of authority to transact
14 business in this state under this chapter.

15 Sec. 10.06.710. LIABILITY FOR TRANSACTING BUSINESS WITHOUT CER-
16 TIFICATE OF AUTHORITY. A foreign corporation which transacts business
17 in the state without a certificate of authority is liable to this
18 state, for the years or portions of years during which it transacted
19 business in the state without a certificate of authority, in an amount
20 equal to all fees and corporation taxes which would have been imposed
21 by th. chapter on the corporation if it had applied for and received a
22 certificate of authority to transact business in this state as required
23 by this chapter and filed all reports required by this chapter, plus
24 all penalties imposed by this chapter for failure to pay the fees and
25 corporation taxes, plus a penalty of up to \$10,000 per year or portion
26 of a year for each year it transacted business in this state without a
27 certificate of authority. The attorney general shall bring proceedings
28 to recover amounts due the state under this section.

29 Sec. 10.06.713. TRANSACTING BUSINESS WITHOUT CERTIFICATE OF

1 AUTHORITY AS A BAR TO RIGHT TO SUE. A foreign corporation transacting
2 business in this state without a certificate of authority may not
3 maintain an action, suit, or proceeding in a court of this state until
4 it obtains a certificate of authority. A successor or assignee of a
5 foreign corporation transacting business without a certificate of
6 authority may not maintain an action, suit, or proceeding in a court of
7 this state on a right, claim, or demand arising out of the transaction
8 of business by the corporation in this state until a certificate of
9 authority is obtained by the corporation or by a corporation which has
10 acquired all or substantially all of its assets.

11 Sec. 10.06.715. TRANACTING BUSINESS WITHOUT CERTIFICATE OF
12 AUTHORITY NOT AFFECTING CONTRACTS AND RIGHT TO DEFEND ACTION. The
13 failure of a foreign corporation to obtain a certificate of authority
14 to transact business in this state does not impair the validity of a
15 contract or act of the corporation, and does not prevent the corpora-
16 tion from defending an action, suit, or proceeding in a court of this
17 state.

18 Sec. 10.06.718. ACTIVITIES NOT CONSTITUTING TRANACTING BUSINESS
19 IN THIS STATE. Without excluding other activities which may not consti-
20 tute transacting business in this state, a foreign corporation is not
21 considered to be transacting business in this state, for the purposes
22 of this chapter, by reason of carrying on in this state any one or more
23 of the following activities:

24 (1) maintaining, defending, or settling an action, suit, or
25 administrative or arbitration proceeding, or the settlement of claims
26 or disputes;

27 (2) holding meetings of directors or shareholders of the
28 corporation, or carrying on other activities concerning the internal
29 affairs of the corporation;

- 1 (3) maintaining bank accounts;
- 2 (4) maintaining an office or agency for the transfer, ex-
- 3 change, and registration of securities of the corporation, or appoint-
- 4 ing and maintaining a trustee or depository with relation to securities
- 5 of the corporation;
- 6 (5) making sales through independent contractors;
- 7 (6) soliciting or procuring orders by mail, through em-
- 8 ployees, agents, or otherwise, if the orders require acceptance outside
- 9 the state before becoming binding contracts;
- 10 (7) creating, as borrower or lender, or acquiring indebted-
- 11 ness or mortgages or other security interests in real or personal
- 12 property;
- 13 (8) securing or collecting debts, or enforcing rights in
- 14 property securing debts;
- 15 (9) transacting business in interstate commerce;
- 16 (10) conducting an isolated transaction completed within a
- 17 period of 30 days not in the course of a number of repeated transactions
- 18 of like nature.

19 Sec. 10.06.720. CORPORATE NAME OF FOREIGN CORPORATION. A certifi-

20 cate of authority may not be issued to a foreign corporation unless the

21 corporate name of the corporation

22 (1) contains the word "corporation", "company", "incorpor-

23 ated", or "limited", or an abbreviation of one of these words, or, for

24 use in this state, adds at the end of its name one of these words or an

25 abbreviation of one of them;

26 (2) does not contain a word or phrase which indicates or

27 implies that it is organized for a purpose other than the purpose

28 contained in its articles of incorporation or that it is authorized or

29 empowered to conduct the business of banking or insurance;

1 (3) does not contain the word "city", "borough", or "village"
2 or otherwise imply that the corporation is a municipality, but the name
3 of a city, borough, or village may be used in the corporate name;

4 (4) is the same name as, or deceptively similar to, the name
5 of a domestic corporation existing under the laws of this state or a
6 foreign corporation authorized to transact business in this state, or a
7 name the exclusive right to which is reserved in the manner provided in
8 this title, or the name of a corporation which has in effect a registra-
9 tion of its name as provided in this chapter.

10 Sec. 10.06.723. ASSUMED CORPORATE NAME. (a) If a foreign corpor-
11 ation applying for a certificate of authority has a name which is
12 impermissible under any provision of AS 10.06.720, it shall select an
13 assumed name, acceptable under the provisions of AS 10.06.720, under
14 which it elects to do business in this state.

15 (b) The commissioner shall maintain records which cross-reference
16 the actual and assumed names of all foreign corporations authorized to
17 transact business in this state.

18 Sec. 10.06.725. CHANGE OF NAME BY FOREIGN CORPORATION. If a
19 foreign corporation authorized to transact business in this state
20 changes its name to one under which a certificate of authority would
21 not be granted to it, the certificate of authority of the corporation
22 is suspended and it may not transact business in this state until it
23 has changed its name to a name available to it under the laws of this
24 state.

25 Sec. 10.06.728. APPLICATION FOR CERTIFICATE OF AUTHORITY. To
26 receive a certificate of authority to transact business in this state,
27 a foreign corporation shall apply in duplicate to the commissioner.

28 Sec. 10.06.730. CONTENTS OF APPLICATION. The application shall
29 set out

1 (1) the name of the corporation and the assumed name, if
2 any, the state or country under whose laws it is incorporated; or if
3 the name of the corporation does not contain the word "corporation",
4 "company", "incorporated", or "limited" or an abbreviation of one of
5 these words, the name of the corporation with the word or abbreviation
6 which it elects to use in this state;

7 (2) the date of incorporation and the period of duration of
8 the incorporation;

9 (3) the address of the principal office of the corporation
10 in the state or country under whose laws it is incorporated;

11 (4) the address of the proposed registered office of the
12 corporation in this state, and the name of its proposed registered
13 agent in this state at that address;

14 (5) the purpose the corporation proposes to pursue in the
15 transaction of business in this state and the codes from the identifica-
16 tion code established under AS 10.06.873 which most closely describe
17 the activities in which the corporation will engage in this state;

18 (6) the names and addresses of the directors and officers of
19 the corporation;

20 (7) a statement of the aggregate number of shares which the
21 corporation may issue, itemized by classes, par value of shares, shares
22 without par value, and series, if any, within a class;

23 (8) a statement of the aggregate number of issued shares
24 itemized by classes, par value of shares, shares without par value, and
25 series, if any, within a class;

26 (9) a statement expressed in dollars of the amount of stated
27 capital of the corporation;

28 (10) an estimate expressed in dollars of

29 (A) the value of all property to be owned by the corpo-

1 ration for the following year;

2 (B) the value of the property of the corporation to be
3 located in this state during the following year;

4 (C) the gross amount of all business which will be
5 transacted by the corporation during the following year; and

6 (D) the gross amount of business which will be trans-
7 acted by the corporation at or from places of business in this
8 state during the following year;

9 (11) additional information necessary or appropriate to
10 enable the commissioner to determine whether the corporation is entitled
11 to a certificate of authority and to determine and assess the fees and
12 franchise taxes prescribed in this chapter which are payable;

13 (12) the name and address of each alien affiliate, the per-
14 centage of outstanding shares controlled by each alien affiliate, and a
15 specific description of the nature of the relationship between the
16 foreign corporation and its alien affiliate; or, a statement that there
17 are no alien affiliates;

18 (13) the name and address of a person owning at least five
19 percent of the shares, or five percent of any class of shares, and the
20 percentage of the shares or class of shares owned by that person.

21 Sec. 10.06.733. FILING OF APPLICATION FOR CERTIFICATE OF AUTHOR-
22 ITY. The application of the corporation for a certificate of authority
23 shall be on forms prescribed and furnished by the commissioner. Dupli-
24 cate originals of the application executed by its president or vice-
25 president, and by its secretary or an assistant secretary, and verified
26 by one of the officers signing the application, together with a verified
27 copy of its articles of incorporation and all amendments to the
28 articles, shall be delivered to the commissioner for processing accord-
29 ing to AS 10.06.910 and for issuance of a certificate of authority.

1 Sec. 10.06.735. EFFECT OF CERTIFICATE OF AUTHORITY. Upon the
2 issuance of a certificate of authority by the commissioner, the corpo-
3 ration may transact business in this state for the purpose set out in
4 its application, subject, however, to the right of this state to suspend
5 or revoke the authority as provided in this chapter.

6 Sec. 10.06.738. AMENDED CERTIFICATE OF AUTHORITY. (a) A foreign
7 corporation authorized to transact business in this state shall obtain
8 an amended certificate of authority if it changes its corporate name,
9 or desires to pursue in this state other or additional purposes than
10 those set out in its earlier application for a certificate of author-
11 ity.

12 (b) The form and contents of an application for an amended certi-
13 ficate of authority, the manner of its execution, the filing of dupli-
14 cate originals of the application with the commissioner, and the issu-
15 ance and effect of an amended certificate of authority shall be the
16 same as in the case of an original application for a certificate of
17 authority.

18 Sec. 10.06.740. POWERS OF FOREIGN CORPORATION. A foreign corpora-
19 tion which has received a certificate of authority enjoys, until a
20 certificate of revocation or of withdrawal has been issued as provided
21 in this chapter, the same, but no greater, rights and privileges as a
22 domestic corporation organized for the purposes set out in the applica-
23 tion pursuant to which the certificate of authority is issued and,
24 except as otherwise provided in this chapter, is subject to the duties,
25 restrictions, penalties, and liabilities now or hereafter imposed upon
26 a domestic corporation of like character.

27 Sec. 10.06.743. REVOCATION OF CERTIFICATE OF AUTHORITY. A cer-
28 tificate of authority of a foreign corporation to transact business in
29 this state may be revoked by the commissioner when

1 (1) the corporation fails to file its biennial report within
2 the time required by this chapter, or fails to pay fees, corporation
3 taxes, or penalties prescribed in this chapter when they are due and
4 payable;

5 (2) the corporation fails to appoint and maintain a regis-
6 tered agent in this state;

7 (3) the corporation fails, after change of its registered
8 office or registered agent, to file with the commissioner a statement
9 of the change as required by this chapter;

10 (4) the corporation fails to file with the department an
11 amendment to its articles of incorporation or articles of merger within
12 the time prescribed by this chapter;

13 (5) a misrepresentation of a material matter has been made
14 in an application, report, affidavit, or other document submitted under
15 this chapter; or

16 (6) the corporation is a party to an illegal combination in
17 restraint of trade.

18 Sec. 10.06.745. LIMITATIONS ON REVOCATION OF CERTIFICATE OF
19 AUTHORITY. The commissioner may not revoke a certificate of authority
20 of a foreign corporation unless

21 (1) he has given the corporation at least 60 days notice by
22 certified mail addressed to its registered office in this state; and

23 (2) the corporation fails before revocation to file the
24 biennial report, or pay the fees, corporation taxes, or penalties, or
25 file the required statement of change of registered agent or registered
26 office, or file the articles of amendment or articles of merger, or
27 correct the misrepresentation.

28 Sec. 10.06.748. ISSUANCE OF CERTIFICATE OF REVOCATION. Upon
29 revoking a certificate of authority, the commissioner shall

1 (1) issue a certificate of revocation in duplicate;
2 (2) file one of the certificates in his office; and
3 (3) mail to the corporation at its registered office in this
4 state (AS 10.06.753(1)) a notice of the revocation accompanied by one
5 of the certificates.

6 Sec. 10.06.750. EFFECT OF CERTIFICATE OF REVOCATION. Upon the
7 issuance of the certificate of revocation, the authority of the corpora-
8 tion to transact business in this state ceases.

9 Sec. 10.06.753. REGISTERED OFFICE AND REGISTERED AGENT OF FOREIGN
10 CORPORATION. A foreign corporation authorized to transact business in
11 this state shall have and continuously maintain in the state

12 (1) a registered office which may be, but need not be, the
13 same as its place of business in this state; and

14 (2) a registered agent, who may be either an individual
15 resident in this state whose business office is identical to the regis-
16 tered office, or a domestic corporation, or a foreign corporation
17 authorized to transact business in this state, which has a business
18 office identical to the registered office.

19 Sec. 10.06.758. CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT
20 OF FOREIGN CORPORATION. A foreign corporation authorized to transact
21 business in this state may change its registered office or change its
22 registered agent, or both, upon filing with the commissioner a statement
23 setting out

- 24 (1) the name of the corporation;
25 (2) the address of its registered office;
26 (3) the address of the proposed office if the address of its
27 registered office is to be changed;
28 (4) the name of its registered agent;
29 (5) the name of its successor registered agent if its regis-

1 tered agent is to be changed;

2 (6) that the address of its registered office and the add-
3 ress of the business office of its registered agent, as changed, will
4 be identical; and

5 (7) that the change is authorized by resolution adopted by
6 the board of directors.

7 Sec. 10.06.760. FILING OF STATEMENT OF CHANGE. A statement of
8 change under AS 10.06.758 shall be executed by the corporation by its
9 president or a vice-president, and verified by him, and delivered to
10 the commissioner. If the commissioner finds that the statement con-
11 forms to the provisions of this chapter, he shall file the statement in
12 his office, and upon the filing, the change of address of the regis-
13 tered office, or the appointment of a new registered agent, or both, as
14 the case may be, becomes effective.

15 Sec. 10.06.763. SERVICE OF PROCESS ON FOREIGN CORPORATION. The
16 registered agent appointed by a foreign corporation authorized to
17 transact business in this state shall be an agent of the corporation
18 upon whom process, notice, or demand required or permitted by law to be
19 served upon the corporation may be served.

20 Sec. 10.06.765. SERVICE ON COMMISSIONER. When a foreign corpora-
21 tion authorized to transact business in this state, or not authorized
22 to transact business in this state but doing so, fails to appoint or
23 maintain a registered agent in this state, or when a registered agent
24 cannot with reasonable diligence be found at the registered office, or
25 when the certificate of authority of a foreign corporation is suspended
26 or revoked, the commissioner is an agent upon whom process, notice, or
27 demand may be served. Service is made upon the commissioner as provided
28 in AS 10.06.175(b).

29 Sec. 10.06.768. RECORDS KEPT BY COMMISSIONER. The commissioner

1 shall keep a record of all processes, notices, or demands served upon
2 him under AS 10.06.765 and shall record the time of service and his
3 action with reference to the service.

4 Sec. 10.06.770. PROCEDURE NOT EXCLUSIVE. AS 10.06.763 - 10.06.768
5 do not limit or affect the right to serve a process, notice, or demand
6 required or permitted by law to be served upon a corporation in any
7 other manner.

8 Sec. 10.06.773. AMENDMENT TO ARTICLES OF INCORPORATION OF FOREIGN
9 CORPORATIONS. If the articles of incorporation of a foreign corporation
10 authorized to transact business in this state are amended, the foreign
11 corporation shall, within 30 days after the amendment becomes effective,
12 file with the commissioner a copy of the amendment authenticated by the
13 proper officer of the state or country under whose laws it is incorpor-
14 ated. The filing of the amendment does not enlarge or alter the purpose
15 which the corporation may pursue in the transaction of business in this
16 state, nor authorize the corporation to transact business in this state
17 under a name other than the name set out in its certificate of author-
18 ity.

19 Sec. 10.06.775. ORGANIC CHANGE OF FOREIGN CORPORATION. If a
20 foreign corporation authorized to transact business in this state is a
21 party to an organic change permitted by the laws of the state or country
22 where it is incorporated, and the corporation is the surviving corpora-
23 tion, it shall, within 30 days after the change becomes effective, file
24 with the commissioner a copy of the articles of merger, consolidation,
25 exchange, or reorganization authenticated by the proper office of the
26 state or country under whose laws the organic change was carried out.
27 It is not necessary for the corporation to obtain a new or amended
28 certificate of authority to transact business in this state unless the
29 name of the corporation is changed or unless the corporation desires to

1 pursue in this state other or additional purposes than those which it
2 is authorized to transact in this state.

3 Sec. 10.06.778. WITHDRAWAL OF FOREIGN CORPORATION. A foreign
4 corporation authorized to transact business in this state may withdraw
5 from this state upon obtaining from the commissioner a certificate of
6 withdrawal. To obtain a certificate of withdrawal, the foreign
7 corporation shall deliver to the commissioner an application for with-
8 drawal.

9 Sec. 10.06.780. CONTENTS OF APPLICATION FOR WITHDRAWAL. An
10 application for withdrawal shall set out

11 (1) the name of the corporation and the state or country
12 where it is incorporated;

13 (2) that the corporation is not transacting business in this
14 state;

15 (3) that the corporation surrenders its authority to transact
16 business in this state;

17 (4) that the corporation revokes the authority of its
18 registered agent in this state to accept service of process and consents
19 that service of process in an action, suit, or proceeding based upon a
20 cause of action arising in this state during the time the corporation
21 was authorized to transact business in this state may be made on the
22 corporation by service on the commissioner;

23 (5) a post office address to which the commissioner may mail
24 a copy of a process against the corporation that may be served on the
25 commissioner;

26 (6) a statement of the aggregate number of shares which the
27 corporation may issue, itemized by classes, par value of shares, shares
28 without par value, and series, if any, within a class, as of the date
29 of the application;

1 (7) a statement of the aggregate number of issued shares,
2 itemized by classes, par value of shares, shares without par value, and
3 series, if any, within a class, as of the date of the application;

4 (8) a statement, expressed in dollars, of the amount of
5 stated capital of the corporation, as of the date of the application;

6 (9) additional information necessary or appropriate to
7 enable the commissioner to determine and assess unpaid fees or corporate
8 taxes payable as prescribed in this chapter.

9 Sec. 10.06.783. FORM OF APPLICATION FOR WITHDRAWAL. An applica-
10 tion for withdrawal shall be made on forms prescribed and furnished by
11 the commissioner and shall be executed by the corporation by its presi-
12 dent or a vice-president, and by its secretary or an assistant secre-
13 tary, and verified by one of the officers signing the application, or,
14 if the corporation is in the hands of a receiver or trustee, the appli-
15 cation shall be executed on behalf of the corporation by the receiver
16 or trustee and verified by him.

17 Sec. 10.06.785. FILING OF APPLICATION FOR WITHDRAWAL. Duplicate
18 originals of an application for withdrawal shall be delivered to the
19 commissioner for processing according to AS 10.06.910 and for issuance
20 of a certificate of withdrawal.

21 Sec. 10.06.788. EFFECT OF CERTIFICATE OF WITHDRAWAL. Upon the
22 issuance of a certificate of withdrawal, the authority of a corporation
23 to transact business in this state ceases.

24 ARTICLE 11. REPORTS, FEES, AND PENALTIES.

25 Sec. 10.06.805. BIENNIAL REPORT OF DOMESTIC AND FOREIGN CORPORA-
26 TIONS. A domestic corporation and a foreign corporation authorized to
27 transact business in this state shall file a biennial report within the
28 time prescribed by this chapter.

29 Sec. 10.06.808. CONTENTS OF BIENNIAL REPORT. A biennial report

1 must set out

2 (1) the name of the corporation and the state or country
3 where it is incorporated;

4 (2) the address of the registered office of the corporation
5 in this state, and the name of its registered agent in this state at
6 that address, and, in the case of a foreign corporation, the address of
7 its principal office in the state or country where it is incorporated;

8 (3) a brief statement of the character of the business in
9 which the corporation is engaged in this state and the codes from the
10 identification code established under AS 10.06.843 which most closely
11 describe the activities in which the corporation is engaged in this
12 state;

13 (4) the names and addresses of the directors and officers of
14 the corporation;

15 (5) a statement of the aggregate number of shares which the
16 corporation has authority to issue, itemized by classes, par value of
17 shares, shares without par value, and series, if any, within a class;

18 (6) a statement of the aggregate number of issued shares
19 itemized by classes, par value of shares, shares without par value, and
20 series, if any, within a class;

21 (7) the name and address of each alien affiliate, the per-
22 centage of outstanding shares controlled by each alien affiliate, and a
23 specific description of the nature of the relationship between the
24 corporation and its alien affiliates, or that there is no alien affili-
25 ate;

26 (8) the name and address of each person owning at least five
27 percent of the shares, or five percent of any class of shares as of
28 September 30 of the second year of the biennial reporting period, and
29 the percentage of the shares or class of shares owned by that person.

1 Sec. 10.06.811. FILING OF BIENNIAL REPORT. (a) A biennial
2 report of a domestic or foreign corporation shall be filed with the
3 department and is due before January 2 of the filing year. A domestic
4 corporation filing articles of incorporation and a foreign corporation
5 receiving a certificate of authority during an even-numbered year must
6 file the biennial report each even-numbered year. A corporation filing
7 with the department during an odd-numbered year must file the biennial
8 report each odd-numbered year. The biennial report is delinquent if
9 not filed before February 1 of each odd or even year as provided in
10 this section. Delinquent returns are subject to the penalty in AS 10.-
11 06.815.

12 (b) Proof to the satisfaction of the commissioner that on or
13 before February 1 the report was deposited in the United States mail in
14 a sealed envelope, properly addressed with postage prepaid, is compli-
15 ance with (a) of this section.

16 (c) If the commissioner finds that the report conforms to the
17 requirements of this chapter, he shall file it. If he finds that it
18 does not conform to the requirements of this chapter, he shall promptly
19 return it to the corporation for necessary corrections. If the report
20 is corrected to conform to the requirements of this chapter and returned
21 to the commissioner in sufficient time to be filed before April 1 of
22 the year in which it is due, the penalties for failure to file the
23 report within the time provided in AS 10.06.815 do not apply.

24 (d) Upon receipt of a form from the commissioner, a domestic or
25 foreign corporation must file a biennial report within six months after
26 original incorporation or authorization to transact business in this
27 state.

28 Sec. 10.06.813. FILING NOTICE OF CHANGE OF OFFICERS, DIRECTORS,
29 FIVE PERCENT SHAREHOLDERS, AND ALIEN AFFILIATES. (a) In the event of

1 a change of an officer, director, or alien affiliate of a corporation
2 during the first year of the biennial reporting period or a change in a
3 five percent shareholder before September 30 of the first year of the
4 biennial reporting period, the corporation shall file a notice of
5 change amending the biennial report of the corporation before the
6 following January 2.

7 (b) The notice shall be filed with the commissioner and shall
8 state the name and current mailing address of each director, officer,
9 five percent shareholder, or alien affiliate not included in the corpo-
10 ration's last filed biennial report, and the name of the person replaced
11 and the office held. The notice shall be signed by the president or
12 vice-president of the corporation.

13 Sec. 10.06.815. PENALTY FOR FAILURE TO FILE BIENNIAL REPORT. A
14 domestic or foreign corporation that fails or refuses to file a biennial
15 report within the time set by this chapter is subject to a penalty of
16 10 percent of the amount of the corporation tax assessed against it for
17 the period beginning January 1 of the year for which the report should
18 have been filed. The commissioner shall assess the penalty at the time
19 of the assessment of the corporation tax. If the amount of the corpo-
20 ration tax as originally assessed is adjusted in accordance with this
21 chapter, the amount of the penalty shall also be adjusted to 10 percent
22 of the amount of the adjusted corporation tax. The amount of the
23 corporation tax and the amount of the penalty shall be separately
24 stated in a notice to the corporation.

25 Sec. 10.06.818. INTERROGATORIES BY COMMISSIONER; JUDICIAL PROCEED-
26 ING TO CONTEST. (a) The commissioner may propound to a domestic or
27 foreign corporation and to an officer or director of a domestic or
28 foreign corporation interrogatories reasonably necessary and proper to
29 enable him to ascertain whether the corporation has complied with the

1 provisions of this chapter.

2 (b) Interrogatories shall be propounded by the commissioner or
3 his designee to

4 (1) a domestic corporation by complying with AS 10.06.175;

5 (2) a foreign corporation by complying with AS 10.06.763;

6 (3) an individual officer or director of a domestic or
7 foreign corporation by mailing by certified mail a copy of the inter-
8 rogatories addressed to the person at his place of business in this
9 state, or, if the person has no place of business in this state, to the
10 principal office or place of business of the person.

11 (c) Interrogatories shall be answered within 30 days or within
12 the additional time fixed by the commissioner or by the superior court.
13 Answers shall be full and complete, in writing and under oath. If the
14 interrogatories are directed to an individual, they shall be answered
15 by him, and if directed to a corporation they shall be answered by the
16 president, vice-president, secretary, or assistant secretary of the
17 corporation or, in the instance of a foreign corporation, the person or
18 persons functioning as comparable officers in accordance with the laws
19 of the state of incorporation.

20 (d) A petition stating good cause to extend the date for answer,
21 to modify or set aside the interrogatories propounded by the commis-
22 sioner, or to enforce compliance with AS 10.06.820 may be filed in the
23 superior court before the expiration of the 30 days fixed in this
24 section for answer.

25 Sec. 10.06.820. CONFIDENTIALITY OF INFORMATION DISCLOSED BY
26 INTERROGATORIES. Interrogatories and answers propounded and obtained
27 under AS 10.06.818 are not open to public inspection and the commis-
28 sioner may not disclose facts or information obtained from the inter-
29 rogatories except as his official duty requires or unless the inter-

1 rogatories or the answers are required for evidence in criminal pro-
2 ceedings or other action by the state.

3 Sec. 10.06.823. FAILURE TO ANSWER INTERROGATORIES. Unless other-
4 wise provided by an order of court issued in response to a petition
5 filed under AS 10.06.818(d),

6 (1) a domestic or foreign corporation and each officer or
7 director of a domestic or foreign corporation which fails or refuses to
8 answer truthfully and fully interrogatories propounded by the commis-
9 sioner within the time prescribed by AS 10.06.818(c) is guilty of a
10 misdemeanor; and

11 (2) the commissioner need not file a document to which the
12 interrogatories relate until the interrogatories are properly answered
13 and need not file a document to which the interrogatories relate if the
14 answers disclose that the document does not conform to the provisions
15 of this chapter.

16 Sec. 10.06.825. PENALTIES IMPOSED UPON OFFICERS AND DIRECTORS.
17 An officer or director of a domestic or foreign corporation who signs
18 articles, or a statement, report, application, or other document filed
19 with the commissioner which is known to the officer or director to be
20 false in a material respect, is guilty of a misdemeanor.

21 Sec. 10.06.828. INCORPORATION OR FILING FEES. A domestic or
22 foreign corporation which is required to file articles of incorporation
23 or amendatory articles with the department, except corporations orga-
24 nized under AS 10.20 and foreign corporations organized under the laws
25 of the United States or the laws of a state or territory of the United
26 States or the laws of a foreign country for the same purposes as those
27 allowed under AS 10.20, shall pay to the commissioner a filing fee
28 established by the department by regulation. The filing fee shall be
29 uniform and fixed without reference to the amount of authorized shares.

1 Sec. 10.06.830. FEES ON APPOINTMENT OR REVOCATION OF APPOINTMENT
2 OF PROCESS AGENT OR CHANGE OF AGENT'S ADDRESS. (a) A foreign corpora-
3 tion filing with the department a certificate of the appointment and
4 consent of an agent residing in this state, or a certificate of revoca-
5 tion of the appointment of a resident agent, shall pay to the commis-
6 sioner a fee established by the department by regulation.

7 (b) For filing a statement of change of address of registered
8 agent under AS 10.06.170(a) and (b), the agent shall pay to the commis-
9 sioner a fee established by the department by regulation.

10 Sec. 10.06.833. FEES AND PENALTIES PAYABLE ON WITHDRAWAL OF
11 FOREIGN CORPORATION. A registered foreign corporation may withdraw
12 from this state upon payment of all biennial corporation taxes and
13 penalties due at the time of desired withdrawal and by filing with the
14 department a certificate of withdrawal signed by its proper officers
15 and under its corporate seal. The fee for filing the certificate with
16 the commissioner shall be established by the department by regulation.

17 Sec. 10.06.835. FEES ON DISSOLUTION OF DOMESTIC CORPORATION. A
18 domestic corporation shall pay to the commissioner a fee established by
19 the department by regulation for filing the documents required by this
20 chapter for the dissolution of a domestic corporation.

21 Sec. 10.06.838. TAXES, PENALTIES, AND FEES ON FILING CERTIFICATE
22 OF DISSOLUTION OF FOREIGN CORPORATION. If a foreign corporation desires
23 to file a certificate of dissolution from the state of its incorpora-
24 tion, it shall file the certificate, signed by the proper state officer,
25 under seal, upon payment of all biennial corporation taxes and penalties
26 due to this state at the time of dissolution. The filing fee for the
27 certificate of dissolution shall be established by the department by
28 regulation.

29 Sec. 10.06.840. FEES FOR CERTIFIED COPIES OF DOCUMENTS. The fee

1 for furnishing a certified copy of a document shall be established by
2 the department by regulation.

3 Sec. 10.06.843. OTHER FILING FEES. (a) The filing fee for a
4 document not otherwise provided in this chapter shall be established by
5 the department by regulation.

6 (b) The department may by regulation charge a corporation subject
7 to this chapter a fixed fee in place of the fees specified in this
8 chapter, and for routine administrative services rendered to a corpora-
9 tion by the department.

10 (c) Notwithstanding (b) of this section fees required under
11 AS 10.06.140 and 10.06.828 are not included in a fixed fee.

12 Sec. 10.06.845. BIENNIAL CORPORATION TAX; PENALTY FOR NONPAYMENT.

13 (a) A domestic corporation and a foreign corporation doing business in
14 this state or having its articles of incorporation on file with the
15 department shall, before January 2 of each filing year, pay to the
16 commissioner a biennial corporation tax as follows: domestic corpora-
17 tion, \$100; foreign corporation, \$200. A corporation which fails to
18 pay the biennial corporation tax before February 1 of the filing year
19 must pay to the commissioner a penalty of \$25 for each year or part of
20 a year of delinquency.

21 (b) Proof to the satisfaction of the commissioner that on or
22 before February 1 the tax or report was deposited in the United States
23 mail in a sealed envelope, properly addressed, with postage prepaid, is
24 compliance with (a) of this section.

25 (c) Corporations organized under AS 10.20 are not required to pay
26 the biennial corporation tax imposed by this section.

27 Sec. 10.06.848. FAILURE TO PAY TAX OR MAKE REPORT AS PRECLUDING
28 SUIT BY CORPORATION. A domestic or foreign corporation may not commence
29 or maintain a suit, action, or proceeding in a court in this state

1 without alleging and proving that it has paid its biennial corporation
2 tax last due and has filed its biennial report for the last reporting
3 period. A certificate of the payment of the biennial corporation tax
4 and filing of the biennial report is prima facie evidence of the payment
5 of the tax and the filing of the biennial report. The commissioner
6 shall issue the certificate or a duplicate for a fee established by the
7 department by regulation.

8 Sec. 10.06.850. COMMISSIONER TO INSTITUTE SUITS TO COMPEL PAYMENT.

9 The commissioner may institute a suit in the name of the state to
10 enforce the payment of a biennial corporation tax. Corporations orga-
11 nized under AS 10.20 and foreign corporations organized under the laws
12 of the United States or the laws of a state or territory of the United
13 States or the laws of a foreign country for the same purposes as those
14 allowed under AS 10.20 are exempt from the payment of the biennial
15 corporation tax.

16 Sec. 10.06.853. FAILURE TO PAY TAX AS EVIDENCE OF INSOLVENCY.

17 Failure of a corporation to pay the biennial corporation tax for a
18 period of one year after the date when payment first becomes due is
19 prima facie evidence of the inability of a corporation to meet maturing
20 debts and liabilities (AS 10.06.360) which may be shown by this state,
21 a private person, or a corporation.

22 Sec. 10.06.855. PAYMENTS TO BE MADE IN ADVANCE. Fees and charges
23 provided for in this chapter, including the biennial corporation tax,
24 may be paid in advance.

25 Sec. 10.06.858. ACCOUNTING FOR AND DISPOSITION OF TAXES AND FEES
26 PAID. All fees and taxes paid under this chapter shall be accounted
27 for and deposited in the state treasury.

28 Sec. 10.06.860. INCREASE IN FEES. A fee charged under this
29 chapter may not be increased by a percentage greater than the percentage

1 increase in the consumer price index for Anchorage, published by the
2 United States Department of Labor, Bureau of Labor Statistics, since
3 July 1977, the year in which the fee was first charged, or the most
4 recent year in which the fee was increased, whichever is later.

5 Sec. 10.06.863. APPEAL FROM REVOCATION OF CERTIFICATE OF AUTHOR-
6 ITY. If the commissioner revokes a certificate of authority of a
7 foreign corporation to transact business in this state under this
8 chapter, the foreign corporation may appeal to the superior court by
9 filing with the clerk of the court a petition setting out a copy of its
10 certificate of authority and a copy of the notice of revocation given
11 by the commissioner. The matter shall be tried de novo by the superior
12 court, and the court shall either sustain the action of the commissioner
13 or direct him to take action the court considers proper.

14 Sec. 10.06.865. CANCELLATION OF CERTIFICATES ISSUED AND FILINGS
15 ACCEPTED. The commissioner may, within one year after a filing, and
16 after written notice to the corporation or individual making the filing,
17 cancel a certificate issued or filing accepted under this chapter, on
18 any ground existing at the time of issuance or filing for which the
19 commissioner could have originally refused to issue the certificate or
20 accept the filing. The notice of cancellation shall state the reason
21 for the cancellation. A corporation or individual may request a hearing
22 before the commissioner within 90 days after receipt of the notice.
23 Cancellation becomes final if the corporation or individual does not
24 request a hearing within 90 days after receipt of notice. Notice of
25 cancellation shall be sent by certified mail with return receipt
26 requested. If the return receipt is not received by the department
27 within a reasonable time and the department has made diligent inquiry
28 as to the address of the corporation, notice may be made by publication
29 in a newspaper of general circulation in the vicinity of the registered

1 office of the corporation or the address of the individual who made the
2 filing, and the cancellation becomes final 60 days after publication of
3 the notice if the person or corporation does not request a hearing.

4 Sec. 10.06.868. FORMS TO BE FURNISHED BY THE COMMISSIONER.

5 Reports required by this chapter to be filed with the department or the
6 commissioner shall be on forms prescribed and furnished by the commis-
7 sioner. Forms for other documents to be filed in the office of the
8 department or the commissioner shall be furnished by the commissioner
9 on request, but the use of those forms, unless required in this chapter,
10 is not mandatory.

11 Sec. 10.06.870. IDENTIFICATION CODE. The commissioner of commerce
12 and economic development and the commissioner of revenue shall jointly
13 establish and adopt a coded list of business activities and shall make
14 the list available to the public.

15 ARTICLE 12. MISCELLANEOUS PROVISIONS.

16 Sec. 10.06.905. VOTING OF SHARES; QUORUM; STATUS OF DISQUALIFIED
17 SHARES. (a) If the articles of incorporation provide for more or less
18 than one vote for a share on a matter, a reference in this chapter to a
19 majority or other proportion of shares means a majority or other propor-
20 tion of the votes entitled to be cast on that matter. If shares are
21 disqualified from voting on a matter, they may not be considered out-
22 standing for the determination of a quorum at a meeting to act upon or
23 for the required vote to approve action upon that matter.

24 (b) A requirement in this chapter for a vote of each class of
25 outstanding shares means a vote regardless of limitations or restric-
26 tions upon the voting rights of that class, unless expressly limited to
27 voting shares.

28 Sec. 10.06.910. PROCESSING OF WRITINGS FILED WITH THE COMMISS-
29 SIONER. If a writing delivered to the commissioner for filing conforms

1 to law and all fees and corporation taxes prescribed in this chapter
2 have been paid, the commissioner shall

3 (1) endorse on each duplicate original the word "filed" and
4 the date of the filing;

5 (2) file one duplicate original in his office;

6 (3) return a duplicate original of the writing, together
7 with any writing issued by the commissioner attached to the original,
8 to the corporation or its representative.

9 Sec. 10.06.915. DISAPPROVAL OF WRITING BY COMMISSIONER: APPEAL.
10 If the commissioner fails to approve articles of incorporation, amend-
11 ment, merger, consolidation, exchange or dissolution, or any other
12 document required by this chapter to be approved by him, he shall,
13 within 10 days after the delivery of the document to him, give written
14 notice of his disapproval to the person or domestic or foreign corpora-
15 tion, delivering the document, and specifying the reasons for disap-
16 proval. The person or corporation may appeal from the disapproval to
17 the superior court by filing with the clerk of the court a petition
18 setting out a copy of the document sought to be filed and a copy of the
19 written disapproval. The matter shall be tried de novo by the superior
20 court, which shall either sustain the action of the commissioner or
21 direct him to take action the court considers proper.

22 Sec. 10.06.920. WRITINGS; CORRECTIONS. A writing relating to a
23 corporation filed by the commissioner under this chapter may be cor-
24 rected if it contains an error apparent on the face or defect in the
25 execution of the writing, including the deletion of a matter not per-
26 mitted to be stated in the writing. A certificate, entitled "Certifi-
27 cate of Correction of...(correct title of writing and name of corpora-
28 tion)", shall be signed, verified, or acknowledged in the same manner
29 as the original writing and shall be delivered to the commissioner.

1 The certificate shall set out the name of the corporation, the date the
2 writing to be corrected was filed by the commissioner, the provision in
3 the writing corrected or eliminated and, if the execution was defective,
4 the proper execution. The filing of the certificate by the commissioner
5 does not alter the effective time of the writing being corrected and
6 does not affect any right or liability accrued or incurred before the
7 filing. A corporate name may not be changed or corrected under this
8 section.

9 Sec. 10.06.925. WRITINGS AS EVIDENCE. (a) A writing filed by
10 the commissioner relating to a corporation and containing statements of
11 fact required or permitted by law and a certification by the commis-
12 sioner of the absence of a filing shall be received in all courts,
13 public offices, and official bodies as prima facie evidence of these
14 facts and of the execution of the writing.

15 (b) If under the laws of a jurisdiction other than this state a
16 writing by an officer in that jurisdiction or a copy of a writing
17 certified or exemplified by the officer, may be received as prima facie
18 evidence of the incorporation, existence, or capacity of any foreign
19 corporation incorporated in that jurisdiction, the writing when exempli-
20 fied shall be received by all courts, public offices, and official
21 bodies of this state as prima facie evidence with the same force as in
22 another jurisdiction. The writing or certified copy of the writing
23 shall be received without being exemplified if it is certified by the
24 secretary of state or official performing the equivalent function as to
25 corporate records of that jurisdiction.

26 Sec. 10.06.930. CORPORATE SEAL AS EVIDENCE. The presence of a
27 corporate seal on a writing purporting to be executed by authority of a
28 corporation shall be prima facie evidence that the writing was executed
29 with the authority of the corporation.

1 Sec. 10.06.935. WAIVER OF NOTICE. If notice is required to be
2 given to a shareholder or director of a corporation under the provisions
3 of this chapter or under the provisions of the articles or bylaws of
4 the corporation, a waiver of the notice in writing signed by the person
5 entitled to notice, whether before or after the time stated for notice,
6 is equivalent to the giving of notice.

7 ARTICLE 13. GENERAL PROVISIONS.

8 Sec. 10.06.950. POWERS OF COMMISSIONER. The commissioner has the
9 power and authority reasonably necessary to enable him to administer
10 this chapter and to perform the duties imposed upon him by this chapter.

11 Sec. 10.06.953. REGULATIONS. The department shall adopt regula-
12 tions referred to in this chapter in accordance with the Administrative
13 Procedure Act (AS 44.62).

14 Sec. 10.06.955. APPLICATION. (a) This chapter applies to a
15 domestic corporation organized under the Alaska Business Corporation
16 Act (AS 10.05), and to the extent provided in AS 10.06.010, 10.06.020,
17 10.06.160, 10.06.233, 10.06.433(g), 10.06.435, 10.06.450(d), 10.06.488,
18 and AS 10.06.700 - 10.06.870 to a foreign corporation authorized to do
19 or doing business in this state.

20 (b) The existence of a corporation formed or existing on the date
21 of enactment of this chapter is not effected by the enactment of this
22 chapter or by any change in the requirements for the formation of
23 corporations.

24 Sec. 10.06.958. PROVISIONS CONSTRUED AS RESTATEMENTS AND CONTINUA-
25 TIONS. If a provision of this chapter is substantially the same as a
26 statutory provision in AS 10.05 existing on the effective date of this
27 chapter, it shall be construed as a restatement and continuation, and
28 not as a new enactment.

29 Sec. 10.06.960. CORPORATIONS ORGANIZED UNDER P.L. 92-203. (a) A

1 corporation organized under the Alaska Native Claims Settlement Act
2 (P.L. 92-203; 85 Stat. 688), except a village corporation which may be
3 incorporated under either this chapter or AS 10.20, shall be incor-
4 porated under and is subject to this chapter except

5 (1) each corporation shall issue without further considera-
6 tion the number of shares of common stock that may be necessary to
7 comply with the requirements of the Alaska Native Claims Settlement Act
8 and all stock so issued is considered fully paid and nonassessable when
9 issued;

10 (2) unless otherwise provided in the articles of incorpora-
11 tion approved by the United States Secretary of the Interior,

12 (A) the capital is considered the consideration for the
13 initial issuance of shares; and

14 (B) the capital of a corporation organized under P.L. 92-
15 203 includes

16 (i) the land or interests in it conveyed to the
17 corporation by the United States under the federal Act,
18 except that which is required to be conveyed under sec. 14(c)-
19 (1), (3), and (4) of that Act, entered at its fair value to
20 the corporation upon receiving the conveyance of it; and

21 (ii) the money, when received under secs. 6, 7(i),
22 and 9 of that Act, which is retained by the corporation and
23 which is not immediately distributed or required to be dis-
24 tributed under sec. 7(j) of that Act.

25 (b) Notwithstanding the provisions of AS 10.06.300 - 10.06.390,
26 payment from the money of a corporation organized under P.L. 92-203
27 which is required by the language of P.L. 92-203 to be distributed to
28 shareholders or to other corporations so organized may not be considered
29 to be a distribution in partial liquidation.

1 (c) Notwithstanding the provisions of AS 10.06.546, a plan of
2 merger, consolidation, or exchange in which each participating corpora-
3 tion either (1) was organized under the Alaska Native Claims Settlement
4 Act (P.L. 92-203; 85 Stat. 688), within the same one of the 12 regions
5 of Alaska established under the Alaska Native Claims Settlement Act, or
6 (2) resulted from the prior merger, consolidation, or exchange of other
7 similarly organized corporations within the same region, is approved if
8 it receives the affirmative vote of the holders of at least a majority
9 of the outstanding shares of each corporation. If a class of shares of
10 a corporation specified in this subsection is entitled to vote as a
11 class, the plan of merger, consolidation, or exchange is approved if it
12 receives the affirmative vote of the holders of at least a majority of
13 the outstanding shares of each class of shares entitled to vote as a
14 class and of the total outstanding shares.

15 (d) Notwithstanding the provisions of AS 10.06.488, a director or
16 officer of a corporation organized under the Alaska Native Claims
17 Settlement Act which is required by the language of that Act is not
18 personally liable to the contract creditors specified in AS 10.06.490
19 except as otherwise provided by law.

20 Sec. 10.06.963. SEVERABILITY. If a provision of this chapter is
21 held invalid, the invalidity does not affect other provisions of this
22 chapter which can be given effect without the invalid provision.

23 Sec. 10.06.965. RESERVATION OF POWER. The legislature reserves
24 the right to alter, amend, suspend, or repeal in whole or in part this
25 chapter at pleasure, or a certificate of incorporation or the authority
26 to do business in this state, of a domestic or foreign corporation,
27 whether or not existing or authorized on the effective date of this
28 chapter.

29 Sec. 10.06.968. SIGNATURE. "Signature" includes a mark when the

1 signer cannot write. The signer's name shall be written near the mark
2 by a witness who shall write his own name near the signer's name. A
3 signature by mark can be acknowledged or can serve as a signature to a
4 sworn statement.

5 Sec. 10.06.970. RULES OF CONSTRUCTION AND INTERPRETATION. Unless
6 a provision or the context otherwise requires, the following general
7 provisions and rules of construction govern this chapter:

8 (1) Title, chapter, article, and section headings do not
9 affect the scope, meaning, or intent of the provisions of this chapter.

10 (2) When, by the provisions of this chapter, a power is
11 granted to, or a duty imposed upon, a public officer, the power may be
12 exercised or the duty performed by a deputy of the officer or by a
13 person authorized, under law, by the officer, unless this chapter
14 expressly provides otherwise.

15 (3) When a notice, report, statement, or record is required
16 or authorized by this chapter, it shall be made in writing in a manner
17 reasonably calculated to communicate the notice, report, statement, or
18 record to the recipient.

19 (4) A reference in this chapter to mailing means first-class
20 mail, postage prepaid, unless certified mail is specified. Certified
21 mail includes registered mail.

22 (5) References in this chapter to financial statements,
23 balance sheets, income statements, and statements of changes in finan-
24 cial position of a corporation and references to assets, liabilities,
25 earnings, retained earnings, and similar accounting items of a corpora-
26 tion mean financial statements or items prepared or determined in
27 accordance with generally accepted accounting principles then appli-
28 cable, and fairly presenting the matters which they purport to present,
29 subject to any specific accounting treatment required by a particular

1 section of this chapter. Unless otherwise expressly stated, references
2 in this chapter to financial statements mean, in the case of a corpora-
3 tion which has subsidiaries, consolidated statements of the corporation
4 and those of its subsidiaries as are required or permitted to be in-
5 cluded in the consolidated statements under generally accepted account-
6 ing principles then applicable, and all references to these accounting
7 items mean items determined on a consolidated basis in accordance with
8 consolidated financial statements.

9 (6) A reference in this chapter to the time a notice is
10 given or sent means, unless otherwise expressly provided, the time a
11 written notice by mail is deposited in the United States mail, postage
12 prepaid; or the time any other written notice is personally delivered
13 to the recipient or is delivered to a common carrier for transmission,
14 or actually transmitted by electronic means to the recipient by the
15 person giving the notice; or the time an oral notice is communicated in
16 person or by electronic means to the recipient or to a person at the
17 office of the recipient who the person giving the notice has reason to
18 believe will promptly communicate it to the recipient.

19 (7) When reference is made to any portion of this chapter or
20 of any other law of this state, the reference applies to all amendments
21 and additions.

22 (8) "Shall" is mandatory, "may" is permissive, and "may not"
23 is prohibitory.

24 (9) "Oath" includes affirmation.

25 Sec. 10.06.990. DEFINITIONS. In this chapter, unless the context
26 otherwise requires,

27 (1) "acknowledged" means that a document is accompanied by a
28 certificate of its acknowledgement as provided in AS 09.63.010 - 09.63.-
29 130;

1 (2) "affiliate" means a person that directly or indirectly
2 through one or more intermediaries controls, or is controlled by, or is
3 under common control with, a corporation subject to this chapter;

4 (3) "alien" means

5 (A) an individual who is not a citizen or national of
6 the United States, or who is not lawfully admitted to the United
7 States for permanent residence, or paroled into the United States
8 under the Immigration and Nationality Act (8 U.S.C. secs. 1101 -
9 1503, as amended);

10 (B) a person, other than an individual, that was not
11 created or organized under the laws of the United States or of a
12 state, or whose principal place of business is not located in any
13 state; or

14 (C) a person, other than an individual, that was created
15 or organized under the laws of the United States or of a state, or
16 whose principal place of business is located in a state, and which
17 is controlled by a person described in (A) or (B) of this para-
18 graph;

19 (4) "approved by (or approval of) the board" means approved
20 or ratified by the vote of the board or by the vote of a committee
21 authorized to exercise the powers of the board, except as to matters
22 not within the competence of the committee under AS 10.06.468;

23 (5) "approved by (or approval of) the outstanding shares"
24 means approved by the affirmative vote of a majority of the outstanding
25 shares entitled to vote; this approval includes the affirmative vote of
26 a majority of the outstanding shares of each class or series entitled
27 by the articles of incorporation or this chapter to vote as a class or
28 series on the subject matter and also includes the affirmative vote of
29 a greater proportion, including all, of the outstanding shares of a

1 class or series if a greater proportion is required by the articles or
2 this chapter;

3 (6) "approved by (or approval of) the shareholders" means
4 approved or ratified by the affirmative vote of a majority of the
5 shares entitled to vote represented at a duly held meeting at which a
6 quorum is present or by the written consent of shareholders (AS 10.-
7 06.423) or by the affirmative vote or written consent of a greater
8 proportion, including all, of the shares of a class or series if a
9 greater proportion is required by the articles of incorporation or this
10 chapter for all or any specified shareholder action;

11 (7) "articles" or "articles of incorporation" means the
12 original or restated articles of incorporation and all amendments and
13 includes articles of merger;

14 (8) "authorized shares" means the shares of all classes
15 which the corporation may issue;

16 (9) "board" means the board of directors of a domestic or
17 foreign corporation;

18 (10) "commissioner" means the commissioner of commerce and
19 economic development or his designee;

20 (11) "common shares" means shares which have no preference
21 over other shares with respect to distribution of assets on liquidation
22 or with respect to payment of dividends;

23 (12) "control" or "controlling interest" means

24 (A) owning directly or indirectly, or having the power
25 to vote, 25 percent or more of a class of voting securities of a
26 corporation subject to this chapter; or

27 (B) influencing or affecting in any substantive manner
28 the election of a majority of the directors or trustees of a
29 corporation subject to this chapter;

1 (13) "corporation" or "domestic corporation" means a corpora-
2 tion for profit subject to the provisions of this chapter, but does not
3 include a foreign corporation or a state or national bank;

4 (14) "corporation tax" means the biennial corporation tax
5 imposed under Alaska law on corporations;

6 (15) "department" means the Department of Commerce and Eco-
7 nomic Development;

8 (16) "director" means a natural person designated in the
9 articles of incorporation or elected by the incorporators as a director
10 and includes a natural person designated, elected, or appointed by any
11 other name or title to act as a director, and his successor;

12 (17) "distribution to its shareholders" means the transfer of
13 cash or property by a corporation or its subsidiary to its shareholders
14 without consideration, whether by way of dividend or otherwise, except
15 a dividend in shares of the corporation, or the purchase or redemption
16 of its shares for cash or property; the time of a distribution of a
17 dividend is the date of the declaration of the dividend and the time of
18 a distribution by purchase or redemption of shares is the date cash or
19 property is transferred by the corporation, whether or not under a
20 contract of an earlier date; however, if a negotiable debt security is
21 issued in exchange for shares, the time of the distribution is the date
22 when the corporation acquires the shares in the exchange; in the case
23 of a sinking fund payment, cash or property is transferred within the
24 meaning of this paragraph at the time that it is delivered to a trustee
25 for the holders of preferred shares to be used for the redemption of
26 those shares or physically segregated by the corporation in trust for
27 that purpose;

28 (18) "filed", unless otherwise expressly provided, means
29 filed in the office of the commissioner of commerce and economic devel-

1 opment;

2 (19) "five percent shareholder" means a person owning at
3 least five percent of the shares or five percent of any class of shares
4 of a corporation;

5 (20) "foreign corporation" means a corporation for profit
6 organized under laws other than the laws of Alaska for a purpose for
7 which a corporation may be organized under this chapter;

8 (21) "independent accountant" means a certified public
9 accountant or a public accountant who is independent of the corporation
10 as determined in accordance with generally accepted auditing standards
11 and who is engaged to audit financial statements of the corporation or
12 perform other accounting services;

13 (22) "liquidation price" or "liquidation preference" means
14 amounts payable for shares of a class upon voluntary or involuntary
15 dissolution, winding up or distribution of the entire assets of the
16 corporation, including any cumulative dividends accrued and unpaid, in
17 priority to shares of another class or classes;

18 (23) "net assets" means the amount by which the total assets
19 of a corporation exceed the total debts of the corporation;

20 (24) "officers' certificate" means a certificate signed and
21 verified by the chairman of the board, the president or a vice-president
22 and by the secretary, the treasurer or an assistant secretary or
23 assistant treasurer;

24 (25) "on the certificate" means that a statement appears on
25 the face of a share certificate or on the reverse of the certificate
26 with a reference to the statement on the face;

27 (26) "organic change" means a merger, consolidation, share
28 exchange, or sale of assets other than in the regular course of
29 business;

1 (27) "parent" or "parent corporation" means an affiliate
2 controlling a specified corporation directly or indirectly through one
3 or more intermediaries;

4 (28) "paid-in capital" means the consideration actually
5 received by a corporation for issuance of its shares, plus any addi-
6 tional amount capitalized by its board under AS 10.06.390;

7 (29) "person" means an individual, a corporation, a partner-
8 ship, an association, a joint-stock company, an estate, a trust if the
9 interests of the beneficiaries are evidenced by a security, an unincor-
10 porated association, a government, a political subdivision of a govern-
11 ment, or a combination of these entities;

12 (30) "preferred shares" means shares other than common shares;

13 (31) "proxy" means a written authorization signed by a share-
14 holder or the shareholder's attorney-in-fact giving another person
15 power to vote with respect to the shares of the shareholder; "signed"
16 for the purpose of this paragraph means the placing of the shareholder's
17 name on the proxy by manual signature by the shareholder or the share-
18 holder's attorney-in-fact;

19 (32) "proxy holder" means the person to whom a proxy is
20 given;

21 (33) "redemption price" means the amount in cash, property or
22 securities, or any combination of these, payable on shares of any class
23 or series upon the redemption of the shares; unless otherwise expressly
24 provided, the redemption price is payable in cash;

25 (34) "retained earnings" means the account of the corporation
26 representing undistributed and uncanceled net profits, income,
27 gains, and losses from the date of incorporation;

28 (35) "series of shares" means those shares within a class
29 which have the same rights, preferences, privileges, and restrictions

1 but which differ in one or more rights, preferences, privileges, or
2 restrictions from other shares within the same class;

3 (36) "shareholder" means a holder of record of a share in a
4 corporation;

5 (37) "shares" means the units into which the proprietary
6 interests in a corporation are divided;

7 (38) "state" means any of the United States, the District of
8 Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands,
9 Guam, the Virgin Islands, American Samoa, the Trust Territory of the
10 Pacific Islands, or any other territory or possession of the United
11 States;

12 (39) "subscriber" means one who subscribes for a share in a
13 corporation before or after incorporation;

14 (40) "subsidiary" of a specified corporation means

15 (A) except as provided in (B) of this paragraph, a
16 corporation in which the specified corporation owns more than 50
17 percent of the voting power directly or indirectly through one or
18 more other subsidiaries of the specified corporation;

19 (B) for the purpose of AS 10.06.420(e), a corporation
20 in which the specified corporation owns more than 25 percent of
21 the voting power directly or indirectly through one or more other
22 subsidiaries of the specified corporation;

23 (41) "surviving corporation" means a corporation into which
24 one or more other corporations are merged;

25 (42) "vacancy" when used with respect to the board means any
26 authorized position of director which is not then filled by a duly
27 elected director, whether caused by death, resignation, removal, change
28 in the authorized number of directors, or otherwise;

29 (43) "verified" means that a document has been certified to

1 be true as provided in AS 09.63.040;

2 (44) "vote" includes authorization by written consent subject
3 to the provisions of AS 10.06.423 and 10.06.475;

4 (45) "voting power" means the power to vote for the election
5 of directors at the time a determination of voting power is made and
6 does not include the right to vote upon the happening of a condition or
7 event which has not yet occurred; when different classes of shares are
8 entitled to vote as separate classes for different members of the
9 board, the determination of percentage of voting power shall be made on
10 the basis of the percentage of the total number of authorized directors
11 which the shares in question have the power to elect in an election at
12 which all shares then entitled to vote for the election of any directors
13 are voted;

14 (46) "writing" includes any form of recorded message capable
15 of comprehension by ordinary visual means.

16 Sec. 10.06.995. SHORT TITLE. This chapter may be cited as the
17 Alaska Corporations Code.

18 * Sec. 2. AS 10.05 is repealed.

19 * Sec. 3. APPLICATION OF PROVISIONS TO DOMESTIC AND FOREIGN CORPORATIONS.

20 (a) Except as otherwise expressly provided, the provisions of this Act
21 apply on and after the effective date of this Act to:

22 (1) a domestic corporation organized under the Alaska Business
23 Corporations Act (AS 10.05) existing on the effective date of this Act;

24 (2) a foreign corporation which is authorized or does business in
25 the state on or after the effective date of this Act;

26 (3) actions by a director, officer, or shareholder of a corpora-
27 tion described in (1) and (2) of this section on and after the effective
28 date of this Act.

29 (b) Except as otherwise expressly provided, a section of this Act

1 governing acts, contracts, or other transactions by a corporation or its
2 directors, officers, or shareholders applies only to acts, contracts, or
3 transactions occurring on or after the effective date of this Act and the
4 former provisions of AS 10.05 govern acts, contracts, or transactions occur-
5 ring before the effective date of this Act.

6 (c) Except as otherwise expressly provided, a vote or consent by the
7 directors or shareholders of a corporation before the effective date of this
8 Act in accordance with the former provisions of AS 10.05 is effective, and
9 if a certificate or document is required to be filed in a public office of
10 the state relating to the action, it may be filed after the effective date
11 of this Act in accordance with the former provisions of AS 10.05.

12 * Sec. 4. EXERCISE OF RESERVE POWER. It is the intent of the legislature
13 in enacting AS 10.06.502(a) in sec. 1 of this Act to exercise to the fullest
14 extent the reserve power of the state over corporations and to authorize any
15 amendment of the articles permitted under AS 10.06.502(a) regardless of
16 whether a provision contained in the amendment was permissible at the time of
17 the original incorporation of the corporation.

18 * Sec. 5. APPLICATION TO ARTICLES OF EXISTING CORPORATIONS. (a) The
19 provisions of AS 10.06.208 and 10.06.210 relating to the contents of articles
20 of incorporation do not apply to domestic corporations existing on the
21 effective date of this Act unless and until an amendment of the articles is
22 filed stating that the corporation elects to be governed by all of the
23 provisions of the Alaska Corporations Code (AS 10.06) not otherwise applic-
24 able to it under this Act. If an amendment makes no change in the articles
25 of incorporation other than conforming the statement of purposes and powers
26 to AS 10.06.208(2) or 10.06.210(1)(F) or deletes references to par value or
27 location of principal office, it may be adopted by approval of the board of
28 directors of the corporation alone; otherwise, it shall be approved as
29 provided in AS 10.06.504 - 10.06.506 in sec. 1 of this Act.

1 (b) A corporation organized and existing under the former provisions
2 of AS 10.05 shall comply with AS 10.06.208 and 10.06.210 in sec. 1 of this
3 Act on or before the date five years after the effective date of this Act.

4 * Sec. 6. AMENDMENT OF ARTICLES OF INCORPORATION. (a) The requirement
5 of an affirmative vote of at least two-thirds of the shares entitled to vote
6 for the adoption of an amendment to the articles of incorporation as provided
7 in former AS 10.05.276 shall remain in force for corporations existing
8 before the effective date of this Act.

9 (b) Notwithstanding (a) of this section, an election to be governed by
10 the voting provisions of AS 10.06.504 - 10.06.506 in sec. 1 of this Act may
11 be made in the same manner as an amendment to the articles of incorporation
12 is made under those sections. An election under this subsection requires
13 the affirmative vote of at least two-thirds of the shares entitled to vote
14 under former AS 10.05.276(3).

15 * Sec. 7. INDEMNIFICATION BY A CORPORATION. AS 10.06.490 in sec. 1 of
16 this Act governs a proposed indemnification by a corporation after the
17 effective date of this Act, whether the events upon which the indemnification
18 is based occurred before or after the effective date of this Act. A state-
19 ment relating to indemnification contained in the articles or bylaws of a
20 corporation on the effective date of this Act may limit the indemnification
21 permitted by AS 10.06.490 unless the statement expressly states that indemni-
22 fication is limited.

23 * Sec. 8. DISTRIBUTIONS AND REACQUISITION OF SHARES. (a) AS 10.06.300 -
24 10.06.390 in sec. 1 of this Act apply to a distribution to shareholders made
25 after the effective date of this Act by a corporation existing on the effec-
26 tive date of this Act, but a distribution under a contract for the purchase
27 or redemption of shares entered into by the corporation before the effective
28 date of this Act may be made if permissible under AS 10.06.300 - 10.06.390
29 or under the former provisions of AS 10.05 and other law in effect at the

1 time the contract was formed.

2 (b) AS 10.06.388(a) in sec. 1 of this Act applies only to shares
3 acquired on or after the effective date of this Act.

4 * Sec. 9. TENURE OF OFFICERS PRESERVED. If a person holds an office
5 under a law repealed by this Act, he shall continue to hold the office
6 according to its former tenure if the office is continued by this Act.

7 * Sec. 10. EXISTING ACTIONS. The enactment of this chapter does not
8 affect a cause of action, liability, penalty or special proceeding existing,
9 incurred or accrued on the effective date of this chapter.

10 * Sec. 11. This Act takes effect July 1, 1982.

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