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1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 343 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the liability of directors of
7 corporations."

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

9 * Section 1. AS 10.05.255 is amended by adding new subsections to read:

10 (c) In addition to the matters required to be set out in the
11 articles of incorporation by (a) of this section, the articles of
12 incorporation may also contain a provision eliminating or limiting the
13 personal liability of a director to the corporation or its stock-
14 holders for monetary damages for the breach of fiduciary duty as a
15 director. The articles of incorporation may not eliminate or limit
16 the liability of a director for

17 (1) a breach of a director's duty of loyalty to the corpo-
18 ration or its stockholders;

19 (2) acts or omissions not in good faith or that involve
20 intentional misconduct or a knowing violation of law;

21 (3) wilful or negligent conduct involved in the payment of
22 dividends or the repurchase of stock from other than lawfully avail-
23 able funds; or

24 (4) a transaction from which the director derives an im-
25 proper personal benefit.

26 (d) The provisions of (c) of this section do not eliminate or
27 limit the liability of a director for an act or omission that occurs
28 before the effective date of the articles of incorporation or of an
29 amendment to the articles of incorporation authorized by (c) of this

1 section.

2 * Sec. 2. AS 10.05.276 is amended by adding a new subsection to read:

3 (b) Notwithstanding (a)(3) of this section, an amendment to the
4 articles of incorporation of a corporation organized under 43 U.S.C.
5 1601 - 1628 (Alaska Native Claims Settlement Act) and incorporated
6 under AS 10.05.005 to add a provision eliminating or limiting the
7 personal liability of a director to the corporation or its stockhold-
8 ers for monetary damages under AS 10.05.255(c) may be adopted by the
9 affirmative vote of a majority of the shares represented at the regu-
10 lar or special meeting at which a quorum is present in person or by
11 proxy.

12 * Sec. 3. AS 10.15.350 is amended by adding new subsections to read:

13 (b) In addition to the matters required to be set out in the
14 articles of incorporation by (a) of this section, the articles of
15 incorporation may also contain a provision eliminating or limiting the
16 personal liability of a director to the corporation or its members for
17 monetary damages for the breach of fiduciary duty as a director. The
18 articles of incorporation may not eliminate or limit the liability of
19 a director for

20 (1) a breach of a director's duty of loyalty to the corpo-
21 ration;

22 (2) acts or omissions not in good faith or that involve
23 intentional misconduct or a knowing violation of law;

24 (3) wilful or negligent conduct involved in the payment of
25 dividends or the redemption of stock from other than lawfully avail-
26 able funds; or

27 (4) a transaction from which the director derives an im-
28 proper personal benefit.

29 (c) The provisions of (b) of this section do not eliminate or

1 limit the liability of a director for an act or omission that occurs
2 before the effective date of the articles of incorporation or of an
3 amendment to the articles of incorporation authorized by (b) of this
4 section.

5 * Sec. 4. AS 10.20.151 is amended by adding new subsections to read:

6 (d) In addition to the matters required to be set out in the
7 articles of incorporation by (a) of this section, the articles of
8 incorporation may also contain a provision eliminating or limiting the
9 personal liability of a director to the corporation for monetary
10 damages for the breach of fiduciary duty as a director. The articles
11 of incorporation may not eliminate or limit the liability of a direc-
12 tor for

13 (1) a breach of a director's duty of loyalty to the corpo-
14 ration;

15 (2) acts or omissions not in good faith or that involve
16 intentional misconduct or a knowing violation of law; or

17 (3) a transaction from which the director derives an im-
18 proper personal benefit.

19 (e) The provisions of (d) of this section do not eliminate or
20 limit the liability of a director for an act or omission that occurs
21 before the effective date of the articles of incorporation or of an
22 amendment to the articles of incorporation authorized by (d) of this
23 section.