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Referred: Labor and Commerce
Judiciary and Finance

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

1 IN THE SENATE

2

SENATE BILL NO. 313

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 nonprofit corporations code; and
7 providing 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 21. ALASKA NONPROFIT CORPORATION CODE.

11 ARTICLE 1. CORPORATE PURPOSES AND POWERS.

12 Sec. 10.21.005. PURPOSES. A domestic corporation may be or-
13 ganized under this chapter for any lawful purpose except for the
14 purposes of banking and insurance. A trade union or other labor
15 organization may be organized under this chapter, but a cooperative
16 corporation or electric and telephone cooperative may not be organized
17 under this chapter.

18 Sec. 10.21.010. GENERAL POWERS. (a) Subject to the limitations
19 in its articles, the provisions of this chapter, and other applicable
20 law, a domestic corporation has all the powers of a natural person to
21 carry out its business activities, including, without limitation, the
22 power to

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

1 (5) sell, convey, mortgage, pledge, lease, exchange, trans-
2 fer, and otherwise dispose of all or a part of its property and as-
3 sets;

4 (6) make contracts and incur liabilities, borrow money at
5 reasonable rates of interest as the corporation determines, issue
6 notes, bonds, and other obligations, and secure its obligations by
7 mortgage or pledge of all or any of its property, franchise, and
8 income;

9 (7) lend money at reasonable rates of interest as the
10 corporation determines for its corporate purposes, invest and reinvest
11 its funds, and take and hold real and personal property as security
12 for the payment of money loaned or invested;

13 (8) conduct affairs, carry on operations, and have offices
14 and exercise the powers granted by this chapter in a state or in a
15 foreign country;

16 (9) elect or appoint officers and agents of the corporation
17 and define their duties and fix their compensation;

18 (10) make and alter bylaws not inconsistent with its arti-
19 cles of incorporation or with the laws of the state, for the adminis-
20 tration and regulation of the affairs of the corporation;

21 (11) to the extent provided in the articles of incorpora-
22 tion, donate for the public welfare or for charitable, scientific, or
23 educational purposes, and in time of war, donate in aid of war activi-
24 ties;

25 (12) pay pensions and establish pension plans, pension
26 trusts and other incentive plans for its directors, officers, and
27 employees;

28 (13) cease its corporate activities and surrender its corpo-
29 rate franchise;

1 (14) act as a trustee under a trust incidental to the prin-
2 cipal affairs of the corporation, and receive, hold, administer,
3 exchange, and expend money and property subject to the trust;

4 (15) issue memberships and levy dues, assessments, and
5 admission fees;

6 (16) subject to the provisions of AS 10.21, carry on busi-
7 ness at a profit and apply the profit to activities in which the
8 corporation may lawfully engage;

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

11 (b) As used in (a)(6) of this section a rate of interest is
12 "unreasonable" if it is more than a rate 15 percentage points above
13 the annual rate charged member banks for advances by the 12th Federal
14 Reserve District that prevailed on the 25th day of the month preceding
15 the commencement of the calendar quarter during which the loan is
16 made.

17 (c) As used in (a)(7) of this section a rate of interest is
18 "unreasonable" if it is less than a rate 15 percentage points below
19 the annual rate charged member banks for advances by the 12th Federal
20 Reserve District that prevailed on the 25th day of the month preceding
21 the calendar quarter during which the loan is made.

22 Sec. 10.21.015. DEFENSE OF ULTRA VIRES. (a) An act of a domes-
23 tic corporation or a transfer of real or personal property to or by a
24 domestic corporation, otherwise lawful, is not invalid because the
25 corporation was without capacity or power to do the act or to make or
26 receive the transfer.

27 (b) Notwithstanding (a) of this section, lack of capacity or
28 power may be asserted

29 (1) in an action by a member against the corporation to

1 enjoin the doing of an act or the transfer of real or personal prop-
2 erty by or to the corporation; if the unauthorized act or transfer
3 sought to be enjoined is being, or is to be, performed or made under a
4 contract to which the corporation is a party, the court may, if all of
5 the parties to the contract are parties to the action, set aside and
6 enjoin the performance of the contract, and in so doing may allow to
7 the corporation or to the other parties to the contract compensation
8 as may be equitable for the loss or damage sustained by any of the
9 parties from the action of the court in setting aside and enjoining
10 the performance of the contract; provided that anticipated profits to
11 be derived from the contract may not be awarded by the court as a loss
12 or damage sustained;

13 (2) in an action by or in the right of the corporation to
14 obtain a judgment in its favor against an incumbent or former officer
15 or director of the corporation for loss or damage due to that indi-
16 vidual's unauthorized act;

17 (3) in an action or special proceeding by the commissioner
18 to annul or dissolve the corporation or to enjoin it from the perfor-
19 mance of unauthorized acts.

20 (c) This section applies to contracts and conveyances made by
21 foreign corporations in this state and to conveyances by foreign
22 corporations of real property situated in this state.

23 Sec. 10.21.020. LIMITATIONS UPON AUTHORITY OF CORPORATE AGENTS.

24 A limitation on the powers of the members, officers, or directors, or
25 on the manner or exercise of their powers, contained in or implied by
26 the articles, bylaws, or action of the board, or by AS 10.21.550 -
27 10.21.833 may not be asserted as between the corporation or a member
28 and a third person, except in a proceeding

29 (1) by a member or the state to enjoin the doing or

1 continuation of unauthorized business by the corporation or its offi-
2 cers, or both, in cases where third parties have not acquired rights
3 under AS 10.21.030; or

4 (2) to dissolve the corporation;

5 (3) by the corporation or by a member suing in a represen-
6 tative suit against the officers or directors of the corporation for
7 violation of their duty; or

8 (4) this section applies to contracts, undertakings, and
9 conveyances made by foreign corporations in this state and to
10 conveyances by foreign corporations of real property situated in this
11 state.

12 Sec. 10.21.030. CONTRACTS AND CONVEYANCES BINDING CORPORATION.

13 (a) A contract or conveyance made in the name of the corporation that
14 is authorized or ratified by the board, or is done within the scope of
15 the authority, actual or apparent, conferred by the board or within
16 the agency power of the officers executing it, except as the board's
17 authority is limited by law other than this chapter, binds the corpo-
18 ration, and the corporation acquires rights under the contract,
19 whether the contract is executed or is wholly or in part executory.

20 (b) This section applies to contracts and conveyances made by
21 foreign corporations in this state and to conveyances by foreign
22 corporations of real property situated in this state.

23 ARTICLE 2. NAME AND SERVICE OF PROCESS.

24 Sec. 10.21.050. CORPORATE NAME. (a) Unless a domestic corpora-
25 tion is expressly formed exclusively for charitable purposes a corpo-
26 rate name shall contain the word "corporation," "incorporated" or
27 "limited", or an abbreviation of one of these words. The corporate
28 name may not contain a word or phrase that indicates or implies that
29 the corporation is organized for a purpose other than the purpose

1 contained in its articles. The corporate name may not be the same as,
2 or deceptively similar to, the name of a domestic corporation existing
3 under the laws of this state or a foreign corporation authorized to
4 conduct affairs in this state, or a name that has been reserved or
5 registered as provided in this title.

6 (b) A corporate name may not contain the word "city," "borough,"
7 or "village" or otherwise imply that the corporation is a municipal-
8 ity. The name of a city, borough, or village may be used in the
9 corporate name.

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

15 (d) The corporate name may not contain the following words or
16 phrases or an abbreviation or derivative of them: acceptance, annu-
17 ity, assurance, bank, bond, casualty, cooperative, endowment, fidel-
18 ity, finance, firefighter, guarantee, indemnity, insurance, invest-
19 ment, loan, mortgage, savings, police, trooper, surety, title, trust,
20 underwriter.

21 Sec. 10.21.053. CORPORATE NAME; EXCEPTIONS. (a) The word
22 "corporation" in this section, except as otherwise provided, includes
23 both domestic and foreign corporations.

24 (b) The provisions of AS 10.21.050 and AS 10.21.768

25 (1) do not require a corporation, existing or authorized
26 under a statute on the effective date of this chapter to add to,
27 modify or otherwise change its corporate name;

28 (2) do not prevent a corporation with which another corpo-
29 ration is merged, or that is formed by the consolidation of one or

1 more other corporations from having the same name as one of the exist-
2 ing corporations if at the time the existing corporation was author-
3 ized or existing under a statute of this state;

4 (3) do not prevent a foreign corporation from being
5 authorized under a name that is similar to the name of a corporation
6 existing or authorized under a statute, if the commissioner finds,
7 upon proof by affidavit or otherwise, that

8 (A) a difference between the names exists in the terms
9 or abbreviations indicating corporate character or otherwise;

10 (B) that the applicant has conducted activities as a
11 corporation under the name for not less than 10 consecutive years
12 immediately prior to the date of its application;

13 (C) that the activities to be conducted in this state
14 are not the same as or similar to the business or activities
15 conducted by the corporation with whose name it may conflict;

16 (D) that the public is not likely to be confused or
17 deceived; and

18 (E) the applicant agrees in its application for au-
19 thority to use with its corporate name, in this state, to be
20 placed immediately under or following the name, the words "a ...
21 (name of jurisdiction of incorporation) corporation".

22 Sec. 10.21.055. RESERVATION OF CORPORATE NAME. The exclusive
23 right to the use of a corporate name may be reserved by

24 (1) a person intending to organize a domestic corporation
25 under this chapter;

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

27 (3) a foreign corporation intending to apply for a certifi-
28 cate of authority to conduct affairs in this state;

29 (4) a foreign corporation authorized to conduct affairs in

1 this state and intending to change its name;

2 (5) a person intending to organize a foreign corporation
3 and to have it apply for a certificate of authority to conduct affairs
4 in this state.

5 Sec. 10.21.058. APPLICATION TO RESERVE CORPORATE NAME. Reserva-
6 tion of a corporate name is made by filing an application with the
7 commissioner. If the commissioner finds that the name is available
8 for corporate use, and not a reserved or registered business name as
9 set out in AS 10.35, the commissioner shall reserve it for the exclu-
10 sive use of the applicant for a period of 120 days.

11 Sec. 10.21.060. TRANSFER OF RESERVED NAME. The holder of a
12 reserved corporate name may transfer the right to the exclusive use of
13 the corporate name to another person by filing with the commissioner a
14 notice of transfer signed by the holder and specifying the name and
15 address of the transferee.

16 Sec. 10.21.063. FOREIGN CORPORATIONS: REGISTRATION OF CORPORATE
17 NAME. A corporation organized and existing under the laws of any
18 state may register its corporate name if the name is not the same as,
19 or deceptively similar to, the name of a domestic corporation, the
20 name of a foreign corporation authorized to conduct affairs in this
21 state, or a corporate name reserved or registered under AS 10.35.

22 Sec. 10.21.065. USE OF SAME OR DECEPTIVELY SIMILAR NAME. Regis-
23 tration of a corporate name gives the exclusive right to the use of
24 the name. The person who has registered a corporate name may enjoin
25 the use of the same name or a deceptively similar name and has a cause
26 of action for damages against a person who uses the same name or
27 deceptively similar name.

28 Sec. 10.21.068. PROCEDURE FOR REGISTRATION OF CORPORATE NAME.
29 Registration of a corporate name is made by filing with the commis-

1 sioner

2 (1) an application for registration executed by an officer
3 of the corporation setting out the name of the corporation, the state
4 under the laws of which it is incorporated, the date of incorporation,
5 a statement that it is conducting affairs, and a brief statement of
6 its corporate purposes; and

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

11 Sec. 10.21.070. FEE FOR AND DURATION OF REGISTERED NAME. (a)
12 The fee for registration of a corporate name shall be established by
13 the department by regulation.

14 (b) The registration is effective until the close of the calen-
15 dar year in which the application for registration is filed unless
16 terminated earlier by in voluntary dissolution in accordance with
17 AS 10.21.550 - 10.21.713.

18 Sec. 10.21.073. RENEWAL OF REGISTERED NAME. A foreign corpora-
19 tion that has registered its corporate name may renew the registration
20 each year by (1) filing an application for renewal setting out the
21 facts required in an original application for registration; (2)
22 filing a certificate of good standing required for an original regis-
23 tration; and (3) paying a fee established by the department by regula-
24 tion. An application for renewal shall be filed between October 1 and
25 December 31 in each year. The renewal extends the registration for
26 the following calendar year.

27 Sec. 10.21.075. REGISTERED OFFICE AND REGISTERED AGENT. A
28 domestic corporation shall continuously maintain in this state a
29 registered agent and a registered office. The registered office may

1 be the same as the principal office of the corporation. The regis-
2 tered agent may be either an individual resident of this state whose
3 business office is the same as the registered office, or a domestic or
4 foreign corporation authorized to conduct affairs in this state whose
5 principal office is the same as the registered office.

6 Sec. 10.21.078. REGISTRATION OF AGENT BY NONRESIDENT WITH CON-
7 TROLLING INTEREST. (a) If a person who is not a resident of this
8 state or a foreign corporation not authorized to conduct affairs in
9 this state possesses a controlling interest (AS 10.21.990(11)) in a
10 domestic or foreign corporation subject to the reporting requirements
11 of this chapter the person or corporation shall designate in writing
12 an agent in this state upon whom service of notices and process and
13 all orders, decisions, and requirements of the department or the
14 commissioner may be made for or on behalf of that person or corpo-
15 ration. The designation shall be filed and may be amended by filing
16 written notice in the office of the commissioner. Service of all
17 notices, process, orders, decisions, and requirements of the depart-
18 ment or the commissioner may be made upon the person or corporation
19 who designates an agent under this section by service upon the des-
20 ignated agent at the office or usual place of residence of the agent.
21 Service upon a designated agent has the same effect as service made
22 personally upon the person or corporation who designates the agent.

23 (b) A person or foreign corporation required to designate an
24 agent under (a) of this section and the corporation subject to that
25 controlling interest (AS 10.21.990(11)) may not initiate an action in
26 the courts of this state until the person or corporation complies with
27 the provisions of (a) of this section. If a person or foreign corpo-
28 ration subject to that controlling interest initiates an action in the
29 courts of this state and the court finds that there has been noncom-

1 pliance with (a) of this section, the court shall dismiss the action
2 without prejudice.

3 Sec. 10.21.080. FILING LIST OF REGISTERED CORPORATIONS WITH
4 SUPERIOR COURT. The commissioner shall file a list of the name of
5 each domestic and authorized foreign corporation, and the name and
6 address of the registered agent of each with the superior court of
7 each judicial district. The commissioner shall provide a weekly
8 update of the list indicating additions, deletions and changes by
9 mechanical or electronic means that can be reduced to legible written
10 copy. The commissioner shall make the list and weekly updates avail-
11 able to the public for a fee established by the department by regula-
12 tion. The commissioner shall publish an updated compilation of the
13 entire list at least once each year.

14 Sec. 10.21.083. CHANGE OF REGISTERED OFFICE OR AGENT. (a) a
15 domestic or foreign corporation may change its registered office,
16 agent, or both, by filing with the department a verified statement
17 signed by the chairman of the board, president, or a vice-president
18 including;

19 (1) the name of the corporation;

20 (2) the address of its registered office;

21 (3) the address of its new registered office if the regis-
22 tered office is to be changed;

23 (4) the name of its registered agent;

24 (5) the name of its new registered agent, if the registered
25 agent is to be changed; and

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

28 (b) The commissioner shall file the verified statement if the
29 statement complies with this chapter. The change becomes effective

1 when the statement is filed.

2 Sec. 10.21.085. REGISTRATION OF REGISTERED AGENT: CHANGE AND
3 RESIGNATION. (a) If the registered agent of a domestic or foreign
4 corporation changes the location of the agent's office from one
5 address to another within this state, the agent may change the regis-
6 tered office for each corporation for which the agent is acting as
7 registered agent by filing in the office of the commissioner a state-
8 ment setting out

- 9 (1) the name of the agent;
10 (2) the address of the office before change;
11 (3) the address to which the office is changed; and
12 (4) a list of the corporations for which the agent is
13 furnishing a registered office.

14 (b) The statement in (a) of this section shall be executed by
15 the registered agent in the agent's individual name and, if the agent
16 is a domestic or foreign corporation it shall be executed by its
17 chairman of the board, president, or a vice-president and verified by
18 that officer. The statement shall be delivered to the commissioner.
19 The commissioner shall file the statement if the statement complies
20 with this chapter. The change becomes effective when the statement is
21 filed.

22 (c) A registered agent may resign by filing a written notice,
23 executed in duplicate, with the commissioner. The written notice of
24 resignation shall set out the latest address of the principal office
25 of the corporation and the names, addresses, and titles of the most
26 recent officers of the corporation known by the agent. The commis-
27 sioner shall immediately mail a copy of the notice to the corporation
28 at its principal office. The resignation becomes effective 30 days
29 after the filing of the written notice, unless the corporation ap-

1 points a new registered agent within 30 days as provided in AS 10.-
2 21.083.

3 Sec. 10.21.088. SERVICE OF PROCESS ON CORPORATION. (a) The
4 registered agent of a domestic corporation (AS 10.21.085) is an agent
5 upon whom process, notice, or demand required or permitted by law to
6 be served upon the corporation may be served.

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

13 (1) serving on the commissioner or a person in charge of
14 the corporation division of the department a copy of the process,
15 notice, or demand, with any papers required by law to be delivered in
16 connection with the service, and a fee established by the department
17 by regulation;

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

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

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

28 (3) filing with the appropriate court or other body, as
29 part of the return of service, the return receipt of mailing and an

1 affidavit of the person initiating the proceedings that this section
2 has been complied with.

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

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

8 ARTICLE 3. FORMATION OF CORPORATIONS.

9 Sec. 10.21.100. INCORPORATORS. Three or more natural persons at
10 least 18 years of age may act as incorporators of a domestic corpora-
11 tion by signing, verifying, and delivering in duplicate to the commis-
12 sioner articles of incorporation for the corporation.

13 Sec. 10.21.105. ARTICLES OF INCORPORATION. (a) The articles of
14 incorporation shall set out

15 (1) the name of the corporation;

16 (2) the purpose or purposes for which the corporation
17 (AS 10.21.990(22), (23) and (25)) is organized that may be stated to
18 be, or to include, the conduct of any or all lawful affairs for which
19 corporations may be incorporated under this chapter;

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

22 (4) the name and address of each incorporator;

23 (5) a statement either that:

24 (A) "This corporation is a nonprofit mutual benefit
25 corporation, is not expressly formed for a public or charitable
26 purpose, and will not, or is not reasonably expected to, derive
27 in excess of 10 percent of its annual income from donations
28 (AS 10.21.990(15)) and will have voting members."; or

29 (B) "This corporation is a nonprofit public benefit

1 corporation formed for the following charitable or public pur-
2 poses. . . .";

3 (6) the name and address of each alien affiliate (AS 10.-
4 21.990(2) and (3)) or a statement that there are no alien affiliates.

5 (b) It is not necessary to set out in the articles of incorpora-
6 tion the corporate powers enumerated in this chapter.

7 (c) A provision of the articles of incorporation that is incon-
8 sistent with a bylaw is controlling, notwithstanding the bylaw.

9 (d) A change in the number of directors made by amendment to the
10 bylaws is controlling unless the articles of incorporation provide
11 that a change in the number of directors may be made only by amendment
12 to the articles.

13 Sec. 10.21.110. ARTICLES OF INCORPORATION: OPTIONAL PROVISIONS.
14 The articles of incorporation may set out

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

17 (A) a provision stating special qualifications of
18 persons who may be members;

19 (B) a provision limiting the duration of the corpora-
20 tion's existence to a specified date;

21 (C) a provision requiring, for any or all corporate
22 actions except as provided in AS 10.21.375, 10.21.553, and
23 AS 10.21.633, the vote of a larger proportion or of all of the
24 members, or of a class, or the vote or quorum for taking action
25 of a larger proportion or of all of the directors, than is
26 otherwise required by this chapter;

27 (D) a provision limiting or restricting the affairs in
28 which the corporation may engage or the powers that the corpora-
29 tion may exercise or both;

1 (E) a provision creating two or more classes of mem-
2 bers, and specifying the rights, privileges, restrictions, and
3 conditions attaching to each class;

4 (F) a provision allowing a member or a group or class
5 of members to have more or less than one vote, or no vote, in
6 any, or all, elections or other matters presented to the members
7 for vote;

8 (G) a provision conferring upon members the right to
9 determine the consideration for which memberships may be issued;

10 (H) a provision requiring the approval of the members
11 (AS 10.21.990(5)) or approval of a majority of all members
12 (AS 10.21.990(6)) for any corporate action, even though not
13 otherwise required by this chapter;

14 (I) a provision that confers or imposes the powers,
15 duties, privileges and liabilities of directors under AS 10.21.-
16 350 upon delegates;

17 (2) the names and addresses of the persons appointed to act
18 as initial directors;

19 (3) any other provision, not in conflict with law, for the
20 regulation of internal affairs and for the conduct of the affairs of
21 the corporation, including any provision that is required or permitted
22 by this chapter to be stated in the bylaws.

23 Sec. 10.21.115. FILING OF ARTICLES OF INCORPORATION. Duplicate
24 originals of the articles of incorporation shall be delivered to the
25 commissioner for processing in accordance with AS 10.21.905 and for
26 issuance of a certificate of incorporation.

27 Sec. 10.21.120. EFFECT OF ISSUANCE OF CERTIFICATE OF INCORPORA-
28 TION. The corporate existence begins upon the issuance of the certif-
29 icate of incorporation. The certificate of incorporation is conclu-

1 sive evidence that all conditions precedent required to be performed
2 by the incorporators have been satisfied and that the corporation has
3 been incorporated. Issuance of the certificate does not affect the
4 right of the state to bring a proceeding to cancel or revoke the
5 certificate of incorporation or for involuntary dissolution of the
6 corporation. The doctrines of de jure compliance, de facto corpora-
7 tions, and corporations by estoppel are abolished.

8 Sec. 10.21.125. ASSUMPTION OF PURPORTED POWERS OF NONEXISTENT
9 CORPORATION: LIABILITY. Persons who assume to act as a corporation
10 for which there has been no issuance of a certificate of incorporation
11 (AS 10.21.120) are jointly and severally liable for debts and liabil-
12 ities incurred or arising as a result of that action.

13 Sec. 10.21.130. ORGANIZATION MEETING. After the issuance of a
14 certificate of incorporation an organization meeting of either the
15 incorporators or the board of directors named in the articles of
16 incorporation shall be held, either inside or outside the state, at
17 the call of the majority of the incorporators or directors named in
18 the articles of incorporation, for the purposes of adopting bylaws,
19 electing directors if none have been named in the articles, electing
20 officers and transacting other business as may come before the meet-
21 ing. Those calling the meeting shall give at least 20 days notice of
22 the meeting by mail to each incorporator or director named. The
23 notice shall state the time and place of the meeting.

24 Sec. 10.21.135. POWER OF INCORPORATORS BEFORE ELECTION OF DIREC-
25 TORS. If initial directors are not named in the articles, the in-
26 corporator or incorporators may do whatever is necessary and proper to
27 perfect the organization of the corporation until the directors are
28 elected, including the adoption and amendment of bylaws of the corpo-
29 ration and the election of directors.

1 Sec. 10.21.140. BYLAWS: ADOPTION, AMENDMENT OR REPEAL. Bylaws
2 may be adopted, amended, or repealed either by approval of a majority
3 of all members (AS 10.21.990(6)) or by approval of the board (AS 10.-
4 21.990(4)), except as provided in AS 10.21.145. In the case of
5 mutual benefit corporations the articles may restrict or eliminate the
6 power of the board to adopt, amend, or repeal bylaws.

7 Sec. 10.21.145. BYLAWS: NUMBER OF DIRECTORS AND OTHER CONTENT.

8 (a) Unless a provision is contained in the articles the bylaws shall
9 state the number of directors of the corporation or that the number of
10 directors may not be less than a stated number or more than a stated
11 number, with the exact number of the directors to be fixed, within the
12 limits specified, by approval of the board or the members (AS 10.21.-
13 990(4) - (5)) in the manner provided in the bylaws. The stated maxi-
14 mum number of directors may not be greater than two times the stated
15 minimum number minus one and the minimum number of directors may not
16 be less than three. If the articles provide for the number of direc-
17 tors, the number of directors may only be changed by an amendment to
18 the articles.

19 (b) In the case of a domestic corporation having members with
20 voting rights, a bylaw specifying or changing a fixed number of direc-
21 tors or the maximum or minimum number of directors or changing from a
22 fixed to a variable board or vice versa may only be adopted by ap-
23 proval of a majority of all members (AS 10.21.990(6)).

24 (c) Notwithstanding (b) of this section, a bylaw or amendment of
25 the articles reducing the fixed or minimum number of directors to a
26 number less than five may not be adopted if the number of votes cast
27 against its adoption at a meeting or the number of members not con-
28 senting in the case of action by written consent are more than 16-2/3
29 percent of the members entitled to vote.

1 (d) The bylaws may contain any provision, not in conflict with
2 the law or the articles, for the regulation of the internal affairs
3 and for the conduct of the affairs of the corporation, including but
4 not limited to

5 (1) a provision referred to in AS 10.21.110(2) and 10.21.-
6 110(3);

7 (2) the time, place and manner of calling, conducting, and
8 giving notice of meetings of members, directors, and committees;

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

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

13 (5) the appointment and authority of committees of the
14 board;

15 (6) the appointment, duties, compensation, and tenure of
16 officers;

17 (7) the mode of determination of membership in the corpora-
18 tion; and

19 (8) the making of annual reports and financial statements
20 to the members.

21 Sec. 10.21.150. BYLAWS TO BE KEPT AT OFFICE: INSPECTION BY
22 MEMBERS. Each corporation shall keep at its principal executive
23 office in this state or, if its principal executive office is not in
24 this state, at its principal office in this state, the original or a
25 copy of its bylaws with amendments to date, that shall be open to
26 inspection by the members at all reasonable times during office hours.
27 If the principal executive office of the corporation is outside this
28 state and the corporation has no principal office in this state, it
29 shall upon a written request of a member furnish to that member a copy

1 of the bylaws with amendments to date.

2 ARTICLE 4. CORPORATE FINANCE.

3 Sec. 10.21.155. DUES, ASSESSMENTS, OR FEES AUTHORIZED. (a) A
4 domestic corporation may levy dues, assessments, or fees on its
5 members as provided in its articles or bylaws. A member, upon learn-
6 ing of the levy, may avoid liability for dues, assessments, or fees by
7 promptly resigning from membership, unless the member is, by contract
8 or otherwise, liable for the payment of the dues, assessment or fee.
9 A provision of the articles or bylaws authorizing dues, assessments,
10 or fees does not alone create liability of a member for the payment of
11 the dues, assessment or fee.

12 (b) Dues, assessments or fees levied as provided in this section
13 shall be uniform for all members except that a corporation having two
14 or more classes of members need only levy dues, assessments, or fees
15 that are uniform as to all members of each class.

16 Sec. 10.21.160. BONDS AND SECURITY INTERESTS. (a) A domestic
17 corporation may not issue bonds except for money or other property,
18 tangible or intangible, or labor or services actually received by or
19 performed for the corporation or for its benefit.

20 (b) The holder of bonds issued or to be issued by the corpora-
21 tion may inspect the corporate books and records.

22 Sec. 10.21.165. LIMITATION ON ACCESS TO NONDEBT CAPITAL. A
23 domestic corporation may not issue stock or capital certificates, or
24 enter into similar agreements that provide the corporation with access
25 to capital without a fixed obligation to repay the source.

26 Sec. 10.21.170. INCOME FROM CORPORATE ACTIVITIES. (a) If the
27 lawful activities of a domestic corporation involve the charging of
28 fees or prices for its services or products the corporation has the
29 right to receive this income and, in so doing, may make an incidental

1 profit.

2 (b) All incidental profits described in (a) of this section
3 shall be applied to the maintenance, expansion, or operation of the
4 lawful activities of the corporation, and may not be divided or
5 distributed in any manner among the members, directors, or officers of
6 the corporation.

7 Sec. 10.21.175. SURPLUS CURRENT ASSETS PROHIBITED. (a) Not-
8 withstanding another provision of this chapter or of law, a domestic
9 corporation may not accumulate from any source whatsoever current
10 assets in excess of its current liabilities; and the assets reasonably
11 necessary to meet recurrent and anticipated expenses including a
12 reasonable reserve for planning.

13 (b) In this section "current assets" means cash, receivables
14 from any source, inventory, and investment in assets or obligations
15 unrelated to the purpose of the corporation stated in the articles.

16 (c) Current assets are presumed to be in excess of the amount
17 permitted under (a) of this section if they exceed 50 percent of the
18 larger of either the corporate gross income from the preceding year or
19 the average corporate gross income for the five immediately preceding
20 years.

21 Sec. 10.21.180. DISTRIBUTION TO MEMBERS PROHIBITED. (a) A
22 domestic corporation may not make a distribution to members (AS 10.-
23 21.990(21)).

24 (b) If allowed by its articles or bylaws, a mutual benefit
25 corporation may provide services or goods to members for no charge or
26 at a charge that the board determines is appropriate.

27 (c) In this section, "distribution to members" means the dis-
28 tribution by a corporation to its members of gains, profits, divi-
29 dends, or of anything sufficient to constitute consideration for a

1 contract by the corporation to its members.

2 Sec. 10.21.185. DONATED ASSETS HELD IN CHARITABLE TRUST. (a) A
3 donation (AS 10.21.990(15)) received by a domestic corporation shall
4 be held in charitable trust.

5 (b) In the absence of a written agreement between a donor and a
6 public benefit corporation, defining the terms of the charitable
7 trust, acceptance of a donation by the corporation implies as terms of
8 the trust that the donation will be applied to the public or charita-
9 ble purposes stated in the solicitation and in the articles of the
10 corporation at the time of solicitation and will not be used for
11 another purpose. In the absence of a written agreement between a
12 donor and a mutual benefit corporation defining the terms of the
13 charitable trust, acceptance of a donation by the corporation implies
14 as terms of the trust that the donation will be used for the purposes
15 stated in the solicitation and in the articles of the corporation at
16 the time of solicitation and will not be used for another purpose.

17 (c) A donation received by a foreign corporation from a source
18 in this state shall be held in charitable trust. In the absence of a
19 written agreement between a donor and a foreign corporation defining
20 the terms of the charitable trust, acceptance of a donation by the
21 corporation implies as terms of the trust that the donation will be
22 used for the purposes stated in the solicitation and in the articles
23 of the corporation at the time of solicitation and will not be used
24 for another purpose.

25 Sec. 10.21.190. ACTION TO REMEDY BREACH OF CHARITABLE TRUST.
26 (a) Notwithstanding AS 10.21.015 any of the following may bring an
27 action to enjoin, correct, obtain damages for or otherwise remedy a
28 breach of a charitable trust established under AS 10.21.185.

29 (1) the corporation, or a member in the name of the corpo-

1 ration as provided in AS 10.21;

2 (2) an officer of the corporation;

3 (3) a director of the corporation;

4 (4) a donor or a person with a reversionary, contractual,
5 or other property interest in the assets subject to the charitable
6 trust; or

7 (5) the commissioner, or a person designated by the commis-
8 sioner.

9 (b) The plaintiff shall give notice to the commissioner of an
10 action under (a) of this section and the commissioner may intervene in
11 that action.

12 (c) A plaintiff under this section who succeeds on the merits is
13 entitled to reasonable attorney fees and costs of litigation including
14 costs incurred in discovery.

15 (d) The rights and remedies prescribed by this section are
16 cumulative and in addition to other rights or remedies available to a
17 donor against a donee corporation or officer, director, or member of a
18 donee corporation.

19 Sec. 10.21.193. DISPOSITION OF ASSETS IN REGULAR COURSE OF
20 ACTIVITIES: MORTGAGE OR PLEDGE OF ASSETS. (a) The sale, lease,
21 exchange, or other disposition of all, or substantially all, the
22 property and assets of a domestic corporation in the usual and regular
23 course of its activities, and the mortgage or pledge of property and
24 assets of a domestic corporation, whether or not in the usual and
25 regular course of its activities, may be made on terms and conditions
26 and for consideration as approved by a majority of the entire board
27 (AS 10.21.990(7)) and approved by the members (AS 10.21.990(5)).

28 (b) This section and the other provisions of this chapter do not
29 authorize a sale, lease, exchange, or disposition prohibited by another

1 er law, including the law of trusts, charitable trusts, and contracts,
2 or prohibited by the articles or bylaws.

3 Sec. 10.21.195. DISPOSITION OF ALL OR SUBSTANTIALLY ALL ASSETS
4 NOT IN REGULAR COURSE OF ACTIVITIES. (a) A sale, lease, exchange or
5 other disposition of all, or substantially all, of the assets of a
6 domestic corporation other than in the regular course of its activi-
7 ties may be made in the following manner:

8 (1) If there are members entitled to vote on the disposi-
9 tion, the board shall adopt a resolution recommending the sale, lease,
10 exchange or other disposition. The resolution shall state the terms
11 and conditions of the proposed transaction, including the considera-
12 tion to be received by the corporation, the eventual disposition to be
13 made of the consideration, and a statement indicating whether the
14 dissolution of the corporation is or is not contemplated. The resolu-
15 tion shall be submitted to a vote at an annual or special meeting of
16 members entitled to vote on the resolution. Written notice of the
17 meeting shall be given to each member and bond holder (AS 10.21.160),
18 whether or not entitled to vote, not less than 20 days before the
19 meeting in the manner provided in this chapter for the giving of
20 notice of meetings of members. The notice shall state that the pur-
21 pose, or one of the purposes of the meeting, is to consider a proposed
22 sale, lease, exchange, or other disposition of the assets of the
23 corporation, and in the case of a mutual benefit corporation, the
24 notice shall include a copy of AS 10.21.530 and AS 10.21.533 concern-
25 ing the rights of a dissenting member.

26 (2) A mutual benefit corporation shall take a vote of the
27 members at a meeting properly noticed under this section on a sale,
28 lease, exchange, or other disposition recommended by the board. The
29 transaction is approved if the recommendation of the board receives

1 the affirmative vote of at least two-thirds of all the members enti-
2 tled to vote on the recommendation, unless a class of members is
3 entitled to vote as a class, in which case the transaction is approved
4 if it receives the affirmative vote of at least two-thirds of all
5 members of that class and of the total number of members entitled to
6 vote. Members may alter the terms of a proposed sale, lease, exchange
7 or other disposition and may authorize the board to modify the terms
8 and conditions by a vote sufficient to approve the transaction. A
9 sale, lease, exchange, or other disposition, as modified by the mem-
10 bers, is approved when those terms have been adopted by a majority of
11 the board.

12 (3) A public benefit corporation or a foreign corporation
13 shall take a vote of the members at a meeting properly noticed under
14 this section, on the recommended sale, lease, exchange, or other
15 disposition recommended by the board. The transaction is approved if
16 the recommendation of the board receives the approval of the members
17 (AS 10.21.990(5)), unless a class of members is entitled to vote as a
18 class, in which case the transaction is approved if it is approved by
19 both the members of the class and the members of the corporation. The
20 members may alter the terms of a proposed sale, lease, exchange, or
21 other disposition and may authorize the board to modify the terms and
22 conditions by a vote sufficient to approve the transaction. A sale,
23 lease, exchange, or other disposition, as modified by the members, is
24 approved when those terms have been adopted by a majority of the
25 board.

26 (4) If there are no members entitled to vote on a disposi-
27 tion of corporate assets, under this section, a sale, lease, exchange,
28 or other disposition may be authorized by the vote of at least two-
29 thirds of the entire board (AS 10.21.990(16)). Notwithstanding this

1 paragraph, if there are 21 or more directors, the vote of a majority
2 of the entire board is sufficient to authorize a disposition of corpo-
3 rate assets.

4 (b) If a corporation is, or would be if formed under this
5 chapter, a public benefit corporation, a sale, lease, exchange or
6 other disposition shall be approved by the commissioner as provided in
7 AS 10.21.198. If the corporation is or would be if formed under this
8 chapter, a mutual benefit corporation, and it holds assets in charita-
9 ble trust, it shall give written notice to the commissioner not less
10 than 30 days before a sale, lease, exchange, or other disposition
11 under this section unless the commissioner has given the corporation a
12 written waiver of this notice requirement as to the particular trans-
13 action.

14 (c) After authorization and, when required, approval of the
15 commissioner, the board in its discretion may abandon a sale, lease,
16 exchange, or other disposition of assets subject to the rights of
17 third parties under any contract, without further action or approval.

18 (d) The provisions of this section apply to a foreign corpora-
19 tion to the extent that it

20 (1) holds assets in charitable trust under AS 10.21.185; or

21 (2) holds an interest in real property situated in this
22 state.

23 Sec. 10.21.198. PETITION FOR APPROVAL OF COMMISSIONER. (a) A
24 domestic or foreign corporation required by law to obtain the approval
25 of the commissioner to sell, lease, exchange, or otherwise dispose of
26 all or substantially all of its assets, shall submit a verified peti-
27 tion to the commissioner that must set out

28 (1) the name of the corporation and the law under which it
29 was incorporated;

- 1 (2) the names of the directors and principal officers of
2 the corporation and their places of residence;
- 3 (3) the activities of the corporation;
- 4 (4) a description, of the assets to be sold, leased,
5 exchanged, or otherwise disposed of that may be contained in a sched-
6 ule attached to the petition; a statement of the fair value of those
7 assets; and the amount of the corporation's debts and liabilities
8 including the manner by which they are secured;
- 9 (5) the consideration to be received by the corporation and
10 the proposed disposition of that consideration, together with a state-
11 ment that the dissolution of the corporation is or is not contem-
12 plated;
- 13 (6) a concise statement of the reasons why the purposes of
14 the corporation, or the interests of its members will be promoted by
15 the sale, lease, exchange, or other disposition of the assets of the
16 corporation;
- 17 (7) a statement that the sale, lease, exchange or disposi-
18 tion of corporate assets, has been recommended by authorized by vote
19 of the directors at a meeting duly called and held, as shown in a
20 schedule annexed to the petition setting out a copy of the resolution
21 granting the authority including the results of the vote on the reso-
22 lution;
- 23 (8) if the consent of the members of the corporation is
24 required by law a statement that the consent is given, as shown in a
25 schedule attached to the petition setting out a copy of the consent,
26 adopted at a meeting of members duly called and held, with a statement
27 of the vote on the consent; and
- 28 (9) a request for approval to sell, lease, exchange, or
29 otherwise dispose of all or substantially all, of the assets of the

1 corporation as set out in the petition.

2 (b) The commissioner may, in the exercise of discretion, order
3 that the notice of the petition be given personally or by mail to any
4 person interested in the petition, as member, officer, or creditor of
5 the corporation. The notice shall state that written comment or
6 objections to the petition will be received by the commissioner until
7 a specified date that shall not be less than 30 days from the date of
8 the notice. An interested person, whether or not formally notified,
9 may file written comments or objections to the petition. Comments
10 shall be considered by the commissioner if they are filed within the
11 time permitted under the notice, or if notice has not been given by
12 the commissioner, within 30 days from the presentation of the petition
13 to the commissioner.

14 (c) If the corporation is insolvent (AS 10.21.990(20)) or if its
15 assets are insufficient to liquidate its debts and liabilities in
16 full, the approval of the commissioner shall not be given unless all
17 the creditors of the corporation have been served, personally or by
18 mail, with a notice of the proposed distribution, and have been given
19 the period for comment or objection permitted under (b) of this sec-
20 tion.

21 (d) If the commissioner determines that the purposes of the
22 corporation or the interests of the members will be reasonably served,
23 the commissioner may authorize the sale, lease, exchange, or other
24 disposition of all or substantially all of the assets of the corpo-
25 ration, as described in the petition, for the consideration and on the
26 terms the commissioner prescribes. The commissioner's order shall
27 direct the disposition of the consideration to be received by the
28 corporation.

29 (e) A party aggrieved by an order of the commissioner under (d)

1 of this section may appeal the order by filing a petition for review
2 with the superior court within 30 days after the issuance of the
3 order. Judicial review of an order issued under (d) of this section
4 is limited to the issue of whether or not the order is an abuse of
5 discretion.

6 ARTICLE 5. MEMBERS.

7 Sec. 10.21.200. ADMISSION OF MEMBERS. (a) A domestic corpo-
8 ration may admit persons to membership as provided in its articles or
9 bylaws, or may provide in its articles or bylaws that it shall not
10 have members (AS 10.21.990(21)). In the absence of a provision in its
11 articles or bylaws providing for members, a domestic corporation shall
12 not have members.

13 (b) In the case of a domestic corporation having no members

14 (1) an action that would otherwise require approval by a
15 majority of all members (AS 10.21.990(6)) or approval by the members
16 (AS 10.21.990(5)) requires only approval of the board (AS 10.21.-
17 990(4)), notwithstanding a provision of the articles, bylaws, or this
18 chapter;

19 (2) rights that would otherwise vest in the members vest in
20 the directors.

21 (c) In this chapter a domestic corporation having no members
22 includes a domestic corporation in which the directors are the only
23 members.

24 Sec. 10.21.203. MEMBERSHIP: CONSIDERATION. (a) Subject to the
25 articles or bylaws, a membership may be issued by a domestic corpora-
26 tion for no consideration or for a consideration as determined by the
27 board.

28 (b) Except as provided in (d) of this section and subject to
29 AS 10.21.165, a membership issued as provided in this section is a

1 fully paid membership and is not liable for any further call, nor
2 shall the member be liable for further payment for the membership.

3 (c) In the absence of fraud in the transaction, the judgment of
4 the directors as to the value of the consideration for a membership is
5 conclusive.

6 (d) A domestic corporation may issue all or part of its member-
7 ships as partly paid and subject to call for the remainder of the
8 consideration to be paid for the membership.

9 Sec. 10.21.205. MULTIPLE AND FRACTIONAL MEMBERSHIP: HOMEOWNERS'
10 ASSOCIATIONS. (a) Except as provided in this section a person may
11 not hold more than one membership, and fractional memberships may not
12 be held.

13 (b) Two or more persons may have an indivisible interest in a
14 single membership if authorized by the articles or bylaws subject to
15 AS 10.21.280.

16 (c) A person may hold a membership in more than one class if the
17 articles or bylaws provide for classes of membership and permit a
18 person to be a member of more than one class.

19 (d) In the case of membership in a homeowners' association, the
20 articles or bylaws may permit a person who owns an interest or who has
21 a right of exclusive occupancy in more than one lot, parcel, area,
22 apartment, or unit to hold a separate membership in the homeowners'
23 association for each lot, parcel, area, apartment, or unit.

24 Sec. 10.21.208. MUTUAL BENEFIT CORPORATIONS: MEMBERSHIP CERTIF-
25 ICATES: IDENTITY CARDS: TRANSFER AND CANCELLATION. (a) Except as
26 provided in AS 10.21.203(d), a mutual benefit corporation may issue
27 membership certificates and identity cards or similar devices to
28 members that serve to identify members qualifying to use facilities or
29 services of the corporation.

1 (b) A membership certificate issued by a mutual benefit corpo-
2 ration shall state on the certificate that

3 (1) the corporation is a nonprofit mutual benefit corpo-
4 ration that may not make distributions to its members except upon
5 dissolution, or, if the articles provide, that it may not make a
6 distribution to its members;

7 (2) restrictions on the transferability of membership, if
8 any, are on file with the secretary of the corporation and are open
9 for inspection by a member on the same basis as the records of the
10 corporation; and

11 (3) if applicable, that the membership has been issued as
12 partly paid and is subject to call for the remainder of the consid-
13 eration.

14 (c) If a membership certificate of a mutual benefit corporation
15 is transferable only with consent of the corporation, or if there are
16 no membership certificates, notwithstanding (b)(2) of this section the
17 corporation may, or if there are no membership certificates the corpo-
18 ration shall, give notice to a transferee, within a reasonable time
19 after the corporation is first notified of the proposed transfer and
20 before the membership is transferred on the books and records of the
21 corporation, of the information that would otherwise be provided under
22 (b)(2) of this section.

23 (d) If the articles or bylaws of a mutual benefit corporation
24 are amended so that a statement required by (b) of this section is no
25 longer accurate, then the board shall cancel the outstanding certifi-
26 cates and issue new certificates conforming to the article or bylaw
27 amendments.

28 (e) If new membership certificates are issued under (d) of this
29 section, the board shall order holders of outstanding certificates to

1 surrender and exchange them for new certificates within a reasonable
2 time fixed by the board. The board may further provide that the
3 holder of a certificate that the board has ordered to be surrendered
4 is not entitled to exercise a right of membership until the
5 certificate is surrendered and exchanged. The rights of a member may
6 be suspended only after notice of the order is given to the holder of
7 the certificate and only until the certificate is exchanged. The duty
8 to surrender an outstanding certificate may also be enforced by civil
9 action.

10 Sec. 10.21.210. ISSUANCE OF NEW MEMBERSHIP CERTIFICATE FOR LOST,
11 STOLEN, OR DESTROYED CERTIFICATE. (a) A mutual benefit corporation
12 may issue a new membership certificate in place of a certificate that
13 is lost, stolen, or destroyed. The corporation may require the owner
14 of the lost, stolen, or destroyed certificate or the owner's legal
15 representative to give the corporation a bond or other adequate secu-
16 rity sufficient to indemnify the corporation against a claim that may
17 be made against the corporation because of the loss, theft, or de-
18 struction of a certificate or the issuance of a new certificate.

19 (b) If a mutual benefit corporation refuses to issue a new
20 membership certificate in place of a certificate alleged to have been
21 lost, stolen, or destroyed, the owner of the lost, stolen, or de-
22 stroyed certificate may bring an action in the superior court for an
23 order requiring the corporation to issue a new certificate.

24 Sec. 10.21.213. PERSONS ADMITTED TO MEMBERSHIP: EXCEPTIONS.

25 (a) Except as provided in (b) of this section, or in its articles or
26 bylaws, a corporation may admit any person to membership.

27 (b) A corporation may not admit a subsidiary of the corporation
28 (AS 10.21.990(29)) to membership.

29 Sec. 10.21.215. TRANSFER OF MEMBERSHIPS: MUTUAL BENEFIT CORPO-

1 RATIONS. (a) In the case of a mutual benefit corporation, unless the
2 articles or bylaws provide otherwise and subject to AS 10.21.268

3 (1) a member may not transfer a membership or right arising
4 from the membership; and

5 (2) all rights as a member of the corporation cease upon
6 the member's death or dissolution of the corporation.

7 (b) Notwithstanding (a)(2) of this section, the articles or
8 bylaws may provide for, or may authorize the board to provide for, the
9 transfer of memberships, or of memberships within a class or classes,
10 with or without restriction or limitation, including transfer upon the
11 death, dissolution, merger, or reorganization of a member.

12 (c) If transfer rights have been provided, a restriction of
13 those rights is not binding with respect to memberships issued prior
14 to the adoption of the restriction, unless the holders of those mem-
15 berships voted in the favor of the restriction.

16 Sec. 10.21.218. TRANSFER OF MEMBERSHIPS: PUBLIC BENEFIT CORPO-
17 RATIONS. Subject to AS 10.21.265, in the case of a public benefit
18 corporation

19 (1) a member may not transfer a membership or any right
20 arising from the membership; and

21 (2) all rights as a member of the corporation cease upon
22 the member's death or dissolution of the corporation.

23 Sec. 10.21.220. ISSUANCE OF MEMBERSHIPS AS AUTHORIZED BY ARTI-
24 CLES OR BYLAWS. A domestic corporation may issue memberships having
25 different rights, privileges, preferences, restrictions, or condi-
26 tions, as authorized by its articles or bylaws.

27 Sec. 10.21.223. EQUALITY OF MEMBERSHIPS. Except as provided by
28 the articles or bylaws, all memberships have the same rights, privi-
29 leges, preferences, restrictions, and conditions.

1 Sec. 10.21.225. REFERENCE TO ASSOCIATED PERSONS AS MEMBERS. (a)
2 A domestic corporation may refer to persons associated with it as
3 "members" even though these persons are not members within the meaning
4 of AS 10.21.990(21) but references to members in this chapter mean
5 members as defined in AS 10.21.990(21).

6 (b) A domestic corporation may benefit, serve, or assist persons
7 who are not members within the meaning of AS 10.21.990(21) for con-
8 sideration, if any, as determined by the board or as provided by the
9 articles or bylaws.

10 Sec. 10.21.228. RESIGNATION OR EXPIRATION OF MEMBERSHIP. (a) A
11 member may resign from membership at any time. The articles or bylaws
12 may require reasonable notice before a resignation is effective.

13 (b) Notwithstanding (a) of this section, a resigning member is
14 liable for charges incurred, services or benefits actually rendered
15 and unpaid, dues, assessments or fees.

16 (c) A membership issued for a period of time expires when the
17 period of time has elapsed unless the membership is renewed.

18 Sec. 10.21.230. EXPULSION, SUSPENSION, OR TERMINATION. (a) A
19 member may not be expelled or suspended, and a membership may not be
20 terminated or suspended, except as stated in this section. An ex-
21 pulsion, termination, or suspension not in accord with this section is
22 void and without effect.

23 (b) An expulsion, suspension, or termination shall be done in
24 good faith and in a fair and reasonable manner. A procedure not
25 conforming to (c) of this section may be fair and reasonable when the
26 full circumstances of the suspension, termination, or expulsion are
27 considered. The burden of proof of the reasonableness of a procedure
28 not conforming to (c) of this section is on the corporation.

29 (c) A suspension, termination, or expulsion procedure is fair

1 and reasonable if

2 (1) the provisions of the procedure have been set out in
3 the articles or bylaws, or copies of the provisions are sent upon
4 request to a member as required by the articles or bylaws;

5 (2) the procedure provides for the giving of 30 days notice
6 to the member prior to the expulsion, suspension, or termination, and
7 notice of the reasons for the expulsion, suspension, or termination;
8 and

9 (3) the procedure provides an opportunity for the member to
10 respond, orally or in writing, not less than 10 days before the effec-
11 tive date of the expulsion, suspension, or termination before a person
12 or body authorized to decide that the proposed expulsion, termination,
13 or suspension not take place.

14 (d) Notice required under this section may be given by any
15 method reasonably calculated to provide actual notice. Notice given
16 by mail must be given by first-class or registered mail sent to the
17 last address of the member shown on the corporation's records.

18 (e) An action challenging an expulsion, suspension, or termina-
19 tion of membership, including a claim alleging defective notice, must
20 be commenced within one year after the date of the expulsion, suspen-
21 sion, or termination. In the event the action is successful the court
22 may order the relief, including reinstatement, that it finds equitable
23 under the circumstances. A vote of the members entitled to vote or of
24 the board may not be set aside because a person was at the time of the
25 vote wrongfully excluded by virtue of the challenged expulsion, sus-
26 pension, or termination, unless the court finds that the wrongful
27 expulsion, suspension, or termination was in bad faith and for the
28 purpose, and with the effect, of wrongfully excluding the member from
29 the vote or from the meeting at which the vote took place, in order to

1 affect the outcome of the vote.

2 (f) This section governs only the procedures for expulsion,
3 suspension, or termination of a member and not the substantive
4 grounds. An expulsion, suspension, or termination based on
5 substantive grounds that violate contractual or other rights of a
6 member or are otherwise unlawful is not made valid by compliance with
7 this section.

8 Sec. 10.21.233. MEETINGS OF MEMBERS. (a) Meetings of members
9 shall be held at a place inside or outside this state as provided by
10 the bylaws. If the bylaws make no provision, meetings shall be held
11 at the registered office of the corporation.

12 (b) Regular meetings of members of a public benefit corporation
13 shall be held on a date and time and with the frequency provided by
14 the bylaws, but not less often than once every third year. If the
15 bylaws make no provision, annual meetings shall be held. Directors
16 shall be elected at a regular meeting of the members unless they are
17 chosen in some other manner authorized by law. Any other proper
18 business may be transacted at a regular meeting.

19 (c) A regular meeting of the members of a mutual benefit corpo-
20 ration shall be held annually. In a year in which directors are
21 elected, the election shall be held at the regular meeting of the
22 members unless they are chosen in some other manner authorized by law.
23 Any other proper business may be transacted at the regular meeting.

24 (d) If a domestic corporation with members fails to hold a
25 regular meeting for a period of 60 days after the date designated for
26 the meeting, or, if no date has been designated, for a period of 15
27 months after the formation of the corporation or after its last regu-
28 lar meeting as required by (b) or (c) of this section, or if the
29 corporation fails to hold a written ballot for a period of 60 days

1 after the date designated for the written ballot, the superior court
2 may summarily order the meeting to be held or the ballot to be con-
3 ducted upon the application of a member or the commissioner after
4 notice to the corporation giving it an opportunity to respond.

5 (e) Special meetings of the members may be called by the board,
6 the chairman of the board, the president, 10 percent of the members,
7 or by other persons authorized in the articles or bylaws.

8 Sec. 10.21.235. DETERMINATION OF RECORD DATE. (a) The bylaws
9 may provide or, in the absence of a provision, the board may fix in
10 advance, a date as the record date for the purpose of determining the
11 members entitled to notice of a meeting of members. The record date
12 may not be more than 60 or less than 10 days before the date of the
13 meeting. If a record date is not fixed, a member at the close of
14 business on the business day preceding the day on which notice is
15 given or, if notice is waived, at the close of business on the busi-
16 ness day preceding the day on which the meeting is held, is entitled
17 to notice of a meeting of members. A determination of members enti-
18 tled to notice of a meeting of members applies to any adjournment of
19 the meeting unless the board fixes a new record date for the adjourned
20 meeting.

21 (b) The bylaws may provide or, in the absence of a provision,
22 the board may fix in advance, a date as the record date for the pur-
23 pose of determining the members entitled to vote at a meeting of
24 members. The record date may not be more than 60 days before the date
25 of the meeting. If a record date is not fixed, a member on the day of
26 the meeting who is eligible to vote is entitled to vote at the meeting
27 of members. If a record date is not fixed in the case of an adjourned
28 meeting, a member on the day of adjournment is eligible to vote at the
29 resumption of that meeting.

1 (c) The bylaws may provide or, in the absence of a provision,
2 the board may fix in advance, a date as the record date for the pur-
3 pose of determining the members entitled to cast written consents
4 under AS 10.21.283. The record date shall not be more than 60 days
5 before the day on which the first written ballot is mailed or soli-
6 cited. If a record date is not fixed, a member on the day the first
7 written ballot is mailed or solicited who is otherwise eligible to
8 vote may cast a written ballot.

9 (d) The bylaws may provide or, in the absence of a provision,
10 the board may fix in advance, a date as the record date for the pur-
11 pose of determining the members entitled to exercise a right. The
12 record date shall not be more than 60 days before that action. If a
13 record date is not fixed, members at the close of business on the day
14 on which the board adopts a resolution relating to that right, are
15 entitled to exercise that right.

16 Sec. 10.21.238. NOTICE OF MEMBERS' MEETINGS. Written or printed
17 notice stating the place, day and hour of the meeting and, in case of
18 a special meeting, the purpose for which the meeting is called, shall
19 be delivered not less than 20 nor more than 50 days before the date of
20 the meeting, either personally or by mail, by or at the direction of
21 the president, the secretary or the officer or persons calling the
22 meeting to each member entitled to vote at the meeting. If mailed,
23 the notice is considered delivered when deposited with postage prepaid
24 in the United States mail addressed to the member at the member's
25 address as it appears on the membership records of the corporation.

26 Sec. 10.21.240. NOMINATION AND ELECTION PROCEDURES FOR THE
27 BOARD. (a) Reasonable nomination and election procedures shall be
28 available to the members for the nomination and election of those
29 directors elected by the members given the nature, size, and opera-

1 tions of the corporation. The procedures shall be set out in the
2 articles or bylaws.

3 (b) The procedures shall include

4 (1) a reasonable means of nominating a person for election
5 as a director;

6 (2) a reasonable opportunity for a nominee to communicate
7 to the members the nominee's qualifications and the reasons for the
8 nominee's candidacy;

9 (3) a reasonable opportunity for nominees to solicit votes;
10 and

11 (4) a reasonable opportunity for members to choose among
12 the nominees.

13 Sec. 10.21.243. NOMINATION PROCEDURES: CORPORATIONS WITH 500 OR
14 MORE MEMBERS. Except for directors who are designated or selected
15 under AS 10.21.355(d) or directors elected on a chapter or regional
16 basis under AS 10.21.275, and except as provided in AS 10.21.245, any
17 person who is qualified to be elected to the board of directors of a
18 domestic corporation with 500 or more members may be nominated

19 (1) by a method authorized under AS 10.21.240;

20 (2) by petition delivered to an officer of the corporation
21 signed within 11 months preceding the next time directors will be
22 elected, signed by members representing the following number of votes:

23 (A) for domestic corporations with fewer than 5,000
24 members, 20 percent of the voting power;

25 (B) for domestic corporations with 5,000 members or
26 more, 1/20th of one percent of the voting power, but not less
27 than 100;

28 (3) notwithstanding paragraph (2) of this section, in
29 domestic corporations engaged primarily in the business of retail

1 merchandising of consumer goods, having 100,000 or more members, by
2 petition delivered to an officer of the corporation, signed within 11
3 months preceding the next time directors will be elected, by a reason-
4 able number of members, consistent with AS 10.21.240;

5 (4) if there is a meeting to elect directors, and subject
6 to AS 10.21.245, by a member present at the meeting in person or by
7 proxies if proxies are permitted.

8 Sec. 10.21.245. ELECTION OF DIRECTORS: CORPORATIONS WITH 5,000
9 OR MORE MEMBERS. (a) The provisions of this section apply to the
10 election of directors by members of a domestic corporation with 5,000
11 or more members except for an election authorized by AS 10.21.273 and
12 AS 10.21.275.

13 (b) The corporation's articles or bylaws shall set a date for
14 the close of nominations for the board. The date may not be less than
15 50 or more than 120 days before the day directors are to be elected.
16 Notwithstanding AS 10.21.243(d), nominations for the board may not be
17 made after the date set for the close of nominations.

18 (c) If more people are nominated for the board than can be
19 elected, the election shall take place by means of procedures that
20 allow nominees a reasonable opportunity to solicit votes and members a
21 reasonable opportunity to choose among nominees.

22 (d) If, after the close of nominations, the number of people
23 nominated for the board is not more than the number of directors to be
24 elected, the corporation may declare those nominated and qualified to
25 be elected to have been elected.

26 Sec. 10.21.248. EQUAL ACCESS TO CORPORATE PUBLICATIONS: VOTE
27 SOLICITATION IN CORPORATE PUBLICATIONS. A domestic corporation with
28 500 or more members that publishes material soliciting votes for a
29 nominee for election to the board in a publication owned or controlled

1 by the corporation, shall make available to each of the other nomi-
2 nees, in the same issue of the publication, an equal amount of space,
3 with equal prominence, to be used by these nominees for purposes
4 reasonably related to the election.

5 Sec. 10.21.250. ELECTION MATERIAL; MAILINGS; REQUESTS BY NOMI-
6 NEES; PAYMENT OF COSTS. (a) Upon written request by a nominee for
7 election to the board and the payment of the reasonable costs of
8 mailing, including postage, a domestic corporation shall within 10
9 business days mail to the members, or to that portion of the members
10 that the nominee reasonably specifies, material that the nominee may
11 furnish. Material sought to be mailed under this section must be
12 reasonably related to the election.

13 (b) Notwithstanding (a) of this section, the corporation may,
14 within five business days after the request, allow the nominee at the
15 corporation's option, the rights as set out in AS 10.21.290.

16 Sec. 10.21.253. REFUSAL BY CORPORATION TO PUBLISH OR MAIL MATER-
17 IAL; PROHIBITIONS; LIABILITY OF CORPORATION OR OFFICERS FOR MATERIAL
18 SUPPLIED BY NOMINEE; ACTIONS TO RELIEVE CORPORATION FROM PUBLICATION
19 AND MAILING OBLIGATIONS. (a) Except as provided in (c) of this
20 section, a domestic corporation may not decline to publish or mail
21 material otherwise required to be published or mailed on behalf of a
22 nominee under AS 10.21.200 - 10.21.323 on the basis of the content of
23 such material.

24 (b) Neither the corporation or its agents, officers, directors,
25 or employees may be held criminally liable for negligence, or other-
26 wise liable for damages to a person on account of material that is
27 supplied by a nominee for director and that is published or mailed as
28 provided in AS 10.21.248 or AS 10.21.250. The nominee on whose behalf
29 material was published or mailed shall indemnify and hold the corpo-

1 ration and its agents, officers, directors, and employees harmless
2 from all demands, costs, reasonable legal fees and expenses, claims,
3 damages, and causes of action arising from the material or the mailing
4 or publication.

5 (c) Notwithstanding (a) of this section a domestic corporation
6 or its agents, officers, directors, or employees may petition the
7 court to relieve the corporation from its obligations under AS 10.21.-
8 248 and AS 10.21.250 on the ground that the material will expose the
9 petitioner to liability.

10 Sec. 10.21.255. USE OF CORPORATE FUNDS TO SUPPORT NOMINEES
11 PROHIBITED. Except as provided in AS 10.21.240 - 10.21.250, the
12 corporation may not spend corporate money to support nominees for the
13 board.

14 Sec. 10.21.258. VOTING LIST. (a) At least 20 days before each
15 meeting of members, the officer or agent having charge of the member-
16 ship records of a domestic corporation shall make a list of the mem-
17 bers entitled to vote at the meeting or an adjournment of the meeting
18 arranged in alphabetical order with the address of each member. The
19 list shall be kept on file at the registered office of the corporation
20 and is subject to inspection by a member or the member's agent or
21 attorney at any time during usual business hours for a period of 20
22 days before the meeting. The list shall also be produced and kept
23 open at the time and place of the meeting and shall be subject to the
24 inspection of a member during the meeting. The membership records are
25 prima facie evidence as to the members entitled to examine the list or
26 membership records or to vote at a meeting of members.

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

29 Sec. 10.21.260. LIABILITY FOR VIOLATION OF AS 10.21.258. An

1 officer or agent having charge of the membership records who wilfully
2 fails to prepare a list of members, keep it on file for a period of 20
3 days, or produce and keep it open for inspection at the meeting, as
4 provided in AS 10.21.258 is liable for \$5,000 to a member who had made
5 a written demand to inspect the list and, in addition, for all damages
6 sustained by that member as a result of the officer or agent's failure
7 to comply.

8 Sec. 10.21.263. QUORUM OF MEMBERS. (a) Unless otherwise pro-
9 vided in the articles of incorporation, a majority of the members
10 entitled to vote, represented in person or by proxy, constitutes a
11 quorum at a meeting of members, but in no event may a quorum consist
12 of less than one-third of the members entitled to vote at the meeting.
13 If a quorum is present, the affirmative vote of the majority of mem-
14 bers represented at the meeting and entitled to vote on the subject
15 matter is the act of the members, unless the vote of a greater number
16 or voting by classes is required by this chapter, the articles of
17 incorporation, or bylaws.

18 (b) Members present at a meeting at which a quorum is present
19 may continue to transact business until adjournment, notwithstanding
20 the withdrawal of enough members to leave less than a quorum, if any
21 action taken, other than adjournment, is approved by at least a major-
22 ity of the number of members required to constitute a quorum.

23 Sec. 10.21.265. PROXIES: PUBLIC BENEFIT CORPORATIONS. (a)
24 Each person entitled to vote a membership in a public benefit corpo-
25 ration may authorize another person to act by proxy (AS 10.21.990(26))
26 with respect to that membership. The right to vote by proxy may be
27 limited or withdrawn by the articles or bylaws, as provided in (e) of
28 this section. A proxy purporting to be executed in accordance with
29 the provisions of this chapter is presumed valid.

1 (b) A proxy in a public benefit corporation is not valid after
2 the expiration of 11 months from the date of the proxy unless the
3 proxy provides otherwise. The maximum term of a proxy is three years
4 from the date of its execution. A proxy continues in full force and
5 effect until revoked by the person executing it. A person may revoke
6 a proxy by a writing delivered to the corporation stating that the
7 proxy is revoked, by a subsequent proxy executed by the person execut-
8 ing the prior proxy and presented to the meeting, or by attendance at
9 a meeting and voting in person by the person executing the proxy. The
10 dates contained on the forms of proxy presumptively determine the
11 order of execution, regardless of the postmark dates on the envelopes
12 in which the proxies are mailed.

13 (c) A proxy in a public benefit corporation is not revoked by
14 the death or incapacity of the maker or the termination of a member-
15 ship as a result of death or incapacity unless, before the vote is
16 counted, written notice of the death or incapacity is received by the
17 corporation.

18 (d) The proxy of a member in a public benefit corporation may
19 not be irrevocable.

20 (e) Notwithstanding (a) of this section, an amendment of the
21 articles or bylaws repealing, restricting, creating, or expanding
22 proxy rights in a public benefit corporation may not be adopted with-
23 out approval by a majority of all the members (AS 10.21.990(6)).

24 (f) Notwithstanding any provision to the contrary, a proxy
25 covering matters requiring a vote of the members as provided by
26 AS 10.21.265(e), 10.21.375, 10.21.385, 10.21.453, 10.21.513, 10.21.-
27 533, or AS 10.21.553, is not valid as to these matters unless the
28 proxy sets forth the general nature of the matter to be voted on or,
29 in the event of a vote as provided by AS 10.21.355, unless the proxy

1 lists those nominated at the time the notice of the vote is given to
2 members.

3 Sec. 10.21.268. PROXIES: MUTUAL BENEFIT CORPORATIONS. (a)
4 Each person entitled to vote a membership in a mutual benefit
5 corporation may authorize another person or persons to act by proxy
6 (AS 10.21.990(26)) with respect to that membership. The right to vote
7 by proxy may be limited or withdrawn by the articles or bylaws of this
8 section. A proxy purporting to be executed in accordance with the
9 provisions of this chapter is presumed valid.

10 (b) A proxy in a mutual benefit corporation is not valid after
11 the expiration of 11 months from the date of the proxy unless the
12 proxy provides otherwise. The maximum term of a proxy is three years
13 from the date of its execution. A proxy continues in full force and
14 effect until revoked by the person executing it, except as otherwise
15 provided in this section. A person may revoke a proxy by a writing
16 delivered to the corporation stating that the proxy is revoked, by a
17 subsequent proxy executed by the person executing the prior proxy and
18 presented to the meeting, or by attendance at a meeting and voting in
19 person by the person executing the proxy. The dates contained on the
20 forms of proxy presumptively determine the order of execution, regard-
21 less of the postmark dates on the envelopes in which the proxies are
22 mailed.

23 (c) A proxy in a mutual benefit corporation is not revoked by
24 the death or incapacity of the maker or the termination of a member-
25 ship as a result of death or incapacity unless, before the vote is
26 counted, written notice of the death or incapacity is received by the
27 corporation.

28 (d) Unless otherwise provided in the articles or bylaws, the
29 proxy of a member that states that it is irrevocable is irrevocable

1 for the period specified in the proxy when it is held by the following
2 persons or a nominee of the following persons:

3 (1) a person who has purchased or who has agreed to pur-
4 chase membership;

5 (2) a creditor of the corporation, a member who extended or
6 continued credit to the corporation or a member in consideration of
7 the proxy if the proxy states that it was given in consideration of
8 the extension or continuation of credit and the name of the person
9 extending or continuing the credit; or

10 (3) a person who has contracted to perform services as an
11 employee of the corporation, if the proxy is required by the contract
12 of employment and if the proxy states that it was given in considera-
13 tion of the contract of employment, the name of the employee, and the
14 period of employment.

15 (e) Notwithstanding a provision making a proxy in a mutual
16 benefit corporation irrevocable, a proxy may be revoked by a trans-
17 feree of a membership without knowledge of the existence of the provi-
18 sion unless the existence of the proxy and its irrevocability appears
19 on the certificate representing the membership.

20 (f) Notwithstanding (a) of this section

21 (1) an amendment of the articles or bylaws repealing,
22 restricting, creating, or expanding proxy rights in a mutual benefit
23 corporation may not be adopted without approval by a majority of all
24 members; and

25 (2) an amendment of the articles or bylaws restricting or
26 limiting the use of proxies in a mutual benefit corporation may not
27 affect the validity of a previously issued irrevocable proxy during
28 the term of its irrevocability, if the proxy was in compliance with
29 the applicable provisions, if any, of the articles or bylaws at the

1 time of its issuance, and is otherwise valid under this section.

2 (g) Notwithstanding any provision to the contrary, a revocable
3 proxy covering matters requiring a vote of the members under AS 10.-
4 21.375, 10.21.385, 10.21.268(f)(1), 10.21.453, 10.21.533, 10.21.513,
5 10.21.633, or AS 10.21.355(a), is not valid as to these matters unless
6 it sets out the general nature of the matter to be voted on.

7 Sec. 10.21.270. ONE VOTE ENTITLEMENT. Except as provided in the
8 articles or bylaws or AS 10.21.280, each member shall be entitled to
9 one vote (AS 10.21.990(33)) on each matter submitted to a vote of the
10 members. Single memberships in which two or more persons have an
11 indivisible interest shall be voted as provided in AS 10.21.278.

12 Sec. 10.21.273. DELEGATES. A domestic corporation may provide
13 in its articles or bylaws for delegates having some or all of the
14 authority of members. If delegates are provided for, the bylaws shall
15 set out delegates terms of office, that may not exceed three years, a
16 reasonable method for delegate selection and removal, and a reasonable
17 method for calling, noticing, and holding meetings of delegates.
18 Delegates may only act personally at a meeting and may not act by
19 proxy, written consent, or written ballot. Delegates may be given a
20 name other than "delegates".

21 Sec. 10.21.275. VOTING BY MEMBERS OR DELEGATES ON CHAPTER OR
22 REGIONAL BASIS AUTHORIZED. A domestic corporation may provide in its
23 articles or bylaws for voting by its members or delegates on the basis
24 of chapter or other organizational units, or by region or other geo-
25 graphic grouping.

26 Sec. 10.21.278. VOTING; WHERE MEMBERSHIP STANDS ON RECORD IN
27 NAMES OF TWO OR MORE PERSONS. If a membership stands of record in the
28 names of two or more persons, whether fiduciaries, members of a part-
29 nership, joint tenants, tenants in common, husband and wife as commu-

1 nity property, tenants by the entirety, or otherwise, or if two or
2 more persons including proxy holders have the same fiduciary relation-
3 ship respecting the same membership, unless the secretary of the
4 corporation is given written notice to the contrary and is furnished
5 with a copy of the instrument or order appointing them or creating the
6 relationship, their acts with respect to voting have the following
7 effect:

8 (1) if only one person votes, the vote binds all the per-
9 sons; or

10 (2) if more than one person votes, the vote of the majority
11 binds all the persons.

12 Sec. 10.21.280. CUMULATIVE VOTING. (a) If the articles or
13 bylaws authorize cumulative voting, each member entitled to vote at an
14 election of directors may cumulate votes and give one candidate a
15 number of votes equal to the number of directors to be elected multi-
16 plied by the number of votes to which the member is entitled, or
17 distribute those votes among as many candidates as the member deter-
18 mines. An article or bylaw provision authorizing cumulative voting
19 may not be repealed or amended if the votes cast against the repeal or
20 amendment would be sufficient to elect one director absent the repeal
21 or amendment. The articles or bylaws may require the vote of a
22 greater proportion than normal of the members, or of the members of
23 any class, for the repeal of a provision authorizing cumulative vot-
24 ing.

25 (b) A member is not entitled to cumulate votes for a candidate
26 unless the name of the candidate has been placed in nomination before
27 the voting and the member has given notice at the meeting before the
28 voting of intention to cumulate votes. If a member has given this
29 notice, all members may cumulate their votes for candidates in nomina-

1 tion.

2 (c) In an election of directors, the candidates receiving the
3 highest number of votes are elected, subject to a lawful provision
4 specifying election by classes.

5 (d) Elections for directors need not be by ballot unless a
6 member demands election by ballot at the meeting and before the voting
7 begins or unless the bylaws require election by ballot.

8 Sec. 10.21.283. ACTIONS TAKEN WITHOUT MEETING: WRITTEN CONSENT;
9 REVOCATION OF CONSENT. (a) Unless prohibited by the articles of
10 incorporation or the bylaws and except as expressly provided in this
11 chapter, if under this chapter members are required or permitted to
12 take action by vote, the action may be taken without a meeting by
13 written consents, identical in content, setting out the action taken,
14 signed by all members entitled to vote on the action.

15 (b) A member giving a written consent, or the member's proxy
16 holder, or a transferee of the membership or a personal representative
17 of the member or their respective proxy holders, may only revoke the
18 consent by a writing received by the corporation before the time that
19 written consents of the number required to authorize the proposed
20 action have been filed with the secretary of the corporation. The
21 revocation is effective on receipt by the secretary of the corpora-
22 tion.

23 Sec. 10.21.285. VOTING AGREEMENTS AND TRUSTS UNENFORCEABLE. A
24 voting agreement or voting trust agreement entered into by a member of
25 a domestic corporation is not enforceable.

26 Sec. 10.21.288. MUTUAL BENEFIT CORPORATIONS: MEMBERSHIP LISTS:
27 INSPECTION RIGHTS. (a) Subject to AS 10.21.303 and AS 10.21.293, and
28 unless a mutual benefit corporation provides a reasonable alternative
29 under (c) of this section, a member or a member's agent or attorney

1 may

2 (1) inspect and copy the record of all the names, ad-
3 dresses, and voting rights of the members, at reasonable times on
4 written demand on the corporation received at least five business days
5 before the date of inspection stating the purpose for which the in-
6 spection rights are requested;

7 (2) obtain from the secretary of the corporation, upon
8 written demand and tender of a reasonable charge, a list of the names,
9 addresses, and voting rights of the members entitled to vote for the
10 election of directors, as of the most recent record date for which it
11 has been compiled or as of a date specified by the member after the
12 date of demand; the demand shall state the purpose for which the list
13 is requested; the membership list shall be made available on or before
14 10 business days after the demand is received or after the date
15 specified in the demand as the date on which the list is to be com-
16 piled, whichever is later.

17 (b) The rights under (a) of this section may be exercised by a
18 member, for a purpose reasonably related to the interest of the person
19 as a member. If the corporation reasonably believes that information
20 obtained under (a) of this section will be used for another purpose,
21 or if it provides a reasonable alternative under (c) of this section,
22 the corporation may deny the member access to the list. In a later
23 action brought by the member under AS 10.21.305, the court shall
24 enforce the rights set out in (a) of this section unless the corpo-
25 ration proves that the member will allow use of the information for
26 purposes unrelated to the interest of the person as a member or that
27 an alternative method offered by the corporation reasonably achieves a
28 proper purpose set out in the demand.

29 (c) The corporation may, within 10 business days after receiving

1 a demand under (a) of this section, deliver to the person making the
2 demand a written offer of an alternative method of achieving the
3 purpose identified in the demand without providing access to or a copy
4 of the membership list. A method that reasonably and in a timely
5 manner accomplishes a proper purpose set out in a demand made under
6 (a) of this section is a reasonable alternative, unless within a
7 reasonable time after acceptance of the offer the corporation fails to
8 do those things that it offered to do. A rejection of the offer by
9 the members shall be in writing and state the reasons why the alterna-
10 tive method proposed by the corporation does not meet the proper
11 purpose stated in the demand.

12 Sec. 10.21.290. PUBLIC BENEFIT CORPORATIONS: MEMBERSHIP LISTS:
13 INSPECTION RIGHTS. (a) Subject to AS 10.21.303 and AS 10.21.293 and
14 unless a public benefit corporation provides a reasonable alternative
15 under (c) of this section or, a member, or a member's agent or attor-
16 ney may

17 (1) inspect and copy the record of all the names, address-
18 es, and voting rights of the members, at reasonable times on written
19 demand on the corporation received at least five business days before
20 the date of inspection stating the purpose for which the inspection
21 rights are requested;

22 (2) obtain from the secretary of the corporation, on writ-
23 ten demand and tender of a reasonable charge, a list of the names,
24 addresses, and voting rights of the members entitled to vote for the
25 election of directors, as of the most recent record date for which it
26 has been compiled or as of a date specified by the member after the
27 date of demand; the demand shall state the purpose for which the list
28 is requested; the membership list shall be made available on or before
29 10 business days after the demand is received or after the date

1 specified in the demand as the date on which the list is to be com-
2 piled, whichever is later.

3 (b) The rights set out under (a) of this section may be exer-
4 cised by a member, for a purpose reasonably related to the interest of
5 the person as a member. If the corporation reasonably believes that
6 information obtained under (a) of this section will be used for ano-
7 ther purpose, or if it provides a reasonable alternative under (c) of
8 this section, the corporation may seek an order of the superior court
9 allowing the corporation to refuse to grant the member access to the
10 list. In an action brought by the corporation for an order denying
11 access to the membership list, the court shall enforce the rights set
12 out in (a) of this section unless the corporation proves that the
13 member will allow use of the information for purposes unrelated to the
14 interest of the person as a member or that an alternative method
15 offered by the corporation reasonably achieves a proper purpose set
16 out in the demand.

17 (c) The corporation may, within 10 business days after receiving
18 a demand under (a) of this section, deliver to the person making the
19 demand a written offer of an alternative method of achieving the
20 purpose identified in the demand without providing access to or a copy
21 of the membership list. A method that reasonably and in a timely
22 manner accomplishes a proper purpose set out in a demand made under
23 (a) of this section is a reasonable alternative, unless the corpora-
24 tion fails to do those things that it offered to do. A rejection of
25 the offer by the member shall be in writing and indicate the reasons
26 why the alternative method proposed by the corporation does not meet
27 the proper purpose stated in the demand.

28 Sec. 10.21.293. LIMITATIONS AND RESTRICTIONS ON INSPECTION
29 RIGHTS. (a) On petition of a corporation or a member, the superior

1 court may limit or restrict the rights set out in AS 10.21.288 and
2 AS 10.21.290 if and only if the limitation or restriction is necessary
3 to protect the rights of a member under the Constitution of the United
4 States or the constitution of this state. An order issued under this
5 section may provide for alternative mechanisms by which a person
6 seeking to exercise rights under AS 10.21.288 or AS 10.21.290 may
7 communicate with members for a purpose reasonably related to the
8 interest of the person as a member.

9 (b) On the filing of a petition under (a) of this section, the
10 court may, if requested by the person filing the petition, issue a
11 temporary order suspending the running of a time limit specified in
12 AS 10.21.288 and AS 10.21.290 for compliance with those sections. The
13 temporary order may be extended, after notice and hearing, until final
14 adjudication of the petition, if it is equitable to extend the order
15 and it appears that the petitioner may prevail on the merits.

16 Sec. 10.21.295. FRUSTRATION OF INSPECTION RIGHTS: POSTPONEMENT
17 OF MEMBERS' MEETING: REMEDIES. If the proper purpose of a person
18 making a demand under AS 10.21.288 and AS 10.21.290 is frustrated by
19 (1) delay by the corporation in complying beyond the time limits
20 specified in AS 10.21.288 and AS 10.21.290, (2) delay caused by the
21 filing of a petition under AS 10.21.303 or AS 10.21.293, or (3) delay
22 caused by an alternative proposed under AS 10.21.288(c) or AS 10.21.-
23 290(c), the person making the demand may obtain from the superior
24 court an order postponing a meeting of the members previously noticed
25 for a period equal to the period of the delay. A member may obtain
26 this order in a proceeding brought by filing a verified complaint and
27 after a hearing, notice of which shall be given to the persons and in
28 the manner the court directs. This right of postponement is in addi-
29 tion to other legal or equitable remedies to which the member is

1 entitled.

2 Sec. 10.21.298. BOOKS AND RECORDS. (a) A domestic corporation
3 shall keep

4 (1) adequate and correct books and records of account;

5 (2) minutes of the proceedings of its members, board, and
6 committees of the board; and

7 (3) a record of the names and addresses of its members and
8 the class of membership held by each.

9 (b) Minutes shall be kept in written form. Other books and
10 records shall be kept in written form or in another form capable of
11 being converted into written form within a reasonable time.

12 Sec. 10.21.300. INSPECTION OF ACCOUNTING BOOKS, RECORDS, AND
13 MINUTES OF PROCEEDINGS. The accounting books, records, and minutes of
14 proceedings of the members and the board and committees of the board
15 shall be open to inspection at a reasonable time on written demand on
16 the corporation by a member for a purpose reasonably related to the
17 interests of the person as a member.

18 Sec. 10.21.303. LIABILITY FOR DENIAL OF ACCESS TO BOOKS AND
19 RECORDS. (a) An officer or agent who, or a domestic corporation that
20 wilfully refuses to allow a member, or a member's agent or attorney,
21 to examine and make copies from the books and records of account,
22 minutes, or records of members of a corporation, for a proper purpose,
23 is liable to a member suffering damage because of this refusal for
24 \$5,000 and, in addition, all actual damages caused to the member
25 because of the failure of the corporation to permit inspection and
26 copying.

27 (b) It is a defense to an action for penalties under this sec-
28 tion that the person bringing the action has, within two years before
29 the action, improperly sold or offered for sale a list of the members

1 of a corporation or assisted in obtaining a list of members for the
2 purpose of sale, or has improperly used information obtained from an
3 earlier examination of the books and records of account, minutes, or
4 record of members of a corporation, or was not acting in good faith or
5 for a proper purpose in making the demand.

6 (c) Nothing contained in this chapter impairs the power of a
7 court of competent jurisdiction to compel the production of books and
8 records of account, minutes, and record of members of a corporation.

9 (d) Notwithstanding (a) of this section, a corporate agent or
10 officer is not liable for refusing to allow access to requested re-
11 cords if the court finds that an alternative proposed under AS 10.-
12 21.288(c) or AS 10.21.290(c) would have reasonably and in timely
13 fashion accomplished the proper purpose set out in the written demand
14 for inspection.

15 Sec. 10.21.305. COURT ENFORCEMENT OF INSPECTION RIGHTS. (a) If
16 the corporation refuses a lawful demand for inspection of accounting
17 books, records, or minutes of proceedings of the corporation under
18 this chapter, the superior court may enforce the demand or, for good
19 cause shown, appoint one or more competent inspectors or independent
20 accountants to audit the financial statements of the corporation kept
21 in the state and to investigate a subsidiary corporation keeping
22 records of the corporation in the state.

23 (b) Officers and agents of the corporation shall produce under
24 penalty for contempt of court the books and documents in their custody
25 or power for the inspectors or accountants appointed under (a) of this
26 section.

27 (c) The expense of an investigation or audit under (a) of this
28 section shall be paid by the applicant unless the court orders the
29 expense to be paid or shared by the corporation.

1 (d) If the court finds that the failure of a corporation to
2 comply with a proper demand for inspection under this chapter was
3 without justification, the court may award the member reasonable costs
4 and expenses, including a reasonable attorneys' fee, in connection
5 with the action or proceeding.

6 Sec. 10.21.308. MEMBERSHIP LIST AS CORPORATE ASSET; USES PRO-
7 HIBITED. (a) A membership list is a corporate asset. A membership
8 list may not be used by a person for a purpose unrelated to the inter-
9 est of the person as a member without the consent of the board.
10 Without the consent of the board a membership list may not be

11 (1) used to solicit money or property unless the money or
12 property will be used solely to solicit the vote of members in an
13 election to be held by their corporation;

14 (2) used for a purpose that the user does not reasonably
15 and in good faith believe will benefit the corporation;

16 (3) used for a commercial purpose or a purpose in competi-
17 tion with the corporation; or

18 (4) sold to or purchased by a person.

19 (b) A person who violates the provisions of (a) of this section
20 is liable for the damage the violation causes the corporation and
21 shall account for and pay to the corporation any profit derived as a
22 result of the violation. In addition, a court in its discretion may
23 award exemplary damages for a fraudulent or malicious violation of (a)
24 of this section.

25 (c) Nothing in this chapter limits the right of a corporation to
26 obtain injunctive relief necessary to restrain misuse of a membership
27 list.

28 (d) In an action or proceeding under this section, a court may
29 award the corporation reasonable costs and expenses, including reason-

1 able attorneys' fees, in connection with the action or proceeding.

2 (e) As used in this section, the term "membership list" means
3 the record of all the members' names and addresses.

4 Sec. 10.21.310. ANNUAL REPORT TO MEMBERS: CONTENTS. (a)
5 Except as provided in (c) or (e) of this section, the board shall send
6 an annual report to the members (AS 10.21.990(21)) not later than 120
7 days after the close of the fiscal year of the corporation. The
8 report shall contain a description of the following:

9 (1) the assets and liabilities, including the trust funds,
10 of the corporation, as of the end of the fiscal year;

11 (2) the principal changes in assets and liabilities, in-
12 cluding trust funds, during the fiscal year;

13 (3) the revenue or receipts of the corporation, both unre-
14 stricted and restricted to particular purposes, during the fiscal
15 year;

16 (4) the expenses or disbursements of the corporation, for
17 both general and restricted purposes, during the fiscal year; and

18 (5) any information required under AS 10.21.313.

19 (b) The annual report shall be accompanied by a report prepared
20 by independent accountants (AS 10.21.990(19)) or, if there is no
21 report prepared by independent accountants, the certificate of an
22 authorized officer of the corporation that the annual report was
23 prepared without audit from the books and records of the corporation.

24 (c) This section does not apply to corporations that do not have
25 more than 100 members or \$10,000 in assets at any time during the
26 fiscal year.

27 (d) Notwithstanding (c) of this section, a report with the
28 information required by (a) of this section shall be furnished annual-
29 ly to

- 1 (1) the directors of the corporation; and
2 (2) a member who requests in writing an annual report.

3 (e) A public benefit corporation that in writing solicits con-
4 tributions from 500 or more persons need not send the report otherwise
5 required by this section if the corporation

6 (1) includes with written material used to solicit contri-
7 butions a written statement that its latest annual report will be
8 mailed free of charge upon request and that a request may be sent to
9 the corporation at a name and address set out in the statement;

10 (2) promptly mails free of charge a copy of its latest
11 annual report to a person who requests a copy of the report; and

12 (3) publishes its annual report not later than 120 days
13 after the close of its fiscal year in a newspaper of general circu-
14 lation in the state.

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

18 Sec. 10.21.313. ANNUAL STATEMENT TO MEMBERS OF INSIDER TRANS-
19 ACTIONS. (a) Notwithstanding a provision of the articles of incorpo-
20 ration or bylaws to the contrary, a corporation shall furnish annually
21 to its members (AS 10.21.990(21)) a statement of transactions or
22 indemnifications of the kind described in (d) or (e) of this section,
23 if any transactions or indemnifications took place. If a corporation
24 issues an annual report to its members, this subsection is satisfied
25 by including the required information in the annual report. A corpo-
26 ration that does not issue an annual report to its members, as pro-
27 vided in AS 10.21.310(c), shall satisfy this subsection by mailing or
28 delivering to its members the required statement within 120 days of
29 the close of the fiscal year of the corporation.

1 (b) Except as provided in (c) of this section, a covered trans-
2 action under this section is a transaction in which the corporation,
3 its parent, or its subsidiary (AS 10.21.990(29)) was a party and in
4 which either of the following had a direct or indirect material
5 financial interest:

6 (1) a director, officer or employee of the corporation, or
7 its parent or subsidiary; or

8 (2) a holder of a controlling interest (AS 10.21.990(11))
9 in the corporation, its parent, or its subsidiary.

10 (c) The statement required under (a) of this section shall
11 describe briefly

12 (1) a covered transaction, excluding compensation of offi-
13 cers and directors, during the previous fiscal year involving more
14 than \$15,000, or that was one of the number of covered transactions in
15 which the same interested person had a direct or indirect material
16 financial interest, if these transactions in the aggregate involved
17 more than \$15,000;

18 (2) the name of the interested person involved in the
19 transaction, a statement of the relationship of the person to the
20 corporation, the nature of the relationship of the person to the
21 corporation, the nature of the interest of the person in the trans-
22 action and, where practicable, the amount of that interest; in the
23 case of a transaction with a partnership of which the interested
24 person is a partner, only the interest of the partnership need be
25 stated; or

26 (3) the amount and circumstances of indemnifications or
27 advances aggregating more than \$10,000 that were authorized, obli-
28 gated, or paid during the fiscal year to an officer or director of the
29 corporation under AS 10.21.435; information concerning an indemnifica-

1 tion approved by the members under AS 10.21.435(e)(3) need not be
2 included in this statement.

3 (d) For the purpose of this subsection, an "interested person"
4 is a person described in subsection (b)(1) or (b)(2) of this section.
5 For the purpose of this section, a mere common directorship is not a
6 material financial interest.

7 Sec. 10.21.315. COURT ENFORCEMENT OF INFORMATION AND FINANCIAL
8 STATEMENT REQUIREMENTS. (a) The superior court shall enforce the
9 duty of making and mailing or delivering the information and financial
10 statements required by AS 10.21.200 - 10.21.320. The superior court,
11 for good cause shown, may extend the time for the making and mailing
12 or delivering of that information and those financial statements.

13 (b) In an action or proceeding under this section, if the court
14 finds that the failure of the corporation to comply with information
15 and financial statement requirements was without justification, the
16 court may award the person reasonable expenses, including reasonable
17 attorneys' fees, in connection with the action or proceeding.

18 Sec. 10.21.318. MEMBERS' DERIVATIVE ACTION BROUGHT IN THE RIGHT
19 OF THE CORPORATION TO PROCURE A JUDGMENT IN ITS FAVOR. (a) An action
20 may be brought in the right of a domestic or foreign corporation to
21 procure a judgment in its favor by a member of the corporation.

22 (b) In a derivative action, the complaint shall be verified and
23 shall allege that plaintiff was a member at the time or during any
24 part of the transaction of which plaintiff complains, or that plain-
25 tiff's membership devolved upon plaintiff by operation of law from a
26 member who was a member at the time or during any part of the trans-
27 action complained of. A member who does not meet the requirements of
28 this section may be allowed, in the discretion of the court, to main-
29 tain the action on a preliminary showing to and determination by the

1 court that

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

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

6 (3) the plaintiff acquired the membership before there was
7 disclosure to the public or the plaintiff of the wrongdoing of which
8 plaintiff complains;

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

12 (5) the requested relief will not result in unjust enrich-
13 ment of the corporation or a member of the corporation.

14 (c) In a derivative action, the complaint shall set out with
15 particularity the efforts, if any, made by the plaintiff to obtain the
16 action desired from the directors or comparable authority and, if
17 necessary, from the members, and the reasons for the failure to obtain
18 the action or for not making the effort. A decision by a disinter-
19 ested majority of the board or any committee of the board to which the
20 decision may have been delegated that, in their judgment, the deriva-
21 tive action is not in the best interest of the corporation may not
22 defeat the right of a shareholder who complies with this section to
23 maintain the derivative suit. The derivative action may not be main-
24 tained if it appears that plaintiff does not fairly and adequately
25 represent the interests of the members similarly situated in enforcing
26 the right of the corporation.

27 (d) In a derivative action instituted or maintained in the right
28 of a domestic or foreign corporation by members totalling less than
29 five percent of the outstanding memberships of a class of the corpo-

1 ration, the corporation in whose right the action is brought or the
2 defendants may at any time before final judgment move the court to
3 require the plaintiff to give security for the reasonable expense,
4 including attorneys' fees, that may be incurred by the moving party.
5 The amount of the security may be increased or decreased from time to
6 time in the discretion of the court upon a showing that the security
7 has become inadequate or excessive. The corporation or other defen-
8 dants may have recourse to the security in an amount as the court may
9 determine upon the termination of the derivative action, whether or
10 not the court finds the derivative action was brought without reason-
11 able cause.

12 (e) A derivative action may not be discontinued, abandoned,
13 compromised or settled, without the approval of the court having
14 jurisdiction of the action. If the court determines that the inter-
15 ests of the members or any class of members will be substantially
16 affected by a discontinuance, abandonment, compromise, or settlement
17 the court, in its discretion, may direct that notice, by publication
18 or otherwise, shall be given to the members or class of members whose
19 interests will be affected. If the court directs notice to be given,
20 it shall determine which one or more of the parties to the action
21 shall bear the expense of giving the notice, in an amount the court
22 determines to be reasonable in the circumstances, and the amount of
23 the expense shall be awarded as special costs of the action.

24 (f) If the derivative action is successful in whole or in part,
25 or if anything is received as a result of the judgment, compromise, or
26 settlement of an action or claim, the court may award the plaintiff
27 reasonable expenses, including reasonable attorneys' fees, and shall
28 direct the plaintiff or plaintiffs to account to the corporation for
29 the remainder of the proceeds received. This subsection does not

1 apply to a judgment rendered only for the benefit of injured members
2 and limited to a recovery of the loss or damage sustained by them.

3 Sec. 10.21.320. LIABILITIES OF MEMBERS. (a) A member of a
4 corporation is not personally liable for the debts, liabilities, or
5 obligations of the corporation.

6 (b) A member is liable to the corporation only to the extent of
7 the unpaid portion of the initiation fees, membership dues, or assess-
8 ments that the corporation has lawfully imposed upon the member, or
9 for other indebtedness owed by the member to the corporation.

10 (c) An action may not be brought by a creditor of the corpora-
11 tion under (b) of this section until

12 (1) a final judgment has been rendered against the corpo-
13 ration in favor of the creditor and execution on the judgment has been
14 returned unsatisfied;

15 (2) the corporation has been adjudged bankrupt;

16 (3) a receiver has been appointed with power to collect
17 debts, if the receiver, on demand of a creditor to bring suit on the
18 debt, has refused to sue for the unpaid amount; or

19 (4) the corporation has been dissolved or ceased its activ-
20 ities leaving debts unpaid.

21 (d) An action under (c) of this section may not be brought more
22 than three years after the happening of any one of the events spec-
23 ified in (c)(1) - (c)(4) of this section.

24 ARTICLE 6. DIRECTORS AND OFFICERS.

25 Sec. 10.21.350. BOARD OF DIRECTORS: FUNCTIONS; DUTIES; RIGHT OF
26 INSPECTION; FAILURE TO DISSENT. (a) All corporate powers shall be
27 exercised by or under the authority of, and the affairs of a domestic
28 corporation shall be managed under the direction of, a board of direc-
29 tors. A director need not be a resident of this state or a member of

1 the corporation unless required by the articles or bylaws. The arti-
2 cles or bylaws may prescribe other qualifications for directors. The
3 board may fix the compensation of directors unless otherwise provided
4 in the articles.

5 (b) A director shall perform the duties as a director, including
6 duties as a member of a committee of the board on which the director
7 may serve, in good faith, in a manner the director reasonably believes
8 to be in the best interests of the corporation, and with the care,
9 including reasonable inquiry, as an ordinarily prudent person in a
10 like position would use under similar circumstances. Except as pro-
11 vided in (c) of this section, a director is entitled to rely on infor-
12 mation, opinions, reports or statements, including financial state-
13 ments and other financial data, in each case prepared or presented by

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

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

20 (3) a committee of the board on which the director does not
21 serve, designated in accordance with a provision of the articles or
22 the bylaws, as to matters within the authority of the committee if the
23 director reasonably believes the committee to merit confidence.

24 (c) A director is not acting in good faith if the director
25 knows, or as a reasonable person ought to know, that, as to the matter
26 in question, reliance under (b) of this section is unwarranted.

27 (d) A director has the absolute right at a reasonable time to
28 inspect and copy all books, records and documents of every kind and to
29 inspect the physical properties of the corporation or a domestic or

1 foreign subsidiary of the corporation. Inspection by a director may
2 be made in person or by agent or attorney and the right of inspection
3 includes the right to copy and make extracts. This subsection applies
4 to a director of a foreign corporation having its principal executive
5 office in this state or customarily holding meetings of its board in
6 this state.

7 (e) A director of a domestic corporation who is present at a
8 meeting of its board at which action on a corporate matter is taken is
9 presumed to have assented to the action unless the dissent of the
10 director is entered in the minutes of the meeting or unless the direc-
11 tor files a written dissent to the action with the secretary of the
12 meeting before adjournment or forwards a written dissent by certified
13 mail to the secretary of the corporation within 48 hours after ad-
14 journment. The right to dissent does not apply to a director who
15 voted in favor of the action.

16 Sec. 10.21.355. NUMBER AND ELECTION OF DIRECTORS; DESIGNATION.

17 (a) The number of directors constituting the entire board may not be
18 less than three. Subject to the limitation of this section, the
19 number of directors may be fixed by the articles, the bylaws, or by
20 the action of the board or members under the specific provisions of an
21 article or bylaw adopted by approval of a majority of all the members
22 (AS 10.21.990(6)). If the number of directors is not otherwise fixed
23 the number of directors is three.

24 (b) The number of directors may be increased or decreased by
25 amendment of the articles, the bylaws, or by action of the board or
26 the members under the specific provisions of an article or a bylaw
27 adopted by approval of a majority of all the members (AS 10.21.990-
28 (6)), subject to the following limitations:

29 (1) if the board is authorized by the articles or the

1 bylaws to change the number of directors, whether by amending the
2 bylaws or by taking action under specific provision of an article or
3 bylaw adopted by approval of a majority of all the members, the amend-
4 ment or action shall require the approval of a majority of the entire
5 board (AS 10.21.990(7)); and

6 (2) a decrease in the number of directors may not shorten
7 the term of an incumbent director.

8 (c) The articles may provide for the election of one or more
9 directors by the members of a class.

10 (d) Notwithstanding (b) and (c) of this section, all or a por-
11 tion of the directors authorized in the articles or bylaws of a domes-
12 tic corporation without members, and up to one-third of the directors
13 authorized in the articles or bylaws of a domestic corporation with
14 members, may hold office by virtue of designation as provided by the
15 articles or bylaws rather than by election. A director who holds
16 office by virtue of designation or selection under this section con-
17 tinues in office for the term prescribed by the articles or bylaws,
18 or, if no term is prescribed, until the article or bylaw is amended or
19 repealed, except as provided in AS 10.21.375(c) and (d). A bylaw
20 provision authorized by this subsection shall be adopted or repealed
21 by a majority of all the members (AS 10.21.990(6)) subject, if pro-
22 vided in the bylaws, to the consent of the person entitled to desig-
23 nate or select the director.

24 (e) At the first annual meeting of members of a mutual benefit
25 corporation and at each subsequent annual meeting the members with
26 voting rights, if any, shall elect directors to hold office until the
27 next succeeding annual meeting, except in the case of the classifica-
28 tion of directors as permitted by AS 10.21.365. A director, including
29 a director elected to fill a vacancy, shall hold office until a suc-

1 cessor has been elected and qualified.

2 (f) At the first regular meeting of members of a public benefit
3 corporation and at each regular meeting thereafter the members with
4 voting rights, if any, shall elect directors. A director, including a
5 director elected to fill a vacancy, shall hold office until a succes-
6 sor has been elected and qualified.

7 Sec. 10.21.360. ATTACKING VALIDITY OF ELECTION. An action
8 challenging the validity of an election, appointment, or removal of a
9 director shall be commenced within nine months after the election,
10 appointment, or removal. If an action challenging the validity is not
11 commenced, in the absence of fraud, an election, appointment, or
12 removal of a director is conclusively presumed valid after nine months
13 if the only defect in the election, appointment, or removal is the
14 failure to give notice as provided in this chapter or in the articles
15 or bylaws of the corporation.

16 Sec. 10.21.365. CLASSIFICATION OF DIRECTORS. (a) If a corpora-
17 tion is required by this chapter (AS 10.21.233(c)) or by its articles
18 or bylaws to have annual meetings of the members the articles may
19 provide that the directors be divided into either two or three
20 classes, each class to be as nearly equal in number as possible, with
21 the term of office of directors of the first class to expire at the
22 first annual meeting of members after their election, that of the
23 second class to expire at the second annual meeting after their elec-
24 tion and that of the third class, if any, to expire at the third
25 annual meeting after their election. At each annual meeting after the
26 classification, the number of directors equal to the number of the
27 class whose term expires at the time of the meeting shall be elected
28 to hold office until the second succeeding meeting if there are two
29 classes, or until the third succeeding meeting if there are three

1 classes. A classification is not effective before the first annual
2 meeting of members.

3 (b) If cumulative voting rights have been established by the
4 articles, an amendment of the articles that would establish or require
5 classification of the board under (a) of this section may not be
6 adopted when the votes cast against the amendment would be sufficient
7 to elect a director if voted cumulatively at an election of the entire
8 board (AS 10.21.990(16)).

9 Sec. 10.21.370. VACANCIES ON THE BOARD. The board may declare
10 vacant the office of a director who has been declared of unsound mind
11 by court order or whose civil rights have been suspended due to im-
12 prisonment as provided in AS 33.30.310.

13 Sec. 10.21.375. REMOVAL OF DIRECTORS WITHOUT CAUSE. (a) A
14 director may be removed without reason if the removal is approved by a
15 majority of all of the members (AS 10.21.990(6)), subject to the
16 following:

17 (1) if cumulative voting rights have been established by
18 the articles, a director may not be removed unless the entire board
19 (AS 10.21.990(16)) is removed if the votes cast against removal, or
20 not consenting in writing to the removal, would be sufficient to elect
21 a director if voted cumulatively at an election at which the same
22 total number of votes were cast, or, if the action is taken by written
23 consent, if all members entitled to vote on the removal voted and the
24 entire number of directors authorized at the time of the director's
25 most recent election were then being elected; and

26 (2) if the articles provide that the members of a class,
27 voting as a class, are entitled to elect one or more directors, a
28 director so elected may be removed only by the vote of a majority of
29 all the members of that class.

1 (b) Except as provided in this section and AS 10.21.370, 10.21.-
2 380 and AS 10.21.385(c), a director may not be removed before the
3 expiration of the director's term of office.

4 (c) If a director removed under this section or under
5 AS 10.21.370 or AS 10.21.380 was chosen by designation as provided by
6 AS 10.21.355(d), then:

7 (1) if a different person may be designated as provided by
8 the governing article or bylaw provision, a new designation shall be
9 made; or

10 (2) if the governing article or bylaw provision does not
11 contain a provision under which a different person may be designated,
12 the governing article or bylaw provision is considered repealed.

13 (d) If articles or bylaws provide that a person is entitled to
14 designate a director, a director designated may only be removed under
15 this section with the written consent of that person.

16 Sec. 10.21.380. REMOVAL OF DIRECTOR BY SUPERIOR COURT. The
17 superior court may, at the suit of members (AS 10.21.990(21)) total-
18 ling at least 10 percent of all the members of a class, remove from
19 office a director for fraudulent or dishonest acts or gross abuse of
20 authority or discretion with reference to a domestic corporation and
21 may bar from reelection or redesignation a director removed in this
22 manner for a period prescribed by the court. The corporation shall be
23 made a party to this suit.

24 Sec. 10.21.385. VACANCIES AND RESIGNATION: SPECIAL MEETING OF
25 MEMBERS. (a) Unless otherwise provided in the articles or bylaws and
26 except for a vacancy created by the removal of a director, a vacancy
27 (AS 10.21.990(31)) on the board may be filled by a majority of the
28 directors then in office, whether or not less than a quorum, or by a
29 sole remaining director. Unless the articles or a bylaw adopted with

1 approval of a majority of all the members provide that the board may
2 fill a vacancy occurring in on board by reason of removal of a direc-
3 tor, the vacancy may be filled only by approval of a majority of all
4 of the members.

5 (b) The members with voting rights, if any, may elect a director
6 to fill a vacancy not filled by the directors.

7 (c) If, after the filling of a vacancy by the directors, the
8 directors then in office who have been elected by the members consti-
9 tute less than a majority of the directors, members totalling 10
10 percent or more of the members with voting rights may call a special
11 meeting of members to elect the entire board (AS 10.21.990(16)) sub-
12 ject to the rights of a person to select or designate a director. The
13 term of office of a director terminates upon the election and quali-
14 fication of a successor.

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

23 Sec. 10.21.390. EXECUTIVE AND OTHER BOARD COMMITTEES. (a) If
24 authorized by the articles or the bylaws, the board, by resolution
25 approved by a majority of the entire board, may designate from among
26 its members an executive committee and other committees of the board.
27 Each committee, to the extent provided in the resolution or the arti-
28 cles or bylaws of the corporation, has the authority of the board,
29 except that a committee may not

1 (1) approve or recommend to members actions or proposals
2 required by this chapter to be approved by members;

3 (2) 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 (3) amend the bylaws;

7 (4) approve a plan of merger not requiring approval of the
8 members;

9 (5) fix the compensation for service on the board or on a
10 committee of the board;

11 (6) appoint a committee of the board or a member of the
12 committee; or

13 (7) authorize, approve or ratify contracts or other trans-
14 actions between the corporation and one or more of its directors, or
15 between the corporation and a corporation, firm, or association in
16 which one or more of its directors has a material financial interest.

17 (b) The designation of a committee, the delegation to the com-
18 mittee of authority, or action by the committee under that authority
19 does not alone constitute compliance by a member of the board or
20 committee in question with the responsibility to act in good faith, in
21 a manner the director reasonably believes to be in the best interests
22 of the corporation, and with the care, including reasonable inquiry,
23 as an ordinarily prudent person in a like position would use under
24 similar circumstances.

25 Sec. 10.21.395. MEETINGS: CALL, PLACE, NOTICE, AND WAIVER. (a)
26 A regular or special meeting of the board or a committee of the board
27 may be called by the chairman of the board, the president, a vice-
28 president, the secretary, or two directors and may be held at any
29 place inside or outside the state.

1 (b) A regular meeting of the board or a committee designated by
2 the board may be held without notice if the time and place of the
3 meeting is fixed by the bylaws or the board. A special meeting of the
4 board or any committee designated by the board shall be held on either
5 notice in writing sent 20 days before the meeting or notice by elec-
6 tronic means, personal messenger, or comparable person-to-person
7 communication given at least 72 hours before the meeting. In the case
8 of a special meeting the notice shall include disclosure of the busi-
9 ness to be transacted and the purpose of the meeting.

10 (c) Notice of a meeting need not be given to a director who
11 signs a waiver of notice, whether before or after the meeting, or who
12 attends the meeting without protesting before or at the commencement
13 of the meeting the lack of notice.

14 Sec. 10.21.400. QUORUM OF DIRECTORS. (a) A majority of the
15 number of directors fixed by the articles or bylaws constitutes a
16 quorum for the transaction of business unless a greater number is
17 required by the articles or the bylaws. The act of a majority of the
18 directors present at a meeting at which a quorum is present is the act
19 of the board, unless the act of a greater number is required by the
20 articles, the bylaws, or this chapter.

21 (b) The provisions of this section apply to committees of the
22 board and action by committees.

23 Sec. 10.21.405. INFORMAL ACTION BY DIRECTORS. (a) Unless
24 prohibited by the articles or bylaws, the members of the board of a
25 domestic corporation, or a committee designated by the board can
26 validly conduct a meeting by communicating simultaneously with each
27 other by means of conference telephones or similar communications
28 equipment.

29 (b) Unless prohibited by the articles or bylaws, action required

1 or permitted to be taken by the board or a committee designated by the
2 board may be taken without a meeting on written consents, identical in
3 content, setting out the action taken and signed by all of the members
4 of the board or the committee. The written consents shall be filed
5 with the minutes. The consents have the same effect as a unanimous
6 vote.

7 Sec. 10.21.410. MUTUAL BENEFIT CORPORATIONS: DIRECTOR CONFLICTS
8 OF INTEREST. (a) A contract or other transaction between a domestic
9 mutual benefit corporation and a director of the corporation, or
10 between a domestic mutual benefit corporation and a corporation, firm,
11 or association in which a director of the mutual benefit corporation
12 has a material financial interest, is neither void nor voidable be-
13 cause the director or the other corporation, firm or association are
14 parties or because the director is present at the meeting of the board
15 that authorizes, approves, or ratifies the contract or transaction, if

16 (1) the material facts of the transaction and the direc-
17 tor's interest are fully disclosed or known to the members and the
18 contract or transaction is approved by a majority of all the members
19 (AS 10.21.990(6)) in good faith, with the interested director not
20 being entitled to vote; or

21 (2) the material facts of the transaction and the direc-
22 tor's interest are fully disclosed or known to the board, and the
23 board authorizes, approves or ratifies the contract or transaction in
24 good faith by a sufficient vote without counting the vote of the
25 interested director, and the person asserting the validity of the
26 contract or transaction sustains the burden of proving that the con-
27 tract or transaction was just and reasonable as to the corporation at
28 the time it was authorized, approved, or ratified.

29 (b) A common directorship does not alone constitute a material

1 financial interest within the meaning of this section. A director is
2 not interested within the meaning of this section in a resolution
3 fixing the compensation of another director as a director, officer, or
4 employee of the corporation, notwithstanding the fact that the first
5 director is also receiving compensation from the corporation.

6 (c) A contract or other transaction between a domestic mutual
7 benefit corporation and a corporation or association of which a direc-
8 tor of the mutual benefit corporation is a director is neither void
9 nor voidable because the director is present at the meeting of the
10 board that authorizes, approves, or ratifies the contract or trans-
11 action, if the material facts of the transaction and the director's
12 other directorship are fully disclosed or known to the board and the
13 board authorizes, approves, or ratifies the contract or transaction in
14 good faith by a vote sufficient without counting the vote of the
15 common director or the contract or transaction is approved by a major-
16 ity of all the members (AS 10.21.990(6)) in good faith. This sub-
17 section does not apply to contract or transactions covered by (a) of
18 this section.

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

22 (e) Nothing contained in this section affects the prohibitions
23 or restraints imposed by AS 45.50 and AS 45.52.

24 Sec. 10.21.415. PUBLIC BENEFIT CORPORATIONS: SELF-DEALING:
25 LIABILITY OF DIRECTOR FOR GOOD FAITH ACTS. (a) Except as provided in
26 (b) of this section, for the purpose of this section a "self-dealing
27 transaction" means a transaction to which a public benefit corporation
28 is a party and in which a director of the corporation has a material
29 financial interest. A director who has a material financial interest

1 in a transaction is an "interested director" for the purpose of this
2 section. The provisions of this section do not apply to the follow-
3 ing:

4 (1) the action of the board in fixing the compensation of a
5 director as a director or officer of the corporation;

6 (2) a transaction that is part of a public or charitable
7 program of the corporation if it

8 (A) is approved or authorized by the corporation in
9 good faith and without unjustified favoritism; and

10 (B) results in a benefit to a director or the family
11 of a director because they are in the class of persons intended
12 to be benefited by the public or charitable program; or

13 (3) a transaction, of which the interested director had no
14 actual knowledge, and that does not exceed one percent of the gross
15 receipts of the corporation for the preceding fiscal year or \$100,000
16 whichever is less.

17 (b) The commissioner or, if the commissioner is joined as a
18 party, any of the following may bring an action in the superior court
19 for the remedies specified in (c) of this section:

20 (1) the corporation, or a member (AS 10.21.990(21)) assert-
21 ing the right in the name of the corporation as provided by AS 10.21.-
22 318;

23 (2) a director of the corporation;

24 (3) an officer of the corporation;

25 (4) a person granted relator status by the commissioner.

26 (c) If a self-dealing transaction that has not been approved as
27 provided in (d) of this section has taken place, the court shall order
28 an equitable and fair remedy to the corporation. The court may take
29 into account benefits received by the corporation and whether the

1 interested director acted in good faith and with intent to further the
2 best interest of the corporation. The court may order the director to
3 do any or all of the following:

4 (1) account for profits made from the transaction, and pay
5 them to the corporation;

6 (2) pay the corporation the value of the use of corporate
7 property used in the transaction; and

8 (3) return or replace property lost to the corporation as a
9 result of the transaction, together with income or appreciation lost
10 to the corporation by reason of the transaction, or account for any
11 proceeds of the sale of the property, and pay the proceeds to the
12 corporation with interest at the legal rate, and, in addition, the
13 court may order the director to pay exemplary damages for a fraudulent
14 or malicious violation of this section.

15 (d) In an action brought under (b) of this section the remedies
16 specified in (c) of this section may not be granted if

17 (1) the commissioner, or the court in an action in which
18 the commissioner is a party, has approved the transaction before or
19 after it was consummated; or

20 (2) the person asserting the validity of the transaction
21 sustains the burden of proving that

22 (A) the corporation entered into the transaction for
23 its own benefit;

24 (B) the transaction was fair and reasonable as to the
25 corporation at the time the corporation entered into the trans-
26 action;

27 (C) before completing the transaction or any part of
28 it the full board authorized or approved the transaction in good
29 faith by a vote of a majority of the directors then in office,

1 without counting the vote of the interested director, and with
2 knowledge of the material facts concerning the transaction and
3 the director's interest in the transaction; and

4 (D) the corporation could not in fact have obtained a
5 more advantageous arrangement with reasonable effort, or, before
6 authorizing or approving the transaction, the board considered
7 and in good faith determined after a reasonable investigation
8 that the corporation could not have obtained a more advantageous
9 arrangement with reasonable effort; or

10 (3) the person asserting the validity of the transaction
11 sustains the burden of proving that

12 (A) a committee or person authorized by the board
13 approved the transaction in a manner consistent with (d)(2) of
14 this section;

15 (B) it was not practicable to obtain approval of the
16 board (AS 10.21.990(4)) before entering into the transaction; and

17 (C) the board, after determining in good faith that
18 the conditions of subparagraphs (A) and (B) of this paragraph
19 were satisfied, ratified the transaction at its next meeting by a
20 vote of the majority of the directors then in office without
21 counting the vote of the interested director.

22 (e) Except as provided in (f) of this section, an action under
23 (b) of this section must be filed within two years after written
24 notice setting out the material facts of the transaction and the
25 director's interest in the transaction is filed with the commissioner
26 or, if notice is not filed with the commissioner, 10 years after the
27 cause of action has accrued.

28 (f) In an action for breach of an obligation of the corporation
29 owed to an interested director, if the obligation arises from a self-

1 dealing transaction that has not been approved as provided in (d) of
2 this section, the court may, by way of offset only, make an order au-
3 thorized under (c) of this section, notwithstanding the expiration of
4 the applicable period specified in (e) of this section.

5 (g) Interested directors may be counted in determining the
6 presence of a quorum at a meeting of the board that authorizes, ap-
7 proves, or ratifies a contract or transaction.

8 Sec. 10.21.420. LIABILITY OF DIRECTOR. (a) In addition to
9 other liabilities, a director is liable in the following circumstances
10 unless the director complies with the standards provided in AS 10.21.-
11 350(b) for the performance of the duties of a director:

12 (1) a director who votes for or assents to a distribution
13 to the corporation's members, other than during the liquidation of the
14 corporation, is liable to the corporation, jointly and severally with
15 the other directors voting for or assenting to the distribution, for
16 the amount of the distribution that is paid or the value of the assets
17 that are distributed;

18 (2) a director who votes for or assents to a distribution
19 to the corporation's members during the liquidation of the corporation
20 without the payment and discharge of, or making of adequate provision
21 for, all known debts, obligations, and liabilities of the corporation
22 is liable to the corporation, jointly and severally with the other
23 directors voting for or assenting to the distribution, for the value
24 of the assets that are distributed, to the extent that the debts,
25 obligations and liabilities of the corporation are not paid and dis-
26 charged;

27 (3) a director who votes for or assents to a loan of assets
28 of the corporation to an officer or employee contrary to the pro-
29 visions of AS 10.21.435 or contrary to a restriction in the articles

1 of incorporation, is liable to the corporation, jointly and severally
2 with the other directors voting for or assenting to the loan, for the
3 amount of the loan in excess of the amount that could have been loaned
4 under AS 10.21.435 or within the restriction in the articles of
5 incorporation.

6 (b) A director against whom a claim is asserted under this
7 section for the distribution of assets of the corporation is entitled
8 to contribution in proportion to the amounts received by them from a
9 member who accepted or received those assets, knowing the distribution
10 to have been made in violation of this chapter. A director against
11 whom a claim is asserted under this section for the extension of a
12 loan is entitled to contribution from the person receiving the loan.

13 (c) A director against whom a claim is asserted under this
14 section is entitled to contribution from the other directors who voted
15 for or assented to the action on which the claim is asserted.

16 Sec. 10.21.425. ACTION AGAINST DIRECTOR OR OFFICER FOR MISCON-
17 DUCT. (a) An action may be brought against a director or officer of
18 a domestic corporation to procure a judgment for the following relief:

19 (1) to compel the defendant to account for official conduct
20 in the following cases:

21 (A) the neglect of, failure to perform, or other
22 violation of duties in the management and disposition of corpo-
23 rate assets; or

24 (B) the acquisition by the defendant, transfer to
25 others, or loss or waste of corporate assets due to the neglect
26 of or failure to perform the defendant's duties;

27 (2) to set aside an unlawful conveyance, assignment or
28 transfer of corporate assets, if the transferee knew or should reason-
29 ably have known of the unlawfulness of the conveyance, assignment, or

1 transfer; or

2 (3) to enjoin a proposed unlawful conveyance, assignment,
3 or transfer of corporate assets, where there are reasonable grounds
4 for belief that the transfer will be made.

5 (b) An action may be brought for the relief provided in this
6 section and in AS 10.21.420(a) by the commissioner, the corporation,
7 or, in the right of the corporation, by any of the following:

8 (1) a director or officer of the corporation;

9 (2) a receiver, trustee in bankruptcy, or judgment creditor
10 of the corporation; or

11 (3) a member of the corporation under AS 10.21.318.

12 Sec. 10.21.430. OFFICERS: TENURE; RESIGNATION; AGENCY; DUTY OF
13 CARE. (a) A domestic corporation shall have a chairman of the board
14 or president, or both, a secretary, a treasurer and other officers
15 with titles and duties as stated in the bylaws or determined by the
16 board and as may be necessary to enable the corporation to sign in-
17 struments. The president, or if there is no president, the chairman
18 of the board, is the general manager and chief executive officer of
19 the corporation. Two or more offices may be held by the same person,
20 except that neither the secretary nor the treasurer may serve concur-
21 rently as the president or chairman of the board.

22 (b) Except as otherwise provided in the articles or bylaws,
23 officers shall be chosen by the board and serve at the pleasure of the
24 board, subject to the rights, if any, of an officer under a contract
25 of employment. An officer may resign at any time on written notice to
26 the corporation without prejudice to the rights, if any, of the corpo-
27 ration under a contract to which the officer is a party.

28 (c) All officers as between themselves and the corporation have
29 the authority and shall perform the duties in the management of the

1 corporation as provided in the bylaws, or to the extent not provided
2 in the bylaws, as provided by the board.

3 (d) Subject to the provisions of AS 10.21.020(c), a note, mort-
4 gage, evidence of indebtedness, contract, conveyance, or other
5 instrument in writing and an assignment or endorsement of these in-
6 struments, executed or entered into between the corporation and other
7 person, if signed by two individuals, one of whom is the chairman of
8 the board, president, or a vice-president and the other of whom is the
9 secretary, an assistant secretary, the treasurer or an assistant
10 treasurer of the corporation, is not invalidated as to the corporation
11 by any lack of authority of the signing officers in the absence of
12 actual knowledge on the part of the other person that the signing
13 officers had no authority to execute the instrument.

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

18 Sec. 10.21.435. LOANS TO OR GUARANTEES FOR A DIRECTOR OR OFFICER
19 PROHIBITED; ADVANCES. (a) A domestic corporation, its parent or its
20 subsidiary may not loan money or property to, or guarantee the obliga-
21 tion of, a director or officer.

22 (b) Notwithstanding (a) of this section, a domestic corporation
23 may advance money to a director or officer of the corporation, its
24 parent or its subsidiary for expenses reasonably anticipated to be
25 incurred in the performance of the duties of the officer or director,
26 if in the absence of an advance, the director or officer would be
27 entitled to be reimbursed for the expenses by the corporation, its
28 parent, or a subsidiary.

29 Sec. 10.21.440. INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOY-

1 EES AND AGENTS: INSURANCE. (a) A domestic corporation may indemnify
2 a person who was, is, or is threatened to be made a party to a com-
3 pleted, pending, or threatened action or proceeding, whether civil,
4 criminal, administrative, or investigative, other than an action by or
5 in the right of the corporation, by reason of the fact that the person
6 is or was a director, officer, employee, or agent of the corporation.
7 Indemnification may include reimbursement of expenses, including
8 attorney fees, judgments, fines and amounts paid in settlement actual-
9 ly and reasonably incurred in connection with the action or proceeding
10 if the person acted in good faith and in a manner the person reason-
11 ably believed to be in or not opposed to the best interests of the
12 corporation, and, with respect to a criminal action or proceeding, had
13 no reasonable cause to believe the conduct was unlawful. Except as
14 provided in (b) of this section, the termination of an action or
15 proceeding by judgment, order, settlement, conviction, or upon a plea
16 of nolo contendere or its equivalent, does not create a presumption
17 that the person did not act in good faith and in a manner that the
18 person reasonably believed to be in or not opposed to the best inter-
19 ests of the corporation, and, with respect to a criminal action or
20 proceeding, had reasonable cause to believe that the conduct was
21 unlawful.

22 (b) Notwithstanding (a) of this section a public benefit corpo-
23 ration may not indemnify a person with regard to an action or proceed-
24 ing arising out of the conduct of that person if

25 (1) the person was convicted of or entered a plea of nolo
26 contendere or its equivalent to a crime based on that conduct; or

27 (2) the conduct of the person was adjudicated to have been
28 grossly negligent by a court of competent jurisdiction.

29 (c) A domestic corporation may indemnify a person who was, or is

1 threatened to be made a party to a completed, pending, or threatened
2 action by or in the right of the corporation to procure a judgment in
3 its favor by reason of the fact that the person is or was a director,
4 officer, employee, or agent of the corporation. Indemnification may
5 include reimbursement for expenses and attorney fees actually and
6 reasonably incurred in connection with the defense or settlement of
7 the action if the person acted in good faith and in a manner the
8 person reasonably believed to be in or not opposed to the best inter-
9 ests of the corporation. Indemnification may not be made in respect
10 of any claim, issue or matter as to which the person has been adjudged
11 to be liable for negligence or misconduct in the performance of duties
12 to the corporation except to the extent that the court in which the
13 action was brought determines upon application that, despite the
14 adjudication of liability, in view of all the circumstances of the
15 case the person is fairly and reasonably entitled to indemnity for
16 expenses which the court considers proper.

17 (d) To the extent that a director, officer, employee, or agent
18 of a domestic corporation has been successful on the merits or other-
19 wise in defense of an action or proceeding referred to in (a) or (c)
20 of this section, or in defense of a claim, issue, or matter in the
21 action or proceeding, the person shall be indemnified against expenses
22 and attorney fees actually and reasonably incurred in connection with
23 the defense.

24 (e) Unless otherwise ordered by a court, indemnification under
25 (a) or (c) of this section may only be made by a corporation as au-
26 thorized in a specific case upon a determination that indemnification
27 of the director, officer, employee, or agent is proper in the circum-
28 stances because that person has met the applicable standard of conduct
29 set out in (a) or (c) of this section. The determination shall be

1 made

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

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

5 (A) a quorum of directors under (1) of this subsection
6 is not obtainable; or

7 (B) a quorum of directors under (1) of this subsection
8 is obtainable but a majority of disinterested directors so di-
9 rects;

10 (3) by approval of a majority of all the members (AS 10.-
11 21.990(6)).

12 (f) Expenses incurred in defending a civil or criminal action or
13 proceeding may be paid by the corporation in advance of the final
14 disposition of the action or proceeding as authorized in the manner
15 provided in (e) of this section on receipt of an undertaking by or on
16 behalf of the director, officer, employee, or agent to repay the
17 amount unless it is ultimately determined that the person is entitled
18 to be indemnified by the corporation as authorized in this section.

19 (g) The indemnification provided by this section is not exclu-
20 sive of other rights to which a person seeking indemnification may be
21 entitled under a bylaw or a vote of members or disinterested direc-
22 tors, both as to action in the official capacity of the person and as
23 to action in another capacity while holding the office, and continues
24 as to a person who has ceased to be a director, officer, employee, or
25 agent, and inures to the benefit of the heirs, executors, and adminis-
26 trators of the person.

27 (h) A domestic corporation may purchase and maintain insurance
28 on behalf of a person who is or was a director, officer, employee, or
29 agent of the corporation, against any liability asserted against and

1 incurred by a person in that capacity, or arising out of that status
2 to, and only to, the extent that the corporation would have the power
3 to indemnify such a person against the liability under the provisions
4 of this section.

5 ARTICLE 7. AMENDMENTS AND CHANGES.

6 Sec. 10.21.450. AUTHORIZATION: PERMITTED AND PROHIBITED AMEND-
7 MENTS. (a) By complying with the provisions of this chapter a domes-
8 tic corporation may amend its articles of incorporation from time to
9 time and in any and as many respects as may be desired, if its arti-
10 cles of incorporation, as amended, contain only provisions that would
11 be lawful to insert in original articles of incorporation filed at the
12 time of the filing of the amendment.

13 (b) In particular, and without limitation on the general power
14 of amendment, a domestic corporation may amend its articles of incor-
15 poration to

- 16 (1) change its corporate name;
17 (2) extend a limitation on its period of duration;
18 (3) change, enlarge, or diminish a limitation on its corpo-
19 rate purpose if the change is consistent with the status of the corpo-
20 ration as a public benefit or mutual benefit corporation.

21 (c) A domestic corporation may not amend its articles of incor-
22 poration to alter a statement that may appear in the original articles
23 of the names and addresses of the first directors, or the name and
24 address of the initial agent, except to correct an error in the state-
25 ment or to delete either after the corporation has filed a notice
26 under AS 10.21.083 or AS 10.21.876.

27 Sec. 10.21.453. PROCEDURE TO AMEND ARTICLES OF INCORPORATION.
28 (a) A domestic corporation shall amend its articles of incorporation
29 in the following manner:

1 (1) if there are no members entitled to vote, the board
2 shall adopt a resolution setting out the proposed amendment;

3 (2) subject to AS 10.21.455, if there are members entitled
4 to vote, an amendment shall be adopted if approved by the board
5 (AS 10.21.990(4)) and a majority of all members (AS 10.21.990(6));
6 approval may be initiated by the members either before or after con-
7 sideration by the board; if the board adopts a resolution setting out
8 a proposed amendment, the board shall direct that the amendment be
9 submitted to a vote at a meeting of the members that may be either the
10 annual or a special meeting; if approval of a majority of all the
11 members is obtained before action by the board, the board shall con-
12 sider and either approve or reject the amendment at the next regular
13 or special meeting.

14 (b) A proposed amendment may be contained in restated articles
15 that contain a statement that

16 (1) except for the designated amendment the restated arti-
17 cles correctly set out without change the provisions of the articles
18 being amended; and

19 (2) the restated articles together with the designated
20 amendment supersede the original articles and all amendments to the
21 original articles.

22 (c) Written notice setting out the proposed amendment or a
23 summary of the changes to be made by the amendment shall be given to
24 each member entitled to vote on the amendment within the time and in
25 the manner provided in this chapter for the giving of notice of meet-
26 ings of members. If the amendment is to be considered at an annual
27 meeting, the proposed amendment or a summary may be included in the
28 notice of the meeting.

29 Sec. 10.21.455. CLASS VOTING ON AMENDMENTS. (a) The members of

1 a class may vote as a class on a proposed amendment, whether or not
2 the members are entitled to vote on the amendment by the provisions of
3 the articles of incorporation, if the amendment

4 (1) materially and adversely affects the rights,
5 privileges, preferences, restrictions or conditions of that class as
6 to voting or dissolution, or, in the case of a mutual benefit corpora-
7 tion, as to transfer or redemption in a manner different than the
8 action affects another class;

9 (2) materially and adversely affects the class as to voting
10 or dissolution, or, in the case of a mutual benefit corporation, as to
11 transfer or redemption by changing the rights, privileges, prefer-
12 ences, restrictions or conditions of another class;

13 (3) increases or decreases the number of memberships autho-
14 rized in a class;

15 (4) exchanges, reclassifies, or cancels all or part of the
16 memberships of the class; or

17 (5) authorizes a new class of memberships.

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

22 Sec. 10.21.458. GREATER VOTING REQUIREMENTS. If the articles of
23 incorporation require the vote of a larger proportion or all of the
24 members of a class or of a larger proportion or all the directors,
25 than is otherwise required by this chapter, the provision in the
26 articles requiring the greater vote may not be altered, amended or
27 repealed except by that greater vote unless otherwise provided in the
28 articles.

29 Sec. 10.21.460. ARTICLES OF AMENDMENT. The articles of amend-

1 ment shall be executed in duplicate by the corporation by its chairman
2 of the board, president, or a vice-president, and by its secretary or
3 an assistant secretary, and verified by one of the officers signing
4 the articles, 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 members, or by the board if no members are entitled to vote;

9 (4) the number of members and the number of members enti-
10 tled to vote, and if the members of a class are entitled to vote as a
11 class, the designation and number of members of each class entitled to
12 vote;

13 (5) the number of members who voted for and against the
14 amendment and, if the members of a class are entitled to vote as a
15 class, the number of members of each class who voted for and against
16 the amendment, or if no members are entitled to vote, a statement to
17 that effect.

18 Sec. 10.21.463. FILING OF ARTICLES OF AMENDMENT. Duplicate
19 originals of the articles of amendment shall be delivered to the
20 commissioner for processing according to AS 10.21.905 and issuance of
21 a certificate of amendment.

22 Sec. 10.21.465. EFFECT OF CERTIFICATE OF AMENDMENT. (a) An
23 amendment is effective upon the issuance of a certificate of amendment
24 by the commissioner, or on a later date, not more than 30 days after
25 the filing of the certificate with the commissioner, as provided in
26 the articles of amendment.

27 (b) An amendment may not affect an existing cause of action in
28 favor or against the corporation, or a pending suit to which the
29 corporation is a party, or the existing rights of a person other than

1 a member (AS 10.21.990(21)). If the corporate name is changed by
2 amendment, a suit brought by or against the corporation under its
3 former names does not abate.

4 Sec. 10.21.468. RESTATED ARTICLES OF INCORPORATION. A domestic
5 corporation may, by resolution adopted by the board, restate its
6 articles of incorporation as amended up to that time. Upon adoption
7 of the resolution, restated articles shall be executed in duplicate by
8 the corporation by its chairman of the board, president or a vice-
9 president and by its secretary or an assistant secretary and verified
10 by one of the officers signing the articles, and shall set out all of
11 the operative provisions of the articles as amended up to that time
12 together with a statement that the restated articles correctly set
13 out, without change, the corresponding provisions of the articles as
14 amended up to that time and that the restated articles supersede the
15 original articles and all amendments to them.

16 Sec. 10.21.470. FILING OF RESTATED ARTICLES OF INCORPORATION.
17 Duplicate originals of the restated articles shall be delivered to the
18 commissioner for processing according to AS 10.21.905 and issuance of
19 a restated certificate of incorporation.

20 Sec. 10.21.473. EFFECT OF ISSUANCE OF RESTATED CERTIFICATE OF
21 INCORPORATION. Upon the issuance of a restated certificate of incor-
22 poration, the restated articles become effective and supersede the
23 original articles and all amendments.

24 Sec. 10.21.475. PUBLIC BENEFIT CORPORATIONS: PROCEDURE FOR
25 ALTERATION OF CORPORATE STATUS. (a) A public benefit corporation
26 (AS 10.21.990(25)) may amend its articles of incorporation to change
27 its status to that of a mutual benefit corporation (AS 10.21.990(22)).

28 (b) If a public benefit corporation has assets, an amendment to
29 change its status to a mutual benefit corporation shall be approved in

1 advance in writing by the commissioner. If a public benefit corpora-
2 tion does not have assets, the commissioner shall be given a copy of
3 the amendment at least 20 days before the amendment is filed.

4 (c) Amended articles authorized by this section shall include
5 the provisions that would have been required and may include only
6 those provisions that would have been permitted in original articles
7 filed by a mutual benefit corporation.

8 Sec. 10.21.478. MUTUAL BENEFIT CORPORATIONS: PROCEDURE FOR
9 ALTERATION OF CORPORATE STATUS. (a) A mutual benefit corporation
10 (AS 10.21.990(22)) may amend its articles of incorporation to change
11 its status to a public benefit corporation (AS 10.21.990(25)).

12 (b) If the corporation has members entitled to vote, an amend-
13 ment to change its status to a public benefit corporation shall

14 (1) be approved by the members, and shall be approved in
15 writing by the commissioner; or

16 (2) be approved by 100 percent of the voting power.

17 (c) Amended articles authorized by this section shall include
18 the provisions that would have been required and may include only
19 those provisions that would have been permitted in original articles
20 filed by a public benefit corporation.

21 Sec. 10.21.480. AMENDMENT OF ARTICLES OF INCORPORATION IN REOR-
22 GANIZATION PROCEEDINGS. (a) If a plan of reorganization of a domes-
23 tic corporation has been confirmed by decree or order of a court of
24 competent jurisdiction in proceedings for the reorganization of the
25 corporation under an applicable statute of the United States relating
26 to reorganizations of corporations, the articles of the corporation
27 may be amended as necessary in the manner provided in (c) of this
28 section in order to carry out the plan and put it into effect. The
29 articles as amended contain provisions as might be lawfully contained

1 in original articles at the time of making of the amendment.

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

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

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

7 (3) change the number of memberships or memberships of a
8 class that the corporation has authority to issue;

9 (4) change the preferences, limitations, and relative
10 rights of all or part of the memberships of the corporation, and
11 classify, reclassify, or cancel all or part of the membership;

12 (5) authorize the issuance of and fix the terms of bonds,
13 debentures or other obligations of the corporation; and

14 (6) constitute or reconstitute and classify or reclassify
15 the board of the corporation, and appoint directors and officers in
16 place of or in addition to all or any of the directors or officers
17 then in office.

18 (c) Articles of amendment approved by decree or order of a court
19 shall be executed and verified in duplicate by the person the court
20 designates or appoints for the purpose, and shall set out the name of
21 the corporation, the amendments of the articles approved by the court,
22 the date of the decree or order approving the articles of amendment,
23 the title of the proceedings in which the decree or order was entered,
24 and a statement that the decree or order was entered by a court having
25 jurisdiction of the proceedings for the reorganization of the corpora-
26 tion under an applicable statute of the United States.

27 Sec. 10.21.483. FILING OF AMENDMENT OF ARTICLES IN REORGANIZA-
28 TION PROCEEDINGS. Duplicate originals of the articles of amendment in
29 reorganization proceedings shall be delivered to the commissioner for

1 processing according to AS 10.21.905 and issuance of a certificate of
2 amendment.

3 Sec. 10.21.485. EFFECT OF ISSUANCE OF CERTIFICATE OF AMENDMENT
4 IN REORGANIZATION PROCEEDINGS. An amendment becomes effective upon
5 the issuance of the certificate of amendment in reorganization pro-
6 ceedings and the articles are amended without action by the directors
7 or members of the corporation with the same effect as if the amend-
8 ments had been adopted by unanimous action of the directors and mem-
9 bers of the corporation.

10 ARTICLE 8. ORGANIC CHANGE.

11 Sec. 10.21.500. PUBLIC BENEFIT CORPORATION: RESTRICTION ON
12 MERGER OR CONSOLIDATION: CONSENT OF COMMISSIONER. (a) A public
13 benefit corporation may only merge or consolidate with a domestic
14 corporation (AS 10.21.990(14)) or a foreign corporation (AS 10.21.-
15 990(18)).

16 (b) Without the prior written consent of the commissioner, a
17 public benefit corporation may only merge or consolidate with another
18 public benefit corporation or a foreign corporation that would be a
19 public benefit corporation if formed under this chapter.

20 (c) A copy of a proposed agreement of merger or consolidation
21 allowed under (a) of this section shall be filed with the commissioner
22 at least 20 days before the consummation of the merger or consolida-
23 tion.

24 (d) Without the prior written consent of the commissioner, if a
25 merger or consolidation occurs as provided under (a) of this section,
26 each member (AS 10.21.990(21)) of a constituent corporation may only
27 receive or keep a membership in the surviving corporation (AS 10.21.-
28 990(30)) for or as a result of a member's membership in a constituent
29 corporation.

1 Sec. 10.21.503. MUTUAL BENEFIT CORPORATION: MERGER OR CONSOLI-
2 DATION. A mutual benefit corporation may merge or consolidate with
3 another mutual benefit corporation, foreign corporation (AS 10.21.990-
4 (18)), or domestic corporation (AS 10.21.990(14)). A merger or
5 consolidation of a mutual benefit corporation with a public benefit
6 corporation shall have the prior written consent of the commissioner.

7 Sec. 10.21.505. PROCEDURE FOR MERGER. A written plan of merger
8 approved by the board (AS 10.21.990(4)) of each corporation shall be
9 proposed setting out

10 (1) the names and places of incorporation of the corpora-
11 tions proposing to merge and the name of the surviving corporation
12 (AS 10.21.990(30)) into which they propose to merge;

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

14 (3) the manner and basis, if any, of converting the member-
15 ships of each merging corporation into memberships or obligations of
16 the surviving corporation;

17 (4) a statement of changes in the articles of incorporation
18 or bylaws of the surviving corporation caused by the merger and
19 whether or not the surviving corporation will be a public benefit
20 corporation or a foreign corporation that would be a public benefit
21 corporation if formed under this chapter; and

22 (5) other provisions of the merger considered necessary or
23 desirable.

24 Sec. 10.21.508. PROCEDURE FOR CONSOLIDATION. A written plan of
25 consolidation approved by the board (AS 10.21.990(4)) of each corpo-
26 ration shall be proposed setting out

27 (1) the names and places of incorporation of the corpora-
28 tions proposing to consolidate and the name of the new corporation
29 into which they propose to consolidate;

1 (2) the terms and conditions of the proposed consolidation,
2 and whether the new corporation or a mutual benefit corporation, or a
3 foreign corporation;

4 (3) the manner and basis, if any, of converting the
5 memberships of each corporation into memberships or obligations of the
6 new corporation;

7 (4) the statements of the new corporation required to be
8 set out in the articles of incorporation (AS 10.21.105) for corpora-
9 tions organized under this chapter; and

10 (5) other provisions of the consolidation considered neces-
11 sary or desirable.

12 Sec. 10.21.510. NOTICE TO AND APPROVAL BY MEMBERS. (a) On
13 approval by the board (AS 10.21.990(4)) of each corporation of a plan
14 of merger or consolidation, each board shall, by resolution, direct
15 that the plan be submitted at either an annual or special meeting for
16 approval by the members (AS 10.21.990(5)) of each corporation as
17 provided in AS 10.21.513. Written notice shall be given to each
18 member, whether or not the member's voting rights are extinguished
19 under the provisions of the articles of incorporation or bylaws of the
20 corporation, at least 20 days before the meeting, in the manner pro-
21 vided in this chapter (AS 10.21.238) for the giving of notice of
22 meetings of members. Whether the meeting is an annual or special
23 meeting, the notice shall state that the purpose or one of the pur-
24 poses of the meeting is to consider the proposed plan of merger or
25 consolidation. A copy or summary of the plan of merger or consolida-
26 tion as well as a copy of AS 10.21.530 and AS 10.21.533 concerning the
27 rights of dissenting members of mutual benefit corporations shall be
28 included with the notice.

29 (b) The provisions of this section do not apply to a corporation

1 having no members.

2 Sec. 10.21.513. MANNER OF APPROVAL BY MEMBERS. (a) At each
3 meeting for which notice is given under AS 10.21.905, a vote of the
4 members shall be taken on the proposed plan of merger or
5 consolidation. Each member of each corporation may vote on the pro-
6 posed plan whether or not the member has voting rights under the
7 articles of incorporation of the corporation. The plan is approved if
8 it receives the affirmative vote of a least two-thirds of the members
9 of each corporation. If a class of members of a corporation is en-
10 titled to vote on the plan as a class, the plan is approved if it
11 receives the affirmative vote of at least two-thirds of the members of
12 each class of members entitled to vote on the plan as a class and the
13 affirmative vote of at least two-thirds of the total memberships
14 entitled to vote on the plan. A class of members of a corporation is
15 entitled to vote as a class if a plan contains a provision that, if
16 contained in a proposed amendment to the articles of incorporation,
17 would entitle the class of members to vote as a class.

18 (b) The provisions of this section do not apply to a corporation
19 having no members.

20 Sec. 10.21.515. ABANDONMENT OF PLAN OF MERGER OR CONSOLIDATION.
21 After approval by the members of each corporation (AS 10.21.513), and
22 before the filing of the articles of merger or consolidation, the
23 merger or consolidation may be abandoned under provisions set out in
24 the plan.

25 Sec. 10.21.518. ARTICLES OF MERGER OR CONSOLIDATION. After
26 approval of the plan of merger or consolidation by the members
27 (AS 10.21.513) or, if there are no members, by the board under AS 10.-
28 21.200(b)(1), articles of merger or articles of consolidation shall be
29 executed in duplicate by each corporation by its chairman of the

1 board, president or a vice-president, and by its secretary or an
2 assistant secretary, and verified by one of the officers of each
3 corporation signing the articles, and shall set out

4 (1) the plan of merger or consolidation;

5 (2) the number of memberships of each corporation outstand-
6 ing, and, if the members of a class were entitled to vote as a class,
7 the designation and number of the outstanding memberships of the
8 class; and

9 (3) the number of members who voted for and against the
10 plan and, if the members of a class were entitled to vote as a class,
11 the number of members of the class who voted for and against the plan.

12 Sec. 10.21.520. FILING OF ARTICLES OF MERGER OR CONSOLIDATION.
13 Duplicate originals of the articles of merger or consolidation shall
14 be delivered to the commissioner for processing according to AS 10.-
15 21.905 and the issuance of a certificate of merger or consolidation.

16 Sec. 10.21.523. EFFECT OF MERGER OR CONSOLIDATION. (a) A
17 merger or consolidation is effective upon the issuance of a certifi-
18 cate of merger or consolidation by the commissioner, or on a later
19 date, not more than 30 days after the filing of the certificate with
20 the commissioner, as provided in the plan.

21 (b) When a merger or consolidation has become effective

22 (1) the corporations parties to the plan of merger or
23 consolidation are a single corporation that, in the case of a merger,
24 is that corporation designated in the plan of merger as the surviving
25 corporation (AS 10.21.990(30)), and, in the case of a consolidation,
26 is the new corporation provided for in the plan of consolidation;

27 (2) the separate existence of all corporations parties to
28 the plan of merger or consolidation, except the surviving or new
29 corporation, ceases;

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

4 (4) the surviving or new corporation possesses all the
5 public and private rights, privileges, immunities, and franchises of
6 each of the merging or consolidating corporations; all property real,
7 personal and mixed, and all debts due on whatever account, and all
8 other choses in action, and every other interest of, belonging to, or
9 due to each of the merged or consolidated corporations, is transferred
10 to and vested in the corporation without further act; and the title to
11 real estate, or an interest in real estate, vested in any of the
12 corporations may not revert and is not in any way impaired by reason
13 of a merger or consolidation; however, property received by a corpora-
14 tion by a conditional grant or similar device remains subject to the
15 same conditions as if the merger or consolidation had not occurred;

16 (5) a surviving or new corporation is responsible and
17 liable for all the liabilities and obligations of each of the merged
18 or consolidated corporations; and a claim existing or action or pro-
19 ceeding pending by or against the merged or consolidated corporations
20 may be prosecuted as if the merger or consolidation had not taken
21 place, or the surviving or new corporation may be substituted in its
22 place; and the rights of creditors or any liens on any of the property
23 of the merged or consolidated corporation is impaired by the merger or
24 consolidation;

25 (6) in the case of a merger, the articles of incorporation
26 of the surviving corporation are considered to be amended to the
27 extent that changes in its articles of incorporation are stated in the
28 plan of merger; and, in the case of a consolidation, the statements
29 set out in the articles of consolidation that are required or permit-

1 ted to be set out (AS 10.21.105 and 10.21.110) in the articles of
2 incorporation of corporations organized under this chapter are con-
3 sidered to be the original articles of incorporation of the new corpo-
4 ration.

5 (c) When a merger or consolidation has become effective, the
6 memberships of the corporations party to the plan that are to be
7 converted under the terms of the plan ceases to exist, and the members
8 are entitled only to the membership or obligations into which the
9 membership has been converted in accordance with the plan, subject to
10 the rights under AS 10.21.533.

11 Sec. 10.21.525. MERGER OR CONSOLIDATION WITH FOREIGN CORPORA-
12 TION. (a) Subject to the provisions of AS 10.21.500 and AS 10.21.-
13 503, one or more foreign corporations may be merged or consolidated if
14 the merger or consolidation is authorized by the law under which they
15 are formed. In the case of a merger the surviving corporation shall
16 be one of the constituent corporations and the surviving corporation
17 continues to exist under the laws of the state or place of its incor-
18 poration. In the case of a consolidation, the new corporation may be
19 either a domestic corporation formed under this chapter or a foreign
20 corporation formed under the laws of another state.

21 (b) If the surviving or new corporation is a public benefit
22 corporation, the merger or consolidation proceedings of that corpo-
23 ration and a disappearing corporation shall conform to the provisions
24 of this chapter governing the merger of corporations. If the surviv-
25 ing or new corporation is a foreign corporation, the merger or consol-
26 idation proceeding may be in accordance with the laws of the state or
27 place of incorporation of the surviving or new corporation subject to
28 the approval of the boards and members as provided in AS 10.21.505,
29 10.21.508, and 10.21.513.

1 (c) If the surviving or new corporation is a public benefit
2 corporation, the merger or consolidation agreement and the officers'
3 certificate of each constituent corporation shall be filed as provided
4 in AS 10.21.520 and after filing, subject to AS 10.21.523(a), the
5 merger or consolidation is effective as to each corporation; a foreign
6 disappearing corporation that is qualified for the transaction of
7 intrastate business automatically surrenders its right to transact
8 intrastate business by filing a merger or consolidation agreement
9 under this subsection.

10 (d) If the surviving or new corporation is a mutual benefit
11 corporation, the merger or consolidation proceedings of that corpora-
12 tion and a domestic disappearing corporation shall conform to the
13 provisions of this chapter and other applicable laws of this state.
14 If the surviving or new corporation is a foreign corporation, the
15 merger or consolidation proceeding may be in accordance with the laws
16 of the state or place of incorporation of the surviving or new corpo-
17 ration subject to the approval of the boards and members as provided
18 in AS 10.21.505, 10.21.508 and 10.21.513.

19 (e) If the surviving or new corporation is a foreign corpora-
20 tion, the merger or consolidation becomes effective under the law of
21 the jurisdiction in which it is organized, but is effective as to a
22 disappearing corporation as of the time of effectiveness in the for-
23 eign jurisdiction after the filing in this state as required by this
24 subsection. A surviving or new corporation shall file as to the
25 domestic disappearing corporation a copy of the merger or consolida-
26 tion agreement, certificate, or other document filed by the surviving
27 or new corporation in the state or place of its incorporation for the
28 purpose of effecting the merger or consolidation, certified by the
29 public officer having official custody of the original or, in lieu of

1 a certified copy, an executed copy of the merger or consolidation
2 agreement, certificate or other document. A foreign disappearing
3 corporation that is qualified for the transaction of intrastate busi-
4 ness automatically surrenders its right to transact intrastate
5 business by filing a merger or consolidation agreement under this
6 subsection.

7 Sec. 10.21.528. REORGANIZATION: DISCLOSURE OF ALIEN AFFILIATES.
8 (a) Not less than 20 days before the consummation of an organic
9 change (AS 10.21.990(24)) under AS 10.21.500 - 10.21.525, the surviv-
10 ing or new corporation shall deliver to the commissioner

11 (1) a list of the names and addresses of each alien affil-
12 iate (AS 10.21.990(2) - (3)) of the surviving or new corporation;

13 (2) a statement of the percentage of control held by each
14 alien affiliate; and

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

17 (b) As used in this section "percentage of control" means the
18 percentage of the members of the entire board of directors (AS 10.21.-
19 990(16)) that an alien affiliate has the power to elect or designate.

20 Sec. 10.21.530. MUTUAL BENEFIT CORPORATION: RIGHT OF MEMBERS TO
21 DISSENT. (a) A member of a mutual benefit corporation may dissent
22 from the following corporate actions:

23 (1) a plan of merger or consolidation to which the corpora-
24 tion is a party; or

25 (2) a sale or exchange of all or substantially all of the
26 property and assets of the corporation not made in the usual and
27 regular course of its business, including a sale in dissolution, but
28 not including a sale under an order of a court having jurisdiction.

29 (b) The rights of a member who dissents as to less than all of

1 the memberships registered in that member's name shall be determined
2 as if the memberships as to which the member dissents and the member's
3 other memberships are registered in the names of different members.

4 Sec. 10.21.533. RIGHTS OF DISSENTING MEMBERS: WITHDRAWAL OF
5 DEMAND. (a) A member electing to exercise a right of dissent shall
6 file with the corporation, before or at the meeting of members at
7 which the proposed corporate action is submitted to a vote, a written
8 objection to the proposed corporate action. If the proposed corporate
9 action is approved by the vote required under AS 10.21.513 and the
10 member did not vote in favor of the action, the member may, within 10
11 days after the date on which the vote was taken, make a written demand
12 on the corporation or, in the case of a merger or consolidation, on
13 the surviving or new domestic or foreign corporation, for payment of
14 the fair value of the membership. If the proposed corporate action is
15 effected, the corporation shall pay to the dissenting member, upon
16 tender of a resignation from membership, the fair value of the member-
17 ship on the day before the date on which the vote was taken approving
18 the proposed corporate action, excluding any appreciation or deprecia-
19 tion in anticipation of the corporate action. A member failing to
20 make timely demand under this section is bound by the terms of the
21 proposed corporate action. A dissenting member making demand under
22 this section is entitled only to payment as provided in this section
23 and is not entitled to vote or to exercise any other rights of a
24 member.

25 (b) A demand may not be withdrawn without the consent of the
26 corporation. If a demand is withdrawn with consent, the proposed
27 corporate action is abandoned or rescinded, or the members revoke the
28 authority for the action or if, in the case of a merger, on the date
29 of the filing of the articles of merger the surviving corporation has

1 100 percent control of the other domestic and foreign corporations
2 that are parties to the merger, or if no demand or petition for the
3 determination of fair value by a court has been made or filed within
4 the time provided in AS 10.21.540, or if a court of competent
5 jurisdiction determines that a member is not entitled to the relief
6 provided by AS 10.21.540, then the right of the member to be paid the
7 fair value of the membership ceases and status as a member is re-
8 stored, without prejudice to a corporate proceeding that may have been
9 taken during the interim.

10 (c) In this section "100 percent control" of a corporation means
11 the power to elect or designate all of the members of the board of
12 directors of that corporation.

13 Sec. 10.21.535. NOTICE TO DISSENTING MEMBER. Within 10 days
14 after a corporation takes action to which a member dissents under
15 AS 10.21.530, the corporation or, in the case of a merger or consoli-
16 dation, the surviving or new domestic or foreign corporation shall
17 give written notice of the action to each dissenting member who has
18 made demand under AS 10.21.533, and shall make a written offer to each
19 dissenting member to pay for the membership a specified price consid-
20 ered by the corporation to be the fair value of the membership. The
21 notice and offer shall be accompanied by a balance sheet of the corpo-
22 ration of which the dissenter is a member as of the latest available
23 date but not more than 12 months before the making of the offer, and
24 by a profit and loss statement of that corporation for the 12-month
25 period ending on the date of the balance sheet.

26 Sec. 10.21.538. PAYMENT TO DISSENTING MEMBER AFTER AGREEMENT ON
27 VALUE OF MEMBERSHIPS. If within 30 days after a corporation effects
28 an organic change (AS 10.21.990(24)) to which a member dissents under
29 AS 10.21.530, the fair value of the memberships is agreed on between

1 the dissenting member and the corporation, payment for the memberships
2 shall be made to the dissenting member within 90 days after the action
3 was effected, upon surrender of the certificate representing the
4 memberships. On payment of the agreed value the dissenting member
5 ceases to have an interest in the memberships.

6 Sec. 10.21.540. ACTION TO DETERMINE VALUE UPON FAILURE TO AGREE.

7 (a) If within 30 days after a corporation effects an organic change
8 (AS 10.21.990(24)) to which a member dissents under AS 10.21.530, the
9 member and the corporation do not agree on the value of the member-
10 ships, the corporation, within 30 days after receipt of a written
11 demand from a dissenting member given within 60 days after the corpo-
12 rate action was effected, shall, or at its election any time within 60
13 days of the corporate action, may file a petition in a court of compe-
14 tent jurisdiction in the judicial district where the registered office
15 of the corporation is located, requesting that the fair value of the
16 membership be found and determined. If, in the case of a merger or
17 consolidation, the surviving or new corporation is a foreign corpo-
18 ration without a registered office in this state, the petition shall
19 be filed in the judicial district where the registered office of the
20 domestic corporation was last located. If the corporation fails to
21 institute a proceeding as provided in this section, a dissenting
22 member may institute a proceeding in the name of the corporation. All
23 dissenting members, wherever residing, shall be made parties to the
24 proceeding as an action against their memberships quasi in rem. A
25 copy of the petition shall be served by registered or certified mail
26 on each dissenting member who is a nonresident. Service on nonresi-
27 dents shall also be made by publication as provided by law. The
28 jurisdiction of the court is plenary and exclusive. All members who
29 are parties to the proceeding are entitled to judgment against the

1 corporation for the amount of the fair value of their memberships.
2 The court may appoint one or more persons as appraisers to receive
3 evidence and recommend a decision on the question of fair value of the
4 memberships. The appraisers have the power and authority specified in
5 the order of their appointment or as amended. The judgment is payable
6 only on and concurrently with the tender to the corporation of a
7 written resignation from membership by the dissenting member. On
8 payment of the judgment, the dissenting member ceases to have an
9 interest in the membership.

10 (b) The judgment may include an allowance for interest at a rate
11 the court finds to be fair and equitable, from the date on which the
12 vote was taken on the proposed corporate action to the date of pay-
13 ment.

14 (c) The costs and expenses of a proceeding under this section
15 shall be determined by the court and assessed against the corporation.
16 If the court finds that the failure of members to accept the offer was
17 arbitrary, vexatious, or not in good faith, all or any part of the
18 costs and expenses may be apportioned and assessed against any or all
19 of the dissenting members. The expenses shall include the reasonable
20 compensation and expenses of the appraisers but shall exclude the fees
21 and expenses of counsel for, and experts employed by, any party.

22 (d) Notwithstanding (c) of this section, if the fair value of
23 the memberships as determined by the court materially exceeds the
24 amount that the corporation offered to pay, or if no offer was made,
25 the court in its discretion may award to a member who is party to the
26 proceeding reasonable compensation for an expert or experts employed
27 by the member in the proceeding.

28 Sec. 10.21.543. TENDER OF DISSENTERS' RESIGNATION FROM MEMBER-
29 SHIP. Within 20 days after demanding payment for a membership, a

1 member shall tender to the corporation a written resignation from
2 membership. If the member fails to tender resignation to the corpora-
3 tion the corporation may terminate the member's rights under this
4 article unless ordered otherwise by a court of competent jurisdiction.
5 A member who has tendered a resignation from membership under this
6 section may not transfer the membership unless the resignation is
7 revoked with permission of the corporation.

8 ARTICLE 9. DISSOLUTION.

9 Sec. 10.21.550. APPLICATION OF AS 10.21.550 - 10.21.628. The
10 provisions of AS 10.21.550 - 10.21.628 apply only to a public benefit
11 corporation.

12 Sec. 10.21.553. PUBLIC BENEFIT CORPORATIONS: VOLUNTARY DISSO-
13 LUTION. (a) A domestic corporation may voluntarily elect to wind up
14 and dissolve

15 (1) by the approval of a majority of all members (AS 10.-
16 21.990(6)); or

17 (2) by approval of the board and approval of the members
18 (AS 10.21.990(5)).

19 (b) The following domestic corporations may elect by approval of
20 the board (AS 10.21.990(4)) to wind up and dissolve:

21 (1) a domestic corporation that has been adjudicated bank-
22 rupt;

23 (2) a domestic corporation that has disposed of all of its
24 assets and has not conducted activity for a period of five years
25 immediately preceding the adoption of the resolution electing to
26 dissolve the corporation; or

27 (3) a domestic corporation that has no members (AS 10.21.-
28 990(21)).

29 Sec. 10.21.555. FILING OF CERTIFICATE OF DISSOLUTION. (a) A

1 domestic corporation that has elected to wind up and dissolve shall
2 file a certificate evidencing the election with the commissioner.

3 (b) The certificate shall be signed and verified by at least a
4 majority of the directors then in office or by one or more members
5 authorized to do so by approval of a majority of all members (AS 10.-
6 21.990(6)) and shall contain

7 (1) a statement that the corporation has elected to wind up
8 and dissolve;

9 (2) a statement of the number of votes for the election if
10 the election was made by the vote of the members alone and that the
11 election was made by approval of a majority of all members;

12 (3) a statement of whether or not the election was made by
13 the board and members under AS 10.21.553(a)(2);

14 (4) if the certificate is executed by a member, a statement
15 that the person executing the certificate is authorized to execute the
16 certificate by approval of a majority of all members;

17 (5) if the election was made by the board under AS 10.21.-
18 553(b), a statement of the circumstances showing the corporation to be
19 within one of the categories described in AS 10.21.553(b).

20 Sec. 10.21.558. REVOCATION OF ELECTION TO WIND UP AND DISSOLVE
21 CORPORATION; FILING OF REVOCATION CERTIFICATE. (a) A voluntary
22 election to wind up and dissolve under AS 10.21.533 may be revoked
23 before distribution of assets

24 (1) if the election was made under AS 10.21.553(a)(1), by
25 approval of a majority of all members (AS 10.21.990(6));

26 (2) if the election was made under AS 10.21.553(a)(2), by
27 approval of the board (AS 10.21.990(4)) and the members (AS 10.21.-
28 990(5)); or

29 (3) if the election was by the board under AS 10.21.553(b),

1 by approval of the board.

2 (b) After a revocation a certificate evidencing the revocation
3 shall be signed, verified, and filed in the manner prescribed in
4 AS 10.21.555.

5 (c) The certificate required by (b) of this section shall con-
6 tain

7 (1) a statement that the corporation has revoked its elec-
8 tion to wind up and dissolve;

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

11 (3) a statement of the number of votes for the revocation
12 and that the revocation was made by approval of a majority of all
13 members if the revocation was made by a vote of the members alone;

14 (4) a statement of whether or not the revocation was made
15 by the board and members under AS 10.21.553(a)(2); and

16 (5) a statement of whether or not the revocation was made
17 by the board alone.

18 Sec. 10.21.560. COMMENCEMENT AND CONDUCT OF VOLUNTARY DISSOLU-
19 TION; POWERS AND DUTIES OF BOARD; CESSATION OF CORPORATE ACTIVITIES;
20 NOTICE. (a) Voluntary proceedings for winding up the corporation
21 commence on the adoption by the members, by the board and members, or
22 by the board alone, of the resolution, electing to wind up and dis-
23 solve required under AS 10.21.553.

24 (b) If a voluntary proceeding for winding up has commenced, the
25 board shall continue to act as a board and has full powers to wind up
26 and settle the corporation's affairs before and after filing of the
27 certificate of dissolution.

28 (c) If a voluntary proceeding for winding up has commenced, the
29 corporation shall cease to conduct its activities except to the extent

1 necessary for beneficial winding up, to carry out the corporation's
2 purposes, and to preserve the corporation's goodwill or going-concern
3 value pending a sale or other disposition of its assets, or both, in
4 whole or in part. The board shall give written notice by mail of the
5 commencement of the proceeding for voluntary winding up to all members
6 (AS 10.21.990(21)) of the corporation. It is unnecessary to give
7 notice to members who voted in favor of winding up and dissolving of
8 the corporation. Written notice shall also be given by mail to all
9 known creditors and claimants whose addresses appear on the records of
10 the corporation, and to the commissioner.

11 Sec. 10.21.563. JURISDICTION AND POWER OF COURT OVER VOLUNTARY
12 WINDING UP; PROTECTION OF CREDITORS AND ASSETS. If a domestic corpo-
13 ration is in the process of voluntary winding up, the superior court,
14 upon the petition of the corporation, the commissioner, or three or
15 more creditors of the corporation, and upon notice to the members
16 (AS 10.21.990(21)) and creditors as the court may order, may take
17 jurisdiction over the voluntary winding up proceeding if it appears
18 necessary for the protection of a party in interest or if it appears
19 necessary to protect the purposes served by the corporation. The
20 court, if it assumes jurisdiction, may make orders as to any and all
21 matters concerning the winding up of the affairs of the corporation
22 and the protection of its creditors, assets, and purposes. The pro-
23 visions of AS 10.21.573 - 10.21.600 apply to court proceedings under
24 this section.

25 Sec. 10.21.565. CERTIFICATE OF DISSOLUTION; CONTENTS. (a) If a
26 domestic corporation has been completely wound up without court pro-
27 ceedings, a majority of the directors then in office shall sign and
28 verify a certificate of dissolution stating

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

1 (2) that its known debts and liabilities have been paid, or
2 adequately provided for, or paid or adequately provided for as far as
3 the corporation's assets permitted, or that it has incurred no known
4 debts or liabilities; if there are known debts or liabilities as to
5 which adequate provision for payment has been made, the name and
6 address of the corporation, person or governmental agency that has
7 assumed or guaranteed the payment, or the name and address of the
8 depository with which deposit has been made and other information as
9 necessary to enable the creditor or other person to whom payment is to
10 be made to appear and claim payment of the debt or liability;

11 (3) that its known assets have been distributed to the
12 persons entitled to the assets or that the corporation acquired no
13 known assets;

14 (4) that the corporation is dissolved.

15 (b) The certificate of dissolution shall be filed with the
16 commissioner. After filing the certificate of dissolution the corpo-
17 rate existence ceases, except for the purpose of further winding up if
18 needed.

19 Sec. 10.21.568. TERMINATION OF CORPORATION ON EXPIRATION OF TERM
20 OF EXISTENCE. Except as otherwise provided by law, if the term of
21 existence for which a public benefit corporation was organized expires
22 without renewal or extension, the board shall terminate its activities
23 and wind up its affairs. After the affairs of the corporation have
24 been wound up under this section, a majority of the directors then in
25 office shall execute and file a certificate of dissolution conforming
26 to the requirements in AS 10.21.565.

27 Sec. 10.21.570. PETITION FOR COURT ORDER DECLARING CORPORATION
28 DULY WOUND UP AND DISSOLVED. (a) Instead of filing a certificate of
29 dissolution, the board may petition the superior court for an order

1 declaring the corporation duly wound up and dissolved. The petition
2 shall be filed in the name of the corporation.

3 (b) Upon the filing of a petition under (a) of this section, the
4 court shall order all interested persons, including the commissioner
5 to show cause why an order should not be made declaring the corpora-
6 tion duly wound up and dissolved. The order shall be served by notice
7 to all creditors, claimants, and members (AS 10.21.990(21)) in the
8 same manner as the notice given under AS 10.21.593(b). Notice shall
9 also be served upon the commissioner.

10 (c) A person claiming to be an interested party to the winding
11 up and dissolution as a member creditor, or otherwise may appear in
12 the proceeding at any time before the expiration of 30 days from the
13 completion of publication of the order to show cause and contest the
14 petition. The claim of a person who fails to appear within 30 days is
15 barred.

16 (d) Thirty days after the filing of a petition under (a) of this
17 section, the court may issue an order declaring the corporation duly
18 wound up and dissolved. This order has the effect prescribed in
19 AS 10.21.595 and shall be filed in the same manner as provided under
20 AS 10.21.598.

21 Sec. 10.21.573. INVOLUNTARY DISSOLUTION; COMMISSIONER AS INDIS-
22 PENSABLE PARTY. (a) A complaint for involuntary dissolution of a
23 public benefit corporation on any of the grounds specified in (b) of
24 this section may be filed in the superior court by the following
25 persons:

- 26 (1) one-half or more of the directors in office;
27 (2) a person holding or authorized in writing by persons
28 holding not less than 33-1/3 percent of the voting power exclusive of
29 memberships held by persons who have personally participated in a

1 transaction listed in (b)(5) of this section;

2 (3) a member if the ground for dissolution is that the
3 period for which the corporation was formed has terminated without
4 extension;

5 (4) a person authorized to do so in the articles;

6 (5) the commissioner.

7 (b) The grounds for involuntary dissolution are:

8 (1) the corporation has abandoned its activity for more
9 than one year;

10 (2) the corporation has an even number of directors who are
11 equally divided and cannot agree as to the management of its affairs,
12 so that corporate activities can no longer be conducted to the corpo-
13 ration's advantage or so that there is danger that corporate property
14 will be impaired or lost or its activities impaired and the members
15 are so divided into factions that they cannot elect a board consisting
16 of an uneven number;

17 (3) there is internal dissension and factions of members in
18 the corporation are so deadlocked that corporate activities can no
19 longer be conducted to the advantage of the corporation;

20 (4) if, during a four-year period, or, if all voting power
21 has been exercised at two consecutive meetings or in two written
22 ballots for the election of directors during the period of those
23 meetings or ballots, whichever period is shorter, the members have
24 failed to elect successors to directors whose terms have expired or
25 would have expired upon election of their successors;

26 (5) members or other persons with a controlling interest
27 (AS 10.21.990(11)) in the corporation, officers, directors, or em-
28 ployees have been guilty of or have knowingly allowed persistent and
29 pervasive fraud, mismanagement, or abuse of authority or have mis-

1 applied or wasted the corporation's property;

2 (6) liquidation is reasonably necessary because the corpo-
3 ration is failing and has continuously failed to carry out its
4 purposes; or

5 (7) the period for which the corporation was formed has
6 terminated without extension.

7 (c) A creditor may intervene before trial of an action under
8 this section.

9 (d) In an action brought under (a) of this section the commis-
10 sioner is an indispensable party.

11 Sec. 10.21.575. AUTHORITY OF THE COMMISSIONER TO PROCURE INVOL-
12 UNTARY DISSOLUTION; GROUNDS; NOTICE FOR CORRECTIVE ACTIONS; APPOINT-
13 MENT OF RECEIVER. (a) The commissioner may bring an action against a
14 domestic corporation or purported corporation in the name of the
15 people of this state, on the commissioner's own information or on
16 complaint of a private party, to procure a judgment dissolving the
17 corporation and annulling, vacating, or forfeiting its corporate
18 existence if

19 (1) the corporation has seriously violated a statute reg-
20 ulating domestic corporations or charitable organizations;

21 (2) the corporation has fraudulently abused or usurped
22 corporate privileges or powers; or

23 (3) the corporation has violated a provision of law by an
24 act or default that under the law is a ground for forfeiture of corpo-
25 rate existence.

26 (b) If the ground for involuntary dissolution is an act that the
27 corporation has done or omitted to do that can be corrected by amend-
28 ment of its articles or by other corporate action, suit may not be
29 maintained unless

1 (1) the commissioner, not less than 30 days before the
2 commencement of suit, has given the corporation written notice of the
3 act or omission; and

4 (2) the corporation has failed to institute proceedings to
5 correct the act or omission within the 30-day period or after the
6 institution of proceedings to make the required correction the corpo-
7 ration fails to make the amendment or take the corrective corporate
8 action.

9 (c) In an action under this section the court may order disso-
10 lution or other relief. The court may also appoint a receiver for
11 winding up the affairs of the corporation or may order that the corpo-
12 ration be wound up by its board subject to the supervision of the
13 court.

14 (d) The commissioner shall publish one time, in a newspaper of
15 general circulation in the state, a notice to the members of the
16 corporation of the commencement of an action under this section.

17 Sec. 10.21.578. INVOLUNTARY DISSOLUTION BY THE COMMISSIONER;
18 GROUNDS; PROCEDURE; REINSTATEMENT. (a) A domestic corporation may be
19 dissolved involuntarily by the commissioner if

20 (1) the corporation is delinquent six months in filing its
21 annual report or in paying a license filing fee or penalty;

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

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

27 (4) the corporation has failed for two years to complete
28 dissolution under a certificate of election to dissolve;

29 (5) a vacancy (AS 10.21.990(31)) in the board of the corpo-

1 ration is not filled within six months or the next annual meeting,
2 whichever occurs first;

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

6 (7) the corporation is 90 days delinquent in filing notice
7 of change of an officer, director, or alien affiliate (AS 10.21.990-
8 (2) - (3)), as required by this chapter; or

9 (8) the corporation is controlled (AS 10.21.990(11)) by a
10 person who wilfully fails to comply with AS 10.21.078 within 30 days
11 after receipt by the corporation or its registered agent of notice of
12 noncompliance sent by the department by certified mail.

13 (b) A corporation may not be dissolved under this section unless
14 the commissioner has given the corporation at least 60 days' notice of
15 its delinquency, omission, or noncompliance by certified mail ad-
16 dressed to its registered office or in care of its registered agent,
17 chairman of the board, president, or secretary at the last known
18 address as shown by the records of the commissioner, and the corpo-
19 ration has failed, within 30 days after receipt of the notice, to
20 contest the alleged delinquency, omission, or noncompliance at a
21 hearing before the commissioner or, having failed to request a hear-
22 ing, has failed to correct the alleged delinquency, omission, or
23 noncompliance.

24 (c) If, following a hearing, the commissioner determines a
25 delinquency, omission, or noncompliance exists that is grounds for
26 involuntary dissolution under this section, the corporation may appeal
27 to the superior court by filing with the clerk a petition setting out
28 a copy of the notice given by the commissioner under (b) of this
29 section, together with a copy of a timely demand for a hearing by the

1 corporation, and a copy of a statement by the commissioner of an
2 intention to dissolve the corporation under (d) of this section. The
3 matter shall be tried de novo by the superior court, and the court
4 shall either sustain the commissioner or direct the commissioner to
5 take action the court considers proper.

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

21 (e) A corporation dissolved under this section may be reinstated
22 within two years from the date of the certificate of involuntary
23 dissolution if it is established to the satisfaction of the commis-
24 sioner that in fact there was no cause for the dissolution, or if the
25 delinquency, omission, or noncompliance resulting in dissolution has
26 been corrected and the corporation pays double the amount delinquent
27 along with the amount the corporation would have paid had it not been
28 dissolved during the two-year period. Reinstatement may not be autho-
29 rized if the same or a deceptively similar corporate, reserved, or

1 registered name is currently on file with the commissioner, unless the
2 corporation being reinstated amends its articles to change its name to
3 conform with the provisions of this chapter.

4 (f) Nothing in this section relieves a corporation reinstated
5 under this section from penalty or forfeiture of its powers as a body
6 corporate in a case of failure to pay subsequently accruing licensing
7 fees imposed by a law of this state.

8 (g) An action arising out of a contract assigned by a corpora-
9 tion dissolved under this section may be brought in the name of the
10 assignee. The fact of assignment and of purchase by the plaintiff
11 shall be set out in the complaint or other process. The defendant may
12 use any matter or defense that the defendant could have used in a suit
13 on the claim by the corporation, had it not been dissolved under this
14 section.

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

18 Sec. 10.21.580. DEADLOCK AS GROUND FOR INVOLUNTARY DISSOLUTION;
19 APPOINTMENT OF PROVISIONAL DIRECTOR. (a) If the ground for the
20 complaint for involuntary dissolution of the corporation is a deadlock
21 in the board as set out in AS 10.21.573(b)(2), the court may appoint a
22 provisional director.

23 (b) A party, an attorney of a party, or a person interested in
24 the action or related according to the common law by consanguinity or
25 affinity within the third degree to a judge of the court appointing
26 the provisional director, may not be appointed provisional director in
27 the action without the written consent of the parties, including the
28 party to be appointed, filed with the clerk. If a provisional direc-
29 tor is appointed upon an ex parte application, the court, before

1 making the order, must require from the applicant an undertaking, with
2 sufficient sureties, in an amount to be fixed by the court, to the
3 effect that the applicant will pay to the defendant all damages
4 sustained by reason of the appointment of the provisional director, in
5 case the applicant has procured the appointment wrongfully, malicious-
6 ly, or without sufficient cause. The court may, in its discretion, at
7 any time after the appointment, require an additional undertaking.

8 (c) Before entering upon the duties of a director, the provi-
9 sional director must be sworn to perform those duties faithfully, and
10 with two or more sureties, approved by the court, execute an undertak-
11 ing to the state, in a sum the court or judge directs, to the effect
12 that the provisional director will faithfully discharge the duties of
13 provisional director and obey the orders of the court in the action.

14 Sec. 10.21.583. APPOINTMENT OF RECEIVER; APPLICATION, HEARING
15 AND NOTICE, SECURITY, QUALIFICATIONS, POWERS, COMPENSATION. (a) If,
16 at the time of filing of a complaint for involuntary dissolution or at
17 a later time, the court has reasonable grounds to believe that unless
18 a receiver of the corporation is appointed the interests of the corpo-
19 ration or the public or charitable purpose of the corporation will
20 suffer pending the hearing and determination of the complaint, on
21 application of the plaintiff, and after a hearing on notice to the
22 corporation as the court directs and on the giving of security under
23 (b) and (c) of this section, the court may appoint a receiver to take
24 over and manage the affairs of the corporation and to preserve its
25 property pending the hearing and determination of the complaint for
26 dissolution. The commissioner may not be required to give security
27 under this section.

28 (b) A party, an attorney of a party, or a person interested in
29 the action or related according to the common law by consanguinity or

1 affinity within the third degree to a judge of the court appointing
2 the receiver, may not be appointed receiver in the action without the
3 written consent of the parties, including the party to be appointed,
4 filed with the clerk. If a receiver is appointed upon an ex parte
5 application, the court, before making the order, must require from the
6 applicant an undertaking, with sufficient sureties, in an amount to be
7 fixed by the court, to the effect that the applicant will pay to the
8 defendant all damages sustained by reason of the appointment of the
9 receiver, in case the applicant has procured the appointment wrongfully,
10 maliciously, or without sufficient cause. The court may, in its
11 discretion, at any time after the appointment, require an additional
12 undertaking.

13 (c) Before entering upon the duties of a receiver, the receiver
14 must be sworn to perform those duties faithfully, and with two or more
15 sureties, approved by the court or judge, execute an undertaking to
16 the state, in a sum the court or judge directs, to the effect that the
17 receiver will faithfully discharge the duties of receiver and obey the
18 orders of the court in the action.

19 (d) The compensation of the receiver shall be paid out of the
20 assets of the corporation and, unless otherwise agreed, shall be fixed
21 by the court.

22 Sec. 10.21.585. DECREE WINDING UP AND DISSOLVING CORPORATION:
23 FURTHER JUDICIAL RELIEF. After hearing the court may decree a winding
24 up and dissolution of the corporation if cause for winding up and
25 dissolution is shown, or with or without winding up and dissolution,
26 may make orders and decrees and issue injunctions in the case as
27 justice and equity may require.

28 Sec. 10.21.588. COMMENCEMENT OF INVOLUNTARY PROCEEDINGS; BOARD
29 TO CONDUCT AFFAIRS OF CORPORATION; CESSATION OF CORPORATE ACTIVITIES.

1 (a) Involuntary proceedings for winding up a public benefit corpora-
2 tion commence when an order for winding up is entered under AS 10.21.-
3 585.

4 (b) If an involuntary proceeding for winding up has commenced,
5 the board shall conduct the winding up of the affairs of the corpora-
6 tion, subject to the supervision of the court, unless other persons
7 are appointed by the court to conduct the winding up. The directors
8 or other persons may, subject to restrictions imposed by the court,
9 exercise their powers through the executive officers of the corpora-
10 tion without order of court.

11 (c) If an involuntary proceeding for winding up has commenced,
12 the corporation shall cease to conduct its activities except to the
13 extent necessary for the beneficial winding up of the corporation and
14 to preserve the corporation's goodwill or going concern value, pending
15 a sale or other disposition of its assets in whole or in part. The
16 directors shall mail written notice of the commencement of the pro-
17 ceeding for involuntary winding up to all members (AS 10.21.990(21))
18 and all known creditors and claimants whose addresses appear on the
19 records of the corporation, unless the order for winding up has been
20 stayed by appeal or the proceeding or the execution of the order has
21 been enjoined.

22 Sec. 10.21.590. JURISDICTION OF COURT IN INVOLUNTARY DISSOLU-
23 TION. If an involuntary proceeding for winding up has been commenced,
24 the jurisdiction of the court includes

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

1 (2) the determination or compromise of all claims of every
2 nature against the corporation or any of its property, and the deter-
3 mination of the amount of money or assets required to be retained to
4 pay or provide for the payment of claims;

5 (3) the presentation and filing of intermediate and final
6 accounts of the directors or other persons appointed to conduct the
7 winding up and hearing, the allowance, disallowance, or settlement of
8 the accounts and the discharge of the directors or other persons from
9 their duties and liabilities;

10 (4) the appointment of a master to hear and determine any
11 or all matters, with power or authority the court considers proper;

12 (5) the filling of vacancies on the board that the direc-
13 tors or members are unable to fill;

14 (6) the removal of a director if it appears that the direc-
15 tor has been guilty of dishonesty, misconduct, neglect, or breach of
16 trust in conducting the winding up or if the director is unable to
17 act; the court may order an election to fill a vacancy caused by the
18 removal of a director under this subsection, and may enjoin, for the
19 time it considers proper, the reelection of the removed director; or
20 the court, instead of ordering an election, may appoint a director to
21 fill the vacancy caused by removal under this paragraph; a director
22 appointed by the court under this paragraph shall serve until the next
23 regular meeting of members or until a successor is elected or appoint-
24 ed;

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

28 (8) the determination of whether adequate provision has
29 been made for payment or satisfaction of all debts and liabilities not

1 actually paid;

2 (9) the making of orders for the withdrawal or termination
3 of proceedings to wind up and dissolve, subject to conditions for the
4 protection of creditors;

5 (10) the making of an order, on the allowance or settlement
6 of the final accounts of the directors or other persons, that the
7 corporation has been duly wound up and is dissolved;

8 (11) the making of orders for the bringing in of new parties
9 the court considers proper for the determination of all questions and
10 matters; and

11 (12) the disposition of assets held in charitable trust.

12 Sec. 10.21.593. POWERS AND DUTIES OF DIRECTORS AND OFFICERS IN
13 DISSOLUTION PROCEEDING. The powers and duties of the directors, other
14 persons appointed by the court under AS 10.21.588, and officers after
15 commencement of a dissolution proceeding include, but are not limited
16 to, the following acts in the name and on behalf of the corporation:

17 (1) to elect officers and employ agents and attorneys to
18 liquidate or wind up the corporation's affairs;

19 (2) to continue to conduct the affairs of the corporation
20 to the extent necessary for disposal or winding up;

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

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

24 (5) to sue, in the name of the corporation, for all sums
25 due or owing to the corporation or to recover property of the corpo-
26 ration;

27 (6) to collect amounts remaining unpaid on memberships;

28 (7) to recover unlawful distributions;

29 (8) to sell at public or private sale, exchange, convey, or

1 otherwise dispose of all or a part of the assets of the corporation
2 for reasonable amounts as determined by the board and to execute bills
3 of sale and deeds of conveyance in the name of the corporation;

4 (9) in general, to make contracts and do all things in the
5 name of the corporation that are proper or convenient for the purposes
6 of winding up, settling, and liquidating the affairs of the corpo-
7 ration.

8 Sec. 10.21.595. VACANCIES ON BOARD DURING WINDING UP. A vacancy
9 (AS 10.21.990(31)) on the board may be filled during a winding up
10 proceeding in the manner provided in AS 10.21.385.

11 Sec. 10.21.598. PROCEEDING TO DETERMINE IDENTITY OF DIRECTORS OR
12 TO APPOINT DIRECTORS. If the identity of a director or the right to
13 hold office is in doubt, or if a director is dead or unable to act, a
14 director fails or refuses to act or the whereabouts of a director
15 cannot be ascertained, an interested person, including the commis-
16 sioner, may petition the superior court to determine the identity of
17 the director or, if there are no directors, to appoint directors to
18 wind up the affairs of the corporation, after hearing upon notice to
19 the person the court directs.

20 Sec. 10.21.600. RIGHTS OF CREDITORS AND CLAIMANTS; NOTICE;
21 ALLOWANCE OF CLAIMS. (a) In a court-directed winding up of a corpo-
22 ration creditors and claimants may be barred from participation in a
23 distribution of the general assets if they fail to make and present
24 claims and proofs within the time the court directs. The time in
25 which to present claims may not be less than four or more than six
26 months after the first publication of notice to creditors unless it
27 appears by affidavit that there are no claims, in which case the time
28 limit may be three months. If it is shown that a claimant did not
29 receive notice because of absence from the state or other cause, the

1 court may allow a claim to be filed or presented at any time before
2 distribution is completed.

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

11 (c) A holder of a secured claim may prove for the whole debt in
12 order to secure payment of a deficiency. If a secured creditor fails
13 to present a claim the claim is barred only as to a right to claim
14 against the general assets for a deficiency in the amount realized on
15 the security.

16 (d) Before a distribution is made in a court-directed winding up
17 the amount of an unmatured, contingent or disputed claim against the
18 corporation that has been presented and has not been disallowed, or
19 the part of a claim to which the holder would be entitled if the claim
20 were due, established, or absolute, shall be paid into court and
21 remain there to be paid over to the party if the party becomes enti-
22 tled to payment or, if the party fails to establish a claim, to be
23 paid over or distributed with the other assets of the corporation to
24 those entitled to the assets. Other provisions for the full payment
25 of unmatured, contingent, or disputed claims, if and when established,
26 may be made by the court. A creditor who has a claim that has been
27 allowed but is not yet due is entitled to the present value of the
28 claim upon distribution.

29 (e) A suit against the corporation on a claim that has been

1 rejected shall be commenced within 30 days after written notice of
2 rejection is given to the claimant.

3 Sec. 10.21.603. ORDER DECLARING CORPORATION DULY WOUND UP AND
4 DISSOLVED: CESSATION OF CORPORATE EXISTENCE. (a) After the final
5 settlement of the accounts of the directors or other persons appointed
6 under AS 10.21.588 and the determination that the corporation's af-
7 fairs are in condition for it to be dissolved, the court shall make an
8 order declaring the corporation duly wound up and dissolved.

9 (b) An order issued under (a) of this section shall state

10 (1) that the corporation has been duly wound up and that
11 its known debts and liabilities have been paid or adequately provided
12 for, or that the debts and liabilities have been paid as far as the
13 corporation's assets permit;

14 (2) if there are known debts or liabilities as to which
15 adequate provision for payment has been made, the order shall state
16 what provision has been made, the name and address of the corporation,
17 person, or governmental agency that has assumed or guaranteed the
18 payment, or the name and address of the depository with which deposit
19 has been made or other information that is necessary to enable the
20 creditor or other person to whom payment is to be made to appear and
21 claim payment of the debt or liability;

22 (3) that the known assets of the corporation have been
23 distributed to the persons entitled to the assets or that the corpo-
24 ration acquired no assets;

25 (4) that the accounts of directors or other persons have
26 been settled and that they are discharged from their duties and lia-
27 bilities to creditors and members;

28 (5) that the corporation is dissolved.

29 (c) The court may make additional orders and grant further

1 relief it considers proper on the evidence submitted.

2 (d) After making the order declaring the corporation dissolved,
3 corporate existence ceases except for the purposes of further winding
4 up if needed. The directors or other persons appointed under AS 10.-
5 21.588 are discharged from their duties and liabilities except with
6 respect to completion of the winding up.

7 Sec. 10.21.605. FILING OF CERTIFIED ORDER, DECREE OR JUDGMENT OF
8 DISSOLUTION. If a corporation is dissolved or its existence forfeited
9 by order, decree, or judgment of a court, a copy of the order, decree,
10 or judgment, certified by the clerk of court, shall be filed with the
11 commissioner.

12 Sec. 10.21.608. DISTRIBUTION OF REMAINING CORPORATE ASSETS. (a)
13 After determining that all of the known debts and liabilities of a
14 corporation in the process of winding up have been paid or adequately
15 provided for, the board shall distribute all the remaining corporate
16 assets in the manner provided in AS 10.21.613 - 10.21.618.

17 (b) If the winding up is by court proceeding or subject to court
18 supervision, the distribution may not be made until after the expira-
19 tion of any period for the presentation of claims that has been pre-
20 scribed by order of the court.

21 (c) Notwithstanding any other provision to the contrary, any
22 assets, that are not subject to attachment, execution, or sale for the
23 corporation's debts and liabilities may be distributed under AS 10.-
24 21.613 - 10.21.618 even though all debts and liabilities have not been
25 paid or adequately provided for.

26 Sec. 10.21.610. PAYMENT OF DEBTS AND LIABILITIES. (a) The
27 payment of a debt or liability, whether the whereabouts of the credi-
28 tor is known or unknown, has been adequately provided for if

29 (1) payment of the debt or liability has been assumed or

1 guaranteed in good faith by one or more financially responsible per-
2 sons or by the United States government or an agency of the United
3 States, and the provision, including the financial responsibility of
4 the persons, was determined in good faith and with reasonable care by
5 the board to be adequate at the time of distribution of the assets by
6 the board under this chapter;

7 (2) the amount of the debt or liability has been deposited
8 with the commissioner of revenue.

9 (b) This section does not prescribe the exclusive means of
10 making adequate provision for debts and liabilities.

11 Sec. 10.21.613. RETURN, TRANSFER, OR CONVEYANCE OF ASSETS.
12 After complying with the provisions of AS 10.21.608; if the corpora-
13 tion holds subject to a valid condition requiring return, transfer, or
14 conveyance, and the condition has occurred or will occur by reason of
15 the dissolution, the assets shall be returned, transferred, or con-
16 veyed in accordance with the condition.

17 Sec. 10.21.615. DISPOSITION OF ASSETS HELD FOR PUBLIC OR CHAR-
18 ITABLE PURPOSES. (a) Assets held in charitable trust (AS 10.21.185),
19 or received and held by the corporation for a public or charitable
20 purpose or that are legally required to be used for a particular
21 purpose shall, unless disposed of under AS 10.21.613, be distributed
22 to one or more domestic or foreign corporations or other organizations
23 engaged in activities substantially similar to those of the dissolved
24 corporation.

25 (b) A disposition contained in a will or other instrument, in
26 trust or otherwise, made before or after the dissolution, to or for
27 the benefit of a dissolved corporation inures to or for the benefit of
28 the corporation or organization acquiring the assets of the dissolved
29 corporation as provided in this section, and, so far as is necessary

1 for that purpose, the corporation or organization acquiring the assets
2 of the dissolved corporation is considered a successor to the dis-
3 solved corporation. Property received under this subsection shall be
4 devoted by the acquiring corporation or organization to the purposes
5 expressed by the testator or grantor.

6 Sec. 10.21.618. DISPOSAL OF CORPORATE ASSETS; DISPOSITION BY
7 COURT ORDER. (a) Subject to the provisions of AS 10.21.608 and
8 except as provided in AS 10.21.613 and AS 10.21.615, all of a corpo-
9 ration's assets shall be disposed of on dissolution in conformity with
10 its articles or bylaws subject to complying with the provisions of a
11 trust under which assets are held.

12 (b) The disposition required in (a) of this section shall be
13 made by decree of the superior court in proceedings to which the
14 commissioner is a party. The decree shall be made on the petition of
15 the commissioner or, on 30 days' notice to the commissioner, by a
16 person interested in the dissolution.

17 (c) Notwithstanding the provisions of (a) of this section, a
18 distribution of corporate assets may not be made to the members
19 (AS 10.21.990(21)), directors, officers, or employees of the corpo-
20 ration, or to its parent or its subsidiary (AS 10.21.990(29)) as such.

21 Sec. 10.21.620. DISTRIBUTIONS AUTHORIZED IN MONEY, PROPERTY, OR
22 SECURITIES; INSTALLMENTS. Subject to the provisions of a trust under
23 which assets to be distributed are held, distribution of assets may be
24 made either in money, property, or securities and either in periodic
25 installments or as a whole, if this can be done fairly and ratably and
26 in conformity with the provisions of the articles and bylaws. Dis-
27 tribution of assets shall be made as soon as reasonably consistent
28 with the beneficial liquidation of the corporation.

29 Sec. 10.21.623. RECOVERY OF IMPROPER DISTRIBUTIONS. (a) If a

1 distribution of assets has been made in the process of winding up,
2 without a court order or prior payment or adequate provision for
3 payment of the debts and liabilities of the corporation, the amount
4 improperly distributed to a person may be recovered by the corpora-
5 tion. A person who received an improper distribution may be joined as
6 a defendant in the same action or be brought in on the motion of
7 another defendant.

8 (b) Suit may be brought in the name of the corporation to en-
9 force the liability under (a) of this section against a person receiv-
10 ing a distribution by the commissioner or by a creditor of the corpo-
11 ration, whether or not the creditor has reduced the claim to judgment.

12 (c) As used in this section, "process of winding up" includes a
13 proceeding under AS 10.21.553 - 10.21.598 and another distribution of
14 assets to a person made in contemplation of termination or abandonment
15 of the corporate business.

16 Sec. 10.21.625. EXISTENCE OF CORPORATION AFTER DISSOLUTION. (a)
17 A corporation that is dissolved voluntarily or involuntarily continues
18 to exist for the purpose of winding up its affairs, prosecuting and
19 defending actions by or against it, enabling it to collect and dis-
20 charge obligations, dispose of and convey its property, and collect
21 and divide its assets, but not for the purpose of continuing its
22 activities except to the extent necessary for winding up.

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

26 (c) Assets inadvertently or otherwise omitted from the winding
27 up continue in the dissolved corporation for the benefit of the per-
28 sons entitled to the assets on dissolution of the corporation and on
29 realization shall be distributed to the persons entitled.

1 (d) The directors of the corporation on the date of its disso-
2 lution, or as determined under AS 10.21.605, shall exercise and have
3 the powers necessary to act under this section.

4 Sec. 10.21.628. SUITS AGAINST PERSONS TO WHOM ASSETS WERE DIS-
5 TRIBUTED UPON DISSOLUTION; QUIET TITLE ACTION. (a) If a corporation
6 has been dissolved, a person to whom assets were distributed on
7 dissolution may be sued in the corporate name upon a cause of action
8 against the corporation that arose before dissolution. Notice of the
9 action shall be given to the commissioner. The commissioner may
10 intervene in a suit brought under this section.

11 (b) Summons or other process against a dissolved corporation may
12 be served by delivering a copy to an officer, director, or person
13 having charge of the corporation's assets or, if no such person can be
14 found, to an agent on whom process might be served at the time of
15 dissolution. If it is shown by affidavit to the satisfaction of the
16 court that none of these persons can be found with due diligence then
17 the court may order that summons or other process be served on the
18 dissolved corporation by personally delivering a copy, together with a
19 copy of the order, to the commissioner. Service in this manner is
20 complete 10 days after the delivery of process to the commissioner.

21 (c) A dissolved corporation survives and continues to exist
22 indefinitely for the purpose of being sued in a quiet title action. A
23 judgment rendered in a quiet title action binds every person having an
24 interest in the corporation, to the extent of their interest. Service
25 of summons or other process may be made as provided in (b) of this
26 section.

27 (d) After receipt of the process under (b) of this section and
28 the fee for filing, the commissioner shall give notice to the corpo-
29 ration at the last known address of the corporation or at the last

1 known address of the last registered agent of the corporation. If
2 those addresses are not known the commissioner is not required to take
3 any action.

4 (e) This section is procedural in nature and is not intended to
5 determine liability.

6 Sec. 10.21.630. APPLICATION OF AS 10.21.633 - 10.21.710. The
7 provisions of AS 10.21.633 - 10.21.710 apply only to a mutual benefit
8 corporation.

9 Sec. 10.21.633. VOLUNTARY DISSOLUTION. (a) A corporation may
10 voluntarily elect to wind up and dissolve by the affirmative vote of
11 members representing at least two-thirds of its voting power.

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

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

15 (2) a corporation that has disposed of all of its assets
16 and has not conducted activity for a period of five years immediately
17 preceding the adoption of the resolution electing to dissolve the
18 corporation.

19 Sec. 10.21.635. FILING OF CERTIFICATE OF DISSOLUTION; CONTENTS.

20 (a) A corporation that has elected to wind up and dissolve shall file
21 a certificate evidencing the election with the commissioner.

22 (b) The certificate shall be signed and verified by at least a
23 majority of the directors then in office or by one or more members
24 (AS 10.21.990(21)) authorized to do so by the affirmative vote of
25 members representing at least two-thirds of its voting power and shall
26 contain

27 (1) a statement that the corporation has elected to wind up
28 and dissolve;

29 (2) a statement of the number of votes for the election if

1 the election was made by vote of the members alone and that the elec-
2 tion was made by the affirmative vote of members representing at least
3 two-thirds of its voting power;

4 (3) if the certificate is executed by a member, a statement
5 that the person executing the certificate was authorized to execute
6 the certificate by the affirmative vote of members representing at
7 least two-thirds of its voting power;

8 (4) if the election was made by the board under AS 10.21.-
9 633(b), a statement of the circumstances showing the corporation to be
10 in one of the categories described in AS 10.21.633(b).

11 Sec. 10.21.638. REVOCATION OF ELECTION TO WIND UP AND DISSOLVE
12 CORPORATION; FILING OF REVOCATION CERTIFICATE; CONTENTS. (a) A
13 voluntary election to wind up and dissolve under AS 10.21.633 may be
14 revoked before distribution of assets

15 (1) if the election was made under AS 10.21.633(a), by the
16 affirmative vote of members representing at least two-thirds of its
17 voting power; or

18 (2) if the election was by the board under AS 10.21.633(b),
19 by approval of the board (AS 10.21.990(4)).

20 (b) After a revocation a certificate evidencing the revocation
21 shall be signed, verified, and filed in the manner prescribed by
22 AS 10.21.635.

23 (c) The certificate required by (b) of this section shall con-
24 tain

25 (1) a statement that the corporation has revoked its elec-
26 tion to wind up and dissolve;

27 (2) a statement that no assets have been distributed as a
28 result of the election;

29 (3) a statement of the number of votes for the revocation

1 and that the revocation was made by the affirmative vote of members
2 representing at least two-thirds of its voting power, if the revoca-
3 tion was made by the vote of the members alone;

4 (4) a statement of whether or not the revocation was made
5 by the board alone and reciting the circumstances permitting the board
6 to make the revocation.

7 Sec. 10.21.640. COMMENCEMENT AND CONDUCT OF VOLUNTARY DISSOLU-
8 TION; POWERS AND DUTIES OF THE BOARD; CESSATION OF CORPORATE ACTIVI-
9 TIES; NOTICE OF COMMENCEMENT OF PROCEEDINGS. (a) Voluntary proceed-
10 ings for winding up the corporation commence upon the adoption by the
11 members, or by the board, of the resolution electing to wind up and
12 dissolve required under AS 10.21.633.

13 (b) If a voluntary proceeding for winding up has commenced, the
14 board shall continue to act as a board and has full powers to wind up
15 and settle the corporation's affairs both before and after filing of
16 the certificate of dissolution.

17 (c) If a voluntary proceeding for winding up has commenced, the
18 corporation shall cease to conduct its activities except to the extent
19 necessary for beneficial winding up, to carry out the corporation's
20 purposes, and to preserve the corporation's goodwill or going-concern
21 value pending a sale or other disposition of assets, or both, in whole
22 or in part. The board shall give written notice by mail of the com-
23 mencement of the proceeding for voluntary winding up to all members
24 (AS 10.21.990(21)) of the corporation. It is unnecessary to give
25 notice to members who voted in favor of the winding up and dissolving
26 of the corporation. Written notice shall also be given by mail to all
27 known creditors and claimants whose addresses appear on the records of
28 the corporation, and to the commissioner.

29 Sec. 10.21.643. JURISDICTION AND POWER OF COURT OVER VOLUNTARY

1 WINDING UP; PROTECTION OF CREDITORS AND ASSETS. If a corporation is
2 in the process of voluntary winding up, the superior court, upon the
3 petition of the corporation, the members representing 10 percent of
4 the voting power of the corporation, the commissioner or three or more
5 creditors, and upon notice to the members (AS 10.21.990(21)) and
6 creditors as the court may order, may take jurisdiction over the
7 voluntary winding up proceeding if it appears necessary for the pro-
8 tection of a party in interest, or in the case of a corporation hold-
9 ing assets in charitable trust, for the protection of these assets.
10 The court, if it assumes jurisdiction, may make orders as to any and
11 all matters concerning the winding up of the affairs of the corpora-
12 tion and the protection of its members, creditors, and, in the case of
13 a corporation holding assets in charitable trust, assets. The provi-
14 sions of AS 10.21.653 - 10.21.678 apply to court proceedings under
15 this section.

16 Sec. 10.21.645. CERTIFICATE OF DISSOLUTION; CONTENTS. (a) If a
17 corporation has been completely wound up without court proceedings, a
18 majority of the directors then in office shall sign and verify a
19 certificate of dissolution stating

20 (1) that the corporation has been completely wound up;
21 (2) that its known debts and liabilities have been paid, or
22 adequately provided for, or paid or adequately provided for as far as
23 the corporation's assets permitted, or that it has incurred no known
24 debts or liabilities; if there are known debts or liabilities as to
25 which adequate provision has been made, the certificate shall state
26 what provision for payment has been made, the name and address of the
27 corporation, person, or governmental agency that has assumed or guar-
28 anteed the payment, or the name and address of the depository with
29 which deposit has been made and other information that is necessary to

1 enable the creditor or other person to whom payment is to be made to
2 appear and claim payment of the debt or liability;

3 (3) that its known assets have been distributed to the
4 person entitled to the assets or that the corporation acquired no
5 known assets, as the case may be;

6 (4) that the corporation is dissolved.

7 (b) The certificate of dissolution shall be filed with the
8 commissioner. After filing the certificate of dissolution, corporate
9 existence ceases, except for the purpose of further winding up if
10 needed.

11 Sec. 10.21.648. TERMINATION OF CORPORATION ON EXPIRATION OF TERM
12 OF EXISTENCE. Except as otherwise provided by law, if the term of
13 existence for which a corporation was organized expires without renew-
14 al or extension, the board shall terminate its activities and wind up
15 its affairs. After the affairs of the corporation have been wound up
16 under this section, a majority of the directors then in office shall
17 execute and file a certificate conforming to the requirements in
18 AS 10.21.648.

19 Sec. 10.21.650. PETITION FOR COURT ORDER DECLARING CORPORATION
20 DULY WOUND UP AND DISSOLVED. (a) Instead of filing a certificate of
21 dissolution, the board may petition the superior court of the proper
22 county for an order declaring the corporation duly wound up and dis-
23 solved. The petition shall be filed in the name of the corporation.

24 (b) Upon the filing of a petition under (a) of this section, the
25 court shall order all interested persons, including the commissioner,
26 to show cause why an order should not be made declaring the corpo-
27 ration duly wound up and dissolved. The order shall be served by
28 notice to all creditors, claimants, and members (AS 10.21.990(21)) in
29 the same manner as the notice given under AS 10.21.673(b). Notice

1 shall also be served on the commissioner.

2 (c) A person claiming to be an interested party to the winding
3 up or dissolution as a member, creditor, or otherwise may appear in
4 the proceeding at any time before the expiration of 30 days from the
5 completion of publication of the order to show cause and contest the
6 petition. The claim of a person who fails to appear shall be barred.

7 (d) Thirty days after the filing of a petition under (a) of this
8 section, the court may issue an order declaring the corporation duly
9 wound up and dissolved. This order has the effect prescribed in
10 AS 10.21.675 and shall be filed as in the same manner provided in
11 AS 10.21.678.

12 Sec. 10.21.653. INVOLUNTARY DISSOLUTION; COMMISSIONER AS INDIS-
13 PENSABLE PARTY. (a) A complaint for involuntary dissolution of a
14 corporation on any of the grounds specified in (b) of this section may
15 be filed in the superior court by the following persons:

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

17 (2) a person holding or authorized in writing by persons
18 holding not less than 33 1/3 percent of the voting power exclusive of
19 memberships held by persons who have personally participated in a
20 transaction listed in (b)(5) of this section;

21 (3) a member if the ground for dissolution is that the
22 period for which the corporation was formed has terminated without
23 extension;

24 (4) a person authorized to do so in the articles;

25 (5) the commissioner.

26 (b) The grounds for involuntary dissolution are:

27 (1) the corporation has an even number of directors who are
28 equally divided and cannot agree as to the management of its affairs,
29 so that the corporate activities can no longer be conducted to the

1 corporation's advantage or so that there is danger that corporate
2 property will be impaired or lost or its activities impaired and the
3 members are so divided into factions that they cannot elect a board
4 consisting of an uneven number;

5 (2) there is internal dissention and factions of members in
6 the corporation are so deadlocked that corporate activities can no
7 longer be conducted to the advantage of the corporation;

8 (3) if during any four-year period, or, if all voting power
9 has been exercised at two consecutive meetings or in two written
10 ballots for the election of directors during the period of those
11 meetings or ballots, whichever period is shorter, the members have
12 failed to elect successors to directors whose terms have expired or
13 would have expired on the election of their successors;

14 (4) members or other persons with a controlling interest
15 (AS 10.21.990(11)) in the corporation, the officers, or directors have
16 been guilty of or have knowingly allowed persistent and pervasive
17 fraud, mismanagement or abuse of authority, persistent unfairness
18 toward a member, have misapplied or wasted the corporation's property;

19 (5) in the case of a corporation with 35 or fewer members
20 (AS 10.21.990(21)), liquidation is reasonably necessary for the pro-
21 tection of the rights or interests of a complaining member or members;

22 (6) the period for which the corporation was formed has
23 terminated without extension.

24 (c) A member, creditor, or the commissioner may intervene before
25 trial of an action under this section.

26 (d) In an action brought under (a) of this section the commis-
27 sioner is an indispensable party.

28 Sec. 10.21.655. AUTHORITY OF THE COMMISSIONER TO PROCURE INVOL-
29 UNTARY DISSOLUTION; GROUNDS; NOTICE FOR CORRECTIVE ACTION: APPOINTMENT

1 OF RECEIVER. (a) The commissioner may bring an action against a
2 corporation or purported corporation in the name of the people of this
3 state, upon the commissioner's own information or upon complaint of a
4 private party, to procure a judgment dissolving the corporation and
5 terminating its corporate existence if

6 (1) the corporation has seriously violated a statute
7 regulating corporations;

8 (2) the corporation has fraudulently abused or usurped
9 corporate privileges or powers; or

10 (3) the corporation has violated a provision of law by an
11 act or default that under the law is a ground for forfeiture of corpo-
12 rate existence.

13 (b) If the ground for involuntary dissolution is a matter or act
14 that the corporation has done or omitted to do that can be corrected
15 by amendment of its articles or by other corporate action, suit may
16 not be maintained unless

17 (1) the commissioner, not less than 30 days before the
18 commencement of suit, has given the corporation written notice of the
19 act or omission; and

20 (2) the corporation fails to institute proceedings to
21 correct the act or omission within the 30-day period or after the
22 institution of proceedings to make the required correction the corpo-
23 ration fails to make the amendment or take the corrective corporate
24 action.

25 (c) In an action under this section the court may order disso-
26 lution or other relief. The court may also appoint a receiver for
27 winding up the affairs of the corporation or may order that the corpo-
28 ration be wound up by its board subject to the supervision of the
29 court.

1 (d) The commissioner shall also publish one time in a newspaper
2 of general circulation in the state a notice to the members of the
3 corporation of the commencement of an action under this section.

4 Sec. 10.21.658. INVOLUNTARY DISSOLUTION BY THE COMMISSIONER;
5 GROUNDS; PROCEDURE; REINSTATEMENT. (a) A corporation may be dis-
6 solved involuntarily by the commissioner if

7 (1) the corporation is delinquent six months in filing its
8 annual report or in paying a license filing fee or penalty;

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

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

14 (4) the corporation has failed for two years to complete
15 dissolution under a certificate of election to dissolve (AS 10.21.-
16 635);

17 (5) a vacancy (AS 10.21.990(31)) in the board of the corpo-
18 ration is not filled within six months or the next annual meeting,
19 whichever occurs first;

20 (6) a misrepresentation of material fact has been made in
21 the application, report, affidavit or other document submitted under
22 this chapter;

23 (7) the corporation is 90 days delinquent in filing notice
24 of change of an officer, director, or alien affiliate (AS 10.21.990-
25 (2) - (3)), as required by this chapter; or

26 (8) the corporation is controlled (AS 10.21.990(11)) by a
27 person who wilfully fails to comply with AS 10.21.078 within 30 days
28 after receipt by the corporation or its registered agent of notice of
29 noncompliance sent by the department by certified mail.

1 (b) A corporation may not be dissolved under this section unless
2 the commissioner has given the corporation at least 60 days' notice of
3 its delinquency, omission, or noncompliance by certified mail ad-
4 dressed to its registered office or in care of its registered agent,
5 chairman of the board, president, or secretary at the last known
6 address as shown by the records of the commissioner, and the
7 corporation has failed, within 30 days after receipt of the notice, to
8 contest the alleged delinquency, omission, or noncompliance at a
9 hearing before the commissioner or, having failed to request a hear-
10 ing, has failed to correct the alleged delinquency, omission, or
11 noncompliance.

12 (c) If, following a hearing, the commissioner determines a
13 delinquency, omission, or noncompliance exists that provides grounds
14 for involuntary dissolution under this section, the corporation may
15 appeal to the superior court by filing with the clerk a petition
16 setting out a copy of the notice given by the commissioner under (b)
17 of this section, together with a copy of a timely demand for a hearing
18 by the corporation, and a copy of a statement by the commissioner of
19 an intention to dissolve the corporation under (d) of this section.
20 The matter shall be tried de novo by the superior court, and the court
21 shall either sustain the commissioner or direct the commissioner to
22 take action the court considers proper.

23 (d) If a corporation has given cause for involuntary dissolution
24 and has failed to correct the delinquency, omission, or noncompliance
25 as provided in this section, and there has been no order of the supe-
26 rior court, the commissioner shall dissolve the corporation by issuing
27 a certificate of involuntary dissolution containing a statement that
28 the corporation has been dissolved, the date, and the reason for which
29 it was dissolved. The original certificate of dissolution shall be

1 placed in the department files and a copy of it mailed to the corpo-
2 ration at its registered office or in care of its registered agent,
3 president, or secretary at the last known address, as shown by the
4 records of the commissioner. Upon the issuance of the certificate of
5 involuntary dissolution, the existence of the corporation ceases,
6 except as otherwise provided in this section, and its name shall be
7 available to and may be adopted by another corporation after at least
8 six months following the dissolution.

9 (e) A corporation dissolved under this section may be reinstated
10 within two years from the date of the certificate of involuntary
11 dissolution if it is established to the satisfaction of the commis-
12 sioner that in fact there was no cause for the dissolution, or if the
13 delinquency, omission, or noncompliance resulting in dissolution has
14 been corrected and the corporation pays double the amount delinquent
15 along with the amount the corporation would have paid had it not been
16 dissolved during the two-year period. Reinstatement may not be autho-
17 rized if the same or a deceptively similar corporate, reserved, or
18 registered name is currently on file with the commissioner, unless the
19 corporation being reinstated amends its articles to change its name to
20 conform with the provisions of this chapter.

21 (f) Nothing in this section relieves a corporation reinstated
22 under this section from penalty or forfeiture of its powers as a body
23 corporate in a case of failure to pay subsequently accruing licensing
24 fees imposed by a law of this state.

25 (g) An action arising out of a contract assigned by a corpo-
26 ration dissolved under this section may be brought in the name of the
27 assignee. The fact of assignment and of purchase by the plaintiff
28 shall be set out in the complaint or other process. The defendant may
29 use any matter or defense the defendant could have used in a suit on

1 the claim by the corporation, had it not been dissolved under this
2 section.

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

6 Sec. 10.21.660. DEADLOCK AS GROUND FOR INVOLUNTARY DISSOLUTION:
7 APPOINTMENT OF PROVISIONAL DIRECTOR. (a) If the ground for the
8 complaint for involuntary dissolution of the corporation is a deadlock
9 in the board as set out in AS 10.21.653(b)(1), the court may appoint a
10 provisional director.

11 (b) A party, an attorney of a party, or a person interested in
12 the action, or related according to the common law by consanguinity or
13 affinity within the third degree of kindred to a judge of the court
14 appointing the provisional director may not be appointed provisional
15 director in the action without the written consent of the parties,
16 including the party to be appointed, filed with the clerk. If a
17 provisional director is appointed upon an ex parte application, the
18 court, before making the order, must require from the applicant an
19 undertaking with sufficient sureties, in an amount to be fixed by the
20 court, to the effect that the applicant will pay to the defendant all
21 damages sustained by reason of the appointment of the provisional
22 director in case the applicant has procured the appointment wrongfully,
23 maliciously, or without sufficient cause. The court may, in its
24 discretion, at any time after the appointment, require an additional
25 undertaking.

26 (c) Before entering upon the duties of a director, the provi-
27 sional director must be sworn to perform those duties faithfully, and
28 with two or more sureties, approved by the court, execute an undertak-
29 ing to the state, in a sum the court or judge directs, to the effect

1 that the provisional director will faithfully discharge the duties of
2 provisional director and obey the orders of the court in the action.

3 Sec. 10.21.663. APPOINTMENT OF A RECEIVER: APPLICATION, HEARING
4 AND NOTICE, SECURITY, QUALIFICATIONS, POWERS, COMPENSATION. (a) If
5 at the time of filing of a complaint for involuntary dissolution or at
6 a later time, the court has reasonable grounds to believe that unless
7 a receiver of the corporation is appointed the interests of the corpo-
8 ration or its members will suffer pending the hearing and determina-
9 tion of the complaint, upon application of the plaintiff, and after a
10 hearing upon notice to the corporation as the court directs and upon
11 the giving of security under (b) and (c) of this section, the court
12 may appoint a receiver to take over and manage the affairs of the
13 corporation and to preserve its property pending the hearing and
14 determination of the complaint for dissolution. The commissioner may
15 not be required to give security under this section.

16 (b) A party, an attorney of a party, or any person interested in
17 an action or related according to the common law by consanguinity or
18 affinity within the third degree of kindred to a judge of the court
19 appointing the receiver, may not be appointed receiver in the action
20 without the written consent of the parties, including the party to be
21 appointed, filed with the clerk. If a receiver is appointed upon an
22 ex parte application, the court, before making the order, must require
23 from the applicant an undertaking, with sufficient sureties, in an
24 amount to be fixed by the court, to the effect that the applicant will
25 pay to the defendant all damages sustained by reason of the appoint-
26 ment of the receiver, in case the applicant has procured the appoint-
27 ment wrongfully, maliciously, or without sufficient cause. The court
28 may, in its discretion, at any time after the appointment, require an
29 additional undertaking.

1 (c) Before entering upon the duties of a receiver, the receiver
2 must be sworn to perform those duties faithfully, and with two or more
3 sureties, approved by the court or judge, execute an undertaking to
4 the state, in a sum the court or judge directs, to the effect that the
5 receiver will faithfully discharge the duties of receiver and obey the
6 orders of the court in the action.

7 (d) The compensation of the receiver shall be paid out of the
8 assets of the corporation and unless otherwise agreed shall be fixed
9 by the court.

10 Sec. 10.21.665. DECREE WINDING UP AND DISSOLVING CORPORATION:
11 FURTHER JUDICIAL RELIEF. After hearing the court may decree a winding
12 up and dissolution of the corporation if cause for winding up and
13 dissolution is shown, or with or without winding up and dissolution,
14 may make orders and decrees and issue injunctions in the case as
15 justice and equity may require.

16 Sec. 10.21.668. COMMENCEMENT OF INVOLUNTARY PROCEEDINGS; BOARD
17 TO CONDUCT AFFAIRS OF CORPORATION; CESSATION OF CORPORATE ACTIVITIES.

18 (a) Involuntary proceedings for winding up a mutual benefit corpo-
19 ration commence when an order for winding up is entered under AS 10.-
20 21.665.

21 (b) If an involuntary proceeding for winding up has commenced,
22 the board shall conduct the winding up of the affairs of the corpo-
23 ration, subject to the supervision of the court, unless other persons
24 are appointed by the court to conduct the winding up. The directors
25 or other persons may, subject to restrictions imposed by the court,
26 exercise their powers through the executive officers of the corpo-
27 ration without order of court.

28 (c) If an involuntary proceeding for winding up has commenced,
29 the corporation shall cease to conduct its activities except to the

1 extent necessary for the beneficial winding up of the corporation and
2 to preserve the corporation's goodwill or going concern value, pending
3 a sale or other disposition of its assets in whole or in part. The
4 directors shall mail written notice of the commencement of the pro-
5 ceeding for involuntary winding up to all members (AS 10.21.990(21))
6 and all known creditors and claimants whose addresses appear on the
7 records of the corporation, unless the order for winding up has been
8 stayed by appeal or the proceeding or the execution of the order has
9 been enjoined.

10 Sec. 10.21.670. JURISDICTION OF COURT IN INVOLUNTARY DISSO-
11 LUTION. If an involuntary proceeding for winding up has been com-
12 menced, the jurisdiction of the court includes

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

18 (2) the determination or compromise of all claims of every
19 nature against the corporation or its property, and the determination
20 of the amount of money or assets required to be retained to pay or
21 provide for the payment of claims;

22 (3) the determination of the rights of members and classes
23 of members in and to the assets of the corporation;

24 (4) the presentation and filing of intermediate and final
25 accounts of the directors or other persons appointed to conduct the
26 winding up and hearing, the allowance, disallowance or settlement of
27 the accounts, and the discharge of the directors or other persons from
28 their duties and liabilities;

29 (5) the appointment of a master to hear and determine all

1 matters, with the power or authority the court considers proper;

2 (6) the filling of vacancies on the board that the direc-
3 tors or members are unable to fill;

4 (7) the removal of a director if it appears that the direc-
5 tor has been guilty of dishonesty, misconduct, neglect, or breach of
6 trust in conducting the winding up or if the director is unable to
7 act; the court may order an election to fill the vacancy caused by the
8 removal of a director under this section, and may enjoin, for the time
9 it considers proper, the reelection of the removed director; or the
10 court, instead of ordering an election, may appoint a director to fill
11 the vacancy caused by removal under this paragraph; a director ap-
12 pointed by the court under this paragraph shall serve until the next
13 regular meeting of members or until a successor is elected or appoint-
14 ed;

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

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

21 (10) the making of orders for the withdrawal or termination
22 of proceedings to wind up and dissolve, subject to conditions for the
23 protection of creditors;

24 (11) the making of an order, upon the allowance or settle-
25 ment of the final accounts of the directors or other persons, that the
26 corporation has been duly wound up and is dissolved;

27 (12) the making of orders for the bringing in of new parties
28 the court considers proper for the determination of all questions and
29 matters; and

1 (13) the disposition of assets held in charitable trust.

2 Sec. 10.21.673. POWERS AND DUTIES OF DIRECTORS AND OFFICERS IN
3 DISSOLUTION PROCEEDING. The powers and duties of the directors, other
4 persons appointed by the court under AS 10.21.668, and officers after
5 commencement of a dissolution proceeding include, but are not limited
6 to, the following acts in the name and on behalf of the corporation:

7 (1) to elect officers and employ agents and attorneys to
8 liquidate or wind up the corporation's affairs;

9 (2) to continue to conduct the affairs of the corporation
10 to the extent necessary for disposal or winding up;

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

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

14 (5) to sue, in the name of the corporation, for all sums
15 due or owing to the corporation or to recover the corporation's prop-
16 erty;

17 (6) to collect amounts remaining unpaid on memberships;

18 (7) to recover unlawful distributions;

19 (8) to sell at public or private sale, exchange, convey, or
20 otherwise dispose of all or a part of the assets of the corporation
21 for reasonable amounts as determined by the board and to execute bills
22 of sale and deeds of conveyance in the name of the corporation;

23 (9) in general, to make contracts and do all things in the
24 name of the corporation that are proper or convenient for the purposes
25 of winding up, settling, and liquidating the affairs of the corpora-
26 tion.

27 Sec. 10.21.675. VACANCIES ON BOARD DURING WINDING UP. A vacancy
28 (AS 10.21.990(31)) on the board may be filled during a winding up
29 proceeding in the manner provided in AS 10.21.385.

1 Sec. 10.21.678. MUTUAL BENEFIT CORPORATIONS: PROCEEDING TO
2 DETERMINE IDENTITY OF DIRECTORS OR TO APPOINT DIRECTORS. If the
3 identity of a director or the right to hold office is in doubt, or if
4 a director is dead or unable to act, or a director fails or refuses to
5 act or the whereabouts of a director cannot be ascertained, an inter-
6 ested person, including the commissioner, may petition the superior
7 court to determine the identity of the director or, if there are no
8 directors, to appoint directors to wind up the affairs of the corpo-
9 ration, after hearing upon notice to the persons the court directs.

10 Sec. 10.21.680. RIGHTS OF CREDITORS AND CLAIMANTS; NOTICE;
11 ALLOWANCE OF CLAIMS. (a) In a court-directed winding up of a corpo-
12 ration, creditors and claimants may be barred from participation in a
13 distribution of the general assets if they fail to make and present
14 claims and proofs within the time the court directs. The time in
15 which to present claims may not be less than four or more than six
16 months after the first publication of notice to creditors unless it
17 appears by affidavit that there are no claims, in which case the time
18 limit may be three months. If it is shown that a claimant did not
19 receive notice because of absence from the state or other cause, the
20 court may allow a claim to be filed or presented at any time before
21 distribution is completed.

22 (b) Notice to creditors in a court-directed winding up shall be
23 published not less than once a week for three consecutive weeks in a
24 newspaper of general circulation in the state or in a newspaper des-
25 ignated by the court. The notice shall direct creditors and claimants
26 to make and present claims and proofs to the person, at the place and
27 within the time specified in the notice. A copy of the notice shall
28 be mailed to the last known address of each person shown as a creditor
29 or claimant on the books of the corporation.

1 (c) A holder of a secured claim may prove for the whole debt in
2 order to secure payment of a deficiency. If a secured creditor fails
3 to present a claim, the claim shall be barred only as to a right to
4 claim against the general assets for a deficiency in the amount rea-
5 lized on the security.

6 (d) Before a distribution is made in a court-directed winding up
7 the amount of an unmatured, contingent, or disputed claim against the
8 corporation that has been presented and has not been disallowed, or
9 the part of a claim to which the holder would be entitled if the claim
10 were due, established, or absolute, shall be paid into court and
11 remain there to be paid over to the party if the party becomes enti-
12 tled to payment or, if the party fails to establish a claim, to be
13 paid over or distributed with the other assets of the corporation to
14 those entitled to the assets. Other provisions for the full payment
15 of unmatured, contingent, or disputed claims, if and when established,
16 may be made by the court. A creditor who has a claim that has been
17 allowed but is not yet due is entitled to the present value of the
18 claim upon distribution.

19 (e) A suit against the corporation on a claim that has been
20 rejected must be commenced within 30 days after written notice of
21 rejection is given to the claimant.

22 Sec. 10.21.683. ORDER DECLARING CORPORATION DULY WOUND UP AND
23 DISSOLVED; CESSATION OF CORPORATE EXISTENCE. (a) After the final
24 settlement of the accounts of the directors or other person appointed
25 under AS 10.21.668 and the determination that the corporation's
26 affairs are in condition for it to be dissolved, the court shall make
27 an order declaring the corporation duly wound up and dissolved.

28 (b) An order issued under (a) of this section shall state

29 (1) that the corporation has been duly wound up and that

1 its known debts and liabilities have been paid or adequately provided
2 for, or that the debts and liabilities have been paid as far as the
3 corporation's assets permit;

4 (2) if there are known debts or liabilities for which
5 adequate provision for payment has been made, the order shall state
6 what provision has been made, the name and address of the corporation,
7 person, or governmental agency that has assumed or guaranteed the
8 payment, or the name and address of the depository with which deposit
9 has been made or other information as is necessary to enable the
10 creditor or other person to whom payment is to be made to appear and
11 claim payment of the debt or liability;

12 (3) that the known assets of the corporation have been
13 distributed to the persons entitled to the assets or that the corpo-
14 ration acquired no assets;

15 (4) that the accounts of directors or other persons have
16 been settled and that they are discharged from their duties and lia-
17 bilities to creditors and members;

18 (5) that the corporation is dissolved.

19 (c) The court may make additional orders and grant further
20 relief as it considers proper on the evidence submitted.

21 (d) After making the order declaring the corporation dissolved,
22 corporate existence ceases except for the purposes of further winding
23 up if needed. The directors or other persons appointed under AS 10.-
24 21.668 are discharged from their duties and liabilities except with
25 regard to completion of the winding up.

26 Sec. 10.21.685. FILING OF CERTIFIED ORDER, DECREE OR JUDGMENT OF
27 DISSOLUTION. If a corporation is dissolved or its existence forfeited
28 by order, decree, or judgment of a court, a copy of the order, decree,
29 or judgment, certified by the clerk of court, shall be filed with the

1 commissioner.

2 Sec. 10.21.688. DISTRIBUTION OF REMAINING CORPORATE ASSETS. (a)
3 After determining that all of the known debts and liabilities of a
4 corporation in the process of winding up have been paid or adequately
5 provided for, the board shall distribute all the remaining corporate
6 assets in the manner provided in AS 10.21.693 - 10.21.697.

7 (b) If the winding up is by court proceeding or subject to court
8 supervision, the distribution may not be made until after the expira-
9 tion of a period for the presentation of claims prescribed by order of
10 the court.

11 (c) Notwithstanding another provision to the contrary, any
12 assets that are not subject to attachment, execution or sale for the
13 corporation's debts and liabilities may be distributed under AS 10.-
14 21.693 - 10.21.697 even though all debts and liabilities have not been
15 paid or adequately provided for.

16 Sec. 10.21.690. PAYMENT OF DEBTS AND LIABILITIES. (a) The
17 payment of a debt or liability, whether the whereabouts of the credi-
18 tor is known or unknown, has been adequately provided for if

19 (1) payment of the debt or liability has been assumed or
20 guaranteed in good faith by one or more financially responsible per-
21 sons or by the United States government or an agency of the United
22 States government, and the provision, including the financial respon-
23 sibility of the persons, was determined in good faith and with reason-
24 able care by the board to be adequate at the time of distribution of
25 the assets by the board under this chapter;

26 (2) the amount of the debt or liability has been deposited
27 with the commissioner of revenue.

28 (b) This section does not prescribe the exclusive means of
29 making adequate provision for debts and liabilities.

1 Sec. 10.21.693. RETURN, TRANSFER, OR CONVEYANCE OF ASSETS.
2 After complying with the provisions of AS 10.21.688, if the corpo-
3 ration holds assets subject to a valid condition requiring return,
4 transfer, or conveyance, and the condition has occurred or will occur
5 by reason of the dissolution, the assets shall be returned, trans-
6 ferred, or conveyed in accordance with the condition.

7 Sec. 10.21.695. DISPOSAL OF CORPORATE ASSETS; DISPOSITION BY
8 COURT ORDER. (a) Subject to the provisions of AS 10.21.688, except
9 as provided in AS 10.21.693, all of a corporation's assets shall be
10 disposed of on dissolution in conformity with its articles or bylaws
11 and complying with the provisions of a trust under which assets are
12 held.

13 (b) Except as provided in (c) of this section, the disposition
14 required in (a) of this section shall be made by decree of the supe-
15 rior court of the proper county in proceedings to which the commis-
16 sioner is a party. The decree shall be made on the petition of the
17 commissioner or, on 30 days' notice to the commissioner by a person
18 interested in the dissolution.

19 (c) The disposition required in (a) of this section may be made
20 without the decree of the superior court, subject to the rights of
21 persons concerned in the dissolution, if the commissioner makes a
22 written waiver of objections to the disposition.

23 (d) Notwithstanding the provisions of (a) of this section,
24 assets held in charitable trust (AS 10.21.185) shall be disposed of
25 under AS 10.21.615(a) as if the mutual benefit corporation were a
26 public benefit corporation.

27 Sec. 10.21.698. DISTRIBUTIONS. After complying with the pro-
28 visions of AS 10.21.688, and except as otherwise provided in AS 10.-
29 21.693 and AS 10.21.695, assets held by a corporation shall be dis-

1 posed of on dissolution as follows:

2 (1) if the articles or bylaws provide the manner of dispo-
3 sition, the assets shall be disposed of in that manner; or

4 (2) if the articles or bylaws do not provide the manner of
5 disposition, the assets shall be distributed among the members
6 (AS 10.21.990(21)) in accordance with their rights in the corporation.

7 Sec. 10.21.700. DISTRIBUTIONS AUTHORIZED IN MONEY, PROPERTY, OR
8 SECURITIES; INSTALLMENTS. Subject to the provisions of a trust under
9 which assets to be distributed are held, distribution of assets may be
10 made either in money, property, or securities and either in periodic
11 installments or as a whole, if this can be done fairly and ratably and
12 in conformity with the provisions of the articles and bylaws and shall
13 be made as soon as reasonably consistent with the beneficial liquida-
14 tion of the corporation's assets.

15 Sec. 10.21.703. ADOPTION OF PLAN NOT IN ACCORDANCE WITH LIQUIDA-
16 TION RIGHTS. (a) If a corporation in the process of winding up has
17 more than one class of memberships outstanding, a plan of distribution
18 of the memberships, obligations, or securities of another corporation,
19 domestic or foreign, or assets other than money which is not in accor-
20 dance with the liquidation rights of a class under the articles or
21 bylaws may be adopted if approved by the board (AS 10.21.990(4)) and a
22 majority of all members (AS 10.21.990(6)) of each class.

23 (b) A plan adopted under (a) of this section may provide that
24 the distribution is in complete or partial satisfaction of the rights
25 of members on distribution and liquidation of the assets.

26 (c) A plan of distribution approved under (a) of this section is
27 binding upon all members. The board shall mail notice of the adoption
28 of the plan within 20 days after its adoption to all members having a
29 liquidation preference under the articles or bylaws.

1 Sec. 10.21.705. RECOVERY OF IMPROPER DISTRIBUTIONS. (a) If a
2 distribution of assets has been made in the process of winding up,
3 without a court order or prior payment or adequate provision for
4 payment of the debts and liabilities of the corporation, the amount
5 improperly distributed to a person may be recovered by the corpora-
6 tion. A person who received an improper distribution may be joined as
7 a defendant in the same action or be brought in on the motion of
8 another defendant.

9 (b) Suit may be brought in the name of the corporation to
10 enforce the liability under (a) of this section against a person
11 receiving a distribution by the commissioner or by a creditor of the
12 corporation, whether or not the creditor has reduced the claim to
13 judgment.

14 (c) A member (AS 10.21.990(21)) who satisfies a liability under
15 this section has a right to ratable contribution from other members
16 similarly liable. A member who has been compelled to return to the
17 corporation more than the member's share of the amount needed to pay
18 the debts and liabilities of the corporation may require the corpora-
19 tion to recover from other members similarly liable a proportion of
20 the amounts received by them on the improper distribution, to give
21 contribution to those held liable under this section, and to make the
22 distribution of the assets fair and ratable, according to the rights
23 and preferences of the memberships, after payment or adequate provi-
24 sion for payment of all the debts and liabilities of the corporation.

25 (d) As used in this section, "process of winding up" includes a
26 proceeding under AS 10.21.553 - 10.21.598 and any other distribution
27 of assets to a person made in contemplation of termination or abandon-
28 ment of the corporate business.

29 Sec. 10.21.708. EXISTENCE OF CORPORATION AFTER DISSOLUTION. (a)

1 A corporation that is dissolved voluntarily or involuntarily continues
2 to exist for the purpose of winding up its affairs, prosecuting and
3 defending actions by or against it and enabling it to collect and
4 discharge obligations, dispose of and convey its property and collect
5 and divide its assets, but not for the purpose of continuing its
6 activities except to the extent necessary for the winding up.

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

10 (c) Assets inadvertently or otherwise omitted from the winding
11 up continue in the dissolved corporation for the benefit of the per-
12 sons entitled to the assets on dissolution of the corporation and on
13 realization shall be distributed to the person entitled.

14 (d) The directors of the corporation on the date of its disso-
15 lution, or as determined under AS 10.21.685, shall exercise and have
16 the powers necessary to act under this section.

17 Sec. 10.21.710. SUITS AGAINST PERSONS TO WHOM ASSETS WERE DIS-
18 TRIBUTED UPON DISSOLUTION; QUIET TITLE ACTION. (a) If a corporation
19 has been dissolved, a person to whom assets were distributed on disso-
20 lution may be sued in the corporate name on a cause of action against
21 the corporation that arose before dissolution. Notice of the action
22 shall be given to the commissioner. The commissioner may intervene in
23 a suit brought under this section.

24 (b) Summons or other process against a dissolved corporation may
25 be served by delivering a copy to an officer, director, or person
26 having charge of the corporation's assets or, if the person cannot be
27 found, to an agent upon whom process might be served at the time of
28 dissolution. If it is shown by affidavit to the satisfaction of the
29 court that none of these persons can be found with due diligence then

1 the court may make an order that summons or other process be served
2 upon the dissolved corporation by personally delivering a copy, to-
3 gether with a copy of the order, to the commissioner. Service in this
4 manner is complete on the 10th day after the delivery of process to
5 the commissioner.

6 (c) A dissolved corporation survives and continues to exist
7 indefinitely for the purpose of being sued in a quiet title action. A
8 judgment rendered in a quiet title action binds every person having an
9 interest in the corporation, to the extent of their interest. Service
10 of summons or other process may be made as provided in (b) of this
11 section.

12 (d) After receipt of the process under (b) of this section and
13 the fee for filing, the commissioner shall give notice to the corpo-
14 ration at the last known address of the corporation or at the last
15 known address of the last registered agent of the corporation. If
16 those addresses are not known, the commissioner is not required to
17 take any action.

18 (e) This section is procedural in nature and is not intended to
19 determine liability.

20 Sec. 10.21.713. SPECIAL PROVISIONS; DISSOLUTION OF OWNERS ASSO-
21 CIATIONS. (a) Notwithstanding a provision in AS 10.21.550 - 10.21.-
22 713, if there is a lot, parcel, area, apartment, or unit for which an
23 owners association is obligated to provide management, maintenance,
24 preservation, or control, a corporation formed for those purposes or a
25 person acting on its behalf may not without the approval of 100 per-
26 cent of the members

27 (1) transfer all or substantially all of the association's
28 assets; or

29 (2) file a certificate of dissolution.

1 (b) A court may not enter an order declaring the owners asso-
2 ciation duly wound up and dissolved unless there is a judicial deter-
3 mination that the corporate purposes are no longer attainable.

4 (c) As used in this section "approval of 100 percent of the
5 members" means unanimous approval by the affirmative vote of every
6 member (AS 10.21.990(21)) of the corporation whether or not the voting
7 rights of some or all of the members have been extinguished by the
8 articles.

9 ARTICLE 10. FOREIGN CORPORATIONS.

10 Sec. 10.21.750. APPLICABILITY TO FOREIGN CORPORATIONS. To the
11 extent provided in this chapter, this chapter is applicable to a
12 foreign corporation (AS 10.21.990(18)) that is authorized to do or
13 does business in this state.

14 Sec. 10.21.753. ADMISSION OF FOREIGN CORPORATION. A foreign
15 corporation may not conduct affairs in this state until it has been
16 issued a certificate of authority from the commissioner. A foreign
17 corporation may not be issued a certificate of authority to conduct
18 affairs in this state that a corporation organized under this chapter
19 is not permitted to conduct. A foreign corporation may not be denied
20 a certificate of authority because the laws of the state or country
21 under which it is organized governing its organization and internal
22 affairs differ from the laws of this state.

23 Sec. 10.21.755. APPLICATION TO CORPORATIONS NOW AUTHORIZED TO
24 CONDUCT AFFAIRS IN THIS STATE. A foreign corporation authorized to
25 conduct affairs in this state on July 1, 1968, for a purpose for which
26 a corporation may secure authority under this chapter is, subject to
27 the limitations set out in its certificate of authority, entitled to
28 all the rights and privileges applicable to a foreign corporation
29 holding a certificate of authority and is subject to the limitations,

1 restrictions, liabilities, and duties prescribed in this chapter for a
2 foreign corporation procuring a certificate of authority to conduct
3 affairs in this state under this chapter.

4 Sec. 10.21.758. LIABILITY TO STATE FOR CONDUCTING AFFAIRS WITH-
5 OUT CERTIFICATE OF AUTHORITY. A foreign corporation that conducts
6 affairs in this state without a certificate of authority is liable to
7 this state for the years or portions of years during which it
8 transacted business in this state without a certificate of authority,
9 in an amount equal to all fees and corporation taxes that would have
10 been imposed by this chapter on the corporation if it had applied for
11 and received a certificate of authority to conduct affairs in this
12 state as required by this chapter and filed all reports required by
13 this chapter, plus all penalties imposed by this chapter for failure
14 to pay the fees, plus a penalty of up to \$10,000 a year or portion of
15 a year for each year it conducted affairs in this state without a
16 certificate of authority. The attorney general shall bring proceed-
17 ings to recover amounts due the state under this section.

18 Sec. 10.21.760. CONDUCTING AFFAIRS WITHOUT CERTIFICATE OF AU-
19 THORITY AS A BAR TO RIGHT TO SUE. A foreign corporation conducting
20 affairs in this state without a certificate of authority may not
21 maintain an action, suit, or proceeding in a court of this state until
22 it obtains a certificate of authority. A successor or assignee of a
23 foreign corporation conducting affairs without a certificate of au-
24 thority may not maintain an action, suit, or proceeding in a court of
25 this state on a right, claim, or demand arising out of the conduct of
26 affairs by the corporation in this state until a certificate of au-
27 thority is obtained by the corporation or by a corporation that has
28 acquired all or substantially all of its assets.

29 Sec. 10.21.763. CONDUCTING AFFAIRS WITHOUT CERTIFICATE OF AU-

1 THORITY NOT AFFECTING CONTRACTS AND RIGHT TO DEFEND ACTION. The
2 failure of a foreign corporation to obtain a certificate of authority
3 to conduct affairs in this state does not impair the validity of a
4 contract or act of the corporation, and does not prevent the corpora-
5 tion from defending an action, suit, or proceeding in a court of this
6 state.

7 Sec. 10.21.765. ACTIVITIES NOT CONSTITUTING CONDUCTING AFFAIRS
8 IN THIS STATE. Without excluding other activities that may not con-
9 stitute conducting affairs in this state, a foreign corporation is not
10 considered to be conducting affairs in this state, for the purposes of
11 this chapter, by reason of carrying on in this state any one or more
12 of the following activities:

13 (1) maintaining, defending, or settling an action, suit, or
14 an administrative or arbitration proceeding, or the settlement of
15 claims or disputes;

16 (2) holding meetings of directors or members of the corpo-
17 ration, or carrying on other activities concerning the internal af-
18 fairs of the corporation;

19 (3) maintaining bank accounts;

20 (4) securing or collecting debts, or enforcing rights in
21 property securing debts;

22 (5) transacting business in interstate commerce;

23 (6) granting funds;

24 (7) distributing information to members;

25 (8) conducting an isolated transaction, completed within 30
26 days, not in the course of a number of repeated transactions of like
27 nature.

28 Sec. 10.21.768. CORPORATE NAME OF FOREIGN CORPORATION. (a)
29 Except as provided in AS 10.21.053, a certificate of authority may not

1 be issued to a foreign corporation unless the corporate name of the
2 corporation

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

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

11 (3) does not contain the word "city," "borough," or "vil-
12 lage," or otherwise imply that the corporation is a municipality, but
13 the name of a city, borough, or village may be used in the corporate
14 name;

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

21 (b) The provisions of (a)(1) of this section do not apply to a
22 foreign corporation formed and operated exclusively for a charitable
23 purpose.

24 Sec. 10.21.770. ASSUMED CORPORATE NAME: COMMISSIONER TO CROSS
25 INDEX. (a) Except as provided in AS 10.21.053(b)(3), if a foreign
26 corporation applying for a certificate of authority, has a name that
27 is impermissible under AS 10.21.768, it shall select an assumed name,
28 acceptable under the provisions of AS 10.21.768, under which it elects
29 to conduct affairs in this state.

1 (b) The commissioner shall maintain records that cross reference
2 the actual and assumed names of all foreign corporations authorized to
3 conduct affairs in this state.

4 Sec. 10.21.773. CHANGE OF NAME BY FOREIGN CORPORATION. If a
5 foreign corporation authorized to conduct affairs in this state
6 changes its name to one under which a certificate of authority would
7 not be granted to it under this chapter, the certificate of authority
8 of the corporation is suspended and it may not conduct affairs in this
9 state until it has changed its name to a name available to it under
10 the laws of this state.

11 Sec. 10.21.775. APPLICATION FOR CERTIFICATE OF AUTHORITY. To
12 receive a certificate of authority to conduct affairs in this state a
13 foreign corporation shall apply in duplicate to the commissioner.

14 Sec. 10.21.778. CONTENTS OF APPLICATION. (a) An application
15 for a certificate of authority shall set out

16 (1) the name of the corporation and the assumed name, if
17 any, the state or country under whose laws it is incorporated; or if
18 the name of the corporation is required by this chapter to but does
19 not contain the word "corporation," "company," "incorporated," or
20 "limited," or an abbreviation of one of these words, the name of the
21 corporation with the word or abbreviation that it elects to use in
22 this state;

23 (2) the date of incorporation and the period of duration of
24 the incorporation;

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

27 (4) the address of the proposed registered office of the
28 corporation in this state, and the name of its proposed registered
29 agent in this state at that address;

- 1 (5) the purpose the corporation proposes to pursue in the
- 2 conduct of affairs in this state;
- 3 (6) the names and addresses of the directors and officers
- 4 of the corporation;
- 5 (7) a statement of the number of memberships that the
- 6 corporation may issue, itemized by classes;
- 7 (8) a statement of the number of members itemized by
- 8 classes;
- 9 (9) an estimate expressed in dollars of
- 10 (A) the value of all property to be owned by the
- 11 corporation during the following year, wherever located;
- 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 income that will be earned
- 15 by the corporation during the following year; and
- 16 (D) the gross amount of income that will be generated
- 17 by the corporation at or from offices in this state during the
- 18 following year;
- 19 (10) 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 prescribed in this chapter that are payable;
- 23 (11) the name and address of each alien affiliate (AS 10.-
- 24 21.990(2) - (3)), the percentage of control (AS 10.21.778(b)) held by
- 25 each alien affiliate, and a specific description of the nature of the
- 26 relationship between the foreign corporation and its alien affiliates,
- 27 or a statement that there are no alien affiliates;
- 28 (12) the name and address of a person holding at least five
- 29 percent of the members of the corporation, and the percentage of

1 control held by that person.

2 (b) As used in (a)(12) of this section "percentage of control"
3 means the percentage of the members of the entire board of directors
4 (AS 10.21.990(16)) that a person has the power to elect or designate.

5 Sec. 10.21.780. FILING OF APPLICATION FOR CERTIFICATE OF AUTHOR-
6 ITY. The application of the corporation for a certificate of authori-
7 ty shall be submitted on forms prescribed and furnished by the
8 commissioner. Duplicate originals of the application executed by the
9 chairman of the board, president, or vice-president, and by the secre-
10 tary or an assistant secretary, and verified by one of the officers
11 signing the application, together with a verified copy of the articles
12 and all amendments to the articles, shall be delivered to the commis-
13 sioner for processing according to AS 10.21.905 and issuance of a
14 certificate of authority.

15 Sec. 10.21.783. EFFECT OF CERTIFICATE OF AUTHORITY. On the
16 issuance of a certificate of authority by the commissioner, the corpo-
17 ration may conduct affairs in this state for the purpose set out in
18 its application, subject, however, to the right of this state to
19 suspend or revoke the authority as provided in this chapter.

20 Sec. 10.21.785. AMENDED CERTIFICATE OF AUTHORITY. (a) A for-
21 eign corporation authorized to conduct affairs in this state shall
22 obtain an amended certificate of authority if it changes its corporate
23 name, or desires to pursue in this state other or additional purposes
24 than those set out in its earlier application for a certificate of
25 authority.

26 (b) The requirements as to form and content of an application
27 for an amended certificate of authority, the manner of its execution,
28 the filing of duplicate originals of the application with the commis-
29 sioner, and the issuance of an amended certificate of authority are

1 the same as in the case of an original application for a certificate
2 of authority.

3 Sec. 10.21.788. POWERS OF FOREIGN CORPORATION. A foreign corpo-
4 ration that has received a certificate of authority enjoys, until a
5 certificate of revocation or of withdrawal is issued as provided in
6 this chapter, the same, but no greater, rights and privileges as a
7 domestic corporation organized for the purposes set out in the
8 application under which the certificate of authority is issued and,
9 except as otherwise provided in this chapter, is subject to the
10 duties, restrictions, penalties and liabilities imposed on a domestic
11 corporation of like character.

12 Sec. 10.21.790. REVOCATION OF CERTIFICATE OF AUTHORITY. A
13 certificate of authority of a foreign corporation to conduct affairs
14 in this state may be revoked by the commissioner if

15 (1) the corporation fails to file its annual report within
16 the time required by this chapter, or fails to pay fees or penalties
17 prescribed in this chapter when they are due and payable;

18 (2) the corporation fails to appoint and maintain a regis-
19 tered agent in the state;

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

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

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

29 Sec. 10.21.793. 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 corporation has been given at least 60 days notice
4 by certified mail addressed to its registered office in this state;
5 and

6 (2) the corporation fails before revocation to file the
7 annual report, pay the fees or penalties that are due, file the
8 required statement of change of registered agent or registered office,
9 file the articles of amendment or articles of merger, or correct the
10 misrepresentation.

11 Sec. 10.21.795. 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 office of the
15 commissioner;

16 (3) mail to the corporation at its registered office in
17 this state (AS 10.21.800(1)) a notice of the revocation accompanied by
18 one of the certificates.

19 Sec. 10.21.798. EFFECT OF CERTIFICATE OF REVOCATION. Upon the
20 issuance of a certificate of revocation, the authority of a corpora-
21 tion to conduct affairs in this state ceases.

22 Sec. 10.21.800. REGISTERED OFFICE AND REGISTERED AGENT OF A
23 FOREIGN CORPORATION. A foreign corporation authorized to conduct
24 affairs in this state shall have and continuously maintain in this
25 state

26 (1) a registered office that may be, but need not be, the
27 same as its principal office in this state; and

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

1 office, or a domestic corporation or a foreign corporation authorized
2 to transact business in this state that has an office identical to the
3 registered office.

4 Sec. 10.21.803. CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT
5 OF FOREIGN CORPORATION. A foreign corporation authorized to conduct
6 affairs in this state may change its registered office or change its
7 registered agent, or both, upon filing with the commissioner a
8 statement setting out

9 (1) the name of the corporation;

10 (2) the address of its registered office;

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

13 (4) the name of its registered agent;

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

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

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

21 Sec. 10.21.805. FILING OF STATEMENT OF CHANGE. A statement of
22 change under AS 10.21.803 shall be executed and verified by the corpo-
23 ration by its chairman of the board, president, or a vice-president
24 and delivered to the commissioner. If the commissioner finds that the
25 statement conforms to the provisions of this chapter, the commissioner
26 shall file the statement in the office of the commissioner, and upon
27 the filing, the change of address of the registered office, or the
28 appointment of a new registered agent, or both, as the case may be,
29 becomes effective.

1 Sec. 10.21.808. SERVICE OF PROCESS ON FOREIGN CORPORATION. The
2 registered agent appointed by a foreign corporation authorized to
3 conduct affairs in this state is an agent of the corporation upon whom
4 process, notice, or demand required or permitted by law to be served
5 upon the corporation may be served.

6 Sec. 10.21.810. SERVICE ON COMMISSIONER. If a foreign corpora-
7 tion authorized to conduct affairs in this state, or not authorized to
8 conduct affairs in this state but doing so, fails to appoint or main-
9 tain a registered agent in this state, or when a registered agent
10 cannot with reasonable diligence be found at the registered office, or
11 when the certificate of authority of a foreign corporation is suspend-
12 ed or revoked, the commissioner is an agent upon whom process, notice,
13 or demand may be served. Service is made upon the commissioner as
14 provided in AS 10.21.088(b).

15 Sec. 10.21.813. RECORDS KEPT BY COMMISSIONER. The commissioner
16 shall keep a record of all processes, notices, or demands served upon
17 a corporation under AS 10.21.810, and shall record the time of service
18 and any action taken with reference to the service.

19 Sec. 10.21.815. PROCEDURE NOT EXCLUSIVE. AS 10.21.808 - 10.21.-
20 813 do not limit or affect the right to serve process, notice, or
21 demand required or permitted by law to be served upon a corporation in
22 any other manner.

23 Sec. 10.21.818. AMENDMENT TO ARTICLES OF INCORPORATION OF FOR-
24 EIGN CORPORATION. If the articles of a foreign corporation authorized
25 to conduct affairs in this state are amended, the foreign corporation
26 shall, within 30 days after the amendment becomes effective, file with
27 the commissioner a copy of the amendment authenticated by the proper
28 officer of the state or country under whose laws it is incorporated.
29 The filing of the amendment does not enlarge or alter the purpose that

1 the corporation may pursue in the transaction of business in this
2 state under a name other than the name set out in its certificate of
3 authority.

4 Sec. 10.21.820. ORGANIC CHANGE OF FOREIGN CORPORATION. If a
5 foreign corporation authorized to conduct affairs in this state is a
6 party to an organic change (AS 10.21.990(24)) permitted by the laws of
7 the state or country where it is incorporated, and the corporation is
8 the surviving corporation, it shall, within 30 days after the change
9 becomes effective, file with the commissioner a copy of the articles
10 of merger, consolidation, or reorganization authenticated by the
11 proper office of the state or country under whose laws the organic
12 change was carried out. It is not necessary for the corporation to
13 obtain a new or amended certificate of authority to conduct affairs in
14 this state unless the name of the corporation is changed or unless the
15 corporation desires to pursue in this state other or additional pur-
16 poses than those that it is authorized to pursue in this state.

17 Sec. 10.21.823. WITHDRAWAL OF FOREIGN CORPORATION. A foreign
18 corporation authorized to conduct affairs in this state may withdraw
19 from this state on 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. 10.21.825. 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 conducting affairs in this
28 state;

29 (3) that the corporation surrenders its authority to con-

1 duct affairs 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 on a cause of action arising in this state during the time the corpo-
6 ration was authorized to transact business in this state may be made
7 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 number of memberships that the
12 corporation may issue, itemized by classes, as of the date of the
13 application;

14 (7) a statement of the number of members itemized by class-
15 es, as of the date of the application;

16 (8) additional information necessary or appropriate to
17 enable the commissioner to determine and assess unpaid fees payable as
18 prescribed in this chapter.

19 Sec. 10.21.828. FORM OF APPLICATION FOR WITHDRAWAL. An applica-
20 tion for withdrawal shall be made on forms prescribed and furnished by
21 the commissioner and shall be executed by the corporation by its
22 chairman of the board, president, or vice-president, and by its secre-
23 tary or an assistant secretary, and verified by one of the officers
24 signing the application, or, if the corporation is in the hands of a
25 receiver or trustee, the application shall be executed and verified on
26 behalf of the corporation by the receiver or trustee.

27 Sec. 10.21.830. FILING OF APPLICATION FOR WITHDRAWAL. Duplicate
28 originals of an application for withdrawal shall be delivered to the
29 commissioner for processing according to AS 10.21.905 and issuance of

1 a certificate of withdrawal.

2 Sec. 10.21.833. EFFECT OF CERTIFICATE OF WITHDRAWAL. On the
3 issuance of a certificate of withdrawal, the authority of a corpora-
4 tion to conduct affairs in this state ceases.

5 ARTICLE 11. REPORTS, FEES, AND PENALTIES.

6 Sec. 10.21.850. ANNUAL REPORT OF DOMESTIC AND FOREIGN CORPORA-
7 TIONS. A domestic corporation and a foreign corporation authorized to
8 conduct affairs in this state shall file an annual report within the
9 time prescribed by this chapter.

10 Sec. 10.21.852. CONTENTS OF ANNUAL REPORT. (a) An annual
11 report shall include

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

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

19 (3) a brief statement of the purposes of the corporation in
20 this state;

21 (4) the names and addresses of the directors and officers
22 of the corporation;

23 (5) a statement of the number of memberships that the
24 corporation has authority to issue, itemized by classes;

25 (6) a statement of the number of members itemized by clas-
26 ses;

27 (7) the name and address of each alien affiliate (AS 10.-
28 21.990(2) - (3)), the percentage of control (AS 10.21.852(b)) held by
29 each alien affiliate, and a specific description of the nature of the

1 relationship between the corporation and its alien affiliates, or a
2 statement that there is no alien affiliate;

3 (8) the name and address of each person holding as of
4 September 30 of each year the power to directly cause the election or
5 designation of one or more members of the board;

6 (9) the gross receipts of the corporation during the re-
7 porting period from all sources;

8 (10) the amount, expressed in dollars and as a percentage of
9 the gross receipts of the corporation, of each of the following:

10 (A) membership fees, dues, and assessments;

11 (B) donations;

12 (C) grants from governmental entities;

13 (D) sales of goods or services; and

14 (E) all other sources;

15 (11) in the case of a mutual benefit corporation, the
16 amount, expressed in dollars and as a percentage of the total income,
17 of the total income used or held for the following purposes:

18 (A) recurrent administrative costs;

19 (B) nonrecurrent administrative costs;

20 (C) providing services or making facilities available
21 to members as authorized in its articles, exclusive of the admin-
22 istrative cost of providing these services; and

23 (D) all other expenses of the corporation;

24 (12) in the case of a public benefit corporation, the
25 amount, expressed in dollars and as a percentage of total income, of
26 the total income used or held for the following purposes:

27 (A) recurrent administrative costs

28 (B) nonrecurrent administrative costs

29 (C) public or charitable purposes as stated in its

1 articles;

2 (D) all other expenses of the corporation;

3 (13) any information required by AS 10.21.293.

4 (b) As used in (a)(7) of this section "percentage of control"
5 means the percentage of the members of the entire board of directors
6 (AS 10.21.990(16)) that a person has the power to elect or designate.

7 Sec. 10.21.854. FILING OF ANNUAL REPORT. (a) An annual report
8 of a domestic or foreign corporation shall be filed with the depart-
9 ment and is due before January 2 of the filing year. The annual
10 report is delinquent if not filed before February 1 of each year as
11 provided in this section. Delinquent returns are subject to the
12 penalty provided for in AS 10.21.858.

13 (b) Proof to the satisfaction of the commissioner that on or
14 before February 1 the report was deposited in the United States mail
15 in a sealed envelope, properly addressed with postage prepaid, is
16 compliance with (a) of this section.

17 (c) The commissioner shall file the report if the commissioner
18 finds that the report conforms to the requirements of this chapter.
19 If the commissioner finds that the report does not conform to the
20 requirements of this chapter, the commissioner shall promptly return
21 it to the corporation for necessary corrections. If the report is
22 corrected to conform to the requirements of this chapter and returned
23 to the commissioner in sufficient time to be filed before April 1 of
24 the year in which it is due, the penalty provided for in AS 10.21.858
25 for failure to file the report within the time required does not
26 apply.

27 (d) Upon receipt of a form from the commissioner, a domestic or
28 foreign corporation shall file an annual report within six months
29 after original incorporation or authorization to conduct affairs in

1 this state.

2 Sec. 10.21.856. PUBLICATION OF ANNUAL REPORT; REQUESTS FOR
3 COPIES OF THE ANNUAL REPORT. (a) A public benefit corporation and a
4 corporation which, since its last annual report, has received from
5 donations (AS 10.21.990(15)) more than 10 percent of its gross income
6 shall publish in a paper with general circulation in the state a copy
7 of the annual report. The report shall be published at least three
8 times a week for four consecutive weeks beginning on the 15th day
9 after the report is filed by the commissioner. A corporation that can
10 demonstrate to the satisfaction of the commissioner that compliance
11 with this publication requirement would necessitate the expenditure of
12 a sum equal to more than one percent of its gross receipts for the
13 preceding year shall publish only to the extent possible by spending
14 one percent of its gross receipts.

15 (b) A corporation which since its last annual report has re-
16 ceived from donations more than 10 percent of its gross income shall
17 make available to a solicitee at the time of solicitation of a dona-
18 tion a free copy of its most recently filed annual report.

19 (c) A public benefit corporation and a corporation soliciting
20 donations shall mail a copy of its most recently filed annual report
21 to any person within 50 days of receipt of a written request. A
22 corporation required to furnish copies of an annual report under this
23 subsection may charge the person requesting the report a fee of not
24 more than \$5.00.

25 Sec. 10.21.858. PENALTY FOR FAILURE TO FILE ANNUAL REPORT. A
26 domestic or foreign corporation that fails to file, and publish if
27 required, its annual report within the time set by this chapter is
28 subject to a penalty of one percent of its gross receipts since its
29 last annual report or \$1,000, whichever is greater, for each year or

1 part of a year during which the corporation continues to fail to file
2 or publish its annual report.

3 Sec. 10.21.860. INTERROGATORIES BY COMMISSIONER; JUDICIAL PRO-
4 CEEDING TO CONTEST. (a) The commissioner may propound to a domestic
5 or foreign corporation and to an officer or director of a domestic or
6 foreign corporation interrogatories reasonably necessary and proper to
7 enable the commissioner to ascertain whether the corporation has
8 complied with the provisions of this chapter.

9 (b) Interrogatories shall be propounded by the commissioner or a
10 person designated by the commissioner to

11 (1) a domestic corporation by complying with AS 10.21.088;

12 (2) a foreign corporation by complying with AS 10.21.808;

13 (3) an individual officer or director of a domestic or
14 foreign corporation by mailing by registered or certified mail a copy
15 of the interrogatories addressed to the person at the person's office
16 in this state, or, if the person has no office in this state, to the
17 principal office of the person.

18 (c) Interrogatories shall be answered within 30 days, or within
19 the additional time fixed by the commissioner or by the superior
20 court. Answers shall be full and complete, in writing, and under
21 oath. If the interrogatories are directed to an individual they shall
22 be answered by that individual, and if directed to a corporation they
23 shall be answered by the chairman of the board, president, vice-presi-
24 dent, secretary, or assistant secretary of the corporation or, in the
25 instance of a foreign corporation, the person functioning as compar-
26 able officer in accordance with the laws of the state of incorpora-
27 tion.

28 (d) A petition stating good cause to extend the date for answer,
29 to modify, or set aside the interrogatories propounded by the commis-

1 sioner, or to enforce compliance with AS 10.21.862 may be filed in the
2 superior court before the expiration of the 30 days fixed in this
3 subsection for answer.

4 Sec. 10.21.862. CONFIDENTIALITY OF INFORMATION DISCLOSED BY
5 INTERROGATORIES. Interrogatories and answers propounded and obtained
6 under AS 10.21.860 are not open to public inspection and the commis-
7 sioner may not disclose facts or information obtained from the
8 interrogatories except as official duty requires or unless the inter-
9 rogatories or answers are required for evidence in criminal proceed-
10 ings or other action by the state.

11 Sec. 10.21.864. FAILURE TO ANSWER INTERROGATORIES. Unless
12 otherwise provided by an order of court issued in response to a peti-
13 tion filed under AS 10.21.860(d),

14 (1) a domestic or foreign corporation and each officer or
15 director of a domestic or foreign corporation that fails or refuses to
16 answer truthfully and fully interrogatories propounded by the commis-
17 sioner within the time prescribed by AS 10.21.860(c) is guilty of a
18 class A misdemeanor; and

19 (2) the commissioner need not file a document to which the
20 interrogatories relate until the interrogatories are properly answered
21 and need not file a document to which the interrogatories relate if
22 the answers disclose that the document does not conform to the provi-
23 sions of this chapter.

24 Sec. 10.21.866. PENALTIES IMPOSED UPON OFFICERS AND DIRECTORS.
25 An officer or director of a domestic or foreign corporation who signs
26 articles, or a statement, report, application, or other document filed
27 with the commissioner that is known to the officer or director to be
28 false in a material respect, is guilty of a class A misdemeanor.

29 Sec. 10.21.868. INCORPORATION OR FILING FEES. A domestic or

1 foreign corporation that is required to file articles of incorporation
2 or amendatory articles with the department shall pay to the commis-
3 sioner a filing fee established by the department by regulation. The
4 filing fee shall be uniform, except that a lesser fee may be applied
5 to a public benefit corporation or foreign corporation that would, if
6 formed under this chapter, be a public benefit corporation.

7 Sec. 10.21.870. FEES ON APPOINTMENT OR REVOCATION OF APPOINTMENT
8 OF PROCESS AGENT OR CHANGE OF AGENT'S ADDRESS. (a) A foreign corpo-
9 ration filing with the department a certificate of the appointment and
10 consent of an agent residing in this state, or a certificate of revo-
11 cation of the appointment of a resident agent shall pay to the commis-
12 sioner a fee established by the department by regulation.

13 (b) For filing a statement of change of address of registered
14 agent under AS 10.21.085(a) and (b), the agent shall pay to the com-
15 missioner a fee established by the department by regulation.

16 Sec. 10.21.872. FEES AND PENALTIES PAYABLE ON WITHDRAWAL OF
17 FOREIGN CORPORATION. A registered foreign corporation may withdraw
18 from this state upon payment of all penalties due at the time of
19 desired withdrawal, and by filing with the department a certificate of
20 withdrawal, signed by its proper officers and under its corporate
21 seal. The fee for filing the certificate with the commissioner shall
22 be established by the department by regulation.

23 Sec. 10.21.874. FEES ON DISSOLUTION OF DOMESTIC CORPORATION. A
24 domestic corporation shall pay to the commissioner a fee established
25 by the department by regulation for filing the documents required by
26 this chapter for the dissolution of a domestic corporation.

27 Sec. 10.21.876. PENALTIES AND FEES ON FILING CERTIFICATE OF
28 DISSOLUTION OF FOREIGN CORPORATION. If a foreign corporation desires
29 to file a certificate of dissolution from the state of its incorpo-

1 ration it shall file the certificate, signed by the proper state
2 officer, under seal, upon payment of all penalties due to this state
3 at the time of dissolution. The filing fee for the certificate of
4 dissolution shall be established by the department by regulation.

5 Sec. 10.21.878. FEES FOR CERTIFIED COPIES OF DOCUMENTS. The fee
6 for furnishing a certified copy of a document shall be established by
7 the department by regulation.

8 Sec. 10.21.880. OTHER FILING FEES. (a) The filing fee for a
9 document not otherwise provided for in this chapter shall be estab-
10 lished by the department by regulation.

11 (b) The department may by regulation charge a corporation sub-
12 ject to this chapter a fixed fee in place of the fees specified in
13 this chapter and for routine administrative services rendered to the
14 corporation by the department.

15 (c) Notwithstanding (b) of this section, fees required under
16 AS 10.21.070 and AS 10.21.868 are not included in a fixed fee.

17 Sec. 10.21.882. IMMUNITY FROM AS 10.06.845. A corporation
18 organized under this chapter or a foreign corporation organized under
19 the laws of the United States, a state, or foreign country for the
20 same purpose as those allowed under this chapter is exempt from the
21 payment of the biennial corporation tax imposed by AS 10.06.845.

22 Sec. 10.21.884. PAYMENTS TO BE MADE IN ADVANCE. Fees and
23 charges provided for in this chapter may be paid in advance.

24 Sec. 10.21.886. ACCOUNTING FOR AND DISPOSITION OF FEES PAID.
25 All fees paid under this chapter shall be accounted for and deposited
26 in the state treasury.

27 Sec. 10.21.890. INCREASE IN FEES. A fee charged under this
28 chapter may not be increased by a percentage greater than the percen-
29 tage increase in the consumer price index for Anchorage, published by

1 the United States Department of Labor, Bureau of Labor Statistics,
2 since July 1977, the year in which the fee was first changed, or the
3 most recent year in which the fee was increased, whichever is later.

4 Sec. 10.21.894. APPEAL FROM REVOCATION OF CERTIFICATE OF AUTHOR-
5 ITY. If the commissioner revokes a certificate of authority of a
6 foreign corporation to conduct affairs in this state under this chap-
7 ter, the foreign corporation may appeal to the superior court by
8 filing with the clerk of the court a petition setting out a copy of
9 its certificate of authority and a copy of the notice of revocation
10 given by the commissioner. The matter shall be tried de novo by the
11 superior court, and the court shall either sustain the action of the
12 commissioner or direct the commissioner to take action the court
13 considers proper.

14 Sec. 10.21.896. CANCELLATION OF CERTIFICATES ISSUED AND FILINGS
15 ACCEPTED. The commissioner may, within one year after a filing, and
16 after written notice to the corporation or individual making a filing,
17 cancel a certificate issued or filing accepted under this chapter, on
18 any ground existing at the time of issuance or filing for which the
19 commissioner could have originally refused to issue the certificate or
20 accept the filing. The notice of cancellation shall state the reason
21 for the cancellation. A corporation or individual may request a
22 hearing within 90 days after receipt of the notice. Cancellation
23 becomes final if the corporation or individual does not request a
24 hearing within 90 days after receipt of notice. Notice of cancella-
25 tion shall be sent by certified mail with return receipt requested.
26 If the return receipt is not received by the department within a
27 reasonable time and the department has made diligent inquiry as to the
28 address of the corporation, notice may be made by publication in a
29 newspaper of general circulation in the vicinity of the registered

1 office of the corporation or the address of the individual who made
2 the filing. Cancellation becomes final 60 days after publication of
3 the notice if the person or corporation does not request a hearing.

4 Sec. 10.21.898. FORMS TO BE FURNISHED BY THE COMMISSIONER.
5 Reports required by this chapter to be filed with the department or
6 the commissioner shall be on forms prescribed and furnished by the
7 commissioner. Forms for other documents to be filed in the office of
8 the department or the commissioner shall be furnished by the commis-
9 sioner on request, but the use of these forms, unless required in this
10 chapter, is not mandatory.

11 ARTICLE 12. MISCELLANEOUS PROVISIONS.

12 Sec. 10.21.905. PROCESSING OF WRITINGS FILED WITH THE COMMIS-
13 SIONER. If a writing delivered to the commissioner for filing con-
14 forms to law and all fees and corporation taxes prescribed in this
15 chapter have been paid, the commissioner shall

16 (1) endorse on each duplicate original the word "filed" and
17 the date of the filing;

18 (2) file one duplicate original in the office of the com-
19 missioner;

20 (3) return a duplicate original of the writing, together
21 with any writing issued by the commissioner attached to the original,
22 to the corporation or its representative.

23 Sec. 10.21.910. APPEAL FROM DISAPPROVAL OF DOCUMENT. If the
24 commissioner fails to approve articles of incorporation, amendment,
25 merger, consolidation or dissolution, or any other document required
26 by this chapter to be approved by the commissioner, the commissioner
27 shall, within 10 days after the receipt of the document, give written
28 notice of disapproval to the person or domestic or foreign corporation
29 delivering the document, specifying the reasons for disapproval. The

1 person or corporation may appeal from the disapproval to the superior
2 court by filing with the clerk of the court a petition setting out a
3 copy of the document sought to be filed and a copy of the written
4 disapproval. The matter shall be tried de novo by the superior court,
5 which shall either sustain the action of the commissioner or direct
6 the commissioner to take action the court considers proper.

7 Sec. 10.21.915. WRITINGS; CORRECTIONS. A writing relating to a
8 domestic or foreign corporation filed by the commissioner under this
9 chapter may be corrected if it contains an error apparent on the face
10 or defect in the execution of the writing including the deletion of
11 matter not permitted to be stated in the writing. A certificate
12 entitled "Certificate of Correction of . . . (correct title of writing
13 and name of corporation)" shall be signed, verified, or acknowledged
14 in the same manner as the original writing and delivered to the com-
15 missioner. The certificate shall set out the name of the corporation,
16 the date the writing to be corrected was filed by the commissioner,
17 the provision in the writing corrected or eliminated and, if the
18 execution was defective, the proper execution. The filing of the
19 certificate by the commissioner does not alter the effective time of
20 the writing being corrected and does not affect any right or liability
21 accrued or incurred before the filing. A corporate name may not be
22 changed or corrected under this section.

23 Sec. 10.21.920. WRITINGS AS EVIDENCE. (a) A writing filed by
24 the commissioner relating to a domestic or foreign corporation and
25 containing statements of fact required or permitted by law and a
26 certification by the commissioner of the absence of a filing shall be
27 received in all courts, public offices, and official bodies as prima
28 facie evidence of these facts and of the execution of the writing.

29 (b) If under the laws of a jurisdiction other than this state a

1 writing by an officer in that jurisdiction or a copy of a writing
2 certified or exemplified by an officer may be received as prima facie
3 evidence of the incorporation, existence, or capacity of a foreign
4 corporation incorporated in that jurisdiction, the writing when exemp-
5 plified shall be received in all courts, public offices, and official
6 bodies of this state, as prima facie evidence with the same force as
7 in that jurisdiction. The writing or certified copy of the writing
8 shall be received without being exemplified if it is certified by the
9 secretary of state or official performing the equivalent function as
10 to corporate records of that jurisdiction.

11 Sec. 10.21.925. CORPORATE SEAL AS EVIDENCE. The presence of a
12 corporate seal on a writing purporting to be executed by authority of
13 a domestic or foreign corporation shall be prima facie evidence that
14 the writing was executed with the authority of the corporation.

15 Sec. 10.21.930. WAIVER OF NOTICE. If notice is required to be
16 given to a member or director of a corporation under the provisions of
17 this chapter or under the provisions of the articles or bylaws of the
18 corporation, a waiver of the notice in writing signed by the person
19 entitled to notice, whether before or after the time stated for no-
20 tice, is equivalent to the giving of notice.

21 ARTICLE 13. GENERAL PROVISIONS.

22 Sec. 10.21.950. POWERS OF COMMISSIONER. The commissioner
23 (AS 10.21.990(10)) has the power and authority reasonably necessary to
24 enable the commissioner to administer this chapter efficiently and to
25 perform the duties imposed by this chapter.

26 Sec. 10.21.955. REGULATIONS. To the extent provided by explicit
27 reference in this chapter, the department (AS 10.21.990(12)) shall
28 adopt regulations in accordance with the Administrative Procedure Act
29 (AS.44.62).

1 Sec. 10.21.960. APPLICATION. (a) This chapter applies to a
2 domestic corporation (AS 10.21.990(14)) organized under the Alaska
3 Nonprofit Corporation Act (AS 10.20), and to the extent provided in
4 AS 10.21.850 - 10.21.930, to a foreign corporation (AS 10.21.990(18))
5 authorized to or conducting affairs in this state.

6 (b) The existence of a corporation formed or existing on the
7 date of enactment of this chapter is not affected by the enactment of
8 this chapter or by any change in the requirements for the formation of
9 corporations. The enactment of this chapter does not affect a cause
10 of action, liability, penalty, or special proceeding existing, in-
11 curred, accrued, or pending on the effective date of this chapter.

12 (c) This chapter applies to commerce with foreign nations and
13 among the several states, and to corporations formed by or under any
14 act of congress to the extent permitted under the constitution and
15 laws of the United States.

16 (d) Notwithstanding (a) of this section, this chapter does not
17 apply to a corporation organized under the provisions of AS 10.40.

18 Sec. 10.21.965. PROVISIONS AS RESTATEMENTS AND CONTINUATIONS.
19 If a provision of this chapter is substantially the same as a statu-
20 tory provision in AS 10.20 existing on the effective date of this
21 chapter, it shall be construed as a restatement and continuation, and
22 not as a new enactment.

23 Sec. 10.21.970. SEVERABILITY. If a provision of this chapter is
24 held invalid, the invalidity does not affect other provisions of this
25 chapter that can be given effect without the invalid provision.

26 Sec. 10.21.975. RESERVATION OF POWER. The legislature reserves
27 the right, at pleasure, to alter, amend, suspend, or repeal in whole
28 or in part this chapter, or a certificate of incorporation or the
29 authority to conduct affairs in this state, of a domestic or foreign

1 corporation, whether or not existing or authorized on the effective
2 date of this chapter.

3 Sec. 10.21.980. SIGNATURE. "Signature" includes a mark when the
4 signer cannot write. The signer's name shall be written near the mark
5 by a witness who shall write his own name near the signer's name. A
6 signature by mark can be acknowledged or can serve as a signature to a
7 sworn statement.

8 Sec. 10.21.985. RULES OF CONSTRUCTION GOVERNING. (a) Unless a
9 provision or the context otherwise requires, the following general
10 provisions and rules of construction govern this chapter:

11 (1) Title, chapter, article, and section headings contained
12 in AS 10.21 do not affect the scope, meaning, or intent of the provi-
13 sions of this chapter.

14 (2) When, by the provisions of this chapter, a power is
15 granted to, or a duty imposed upon, a public officer, the power may be
16 exercised or the duty performed by a deputy of the officer or by a
17 person authorized, under law, by the officer, unless this chapter
18 expressly provides otherwise.

19 (3) When a notice, report, statement, or record is required
20 or authorized by this chapter, it shall be made in writing in a manner
21 reasonably calculated to communicate the notice, report, statement, or
22 record to the recipient.

23 (4) A reference in this chapter to mailing means first-
24 class mail, postage prepaid, unless registered mail is specified or
25 some other lower cost mail rate is allowed by the provisions of this
26 chapter. Registered mail includes certified mail.

27 (5) References in this chapter to financial statements,
28 balance sheets, income statements and references to assets, liabil-
29 ities, income, and similar accounting items of a corporation mean

1 financial statements or accounting items prepared or determined in
2 accordance with generally accepted accounting principles then appli-
3 cable, and fairly presenting the matters that they purport to present,
4 subject to any specific accounting treatment required by a particular
5 section of this chapter.

6 (6) A reference in this chapter to the time a notice is
7 given or sent means the time a written notice by mail is deposited in
8 the United States mail, postage prepaid; or the time any other written
9 notice is personally delivered to the recipient or is delivered to a
10 common carrier for transmission, or actually transmitted by electronic
11 means to the recipient by the person giving the notice; or the time
12 oral notice is communicated in person or by electronic means to the
13 recipient or to a person at the office of the recipient who the person
14 giving the notice has reason to believe will promptly communicate it
15 to the recipient.

16 (7) A reference to a portion of this chapter or another law
17 of this state refers to all amendments and additions.

18 (8) The present tense includes the past and future tenses,
19 and the future tense includes the present.

20 (9) The singular number includes the plural, and the plural
21 number includes the singular.

22 (10) "Shall" is mandatory; "may" is permissive; and "may
23 not" is prohibitory.

24 (11) "Oath" includes affirmation.

25 (b) Since there are fundamental differences between for-profit
26 and nonprofit corporations, it is not necessary to construe language
27 in this chapter to have the same meaning as similar or identical
28 language in the Alaska Corporations Code (AS 10.06).

29 Sec. 10.21.990. DEFINITIONS. In this chapter, unless the con-

1 text otherwise requires,

2 (1) "acknowledged" means that a document is accompanied by
3 a certificate of its acknowledgement as provided in AS 09.63.010 -
4 09.63.130;

5 (2) "affiliate" means a person that directly or indirectly
6 through one or more intermediaries controls, or is controlled by, or
7 is under common control with, a corporation subject to this chapter;

8 (3) "alien" means

9 (A) an individual who is not a citizen or national of
10 the United States, or who is not lawfully admitted to the United
11 States for permanent residence, or paroled into the United States
12 under the Immigration and Nationality Act (8 U.S.C. Secs. 1101-
13 1503, as amended);

14 (B) a person, other than an individual, that was not
15 created or organized under the laws of the United States or of a
16 state, or whose principal office is not located in any state; or

17 (C) a person, other than an individual, that was
18 created or organized under the laws of the United States or of a
19 state, or whose principal office is located in a state, and that
20 is controlled by a person described in (A) or (B) of this para-
21 graph;

22 (4) "approved by the board" or "approval of the board"
23 means approved or ratified by the vote of the board or by a committee
24 authorized to exercise the powers of the board, except as to matters
25 not within the competence of the committee under AS 10.21;

26 (5) "approved by the members" or "approval of the members"
27 means approved or ratified by the affirmative vote of a majority of
28 the memberships entitled to vote represented at a duly held meeting at
29 which a quorum is present or by the affirmative vote or written con-

1 sent of a greater proportion, including all, of the memberships of a
2 class if a greater proportion is required by the articles or this
3 chapter for all or any specified member action;

4 (6) "approved by a majority of all members" or "approval of
5 a majority of all members" means approval by an affirmative vote or
6 written ballot of a majority of the votes entitled to be cast; this
7 approval includes the affirmative vote of a majority of the
8 outstanding memberships of each class, unit, or grouping of members
9 entitled by the bylaws or articles to vote as a class, unit or group-
10 ing of members on the subject matter and also includes the affirmative
11 vote of a greater proportion, including all, of the memberships of a
12 class, unit, or grouping of members if a greater proportion is re-
13 quired by the bylaws;

14 (7) "approved by a majority of the entire board" or "appro-
15 val of a majority of the entire board" means approval by an affirma-
16 tive vote or written ballot of a majority of the entire board;

17 (8) "articles" or "articles of incorporation" means the
18 original or restated articles of incorporation and all amendments and
19 includes articles of merger;

20 (9) "bylaws" means a code of rules adopted for the regu-
21 lation or management of the affairs of the corporation irrespective of
22 the name by which these rules are known;

23 (10) "commissioner" means the commissioner of commerce and
24 economic development or a designee of the commissioner;

25 (11) "control" or "controlling interest" means

26 (A) the power to elect or designate one or more mem-
27 bers of the board of directors in the case of a foreign or domes-
28 tic corporation having five or fewer directors; or

29 (B) the power to elect or designate 20 percent or more

1 of the members of the board of directors in the case of a foreign
2 or domestic corporation having more than five directors;

3 (12) "department" means the Department of Commerce and
4 Economic Development;

5 (13) "director" means a natural person who is a member of
6 the governing board of a corporation, irrespective of the title by
7 which the person is known;

8 (14) "domestic corporation" means a nonprofit corporation
9 subject to the provisions of this chapter, but does not include a
10 foreign corporation;

11 (15) "donation" includes the transfer of any legal consid-
12 eration if the transferor becomes entitled to a charitable tax de-
13 duction upon transfer and does not include a grant or other transfer
14 from or by a state, federal, municipal, or other governmental agency
15 or body;

16 (16) "entire board" means the total number of directors of a
17 corporation if there are no vacancies;

18 (17) "filed" means filed in the office of the commissioner
19 unless otherwise expressly provided;

20 (18) "foreign corporation" means a corporation organized
21 under laws other than the laws of this state that would, if formed in
22 this state, be either a mutual benefit or public benefit corporation;

23 (19) "independent accountant" means a certified public
24 accountant or a public accountant who is independent of the corpo-
25 ration as determined in accordance with generally accepted auditing
26 standards and who is engaged to audit financial statements of the
27 corporation or perform other accounting services;

28 (20) "insolvent" means the inability of a corporation to pay
29 its debts as they become due in the regular course of business;

1 (21) "member" means a person having membership rights in a
2 corporation in accordance with the provisions of its articles of
3 incorporation or bylaws;

4 (22) "mutual benefit corporation" means a domestic nonprofit
5 corporation other than a public benefit corporation;

6 (23) "nonprofit corporation" or "not-for-profit corporation"
7 means a corporation

8 (A) formed exclusively for a purpose for which a
9 corporation may be formed under this chapter and not for pecun-
10 iary profit or financial gain; and

11 (B) no part of the assets, income, or profits of which
12 is distributable to, or inures to the benefit of, its members,
13 directors, or officers except to the extent permitted under this
14 chapter;

15 (24) "organic change" means a merger, consolidation, or sale
16 of assets other than in the regular course of business;

17 (25) "public benefit corporation" means a domestic corpo-
18 ration

19 (A) formed for a public or charitable purpose; or

20 (B) that derives more than 10 percent of its annual
21 income from donations; or

22 (C) that has no voting members or whose only members
23 are its directors or officers;

24 (26) "proxy" means a written authorization signed by a
25 member or the member's attorney-in-fact giving another person power to
26 vote with respect to the membership of the member; "signed" for the
27 purpose of this paragraph means the placing of the member's name on
28 the proxy by manual signature by the member or by the member's at-
29 torney-in-fact;

1 (27) "proxy holder" means the person to whom a proxy is
2 given;

3 (28) "state" means any of the United States, the District of
4 Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Is-
5 lands, Guam, the Virgin Islands, American Samoa, the Trust Territory
6 of the Pacific Islands, or any other territory or possession of the
7 United States;

8 (29) "subsidiary" of a specified corporation means a corpo-
9 ration in which the specified corporation holds a controlling inter-
10 est;

11 (30) "surviving corporation" means a corporation into which
12 one or more other corporations are merged;

13 (31) "vacancy" when used with respect to the board means any
14 authorized position of director that is not then filled by a duly
15 elected director, whether caused by death, resignation, removal,
16 change in the authorized number of directors, or otherwise;

17 (32) "verified" means that a document has been certified to
18 be true as provided in AS 09.63.040;

19 (33) "vote" includes authorization by written consent,
20 subject to the provisions of AS 10.21.285 and AS 10.21.405(b);

21 (34) "writing" includes any form of recorded message capable
22 of comprehension by ordinary visual means.

23 Sec. 10.21.995. SHORT TITLE. This chapter may be cited as the
24 Alaska Nonprofit Corporations Code.

25 * Sec. 2. AS 10.20 is repealed.

26 * Sec. 3. APPLICATION OF PROVISIONS TO DOMESTIC AND FOREIGN CORPORA-
27 TIONS. (a) Except as otherwise expressly provided, the provisions of this
28 Act apply on and after the effective date of this Act to:

29 (1) a domestic corporation organized under the Alaska Nonprofit

1 Corporation Act (AS 10.20) existing on the effective date of this Act;

2 (2) a foreign corporation that is authorized or does business in
3 the state on or after the effective date of this Act;

4 (3) actions by a director, officer, or shareholder of a corpora-
5 tion described in (1) and (2) of this section on and after the effective
6 date of this Act.

7 (b) Except as otherwise expressly provided, a section of this Act
8 governing acts, contracts, or other transactions by a corporation or its
9 directors, officers, or shareholders applies only to acts, contracts, or
10 transactions occurring on or after the effective date of this Act and the
11 former provisions of AS 10.20 govern acts, contracts, or transactions
12 occurring before the effective date of this Act.

13 (c) Except as otherwise expressly provided, a vote or consent by the
14 directors or shareholders of a corporation before the effective date of
15 this Act in accordance with the former provisions of AS 10.20 is effective,
16 and if a certificate or document is required to be filed in a public office
17 of the state relating to the action, it may be filed after the effective
18 date of this Act in accordance with the former provisions of AS 10.20.

19 * Sec. 4. EXERCISE OF RESERVE POWER. It is the intent of the legisla-
20 ture in enacting AS 10.21.450(a) in sec. 1 of this Act to exercise to the
21 fullest extent the reserve power of the state over corporations and to
22 authorize any amendment of the articles permitted under AS 10.21.450(a)
23 regardless of whether a provision contained in the amendment was permissi-
24 ble at the time of the original incorporation of the corporation.

25 * Sec. 5. APPLICATION TO ARTICLES OF EXISTING CORPORATIONS. (a) The
26 provisions of AS 10.21.105 and AS 10.21.110 relating to the contents of
27 articles of incorporation do not apply to domestic corporations existing on
28 the effective date of this Act unless and until an amendment of the arti-
29 cles is filed stating that the corporation elects to be governed by all of

1 the provisions of the Alaska Corporations Code (AS 10.21) not otherwise
2 applicable to it under this Act. If an amendment makes no change in the
3 articles of incorporation other than conforming the statement of purposes
4 and powers to AS 10.21.105(2) or AS 10.21.110(1)(D) or deletes references
5 to par value or location of principal office, it may be adopted by approval
6 of the board of directors of the corporation alone; otherwise, it shall be
7 approved as provided in AS 10.21.450 - 10.21.453 in sec. 1 of this Act.

8 (b) A corporation organized and existing under the former provisions
9 of AS 10.20 shall comply with AS 10.21.105 and AS 10.21.110 in sec. 1 of
10 this Act on or before the date five years after the effective date of this
11 Act.

12 * Sec. 6. TENURE OF OFFICERS PRESERVED. If a person holds an office
13 under a law repealed by this Act, that person shall continue to hold the
14 office according to its former tenure if the office is continued by this
15 Act.

16 * Sec. 7. EXISTING ACTIONS. The enactment of this chapter does not
17 affect a cause of action, liability, penalty or special proceeding exist-
18 ing, incurred, or accrued on the effective date of this chapter.

19 * Sec. 8. This Act takes effect July 1, 1983.