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

1 IN THE HOUSE

2

HOUSE BILL NO. 343

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act revising the corporations code; and providing
7 for an 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
17 other applicable law, a corporation has all the powers of a natural
18 person in carrying out its business activities, including, without
19 limitation, 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
26 or an interest in the property, wherever situated;

27 (5) sell, convey, mortgage, pledge, lease, exchange, trans-
28 fer, 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 ac-
5 quire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or
6 otherwise dispose of, and otherwise use and deal in shares or other
7 interests in, or obligations of, other domestic or foreign corpora-
8 tions, associations, partnerships or individuals, or direct or in-
9 direct obligations of the United States or of any other government,
10 state, territory, governmental district or municipality or an instru-
11 mentality of these;

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

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

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

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

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

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

1 (14) transact lawful business in time of war in aid of the
2 United States in the prosecution of the war;

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

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

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

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

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

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

1 sustained;

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

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

9 (b) This section applies to contracts and conveyances made by
10 foreign corporations in this state and to conveyances by foreign
11 corporations of real property situated in this state.

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

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

23 (2) to dissolve the corporation; or

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

27 Sec. 10.06.025. CONTRACTS OR CONVEYANCES BINDING DOMESTIC AND
28 FOREIGN CORPORATIONS. (a) A contract or conveyance made in the name
29 of the corporation that is authorized or ratified by the board, or is

1 done within the scope of the authority, actual or apparent, conferred
2 by the board or within the agency power of the officers executing it,
3 except as the board's authority is limited by law other than this
4 chapter, binds the corporation, and the corporation acquires rights
5 under the contract, whether the contract is executed or is wholly or
6 in part executory.

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

10 ARTICLE 2. NAME AND SERVICE OF PROCESS.

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

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

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

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

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

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

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

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

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

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

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

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

1 under this chapter or a business name reserved or registered under
2 AS 10.35.

3 Sec. 10.06.130. USE OF SAME OR DECEPTIVELY SIMILAR NAME. Regis-
4 tration of a corporate name gives the exclusive right to the use of
5 the name. The person who has registered the corporate name may enjoin
6 the use of the same or deceptively similar name and has a cause of
7 action for damages against a person who uses the same or deceptively
8 similar name.

9 Sec. 10.06.135. PROCEDURE FOR REGISTRATION OF CORPORATE NAME.
10 Registration of a corporate name is made by filing with the commis-
11 sioner

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

17 (2) a certificate from an official of the state or terri-
18 tory where the corporation is organized who has custody of the records
19 pertaining to corporations stating that the corporation is in good
20 standing under the laws of that state or territory.

21 Sec. 10.06.140. FEE FOR AND DURATION OF REGISTERED NAME. (a)
22 The fee for registration of a corporate name shall be established by
23 the department by regulation subject to AS 10.06.860.

24 (b) The registration is effective until the close of the cal-
25 endar year in which the application for registration is filed unless
26 terminated earlier by involuntary dissolution in accordance with
27 AS 10.06.633.

28 Sec. 10.06.145. RENEWAL OF REGISTERED NAME. A corporation that
29 has registered its corporate name may renew the registration each year

1 by (1) filing an application for renewal each year setting out the
2 facts required in an original application for registration; (2) filing
3 a certificate of good standing required for an original registration;
4 and (3) paying a fee established by the department by regulation
5 subject to AS 10.06.860. An application for renewal shall be filed
6 between October 1 and December 31 in each year. The renewal extends
7 the registration for the following calendar year.

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

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

1 office or usual place of residence. Service upon a designated agent
2 has the same effect as service made personally upon the person or
3 corporation who designates the agent.

4 (b) A person or foreign corporation required to designate an
5 agent under (a) of this section and the corporation subject to that
6 controlling interest may not initiate an action in the courts of this
7 state until the person or corporation complies with the provisions of
8 (a) of this section. If a person or foreign corporation or corpora-
9 tion subject to that controlling interest initiates an action in the
10 courts of this state and the court finds that there has been noncom-
11 pliance with (a) of this section, the court shall dismiss the action
12 without prejudice.

13 Sec. 10.06.160. FILING LIST OF REGISTERED CORPORATIONS WITH
14 SUPERIOR COURT; UPDATING AND PUBLISHING. The commissioner shall file
15 a list of the names of each domestic and authorized foreign corpora-
16 tion, and the name and address of the registered agent of the corpo-
17 rations with the superior court of each judicial district. The com-
18 missioner shall provide a weekly update of the list indicating addi-
19 tions, deletions, and changes by mechanical or electronic means that
20 can be reduced to legible written copy. Upon request, the commis-
21 sioner shall make available a copy of the list and weekly updates for
22 a fee established by the department by regulation. The commissioner
23 shall publish an updated compilation of the entire list at least once
24 each year.

25 Sec. 10.06.165. CHANGE OF REGISTERED OFFICE OR AGENT. (a) A
26 corporation may change its registered office, agent, or both, by
27 filing with the department a verified statement signed by the presi-
28 dent or vice-president including

29 (1) the name of the corporation;

- 1 (2) the address of its registered office;
- 2 (3) the address of its new registered office if the regis-
- 3 tered office is to be changed;
- 4 (4) the name of its registered agent;
- 5 (5) the name of its new registered agent, if the registered
- 6 agent is to be changed; and
- 7 (6) a statement that the change is authorized by resolution
- 8 of its board of directors.

9 (b) If the commissioner finds that the verified statement com-
10 plies with this chapter, the commissioner shall file it in the commis-
11 sioner's office. The change becomes effective when the statement is
12 filed.

13 Sec. 10.06.170. CHANGE OR RESIGNATION OF REGISTERED AGENT. (a)
14 A registered agent of a domestic or foreign corporation may change the
15 location of the agent's office from one address to another in this
16 state. The agent may change the registered office for each corpo-
17 ration for which the person is acting as registered agent by filing in
18 the office of the commissioner a statement setting out (1) the name of
19 the agent; (2) the address of the agent's office before change; (3)
20 the address to which the office is changed; and (4) a list of corpo-
21 rations for which the person is the registered agent. The statement
22 shall be executed by the registered agent in the individual name of
23 the agent or, if the agent is a corporation, it shall be executed and
24 verified by its president or a vice-president. The statement shall be
25 delivered to the commissioner and if the commissioner finds that the
26 statement complies with this chapter, the commissioner shall file it
27 in the commissioner's office. The change becomes effective when the
28 statement is filed.

29 (b) A registered agent may resign by filing a written notice,

1 executed in duplicate, with the commissioner. The written notice of
2 resignation shall set out the latest address of the principal office
3 of the corporation and the names, addresses, and titles of the most
4 recent officers of the corporation known by the agent. The commis-
5 sioner shall immediately mail a copy of the notice to the corporation
6 at its principal office. The resignation becomes effective 30 days
7 after the filing of the written notice, unless the corporation sooner
8 appoints a successor registered agent, as provided in AS 10.06.165.

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

13 (b) If a corporation fails to appoint or maintain a registered
14 agent in this state, or if its registered agent cannot, with reason-
15 able diligence, be found at the registered office, the commissioner is
16 an agent of the corporation upon whom the process, notice, or demand
17 may be served. A person may serve the commissioner under this sub-
18 section by

19 (1) serving on the commissioner or the designee of the
20 commissioner a copy of the process, notice, or demand, with any papers
21 required by law to be delivered in connection with the service, and a
22 fee established by the department by regulation subject to AS 10.06.-
23 860;

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

28 (A) the address of the last registered office of the
29 corporation as shown by the records on file in the office of the

1 commissioner; and

2 (B) the address, the use of which the person initiat-
3 ing the proceedings knows or, on the basis of reasonable inquiry,
4 has reason to believe is most likely to result in actual notice;
5 and

6 (3) filing with the appropriate court or other body, as
7 part of the return of service, the return receipt of mailing and an
8 affidavit of the person initiating the proceedings that this section
9 has been complied with.

10 (c) The commissioner shall keep a record of processes, notices,
11 and demands served upon the commissioner under this section.

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

15 ARTICLE 3. FORMATION OF CORPORATIONS.

16 Sec. 10.06.205. INCORPORATORS. One or more natural persons at
17 least 18 years of age may act as incorporators of a corporation by
18 signing, verifying, and delivering in duplicate to the commissioner
19 articles of incorporation for the corporation.

20 Sec. 10.06.208. ARTICLES OF INCORPORATION. The articles of
21 incorporation shall set out

22 (1) the name of the corporation;

23 (2) the purpose or purposes for which the corporation is
24 organized that may be stated to be, or to include, the transaction of
25 any or all lawful business for which corporations may be incorporated
26 under this chapter;

27 (3) the address of its initial registered office if incor-
28 poration is after March 29, 1957, and the name of its initial regis-
29 tered agent at that address;

1 (4) the name and address of each alien affiliate or a
2 statement that there are no alien affiliates;

3 (5) if the corporation is authorized to issue only one
4 class of shares, the total number of shares that the corporation is
5 authorized to issue;

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

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

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

16 (C) the rights, preferences, privileges, and restric-
17 tions granted to or imposed on the respective classes or series
18 of shares or the holders of the shares, or that the board, within
19 any limits and restrictions stated, may determine or alter the
20 rights, preferences, privileges, and restrictions granted to or
21 imposed on a wholly unissued class of shares or a wholly unissued
22 series of any class of shares; and

23 (D) if the number of shares of a series is authorized
24 to be fixed by the board, the articles of incorporation may also
25 authorize the board, within the limits and restrictions stated in
26 the articles or stated in a resolution of the board originally
27 fixing the number of shares constituting a series, to increase or
28 decrease, but not below the number of shares of the series then
29 outstanding, the number of shares of a series after the issue of

1 shares of that series; if the number of shares of a series are
2 decreased, the shares constituting the decrease shall resume the
3 status they had before the adoption of the resolution originally
4 fixing the number of shares of the series.

5 Sec. 10.06.210. ARTICLES OF INCORPORATION: OPTIONAL PROVISIONS.

6 The articles of incorporation may set out

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

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

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

13 (C) special qualifications of persons who may be
14 shareholders;

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

17 (E) a provision restricting or eliminating the power
18 of the board or of the outstanding shares to adopt, amend, or
19 repeal provisions of the bylaws as provided in AS 10.06.228;

20 (F) a provision requiring, for any corporate action
21 except as provided in AS 10.06.460 and AS 10.06.605, the vote of
22 a larger proportion or of all of the shares of a class or series,
23 or the vote or quorum for taking action of a larger proportion or
24 of all of the directors, than is otherwise required by this
25 chapter;

26 (G) a provision limiting or restricting the business
27 in which the corporation may engage or the powers that the cor-
28 poration may exercise or both;

29 (H) a provision conferring upon the holder of an

1 evidence of indebtedness, issued or to be issued by the corpo-
2 ration, the right to vote in the election of directors and on any
3 other matters on which shareholders may vote;

4 (I) a provision conferring on shareholders the right
5 to determine the consideration for which shares shall be issued;

6 (J) a provision requiring the approval of the share-
7 holders or the approval of the outstanding shares for a corporate
8 action, even though not otherwise required by this chapter;

9 (K) a provision that one or more classes or series of
10 shares are redeemable as provided in AS 10.06.325;

11 (L) a provision, in the case of a corporation with
12 less than 100 holders of record of its shares as determined in
13 AS 10.06.408, waiving the requirements of AS 10.06.433(a);

14 (M) a provision that confers or imposes the powers,
15 duties, privileges, and liabilities of directors upon delegates
16 under AS 10.06.450;

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

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

23 (4) any other provision not in conflict with this chapter
24 for the management of the business and for the conduct of the affairs
25 of the corporation, including any provision that is required or per-
26 mitted by this chapter to be stated in the bylaws.

27 Sec. 10.06.213. FILING OF ARTICLES OF INCORPORATION. Duplicate
28 originals of the articles of incorporation shall be delivered to the
29 commissioner for processing in accordance with AS 10.06.910 and for

1 issuance of a certificate of incorporation.

2 Sec. 10.06.215. DISCLOSURE OF CORPORATE PURPOSES. An incorpo-
3 rator presenting articles of incorporation under AS 10.06.213 shall
4 deliver, with the articles, a separate statement of the codes, from
5 the identification codes established under AS 10.06.873, which most
6 closely describe the activities in which the corporation will ini-
7 tially engage.

8 Sec. 10.06.218. EFFECT OF ISSUANCE OF CERTIFICATE OF INCORPORA-
9 TION. The corporate existence begins on the issuance of the certifi-
10 cate of incorporation. That certificate is conclusive evidence that
11 all precedent conditions required to be performed by the incorporators
12 have been satisfied and that the corporation has been incorporated.
13 Issuance does not affect the right of the state to bring a proceeding
14 to cancel or revoke the certificate or for involuntary dissolution of
15 the corporation. The doctrines of de jure compliance, de facto corpo-
16 rations, and corporations by estoppel are abolished.

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

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

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

29 Sec. 10.06.223. ORGANIZATION MEETING. After the commencement of

1 corporate existence by the issuance of a certificate of incorporation,
2 an organization meeting of either the incorporators or the board of
3 directors named in the articles of incorporation shall be held, either
4 inside or outside the state, at the call of a majority of the incorpo-
5 rators or directors named in the articles of incorporation, for the
6 purpose of adopting bylaws, electing directors if none have been named
7 in the articles, electing officers, and transacting such other busi-
8 ness as may come before the meeting. Those calling the meeting shall
9 give at least 20 days notice of the meeting by mail to each incorpora-
10 tor or director named. The notice shall state the time and place of
11 the meeting.

12 Sec. 10.06.225. POWER OF INCORPORATORS BEFORE DIRECTORS' ELEC-
13 TION. If initial directors have not been named in the articles of
14 incorporation, the incorporator or incorporators may do whatever is
15 necessary and proper to perfect the organization of the corporation
16 until the directors are elected, including the adoption and amendment
17 of bylaws of the corporation and the election of directors.

18 Sec. 10.06.228. BYLAWS: ADOPTION, AMENDMENT OR REPEAL. Bylaws
19 may be adopted, amended, or repealed either by approval of the out-
20 standing shares or by approval of the board, except as provided in
21 AS 10.06.230. The articles of incorporation may restrict or eliminate
22 the power of either the board or the outstanding shares to adopt,
23 amend, or repeal bylaws.

24 Sec. 10.06.230. BYLAWS: NUMBER OF DIRECTORS AND OTHER CONTENT.
25 (a) Unless a provision is contained in the articles, the bylaws shall
26 state the number of directors of the corporation or state that the
27 number of directors may not be less than a stated number or more than
28 a stated number, with the exact number of the directors to be fixed,
29 within the limits specified, by approval of the board or the

1 shareholders in the manner provided in the bylaws. The stated maximum
2 number of directors may not be greater than two times the stated
3 minimum number minus one and the number of minimum number of directors
4 may not be less than three. If the articles provide for the number of
5 directors, the number of directors may only be changed by an amendment
6 to the articles.

7 (b) Notwithstanding (a) of this section the number of directors
8 may be

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

11 (2) two so long as the corporation has only two share-
12 holders.

13 (c) After the issuance of shares, a bylaw specifying or changing
14 a fixed number of directors, or the maximum or minimum number of
15 directors or changing from a fixed to a variable board or vice versa,
16 shall be adopted by approval of the outstanding shares.

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

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

26 (1) a provision referred to in AS 10.06.210(2), (3), or
27 (4);

28 (2) the time, place, and manner of calling, conducting and
29 giving notice of meetings of shareholders, directors, and committees;

1 (3) the manner of execution, revocation, and use of
2 proxies;

3 (4) the qualifications, duties, and compensation of direc-
4 tors; the time of their annual election; and the requirements of a
5 quorum for directors' and committee meetings;

6 (5) the appointment and authority of committees of the
7 board;

8 (6) the appointment, duties, compensation, and tenure of
9 officers;

10 (7) the mode of determination of holders of record of the
11 shares of the corporation;

12 (8) the making of annual reports and financial statements
13 to the shareholders.

14 Sec. 10.06.233. BYLAWS TO BE KEPT AT OFFICE; INSPECTION BY
15 SHAREHOLDERS. Each corporation shall keep at its principal executive
16 office in this state or, if its principal executive office is not in
17 this state, at its principal business office in this state, the ori-
18 ginal or a copy of its bylaws with amendments to date, that shall be
19 open to inspection by the shareholders at all reasonable times during
20 office hours. If the principal executive office of the corporation is
21 outside this state and the corporation has no principal business
22 office in this state, it shall upon the written request of a share-
23 holder furnish to a shareholder a copy of the bylaws with amendments
24 to date.

25 ARTICLE 4. CORPORATE FINANCE.

26 Sec. 10.06.305. CREATION, CLASSES, AND ISSUANCE OF SHARES. (a)
27 Subject to the provisions of this chapter, a corporation may issue one
28 or more classes or series of shares or both, with full, limited, or no
29 voting rights and with other rights, preferences, privileges, and

1 restrictions as are stated or authorized in its articles of incorpora-
2 tion. A denial or limitation of voting rights is not effective unless
3 at the time one or more classes or series of outstanding shares or
4 debt securities, singly or in the aggregate, are entitled to full
5 voting rights. A denial or limitation of dividend or liquidation
6 rights is not effective unless at the time one or more classes or
7 series of outstanding shares, singly or in the aggregate, are entitled
8 to unlimited dividend or liquidation rights.

9 (b) All shares of a class shall have the same voting, conver-
10 sion, and redemption rights and other rights, preferences, privileges,
11 and restrictions, unless the class is divided into series. If a class
12 is divided into series, all the shares of a series shall have the same
13 voting, conversion, and redemption rights and other rights, prefer-
14 ences, privileges, and restrictions.

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

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

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

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

24 (4) having preference in the assets of the corporation over
25 another class of shares upon the voluntary or involuntary liquidation
26 of the corporation;

27 (5) convertible into shares of another class or into shares
28 of a series of the same or another class, except a class having prior
29 or superior rights and preferences as to dividends or distribution of

1 assets upon liquidation.

2 Sec. 10.06.310. ISSUANCE OF SHARES IN SERIES. If authorized by
3 the articles of incorporation, the shares of a preferred or special
4 class may be divided into and issued in series. Each series shall be
5 designated to distinguish the shares of the series from the shares of
6 other series and classes.

7 Sec. 10.06.313. VARIATION IN RIGHTS AND PREFERENCES OF SHARES.
8 Any or all of the rights and preferences of a series of a preferred or
9 special class of shares and the variations in the relative rights and
10 preferences between different series may be fixed and determined by
11 the articles of incorporation, but shares of the same class shall be
12 identical except for the following relative rights and preferences as
13 to which there may be variations between series:

14 (1) the rate of dividend;

15 (2) the price and the terms and conditions on which shares
16 may be redeemed;

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

19 (4) the amount payable upon shares in the event of volun-
20 tary liquidation;

21 (5) sinking fund provisions for the redemption or purchase
22 of shares;

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

26 (7) voting rights, if any.

27 Sec. 10.06.315. SERIES RIGHTS AND PREFERENCES ESTABLISHED BY
28 BOARD. If the articles of incorporation expressly vest authority in
29 the board, then, to the extent that the articles have not established

1 series and fixed and determined the variations in the relative rights
2 and preferences between series, the board may divide a class into
3 series and, within the limitations set out in AS 10.06.305 - 10.06.323
4 and in the articles, fix and determine the relative rights and pref-
5 erences of the shares of a series.

6 Sec. 10.06.318. MANNER OF ESTABLISHING SERIES. If the authority
7 to establish a series is contained in the articles of incorporation,
8 the board shall adopt a resolution setting out the designation of the
9 series and fixing and determining the relative rights and preferences
10 of the series to the extent not fixed and determined by the articles.

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

12 (a) Before the issuance of shares of a class the rights, preferences,
13 privileges, and restrictions of which have been fixed by resolution of
14 the board, or before the issuance of shares of a series established by
15 resolution of the board, the corporation shall file with the commis-
16 sioner a statement in duplicate signed by the president or vice-presi-
17 dent and the secretary or assistant secretary, verified by one of the
18 officers signing the statement, and setting out:

19 (1) the name of the corporation;

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

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

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

26 (b) The commissioner shall process the statement in accordance
27 with AS 10.06.910.

28 Sec. 10.06.323. EFFECT OF FILING STATEMENT. When the commis-
29 sioner has filed the statement under AS 10.06.320, the resolution

1 fixing the rights, preferences, privileges, and restrictions of a
2 wholly unissued class of shares or the resolution establishing and
3 designating a series of shares and fixing and determining the relative
4 rights and preferences of the series becomes effective and constitutes
5 an amendment of the articles of incorporation.

6 Sec. 10.06.325. REDEMPTION OF SHARES; CREATION OF SINKING FUND;
7 REPURCHASE AGREEMENTS. (a) Except as provided in (b) of this sec-
8 tion, a corporation may provide in its articles of incorporation for
9 one or more classes or series of shares which are redeemable, in whole
10 or in part, at the option of the corporation, at the price or prices,
11 within the time or upon the happening of one or more specified events
12 and upon the terms and conditions as are stated in its articles.

13 (b) A corporation may not issue redeemable or other shares that
14 purport by their terms to grant to a holder of the shares the right to
15 compel the corporation to redeem the shares, except that an open-end
16 investment company registered under the United States Investment
17 Company Act of 1940 may, if its articles of incorporation so provide,
18 issue shares that are redeemable at the option of the holder at a
19 price approximately equal to the shares' proportionate interest in the
20 net assets of the corporation and a shareholder may compel redemption
21 of the shares in accordance with their terms.

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

26 Sec. 10.06.328. IRREVOCABILITY OF SUBSCRIPTIONS FOR SHARES. A
27 subscription for shares of a corporation to be organized is irre-
28 vocable for a period of six months, unless the subscription agreement
29 provides otherwise or unless all of the subscribers consent to the

1 revocation of the subscription.

2 Sec. 10.06.330. PAYMENT OF SUBSCRIPTION FOR SHARES. Unless
3 otherwise provided in the subscription agreement, subscriptions for
4 shares, whether made before or after the organization of a corpora-
5 tion, shall be paid in full at the time or in installments as deter-
6 mined by the board. A call made by the board for payment on sub-
7 scriptions shall be uniform for shares of the same class or shares of
8 the same series.

9 Sec. 10.06.333. FORFEITURE OF SHARES FOR DEFAULT IN PAYMENT. In
10 case of default in the payment of an installment or call when payment
11 is due, the corporation may proceed to collect the amount due as any
12 debt due the corporation. The bylaws may prescribe other remedies for
13 failure to pay installments or calls that become due. No remedy
14 working a forfeiture of a subscription, or of the amounts paid on a
15 subscription, may be declared against a subscriber unless the amount
16 due remains unpaid for a period of 20 days after written demand has
17 been made. If mailed, written demand is considered to be made when it
18 is deposited in the United States mail in a sealed envelope addressed
19 to the subscriber at the last post office address known to the corpo-
20 ration, with postage prepaid. On a sale of shares by reason of for-
21 feiture, the excess of proceeds realized over the amount due and
22 unpaid on the shares shall be paid to the delinquent subscriber or to
23 the legal representative of the subscriber.

24 Sec. 10.06.335. CONSIDERATION FOR SHARES. Shares may be issued
25 for consideration expressed in dollars fixed by the board unless the
26 articles of incorporation reserve to the shareholders the right to fix
27 the consideration. If this right is reserved as to any shares, the
28 shareholders shall, before the issuance of the shares, fix the con-
29 sideration to be received for the shares by approval of the

1 outstanding shares.

2 Sec. 10.06.338. PAYMENT FOR SHARES. (a) Consideration for the
3 issuance of shares may be paid, in whole or in part, in money, in
4 other property, tangible or intangible, or in labor or services
5 actually performed for the corporation. Unless otherwise provided in
6 the articles of incorporation, when payment of the consideration for
7 shares is received by the corporation, the shares are considered fully
8 paid and nonassessable.

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

11 Sec. 10.06.340. JUDGMENT OF BOARD OR SHAREHOLDERS AS TO VALUE OF
12 CONSIDERATION CONCLUSIVE In the absence of fraud in the transaction,
13 the judgment of the board or the shareholders as to the value of the
14 consideration received for shares is conclusive.

15 Sec. 10.06.343. STOCK RIGHTS AND OPTIONS. Subject to a provi-
16 sion in its articles, a corporation may create and issue, whether or
17 not in connection with the issuance and sale of any of its shares or
18 other securities, rights or options entitling the holders of the
19 shares to purchase from the corporation shares of any class or
20 classes. These rights or options shall be evidenced in the manner the
21 board approves and, subject to the provisions of the articles, shall
22 set out the terms upon which, the time within which, and the price at
23 which the shares may be purchased from the corporation upon the exer-
24 cise of the right or option. If the rights or options are to be
25 issued to directors, officers, or employees of the corporation or of a
26 subsidiary of the corporation and not to the shareholders generally,
27 their issuance shall be authorized by the approval of the outstanding
28 shares or shall be consistent with a plan so approved or ratified. In
29 the absence of fraud in the transaction, the judgment of the board as

1 to the adequacy of the consideration received for the rights or
2 options is conclusive.

3 Sec. 10.06.345. EXPENSES OF ORGANIZATION, REORGANIZATION, AND
4 FINANCING. The reasonable charges and expenses of organization or
5 reorganization of a corporation, and the reasonable expenses of and
6 compensation for the sale or underwriting of its shares, may be paid
7 or allowed by the corporation out of the consideration received by the
8 corporation in payment for its shares without rendering the shares not
9 fully paid or assessable.

10 Sec. 10.06.348. CERTIFICATES REPRESENTING SHARES. The shares of
11 a corporation shall be represented by certificates signed by the
12 president or vice-president and the secretary or an assistant secre-
13 tary of the corporation, and may be sealed with the seal of the corpo-
14 ration or a facsimile of the seal. The signatures of the president or
15 vice-president and the secretary or assistant secretary upon a certifi-
16 cate may be facsimiles if the certificate is countersigned by a
17 transfer agent or registered by a registrar, other than the corpora-
18 tion itself or an employee of the corporation. If an officer who has
19 signed or whose facsimile signature has been placed on the certificate
20 ceases to be an officer before the certificate is issued, the certifi-
21 cate may be issued by the corporation with the same effect as if the
22 officer were an officer at the date of its issue.

23 Sec. 10.06.350. INFORMATION REQUIRED TO BE STATED ON CERTIFI-
24 CATE. (a) Each certificate representing shares issued by a corpo-
25 ration authorized to issue shares of more than one class shall set out
26 on the face or back of the certificate, or state that the corporation
27 will furnish to a shareholder upon request and without charge, a full
28 or summary statement of the designations, preferences, limitations,
29 and relative rights of the shares of each class authorized to be

1 issued and, if the corporation is authorized to issue preferred or
2 special class in series, the variations in the relative rights and
3 preferences between the shares of each series so far as they have been
4 fixed and determined and the authority of the board to fix and deter-
5 mine the relative rights and preferences of subsequent series.

6 (b) Each certificate representing shares shall state upon its
7 face

8 (1) that the corporation is organized under the laws of the
9 state;

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

11 (3) the number and class of shares, and the designation of
12 the series, if any, that the certificate represents.

13 Sec. 10.06.353. FULL PAYMENT REQUIRED FOR CERTIFICATE. A cer-
14 tificate may not be issued for a share until the share is fully paid.

15 Sec. 10.06.355. ISSUANCE OF FRACTIONAL SHARES OR SCRIP. (a) A
16 corporation may issue a certificate for a fractional share, and, by
17 action of its board, may issue, instead of a fractional certificate,
18 scrip in registered or bearer form that entitles the holder to receive
19 a certificate for a full share upon the surrender of the scrip aggre-
20 gating a full share.

21 (b) A certificate for a fractional share entitles the holder to
22 exercise voting rights, to receive dividends, and to participate in
23 the assets of the corporation in the event of liquidation. Unless
24 otherwise provided in the scrip, scrip does not entitle the holder to
25 exercise voting rights, to receive dividends, or to participate in the
26 assets of the corporation in the event of liquidation.

27 (c) The board may issue scrip subject to the condition that it
28 is void if not exchanged for certificates representing full shares
29 before a specified date, or subject to the condition that the shares

1 for which the scrip is exchangeable may be sold by the corporation and
2 the proceeds distributed to the holders of that scrip, or subject to
3 other conditions which the board considers advisable.

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

7 (1) the amount of the retained earnings of the corporation
8 immediately before the distribution equals or exceeds the amount of
9 the proposed distribution; or

10 (2) immediately after giving effect to the distribution

11 (A) the sum of the assets of the corporation, exclu-
12 sive of goodwill, capitalized research and development expenses,
13 evidences of debts owing from directors or officers or secured by
14 the corporation's own shares, and deferred charges, would be at
15 least equal to one and one-fourth times its liabilities, not
16 including deferred taxes, deferred income, and other deferred
17 credits; and

18 (B) the current assets of the corporation would be at
19 least equal to its current liabilities or, if the average of the
20 earnings of the corporation before taxes on income and before
21 interest expense for the two preceding fiscal years was less than
22 the average of the interest expense of the corporation for those
23 fiscal years, at least equal to one and one-fourth its current
24 liabilities.

25 (b) For purposes of this section,

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

29 (2) "current assets" may include net amounts that the board

1 has determined in good faith may reasonably be expected to be received
2 from customers during the 12-month period used in calculating current
3 liabilities under existing contractual relationships obligating the
4 customers to make fixed or periodic payments during the term of the
5 contracts after in each case giving effect to future costs not then
6 included in current liabilities but reasonably expected to be incurred
7 by the corporation in performing the contracts.

8 (c) For the purposes of this chapter, the amount of a distribu-
9 tion payable in property shall be determined on the basis of the value
10 at which the property is carried on the corporation's financial state-
11 ments in accordance with generally accepted accounting principles.

12 (d) Subparagraph (a)(2)(B) of this section only applies to a
13 corporation that classifies its assets as current assets and fixed
14 assets under generally accepted accounting principles.

15 Sec. 10.06.360. PROHIBITED DISTRIBUTION; INABILITY TO MEET
16 MATURING DEBTS AND LIABILITIES. A corporation or subsidiary of a
17 corporation may not make a distribution to the corporation's share-
18 holders if the corporation or the subsidiary making the distribution
19 is, or as a result of the distribution would be, likely to be unable
20 to meet its liabilities as they mature.

21 Sec. 10.06.363. PROHIBITED DISTRIBUTION OF JUNIOR SHARES;
22 LIQUIDATION PREFERENCE. A corporation or subsidiary of a corporation
23 may not make a distribution to the corporation's shareholders on any
24 shares of its stock of a class or series that are junior to outstand-
25 ing shares of another class or series with respect to distribution of
26 assets on liquidation if, after giving effect to the distribution, the
27 excess of its assets, exclusive of goodwill, capitalized research and
28 development expenses, evidences of debts owing from directors or
29 officers or secured by the corporation's own shares, and deferred

1 charges, over its liabilities, not including deferred taxes, deferred
2 income and other deferred credits, would be less than the liquidation
3 preference of all shares having a preference on liquidation over the
4 class or series to which the distribution is made.

5 Sec. 10.06.365. PROHIBITED DISTRIBUTION TO JUNIOR SHARES; RATIO
6 OF RETAINED EARNINGS. A corporation or a subsidiary of a corporation
7 may not make a distribution to the corporation's shareholders on any
8 shares of its stock of a class or series that are junior to outstand-
9 ing shares of another class or series with respect to payment of
10 dividends unless the amount of the retained earnings of the corpora-
11 tion immediately before the distribution equals or exceeds the amount
12 of the proposed distribution plus the aggregate amount of the cumula-
13 tive dividends in arrears on all shares having a preference with
14 respect to payment of dividends over the class or series to which the
15 distribution is made.

16 Sec. 10.06.368. EXCEPTION FOR PURCHASE OR REDEMPTION OF SHARES
17 OF DECEASED SHAREHOLDER. The provisions of AS 10.06.358, 10.06.360,
18 10.06.363, and 10.06.365 do not apply to a purchase or redemption of
19 shares of a deceased shareholder from the proceeds of insurance on the
20 life of the shareholder in excess of the total amount of all premiums
21 paid by the corporation for the insurance, in order to carry out the
22 provisions of an agreement between the corporation and the shareholder
23 to purchase or redeem the shares upon the death of the shareholder.

24 Sec. 10.06.370. INAPPLICABILITY TO REGULATED INVESTMENT COMPANY.
25 The provisions of AS 10.06.358 do not apply to a dividend declared by
26 a regulated investment company, as defined in the United States
27 Internal Revenue Code, to the extent that the dividend is necessary to
28 maintain the status of the corporation as a regulated investment
29 company under the provisions of that code. The provisions of this

1 chapter do not apply to a purchase or redemption of shares redeemable
2 at the option of the holder by a registered open-end investment com-
3 pany under the United States Investment Company Act of 1940, so long
4 as the right of redemption remains unsuspended under the provisions of
5 that statute and the articles and bylaws of the corporation.

6 Sec. 10.06.373. SHARE DIVIDENDS: RESTRICTIONS. A dividend
7 payable in shares of a class may not be paid to the holders of shares
8 of another class unless authorized by the articles of incorporation or
9 unless payment is authorized by the affirmative vote or the written
10 consent of the holders of at least a majority of the outstanding
11 shares of the class in which the payment is to be made.

12 Sec. 10.06.375. ADDITIONAL RESTRICTIONS IN ARTICLES, BYLAWS,
13 INDENTURES OR AGREEMENTS. Nothing in this chapter prohibits addi-
14 tional restrictions upon the declaration of dividends or the purchase
15 or redemption of a corporation's own shares by provision in the arti-
16 cles or bylaws of the corporation or in any indenture or other agree-
17 ment entered into by the corporation.

18 Sec. 10.06.378. LIABILITY OF SHAREHOLDERS RECEIVING PROHIBITED
19 DISTRIBUTIONS; SUIT AGAINST SHAREHOLDERS. (a) A shareholder who
20 receives a distribution prohibited by this chapter with knowledge of
21 facts indicating the impropriety of the distribution is liable to the
22 corporation for the benefit of all of the creditors or shareholders
23 entitled to institute an action under (b) of this section for the
24 amount received by the shareholder with interest at the legal rate on
25 judgments until paid. The liability of the shareholder under this
26 subsection may not exceed the liabilities of the corporation owed to
27 nonconsenting creditors at the time of the violation and the injury
28 suffered by nonconsenting shareholders.

29 (b) Suit may be brought in the name of the corporation to

1 enforce the liability

2 (1) to creditors arising under (a) of this section for a
3 violation of AS 10.06.358 or AS 10.06.360 against any or all share-
4 holders liable by any one or more creditors of the corporation whose
5 debts or claims arose before the time of the distribution to share-
6 holders and who have not consented to the distribution, whether or not
7 they have reduced their claims to judgment; or

8 (2) to shareholders arising under (a) of this section for a
9 violation of AS 10.06.363 or AS 10.06.365 against any or all share-
10 holders liable by any one or more holders of preferred shares out-
11 standing at the time of the distribution who have not consented to the
12 distribution, without regard to the provisions of AS 10.06.435.

13 (c) A shareholder sued under this section may implead all other
14 shareholders liable under this section and may compel contribution,
15 either in that action or in an independent action against shareholders
16 not joined in that action.

17 (d) This section does not affect the liability that a share-
18 holder may have under other applicable law.

19 Sec. 10.06.380. IDENTIFICATION OF DISTRIBUTION IN NOTICE TO
20 SHAREHOLDERS. A distribution other than one chargeable to retained
21 earnings shall be identified in a notice to shareholders as being made
22 from a source other than retained earnings, and shall include a state-
23 ment of the accounting treatment of the distribution. The notice
24 shall accompany the distribution or shall be given within three months
25 after the end of the fiscal year in which the distribution is paid.

26 Sec. 10.06.383. INAPPLICABILITY TO WINDING UP AND INVOLUNTARY OR
27 VOLUNTARY DISSOLUTION. AS 10.06.305 - 10.06.390 do not apply in a
28 proceeding for winding up and dissolution under AS 10.06.605 - 10.06.-
29 678.

1 Sec. 10.06.385. REDEMPTION OF SHARES AT THE OPTION OF CORPORA-
2 TION; MANNER. (a) A corporation may redeem any or all shares that
3 are redeemable at its option by

4 (1) giving notice of redemption; and

5 (2) payment or deposit of the redemption price of the
6 shares as provided in its articles of incorporation or deposit of the
7 redemption price in accordance with (d) of this section.

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

17 (1) the class or series of shares or part of any class or
18 series of shares to be redeemed;

19 (2) the date fixed for redemption;

20 (3) the redemption price; and

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

23 (c) If the corporation gives notice of redemption under (b) of
24 this section, it shall also mail a copy of the notice of redemption to
25 each holder of record of shares to be redeemed as of the date of
26 mailing or record date fixed in accordance with AS 10.06.408, ad-
27 dressed to the holder at the address of the holder appearing on the
28 books of the corporation or given by the holder to the corporation for
29 the purpose of notice not earlier than 60 nor later than 20 days

1 before the date fixed for redemption. Failure to comply with this
2 subsection does not invalidate the redemption of the shares.

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

23 Sec. 10.06.388. ACQUISITION OF CORPORATION'S OWN SHARES; REISSU-
24 ANCE OR RETIREMENT. (a) When a corporation purchases or redeems or
25 otherwise acquires its own shares, the shares are restored to the
26 status of authorized but unissued shares unless the articles prohibit
27 their reissuance.

28 (b) If the articles prohibit the reissuance of shares upon their
29 acquisition by the corporation, then upon the acquisition of those

1 shares the authorized number of shares of the class and series, if
2 any, to which the shares belonged is reduced by the number of shares
3 acquired and the articles shall be amended to reflect the reduction in
4 authorized shares. If all of the authorized shares of a class or
5 series are acquired and their reissue is prohibited by the articles of
6 incorporation, then the articles shall also be amended to eliminate
7 any statement of rights, preferences, privileges, and restrictions
8 relating solely to that class or series. Articles of amendment shall
9 be filed within 60 days of the acquisition of the shares in accordance
10 with the requirements of AS 10.06.512 - 10.06.514. Approval by the
11 outstanding shares is not required to adopt such articles of amend-
12 ment.

13 Sec. 10.06.390. CAPITALIZATION OF RETAINED EARNINGS. The paid-
14 in capital of a corporation may be increased by resolution of the
15 board directing that all or a part of the retained earnings of the
16 corporation be transferred to the paid-in capital account.

17 ARTICLE 5. SHAREHOLDERS.

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

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

26 (c) Special meetings of the shareholders may be called by the
27 board, the chairman of the board, the president, the holders of not
28 less than one-tenth of all the shares entitled to vote at the meeting,
29 or other persons as may be authorized in the articles of incorporation

1 or the bylaws.

2 Sec. 10.06.408. CLOSING OF TRANSFER BOOKS AND FIXING RECORD
3 DATE. (a) To determine the shareholders entitled to notice of or to
4 vote at a meeting of shareholders or an adjournment of a meeting, or
5 to determine the shareholders entitled to receive payment of a divi-
6 dend, or to determine the shareholders for any other proper purpose,
7 the board of a corporation may provide that the stock transfer books
8 shall be closed for a stated period not exceeding 60 days. If the
9 stock transfer books are closed to determine shareholders entitled to
10 notice of or to vote at a meeting of shareholders, they shall be
11 closed for at least 20 days immediately preceding the meeting.

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

28 Sec. 10.06.410. NOTICE OF SHAREHOLDERS' MEETINGS. Written or
29 printed notice stating the place, day and hour of the meeting and, in

1 case of a special meeting, the purpose for which the meeting is
2 called, shall be delivered not less than 20 or more than 50 days
3 before the date of the meeting, either personally or by mail, by or at
4 the direction of the president, the secretary, the officer, or persons
5 calling the meeting, to each shareholder of record entitled to vote at
6 the meeting. If mailed, the notice is considered delivered when
7 deposited with postage prepaid in the United States mail addressed to
8 the shareholder at the address of the shareholder as it appears on the
9 stock transfer books of the corporation.

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

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

27 (c) An officer or agent having charge of the stock transfer
28 books who fails to prepare the list of shareholders, keep it on file
29 for a period of 20 days, or produce and keep it open for inspection at

1 the meeting, as provided in this section, is liable to a shareholder
2 suffering damage because of the failure to the extent of the damage.

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

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

18 Sec. 10.06.418. PROXIES. (a) Each person entitled to vote
19 shares may authorize another person or persons to act by proxy with
20 respect to the shares. A proxy purporting to be executed in accor-
21 dance with the provisions of this chapter is presumed valid.

22 (b) A proxy is not valid after the expiration of 11 months from
23 the date of the proxy unless it qualifies as an irrevocable proxy
24 under (e) of this section. A proxy continues in full force and effect
25 until revoked by the person executing it, except as provided in this
26 section. A person may revoke a proxy by a writing delivered to the
27 corporation stating that the proxy is revoked, by a subsequent proxy
28 executed by the person executing the prior proxy and presented to the
29 meeting, or by attendance at the meeting and voting in person by the

1 person executing the proxy. The dates contained on the forms of proxy
2 presumptively determine the order of execution, regardless of the
3 postmark dates on the envelopes in which the proxies are mailed.

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

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

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

15 (1) a pledgee;

16 (2) a person who has purchased, agreed to purchase, or
17 holds an option to purchase the shares or a person who has sold a
18 portion of the shares of the person in the corporation to the maker of
19 the proxy;

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

25 (4) a person designated by or under an agreement under
26 AS 10.06.425(b); or

27 (5) a beneficiary of a trust with respect to shares held by
28 the trust.

29 (f) Notwithstanding the period of irrevocability specified in a

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

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

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

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

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

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

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

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

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

1 (h) A shareholder whose shares are pledged is entitled to vote
2 the shares until the shares have been transferred into the name of the
3 pledgee, and thereafter the pledgee is entitled to vote the shares so
4 transferred.

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

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

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

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

27 (a) Any number of shareholders of a corporation may create a voting
28 trust for the purpose of conferring upon a trustee or trustees the
29 right to vote or otherwise represent their shares, for a period not to

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

18 (b) This section does not invalidate a voting or other agreement
19 among shareholders or an irrevocable proxy complying with AS 10.06.-
20 418(e) not otherwise illegal.

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

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

27 (1) there is no preemptive right

28 (A) to acquire any shares issued to directors, offi-
29 cers, or employees if approved by the outstanding shares or if

1 authorized by and consistent with a plan previously approved by
2 the outstanding shares; or

3 (B) to acquire shares sold for consideration other
4 than for cash;

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

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

13 (4) holders of common stock without voting power are not
14 entitled to a preemptive right to shares of common stock with voting
15 power;

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

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

28 (b) A corporation organized under this chapter shall make its
29 books and records, or certified copies of them, reasonably available

1 for inspection and copying at the registered office or principal place
2 of business in the state by the department or by a shareholder of the
3 corporation. Shareholder inspection shall be upon written demand
4 stating the purpose of the inspection. The inspection may be in
5 person or by agent or attorney, at a reasonable time and for a proper
6 purpose. Only books and records of account, minutes, and the record
7 of shareholders relevant to the stated purpose of the inspection may
8 be inspected or copied.

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

25 (d) Nothing in this chapter impairs the power of a court, upon
26 proof by a shareholder of a demand properly made and for a proper
27 purpose, to compel the production for examination by the shareholder
28 of the books and records of account, minutes, and record of share-
29 holders of a corporation.

1 Sec. 10.06.433. ANNUAL REPORT TO SHAREHOLDERS: CONTENT; FINAN-
2 CIAL STATEMENT ON REQUEST. (a) The board shall send an annual report
3 to the shareholders not later than 180 days after the close of the
4 fiscal year or the date on which notice of the annual meeting in the
5 next fiscal year is sent under AS 10.06.410, whichever is first,
6 unless in the case of a corporation with less than 100 holders of
7 record of its shares, as determined under AS 10.06.408, this require-
8 ment is expressly waived in the articles of incorporation. The annual
9 report shall contain a balance sheet as of the end of the fiscal year
10 and an income statement and statement of changes in financial position
11 for the fiscal year, accompanied by a report on the fiscal year by
12 independent accountants or, if there is no such report, the certifi-
13 cate of an authorized officer of the corporation that the statements
14 were prepared without audit from the books and records of the corpo-
15 ration.

16 (b) In addition to the financial statement required by (a) of
17 this section, unless a corporation has a nonexempt class of securities
18 registered under Section 12 of the Securities and Exchange Act of 1934
19 or files reports under Sections 7(c), 8(c), and 28 of the Alaska
20 Native Claims Settlement Act, the annual report of a corporation
21 having 100 or more holders of record of its shares shall also briefly
22 describe

23 (1) all transactions, excluding compensation of officers
24 and directors, during the previous fiscal year involving an amount in
25 excess of \$40,000, other than contracts let at competitive bid or
26 services rendered at prices regulated by law, to which the corporation
27 or its parent or subsidiary was a party, and in which a director or
28 officer of the corporation or of a subsidiary or, if known to the
29 corporation, its parent, or subsidiary, a holder of more than 10

1 percent of the outstanding voting shares of the corporation had a
 2 direct or indirect material interest; the report shall include the
 3 name of the person, the person's relationship to the corporation, the
 4 nature of the person's interest in the transaction and, if prac-
 5 ticable, the amount of the interest; in the case of a transaction with
 6 a partnership of which the person is a partner, only the interest of
 7 the partnership need be stated; a report is not required in the case
 8 of transactions approved by the shareholders under AS 10.06.478;

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

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

29 (d) A corporation shall, upon the written request of a

1 shareholder, mail to the shareholder a copy of the last annual, semi-
2 annual or quarterly income statement that it has prepared and a bal-
3 ance sheet as of the end of the period.

4 (e) The quarterly income statements and balance sheets referred
5 to in this section shall be accompanied by any report on those state-
6 ments by independent accountants engaged by the corporation or the
7 certificate of an authorized officer of the corporation that the
8 financial statements were prepared without audit from the books and
9 records of the corporation.

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

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

24 Sec. 10.06.435. SHAREHOLDERS' DERIVATIVE ACTION. (a) An action
25 may be brought in the right of a domestic or foreign corporation to
26 procure a judgment in its favor by a holder of shares of the corpo-
27 ration of voting trust certificates of the corporation, or of a bene-
28 ficial interest in shares or certificates of the corporation.

29 (b) In a derivative action, the complaint shall be verified and

1 shall allege that plaintiff was a shareholder, of record or benefi-
2 cially, or the holder of voting trust certificates at the time or
3 during any part of the transaction of which the plaintiff complains or
4 that the plaintiff's shares or voting trust certificates devolved upon
5 the plaintiff by operation of law from a holder who was a holder at
6 the time or during any part of the transaction complained of. A
7 shareholder who does not meet the requirements of this section may be
8 allowed in the discretion of the court to maintain the action on a
9 preliminary showing to and determination by the court, by motion and
10 after a hearing at which the court considers evidence, by affidavit or
11 testimony, as it considers material, that

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

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

16 (3) the plaintiff acquired the shares before there was
17 disclosure to the public or to the plaintiff of the wrongdoing of
18 which the plaintiff complains;

19 (4) unless the action can be maintained the defendant may
20 retain a gain derived from the defendant's wilful breach of a fiduc-
21 iary duty; and

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

24 (c) Unless excused on grounds that a majority of the directors
25 is implicated in or under the direct or indirect control of a person
26 who is implicated in the injury to the corporation, before an action
27 in the right of a domestic or foreign corporation is instituted a
28 plaintiff who has standing under (b) of this section shall make a
29 formal demand upon the board to secure the action the plaintiff

1 desires.

2 (d) If a shareholder fails to make a formal demand under (c) of
3 this section the complaint shall state with particularity the facts
4 establishing excuse under (c) of this section. In a motion to dismiss
5 for failure to make demand on the board the shareholder shall have the
6 burden to establish excuse.

7 (e) In a case in which demand on the board is made under (c) of
8 this section, a decision by the board that, in its business judgment,
9 the litigation would not be in the best interest of the corporation
10 terminates the right created by (a) of this section.

11 (f) In a case in which demand on the board is excused under (c)
12 of this section or the decision of the board under (e) of this section
13 is rejected by the court as inconsistent with the directors' duties of
14 care and loyalty to the corporation, a plaintiff who has standing
15 under (b) of this section shall have the right to commence or continue
16 the action created by (a) of this section. Notwithstanding (c) or (e)
17 of this section, disinterested, noninvolved directors acting as the
18 board or a duly charged board committee may petition the court to
19 dismiss the plaintiff's action on grounds that in their independent,
20 informed business judgment the action is not in the best interests of
21 the corporation. The petitioners shall have the burden of establish-
22 ing to the satisfaction of the court their disinterest, independence
23 from any direct or indirect control of defendants in the action, and
24 the informed basis on which they have exercised their asserted busi-
25 ness judgment. If the court is satisfied that the petitions are
26 disinterested, independent, and informed it shall then exercise an
27 independent appraisal of the plaintiff's action to determine whether,
28 considering the welfare of the corporation and relevant issues of
29 public policy, it should dismiss the action.

1 (g) A shareholder action otherwise in conformity with this
2 section shall not be dismissed because the alleged injury or wrong to
3 the corporation has been ratified by the outstanding shares. A court
4 may consider the fact of ratification in framing any order for relief
5 to which it considers the corporation entitled.

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

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

1 an amount the court determines to be reasonable in the circumstances.
2 The amount shall be awarded as special costs of the action.

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

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

17 (b) An assignee or transferee of shares, or of a subscription
18 for shares, in good faith and without knowledge or notice that the
19 full consideration has not been paid, is not personally liable to the
20 corporation or its creditors for any unpaid portion of the considera-
21 tion.

22 (c) An executor, administrator, conservator, guardian, trustee,
23 assignee for the benefit of creditors, or receiver is not personally
24 liable to the corporation or its creditors for any unpaid portion of
25 the consideration.

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

28 ARTICLE 6. DIRECTORS AND OFFICERS.

29 Sec. 10.06.450. BOARD OF DIRECTORS; DUTY OF CARE; RIGHT OF

1 INSPECTION; FAILURE TO DISSENT. (a) All corporate powers shall be
2 exercised by or under the authority of, and the business and affairs
3 of a corporation shall be managed under the direction of, a board of
4 directors except as may be otherwise provided in this chapter or the
5 articles of incorporation. If a provision is made in the articles,
6 the powers, duties, privileges, and liabilities conferred or imposed
7 upon the board by this chapter shall be exercised, performed, extended
8 and assumed to the extent and by the person or persons as provided in
9 the articles. Directors need not be residents of this state or share-
10 holders of the corporation unless required by the articles or bylaws.
11 The articles or bylaws may prescribe other qualifications for direc-
12 tors. The board may fix the compensation of directors unless other-
13 wise provided in the articles.

14 (b) A director shall perform the duties of a director, including
15 duties as a member of a committee of the board on which the director
16 may serve, in good faith, in a manner the director reasonably believes
17 to be in the best interests of the corporation, and with the care,
18 including reasonable inquiry, that an ordinarily prudent person in a
19 like position would use under similar circumstances. Except as pro-
20 vided in (c) of this section, a director is entitled to rely on infor-
21 mation, opinions, reports or statements, including financial state-
22 ments and other financial data, in each case prepared or presented by

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

26 (2) counsel, public accountants, or other persons as to
27 matters that the director reasonably believes to be within the per-
28 son's professional or expert competence; or

29 (3) a committee of the board upon which the director does

1 not serve, designated in accordance with a provision of the articles
2 or the bylaws, as to matters within the authority of the committee if
3 the director reasonably believes the committee to merit confidence.

4 (c) A director is not considered to be acting in good faith if
5 the director knows, or as a reasonable person ought to know, that, as
6 to the matter in question, reliance under (b) of this section is
7 unwarranted.

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

17 (e) A director of a corporation who is present at a meeting of
18 its board at which action on a corporate matter is taken is presumed
19 to have assented to the action taken unless the director's dissent is
20 entered in the minutes of the meeting or unless the director files a
21 written dissent to the action with the secretary of the meeting before
22 adjournment or forwards the dissent by certified mail to the secretary
23 of the corporation immediately after adjournment. The right to dis-
24 sent does not apply to a director who voted in favor of the action.

25 Sec. 10.06.453. NUMBER AND ELECTION OF DIRECTORS. (a) The
26 number of directors constituting the entire board may not be less than
27 three. If all of the shares of a corporation are owned beneficially
28 and of record by less than three shareholders, the number of directors
29 may be less than three but not less than the number of shareholders.

1 Subject to the limitation of this section, the number of directors may
2 be fixed by the articles of incorporation, the bylaws of the corpora-
3 tion, or by the action of the board or shareholders under the specific
4 provisions of an article or a bylaw adopted by approval of the out-
5 standing shares. If the number of directors is not otherwise set, the
6 number of directors is three. As used in AS 10.06.450 - 10.06.490,
7 "entire board" means the total number of directors that the corpora-
8 tion has if there are no vacancies.

9 (b) The number of directors may be increased or decreased by
10 amendment of the articles or the bylaws or by action of the board or
11 the shareholders under the specific provisions of an article or a
12 bylaw adopted by approval of the outstanding shares, subject to the
13 following limitations:

14 (1) If the board is authorized by the articles or the
15 bylaws to change the number of directors, whether by amending the
16 bylaws or by taking action under the specific provision of an article
17 or a bylaw adopted by approval of the outstanding shares, the amend-
18 ment or action shall require the vote of a majority of the entire
19 board.

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

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

25 (d) The names and addresses of the members of the first board
26 may be stated in the articles. The members of the first board hold
27 office until the first annual meeting of shareholders, and until their
28 successors have been elected and qualified.

29 (e) At the first annual meeting of shareholders and at each

1 subsequent annual meeting the shareholders shall elect directors to
2 hold office until the next succeeding annual meeting, except in the
3 case of the classification of directors as permitted by AS 10.06.455.
4 A director, including a director elected to fill a vacancy, shall hold
5 office until the expiration of the term for which elected and until a
6 successor has been elected and qualified.

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

23 (b) Unless cumulative voting rights have been eliminated by the
24 articles of incorporation (AS 10.06.420(d)), an amendment of the
25 articles that would establish or require classification of the board
26 under (a) of this section may not be adopted if the votes cast against
27 the amendment would be sufficient to elect a director if voted cumula-
28 tively at an election of the entire board.

29 Sec. 10.06.458. VACANCIES ON THE BOARD. The board may declare

1 vacant the office of a director who has been declared of unsound mind
2 by a court order or who has had civil rights suspended due to impris-
3 onment as provided in AS 33.30.310.

4 Sec. 10.06.460. REMOVAL OF DIRECTOR WITHOUT CAUSE. (a) At a
5 regular or special meeting for which notice is given under AS 10.06.-
6 410 and this section, any or all of the directors may be removed
7 without reason if the removal is approved by the outstanding shares,
8 subject to the following:

9 (1) in the case of a corporation with 500 or more holders
10 of record entitled to vote on the removal and election of directors,
11 as determined under AS 10.06.408, written or printed notice of inten-
12 tion to seek removal under this section shall be delivered either
13 personally or by mail to each shareholder of record entitled to vote
14 at the meeting and

15 (A) if notice of intention to seek removal under this
16 section is delivered to the president or secretary of the corpo-
17 ration at least 75 days before the date of the annual meeting it
18 shall be included on the notice stating the place, day, and hour
19 of the annual meeting without cost to the shareholder seeking
20 removal or

21 (B) if notice of intention to seek removal under this
22 section is not timely under (A) of this paragraph the shareholder
23 seeking removal may, at the expense of that shareholder, deliver
24 either personally or by mail the notice required by (1) of this
25 subsection at any time up to 20 days before the date set for the
26 annual meeting; if mailed, notice is considered delivered when
27 deposited with postage prepaid in the United States mail ad-
28 dressed to the shareholder at the address appearing on the stock
29 transfer books of the corporation;

1 (2) unless cumulative voting rights have been eliminated by
2 the articles of incorporation (AS 10.06.420(d)), a director may not be
3 removed, unless the entire board is removed, if the votes cast against
4 removal would be sufficient to elect a director if voted cumulatively
5 at an election at which the same total number of votes were cast; and

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

11 (b) Except as provided in this section and AS 10.06.458, 10.06.-
12 463, and 10.06.465(c), a director may not be removed before the ex-
13 piration of the term of office of the director.

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

22 Sec. 10.06.465. VACANCIES AND RESIGNATION; SPECIAL MEETING OF
23 SHAREHOLDERS. (a) Unless otherwise provided in the articles or
24 bylaws of the corporation and except for a vacancy created by the
25 removal of a director, vacancies on the board may be filled by a
26 majority of the directors then in office, whether or not less than a
27 quorum, or by a sole remaining director. Unless the articles or a
28 bylaw adopted with approval of the outstanding shares provide that the
29 board may fill vacancies occurring in the board by reason of removal

1 of directors, the vacancies may be filled only by approval of the
2 shareholders.

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

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

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

22 Sec. 10.06.468. EXECUTIVE AND OTHER BOARD COMMITTEES. (a) If
23 authorized by the articles or the bylaws of the corporation, the
24 board, by resolution adopted by a majority of the entire board, may
25 designate from among its members an executive committee and other
26 committees of the board. Each committee, to the extent provided in
27 the resolution or the articles or bylaws of the corporation, has the
28 authority of the board, except that a committee may not

29 (1) declare dividends or distributions;

- 1 (2) approve or recommend to shareholders actions or pro-
2 posals required by this chapter to be approved by shareholders;
- 3 (3) designate candidates for the office of director, for
4 purposes of proxy solicitation or otherwise, or fill vacancies on the
5 board or any committee of the board;
- 6 (4) amend the bylaws;
- 7 (5) approve a plan or merger not requiring shareholder
8 approval;
- 9 (6) capitalize retained earnings;
- 10 (7) authorize or approve the reacquisition of shares unless
11 under a general formula or method specified by the board;
- 12 (8) authorize or approve the issuance or sale of, or a
13 contract to issue or sell, shares or designate the terms of a series
14 of a class of shares, unless the board, having acted regarding general
15 authorization for the issuance or sale of shares, a contract to issue
16 or sell, or the designation of a series, authorizes a committee, under
17 a general formula or method specified by the board by resolution or by
18 adoption of a stock option or other plan, to fix the terms of a con-
19 tract for the sale of the shares and to fix the terms upon which the
20 shares may be issued or sold, including, without limitation, the
21 price, the dividend rate, provisions for redemption, sinking fund,
22 conversion, voting or preferential rights, and provisions for other
23 features of a class of shares, or a series of a class of shares, with
24 full power in the committee to adopt a final resolution setting out
25 all the terms of a series for filing with the commissioner under this
26 chapter; or
- 27 (9) authorize, approve, or ratify contracts or other trans-
28 actions between the corporation and one or more of its directors, or
29 between the corporation and a corporation, firm, or association in

1 which one or more of its directors has a material financial interest
2 (AS 10.06.478).

3 (b) The designation of a committee, the delegation to the com-
4 mittee of authority, or action by the committee under that authority
5 does not alone constitute compliance by a member of the board or the
6 committee in question with the responsibility to act in good faith, in
7 a manner the member reasonably believes to be in the best interests of
8 the corporation, and with the care, including reasonable inquiry, as
9 an ordinarily prudent person in a like position would use under simi-
10 lar circumstances.

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

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

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

29 Sec. 10.06.473. QUORUM OF DIRECTORS. (a) A majority of the

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

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

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

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

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

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

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

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

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

1 shareholders in good faith. This subsection does not apply to con-
2 tracts or transactions covered by (a) of this section.

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

6 (e) Nothing in this section affects the prohibitions or re-
7 straints imposed by AS 45.50 and AS 45.52.

8 Sec. 10.06.480. LIABILITY OF DIRECTORS. (a) In addition to
9 other liabilities, a director is liable in the following circumstances
10 unless the director complies with the standard provided in AS 10.06.-
11 450(b) for the performance of the duties of directors:

12 (1) A director who votes for or assents to a distribution
13 to the corporation's shareholders contrary to the provisions of
14 AS 10.06.358, 10.06.360, 10.06.363, and 10.06.365 or contrary to a
15 restriction in the articles of incorporation, is liable to the corpo-
16 ration, jointly and severally with all other directors voting for or
17 assenting to the distribution, for the amount of the distribution that
18 is paid or the value of the assets that are distributed in excess of
19 the amount of the distribution that could have been paid or dis-
20 tributed without violation of AS 10.06.405 - 10.06.438 or the restric-
21 tions of the articles of incorporation.

22 (2) A director who votes for or assents to a distribution
23 to the corporation's shareholders during the liquidation of the corpo-
24 ration without the payment and discharge of, or making adequate pro-
25 vision for, all known debts, obligations, and liabilities of the
26 corporation is liable to the corporation, jointly and severally with
27 all other directors voting for or assenting to distribution, for the
28 value of the assets that are distributed, to the extent that the
29 debts, obligations, and liabilities of the corporation are not

1 thereafter paid and discharged.

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

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

19 (c) A director against whom a claim is asserted under this
20 section is entitled to contribution from other directors who voted for
21 or 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
25 bylaws of the corporation or determined by the board and as may be
26 necessary to enable the corporation to sign instruments and share
27 certificates. Any two or more offices may be held by the same person,
28 except the offices of president and secretary. When all of the issued
29 and outstanding stock of the corporation is owned by one person, the

1 person may hold all or any combination of offices.

2 (b) Except as otherwise provided in the articles or bylaws of
3 the corporation, officers shall be chosen by the board and serve at
4 the pleasure of the board, subject to the rights, if any, of an offi-
5 cer under a contract of employment. An officer may resign at any time
6 upon written notice to the corporation without prejudice to the
7 rights, if any, of the corporation under a contract to which the
8 officer is a 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, convey-
15 ance, or other instrument in writing, and an assignment or endorsement
16 of 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
22 actual knowledge on the part of the other person that the signing
23 officers had no authority to execute the instrument.

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

28 Sec. 10.06.485. LOANS TO DIRECTORS, OFFICERS, AND EMPLOYEES.

29 (a) A loan may not be extended to an officer or employee without

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

6 (b) A loan to a director, officer, or employee and a loan
7 secured by the shares of the corporation may not be made unless the
8 loan would be permissible as a distribution under AS 10.06.358 -
9 10.06.365. A loan under this subsection impairs the retained earnings
10 or paid-in 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 direc-
14 tor, officer, or employee, the guarantee is treated as a loan under
15 this 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 offi-
20 cers to act in good faith in a manner reasonably believed to be in the
21 best interests of the corporation and with the care, including reason-
22 able inquiry, that an ordinarily prudent person in a like position
23 would use 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
27 director appointed under AS 10.06.640, or individuals exercising the
28 authority of directors as permitted in AS 10.06.450(a), and the presi-
29 dent, secretary and treasurer, or individuals performing the functions

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

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

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

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

17 Sec. 10.06.490. INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOY-
18 EES, AND AGENTS: INSURANCE. (a) A corporation may indemnify a
19 person who was, is, or is threatened to be made a party to a com-
20 pleted, pending, or threatened action or proceeding, whether civil,
21 criminal, administrative, or investigative, other than an action by or
22 in the right of the corporation, by reason of the fact that the person
23 is or was a director, officer, employee, or agent of the corporation,
24 or is or was serving at the request of the corporation as a director,
25 officer, employee, or agent of another corporation, partnership, joint
26 venture, trust, or other enterprise. Indemnification may include
27 reimbursement of expenses, attorney fees, judgments, fines, and
28 amounts paid in settlement actually and reasonably incurred by the
29 person in connection with the action or proceeding if the person acted

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

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

1 case, the person is fairly and reasonably entitled to indemnity for
2 expenses that the court considers proper.

3 (c) To the extent that a director, officer, employee, or agent
4 of a corporation has been successful on the merits or otherwise in
5 defense of an action or proceeding referred to in (a) or (b) of this
6 section, or in defense of a claim, issue, or matter in the action or
7 proceeding, the director, officer, employee, or agent shall be indem-
8 nified against expenses and attorney fees actually and reasonably
9 incurred in connection with the defense.

10 (d) Unless otherwise ordered by a court, indemnification under
11 (a) or (b) of this section may only be made by a corporation upon a
12 determination that indemnification of the director, officer, employee,
13 or agent is proper in the circumstances because the director, officer,
14 employee, or agent has met the applicable standard of conduct set out
15 in (a) and (b) of this section. The determination shall be made

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

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

19 (A) a quorum under (1) of this subsection is not
20 obtainable; or

21 (B) a quorum under (1) of this subsection is obtain-
22 able but a majority of disinterested directors so directs; or

23 (3) by approval of the outstanding shares.

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

1 to be indemnified by the corporation as authorized in this section.

2 (f) The indemnification provided by this section is not exclu-
3 sive of any other rights to which a person seeking indemnification may
4 be entitled under a bylaw, agreement, vote of shareholders or disin-
5 terested directors, or otherwise, both as to action in the official
6 capacity of the person and as to action in another capacity while
7 holding the office. The right to indemnification continues as to a
8 person who has ceased to be a director, officer, employee, or agent,
9 and inures to the benefit of the heirs, executors, and administrators
10 of the person.

11 (g) A corporation may purchase and maintain insurance on behalf
12 of a person who is or was a director, officer, employee, or agent of
13 the corporation, or is or was serving at the request of the corpo-
14 ration as a director, officer, employee, or agent of another corpo-
15 ration, partnership, joint venture, trust, or other enterprise against
16 any liability asserted against the person and incurred by the person
17 in that capacity, or arising out of that status, whether or not the
18 corporation has the power to indemnify the person against the liabil-
19 ity under the provisions of this section.

20 ARTICLE 7. AMENDMENTS AND CHANGES.

21 Sec. 10.06.502. AUTHORIZATION: PERMITTED AND PROHIBITED AMEND-
22 MENTS. (a) By complying with the provisions of this chapter a corpo-
23 ration may amend its articles of incorporation from time to time and
24 in as many respects as desired if its articles as amended contain only
25 provisions that would be lawful to insert in original articles filed
26 at the time of the filing of the amendment.

27 (b) In particular, and without limitation upon the general power
28 of amendment, a corporation may amend its articles of incorporation to
29 (1) change its corporate name;

- 1 (2) extend a limitation upon its period of duration;
- 2 (3) change, enlarge, or diminish a limitation upon its
- 3 corporate purpose;
- 4 (4) increase or decrease the aggregate number of shares, or
- 5 shares of a class, that the corporation has authority to issue;
- 6 (5) exchange, classify, reclassify, or cancel all or part
- 7 of its shares, whether issued or unissued;
- 8 (6) change the designation of all or a part of its shares,
- 9 whether issued or unissued, and to change the preferences, limita-
- 10 tions, and the relative rights of all or part of its shares, whether
- 11 issued or unissued;
- 12 (7) change shares of a class, whether issued or unissued,
- 13 into a different number of shares of the same class or into the same
- 14 or a different number of shares of other classes;
- 15 (8) create new classes of shares having rights and pref-
- 16 erences either prior and superior or subordinate and inferior to the
- 17 shares of a class then authorized, whether issued or unissued;
- 18 (9) cancel or otherwise affect the right of the holders of
- 19 the shares of a class to receive dividends that have accrued but have
- 20 not been declared;
- 21 (10) divide a preferred or special class of shares, whether
- 22 issued or unissued, into series and fix and determine the designation
- 23 of the series and the variations in the relative rights and prefer-
- 24 ences as between the shares of the series;
- 25 (11) authorize the board to establish, out of authorized but
- 26 unissued shares, series of a preferred or special class of shares and
- 27 fix and determine the relative rights and preferences of the shares of
- 28 the series;
- 29 (12) authorize the board to fix and determine the relative

1 rights and preferences of the authorized but unissued shares of series
2 in which either the relative rights and preferences have not been
3 fixed and determined or the relative rights and preferences are to be
4 changed;

5 (13) revoke, diminish, or enlarge the authority of the board
6 to establish series out of authorized but unissued shares of a pre-
7 ferred or special class and fix and determine the relative rights and
8 preferences of the shares of that series; and

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

12 (c) A corporation may not amend its articles of incorporation to
13 alter a statement that may appear in the original articles of the
14 names and addresses of the first directors, or the name and address of
15 the initial agent, except to correct an error in the statement or to
16 delete either after the corporation has filed a notice under AS 10.-
17 06.165 or AS 10.06.813.

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

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

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

23 (2) Subject to AS 10.06.506, if shares have been issued, an
24 amendment shall be approved by the board and the outstanding shares.
25 Approval may be initiated by the shareholders either before or after
26 consideration by the board. If the board adopts a resolution setting
27 out a proposed amendment, the board shall direct that the amendment be
28 submitted to a vote at a meeting of shareholders that may be either
29 the annual or a special meeting. If approval of the outstanding

1 shares is obtained before action by the board, the board shall con-
2 sider and either approve or reject the amendment at the next regular
3 or special meeting.

4 (b) A proposed amendment may be contained in restated articles
5 of incorporation that contain

6 (1) a statement that except for the designated amendment
7 the restated articles correctly set out without change the provisions
8 of the articles being amended; and

9 (2) a statement that the restated articles together with
10 the designated amendment supersede the original articles and all
11 amendments to the original articles.

12 (c) Written notice setting out the proposed amendment or amend-
13 ments or a summary of the changes to be made shall be given to each
14 shareholder of record entitled to vote thereon within the time and in
15 the manner provided in this chapter for the giving of notice of meet-
16 ings of shareholders. If the amendment is to be considered at an
17 annual meeting, the proposed amendment or summary may be included in
18 the notice of the annual meeting.

19 Sec. 10.06.506. CLASS VOTING ON AMENDMENTS. (a) The holders of
20 the outstanding shares of a class may vote as a class upon a proposed
21 amendment, whether or not the holders are entitled to vote on the
22 amendment by the provisions of the articles of incorporation, if the
23 amendment

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

26 (2) exchanges, reclassifies, or cancels all or part of the
27 shares of the class;

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

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

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

5 (6) creates a new class of shares having rights and pref-
6 erences prior and superior to the shares of the class, or increases
7 the rights and preferences or the number of authorized shares of a
8 class having rights and preferences prior or superior to the shares of
9 the class;

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

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

16 (9) cancels or otherwise affects dividends on the shares of
17 the class that are accrued but not declared.

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

22 Sec. 10.06.508. GREATER VOTING REQUIREMENTS. If the articles of
23 incorporation require the vote of a larger proportion or of all of the
24 shares of a class or series, or of a larger proportion or of all the
25 directors, than is otherwise required by this chapter, the provision
26 in the articles requiring the greater vote may not be altered,
27 amended, or repealed except by that greater vote unless otherwise
28 provided in the articles.

29 Sec. 10.06.510. ARTICLES OF AMENDMENT. The articles of

1 amendment shall be executed in duplicate by the corporation by its
2 president or vice-president and by its secretary or an assistant
3 secretary, and verified by one of the officers signing the articles of
4 amendment, and shall set out

5 (1) the name of the corporation;

6 (2) the amendment adopted;

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

10 (4) the number of shares outstanding and the number of
11 shares entitled to vote, and if the shares of a class are entitled to
12 vote as a class, the designation and number of outstanding shares of
13 each class entitled to vote;

14 (5) the number of shares voted for and against the amend-
15 ment and, if the shares of a class are entitled to vote as a class,
16 the number of shares of each class voted for and against the amend-
17 ment, or if shares have not been issued, a statement to that effect;
18 and

19 (6) the manner in which an exchange, reclassification, or
20 cancellation of issued shares is to be carried out if the amendment
21 provides for an exchange, reclassification, or cancellation of issued
22 shares and is not set out in the amendment.

23 Sec. 10.06.512. FILING OF ARTICLES OF AMENDMENT. Duplicate
24 originals of the articles of amendment shall be delivered to the
25 commissioner for processing according to AS 10.06.910 and for issuance
26 of a certificate of amendment.

27 Sec. 10.06.514. EFFECT OF CERTIFICATE OF AMENDMENT. (a) An
28 amendment is effective upon the issuance of a certificate of amendment
29 by the commissioner, or on a later date, not more than 30 days after

1 the filing of the certificate with the commissioner, as provided in
2 the articles of amendment.

3 (b) An amendment may not affect an existing cause of action in
4 favor of or against the corporation, or a pending suit to which the
5 corporation is a party, or the existing rights of persons other than
6 shareholders. If the corporate name is changed by amendment, a suit
7 brought by or against the corporation under its former name does not
8 abate.

9 Sec. 10.06.516. RESTATED ARTICLES OF INCORPORATION. A domestic
10 corporation may, by resolution adopted by the board, restate its
11 articles of incorporation as amended up to that time. Upon the
12 adoption of the resolution, restated articles shall be executed in
13 duplicate by the corporation by its president or a vice-president and
14 by its secretary or assistant secretary and verified by one of the
15 officers signing the articles and shall set out all of the operative
16 provisions of the articles as amended up to that time together with a
17 statement that the restated articles correctly set out without change
18 the corresponding provisions of the articles as amended up to that
19 time and that the restated articles supersede the original articles
20 and all amendments to them.

21 Sec. 10.06.518. FILING OF RESTATED ARTICLES OF INCORPORATION.
22 Duplicate originals of restated articles of incorporation shall be
23 delivered to the commissioner for processing according to AS 10.06.910
24 and for issuance of a restated certificate of incorporation.

25 Sec. 10.06.520. EFFECT OF ISSUANCE OF RESTATED CERTIFICATE OF
26 INCORPORATION. Upon the issuance of a restated certificate of corpo-
27 ration, the restated articles of incorporation become effective and
28 supersede the original articles and all amendments.

29 Sec. 10.06.522. AMENDMENT OF ARTICLES OF INCORPORATION IN

1 REORGANIZATION PROCEEDINGS. (a) If a plan of reorganization of a
2 corporation has been confirmed by decree or order of a court in pro-
3 ceedings for the reorganization of the corporation under an applicable
4 statute of the United States relating to reorganization of corpora-
5 tions, the articles of the corporation may be amended as necessary in
6 the manner provided in (c) of this section, in order to carry out the
7 plan and put it into effect, only if the articles as amended contain
8 provisions that might be lawfully contained in original articles at
9 the time of the making of the amendment.

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

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

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

15 (3) change the aggregate number of shares or shares of a
16 class that the corporation has authority to issue;

17 (4) change the preferences, limitation, and relative rights
18 of all or part of the shares of the corporation, and classify, re-
19 classify, or cancel all or part of the shares, whether issued or un-
20 issued;

21 (5) authorize the issuance of bonds, debentures, or other
22 obligations of the corporation, whether or not convertible into shares
23 of a class or bearing warrants or other evidences of optional rights
24 to purchase or subscribe for shares of a class, and fix the terms and
25 conditions of the bonds, debentures, or other obligations; and

26 (6) constitute or reconstitute and classify or reclassify
27 the board of the corporation, and appoint directors and officers in
28 place of or in addition to all or any of the directors or officers
29 then in office.

1 (c) Articles of amendment approved by decree or order of a court
2 shall be executed and verified in duplicate by the person or persons
3 the court designates or appoints for the purpose, and shall set out
4 the name of the corporation, the amendments of the articles approved
5 by the court, the date of the decree or order approving the articles
6 of amendment, the title of the proceedings in which the decree or
7 order was entered, and a statement that the decree or order was en-
8 tered by a court having jurisdiction of the proceedings for the reor-
9 ganization of the corporation under an applicable statute of the
10 United States.

11 Sec. 10.06.524. FILING OF AMENDMENT OF ARTICLES IN REORGANIZA-
12 TION PROCEEDINGS. Duplicate originals of the articles of amendment in
13 reorganization proceedings shall be delivered to the commissioner for
14 processing according to AS 10.06.910 and for issuance of a certificate
15 of amendment.

16 Sec. 10.06.526. EFFECT OF ISSUANCE OF CERTIFICATE OF AMENDMENT
17 IN REORGANIZATION PROCEEDINGS. An amendment becomes effective upon
18 the issuance of a certificate of amendment in reorganization proceed-
19 ings, and the articles are considered to be amended without action by
20 the directors or shareholders of the corporation and with the same
21 effect as if the amendments had been adopted by unanimous action of
22 the directors and shareholders of the corporation.

23 ARTICLE 8. ORGANIC CHANGE.

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

27 Sec. 10.06.532. PROCEDURE FOR MERGER. A plan of merger approved
28 by a resolution of the board of each corporation shall be proposed
29 setting out

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

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

5 (3) the manner and basis of converting the shares of each
6 merging corporation into shares or other securities or obligations of
7 the surviving corporation;

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

10 (5) other provisions of the merger considered necessary or
11 desirable.

12 Sec. 10.06.534. CONSOLIDATION. Two or more domestic corpora-
13 tions may consolidate into a new domestic corporation under a plan of
14 consolidation approved in the manner provided in AS 10.06.530 -
15 10.06.586.

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

19 (1) the names of the corporations proposing to consolidate
20 and the name of the new corporation into which they propose to consol-
21 idate;

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

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

26 (4) the statements with respect to the new corporation
27 required to be set out in the articles of incorporation for corpora-
28 tions organized under this chapter; and

29 (5) other provisions of the consolidation considered

1 necessary or desirable.

2 Sec. 10.06.538. SHARE EXCHANGE. All of the issued or outstand-
3 ing shares of one or more classes of a domestic corporation may be
4 acquired through the exchange of all of the issued or outstanding
5 shares of the class or classes by another domestic or foreign corpo-
6 ration under a plan of exchange approved in the manner provided in
7 AS 10.06.530 - 10.06.586.

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

11 (1) the name of the corporation the shares of which are
12 proposed to be acquired by exchange and the name of the acquiring
13 corporation;

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

15 (3) the manner and basis of exchanging the shares to be
16 acquired for shares, obligations, or other securities of the acquiring
17 corporation or another corporation, or, in whole or in part, for cash
18 or other property;

19 (4) other provisions of the proposed exchange considered
20 necessary or desirable.

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

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

1 exchange.

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

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

7 (2) there is a sound business reason for disparate treat-
8 ment and proponents of the plan prove it is consistent with fiduciary
9 duties owed to all shareholders; or

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

11 Sec. 10.06.544. NOTICE TO AND APPROVAL BY SHAREHOLDERS. Upon
12 approval by the board of each corporation of a plan of merger, con-
13 solidation, or exchange, each board shall, by resolution, direct that
14 the plan be submitted for approval, at either an annual or special
15 meeting, by the outstanding shares of each corporation. Written
16 notice shall be given to each shareholder of record, whether or not
17 the share or shares of the shareholder have voting rights under the
18 articles of the corporation, not less than 20 days before the meeting,
19 in the manner provided in this chapter for the giving of notice of
20 meetings of shareholders. Whether the meeting is an annual or special
21 meeting, the notice shall state that the purpose or one of the pur-
22 poses of the meeting is to consider the proposed plan of merger,
23 consolidation, or exchange. A copy or summary of the plan of merger,
24 consolidation, or exchange, as well as a copy of AS 10.06.574 and
25 10.06.576, concerning the rights of a dissenting shareholder, shall be
26 included with the notice.

27 Sec. 10.06.546. MANNER OF APPROVAL BY SHAREHOLDERS. At each
28 meeting for which notice is given under AS 10.06.544 a vote of the
29 shareholders shall be taken on the proposed plan of merger,

1 consolidation, or exchange. Each outstanding share of each corpora-
2 tion may vote on the proposed plan whether or not the share has voting
3 rights under the articles of the corporation. The plan is approved if
4 it receives the affirmative vote of at least two-thirds of the out-
5 standing shares of each corporation. If a class of shares of a corpo-
6 ration is entitled to vote on the plan as a class, the plan is ap-
7 proved if it receives the affirmative vote of at least two-thirds of
8 the outstanding shares of each class of shares entitled to vote on the
9 plan as a class and the affirmative vote of at least two-thirds of the
10 total shares entitled to vote on the plan. A class of shares of a
11 corporation is entitled to vote as a class if a plan contains a pro-
12 vision that, if contained in a proposed amendment to the articles of
13 incorporation, would entitle the class of shares to vote as a class
14 and, in the case of an exchange, if the class is included in the
15 exchange.

16 Sec. 10.06.548. ABANDONMENT OF PLAN OF MERGER, CONSOLIDATION, OR
17 EXCHANGE. After approval of the outstanding shares of each corpo-
18 ration under AS 10.06.546 and before the filing of the articles of
19 merger, consolidation, or exchange, the merger, consolidation, or
20 exchange may be abandoned under provisions set out in the plan.

21 Sec. 10.06.550. ARTICLES OF MERGER, CONSOLIDATION, OR EXCHANGE.
22 After approval, articles of merger, articles of consolidation, or
23 articles of exchange shall be executed in duplicate by each corpora-
24 tion by its president or a vice-president and by its secretary or an
25 assistant secretary, and verified by one of the officers of each
26 corporation signing the articles, and shall set out

- 27 (1) the plan of merger, consolidation, or exchange;
28 (2) the number of shares outstanding of each corporation,
29 and, if the shares of a class were entitled to vote as a class, the

1 designation and number of outstanding shares of the class; and

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

5 Sec. 10.06.552. FILING OF ARTICLES OF MERGER, CONSOLIDATION, OR
6 EXCHANGE. Duplicate originals of the articles of merger, consolida-
7 tion, or exchange shall be delivered to the commissioner for process-
8 ing according to AS 10.06.910 and for the issuance of a certificate of
9 merger, consolidation, or exchange.

10 Sec. 10.06.554. MERGER OF SUBSIDIARY CORPORATION. A corporation
11 owning at least 90 percent of the outstanding shares of each class of
12 another corporation may merge the other corporation into itself with-
13 out approval by a vote of the shareholders of either corporation.

14 Sec. 10.06.556. PROCEDURE FOR MERGER OF SUBSIDIARY CORPORATION.
15 (a) The board of a proposed surviving corporation shall, by resolu-
16 tion, approve a plan of merger setting out

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

19 (2) subject to AS 10.06.542, the manner and basis of con-
20 verting the shares of the subsidiary corporation into shares, obliga-
21 tions, or other securities of the surviving or other corporation or,
22 in whole or in part, into cash or other property.

23 (b) A copy of a plan of merger shall be mailed to each share-
24 holder of record of the subsidiary corporation.

25 (c) Articles of merger shall be executed in duplicate by the
26 surviving corporation by its president or a vice-president and by its
27 secretary or an assistant secretary, and verified by one of its offi-
28 cers signing the articles, and shall set out

29 (1) the plan of merger;

1 (2) the number of outstanding shares of each class of the
2 subsidiary corporation and the number of those shares of each class
3 owned by the surviving corporation; and

4 (3) the date of the mailing to shareholders of the subsid-
5 iary corporation of the plan of merger.

6 Sec. 10.06.558. FILING OF ARTICLES OF MERGER OF SUBSIDIARY COR-
7 PORATION. Duplicate originals of the articles of merger of a subsid-
8 iary corporation shall be delivered to the commissioner for processing
9 according to AS 10.06.910 and for the issuance of a certificate of
10 merger.

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

12 (a) A merger, consolidation, or exchange is effective upon the issu-
13 ance of a certificate of merger, consolidation, or exchange by the
14 commissioner, or on a later date, not more than 30 days after the
15 filing of the certificate with the commissioner, as provided in the
16 plan.

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

18 (1) the corporations parties to the plan of merger or con-
19 solidation shall be a single corporation, that, in the case of a
20 merger, shall be that corporation designated in the plan of merger as
21 the surviving corporation, and, in the case of a consolidation, shall
22 be the new corporation provided for in the plan of consolidation;

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

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

29 (4) the surviving or new corporation possesses all the

1 public and private rights, privileges, immunities, and franchises of
2 each of the merging or consolidating corporations; all property, real,
3 personal, and mixed, and all debts due on whatever account, including
4 subscriptions to shares, and all other choses in action, and every
5 other interest of, belonging to, or due to each of the merged or con-
6 solidated corporations, shall be transferred to and vested in the
7 surviving or new corporation without further act; and the title to
8 real estate, or an interest in real estate, vested in any of the
9 corporations may not revert or be in any way impaired by reason of a
10 merger or consolidation;

11 (5) a surviving or new corporation is responsible and
12 liable for all the liabilities and obligations of each of the merged
13 or consolidated corporations; a claim existing or action or proceeding
14 pending by or against the merged or consolidated corporations may be
15 prosecuted as if the merger or consolidation has not taken place, or
16 the surviving or new corporation may be substituted in its place; and
17 the rights of creditors or any liens upon the property of the merged
18 or consolidated corporations may not be impaired by the merger or
19 consolidation;

20 (6) in the case of a merger, the articles of incorporation
21 of the surviving corporation are considered to be amended to the
22 extent that changes in its articles are stated in the plan of merger;
23 and, in the case of a consolidation, the statements set out in the
24 articles of consolidation that are required or permitted to be set out
25 in the articles of incorporation of corporations organized under this
26 chapter are considered to be the original articles of the new corpo-
27 ration.

28 (c) When a merger, consolidation, or exchange becomes effective,
29 the shares of the corporation or corporations party to the plan that

1 are to be converted or exchanged under the terms of the plan cease to
2 exist, in the case of a merger or consolidation, or are considered to
3 be exchanged, in the case of an exchange, and the holders of the
4 shares are entitled only to the shares, obligations, other securities,
5 cash, or other property into which the shares have been converted or
6 for which they have been exchanged, in accordance with the plan,
7 subject to the rights under AS 10.06.574.

8 Sec. 10.06.562. MERGER, CONSOLIDATION, OR EXCHANGE OF SHARES
9 BETWEEN DOMESTIC AND FOREIGN CORPORATION. One or more foreign corpo-
10 rations and one or more domestic corporations may be merged or consol-
11 idated, or participate in an exchange, if the merger, consolidation,
12 or exchange is permitted by the laws of the state under which each
13 foreign corporation is organized and

14 (1) each domestic corporation complies with the provisions
15 of this chapter with respect to the merger, consolidation, or exchange
16 of domestic corporations and each foreign corporation complies with
17 the applicable provisions of the laws of the state under which it is
18 organized; and

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

23 (A) an agreement that the surviving or new foreign
24 corporation may be served with process in this state in a pro-
25 ceeding for the enforcement of an obligation of a domestic corpo-
26 ration that is a party to the merger or consolidation and in a
27 proceeding for the enforcement of the rights of a dissenting
28 shareholder of a domestic corporation against the surviving or
29 new corporation;

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

5 (C) an agreement that it will promptly pay to the
6 dissenting shareholders of a domestic corporation the amount to
7 which they are entitled under provisions of this chapter with
8 respect to the rights of dissenting shareholders.

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

13 (1) a list of the names and addresses of each alien affil-
14 iate of the surviving or new corporation;

15 (2) the percentage of outstanding shares controlled by each
16 alien affiliate; and

17 (3) a specific description of the nature of the relation-
18 ship between the surviving or new corporation and its alien affiliate.

19 Sec. 10.06.566. SALE OF ASSETS IN REGULAR COURSE OF BUSINESS;
20 MORTGAGE OR PLEDGE OF ASSETS. The board of the corporation, without
21 the approval of the shareholders or outstanding shares of the corpora-
22 tion, may authorize the sale, lease, exchange, or other disposition of
23 all, or substantially all, the property and assets of a corporation in
24 the usual and regular course of its business and the mortgage or
25 pledge of any or all property and assets of a corporation whether or
26 not in the usual and regular course of business, upon terms and con-
27 ditions and for consideration, that may consist in whole or in part of
28 cash or other property, including shares, obligations, or other secu-
29 rities of another domestic or foreign corporation.

1 Sec. 10.06.568. SALE OF ASSETS NOT IN REGULAR COURSE OF BUSI-
2 NESS. (a) A sale, lease, exchange, or other disposition of all, or
3 substantially all, of the property and assets, with or without the
4 good will, of a corporation, if not in the usual and regular course of
5 its business, may be made upon terms and conditions and for considera-
6 tion, that may consist in whole or in part of cash or other property,
7 including shares, obligations or other securities of another foreign
8 or domestic corporation, as authorized in (b) of this section.

9 (b) A sale, lease, exchange, or other disposition shall be
10 recommended to the shareholders by resolution approved by the board
11 and submitted to a vote of the shareholders at a regular or special
12 meeting. Written notice shall be given to each shareholder of record
13 of the corporation, whether or not the shares have voting rights under
14 the articles of the corporation, not less than 20 days before the
15 meeting, in the manner provided in this chapter for the giving of
16 notice of meetings of shareholders. Whether the meeting is an annual
17 or special meeting the notice shall state that the purpose or one of
18 the purposes of the meeting is to consider the proposed sale, lease,
19 exchange, or other disposition, and include a copy of AS 10.06.574 -
20 10.06.576, concerning the rights of a dissenting shareholder.

21 Sec. 10.06.570. APPROVAL OF TRANSACTION BY SHAREHOLDERS. (a)
22 At a meeting for which notice is given under AS 10.06.568(b) a vote of
23 the shareholders shall be taken on the recommended sale, lease, ex-
24 change, or other disposition and the shareholders may fix, or may
25 authorize the board to fix, the terms and conditions and the consid-
26 eration to be received by the corporation. The transaction is ap-
27 proved if the recommendation of the board receives the affirmative
28 vote of at least two-thirds of the outstanding shares of the corpo-
29 ration, unless a class of shares is entitled to vote as a class, in

1 which event the transaction shall be approved upon receiving the
2 affirmative vote of at least two-thirds of the outstanding shares of
3 each class of shares entitled to vote as a class and of the total
4 shares entitled to vote.

5 (b) If the buyer in a sale of assets under AS 10.06.568 is in
6 control of or under common control with the seller, the principal
7 terms of the sale must be approved by at least 90 percent of the
8 outstanding shares of the seller unless the sale is to a domestic or
9 foreign corporation in consideration for the nonredeemable common
10 shares of the purchasing corporation or its parent.

11 Sec. 10.06.572. ABANDONMENT OF TRANSACTION BY BOARD. The board
12 in its discretion may abandon a sale, lease, exchange, or other dispo-
13 sition of assets after approval by the shares without further action
14 or approval by the shares, subject to the rights of third parties
15 under contracts relating to the sale, lease, exchange, or other dispo-
16 sition.

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

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

21 (2) a sale or exchange of all or substantially all of the
22 property and assets of the corporation not made in the usual and
23 regular course of its business, including a sale in dissolution, but
24 not including a sale under a court order or a sale for cash on terms
25 requiring that all or substantially all of the net proceeds of the
26 sale be distributed to the shareholders in accordance with their
27 respective interests within one year after the date of sale.

28 (b) The rights of a shareholder who dissents as to less than all
29 of the shares registered in the name of the shareholder shall be

1 determined as if the shares as to which the shareholder dissents and
2 the other shares of the shareholder are registered in the names of
3 different shareholders.

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

7 (d) This section does not apply to the holders of shares of a
8 class or series if the shares of the class or series were registered
9 on a national securities exchange on the date fixed to determine the
10 shareholders entitled to vote at the meeting of shareholders at which
11 the plan of merger, consolidation, or exchange or the proposed sale or
12 exchange of property and assets is to be acted upon unless the arti-
13 cles of the corporation provide otherwise.

14 Sec. 10.06.576. RIGHTS OF DISSENTING SHAREHOLDERS: WITHDRAWAL
15 OF DEMAND. (a) A shareholder electing to exercise a right of dissent
16 shall file with the corporation, before or at the meeting of share-
17 holders at which the proposed corporate action is submitted to a vote,
18 a written objection to the proposed corporate action. If the proposed
19 corporate action is approved by the required vote and the shareholder
20 did not vote in favor of the action, the shareholder may, within 10
21 days after the date on which the vote was taken or if a corporation is
22 to be merged without a vote of its shareholders into another corpora-
23 tion, any of its shareholders may, within 20 days after the plan of
24 merger has been mailed to the shareholders, make written demand on the
25 corporation, or, in the case of a merger or consolidation, on the
26 surviving or new corporation, for payment of the fair value of the
27 shareholder's shares. If the proposed corporate action is effected,
28 the corporation shall pay to the dissenting shareholder, upon sur-
29 render of the certificate or certificates representing the shares of

1 the shareholder, the fair value of the shares as of the day before the
2 date on which the vote was taken approving the proposed corporate
3 action, excluding any appreciation or depreciation in anticipation of
4 the corporate action. A shareholder failing to make timely demand
5 under this section is bound by the terms of the proposed corporate
6 action. A dissenting shareholder making demand under this section is
7 entitled only to payment as provided in this section and is not enti-
8 tled to vote or to exercise any other rights of a shareholder.

9 (b) A demand may not be withdrawn without the consent of the
10 corporation. If a demand is withdrawn with consent, or if the pro-
11 posed corporate action is abandoned or rescinded or the shareholders
12 revoke the authority for the action, or if, in the case of a merger,
13 on the date of the filing of the articles of merger the surviving
14 corporation is the owner of all the outstanding shares of the other
15 corporations that are parties to the merger, or if no demand or peti-
16 tion for the determination of fair value by a court has been made or
17 filed within the time provided in AS 10.06.582, or if a court deter-
18 mines that a shareholder is not entitled to the relief provided by
19 AS 10.06.582, then the right of the shareholder to be paid the fair
20 value of the shares of the shareholder ceases and the status of the
21 person as a shareholder shall be restored, without prejudice to any
22 corporate proceedings that may have been taken during the interim.

23 Sec. 10.06.578. NOTICE TO DISSENTING SHAREHOLDER. Within 10
24 days after the corporate action is effected, the corporation or in the
25 case of a merger or consolidation, the surviving or new corporation
26 shall give written notice of the action to each dissenting shareholder
27 who has made demand under AS 10.06.576, and shall make a written offer
28 to each dissenting shareholder to pay a specified price considered by
29 the corporation to be the fair value for the shares of the

1 shareholder. The notice and offer shall be accompanied by a balance
2 sheet of the corporation the shares of which the dissenting share-
3 holder holds as of the latest available date but not more than 12
4 months before the making of the offer, and a profit and loss statement
5 of that corporation for the 12-month period ending on the date of the
6 balance sheet.

7 Sec. 10.06.580. PAYMENT TO DISSENTING SHAREHOLDER AFTER AGREE-
8 MENT ON VALUE OF SHARES. If within 30 days after the date on which
9 the corporate action is effected the fair value of the shares is
10 agreed upon between the dissenting shareholder and the corporation,
11 payment for the shares shall be made to the dissenting shareholder
12 within 90 days after the action was effected. Upon payment of the
13 agreed value the dissenting shareholder ceases to have any interest in
14 the shares.

15 Sec. 10.06.582. ACTION TO DETERMINE VALUE OF SHARES UPON FAILURE
16 TO AGREE. (a) If, within 30 days after a corporation effects an
17 organic change to which a shareholder dissents under AS 10.06.574, a
18 dissenting shareholder and the corporation do not agree on the fair
19 value of the shares, the corporation, within 30 days after receipt of
20 written demand from a dissenting shareholder given within 60 days
21 after the corporate action was effected, shall, or at its election any
22 time within 60 days of the corporate action, may, file a petition in a
23 court in the judicial district where the registered office of the
24 corporation is located, requesting that the fair value of the shares
25 be found and determined. If, in the case of a merger or consolida-
26 tion, the surviving or new corporation is a foreign corporation with-
27 out a registered office in the state, the petition shall be filed in
28 the judicial district where the registered office of the domestic
29 corporation was last located. If the corporation fails to institute a

1 proceeding as provided in this section, a dissenting shareholder may
2 institute a proceeding in the name of the corporation. All dissenting
3 shareholders, wherever residing, shall be made parties to the proceed-
4 ing as an action against their shares quasi in rem. A copy of the
5 petition shall be served by certified mail on each dissenting share-
6 holder who is a nonresident. Service on nonresidents shall also be
7 made by publication as provided by law. The jurisdiction of the court
8 shall be plenary and exclusive. All shareholders who are parties to
9 the proceeding are entitled to judgment against the corporation for
10 the amount of the fair value of their shares. The court may appoint
11 one or more persons as appraisers to receive evidence and recommend a
12 decision on the question of fair value of the shares. The appraisers
13 shall have the power and authority as specified in the order of their
14 appointment or as amended. The judgment shall be payable only upon
15 and concurrently with the surrender to the corporation of the certifi-
16 cate or certificates representing the shares. Upon payment of the
17 judgment, the dissenting shareholder ceases to have an interest in the
18 shares.

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

23 (c) The costs and expenses of a proceeding under this section
24 shall be determined by the court and shall be assessed against the
25 corporation. All or any part of the costs and expenses may be appor-
26 tioned and assessed as the court considers equitable against any or
27 all of the dissenting shareholders who are parties to the proceeding
28 to whom the corporation made an offer to pay for the shares if the
29 court finds that the action of the shareholders in failing to accept

1 the offer was arbitrary, vexatious, or not in good faith. The ex-
2 penses shall include the reasonable compensation and expenses of the
3 appraisers, but shall exclude the fees and expenses of counsel for and
4 experts employed by any party. If the fair value of the shares as
5 determined by the court materially exceeds the amount that the corpo-
6 ration offered to pay, or if no offer was made, the court in its
7 discretion may award to a shareholder who is a party to the proceeding
8 reasonable compensation for an expert or experts employed by the
9 shareholder in the proceeding.

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

25 Sec. 10.06.586. STATUS OF SHARES ACQUIRED FROM DISSENTING SHARE-
26 HOLDERS. Shares acquired by a corporation under AS 10.06.582 and
27 AS 10.06.584 shall be held and disposed of by the corporation as other
28 reacquired shares (AS 10.06.388), except that, in the case of a merger
29 or consolidation, they shall be held and disposed of as the plan of

1 merger or consolidation may otherwise provide.

2 ARTICLE 9. DISSOLUTION.

3 Sec. 10.06.605. VOLUNTARY DISSOLUTION BY VOTE, WRITTEN CONSENT
4 OF SHARES, OR ELECTION OF THE BOARD. (a) A corporation may elect
5 voluntarily to wind up and dissolve by

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

17 (2) written consent of the shares taken without a meeting
18 (AS 10.06.423).

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

21 (1) a corporation that has been adjudicated bankrupt;

22 (2) a corporation that has disposed of all of its assets
23 and has not conducted any business for a period of five years immedi-
24 ately preceding the adoption of the resolution to dissolve the corpo-
25 ration; and

26 (3) a corporation that has issued no shares.

27 Sec. 10.06.608. CERTIFICATE OF ELECTION: CONTENTS, SIGNING,
28 VERIFICATION AND FILING. (a) A corporation that has elected to wind
29 up and dissolve shall immediately file a certificate evidencing the

1 election as provided in this section.

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

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

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

16 (3) a copy of the written consent signed by all share-
17 holders of the corporation if the election was made by the written
18 consent of the shares;

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

22 (c) Duplicate originals of the certificate conforming to (b) of
23 this section shall be delivered to the commissioner for processing
24 according to AS 10.06.910.

25 Sec. 10.06.610. CERTIFICATE OF REVOCATION OF ELECTION: CONTENTS,
26 SIGNING, VERIFICATION, AND FILING. (a) A voluntary election to wind
27 up and dissolve under AS 10.06.605 may be revoked before distribution
28 of assets by an election to revoke made in the same manner as an elec-
29 tion under AS 10.06.605. A certificate evidencing the election to

1 revoke shall be signed, verified, and filed in the manner prescribed
2 in AS 10.06.608.

3 (b) The certificate shall set out

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

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

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

12 (4) a copy of the written consent signed by all share-
13 holders of the corporation if the election to revoke was made by the
14 written consent of the shares;

15 (5) the resolution of the board if the election to revoke
16 was made by the board.

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

21 Sec. 10.06.615. COMMENCEMENT AND CONDUCT OF VOLUNTARY PROCEED-
22 INGS FOR WINDING UP; CESSATION OF BUSINESS; NOTICE. (a) Voluntary
23 proceedings for winding up the corporation commence upon the resolu-
24 tion of shareholders or directors of the corporation electing to wind
25 up and dissolve, or upon the filing with the corporation of a written
26 consent of the shareholders.

27 (b) If a voluntary proceeding for winding up has commenced, the
28 board shall continue to act as a board and has powers as provided in
29 (c) of this section to wind up and settle its affairs, both before and

1 after the filing of the certificate of dissolution.

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

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

25 Sec. 10.06.620. ARTICLES OF DISSOLUTION: CONTENTS. If a corpo-
26 ration has been completely wound up without court proceedings, a
27 majority of the directors then in office shall sign and verify arti-
28 cles of dissolution stating that

29 (1) the corporation has been completely wound up;

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

13 (3) its known assets have been distributed to shareholders,
14 or, if there are no shareholders, to persons entitled to the assets,
15 or wholly applied or deposited on account of its debts and liabilities
16 or that it acquired no known assets;

17 (4) the corporation is dissolved.

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

22 Sec. 10.06.625. EFFECT OF CERTIFICATE OF DISSOLUTION. Upon the
23 issuance of a certificate of dissolution, the existence of the corpo-
24 ration ceases, except for the purpose of suits, other proceedings, and
25 appropriate corporate action by shareholders, directors, and officers
26 as provided in this chapter.

27 Sec. 10.06.628. INVOLUNTARY DISSOLUTION BY VERIFIED COMPLAINT;
28 FILING; INTERVENTION BY SHAREHOLDER OR CREDITOR. (a) A verified
29 complaint for involuntary dissolution of a corporation on any of the

1 grounds specified in (b) of this section may be filed in the superior
2 court by the following persons:

3 (1) one-half or more of the directors in office;
4 (2) a shareholder or shareholders who hold shares repre-
5 senting not less than 33-1/3 percent of the total number of outstand-
6 ing shares, assuming conversion of preferred shares convertible into
7 common shares, or of the outstanding common shares, or of the equity
8 of the corporation, exclusive of shares owned by persons who have
9 personally participated in any of the transactions enumerated in
10 (b)(4) of this section;

11 (3) a shareholder if the ground for dissolution is that the
12 period for which the corporation was formed has terminated without
13 extension; or

14 (4) another person expressly authorized to do so in the
15 articles.

16 (b) The grounds for involuntary dissolution are:

17 (1) the corporation has abandoned its business for more
18 than one year;

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

26 (3) there is internal dissension and two or more factions
27 of shareholders in the corporation are so deadlocked that its business
28 can no longer be conducted with advantage to its shareholders, or the
29 shareholders have failed at two consecutive annual meetings at which

1 all voting power was exercised to elect successors to directors whose
2 terms have expired or would have expired upon election of their suc-
3 cessors;

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

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

13 (6) the period for which the corporation was formed has
14 terminated without extension.

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

17 (d) For purposes of this section, "shareholder" includes a bene-
18 ficial owner of shares who has entered into an agreement under AS 10.-
19 06.425.

20 Sec. 10.06.630. AVOIDING DISSOLUTION BY VERIFIED COMPLAINT;
21 PURCHASE OF PLAINTIFF'S SHARES; DETERMINATION OF FAIR VALUE; STAY;
22 APPRAISAL; AWARD; APPEAL. (a) Subject to a contrary provision in the
23 articles of incorporation, in a suit for involuntary dissolution
24 (AS 10.06.628) the corporation or, if it does not elect to purchase,
25 the holders of 50 percent or more of the voting power of the corpora-
26 tion, the "purchasing parties" may avoid the dissolution of the corpo-
27 ration and the appointment of a receiver by purchasing for cash the
28 shares owned by the plaintiffs, the "moving parties" at their fair
29 value. The fair value shall be determined on the basis of the

1 liquidation value, taking into account the possibility of sale of the
2 entire business as a going concern in a liquidation. The election of
3 the corporation to purchase may be made by the approval of the out-
4 standing shares excluding shares held by the moving parties.

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

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

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

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

13 Sec. 10.06.633. INVOLUNTARY DISSOLUTION BY THE COMMISSIONER:
14 GROUNDS, PROCEDURE, REINSTATEMENT. (a) A corporation may be dis-
15 solved involuntarily by the commissioner if

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

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

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

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

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

28 (6) a misrepresentation of material facts has been made in
29 the application, report, affidavit, or other document submitted under

1 this chapter;

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

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

9 (b) A corporation may not be dissolved under this section unless
10 the commissioner has given the corporation written notice of its
11 delinquency, failure, or noncompliance by certified mail addressed to
12 its registered office, registered agent, president, or secretary at
13 the last known address as shown by the records of the commissioner.
14 If the corporation fails, within 60 days after the notice is sent by
15 certified mail, to contest the alleged neglect, omission, delinquency,
16 or noncompliance by a written request for a hearing before the commis-
17 sioner or fails to correct the asserted neglect, omission, delin-
18 quency, or noncompliance it may be dissolved under (d) of this sec-
19 tion.

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

1 commissioner to take action the court considers proper.

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

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

29 (f) Nothing in this section relieves a corporation reinstated

1 under this section from penalty or forfeiture of its powers in a case
2 of failure to pay subsequently accruing licenses and taxes imposed by
3 a law of the state.

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

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

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

19 (1) the corporation has procured its certificate of incor-
20 poration through fraud;

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

23 (3) the corporation has seriously violated a statute regu-
24 lating corporations; or

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

28 (b) The court may order dissolution or other or partial relief
29 as it considers just and expedient. The court also may appoint a

1 receiver under AS 10.06.643 for winding up the affairs of the corpora-
2 tion or may order that the corporation be wound up by its board sub-
3 ject to the supervision of the court.

4 Sec. 10.06.638. VENUE AND PROCESS FOR COMMISSIONER'S ACTION.

5 (a) An action for the involuntary dissolution of a corporation under
6 AS 10.06.633 shall be commenced by the commissioner in the superior
7 court.

8 (b) Summons shall issue and be served as in civil actions. If
9 no registered agent or office is found to serve, the commissioner
10 shall publish notice as in civil cases in a newspaper published in the
11 judicial district where the registered office of the corporation is
12 situated, containing a notice of the pendency of the action, the title
13 of 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
15 the names of any number of corporations against which actions are
16 pending 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 sum-
22 mons 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
28 the corporation is a deadlock in the board as set out in AS 10.06.-
29 628(b)(2), 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 dead-
7 lock in the board is broken or until the provisional director is
8 removed by order of the court or by approval of the outstanding
9 shares.

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

12 Sec. 10.06.643. APPOINTMENT OF RECEIVER: APPLICATION, HEARING
13 AND NOTICE, SECURITY, QUALIFICATIONS, POWERS, COMPENSATION. (a) If,
14 at the time of the filing of a complaint for involuntary dissolution
15 (AS 10.06.628) or at any time after the filing, the court has reason-
16 able grounds to believe that unless a receiver of the corporation is
17 appointed the interests of the corporation and its shareholders will
18 suffer pending the hearing and determination of the complaint, upon
19 the application of the plaintiff and after a hearing upon notice to
20 the corporation as the court may direct, the court may appoint a
21 receiver to take over and manage the business and affairs of the
22 corporation and to preserve its property pending the hearing and
23 determination of the complaint for dissolution.

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

29 (c) The compensation of the receiver shall be paid out of the

1 assets of the corporation and unless otherwise agreed shall be fixed
2 by the court.

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

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

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

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

1 Sec. 10.06.650. JURISDICTION OF COURT. If an involuntary pro-
2 ceeding for winding up has been commenced, the jurisdiction of the
3 court includes

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

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

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

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

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

23 (6) the filling of vacancies on the board that the direc-
24 tors or shareholders are unable to fill;

25 (7) the removal of a director if it appears that the direc-
26 tor has been guilty of dishonesty, misconduct, neglect, or abuse of
27 trust in conducting the winding up or if the director is unable to
28 act; the court may order an election to fill the vacancy, and may
29 enjoin, for the time it considers proper, the reelection of the

1 removed director. The court, in place of ordering an election, may
2 appoint a director to fill the vacancy caused by the removal; a direc-
3 tor appointed by the court serves until the next annual meeting of
4 shareholders or until a successor is elected or appointed;

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

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

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

14 (11) the making of an order, after the allowance or settle-
15 ment of the final accounts of the directors or other persons, that the
16 corporation is legally wound up and is dissolved;

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

19 Sec. 10.06.653. CLAIMS AGAINST CORPORATION; COURT AND NON-COURT
20 DIRECTED WINDING UP; PRESENTATION; NOTICE; PAYMENT; SECURED CLAIMS;
21 REJECTED CLAIMS. (a) In a court-directed winding up of a corporation
22 (AS 10.06.618, 10.06.635(b) and 10.06.645) creditors and claimants may
23 be barred from participation in a distribution of the general assets
24 of the corporation if they fail to make and present claims and proofs
25 within the time the court may order. The time in which to present
26 claims may not be less than four nor more than six months after the
27 first publication of notice to creditors unless it appears by affida-
28 vit that there are no claims, in which case the time may not be less
29 than three months. If it is shown that a claimant did not receive

1 notice because of absence from the state or other cause, the court may
2 allow a claim to be filed or presented at any time before distribution
3 is completed.

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

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

19 (d) Before a distribution in a court-directed winding up is
20 made, the amount of an unmatured, contingent, or disputed claim
21 against the corporation that has been presented and has not been
22 disallowed, or the part of a claim to which the holder would be enti-
23 tled if the claim were due, established, or absolute, shall, if pres-
24 ently reduced to cash, be paid to the commissioner of revenue. The
25 amount shall be paid to the party entitled to the amount when the
26 party becomes entitled or, if the party fails to establish a claim,
27 the amount shall be distributed with the other assets of the corpo-
28 ration; the court may make other provision for payment of a claim, as
29 it considers adequate. A creditor who has a claim that has been

1 allowed but is not yet due is entitled to the present value of the
2 claim upon distribution.

3 (e) Assets of the corporation subject to claims under this
4 section and not reduced to cash shall be held pending distribution as
5 creditors and claimants agree or as the court directs.

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

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

22 Sec. 10.06.655. ORDER DECLARING CORPORATION WOUND UP AND DIS-
23 SOLVED; DECLARATIONS; EFFECT; ADDITIONAL ORDERS; DISCHARGE OF DIREC-
24 TORS. (a) Upon the final settlement of the accounts of the directors
25 or other persons appointed under AS 10.06.648 and the determination
26 that the corporation's affairs are in a condition for it to be dis-
27 solved, the court shall make an order declaring the corporation
28 legally wound up and dissolved. The order shall declare that

29 (1) the corporation has been legally wound up, that any tax

1 or penalty due under AS 10.06.805 - 10.06.870 has been paid or secured
2 and that the other known debts and liabilities of the corporation have
3 been paid or adequately provided for, or that taxes, penalties, debts,
4 and liabilities have been paid as far as its assets permit; if ade-
5 quate provision has been made for the payment of all known debts or
6 liabilities, the order shall state what provision has been made,
7 setting out the name and address of the corporation, person, or gov-
8 ernmental agency that has assumed or guaranteed the payment, or the
9 name and address of the depository with which deposit has been made or
10 other information as may be necessary to enable the creditor or other
11 person to whom payment is to be made to appear and claim payment of
12 the debt or liability;

13 (2) the known assets of the corporation have been distri-
14 buted to the persons entitled to the assets or that it acquired no
15 known assets;

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

19 (4) the corporation is dissolved.

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

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

28 Sec. 10.06.658. FILING OF DECREE OF DISSOLUTION. The clerk of
29 the court shall file with the commissioner a certified copy of a court

1 decree dissolving a corporation. A fee may not be charged for the
2 filing of a decree of dissolution.

3 Sec. 10.06.660. POWERS AND DUTIES OF DIRECTORS IN DISSOLUTION
4 PROCEEDINGS. The powers and duties of the directors or other persons
5 appointed by the court under AS 10.06.648 and officers after commence-
6 ment of a dissolution proceeding include, but are not limited to, the
7 following acts in the name and on behalf of the corporation:

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

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

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

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

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

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

19 (7) to sell at public or private sale, exchange, convey, or
20 otherwise dispose of all or any part of the assets of the corporation
21 for cash in an amount considered reasonable by the board with or
22 without compliance with the provisions of AS 10.06.568 and AS 10.06.-
23 570 and without dissenters' rights (AS 10.06.574 - 10.06.586) and upon
24 terms, conditions, and other considerations the board considers rea-
25 sonable or expedient;

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

28 (9) in general to make contracts and to do any and all
29 things in the name of the corporation that may be proper or convenient

1 for the purposes of winding up, settling, and liquidating the affairs
2 of the corporation.

3 Sec. 10.06.663. PROCEEDING TO DETERMINE IDENTITY OF DIRECTORS OR
4 TO APPOINT DIRECTORS. If the identity of a director or the right of a
5 director to hold office is in doubt, if a director is dead or unable
6 to act, if a director fails or refuses to act, or if the director's
7 whereabouts cannot be ascertained, an interested person may petition
8 the superior court to determine the identity of the director or, if
9 there are no directors, to appoint directors to wind up the affairs of
10 the corporation, after hearing upon such notice as the court may
11 direct.

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

22 Sec. 10.06.668. PROVISION FOR PAYMENT OF DEBT OR LIABILITY. The
23 payment of a debt or liability, whether the whereabouts of the credi-
24 tor is known or unknown, has been adequately provided for if

25 (1) payment of the debt or liability has been assumed or
26 guaranteed in good faith by one or more financially responsible corpo-
27 rations or other persons or by the United States government or an
28 agency of the United States, and the provision was determined in good
29 faith and with reasonable care by the board to be adequate at the time

1 of a distribution of the assets by the board under AS 10.06.605 -
2 10.06.678; or

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

5 Sec. 10.06.670. DISTRIBUTION IN MONEY OR IN KIND; INSTALLMENTS.
6 Distribution of assets may be made in money, in property, or in secu-
7 rities and either in installments or as a whole, if the distribution
8 is done fairly and ratably and in conformity with the articles of
9 incorporation and the rights of the shareholders, and shall be made as
10 soon as reasonably consistent with the beneficial liquidation of the
11 corporate assets.

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

24 (b) A plan of distribution approved under (a) of this section is
25 binding upon the shareholders except as provided in (c) of this sec-
26 tion. The board shall mail notice of the adoption of the plan within
27 20 days after its adoption to all holders of shares having a liquida-
28 tion preference.

29 (c) Shareholders having a liquidation preference who dissent

1 from the plan of distribution are entitled to be paid the amount of
2 their liquidation preference in cash if they file written demand for
3 payment with the corporation within 30 days after the date of mailing
4 of the notice of the adoption of the plan of distribution unless the
5 plan of distribution is abandoned. The demand shall state the number
6 and class of the shares held of record by the shareholder for which
7 the shareholder claims payment.

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

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

20 (b) Suit may be brought in the name of the corporation to en-
21 force the liability under (a) of this section against a shareholder
22 receiving an improper distribution by a creditor of the corporation,
23 whether or not the creditor has reduced the claim of the creditor to
24 judgment.

25 (c) A shareholder who satisfies a liability under this section
26 has the right of ratable contribution from other distributees who are
27 similarly liable. A shareholder who has been compelled to return to
28 the corporation more than the shareholder's ratable share of the
29 amount needed to pay the debts and liabilities of the corporation may

1 require that the corporation recover from any or all of the other
2 distributees the proportion of the amounts received by them by the
3 improper distribution necessary to give contribution to shareholders
4 held liable under this section and to make the distribution of the
5 assets fair and ratable, according to the respective rights and pref-
6 erences of the shares, after payment or adequate provision for payment
7 of all the debts and liabilities of the corporation.

8 (d) As used in this section, "process of winding up" includes
9 proceedings under AS 10.06.605 - 10.06.678 and other distributions of
10 assets to shareholders made in contemplation of termination or aban-
11 donment of the corporate business.

12 Sec. 10.06.678. CONTINUED EXISTENCE OF DISSOLVED CORPORATIONS;
13 PURPOSES; ABATEMENT OF ACTIONS; DISTRIBUTION OF OMITTED ASSETS. (a)
14 A corporation that is dissolved voluntarily or involuntarily continues
15 to exist for the purpose of winding up its affairs, prosecuting and
16 defending actions by or against it, and enabling it to collect and
17 discharge obligations, dispose of and convey its property, and collect
18 and divide its assets. A dissolved corporation does not continue to
19 exist for the purpose of continuing business except so far as neces-
20 sary for winding up the business.

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

24 (c) Assets inadvertently or otherwise omitted from the winding
25 up continue as assets of the dissolved corporation for the benefit of
26 persons entitled to the assets upon dissolution of the corporation and
27 on realization the assets shall be distributed to the persons enti-
28 tled.

29 (d) The directors of the corporation on the date of its

1 dissolution or as determined under AS 10.06.663 shall exercise and
2 enjoy the powers necessary to act under the terms of this section.

3 ARTICLE 10. FOREIGN CORPORATIONS.

4 Sec. 10.06.705. ADMISSION OF FOREIGN CORPORATION. A foreign
5 corporation may not transact business in this state until it has been
6 issued a certificate of authority by the commissioner. A foreign
7 corporation may not be issued a certificate of authority to transact
8 business in this state that a corporation organized under this chapter
9 is not permitted to transact. A foreign corporation may not be denied
10 a certificate of authority because the laws of the state or country
11 under which it is organized governing its organization and internal
12 affairs differ from the laws of this state.

13 Sec. 10.06.708. APPLICATION TO CORPORATIONS NOW AUTHORIZED TO
14 TRANSACT BUSINESS IN THE STATE. A foreign corporation authorized to
15 transact business in this state on March 29, 1957, for a purpose for
16 which a corporation may secure authority under this chapter is, sub-
17 ject to the limitations set out in its certificate of authority,
18 entitled to all the rights and privileges applicable to a foreign
19 corporation holding a certificate of authority and is subject to the
20 limitations, restrictions, liabilities, and duties prescribed in this
21 chapter for a foreign corporation holding a certificate of authority
22 to transact business in this state under this chapter.

23 Sec. 10.06.710. LIABILITY FOR TRANSACTING BUSINESS WITHOUT CER-
24 TIFICATE OF AUTHORITY. A foreign corporation that transacts business
25 in the state without a certificate of authority is liable to this
26 state, for the years or portions of years during which it transacted
27 business in the state without a certificate of authority, in an amount
28 equal to all fees and corporation taxes that would have been imposed
29 by this chapter on the corporation if it had applied for and received

1 a certificate of authority to transact business in this state as
2 required by this chapter and filed all reports required by this chap-
3 ter, plus all penalties imposed by this chapter for failure to pay the
4 fees and corporation taxes, plus a penalty of up to \$10,000 per year
5 or portion of a year for each year it transacted business in this
6 state without a certificate of authority. The attorney general shall
7 bring proceedings to recover amounts due the state under this section.

8 Sec. 10.06.713. TRANACTING BUSINESS WITHOUT CERTIFICATE OF
9 AUTHORITY AS A BAR TO RIGHT TO SUE. A foreign corporation transacting
10 business in this state without a certificate of authority may not
11 maintain an action, suit, or proceeding in a court of this state until
12 it obtains a certificate of authority. A successor or assignee of a
13 foreign corporation transacting business without a certificate of
14 authority may not maintain an action, suit, or proceeding in a court
15 of this state on a right, claim, or demand arising out of the trans-
16 action of business by the corporation in this state until a certifi-
17 cate of authority is obtained by the corporation or by a corporation
18 that has acquired all or substantially all of its assets.

19 Sec. 10.06.715. TRANACTING BUSINESS WITHOUT CERTIFICATE OF
20 AUTHORITY NOT AFFECTING CONTRACTS AND RIGHT TO DEFEND ACTION. The
21 failure of a foreign corporation to obtain a certificate of authority
22 to transact business in this state does not impair the validity of a
23 contract or act of the corporation, and does not prevent the corpora-
24 tion from defending an action, suit, or proceeding in a court of this
25 state.

26 Sec. 10.06.718. ACTIVITIES NOT CONSTITUTING TRANACTING BUSINESS
27 IN THIS STATE. Without excluding other activities that may not con-
28 stitute transacting business in this state, a foreign corporation is
29 not considered to be transacting business in this state, for the

1 purposes of this chapter, by reason of carrying on in this state any
2 one or more of the following activities:

3 (1) maintaining, defending, or settling an action, suit, or
4 administrative or arbitration proceeding, or the settlement of claims
5 or disputes;

6 (2) holding meetings of directors or shareholders of the
7 corporation, or carrying on other activities concerning the internal
8 affairs of the corporation;

9 (3) maintaining bank accounts;

10 (4) maintaining an office or agency for the transfer, ex-
11 change, and registration of securities of the corporation, or appoint-
12 ing and maintaining a trustee or depository with relation to securi-
13 ties of the corporation;

14 (5) making sales through independent contractors;

15 (6) soliciting or procuring orders by mail, through em-
16 ployees, agents, or otherwise, if the orders require acceptance out-
17 side the state before becoming binding contracts;

18 (7) creating, as borrower or lender, or acquiring indebted-
19 ness or mortgages or other security interests in real or personal
20 property;

21 (8) securing or collecting debts, or enforcing rights in
22 property securing debts;

23 (9) transacting business in interstate commerce;

24 (10) conducting an isolated transaction completed within a
25 period of 30 days not in the course of a number of repeated trans-
26 actions of like nature.

27 Sec. 10.06.720. CORPORATE NAME OF FOREIGN CORPORATION. A cer-
28 tificate of authority may not be issued to a foreign corporation
29 unless the corporate name of the corporation

1 (1) contains the word "corporation", "company", "incorporated",
2 or "limited", or an abbreviation of one of these words, or, for
3 use in this state, adds at the end of its name one of these words or
4 an abbreviation of one of them;

5 (2) does not contain a word or phrase that indicates or
6 implies that it is organized for a purpose other than the purpose
7 contained in its articles of incorporation or that it is authorized or
8 empowered to conduct the business of banking or insurance;

9 (3) does not contain the word "city", "borough", or
10 "village" or otherwise imply that the corporation is a municipality,
11 but the name of a city, borough, or village may be used in the corpo-
12 rate name;

13 (4) is the same name as, or deceptively similar to, the
14 name of a domestic corporation existing under the laws of this state
15 or a foreign corporation authorized to transact business in this
16 state, or a name the exclusive right to which is reserved in the
17 manner provided in this title, or the name of a corporation that has
18 in effect a registration of its name as provided in this chapter.

19 Sec. 10.06.723. ASSUMED CORPORATE NAME. (a) If a foreign
20 corporation applying for a certificate of authority has a name that is
21 impermissible under any provision of AS 10.06.720, it shall select an
22 assumed name, acceptable under the provisions of AS 10.06.720, under
23 which it elects to do business in this state.

24 (b) The commissioner shall maintain records that cross-reference
25 the actual and assumed names of all foreign corporations authorized to
26 transact business in this state.

27 Sec. 10.06.725. CHANGE OF NAME BY FOREIGN CORPORATION. If a
28 foreign corporation authorized to transact business in this state
29 changes its name to one under which a certificate of authority would

1 not be granted to it, the certificate of authority of the corporation
2 is suspended and it may not transact business in this state until it
3 has changed its name to a name available to it under the laws of this
4 state.

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

8 Sec. 10.06.730. CONTENTS OF APPLICATION. The application shall
9 set out

10 (1) the name of the corporation and the assumed name, if
11 any, the state or country under whose laws it is incorporated; or if
12 the name of the corporation does not contain the word "corporation",
13 "company", "incorporated", or "limited" or an abbreviation of one of
14 these words, the name of the corporation with the word or abbreviation
15 that it elects to use in this state;

16 (2) the date of incorporation and the period of duration of
17 the incorporation;

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

20 (4) the address of the proposed registered office of the
21 corporation in this state, and the name of its proposed registered
22 agent in this state at that address;

23 (5) the purpose the corporation proposes to pursue in the
24 transaction of business in this state and the codes from the identi-
25 fication code established under AS 10.06.873 that most closely de-
26 scribe the activities in which the corporation will engage in this
27 state;

28 (6) the names and addresses of the directors and officers
29 of the corporation;

- 1 (7) a statement of the aggregate number of shares that the
2 corporation may issue, itemized by classes, par value of shares,
3 shares without par value, and series, if any, within a class;
- 4 (8) a statement of the aggregate number of issued shares
5 itemized by classes, par value of shares, shares without par value,
6 and series, if any, within a class;
- 7 (9) a statement expressed in dollars of the amount of
8 stated capital of the corporation;
- 9 (10) an estimate expressed in dollars of
- 10 (A) the value of all property to be owned by the
11 corporation for the following year;
- 12 (B) the value of the property of the corporation to be
13 located in this state during the following year;
- 14 (C) the gross amount of all business that will be
15 transacted by the corporation during the following year; and
- 16 (D) the gross amount of business that will be trans-
17 acted by the corporation at or from places of business in this
18 state during the following year;
- 19 (11) additional information necessary or appropriate to
20 enable the commissioner to determine whether the corporation is enti-
21 tled to a certificate of authority and to determine and assess the
22 fees and franchise taxes prescribed in this chapter that are payable;
- 23 (12) the name and address of each alien affiliate, the per-
24 centage of outstanding shares controlled by each alien affiliate, and
25 a specific description of the nature of the relationship between the
26 foreign corporation and its alien affiliate; or, a statement that
27 there are no alien affiliates;
- 28 (13) the name and address of a person owning at least five
29 percent of the shares, or five percent of any class of shares, and the

1 percentage of the shares or class of shares owned by that person.

2 Sec. 10.06.733. FILING OF APPLICATION FOR CERTIFICATE OF AUTHOR-
3 ITY. The application of the corporation for a certificate of author-
4 ity shall be on forms prescribed and furnished by the commissioner.
5 Duplicate originals of the application executed by its president or
6 vice- president, and by its secretary or an assistant secretary, and
7 verified by one of the officers signing the application, together with
8 a verified copy of its articles of incorporation and all amendments to
9 the articles, shall be delivered to the commissioner for processing
10 according to AS 10.06.910 and for issuance of a certificate of author-
11 ity.

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

17 Sec. 10.06.738. AMENDED CERTIFICATE OF AUTHORITY. (a) A for-
18 eign corporation authorized to transact business in this state sha
19 obtain an amended certificate of authority if it changes its corporate
20 name, or desires to pursue in this state other or additional purposes
21 than those set out in its earlier application for a certificate of
22 authority.

23 (b) The form and contents of an application for an amended
24 certificate of authority, the manner of its execution, the filing of
25 duplicate originals of the application with the commissioner, and the
26 issuance and effect of an amended certificate of authority shall be
27 the same as in the case of an original application for a certificate
28 of authority.

29 Sec. 10.06.740. POWERS OF FOREIGN CORPORATION. A foreign

1 corporation that has received a certificate of authority enjoys, until
2 a certificate of revocation or of withdrawal has been issued as pro-
3 vided in this chapter, the same, but no greater, rights and privileges
4 as a domestic corporation organized for the purposes set out in the
5 application under which the certificate of authority is issued and,
6 except as otherwise provided in this chapter, is subject to the
7 duties, restrictions, penalties, and liabilities now or hereafter
8 imposed upon a domestic corporation of like character.

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

12 (1) the corporation fails to file its biennial report
13 within the time required by this chapter, or fails to pay fees, corpo-
14 ration taxes, or penalties prescribed in this chapter when they are
15 due and payable;

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

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

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

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

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

29 Sec. 10.06.745. LIMITATIONS ON REVOCATION OF CERTIFICATE OF

1 AUTHORITY. The commissioner may not revoke a certificate of authority
2 of a foreign corporation unless

3 (1) the commissioner has given the corporation at least 60
4 days notice by certified mail addressed to its registered office in
5 this state; and

6 (2) the corporation fails before revocation to file the
7 biennial report, or pay the fees, corporation taxes, or penalties, or
8 file the required statement of change of registered agent or regis-
9 tered office, or file the articles of amendment or articles of merger,
10 or correct the misrepresentation.

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

13 (1) issue a certificate of revocation in duplicate;

14 (2) file one of the certificates in the commissioner's
15 office; and

16 (3) mail to the corporation at its registered office in
17 this state (AS 10.06.753(1)) a notice of the revocation accompanied by
18 one of the certificates.

19 Sec. 10.06.750. EFFECT OF CERTIFICATE OF REVOCATION. Upon the
20 issuance of the certificate of revocation, the authority of the corpo-
21 ration to transact business in this state ceases.

22 Sec. 10.06.753. REGISTERED OFFICE AND REGISTERED AGENT OF FOR-
23 EIGN CORPORATION. A foreign corporation authorized to transact busi-
24 ness in this state shall have and continuously maintain in the state

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

27 (2) a registered agent, who may be either an individual
28 resident in this state whose business office is identical to the
29 registered office, or a domestic corporation, or a foreign corporation

1 authorized to transact business in this state, that has a business
2 office identical to the registered office.

3 Sec. 10.06.758. CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT
4 OF FOREIGN CORPORATION. A foreign corporation authorized to transact
5 business in this state may change its registered office or change its
6 registered agent, or both, upon filing with the commissioner a state-
7 ment setting out

8 (1) the name of the corporation;

9 (2) the address of its registered office;

10 (3) the address of the proposed office if the address of
11 its registered office is to be changed;

12 (4) the name of its registered agent;

13 (5) the name of its successor registered agent if its
14 registered agent is to be changed;

15 (6) that the address of its registered office and the add-
16 ress of the business office of its registered agent, as changed, will
17 be identical; and

18 (7) that the change is authorized by resolution adopted by
19 the board of directors.

20 Sec. 10.06.760. FILING OF STATEMENT OF CHANGE. A statement of
21 change under AS 10.06.758 shall be executed and verified by the corpo-
22 ration by its president or a vice-president, and delivered to the
23 commissioner. If the commissioner finds that the statement conforms
24 to the provisions of this chapter, the commissioner shall file the
25 statement in the office of the commissioner, and upon the filing, the
26 change of address of the registered office, or the appointment of a
27 new registered agent, or both, as the case may be, becomes effective.

28 Sec. 10.06.763. SERVICE OF PROCESS ON FOREIGN CORPORATION. The
29 registered agent appointed by a foreign corporation authorized to

1 transact business in this state shall be an agent of the corporation
2 upon whom process, notice, or demand required or permitted by law to
3 be served upon the corporation may be served.

4 Sec. 10.06.765. SERVICE ON COMMISSIONER. When a foreign corpo-
5 ration authorized to transact business in this state, or not autho-
6 rized to transact business in this state but doing so, fails to ap-
7 point or maintain a registered agent in this state, or when a regis-
8 tered agent cannot with reasonable diligence be found at the regis-
9 tered office, or when the certificate of authority of a foreign corpo-
10 ration is suspended or revoked, the commissioner is an agent upon whom
11 process, notice, or demand may be served. Service is made upon the
12 commissioner as provided in AS 10.06.175(b).

13 Sec. 10.06.768. RECORDS KEPT BY COMMISSIONER. The commissioner
14 shall keep a record of all processes, notices, or demands served upon
15 the commissioner under AS 10.06.765 and shall record the time of
16 service and action taken by the commissioner with reference to the
17 service.

18 Sec. 10.06.770. PROCEDURE NOT EXCLUSIVE. AS 10.06.763 - 10.06.-
19 768 do not limit or affect the right to serve a process, notice, or
20 demand required or permitted by law to be served upon a corporation in
21 any other manner.

22 Sec. 10.06.773. AMENDMENT TO ARTICLES OF INCORPORATION OF FOR-
23 EIGN CORPORATION. If the articles of incorporation of a foreign
24 corporation authorized to transact business in this state are amended,
25 the foreign corporation shall, within 30 days after the amendment
26 becomes effective, file with the commissioner a copy of the amendment
27 authenticated by the proper officer of the state or country under
28 whose laws it is incorporated. The filing of the amendment does not
29 enlarge or alter the purpose which the corporation may pursue in the

1 transaction of business in this state, nor authorize the corporation
2 to transact business in this state under a name other than the name
3 set out in its certificate of authority.

4 Sec. 10.06.775. ORGANIC CHANGE OF FOREIGN CORPORATION. If a
5 foreign corporation authorized to transact business in this state is a
6 party to an organic change permitted by the laws of the state or
7 country where it is incorporated, and the corporation is the surviving
8 corporation, it shall, within 30 days after the change becomes effec-
9 tive, file with the commissioner a copy of the articles of merger,
10 consolidation, exchange, or reorganization authenticated by the proper
11 office of the state or country under whose laws the organic change was
12 carried out. It is not necessary for the corporation to obtain a new
13 or amended certificate of authority to transact business in this state
14 unless the name of the corporation is changed or unless the corpora-
15 tion desires to pursue in this state other or additional purposes than
16 those that it is authorized to transact in this state.

17 Sec. 10.06.778. WITHDRAWAL OF FOREIGN CORPORATION. A foreign
18 corporation authorized to transact business in this state may withdraw
19 from this state upon obtaining from the commissioner a certificate of
20 withdrawal. To obtain a certificate of withdrawal, the foreign corpo-
21 ration shall deliver to the commissioner an application for with-
22 drawal.

23 Sec. 10.06.780. CONTENTS OF APPLICATION FOR WITHDRAWAL. An
24 application for withdrawal shall set out

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

27 (2) that the corporation is not transacting business in
28 this state;

29 (3) that the corporation surrenders its authority to

1 transact business in this state;

2 (4) that the corporation revokes the authority of its
3 registered agent in this state to accept service of process and con-
4 sents that service of process in an action, suit, or proceeding based
5 upon a cause of action arising in this state during the time the
6 corporation was authorized to transact business in this state may be
7 made on the corporation by service on the commissioner;

8 (5) a post office address to which the commissioner may
9 mail a copy of a process against the corporation that may be served on
10 the commissioner;

11 (6) a statement of the aggregate number of shares that the
12 corporation may issue, itemized by classes, par value of shares,
13 shares without par value, and series, if any, within a class, as of
14 the date of the application;

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

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

20 (9) additional information necessary or appropriate to
21 enable the commissioner to determine and assess unpaid fees or corpo-
22 rate taxes payable as prescribed in this chapter.

23 Sec. 10.06.783. FORM OF APPLICATION FOR WITHDRAWAL. An applica-
24 tion for withdrawal shall be made on forms prescribed and furnished by
25 the commissioner and shall be executed by the corporation by its
26 president or a vice-president, and by its secretary or an assistant
27 secretary, and verified by one of the officers signing the applica-
28 tion, or, if the corporation is in the hands of a receiver or trustee,
29 the application shall be executed and verified on behalf of the

1 corporation by the receiver or trustee.

2 Sec. 10.06.785. FILING OF APPLICATION FOR WITHDRAWAL. Duplicate
3 originals of an application for withdrawal shall be delivered to the
4 commissioner for processing according to AS 10.06.910 and for issuance
5 of a certificate of withdrawal.

6 Sec. 10.06.788. EFFECT OF CERTIFICATE OF WITHDRAWAL. Upon the
7 issuance of a certificate of withdrawal, the authority of a corpora-
8 tion to transact business in this state ceases.

9 ARTICLE 11. REPORTS, FEES, AND PENALTIES.

10 Sec. 10.06.805. BIENNIAL REPORT OF DOMESTIC AND FOREIGN CORPORA-
11 TIONS. A domestic corporation and a foreign corporation authorized to
12 transact business in this state shall file a biennial report within
13 the time prescribed by this chapter.

14 Sec. 10.06.808. CONTENTS OF BIENNIAL REPORT. A biennial report
15 must set out

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

18 (2) the address of the registered office of the corporation
19 in this state, and the name of its registered agent in this state at
20 that address, and, in the case of a foreign corporation, the address
21 of its principal office in the state or country where it is incorpo-
22 rated;

23 (3) a brief statement of the character of the business in
24 which the corporation is engaged in this state and the codes from the
25 identification code established under AS 10.06.843 which most closely
26 describe the activities in which the corporation is engaged in this
27 state;

28 (4) the names and addresses of the directors and officers
29 of the corporation;

1 (5) a statement of the aggregate number of shares that the
2 corporation has authority to issue, itemized by classes, par value of
3 shares, shares without par value, and series, if any, within a class;

4 (6) a statement of the aggregate number of issued shares
5 itemized by classes, par value of shares, shares without par value,
6 and series, if any, within a class;

7 (7) the name and address of each alien affiliate, the per-
8 centage of outstanding shares controlled by each alien affiliate, and
9 a specific description of the nature of the relationship between the
10 corporation and its alien affiliates, or that there is no alien affil-
11 iate;

12 (8) the name and address of each person owning at least
13 five percent of the shares, or five percent of any class of shares as
14 of September 30 of the second year of the biennial reporting period,
15 and the percentage of the shares or class of shares owned by that
16 person.

17 Sec. 10.06.811. FILING OF BIENNIAL REPORT. (a) A biennial
18 report of a domestic or foreign corporation shall be filed with the
19 department and is due before January 2 of the filing year. A domestic
20 corporation filing articles of incorporation and a foreign corporation
21 receiving a certificate of authority during an even-numbered year must
22 file the biennial report each even-numbered year. A corporation
23 filing with the department during an odd-numbered year must file the
24 biennial report each odd-numbered year. The biennial report is delin-
25 quent if not filed before February 1 of each odd or even year as
26 provided in this section. Delinquent returns are subject to the
27 penalty in AS 10.06.815.

28 (b) Proof to the satisfaction of the commissioner that on or
29 before February 1 the report was deposited in the United States mail

1 in a sealed envelope, properly addressed with postage prepaid, is
2 compliance with (a) of this section.

3 (c) The commissioner shall file the report if it conforms to the
4 requirements of this chapter. If the commissioner finds that the
5 report does not conform to the requirements of this chapter, the
6 report shall promptly be returned to the corporation for necessary
7 corrections. If the report is corrected to conform to the require-
8 ments of this chapter and returned to the commissioner in sufficient
9 time to be filed before April 1 of the year in which it is due, the
10 penalties for failure to file the report within the time provided in
11 AS 10.06.815 do not apply.

12 (d) Upon receipt of a form from the commissioner, a domestic or
13 foreign corporation must file a biennial report within six months
14 after original incorporation or authorization to transact business in
15 this state.

16 Sec. 10.06.813. FILING NOTICE OF CHANGE OF OFFICERS, DIRECTORS,
17 FIVE PERCENT SHAREHOLDERS, AND ALIEN AFFILIATES. (a) In the event of
18 a change of an officer, director, or alien affiliate of a corporation
19 during the first year of the biennial reporting period or a change in
20 a five percent shareholder before September 30 of the first year of
21 the biennial reporting period, the corporation shall file a notice of
22 change amending the biennial report of the corporation before the
23 following January 2.

24 (b) The notice shall be filed with the commissioner and shall
25 state the name and current mailing address of each director, officer,
26 five percent shareholder, or alien affiliate not included in the
27 corporation's last filed biennial report, and the name of the person
28 replaced and the office held. The notice shall be signed by the
29 president or vice-president of the corporation.

1 Sec. 10.06.815. PENALTY FOR FAILURE TO FILE BIENNIAL REPORT. A
2 domestic or foreign corporation that fails or refuses to file a bien-
3 nial report within the time set by this chapter is subject to a pen-
4 alty of 10 percent of the amount of the corporation tax assessed
5 against it for the period beginning January 1 of the year for which
6 the report should have been filed. The commissioner shall assess the
7 penalty at the time of the assessment of the corporation tax. If the
8 amount of the corporation tax as originally assessed is adjusted in
9 accordance with this chapter, the amount of the penalty shall also be
10 adjusted to 10 percent of the amount of the adjusted corporation tax.
11 The amount of the corporation tax and the amount of the penalty shall
12 be separately stated in a notice to the corporation.

13 Sec. 10.06.818. INTERROGATORIES BY COMMISSIONER; JUDICIAL PRO-
14 CEEDING TO CONTEST. (a) The commissioner may propound to a domestic
15 or foreign corporation and to an officer or director of a domestic or
16 foreign corporation interrogatories reasonably necessary and proper to
17 enable the commissioner to ascertain whether the corporation has
18 complied with the provisions of this chapter.

19 (b) Interrogatories shall be propounded by the commissioner or
20 the designee of the commissioner to

21 (1) a domestic corporation by complying with AS 10.06.175;

22 (2) a foreign corporation by complying with AS 10.06.763;

23 (3) an individual officer or director of a domestic or
24 foreign corporation by mailing by certified mail a copy of the inter-
25 rogatories addressed to the person at the place of business of the
26 person in this state, or, if the person has no place of business in
27 this state, to the principal office or place of business of the per-
28 son.

29 (c) Interrogatories shall be answered within 30 days or within

1 the additional time fixed by the commissioner or by the superior
2 court. Answers shall be full and complete, in writing and under oath.
3 If the interrogatories are directed to an individual, they shall be
4 answered by that person, and if directed to a corporation they shall
5 be answered by the president, vice-president, secretary, or assistant
6 secretary of the corporation or, in the instance of a foreign corpo-
7 ration, the person or persons functioning as comparable officers in
8 accordance with the laws of the state of incorporation.

9 (d) A petition stating good cause to extend the date for answer,
10 to modify or set aside the interrogatories propounded by the commis-
11 sioner, or to enforce compliance with AS 10.06.820 may be filed in the
12 superior court before the expiration of the 30 days fixed in this
13 section for answer.

14 Sec. 10.06.820. CONFIDENTIALITY OF INFORMATION DISCLOSED BY
15 INTERROGATORIES. Interrogatories and answers propounded and obtained
16 under AS 10.06.818 are not open to public inspection and the commis-
17 sioner may not disclose facts or information obtained from the inter-
18 rogatories except as the official duty of the commissioner requires or
19 unless the interrogatories or the answers are required for evidence in
20 criminal proceedings or other action by the state.

21 Sec. 10.06.823. FAILURE TO ANSWER INTERROGATORIES. Unless
22 otherwise provided by an order of court issued in response to a peti-
23 tion filed under AS 10.06.818(d),

24 (1) a domestic or foreign corporation and each officer or
25 director of a domestic or foreign corporation that fails or refuses to
26 answer truthfully and fully interrogatories propounded by the commis-
27 sioner within the time prescribed by AS 10.06.818(c) is guilty of a
28 misdemeanor; and

29 (2) the commissioner need not file a document to which the

1 interrogatories relate until the interrogatories are properly answered
2 and need not file a document to which the interrogatories relate if
3 the answers disclose that the document does not conform to the pro-
4 visions of this chapter.

5 Sec. 10.06.825. PENALTIES IMPOSED UPON OFFICERS AND DIRECTORS.
6 An officer or director of a domestic or foreign corporation who signs
7 articles, or a statement, report, application, or other document filed
8 with the commissioner that is known to the officer or director to be
9 false in a material respect, is guilty of a misdemeanor.

10 Sec. 10.06.828. INCORPORATION OR FILING FEES. A domestic or
11 foreign corporation that is required to file articles of incorporation
12 or amendatory articles with the department, except corporations orga-
13 nized under AS 10.20 and foreign corporations organized under the laws
14 of the United States or the laws of a state or territory of the United
15 States or the laws of a foreign country for the same purposes as those
16 allowed under AS 10.20, shall pay to the commissioner a filing fee
17 established by the department by regulation. The filing fee shall be
18 uniform and fixed without reference to the amount of authorized
19 shares.

20 Sec. 10.06.830. FEES ON APPOINTMENT OR REVOCATION OF APPOINTMENT
21 OF PROCESS AGENT OR CHANGE OF AGENT'S ADDRESS. (a) A foreign corpo-
22 ration filing with the department a certificate of the appointment and
23 consent of an agent residing in this state, or a certificate of revo-
24 cation of the appointment of a resident agent, shall pay to the com-
25 missioner a fee established by the department by regulation.

26 (b) For filing a statement of change of address of registered
27 agent under AS 10.06.170(a) and (b), the agent shall pay to the com-
28 missioner a fee established by the department by regulation.

29 Sec. 10.06.833. FEES AND PENALTIES PAYABLE ON WITHDRAWAL OF

1 FOREIGN CORPORATION. A registered foreign corporation may withdraw
2 from this state upon payment of all biennial corporation taxes and
3 penalties due at the time of desired withdrawal and by filing with the
4 department a certificate of withdrawal signed by its proper officers
5 and under its corporate seal. The fee for filing the certificate with
6 the commissioner shall be established by the department by regulation.

7 Sec. 10.06.835. FEES ON DISSOLUTION OF DOMESTIC CORPORATION. A
8 domestic corporation shall pay to the commissioner a fee established
9 by the department by regulation for filing the documents required by
10 this chapter for the dissolution of a domestic corporation.

11 Sec. 10.06.838. TAXES, PENALTIES, AND FEES ON FILING CERTIFICATE
12 OF DISSOLUTION OF FOREIGN CORPORATION. If a foreign corporation
13 desires to file a certificate of dissolution from the state of its
14 incorporation, it shall file the certificate, signed by the proper
15 state officer, under seal, upon payment of all biennial corporation
16 taxes and penalties due to this state at the time of dissolution. The
17 filing fee for the certificate of dissolution shall be established by
18 the department by regulation.

19 Sec. 10.06.840. FEES FOR CERTIFIED COPIES OF DOCUMENTS. The fee
20 for furnishing a certified copy of a document shall be established by
21 the department by regulation.

22 Sec. 10.06.843. OTHER FILING FEES. (a) The filing fee for a
23 document not otherwise provided in this chapter shall be established
24 by the department by regulation.

25 (b) The department may by regulation charge a corporation sub-
26 ject to this chapter a fixed fee in place of the fees specified in
27 this chapter, and for routine administrative services rendered to a
28 corporation by the department.

29 (c) Notwithstanding (b) of this section fees required under

1 AS 10.06.140 and AS 10.06.828 are not included in a fixed fee.

2 Sec. 10.06.845. BIENNIAL CORPORATION TAX; PENALTY FOR NONPAY-
3 MENT. (a) A domestic corporation and a foreign corporation doing
4 business in this state or having its articles of incorporation on file
5 with the department shall, before January 2 of each filing year, pay
6 to the commissioner a biennial corporation tax as follows: domestic
7 corporation, \$100; foreign corporation, \$200. A corporation that
8 fails to pay the biennial corporation tax before February 1 of the
9 filing year must pay to the commissioner a penalty of \$25 for each
10 year or part of a year of delinquency.

11 (b) Proof to the satisfaction of the commissioner that on or
12 before February 1 the tax or report was deposited in the United States
13 mail in a sealed envelope, properly addressed, with postage prepaid,
14 is compliance with (a) of this section.

15 (c) Corporations organized under AS 10.20 are not required to
16 pay the biennial corporation tax imposed by this section.

17 Sec. 10.06.848. FAILURE TO PAY TAX OR MAKE REPORT AS PRECLUDING
18 SUIT BY CORPORATION. A domestic or foreign corporation may not com-
19 mence or maintain a suit, action, or proceeding in a court in this
20 state without alleging and proving that it has paid its biennial
21 corporation tax last due and has filed its biennial report for the
22 last reporting period. A certificate of the payment of the biennial
23 corporation tax and filing of the biennial report is prima facie
24 evidence of the payment of the tax and the filing of the biennial
25 report. The commissioner shall issue the certificate or a duplicate
26 for a fee established by the department by regulation.

27 Sec. 10.06.850. COMMISSIONER TO INSTITUTE SUITS TO COMPEL PAY-
28 MENT. The commissioner may institute a suit in the name of the state
29 to enforce the payment of a biennial corporation tax. Corporations

1 organized under AS 10.20 and foreign corporations organized under the
2 laws of the United States or the laws of a state or territory of the
3 United States or the laws of a foreign country for the same purposes
4 as those allowed under AS 10.20 are exempt from the payment of the
5 biennial corporation tax.

6 Sec. 10.06.853. FAILURE TO PAY TAX AS EVIDENCE OF INSOLVENCY.
7 Failure of a corporation to pay the biennial corporation tax for a
8 period of one year after the date when payment first becomes due is
9 prima facie evidence of the inability of a corporation to meet matur-
10 ing debts and liabilities (AS 10.06.360) that may be shown by this
11 state, a private person, or a corporation.

12 Sec. 10.06.855. PAYMENTS TO BE MADE IN ADVANCE. Fees and
13 charges provided for in this chapter, including the biennial corpo-
14 ration tax, may be paid in advance.

15 Sec. 10.06.858. ACCOUNTING FOR AND DISPOSITION OF TAXES AND FEES
16 PAID. All fees and taxes paid under this chapter shall be accounted
17 for and deposited in the state treasury.

18 Sec. 10.06.860. INCREASE IN FEES. A fee charged under this
19 chapter may not be increased by a percentage greater than the percent-
20 age increase in the consumer price index for Anchorage, published by
21 the United States Department of Labor, Bureau of Labor Statistics,
22 since July 1977, the year in which the fee was first charged, or the
23 most recent year in which the fee was increased, whichever is later.

24 Sec. 10.06.863. APPEAL FROM REVOCATION OF CERTIFICATE OF AUTHOR-
25 ITY. If the commissioner revokes a certificate of authority of a
26 foreign corporation to transact business in this state under this
27 chapter, the foreign corporation may appeal to the superior court by
28 filing with the clerk of the court a petition setting out a copy of
29 its certificate of authority and a copy of the notice of revocation

1 given by the commissioner. The matter shall be tried de novo by the
2 superior court, and the court shall either sustain the action of the
3 commissioner or direct the commissioner to take action the court
4 considers proper.

5 Sec. 10.06.865. CANCELLATION OF CERTIFICATES ISSUED AND FILINGS
6 ACCEPTED. The commissioner may, within one year after a filing, and
7 after written notice to the corporation or individual making the
8 filing, cancel a certificate issued or filing accepted under this
9 chapter, on any ground existing at the time of issuance or filing for
10 which the commissioner could have originally refused to issue the
11 certificate or accept the filing. The notice of cancellation shall
12 state the reason for the cancellation. A corporation or individual
13 may request a hearing before the commissioner within 90 days after
14 receipt of the notice. Cancellation becomes final if the corporation
15 or individual does not request a hearing within 90 days after receipt
16 of notice. Notice of cancellation shall be sent by certified mail
17 with return receipt requested. If the return receipt is not received
18 by the department within a reasonable time and the department has made
19 diligent inquiry as to the address of the corporation, notice may be
20 made by publication in a newspaper of general circulation in the
21 vicinity of the registered office of the corporation or the address of
22 the individual who made the filing, and the cancellation becomes final
23 60 days after publication of the notice if the person or corporation
24 does not request a hearing.

25 Sec. 10.06.868. FORMS TO BE FURNISHED BY THE COMMISSIONER.
26 Reports required by this chapter to be filed with the department or
27 the commissioner shall be on forms prescribed and furnished by the
28 commissioner. Forms for other documents to be filed in the office of
29 the department or the commissioner shall be furnished by the

1 commissioner on request, but the use of those forms, unless required
2 in this chapter, is not mandatory.

3 Sec. 10.06.870. IDENTIFICATION CODE. The commissioner of com-
4 merce and economic development and the commissioner of revenue shall
5 jointly establish and adopt a coded list of business activities and
6 shall make the list available to the public.

7 ARTICLE 12. MISCELLANEOUS PROVISIONS.

8 Sec. 10.06.905. VOTING OF SHARES; QUORUM; STATUS OF DISQUALIFIED
9 SHARES. (a) If the articles of incorporation provide for more or
10 less than one vote for a share on a matter, a reference in this chap-
11 ter to a majority or other proportion of shares means a majority or
12 other proportion of the votes entitled to be cast on that matter. If
13 shares are disqualified from voting on a matter, they may not be
14 considered outstanding for the determination of a quorum at a meeting
15 to act upon or for the required vote to approve action upon that
16 matter.

17 (b) A requirement in this chapter for a vote of each class of
18 outstanding shares means a vote regardless of limitations or restric-
19 tions upon the voting rights of that class, unless expressly limited
20 to voting shares.

21 Sec. 10.06.910. PROCESSING OF WRITINGS FILED WITH THE COMMIS-
22 SIONER. If a writing delivered to the commissioner for filing con-
23 forms to law and all fees and corporation taxes prescribed in this
24 chapter have been paid, the commissioner shall

25 (1) endorse on each duplicate original the word "filed" and
26 the date of the filing;

27 (2) file one duplicate original in the commissioner's
28 office;

29 (3) return a duplicate original of the writing, together

1 with any writing issued by the commissioner attached to the original,
2 to the corporation or its representative.

3 Sec. 10.06.915. DISAPPROVAL OF WRITING BY COMMISSIONER: APPEAL.
4 If the commissioner fails to approve articles of incorporation, amend-
5 ment, merger, consolidation, exchange or dissolution, or any other
6 document required by this chapter to be approved by the commissioner,
7 the commissioner shall, within 10 days after the delivery of the
8 document to the commissioner, give written notice of disapproval to
9 the person or domestic or foreign corporation, delivering the docu-
10 ment, and specifying the reasons for disapproval. The person or
11 corporation may appeal from the disapproval to the superior court by
12 filing with the clerk of the court a petition setting out a copy of
13 the document sought to be filed and a copy of the written disapproval.
14 The matter shall be tried de novo by the superior court, which shall
15 either sustain the action of the commissioner or direct the commis-
16 sioner to take action the court considers proper.

17 Sec. 10.06.920. WRITINGS; CORRECTIONS. A writing relating to a
18 corporation filed by the commissioner under this chapter may be cor-
19 rected if it contains an error apparent on the face or defect in the
20 execution of the writing, including the deletion of a matter not per-
21 mitted to be stated in the writing. A certificate, entitled "Certifi-
22 cate of Correction of...(correct title of writing and name of corpora-
23 tion)", shall be signed, verified, or acknowledged in the same manner
24 as the original writing and shall be delivered to the commissioner.
25 The certificate shall set out the name of the corporation, the date
26 the writing to be corrected was filed by the commissioner, the pro-
27 vision in the writing corrected or eliminated and, if the execution
28 was defective, the proper execution. The filing of the certificate by
29 the commissioner does not alter the effective time of the writing

1 being corrected and does not affect any right or liability accrued or
2 incurred before the filing. A corporate name may not be changed or
3 corrected under this section.

4 Sec. 10.06.925. WRITINGS AS EVIDENCE. (a) A writing filed by
5 the commissioner relating to a corporation and containing statements
6 of fact required or permitted by law and a certification by the com-
7 missioner of the absence of a filing shall be received in all courts,
8 public offices, and official bodies as prima facie evidence of these
9 facts and of the execution of the writing.

10 (b) If under the laws of a jurisdiction other than this state a
11 writing by an officer in that jurisdiction or a copy of a writing
12 certified or exemplified by the officer, may be received as prima
13 facie evidence of the incorporation, existence, or capacity of any
14 foreign corporation incorporated in that jurisdiction, the writing
15 when exemplified shall be received by all courts, public offices, and
16 official bodies of this state as prima facie evidence with the same
17 force as in another jurisdiction. The writing or certified copy of
18 the writing shall be received without being exemplified if it is
19 certified by the secretary of state or official performing the equiva-
20 lent function as to corporate records of that jurisdiction.

21 Sec. 10.06.930. CORPORATE SEAL AS EVIDENCE. The presence of a
22 corporate seal on a writing purporting to be executed by authority of
23 a corporation shall be prima facie evidence that the writing was
24 executed with the authority of the corporation.

25 Sec. 10.06.935. WAIVER OF NOTICE. If notice is required to be
26 given to a shareholder or director of a corporation under the provi-
27 sions of this chapter or under the provisions of the articles or
28 bylaws of the corporation, a waiver of the notice in writing signed by
29 the person entitled to notice, whether before or after the time stated

1 for notice, is equivalent to the giving of notice.

2 ARTICLE 13. GENERAL PROVISIONS.

3 Sec. 10.06.950. POWERS OF COMMISSIONER. The commissioner has
4 the power and authority reasonably necessary to enable the commis-
5 sioner to administer this chapter and to perform the duties imposed
6 upon the commissioner by this chapter.

7 Sec. 10.06.953. REGULATIONS. To the extent provided by explicit
8 reference in this chapter, the department shall adopt regulations
9 referred to in this chapter in accordance with the Administrative
10 Procedure Act (AS 44.62).

11 Sec. 10.06.955. APPLICATION. (a) This chapter applies to a
12 domestic corporation organized under the Alaska Business Corporation
13 Act (AS 10.05), and to the extent provided in AS 10.06.010, 10.06.020,
14 10.06.160, 10.06.233, 10.06.433(g), 10.06.435, 10.06.450(d), 10.06.-
15 488, and AS 10.06.705 - 10.06.870 to a foreign corporation authorized
16 to do or doing business in this state.

17 (b) The existence of a corporation formed or existing on the
18 date of enactment of this chapter is not affected by the enactment of
19 this chapter or by any change in the requirements for the formation of
20 corporations.

21 Sec. 10.06.958. PROVISIONS CONSTRUED AS RESTATEMENTS AND CONTIN-
22 UATIONS. If a provision of this chapter is substantially the same as
23 a statutory provision in AS 10.05 existing on the effective date of
24 this chapter, it shall be construed as a restatement and continuation,
25 and not as a new enactment.

26 Sec. 10.06.960. CORPORATIONS ORGANIZED UNDER P.L. 92-203. (a)
27 A corporation organized under the Alaska Native Claims Settlement Act
28 (P.L. 92-203; 85 Stat. 688), except a village corporation that may be
29 incorporated under either this chapter or AS 10.20, shall be

1 incorporated under and is subject to this chapter except

2 (1) each corporation shall issue without further considera-
3 tion the number of shares of common stock that may be necessary to
4 comply with the requirements of the Alaska Native Claims Settlement
5 Act and all stock so issued is considered fully paid and nonassessable
6 when issued;

7 (2) unless otherwise provided in the articles of incorpora-
8 tion approved by the United States Secretary of the Interior,

9 (A) the capital is considered the consideration for
10 the initial issuance of shares; and

11 (B) the capital of a corporation organized under
12 P.L. 92- 203 includes

13 (i) the land or interests in it conveyed to the
14 corporation by the United States under the federal Act,
15 except that which is required to be conveyed under sec. 14-
16 (c)(1), (3), and (4) of that Act, entered at its fair value
17 to the corporation upon receiving the conveyance of it; and

18 (ii) the money, when received under secs. 6, 7(i),
19 and 9 of that Act, that is retained by the corporation and
20 that is not immediately distributed or required to be dis-
21 tributed under sec. 7(j) of that Act.

22 (b) Notwithstanding the provisions of AS 10.06.300 - 10.06.390,
23 payment from the money of a corporation organized under P.L. 92-203
24 that is required by the language of P.L. 92-203 to be distributed to
25 shareholders or to other corporations so organized may not be con-
26 sidered to be a distribution in partial liquidation.

27 (c) Notwithstanding the provisions of AS 10.06.546, a plan of
28 merger, consolidation, or exchange in which each participating corpo-
29 ration either (1) was organized under the Alaska Native Claims

1 Settlement Act (P.L. 92-203; 85 Stat. 688), within the same one of the
2 12 regions of Alaska established under the Alaska Native Claims
3 Settlement Act, or (2) resulted from the prior merger, consolidation,
4 or exchange of other similarly organized corporations within the same
5 region, is approved if it receives the affirmative vote of the holders
6 of at least a majority of the outstanding shares of each corporation.
7 If a class of shares of a corporation specified in this subsection is
8 entitled to vote as a class, the plan of merger, consolidation, or
9 exchange is approved if it receives the affirmative vote of the
10 holders of at least a majority of the outstanding shares of each class
11 of shares entitled to vote as a class and of the total outstanding
12 shares.

13 (d) Notwithstanding the provisions of AS 10.06.488, a director
14 or officer of a corporation organized under the Alaska Native Claims
15 Settlement Act that is required by the language of that Act is not
16 personally liable to the contract creditors specified in AS 10.06.490
17 except as otherwise provided by law.

18 Sec. 10.06.963. SEVERABILITY. If a provision of this chapter is
19 held invalid, the invalidity does not affect other provisions of this
20 chapter that can be given effect without the invalid provision.

21 Sec. 10.06.965. RESERVATION OF POWER. The legislature reserves
22 the right to alter, amend, suspend, or repeal in whole or in part this
23 chapter at pleasure, or a certificate of incorporation or the author-
24 ity to do business in this state, of a domestic or foreign corpo-
25 ration, whether or not existing or authorized on the effective date of
26 this chapter.

27 Sec. 10.06.968. SIGNATURE. "Signature" includes a mark when the
28 signer cannot write. The signer's name shall be written near the mark
29 by a witness who shall write the witnesses own name near the signer's

1 name. A signature by mark can be acknowledged or can serve as a
2 signature to a sworn statement.

3 Sec. 10.06.970. RULES OF CONSTRUCTION AND INTERPRETATION.
4 Unless a provision or the context otherwise requires, the following
5 general provisions and rules of construction govern this chapter:

6 (1) Title, chapter, article, and section headings do not
7 affect the scope, meaning, or intent of the provisions of this chap-
8 ter.

9 (2) When, by the provisions of this chapter, a power is
10 granted to, or a duty imposed upon, a public officer, the power may be
11 exercised or the duty performed by a deputy of the officer or by a
12 person authorized, under law, by the officer, unless this chapter
13 expressly provides otherwise.

14 (3) When a notice, report, statement, or record is required
15 or authorized by this chapter, it shall be made in writing in a manner
16 reasonably calculated to communicate the notice, report, statement, or
17 record to the recipient.

18 (4) A reference in this chapter to mailing means first-
19 class mail, postage prepaid, unless certified mail is specified.
20 Certified mail includes registered mail.

21 (5) References in this chapter to financial statements,
22 balance sheets, income statements, and statements of changes in finan-
23 cial position of a corporation and references to assets, liabilities,
24 earnings, retained earnings, and similar accounting items of a corpo-
25 ration mean financial statements or items prepared or determined in
26 accordance with generally accepted accounting principles then appli-
27 cable, and fairly presenting the matters that they purport to present,
28 subject to any specific accounting treatment required by a particular
29 section of this chapter. Unless otherwise expressly stated,

1 references in this chapter to financial statements mean, in the case
2 of a corporation that has subsidiaries, consolidated statements of the
3 corporation and those of its subsidiaries as are required or permitted
4 to be included in the consolidated statements under generally accepted
5 accounting principles then applicable, and all references to these
6 accounting items mean items determined on a consolidated basis in
7 accordance with consolidated financial statements.

8 (6) A reference in this chapter to the time a notice is
9 given or sent means, unless otherwise expressly provided, the time a
10 written notice by mail is deposited in the United States mail, postage
11 prepaid; or the time any other written notice is personally delivered
12 to the recipient or is delivered to a common carrier for transmission,
13 or actually transmitted by electronic means to the recipient by the
14 person giving the notice; or the time an oral notice is communicated
15 in person or by electronic means to the recipient or to a person at
16 the office of the recipient who the person giving the notice has
17 reason to believe will promptly communicate it to the recipient.

18 (7) When reference is made to any portion of this chapter
19 or of any other law of this state, the reference applies to all amend-
20 ments and additions.

21 (8) "Shall" is mandatory, "may" is permissive, and "may
22 not" is prohibitory.

23 (9) "Oath" includes affirmation.

24 Sec. 10.06.990. DEFINITIONS. In this chapter, unless the con-
25 text otherwise requires,

26 (1) "acknowledged" means that a document is accompanied by
27 a certificate of its acknowledgement as provided in AS 09.63.010 -
28 09.63.130;

29 (2) "affiliate" means a person that directly or indirectly

1 through one or more intermediaries controls, or is controlled by, or
2 is under common control with, a corporation subject to this chapter;

3 (3) "alien" means

4 (A) an individual who is not a citizen or national of
5 the United States, or who is not lawfully admitted to the United
6 States for permanent residence, or paroled into the United States
7 under the Immigration and Nationality Act (8 U.S.C. secs. 1101 -
8 1503, as amended);

9 (B) a person, other than an individual, that was not
10 created or organized under the laws of the United States or of a
11 state, or whose principal place of business is not located in any
12 state; or

13 (C) a person, other than an individual, that was
14 created or organized under the laws of the United States or of a
15 state, or whose principal place of business is located in a
16 state, and that is controlled by a person described in (A) or (B)
17 of this paragraph;

18 (4) "approved by (or approval of) the board" means approved
19 or ratified by the vote of the board or by the vote of a committee
20 authorized to exercise the powers of the board, except as to matters
21 not within the competence of the committee under AS 10.06.468;

22 (5) "approved by (or approval of) the outstanding shares"
23 means approved by the affirmative vote of a majority of the outstand-
24 ing shares entitled to vote; this approval includes the affirmative
25 vote of a majority of the outstanding shares of each class or series
26 entitled by the articles of incorporation or this chapter to vote as a
27 class or series on the subject matter and also includes the affirma-
28 tive vote of a greater proportion, including all, of the outstanding
29 shares of a class or series if a greater proportion is required by the

1 articles or this chapter;

2 (6) "approved by (or approval of) the shareholders" means
3 approved or ratified by the affirmative vote of a majority of the
4 shares entitled to vote represented at a duly held meeting at which a
5 quorum is present or by the written consent of shareholders (AS 10.-
6 06.423) or by the affirmative vote or written consent of a greater
7 proportion, including all, of the shares of a class or series if a
8 greater proportion is required by the articles of incorporation or
9 this chapter for all or any specified shareholder action;

10 (7) "articles" or "articles of incorporation" means the
11 original or restated articles of incorporation and all amendments and
12 includes articles of merger;

13 (8) "authorized shares" means the shares of all classes
14 that the corporation may issue;

15 (9) "board" means the board of directors of a domestic or
16 foreign corporation;

17 (10) "commissioner" means the commissioner of commerce and
18 economic development or a designee of the commissioner;

19 (11) "common shares" means shares that have no preference
20 over other shares with respect to distribution of assets on liquida-
21 tion or with respect to payment of dividends;

22 (12) "control" or "controlling interest" means

23 (A) owning directly or indirectly, or having the power
24 to vote, 25 percent or more of a class of voting securities of a
25 corporation subject to this chapter; or

26 (B) influencing or affecting in any substantive manner
27 the election of a majority of the directors or trustees of a
28 corporation subject to this chapter;

29 (13) "corporation" or "domestic corporation" means a

1 corporation for profit subject to the provisions of this chapter, but
2 does not include a foreign corporation or a state or national bank;

3 (14) "corporation tax" means the biennial corporation tax
4 imposed under Alaska law on corporations;

5 (15) "department" means the Department of Commerce and Eco-
6 nomic Development;

7 (16) "director" means a natural person designated in the
8 articles of incorporation or elected by the incorporators as a direc-
9 tor and includes a natural person and successor of that person des-
10 ignated, elected, or appointed by any other name or title to act as a
11 director;

12 (17) "distribution to its shareholders" means the transfer
13 of cash or property by a corporation or its subsidiary to its share-
14 holders without consideration, whether by way of dividend or other-
15 wise, except a dividend in shares of the corporation, or the purchase
16 or redemption of its shares for cash or property; the time of a dis-
17 tribution of a dividend is the date of the declaration of the dividend
18 and the time of a distribution by purchase or redemption of shares is
19 the date cash or property is transferred by the corporation, whether
20 or not under a contract of an earlier date; however, if a negotiable
21 debt security is issued in exchange for shares, the time of the dis-
22 tribution is the date when the corporation acquires the shares in the
23 exchange; in the case of a sinking fund payment, cash or property is
24 transferred within the meaning of this paragraph at the time that it
25 is delivered to a trustee for the holders of preferred shares to be
26 used for the redemption of those shares or physically segregated by
27 the corporation in trust for that purpose;

28 (18) "filed", unless otherwise expressly provided, means
29 filed in the office of the commissioner of commerce and economic

1 development;

2 (19) "five percent shareholder" means a person owning at
3 least five percent of the shares or five percent of any class of
4 shares 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 corpora-
10 tion as determined in accordance with generally accepted auditing
11 standards and who is engaged to audit financial statements of the
12 corporation or 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-
22 president and by the secretary, the treasurer or an assistant secre-
23 tary or 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 busi-
29 ness;

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 unin-
10 corporated association, a government, a political subdivision of a
11 government, or a combination of these entities;

12 (30) "preferred shares" means shares other than common
13 shares;

14 (31) "proxy" means a written authorization signed by a
15 shareholder or the shareholder's attorney-in-fact giving another
16 person power to vote with respect to the shares of the shareholder;
17 "signed" for the purpose of this paragraph means the placing of the
18 shareholder's name on the proxy by manual signature by the shareholder
19 or the shareholder's attorney-in-fact;

20 (32) "proxy holder" means the person to whom a proxy is
21 given;

22 (33) "redemption price" means the amount in cash, property
23 or securities, or any combination of these, payable on shares of any
24 class or series upon the redemption of the shares; unless otherwise
25 expressly provided, the redemption price is payable in cash;

26 (34) "retained earnings" means the account of the corpo-
27 ration representing undistributed and uncanceled net profits,
28 income, gains, and losses from the date of incorporation;

29 (35) "series of shares" means those shares within a class

1 that have the same rights, preferences, privileges, and restrictions
2 but that differ in one or more rights, preferences, privileges, or
3 restrictions from other shares within the same class;

4 (36) "shareholder" means a holder of record of a share in a
5 corporation;

6 (37) "shares" means the units into which the proprietary
7 interests in a corporation are divided;

8 (38) "state" means any of the United States, the District of
9 Columbia, the Commonwealth of Puerto Rico, the Northern Mariana
10 Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory
11 of the Pacific Islands, or any other territory or possession of the
12 United States;

13 (39) "subscriber" means one who subscribes for a share in a
14 corporation before or after incorporation;

15 (40) "subsidiary" of a specified corporation means

16 (A) except as provided in (B) of this paragraph, a
17 corporation in which the specified corporation owns more than 50
18 percent of the voting power directly or indirectly through one or
19 more other subsidiaries of the specified corporation;

20 (B) for the purpose of AS 10.06.420(e), a corporation
21 in which the specified corporation owns more than 25 percent of
22 the voting power directly or indirectly through one or more other
23 subsidiaries of the specified corporation;

24 (41) "surviving corporation" means a corporation into which
25 one or more other corporations are merged;

26 (42) "vacancy" when used with respect to the board means any
27 authorized position of director that is not then filled by a duly
28 elected director, whether caused by death, resignation, removal,
29 change in the authorized number of directors, or otherwise;

1 (43) "verified" means that a document has been certified to
2 be true as provided in AS 09.63.040;

3 (44) "vote" includes authorization by written consent sub-
4 ject to the provisions of AS 10.06.423 and AS 10.06.475;

5 (45) "voting power" means the power to vote for the election
6 of directors at the time a determination of voting power is made and
7 does not include the right to vote upon the happening of a condition
8 or event that has not yet occurred; when different classes of shares
9 are entitled to vote as separate classes for different members of the
10 board, the determination of percentage of voting power shall be made
11 on the basis of the percentage of the total number of authorized
12 directors that the shares in question have the power to elect in an
13 election at which all shares then entitled to vote for the election of
14 any directors are voted;

15 (46) "writing" includes any form of recorded message capable
16 of comprehension by ordinary visual means.

17 Sec. 10.06.995. SHORT TITLE. This chapter may be cited as the
18 Alaska Corporations Code.

19 * Sec. 2. AS 10.05 is repealed.

20 * Sec. 3. APPLICATION OF PROVISIONS TO DOMESTIC AND FOREIGN CORPORA-
21 TIONS. (a) Except as otherwise expressly provided, the provisions of this
22 Act apply on and after the effective date of this Act to:

23 (1) a domestic corporation organized under the Alaska Business
24 Corporations Act (AS 10.05) existing on the effective date of this Act;

25 (2) a foreign corporation that is authorized or does business in
26 the state on or after the effective date of this Act;

27 (3) actions by a director, officer, or shareholder of a corpora-
28 tion described in (1) and (2) of this section on and after the effective
29 date of this Act.

1 (b) Except as otherwise expressly provided, a section of this Act
2 governing acts, contracts, or other transactions by a corporation or its
3 directors, officers, or shareholders applies only to acts, contracts, or
4 transactions occurring on or after the effective date of this Act and the
5 former provisions of AS 10.05 govern acts, contracts, or transactions
6 occurring before the effective date of this Act.

7 (c) Except as otherwise expressly provided, a vote or consent by the
8 directors or shareholders of a corporation before the effective date of
9 this Act in accordance with the former provisions of AS 10.05 is effective,
10 and if a certificate or document is required to be filed in a public office
11 of the state relating to the action, it may be filed after the effective
12 date of this Act in accordance with the former provisions of AS 10.05.

13 * Sec. 4. EXERCISE OF RESERVE POWER. It is the intent of the legisla-
14 ture in enacting AS 10.06.502(a) in sec. 1 of this Act to exercise to the
15 fullest extent the reserve power of the state over corporations and to
16 authorize any amendment of the articles permitted under AS 10.06.502(a)
17 regardless of whether a provision contained in the amendment was permissi-
18 ble at the time of the original incorporation of the corporation.

19 * Sec. 5. APPLICATION TO ARTICLES OF EXISTING CORPORATIONS. (a) The
20 provisions of AS 10.06.208 and AS 10.06.210 relating to the contents of
21 articles of incorporation do not apply to domestic corporations existing on
22 the effective date of this Act unless and until an amendment of the arti-
23 cles is filed stating that the corporation elects to be governed by all of
24 the provisions of the Alaska Corporations Code (AS 10.06) not otherwise
25 applicable to it under this Act. If an amendment makes no change in the
26 articles of incorporation other than conforming the statement of purposes
27 and powers to AS 10.06.208(2) or AS 10.06.210(1)(F) or deletes references
28 to par value or location of principal office, it may be adopted by approval
29 of the board of directors of the corporation alone; otherwise, it shall be

1 approved as provided in AS 10.06.504 - 10.06.506 in sec. 1 of this Act.

2 (b) A corporation organized and existing under the former provisions
3 of AS 10.05 shall comply with AS 10.06.208 and AS 10.06.210 in sec. 1 of
4 this Act on or before the date five years after the effective date of this
5 Act.

6 * Sec. 6. AMENDMENT OF ARTICLES OF INCORPORATION. (a) The requirement
7 of an affirmative vote of at least two-thirds of the shares entitled to
8 vote for the adoption of an amendment to the articles of incorporation as
9 provided in former AS 10.05.276 shall remain in force for corporations
10 existing before the effective date of this Act.

11 (b) Notwithstanding (a) of this section, an election to be governed
12 by the voting provisions of AS 10.06.504 - 10.06.506 in sec. 1 of this Act
13 may be made in the same manner as an amendment to the articles of incorpo-
14 ration is made under those sections. An election under this subsection
15 requires the affirmative vote of at least two-thirds of the shares entitled
16 to vote under former AS 10.05.276(3).

17 * Sec. 7. INDEMNIFICATION BY A CORPORATION. AS 10.06.490 in sec. 1 of
18 this Act governs a proposed indemnification by a corporation after the
19 effective date of this Act, whether the events upon which the indemnifica-
20 tion is based occurred before or after the effective date of this Act. A
21 statement relating to indemnification contained in the articles or bylaws
22 of a corporation on the effective date of this Act may limit the indemni-
23 fication permitted by AS 10.06.490 unless the statement expressly states
24 that indemnification is limited.

25 * Sec. 8. DISTRIBUTIONS AND REACQUISITION OF SHARES. (a) AS 10.06.-
26 300 - 10.06.390 in sec. 1 of this Act apply to a distribution to share-
27 holders made after the effective date of this Act by a corporation existing
28 on the effective date of this Act, but a distribution under a contract for
29 the purchase or redemption of shares entered into by the corporation before

1 the effective date of this Act may be made if permissible under AS 10.06.-
2 300 - 10.06.390 or under the former provisions of AS 10.05 and other law in
3 effect at the time the contract was formed.

4 (b) AS 10.06.388(a) in sec. 1 of this Act applies only to shares
5 acquired on or after the effective date of this Act.

6 * Sec. 9. TENURE OF OFFICERS PRESERVED. If a person holds an office
7 under a law repealed by this Act, that person shall continue to hold the
8 office according to its former tenure if the office is continued by this
9 Act.

10 * Sec. 10. EXISTING ACTIONS. The enactment of this chapter does not
11 affect a cause of action, liability, penalty or special proceeding exist-
12 ing, incurred or accrued on the effective date of this chapter.

13 * Sec. 11. This Act takes effect July 1, 1983.