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1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2

SENATE BILL NO. 88

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to investment securities under the  
7 Uniform Commercial Code."

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

9 \* Section 1. AS 45.01.201(5) is amended to read:

10 (5) "bearer" means the person in possession of an instru-  
11 ment, document of title, or certificated security payable to bearer or  
12 endorsed in blank;

13 \* Sec. 2. AS 45.01.201(14) is amended to read:

14 (14) "delivery" with respect to instruments, documents of  
15 title, chattel paper, or certificated securities means voluntary  
16 transfer of possession;

17 \* Sec. 3. AS 45.01.201(20) is amended to read:

18 (20) "holder" means a person who is in possession of a  
19 document of title or an instrument or a certificated [AN] investment  
20 security drawn, issued, or endorsed to the person or to the order of  
21 the person or to bearer or in blank;

22 \* Sec. 4. AS 45.05.114(b) is amended to read:

23 (b) Unless otherwise agreed, if documents appear on their face  
24 to comply with the terms of a credit but a required document does not  
25 in fact conform to the warranties made on negotiation or transfer of a  
26 document of title (AS 45.07.507) or of a certificated security  
27 (AS 45.08.306) or is forged or fraudulent or there is fraud in the  
28 transaction.

29 (1) the issuer must honor the draft or demand for payment

1 if honor is demanded by a negotiating bank or other holder of the  
2 draft or demand which has taken the draft or demand under the credit  
3 and under circumstances which would make it a holder in due course (AS  
4 45.03.302) and in an appropriate case would make it a person to whom a  
5 document of title has been duly negotiated (AS 45.07.502) or a bona  
6 fide purchaser of a certificated security (AS 45.08.302); and

7 (2) in all other cases as against its customer, an issuer  
8 acting in good faith may honor the draft or demand for payment despite  
9 notification from the customer of fraud, forgery, or other defect not  
10 apparent on the face of the documents, but a court of appropriate  
11 jurisdiction may enjoin this honor.

12 \* Sec. 5. AS 45.08.102 is repealed and reenacted to read:

13 Sec. 45.08.102. DEFINITIONS AND INDEX OF DEFINITIONS. (a) In  
14 this chapter, unless the context otherwise requires,

15 (1) a "certificated security" is a share, participation, or  
16 other interest in property of or an enterprise of the issuer or an  
17 obligation of the issuer which is

18 (A) represented by an instrument issued in bearer or  
19 registered form;

20 (B) of a type commonly dealt in on securities ex-  
21 changes or markets or commonly recognized in any area in which it  
22 is issued or dealt in as a medium for investment; and

23 (C) either one of a class or series or by its terms  
24 divisible into a class or series of shares, participations,  
25 interests, or obligations;

26 (2) an "uncertificated security" is a share, participation,  
27 or other interest in property or an enterprise of the issuer or an  
28 obligation of the issuer which is

29 (A) not represented by an instrument and the transfer

1 of which is registered upon books maintained for that purpose by  
2 or on behalf of the issuer;

3 (B) of a type commonly dealt in on securities ex-  
4 changes or markets; and

5 (C) either one of a class or series or by its terms  
6 divisible into a class or series of shares, participations,  
7 interests, or obligations;

8 (3) a "security" is either a certificated or an uncertif-  
9 icated security; if a security is certificated, the terms "security"  
10 and "certificated security" may mean either the intangible interest,  
11 the instrument representing that interest, or both, as the context  
12 requires; a writing that is a certificated security is governed by  
13 this chapter and not by AS 45.03 on commercial paper, even though it  
14 also meets the requirements of that chapter. This chapter does not  
15 apply to money; if a certificated security has been retained by or  
16 surrendered to the issuer or its transfer agent for reasons other than  
17 registration of transfer, other temporary purpose, payment, exchange,  
18 or acquisition by the issuer, that security shall be treated as an  
19 uncertificated security for purposes of this chapter;

20 (4) a certificated security is in "registered form" if

21 (A) it specifies a person entitled to the security or  
22 the rights it represents, and

23 (B) its transfer may be registered upon books main-  
24 tained for that purpose by or on behalf of the issuer, or the  
25 security so states;

26 (5) a certificated security is in "bearer form" if it runs  
27 to bearer according to its terms and not by reason of any indorsement.

28 (b) A "subsequent purchaser" is a person who takes other than by  
29 original issue.

1 (c) A "clearing corporation" is a corporation registered as a  
2 "clearing agency" under the federal securities laws or a corporation

3 (1) at least 90 percent of whose capital stock is held by  
4 or for one or more organizations, none of which, other than a national  
5 securities exchange or association, holds in excess of 20 percent of  
6 the capital stock of the corporation, and each of which is

7 (A) subject to supervision or regulation under the  
8 federal or state banking laws or state insurance laws,

9 (B) a broker or dealer or investment company regis-  
10 tered under the federal securities laws, or

11 (C) a national securities exchange or association  
12 registered under the federal securities laws; and

13 (2) any remaining capital stock of which is held by indi-  
14 viduals who have purchased it at or before the time of their taking  
15 office as directors of the corporation and who have purchased only so  
16 much of the capital stock as is necessary to permit them to qualify as  
17 directors.

18 (d) A "custodian bank" is a bank or trust company that is su-  
19 pervised and examined by state or federal authority having supervision  
20 over banks and is acting as custodian for a clearing corporation.

21 (e) Other definitions apply to this chapter or to specific  
22 sections, and the sections in which they appear are:

23 (1) "adverse claim" (AS 45.08.302)

24 (2) "bona fide purchaser" (AS 45.08.302)

25 (3) "broker" (AS 45.08.303)

26 (4) "debtor" (AS 45.09.105)

27 (5) "financial intermediary" (AS 45.08.313)

28 (6) "guarantee of the signature" (AS 45.08.402)

29 (7) "initial transaction statement" (AS 45.08.408)

- 1 (8) "instruction" (AS 45.08.308)  
2 (9) "intermediary bank" (AS 45.04.105)  
3 (10) "issuer" (AS 45.08.201)  
4 (11) "overissue" (AS 45.08.104)  
5 (12) "secured party" (AS 45.09.105)  
6 (13) "security agreement" (AS 45.09.105)

7 (f) In addition, AS 45.01 contains general definitions and  
8 principles of construction and interpretation applicable throughout  
9 this chapter.

10 \* Sec. 6. AS 45.08.103 is amended to read:

11 Sec. 45.08.103. ISSUER'S LIEN. A lien upon a security in favor  
12 of an issuer of the security is valid against a purchaser only if

13 (1) the security is certificated and the right of the  
14 issuer to the lien is noted conspicuously on the certificate; or

15 (2) the security is uncertificated and a notation of the  
16 right of the issuer to the lien is contained in the initial trans-  
17 action statement sent to the purchaser or, if the purchaser's interest  
18 is transferred to the purchaser other than by registration of  
19 transfer, pledge, or release, the initial transaction statement sent  
20 to the registered owner or the registered pledgee.

21 \* Sec. 7. AS 45.08.104(a) is amended to read:

22 (a) The provisions of this chapter that validate a security or  
23 compel its issue or reissue do not apply to the extent that valida-  
24 tion, issue, or reissue would result in overissue; but if

25 (1) [IF] an identical security which does not constitute an  
26 overissue is reasonably available for purchase, the person entitled to  
27 issue or validation may compel the issuer to purchase [AND DELIVER]  
28 the security for [TO] the person and either to deliver a certificated  
29 security or to register the transfer of an uncertificated security to

1 the person, against surrender of any certificated [THE] security[, IF  
2 ANY, WHICH] the person holds; or

3 (2) [IF] a security is not so available for purchase, the  
4 person entitled to issue or validation may recover from the issuer the  
5 price the person or the last purchaser for value paid for it with  
6 interest from the date of the demand.

7 \* Sec. 8. AS 45.08.105 is amended to read:

8 Sec. 45.08.105. CERTIFICATED SECURITIES NEGOTIABLE; STATEMENTS  
9 AND INSTRUCTIONS NOT NEGOTIABLE; PRESUMPTIONS. (a) Certificated  
10 securities [SECURITIES] governed by this chapter are negotiable in-  
11 struments.

12 (b) Statements (AS 45.08.408), notices, or the like, sent by the  
13 issuer of uncertificated securities and instructions (AS 45.08.308)  
14 are neither negotiable instruments nor certificated securities.

15 (c) [(b)] In an action on a security

16 (1) unless specifically denied in the pleadings, each  
17 signature on a certificated [THE] security, [OR] in a necessary  
18 endorsement, on an initial transaction statement, or on an  
19 instruction, is admitted;

20 (2) if the effectiveness of a signature is put in issue,  
21 the burden of establishing it is on the party claiming under the  
22 signature, but the signature is presumed to be genuine or authorized;

23 (3) if signatures on a certificated security are admitted  
24 or established, production of the security [INSTRUMENT] entitles a  
25 holder to recover on it unless the defendant establishes a defense or  
26 a defect going to the validity of the security; [AND]

27 (4) if signatures on an initial transaction statement are  
28 admitted or established, the facts stated in the statement are  
29 presumed to be true as of the time of its issuance; and

1           (5) [(4)] after it is shown that a defense or defect ex-  
2           ists, the plaintiff has the burden of establishing that the plaintiff  
3           or some person under whom the plaintiff claims is a person against  
4           whom the defense or defect is ineffective (AS 45.08.202).

5           \* Sec. 9. AS 45.08.106 is amended to read:

6           Sec. 45.08.106. APPLICABILITY. The law (including the conflict  
7           of laws rules) of the jurisdiction of organization of the issuer  
8           governs the validity of a security, the effectiveness of registration  
9           by that issuer, and the rights and duties of the issuer with respect  
10          to

11           (1) registration of transfer of a certificated security;

12           (2) registration of transfer, pledge, or release of an  
13           uncertificated security; and

14           (3) sending of statements of uncertificated securities [ARE  
15           GOVERNED BY THE LAW (INCLUDING THE CONFLICT OF LAWS RULES) OF THE

16           JURISDICTION OF ORGANIZATION OF THE ISSUER].

17          \* Sec. 10. AS 45.08.107 is amended to read:

18           Sec. 45.08.107. SECURITIES TRANSFERABLE [DELIVERABLE]; ACTION  
19           FOR PRICE. (a) Unless otherwise agreed and subject to an applicable  
20           law or regulation respecting short sales, a person obligated to trans-  
21           fer [DELIVER] securities may transfer [DELIVER] a certificated securi-  
22           ty of the specified issue in bearer form or registered in the name of  
23           the transferee, or endorsed to the transferee or in blank, or the  
24           obligated person may transfer an equivalent uncertificated security to  
25           the transferee or a person designated by the transferee.

26           (b) If the buyer fails to pay the price as it comes due under a  
27           contract of sale, the seller may recover the price of

28           (1) certificated [OF] securities accepted by the buyer;

29           [AND]

1           (2) uncertificated securities that have been transferred to  
2           the buyer or a person designated by the buyer; and

3           (3) [(2) OF] other securities if efforts at their resale  
4           would be unduly burdensome or if there is no readily available market  
5           for their resale.

6 \* Sec. 11. AS 45.08 is amended by adding a new section to read:

7           Sec. 45.08.108. REGISTRATION OF PLEDGE AND RELEASE OF UNCERTIF-  
8           ICATED SECURITIES. A security interest in an uncertificated security  
9           may be evidenced by the registration of pledge to the secured party or  
10          a person designated by the secured party. There can be no more than  
11          one registered pledge of an uncertificated security at any time. The  
12          registered owner of an uncertificated security is the person in whose  
13          name the security is registered, even if the security is subject to a  
14          registered pledge. The rights of a registered pledgee of an  
15          uncertificated security under this chapter are terminated by the  
16          registration of release.

17 \* Sec. 12. AS 45.08.201 is amended to read:

18          Sec. 45.08.201. "ISSUER." (a) With respect to obligations on  
19          or defenses to a security, "issuer" includes a person who

20                 (1) places or authorizes the placing of the person's name  
21                 on a certificated security (otherwise than as authenticating trustee,  
22                 registrar, transfer agent, or the like) to evidence that it represents  
23                 a share, participation, or other interest in the person's property or  
24                 in an enterprise, or to evidence the person's duty to perform an  
25                 obligation represented [EVIDENCED] by the certificated security;

26                 (2) creates shares, participations, or other interests in  
27                 that person's property or in an enterprise or undertakes obligations,  
28                 which shares, participations, interests, or obligations are  
29                 uncertificated securities;

1           (3) [(2)] directly or indirectly creates fractional inter-  
2           ests in the person's rights or property, which fractional interests  
3           are represented [EVIDENCED] by certificated securities; or

4           (4) [(3)] becomes responsible for or in place of another  
5           person described as an issuer in this section.

6           (b) With respect to obligations on or defenses to a security, a  
7           guarantor is an issuer to the extent of the guaranty, whether or not  
8           the person's obligation is noted on a certificated [THE] security or  
9           on statements of uncertificated securities sent under AS 45.08.408.

10           (c) With respect to registration of transfer, pledge, or release  
11           (AS 45.08.401 - 45.08.406), "issuer" means a person on whose behalf  
12           transfer books are maintained.

13       \* Sec. 13. AS 45.08.202 is amended to read:

14           Sec. 45.08.202. ISSUER'S RESPONSIBILITY AND DEFENSES; NOTICE OF  
15           DEFECT OR DEFENSE. (a) Even against a purchaser for value and with-  
16           out notice, the terms of a security include

17           (1) if the security is certificated, those stated on the  
18           security;

19           (2) if the security is uncertificated, those contained in  
20           the initial transaction statement sent to the purchaser, or if the  
21           purchaser's interest is transferred to the purchaser other than by  
22           registration of transfer, pledge, or release, the initial transaction  
23           statement sent to the registered owner or registered pledgee; and

24           (3) those made part of the security by reference, on the  
25           certificated security or in the initial transaction statement, to  
26           another instrument, indenture, or document or to a constitution,  
27           statute, ordinance, rule, regulation, order, or the like, to the  
28           extent that the terms [SO] referred to do not conflict with the [STAT-  
29           ED] terms stated on the certificated security or contained in the

1 statement;[. SUCH] a reference under this paragraph does not of  
2 itself charge a purchaser for value with notice of a defect going to  
3 the validity of the security, even though the certificated security  
4 expressly states that a person accepting it admits [THIS] notice.

5 (b) A certificated security in the hands of a purchaser for  
6 value or an uncertificated security as to which an initial transaction  
7 statement has been sent to a purchaser for value, other than a securi-  
8 ty [ONE] issued by a government or governmental agency or unit, even  
9 though issued with a defect going to its validity, is valid with  
10 respect to the [IN THE HANDS OF A] purchaser if the purchaser is [FOR  
11 VALUE AND] without notice of the particular defect unless the defect  
12 involves a violation of constitutional provisions, in which case the  
13 security is valid with respect to [IN THE HANDS OF] a subsequent  
14 purchaser for value and without notice of the defect. This subsection  
15 [(c) THE RULE OF (b) OF THIS SECTION] applies to an issuer that  
16 [WHICH] is a government or governmental agency or unit only if either  
17 there has been substantial compliance with the legal requirements  
18 governing the issue or the issuer has received a substantial consid-  
19 eration for the issue as a whole or for the particular security and a  
20 stated purpose of the issue is one for which the issuer has power to  
21 borrow money or issue the security.

22 (c) [(d)] Except as [OTHERWISE] provided in the case of certain  
23 unauthorized signatures [ON ISSUE] (AS 45.08.205), lack of genuineness  
24 of a certificated security or an initial transaction statement is a  
25 complete defense, even against a purchaser for value and without  
26 notice.

27 (d) [(e)] All other defenses of the issuer of a certificated or  
28 uncertificated security, including nondelivery and conditional deliv-  
29 ery of a certificated [THE] security, are ineffective against a

1 purchaser for value who has taken without notice of the particular de-  
2 fense.

3 (e) [(f)] Nothing in this section affects [MAY BE CONSTRUED TO  
4 AFFECT] the right of a party to a "when, as, and if issued" or a "when  
5 distributed" contract to cancel the contract in the event of a materi-  
6 al change in the character of the security that [WHICH] is the subject  
7 of the contract or in the plan or arrangement under which the security  
8 is to be issued or distributed.

9 \* Sec. 14. AS 45.08.203 is amended to read:

10 Sec. 45.08.203. STALENESS AS NOTICE OF DEFECTS OR DEFENSES. (a)  
11 After an act or event creating [WHICH CREATES] a right to immediate  
12 performance of the principal obligation represented [EVIDENCED] by a  
13 certificated [THE] security or that [WHICH] sets a date on or after  
14 which the security is to be presented or surrendered for redemption or  
15 exchange, a purchaser is charged with notice of any defect in the  
16 issue or defense of the issuer if

17 (1) [IF] the act or event is one requiring the payment of  
18 money, [OR] the delivery of certificated securities, the registration  
19 of transfer of uncertificated securities, or any of these [BOTH] on  
20 presentation or surrender of the certificated security, [AND] the  
21 funds or securities are available on the date set for payment or  
22 exchange, and the purchaser takes the security more than one year  
23 after that date; and

24 (2) [IF] the act or event is not covered by (1) of this  
25 subsection and the purchaser takes the security more than two years  
26 after the date set for surrender or presentation or the date on which  
27 [THE] performance became due.

28 (b) A call that [WHICH] has been revoked is not within (a) of  
29 this section.

1 \* Sec. 15. AS 45.08.204 is amended to read:

2           Sec. 45.08.204. EFFECT OF ISSUER'S RESTRICTIONS ON TRANSFER. A  
3           [UNLESS NOTED CONSPICUOUSLY ON THE SECURITY, A] restriction on trans-  
4           fer of a security imposed by the issuer, even though otherwise lawful,  
5           is ineffective [EXCEPT] against a person without [WITH] actual knowl-  
6           edge of it unless

7                     (1) the security is certificated and the restriction is  
8                     noted conspicuously on the certificate; or

9                     (2) the security is uncertificated and a notation of the  
10                    restriction is contained in the initial transaction statement sent to  
11                    the person or, if that person's interest is transferred to that person  
12                    other than by registration of transfer, pledge, or release, the ini-  
13                    tial transaction statement sent to the registered owner or the regis-  
14                    tered pledgee.

15 \* Sec. 16. AS 45.08.205 is amended to read:

16           Sec. 45.08.205. EFFECT OF UNAUTHORIZED SIGNATURE ON CERTIFICATED  
17           SECURITY OR INITIAL TRANSACTION STATEMENT [ISSUE]. An unauthorized  
18           signature placed on a certificated security before or in the course of  
19           issue or placed on an initial transaction statement is ineffective,  
20           but [EXCEPT THAT] the signature is effective in favor of a purchaser  
21           for value of the certificated security or a purchaser for value of an  
22           uncertificated security to whom the initial transaction statement has  
23           been sent, if the purchaser is [AND] without notice of the lack of  
24           authority and [IF] the signing has been done by

25                     (1) an authenticating trustee, registrar, transfer agent,  
26                     or other person entrusted by the issuer with the signing of the secu-  
27                     rity, [OR] of similar securities, or of initial transaction statements  
28                     or the [THEIR] immediate preparation for signing of any of them; or

29                     (2) an employee of the issuer, or of any of the foregoing,

1 entrusted with responsible handling of the security or initial trans-  
2 action statement.

3 \* Sec. 17. AS 45.08.206 is amended to read:

4 Sec. 45.08.206. COMPLETION OR ALTERATION OF CERTIFICATED SECURI-  
5 TY OR INITIAL TRANSACTION STATEMENT [INSTRUMENT]. (a) If a certif-  
6 icated security contains the signatures necessary to its issue or  
7 transfer but is incomplete in another respect,

8 (1) a person may complete it by filling in the blanks as  
9 authorized; and

10 (2) even though the blanks are incorrectly filled in, the  
11 security as completed is enforceable by a purchaser who takes it for  
12 value and without notice of the [SUCH] incorrectness.

13 (b) A complete certificated security that [WHICH] has been  
14 improperly altered, even though fraudulently, remains enforceable, but  
15 only according to its original terms.

16 (c) If an initial transaction statement contains the signatures  
17 necessary to its validity, but is incomplete in any other respect

18 (1) a person may complete it by filling in the blanks as  
19 authorized; and

20 (2) even though the blanks are incorrectly filled in, the  
21 statement as completed is effective in favor of the person to whom it  
22 is sent if that person purchased the security referred to in the  
23 statement value and without notice of the incorrectness.

24 (d) A complete initial transaction statement that has been  
25 improperly altered, even though fraudulently, is effective in favor of  
26 a purchaser to whom it has been sent, but only according to its origi-  
27 nal terms.

28 \* Sec. 18. AS 45.08.207 is amended to read:

29 Sec. 45.08.207. RIGHTS AND DUTIES OF ISSUER WITH RESPECT TO

1 REGISTERED OWNERS AND REGISTERED PLEDGEEES. (a) Before due  
2 presentment for registration of transfer of a certificated security in  
3 registered form, the issuer or indenture trustee may treat the regis-  
4 tered owner as the person exclusively entitled to vote, to receive  
5 notifications, and otherwise to exercise all the rights and powers of  
6 an owner.

7 (b) Subject to the provisions of (c), (d), and (f) of this  
8 section, the issuer or indenture trustee may treat the registered  
9 owner of an uncertificated security as the person exclusively entitled  
10 to vote, to receive notifications, and otherwise to exercise all the  
11 rights and powers of an owner.

12 (c) The registered owner of an uncertificated security that is  
13 subject to a registered pledge is not entitled to registration of  
14 transfer before the due presentment to the issuer of a release in-  
15 struction. The exercise of conversion rights with respect to a con-  
16 vertible uncertificated security is a transfer within the meaning of  
17 this section.

18 (d) Upon due presentment of a transfer instruction from the  
19 registered pledgee of an uncertificated security, the issuer shall:

20 (1) register the transfer of the security to the new owner  
21 free of pledge, if the instruction specifies a new owner (who may be  
22 the registered pledgee) and does not specify a pledgee;

23 (2) register the transfer of the security to the new owner  
24 subject to the interest of the existing pledgee, if the instruction  
25 specifies a new owner and the existing pledgee; or

26 (3) register the release of the security from the existing  
27 pledge and register the pledge of the security to the other pledgee,  
28 if the instruction specifies the existing owner and another pledgee.

29 (e) Continuity of perfection of a security interest is not

1 broken by registration of transfer under (d)(2) of this section or by  
2 registration of release and pledge under (d)(3) of this section, if  
3 the security interest is assigned.

4 (f) If an uncertificated security is subject to a registered  
5 pledge,

6 (1) any uncertificated security issued in exchange for or  
7 distributed with respect to the pledged security shall be registered  
8 subject to the pledge;

9 (2) any certificated security issued in exchange for or  
10 distributed with respect to the pledged security shall be delivered to  
11 the registered pledgee; and

12 (3) any money paid in exchange for or in redemption of part  
13 or all of the security shall be paid to the registered pledgee.

14 (g) [(b)] Nothing in this chapter affects [MAY BE CONSTRUED TO  
15 AFFECT] the liability of the registered owner of a security for calls,  
16 assessments, or the like.

17 \* Sec. 19. AS 45.08.208(a) is amended to read:

18 (a) A person placing the person's signature upon a certificated  
19 security or an initial transaction statement as authenticating trust-  
20 ee, registrar, transfer agent, or the like, warrants to a purchaser  
21 for value of the certificated security or a purchaser for value of an  
22 uncertificated security to whom the initial transaction statement has  
23 been sent, if the purchaser is without notice of the particular de-  
24 fect, that

25 (1) the certificated security or initial transaction state-  
26 ment is genuine;

27 (2) the person's own participation in the issue or regis-  
28 tration of the transfer, pledge, or release of the security is within  
29 the person's capacity and within the scope of the authority

1 [AUTHORIZATION] received by the person from the issuer; and

2 (3) the person has reasonable grounds to believe that the  
3 security is in the form and within the amount the issuer is authorized  
4 to issue.

5 \* Sec. 20. AS 45.08.301 is amended to read:

6 Sec. 45.08.301. RIGHTS ACQUIRED BY PURCHASER[; "ADVERSE CLAIM";  
7 TITLE ACQUIRED BY BONA FIDE PURCHASER]. (a) Upon transfer [DELIVERY]  
8 of a security to a purchaser (AS 45.08.313), the purchaser acquires  
9 the rights in the security which the transferor had or had actual  
10 authority to convey unless the purchaser's rights are limited by  
11 AS 45.08.302(d). [EXCEPT THAT A PURCHASER WHO HAS BEEN A PARTY TO A  
12 FRAUD OR ILLEGALITY AFFECTING THE SECURITY OR WHO AS A PRIOR HOLDER  
13 HAD NOTICE OF AN ADVERSE CLAIM CANNOT IMPROVE THE PURCHASER'S POSITION  
14 BY TAKING FROM A LATER BONA FIDE PURCHASER. "ADVERSE CLAIM" INCLUDES  
15 A CLAIM THAT A TRANSFER WAS OR WOULD BE WRONGFUL OR THAT A PARTICULAR  
16 ADVERSE PERSON IS THE OWNER OF OR HAS AN INTEREST IN THE SECURITY.]

17 [(b) A BONA FIDE PURCHASER, IN ADDITION TO ACQUIRING THE RIGHTS  
18 OF A PURCHASER, ALSO ACQUIRES THE SECURITY FREE OF AN ADVERSE CLAIM.]

19 (b) [(c)] A transferee [PURCHASER] of a limited interest ac-  
20 quires rights only to the extent of the interest transferred. The  
21 creation or release of a security interest in a security is the trans-  
22 fer of a limited interest in that security [PURCHASED].

23 \* Sec. 21. AS 45.08.302 is amended to read:

24 Sec. 45.08.302. "BONA FIDE PURCHASER"; "ADVERSE CLAIM"; TITLE  
25 ACQUIRED BY BONA FIDE PURCHASER. (a) A "bona fide purchaser" is a  
26 purchaser for value in good faith and without notice of an adverse  
27 claim

28 (1) who takes delivery of a certificated security in bearer  
29 form or [OF ONE] in registered form, issued or endorsed to the

1 purchaser or in blank;

2 (2) to whom the transfer, pledge, or release of an uncer-  
3 tificated security is registered on the books of the issuer; or

4 (3) to whom a security is transferred under the provisions  
5 of AS 45.08.313(a)(3), (4)(A), or (7).

6 (b) "Adverse claim" includes a claim that a transfer was or  
7 would be wrongful or that a particular adverse person is the owner of  
8 or has an interest in the security.

9 (c) A bona fide purchaser, in addition to acquiring the rights  
10 of a purchaser (AS 45.08.301), also acquires the interest in the  
11 security free of any adverse claim.

12 (d) Notwithstanding AS 45.08.301(1), the transferee of a partic-  
13 ular certificated security who has been a party to any fraud or ille-  
14 gality affecting the security, or who as a prior holder of that cer-  
15 tificated security had notice of an adverse claim, cannot improve his  
16 or her position by taking from a bona fide purchaser.

17 \* Sec. 22. AS 45.08.303 is amended to read:

18 Sec. 45.08.303. "BROKER." "Broker" means a person engaged full  
19 or part time in the business of buying and selling securities, who in  
20 the transaction concerned acts for, [OR] buys a security from, or  
21 sells a security to, a customer. Nothing in this chapter determines  
22 the capacity in which a person acts for purposes of another statute or  
23 rule to which the person is subject.

24 \* Sec. 23. AS 45.08.304 is amended to read:

25 Sec. 45.08.304. NOTICE TO PURCHASER OF ADVERSE CLAIMS. (a) A  
26 purchaser (including a broker for the seller or buyer, but excluding  
27 an intermediary bank) of a certificated security is charged with  
28 notice of adverse claims if

29 (1) the security, whether in bearer or registered form, has

1       been endorsed "for collection" or "for surrender" or for some other  
2       purpose not involving transfer; or

3               (2) the security is in bearer form and has on it an unam-  
4       biguous statement that it is the property of a person other than the  
5       transferor; the mere writing of a name on a security is not such a  
6       statement.

7               **(b) A purchaser (including a broker for the seller or buyer, but**  
8       **excluding an intermediary bank) to whom the transfer, pledge, or**  
9       **release of an uncertificated security is registered is charged with**  
10       **notice of adverse claims as to which the issuer has a duty under**  
11       **AS 45.08.403(d) at the time of registration and which are noted in the**  
12       **initial transaction statement sent to the purchaser or, if the pur-**  
13       **chaser's interest is transferred to the purchaser other than by regis-**  
14       **tration of transfer, pledge, or release, the initial transaction**  
15       **statement sent to the registered owner or the registered pledgee.**

16               (c) [(b)] The fact that the purchaser (including a broker for  
17       the seller or buyer) of a certificated or uncertificated security has  
18       notice that the security is held for a third person or is registered  
19       in the name of or endorsed by a fiduciary does not create a duty of  
20       inquiry into the rightfulness of the transfer or constitute construc-  
21       tive notice of adverse claims. However, if [IF, HOWEVER,] the pur-  
22       chaser (excluding an intermediary bank) has knowledge that the pro-  
23       ceeds are being used or that the transaction is for the individual  
24       benefit of the fiduciary or otherwise in breach of duty, the purchaser  
25       is charged with notice of adverse claims.

26       \* Sec. 24. AS 45.08.305 is amended to read:

27               Sec. 45.08.305. STALENESS AS NOTICE OF ADVERSE CLAIMS. An act  
28       or event that [WHICH] creates a right to immediate performance of the  
29       principal obligation represented [EVIDENCED] by a certificated [THE]

1 security or [WHICH] sets a date on or after which a certificated [THE]  
2 security is to be presented or surrendered for redemption or exchange  
3 does not [OF] itself constitute a notice of adverse claims except in  
4 the case of a transfer [PURCHASE]

5 (1) after one year from a date set for [THE] presentment or  
6 surrender for redemption or exchange; or

7 (2) after six months from a date set for payment of money  
8 against presentation or surrender of the security if funds are avail-  
9 able for payment on that date.

10 \* Sec. 25. AS 45.08.306 is amended to read:

11 Sec. 45.08.306. WARRANTIES ON PRESENTMENT AND TRANSFER OF CER-  
12 TIFICATED SECURITIES; WARRANTIES OF ORIGINATORS OF INSTRUCTIONS. (a)  
13 A person who presents a certificated security for registration of  
14 transfer or for payment or exchange warrants to the issuer that the  
15 person is entitled to the registration, payment, or exchange. But a  
16 purchaser for value and without notice of adverse claims who receives  
17 a new, reissued, or reregistered certificated security on registration  
18 of transfer, or receives an initial transaction statement confirming  
19 the registration of transfer of an equivalent uncertificated security  
20 to that purchaser, warrants only that the purchaser has no knowledge  
21 of any unauthorized signature (AS 45.08.311) in a necessary endorse-  
22 ment.

23 (b) A person by transferring a certificated security to a pur-  
24 chaser for value warrants only that

25 (1) the transfer is effective and rightful;

26 (2) the security is genuine and has not been materially  
27 altered; and

28 (3) the person knows of no fact that [WHICH] might impair  
29 the validity of the security.

1 (c) If a certificated security is delivered by an intermediary  
2 known to be entrusted with delivery of the security on behalf of  
3 another or with collection of a draft or other claim against the  
4 delivery, the intermediary by the delivery warrants only the inter-  
5 mediary's own good faith and authority, even though the intermediary  
6 has purchased or made advances against the claim to be collected  
7 against the delivery.

8 (d) A pledgee or other holder for security who redelivers a  
9 certificated [THE] security received or, after payment and on order of  
10 the debtor, delivers that security to a third person, makes only the  
11 warranties of an intermediary under (c) of this section.

12 (e) A person who originates an instruction warrants to the  
13 issuer that

14 (1) the person is an appropriate person to originate the  
15 instruction; and

16 (2) at the time the instruction is presented to the issuer,  
17 the issuer will be entitled to the registration of transfer, pledge,  
18 or release.

19 (f) A person who originates an instruction warrants to any  
20 person specially guaranteeing the person's signature (AS 45.08.312(c))  
21 that

22 (1) the person is an appropriate person to originate the  
23 instruction; and

24 (2) at the time the instruction is presented to the issuer

25 (A) the issuer will be entitled to the registration of  
26 transfer, pledge, or release; and

27 (B) the transfer, pledge, or release requested in the  
28 instruction will be registered by the issuer free from all liens,  
29 security interests, restrictions, and claims other than those

1 specified in the instruction.

2 (g) A person who originates an instruction warrants to a pur-  
3 chaser for value and to any person guaranteeing the instruction  
4 (AS 45.08.312(f)) that

5 (1) the originator is an appropriate person to originate  
6 the instruction;

7 (2) the uncertificated security referred to in the instruc-  
8 tion is valid; and

9 (3) at the time the instruction is presented to the issuer

10 (A) the transferor will be entitled to the registra-  
11 tion of transfer, pledge, or release;

12 (B) the transfer, pledge, or release requested in the  
13 instruction will be registered by the issuer free from all liens,  
14 security interests, restrictions, and claims other than those  
15 specified in the instruction; and

16 (C) the requested transfer, pledge, or release will be  
17 rightful.

18 (h) If a secured party is the registered pledgee or the regis-  
19 tered owner of an uncertificated security, a person who originates an  
20 instruction of release or transfer to the debtor or, after payment and  
21 on order of the debtor, a transfer instruction to a third person,  
22 warrants to the debtor or the third person only that the originator is  
23 an appropriate person to originate the instruction and at the time the  
24 instruction is presented to the issuer, the transferor will be enti-  
25 tled to the registration of release or transfer. If a transfer in-  
26 struction to a third person who is a purchaser for value is originated  
27 on order of the debtor, the debtor makes to the purchaser the war-  
28 ranties of (g)(2) and (3)(B) and (C) of this section.

29 (i) A person who transfers an uncertificated security to a

1 purchaser for value and does not originate an instruction in con-  
2 nection with the transfer warrants only that

3 (1) the transfer is effective and rightful; and

4 (2) the uncertificated security is valid.

5 (j) [(e)] A broker gives to the customer and to the issuer and a  
6 purchaser the applicable warranties provided in this section and has  
7 the rights and privileges of a purchaser under this section. The  
8 warranties of and in favor of the broker acting as an agent are in  
9 addition to applicable warranties given by and in favor of the custom-  
10 er.

11 \* Sec. 26. AS 45.08.307 is amended to read:

12 Sec. 45.08.307. EFFECT OF DELIVERY WITHOUT ENDORSEMENT; RIGHT TO  
13 COMPEL ENDORSEMENT. If a certificated security in registered form has  
14 been delivered to a purchaser without a necessary endorsement, the  
15 purchaser may become a bona fide purchaser only as of the time the  
16 endorsement is supplied; however, [, BUT] against the transferor, the  
17 transfer is complete upon delivery and the purchaser has a specificall-  
18 ly enforceable right to have any necessary endorsement supplied.

19 \* Sec. 27. AS 45.08.308 is amended to read:

20 Sec. 45.08.308. ENDORSEMENTS: INSTRUCTIONS [ENDORSEMENT, HOW  
21 MADE; SPECIAL ENDORSEMENT; ENDORSER NOT A GUARANTOR; PARTIAL ASSIGN-  
22 MENT]. (a) An endorsement of a certificated security in registered  
23 form is made when an appropriate person signs on it, or on a separate  
24 document, an assignment or transfer of the security or a power to  
25 assign or transfer it or when the signature of the person is written  
26 without more upon the back of the security.

27 (b) An endorsement may be in blank or special. An endorsement  
28 in blank includes an endorsement to bearer. A special endorsement  
29 specifies [THE PERSON] to whom the security is to be transferred, or

1 who has power to transfer it. A holder may convert a blank endorse-  
2 ment into a special endorsement.

3 (c) An endorsement purporting to be only of part of a certifi-  
4 icated security representing units intended by the issuer to be sepa-  
5 rately transferable is effective to the extent of the endorsement.

6 (d) An "instruction" is an order to the issuer of an uncertif-  
7 icated security requesting that the transfer, pledge, or release from  
8 pledge of the uncertificated security specified in the instruction be  
9 registered.

10 (e) An instruction originated by an appropriate person is (1) a  
11 writing signed by an appropriate person; or (2) a communication to the  
12 issuer in any form agreed upon in a writing signed by the issuer and  
13 an appropriate person. If an instruction has been originated by an  
14 appropriate person but is incomplete in any other respect, any person  
15 may complete it as authorized and the issuer may rely on it as com-  
16 pleted even though it has been completed incorrectly.

17 (f) [(c)] "An appropriate person" in (a) of this section means  
18 [(1)] the person specified by the certificated security or  
19 by special endorsement to be entitled to the security. [;]

20 (g) "An appropriate person" in (e) of this section means  
21 (1) for an instruction to transfer or pledge an uncertif-  
22 icated security that is then not subject to a registered pledge, the  
23 registered owner; or

24 (2) for an instruction to transfer or release an uncertif-  
25 icated security that is then subject to a registered pledge, the  
26 registered pledgee.

27 (h) In addition to the persons designated in (f) and (g) of this  
28 section, "an appropriate person" in (a) and (e) includes

29 (1) [(2)] if the person designated [SO SPECIFIED] is

1 described as a fiduciary but is no longer serving in the described  
2 capacity, either that person or that person's successor;

3 (2) [(3)] if the persons designated are described as [SECU-  
4 RITY OR ENDORSEMENT SO SPECIFIES] more than one person as fiduciaries  
5 and one or more are no longer serving in the described capacity, the  
6 remaining fiduciary or fiduciaries, whether or not a successor has  
7 been appointed or qualified;

8 (3) [(4)] if the person designated [SO SPECIFIED] is an  
9 individual and is without capacity to act by virtue of death, incompe-  
10 tence, infancy, or otherwise, that person's executor, administrator,  
11 guardian, or like fiduciary;

12 (4) [(5)] if the persons designated are described as [SECU-  
13 RITY OR ENDORSEMENT SO SPECIFIES] more than one person as tenants by  
14 the entirety or with right of survivorship and by reason of death all  
15 cannot sign, the survivor or survivors;

16 (5) [(6)] a person having power to sign under applicable  
17 law or controlling instrument; and [OR]

18 (6) [(7)] to the extent that the person designated or any  
19 of the foregoing persons may act through an agent, that person's  
20 authorized agent.

21 (i) [(d)] Unless otherwise agreed, the endorser of a certificat-  
22 ed security by the endorsement or the originator of an instruction by  
23 the origination assumes no obligation that the security will be  
24 honored by the issuer but only the obligations provided in  
25 AS 45.08.306.

26 [(e) AN ENDORSEMENT PURPORTING TO BE ONLY OF PART OF A SECURITY  
27 REPRESENTING UNITS INTENDED BY THE ISSUER TO BE SEPARATELY TRANSFER-  
28 ABLE IS EFFECTIVE TO THE EXTENT OF THE ENDORSEMENT.]

29 (j) [(f)] Whether the person signing is appropriate is

1 determined as of the date of signing and an endorsement made by or an  
2 instruction originated by the [SUCH A] person does not become unau-  
3 thorized for the purpose of this chapter by virtue of a subsequent  
4 change of circumstances.

5 (k) [(g)] Failure of a fiduciary to comply with a controlling  
6 instrument or with the law of the state having jurisdiction of the  
7 fiduciary relationship, including a law requiring the fiduciary to  
8 obtain court approval of the transfer, pledge, or release, does not  
9 render the fiduciary's endorsement or an instruction originated by the  
10 fiduciary unauthorized for the purposes of this chapter.

11 \* Sec. 28. AS 45.08.309 is amended to read:

12 Sec. 45.08.309. EFFECT OF ENDORSEMENT WITHOUT DELIVERY. An  
13 endorsement of a certificated security, whether special or in blank,  
14 does not constitute a transfer until delivery of the certificated  
15 security on which it appears or, if the endorsement is on a separate  
16 document, until delivery of both the document and the certificated  
17 security.

18 \* Sec. 29. AS 45.08.310 is amended to read:

19 Sec. 45.08.310. ENDORSEMENT OF CERTIFICATED SECURITY IN BEARER  
20 FORM. An endorsement of a certificated security in bearer form may  
21 give notice of adverse claims (AS 45.08.304), but does not otherwise  
22 affect any right to registration the holder possesses [MAY POSSESS].

23 \* Sec. 30. AS 45.08.311 is amended to read:

24 Sec. 45.08.311. EFFECT OF UNAUTHORIZED ENDORSEMENT OR INSTRUC-  
25 TION. Unless the owner or pledgee has ratified an unauthorized en-  
26 dorsement or instruction or is otherwise precluded from asserting its  
27 ineffectiveness,

28 (1) the owner or pledgee may assert its ineffectiveness  
29 against the issuer or a purchaser, other than a purchaser for value

1 and without notice of adverse claims, who has in good faith received a  
2 new, reissued, or reregistered certificated security on registration  
3 of transfer or received an initial transaction statement confirming  
4 the registration of transfer, pledge, or release of an equivalent  
5 uncertificated security to the issuer or purchaser; and

6 (2) an issuer who registers the transfer of a certificated  
7 security upon the unauthorized endorsement or who registers the trans-  
8 fer, pledge, or release of an uncertificated security upon the unau-  
9 thorized instruction is subject to liability for improper registration  
10 (AS 45.08.404).

11 \* Sec. 31. AS 45.08.312 is amended to read:

12 Sec. 45.08.312. EFFECT OF GUARANTEEING SIGNATURE, [OR] ENDORSE-  
13 MENT ,OR INSTRUCTION. (a) A person who guarantees a signature of an  
14 endorser of a certificated security warrants that at the time of  
15 signing (1) the signature was genuine; (2) the signer was an appropri-  
16 ate person to endorse (AS 45.08.308); and (3) the signer had legal  
17 capacity to sign. However, [BUT] the guarantor does not otherwise  
18 warrant the rightfulness of the particular transfer.

19 (b) A person guaranteeing a signature of the originator of an  
20 instruction warrants that at the time of signing

21 (1) the signature was genuine;

22 (2) the signer was an appropriate person to originate the  
23 instruction (AS 45.08.308) if the person specified in the instruction  
24 as the registered owner or registered pledgee of the uncertificated  
25 security was, in fact, the registered owner or registered pledgee of  
26 the security, as to which fact the signature guarantor makes no war-  
27 ranty;

28 (3) the signer had legal capacity to sign; and

29 (4) the taxpayer identification number, if any, appearing

1 on the instruction as that of the registered owner or registered  
2 pledgee was the taxpayer identification number of the signer or of the  
3 owner or pledgee for whom the signer was acting.

4 (c) A person specially guaranteeing the signature of the orig-  
5 inator of an instruction makes not only the warranties of a signature  
6 guarantor ((b) of this section) but also warrants that at the time the  
7 instruction is presented to the issuer

8 (1) the person specified in the instruction as the regis-  
9 tered owner or registered pledgee of the uncertificated security will  
10 be the registered owner or registered pledgee; and

11 (2) the transfer, pledge, or release of the uncertificated  
12 security requested in the instruction will be registered by the issuer  
13 free from all liens, security interest, restrictions, and claims other  
14 than those specified in the instruction.

15 (d) The guarantor under (a) or (b) of this section or the spe-  
16 cial guarantor under (c) of this section does not otherwise warrant  
17 the rightfulness of the particular transfer, pledge, or release.

18 (e) [(b)] Any person guaranteeing [MAY GUARANTEE] an endorsement  
19 of a certificated security not only makes the warranties of a  
20 signature guarantor under (a) of this section [AND BY SO DOING  
21 WARRANTS NOT ONLY THE SIGNATURE ((a) OF THIS SECTION)] but also war-  
22 rants the rightfulness of the particular transfer in all respects.  
23 However, [BUT] no issuer may require a guarantee of endorsement as a  
24 condition to registration of transfer.

25 (f) Any person guaranteeing an instruction requesting the trans-  
26 fer, pledge, or release of an uncertificated security not only makes  
27 the warranties of a special signature guarantor under (c) of this  
28 section but also warrants the rightfulness of the particular transfer,  
29 pledge, or release in all respects.

1           (g) No issuer may require a special guarantee of signature ((c)  
2 of this section), a guarantee of endorsement ((e) of this section), or  
3 a guarantee of instruction ((f) of this section) as a condition to  
4 registration of transfer, pledge, or release.

5           (h) [(c)] The foregoing warranties are made to any person taking  
6 or dealing with the security in reliance on the guarantee, and the  
7 guarantor is liable to the person for a loss resulting from breach of  
8 the warranties.

9 \* Sec. 32. AS 45.08.313 is amended to read:

10           Sec. 45.08.313. WHEN TRANSFER [DELIVERY] TO [THE] PURCHASER  
11 OCCURS: FINANCIAL INTERMEDIARY AS BONA FIDE PURCHASER; "FINANCIAL  
12 INTERMEDIARY." [; PURCHASER'S BROKER AS HOLDER.] (a) Transfer of a  
13 security or a limited interest (including a security interest) in a  
14 security [DELIVERY] to the purchaser occurs only [WHEN]

15           (1) at the time the purchaser or a person designated by the  
16 purchaser acquires possession of a certificated security;

17           (2) at the time the transfer, pledge, or release of an  
18 uncertificated security is registered to the purchaser or a person  
19 designated by the purchaser;

20           (3) [(2)] at the time the purchaser's financial intermedi-  
21 ary [BROKER] acquires possession of a certificated security specially  
22 endorsed to or issued in the name of the purchaser;

23           (4) [(3)] at the time the purchaser's financial intermedi-  
24 ary, not a clearing corporation, [BROKER] sends the purchaser confir-  
25 mation of the purchase and also by book entry or otherwise identifies  
26 [A SPECIFIC SECURITY IN THE BROKER'S POSSESSION] as belonging to the  
27 purchaser

28           (A) a specific certificated security in the financial  
29 intermediary's possession;

1                   (B) a quantity of securities that constitute or are  
2 part of a fungible bulk of certificated securities in the finan-  
3 cial intermediary's possession or of uncertificated securities  
4 registered in the name of the financial intermediary; or

5                   (C) a quantity of securities that constitute or are  
6 part of a fungible bulk of securities shown on the account of the  
7 financial intermediary on the books of another financial inter-  
8 mediary;

9                   (5) [(4)] with respect to an identified certificated secu-  
10 rity to be delivered while still in the possession of a third person,  
11 not a financial intermediary, at the time [WHEN] that person acknowl-  
12 edges that the person holds for the purchaser; [OR]

13                   (6) with respect to a specific uncertificated security the  
14 pledge or transfer of which has been registered to a third person, not  
15 a financial intermediary, at the time that person acknowledges that  
16 the person holds for the purchaser;

17                   (7) [(5)] at the time appropriate entries to the account of  
18 the purchaser or a person designated by the purchaser are made on the  
19 books of a clearing corporation as provided in AS 45.08.320;

20                   (8) with respect to the transfer of a security interest  
21 where the debtor has signed a security agreement containing a descrip-  
22 tion of the security, at the time a written notification, which, in  
23 the case of the creation of the security interest, is signed by the  
24 debtor (which may be a copy of the security agreement) or which, in  
25 the case of the release or assignment of the security interest created  
26 under this paragraph, is signed by the secured party, is received by

27                   (A) a financial intermediary on whose books the inter-  
28 est of the transferor in the security appears;

29                   (B) a third person, not a financial intermediary, in

1           possession of the security, if it is certificated;

2           (C) a third person, not a financial intermediary, who  
3           is the registered owner of the security, if it is uncertificated  
4           and not subject to a registered pledge; or

5           (D) a third person, not a financial intermediary, who  
6           is the registered pledgee of the security, if it is uncertificat-  
7           ed and subject to a registered pledge;

8           (9) with respect to the transfer of a security interest  
9           where the transferor has signed a security agreement containing a  
10           description of the security, at the time new value is given by the  
11           secured party; or

12           (10) with respect to the transfer of a security interest  
13           where the secured party is a financial intermediary and the security  
14           has already been transferred to the financial intermediary under  
15           (a)(1), (2), (3), (4), or (7) of this section, at the time the  
16           transferor has signed a security agreement containing a description of  
17           the security and value is given by the secured party.

18           (b) The purchaser is the owner of a security held for the pur-  
19           chaser by a financial intermediary [THE PURCHASER'S BROKER], but  
20           cannot be a bona fide purchaser of a security so held [IS NOT THE  
21           HOLDER] except in the circumstances [AS] specified in (a)(3), (4)(A),  
22           and (7) [(a)(2), (3) and (5)] of this section. If [WHERE] a security  
23           so held is part of a fungible bulk, as in the circumstances specified  
24           in (a)(4)(B) and (C) of this section, the purchaser is an owner of a  
25           proportionate property interest in the fungible bulk.

26           (c) Notice of an adverse claim received by the financial inter-  
27           mediary [BROKER] or by the purchaser after the financial intermediary  
28           [BROKER] takes delivery of a certificated security as a holder for  
29           value or after the transfer, pledge, or release of an uncertificated

1 security has been registered free of the claim to a financial inter-  
2 mediary who has given value is not effective either as to the finan-  
3 cial intermediary [BROKER] or as to the purchaser. However, as be-  
4 tween the financial intermediary [BROKER] and the purchaser, the  
5 purchaser may demand transfer [DELIVERY] of an equivalent security as  
6 to which no notice of [AN] adverse claim has been received.

7 (d) A "financial intermediary" is a bank, broker, clearing  
8 corporation, or other person, or the nominee of any of them, which in  
9 the ordinary course of its business maintains security accounts for  
10 its customers and is acting in that capacity. A financial intermedi-  
11 ary may have a security interest in securities held in account for its  
12 customer.

13 \* Sec. 33. AS 45.08.314 is amended to read:

14 Sec. 45.08.314. DUTY TO TRANSFER [DELIVER], WHEN COMPLETED. (a)  
15 Unless otherwise agreed, if a sale of a security is made on an ex-  
16 change or otherwise through brokers,

17 (1) the selling customer fulfills the duty to transfer at  
18 the time [DELIVER WHEN] the customer

19 (A) places a certificated security in the possession  
20 of the selling broker or of a person designated by the broker;  
21 [OR, IF REQUESTED, CAUSES AN ACKNOWLEDGMENT TO BE MADE TO THE  
22 SELLING BROKER THAT IT IS HELD FOR THE BROKER; AND]

23 (B) causes an uncertificated security to be registered  
24 in the name of the selling broker or a person designated by the  
25 broker;

26 (C) if requested, causes an acknowledgement to be made  
27 to the selling broker that a certificated or uncertificated  
28 security is held for the broker; or

29 (D) places in the possession of the selling broker or

1           of a person designated by the broker a transfer instruction for  
2           an uncertificated security, providing the issuer does not refuse  
3           to register the requested transfer if the instruction is present-  
4           ed to the issuer for registration within 30 days thereafter; and

5           (2) the selling broker, including a correspondent broker  
6 acting for a selling customer, fulfills the duty to transfer at the  
7 time the broker

8           (A) places a certificated [DELIVER BY PLACING THE  
9 SECURITY OR A LIKE] security in the possession of the buying  
10 broker or a person designated by the buying broker; [OR BY EF-  
11 FECTING CLEARANCE OF THE SALE IN ACCORDANCE WITH THE RULES OF THE  
12 EXCHANGE ON WHICH THE TRANSACTION TOOK PLACE]

13           (B) causes an uncertificated security to be registered  
14 in the name of the buying broker or a person designated by the  
15 buying broker;

16           (C) places in the possession of the buying broker or  
17 of a person designated by the buying broker a transfer instruc-  
18 tion for an uncertificated security, providing the issuer does  
19 not refuse to register the requested transfer if the instruction  
20 is presented to the issuer for registration within 30 days there-  
21 after; or

22           (D) effects clearance of the sale in accordance with  
23 the rules of the exchange on which the transaction took place.

24           (b) Except as [OTHERWISE] provided in this section and unless  
25 otherwise agreed, a transferor's duty to transfer [DELIVER] a security  
26 under a contract of purchase is not fulfilled until the transferor

27           (1) places a certificated [THE] security in form to be  
28 negotiated by the purchaser in the possession of the purchaser or of a  
29 person designated by the purchaser; [OR AT THE PURCHASER'S REQUEST

1 CAUSES AN ACKNOWLEDGMENT TO BE MADE TO THE PURCHASER THAT IS HELD FOR  
2 THE PURCHASER]

3 (2) causes an uncertificated security to be registered in  
4 the name of the purchaser or a person designated by the purchaser; or

5 (3) if the purchaser requests, causes an acknowledgment to  
6 be made to the purchaser that a certificated or uncertificated secur-  
7 ity is held for the purchaser.

8 (c) Unless made on an exchange, a sale to a broker purchasing  
9 for the broker's own account is within (b) of this section [SUB-  
10 SECTION] and not within (a) of this section.

11 \* Sec. 34. AS 45.08.315 is amended to read:

12 Sec. 45.08.315. ACTION AGAINST TRANSFeree [PURCHASER] BASED UPON  
13 WRONGFUL TRANSFER. (a) A person against whom the transfer of a  
14 security is wrongful for any reason, including the incapacity of that  
15 person, [MAY,] against anyone except a bona fide purchaser, may

16 (1) reclaim possession of the certificated security wrong-  
17 fully transferred;

18 (2) [OR] obtain possession of a new certificated security  
19 representing [EVIDENCING] all or part of the same rights;

20 (3) compel the origination of an instruction to transfer to  
21 that person or to a person designated by the person an uncertificated  
22 security constituting all or part of the same rights; or

23 (4) have damages.

24 (b) If the transfer is wrongful because of an unauthorized  
25 endorsement of a certificated security, the owner may also reclaim or  
26 obtain possession of the security or a new certificated security, even  
27 from a bona fide purchaser, if the ineffectiveness of the purported  
28 endorsement can be asserted against the bona fide purchaser under the  
29 provisions of this chapter on unauthorized endorsements

1 (AS 45.08.311).

2 (c) The right to obtain or reclaim possession of a certificated  
3 security or to compel the origination of a transfer instruction may be  
4 specifically enforced, the [ITS] transfer of a certificated or uncer-  
5 tificated security enjoined, and a [THE] certificated security im-  
6 pounded pending the litigation.

7 \* Sec. 35. AS 45.08.316 is amended to read:

8 Sec. 45.08.316. PURCHASER'S RIGHT TO REQUISITES FOR REGISTRATION  
9 OF TRANSFER, PLEDGE, OR RELEASE ON BOOKS. Unless otherwise agreed,  
10 the transferor of a certificated security or the transferor, pledgor,  
11 or pledgee of an uncertificated security must, on due demand, supply  
12 the purchaser with any proof of authority to transfer, pledge, or  
13 release or with any other requisite [WHICH IS] necessary to obtain  
14 registration of the transfer, pledge, or release of the security; [,]  
15 but if the transfer, pledge, or release is not for value, a  
16 transferor, pledgor, or pledgee need not do so unless the purchaser  
17 furnishes the necessary expenses. Failure, within a reasonable time,  
18 to comply with a demand made [WITHIN A REASONABLE TIME] gives the  
19 purchaser the right to reject or rescind the transfer, pledge, or  
20 release.

21 \* Sec. 36. AS 45.08.317 is amended to read:

22 Sec. 45.08.317. CREDITORS' RIGHTS [ATTACHMENT OR LEVY UPON SECU-  
23 RITY]. (a) Subject to the exceptions in (c) and (d) of this section,  
24 no [NO] attachment or levy upon a certificated security or share or  
25 other interest represented [EVIDENCED] by it which is outstanding is  
26 valid until the security is actually seized by the officer making the  
27 attachment or levy, but a certificated security that [WHICH] has been  
28 surrendered to the issuer may be reached by a creditor by legal pro-  
29 cess at the issuer's chief executive office in the United States

1           [ATTACHED OR LEVIED UPON AT THE SOURCE].

2           (b) An uncertificated security registered in the name of the  
3 debtor may not be reached by a creditor except by legal process at the  
4 issuer's chief executive office in the United States.

5           (c) The interest of a debtor in a certificated security that is  
6 in the possession of a secured party not a financial intermediary or  
7 in an uncertificated security registered in the name of a secured  
8 party not a financial intermediary (or in the name of a nominee of the  
9 secured party) may be reached by a creditor by legal process upon the  
10 secured party.

11           (d) The interest of a debtor in a certificated security that is  
12 in the possession of or registered in the name of a financial inter-  
13 mediary or in an uncertificated security registered in the name of a  
14 financial intermediary may be reached by a creditor by legal process  
15 upon the financial intermediary on whose books the interest of the  
16 debtor appears.

17           (e) Unless otherwise provided by law, a creditor's lien upon the  
18 interest of a debtor in a security obtained under (c) or (d) of this  
19 section is not a restraint on the transfer of the security, free of  
20 the lien, to a third party for new value; but, in the event of a  
21 transfer, the lien applies to the proceeds of the transfer in the  
22 hands of the secured party or financial intermediary, subject to any  
23 claims having priority.

24           (f) [(b)] A creditor whose debtor is the owner of a security is  
25 entitled to [SUCH] aid from courts of appropriate jurisdiction, by  
26 injunction or otherwise, in reaching the security or in satisfying the  
27 claim by the security as is allowed at law or in equity in regard to  
28 property that [WHICH] cannot readily be reached [ATTACHED OR LEVIED  
29 UPON] by ordinary legal process.

1 \* Sec. 37. AS 45.08.318 is amended to read:

2 Sec. 45.08.318. NO CONVERSION BY GOOD FAITH CONDUCT [DELIVERY].

3 An agent or bailee who in good faith (including observance of reason-  
4 able commercial standards if the agent or bailee is in the business of  
5 buying, selling, or otherwise dealing with securities) has received  
6 certificated securities and sold, pledged, or delivered them or has  
7 sold or caused the transfer or pledge of uncertificated securities  
8 over which he had control according to the instructions of the princi-  
9 pal, is not liable for conversion or for participation in breach of  
10 fiduciary duty although the principal had no right so to deal with the  
11 securities [TO DISPOSE OF THEM].

12 \* Sec. 38. AS 45.08.319 is amended to read:

13 Sec. 45.08.319. STATUTE OF FRAUDS. A contract for the sale of  
14 securities is not enforceable by way of action or defense unless

15 (1) there is a writing signed by the party against whom  
16 enforcement is sought or by an authorized agent or broker of that  
17 party, sufficient to indicate that a contract has been made for sale  
18 of a stated quantity of described securities at a defined or stated  
19 price;

20 (2) delivery of a certificated [THE] security or transfer  
21 instruction has been accepted, or transfer of an uncertificated secu-  
22 urity has been registered and the transferee has failed to send written  
23 objection to the issuer within 10 days after receipt of the initial  
24 transaction statement confirming the registration, or payment has been  
25 made, but the contract is enforceable under this paragraph only to the  
26 extent of that delivery, registration, or payment;

27 (3) within a reasonable time a writing in confirmation of  
28 the sale or purchase and sufficient against the sender under (1) of  
29 this section has been received by the party against whom enforcement

1 is sought and that party has failed to send written objection to its  
2 contents within 10 [TEN] days after its receipt; or

3 (4) the party against whom enforcement is sought admits in  
4 a pleading, testimony, or otherwise in court that a contract was made  
5 for the sale of a stated quantity of described securities at a defined  
6 or stated price.

7 \* Sec. 39. AS 45.08.320 is amended to read:

8 Sec. 45.08.320. TRANSFER OR PLEDGE WITHIN [A] CENTRAL DEPOSITORY  
9 SYSTEM. (a) In addition to other methods [PROVIDED FOR IN THIS  
10 CHAPTER], a transfer, [OR] pledge, or release of a security or any  
11 interest in a security may be made by appropriate entries on the books  
12 of a clearing corporation reducing the account of the transferor, [OR]  
13 pledgor, or pledgee and increasing the account of the transferee, [OR]  
14 pledgee, or pledgor by the amount of the obligation, or the number of  
15 shares or rights transferred, [OR] pledged, or released, if the secu-  
16 rity is shown on the account of a transferor, pledgor, or pledgee on  
17 the books of the clearing corporation; is subject to the control of  
18 the clearing corporation; and

19 (1) if certificated,

20 (A) is in the custody of the clearing corporation,  
21 another clearing corporation, [OR OF] a custodian bank, or a  
22 nominee of any of them [EITHER SUBJECT TO THE INSTRUCTIONS OF THE  
23 CLEARING CORPORATIONS]; and

24 (B) [(2)] is in bearer form or endorsed in blank by an  
25 appropriate person or registered in the name of the clearing  
26 corporation, a [OR] custodian bank, or a nominee of any of them  
27 [EITHER]; or [AND]

28 (2) if uncertificated, is registered in the name of the  
29 clearing corporation, another clearing corporation, a custodian bank,

1 or a nominee of any of them

2 [(3) IS SHOWN ON THE ACCOUNT OF A TRANSFEROR OR PLEDGOR ON  
3 THE BOOKS OF THE CLEARING CORPORATION].

4 (b) A transfer, [OR] pledge, or release of securities or inter-  
5 est in securities which are part of a fungible bulk may be made under  
6 this section by entries on the books of a clearing corporation merely  
7 by referring to a quantity of a particular security without reference  
8 to the name of the registered owner, certificate or bond number, or  
9 other factor serving to identify ownership of a particular portion of  
10 the total bulk of securities; and, in appropriate cases, may be on a  
11 net basis taking into account other transfers, [OR] pledges, or re-  
12 leases of the same security.

13 (c) A transfer or pledge under this section is effective  
14 (AS 45.08.313) and the purchaser acquires the rights of the transferor  
15 (AS 45.08.301). A pledge or release under this section is the trans-  
16 fer of a limited interest. If [HAS THE EFFECT OF A DELIVERY OF A  
17 SECURITY IN BEARER FORM OR DULY ENDORSED IN BLANK REPRESENTING THE  
18 AMOUNT OF THE OBLIGATION OR THE NUMBER OF SHARES OR RIGHTS TRANSFERRED  
19 OR PLEDGED AND IF] a pledge or the creation of a security interest is  
20 intended, the security interest is perfected at the time when both  
21 value is given by the pledgee and the appropriate entries are made  
22 (AS 45.08.321) [MAKING OF ENTRIES HAS THE EFFECT OF A TAKING OF DELIV-  
23 ERY BY THE PLEDGEE OR A SECURED PARTY]. A transferee or pledgee under  
24 this section may be a bona fide purchaser (AS 45.08.302) [IS THE  
25 HOLDER].

26 (d) A transfer or pledge under this section is not [DOES NOT  
27 CONSTITUTE] a registration of transfer under AS 45.08.401 - 45.08.406.

28 (e) Failure to make appropriate entries on the books of the  
29 clearing corporation as provided in (a) of this section does not

1 affect the validity or the effect of the entries nor does it affect  
2 the liabilities or obligations of the clearing corporation to any  
3 person adversely affected thereby.

4 \* Sec. 40. AS 45.08 is amended by adding a new section to read:

5 Sec. 45.08.321. ENFORCEABILITY, ATTACHMENT, PERFECTION, AND  
6 TERMINATION OF SECURITY INTERESTS. (a) A security interest in a  
7 security is enforceable and can attach only if it is transferred to  
8 the secured party or a person designated by the secured party under a  
9 provision of AS 45.08.313(a).

10 (b) A security interest so transferred pursuant to agreement by  
11 a transferor who has rights in the security to a transferee who has  
12 given value is a perfected security interest, but a security interest  
13 that has been transferred solely under AS 45.08.313(a)(9) becomes  
14 unperfected after 21 days unless, within that time, the requirements  
15 for transfer under any other provision of AS 45.08.313(a) are  
16 satisfied.

17 (c) A security interest in a security is subject to the pro-  
18 visions of AS 45.09, but (1) no filing is required to perfect the  
19 security interest, and (2) no written security agreement signed by the  
20 debtor is necessary to make the security interest enforceable, except  
21 as otherwise provided in AS 45.08.313(a)(8), (9), or (10). The  
22 secured party has the rights and duties provided in AS 45.09.207, to  
23 the extent that they are applicable, whether or not the security is  
24 certificated, and, if certificated, whether or not it is in the  
25 secured party's possession.

26 (d) Unless otherwise agreed, a security interest in a security  
27 is terminated by transfer to the debtor or a person designated by the  
28 debtor under a provision of AS 45.08.313(a). If a security is thus  
29 transferred, the security interest, if not terminated, becomes

1 unperfected unless the security is certificated and is delivered to  
2 the debtor for the purpose of ultimate sale or exchange or  
3 presentation, collection, renewal, or registration of transfer. In  
4 that case, the security interest becomes unperfected after 21 days  
5 unless, within that time, the security (or securities for which it has  
6 been exchanged) is transferred to the secured party or a person  
7 designated by the secured party under a provision of AS 45.08.313(a).

8 \* Sec. 41. AS 45.08.401 is amended to read:

9 Sec. 45.08.401. DUTY OF ISSUER TO REGISTER TRANSFER, PLEDGE, OR  
10 RELEASE. (a) If a certificated security in registered form is pre-  
11 sented to the issuer with a request to register transfer, or an in-  
12 struction is presented to the issuer with a request to register trans-  
13 fer, pledge, or release, the issuer shall [IS UNDER A DUTY TO] regis-  
14 ter the transfer, pledge, or release as requested if

15 (1) the security is endorsed or the instruction was orig-  
16 inated by the appropriate person (AS 45.08.308);

17 (2) reasonable assurance is given that those endorsements  
18 or instructions are genuine and effective (AS 45.08.402);

19 (3) the issuer has no duty as to [INQUIRE INTO] adverse  
20 claims or has discharged the duty (AS 45.08.403);

21 (4) any applicable law relating to the collection of taxes  
22 has been complied with; and

23 (5) the transfer, pledge, or release is in fact rightful  
24 or is to a bona fide purchaser.

25 (b) If an issuer is under a duty to register a transfer, pledge  
26 or release of a security, the issuer is also liable to the person  
27 presenting a certificated security or an instruction [IT] for regis-  
28 tration or that person's principal for loss resulting from an unrea-  
29 sonable delay in registration or from failure or refusal to register

1       the transfer, pledge, or release.

2       \* Sec. 42. AS 45.08.402 is amended to read:

3               Sec. 45.08.402. ASSURANCE THAT ENDORSEMENTS AND INSTRUCTIONS ARE  
4       EFFECTIVE. (a) The issuer may require the following assurance that  
5       each necessary endorsement of a certificated security or each instruc-  
6       tion (AS 45.08.308) is genuine and effective:

7               (1) in all cases, a guarantee of the signature (AS 45.-  
8       08.312(a) or (b)) of the person endorsing a certificated security or  
9       originating an instruction including, in the case of an instruction, a  
10       warranty of the taxpayer identification number or, in the absence of  
11       one, other reasonable assurance of identity;

12              (2) if the endorsement is made or the instruction is orig-  
13       inated by an agent, appropriate assurance of authority to sign;

14              (3) if the endorsement is made or the instruction is orig-  
15       inated by a fiduciary, appropriate evidence of appointment or incum-  
16       bency;

17              (4) if there is more than one fiduciary, reasonable assur-  
18       ance that all who are required to sign have done so; and

19              (5) if the endorsement is made or the instruction is orig-  
20       inated by a person not covered by any of the foregoing, assurance  
21       appropriate to the case corresponding as nearly as may be to the  
22       foregoing.

23              (b) A "guarantee of the signature" in (a) of this section means  
24       a guarantee signed by or on behalf of a person reasonably believed by  
25       the issuer to be responsible. The issuer may adopt standards with  
26       respect to responsibility, if the standards are not manifestly unrea-  
27       sonable.

28              (c) "Appropriate evidence of appointment or incumbency" in (a)  
29       of this section means

1 (1) in the case of a fiduciary appointed or qualified by a  
2 court, a certificate issued by or under the direction or supervision  
3 of that court or an officer of the court and dated within 60 days  
4 before the date of presentation for transfer, pledge, or release; or

5 (2) in any other case, a copy of a document showing the  
6 appointment or a certificate issued by or on behalf of a person rea-  
7 sonably believed by the issuer to be responsible or, in the absence of  
8 such a document or certificate, other evidence reasonably considered  
9 [DEEMED] by the issuer to be appropriate; the issuer may adopt stan-  
10 dards with respect to the evidence, if [PROVIDED] the standards are  
11 not manifestly unreasonable; the issuer is not charged with notice of  
12 the contents of a document obtained under this paragraph except to the  
13 extent that the contents relate directly to the appointment or incum-  
14 bency.

15 (d) The issuer may elect to require reasonable assurance beyond  
16 that specified in this section, but if it does so and, for a purpose  
17 other than that specified in (c)(2) of this section, both requires and  
18 obtains a copy of a will, trust, indenture, articles of copartnership,  
19 bylaws, or other controlling instrument, it is charged with notice of  
20 all matters contained therein affecting the transfer, pledge, or  
21 release.

22 \* Sec. 43. AS 45.08.403 is amended to read:

23 Sec. 45.08.403. ISSUER'S DUTY AS TO ADVERSE CLAIMS [LIMITED DUTY  
24 OF INQUIRY]. (a) An issuer to whom a certificated security is pre-  
25 sented for registration shall [IS UNDER A DUTY TO] inquire into ad-  
26 verse claims if

27 (1) a written notification of an adverse claim is received  
28 at a time and in a manner affording [WHICH AFFORD] the issuer a rea-  
29 sonable opportunity to act on it before the issuance of a new,

1 reissued, or reregistered certificated security, and the notification  
2 identifies the claimant, the registered owner, and the issue of which  
3 the security is a part, and provides an address for communications  
4 directed to the claimant; or

5 (2) the issuer is charged with notice of an adverse claim  
6 from a controlling instrument that [WHICH] it has elected to require  
7 under AS 45.08.402(d).

8 (b) The issuer may discharge a duty of inquiry by any reasonable  
9 means, including notifying an adverse claimant by registered or cer-  
10 tified mail at the address furnished by the claimant or, if there is  
11 no such address, at the residence or regular place of business of the  
12 claimant, that the certificated security has been presented for regis-  
13 tration of transfer by a named person, and that the transfer will be  
14 registered unless, within 30 days from the date of mailing the noti-  
15 fication, either

16 (1) an appropriate restraining order, injunction, or other  
17 process issues from a court of competent jurisdiction; or

18 (2) there is filed with the issuer an indemnity bond,  
19 sufficient in the issuer's judgment to protect the issuer and any  
20 transfer agent, registrar, or other agent of the issuer involved from  
21 a loss that [WHICH] it or they might [MAY] suffer by complying with  
22 the adverse claim [IS FILED WITH THE ISSUER].

23 (c) Unless an issuer is charged with notice of an adverse claim  
24 from a controlling instrument which it has elected to require under AS  
25 45.08.402(d) or receives notification of an adverse claim under (a) of  
26 this section, if a certificated security presented for registration is  
27 endorsed by the appropriate person or persons, the issuer is under no  
28 duty to inquire into adverse claims. In particular,

29 (1) an issuer registering a certificated security in the

1 name of a person who is a fiduciary or who is described as a fiduciary  
2 is not bound to inquire into the existence, extent, or correct de-  
3 scription of the fiduciary relationship; [,] and afterward the issuer  
4 may assume without inquiry that the newly registered owner continues  
5 to be the fiduciary until the issuer receives written notice that the  
6 fiduciary is no longer acting as such with respect to the particular  
7 security;

8 (2) an issuer registering transfer on an endorsement by a  
9 fiduciary is not bound to inquire whether the transfer is made in  
10 compliance with a controlling instrument or with the law of the state  
11 having jurisdiction of the fiduciary relationship, including a law  
12 requiring the fiduciary to obtain court approval of the transfer; and

13 (3) the issuer is not charged with notice of the contents  
14 of a court record or file or other recorded or unrecorded document  
15 even though the document is in its possession and even though the  
16 transfer is made on the endorsement of a fiduciary to the fiduciary or  
17 to a nominee of the fiduciary.

18 (d) An issuer is under no duty as to adverse claims with respect  
19 to an uncertificated security except

20 (1) claims embodied in a restraining order, injunction, or  
21 other legal process served upon the issuer if the process was served  
22 at a time and in a manner affording the issuer a reasonable opportuni-  
23 ty to act on it in accordance with the requirements of (e) of this  
24 section;

25 (2) claims of which the issuer has received a written  
26 notification from the registered owner or the registered pledgee if  
27 the notification was received at a time and in a manner affording the  
28 issuer a reasonable opportunity to act on it in accordance with the  
29 requirements of (e) of this section;

1           (3) claims (including restrictions on transfer not imposed  
2 by the issuer) to which the registration of transfer to the present  
3 registered owner was subject and were so noted in the initial trans-  
4 action statement sent to him; and

5           (4) claims as to which an issuer is charged with notice  
6 from a controlling instrument it has elected to require under  
7 AS 45.08.402(d).

8           (e) If the issuer of an uncertificated security is under a duty  
9 as to an adverse claim, he discharges that duty by

10           (1) including a notation of the claim in any statements  
11 sent with respect to the security under AS 45.08.408(c), (f), and (g);  
12 and

13           (2) refusing to register the transfer or pledge of the  
14 security unless the nature of the claim does not preclude transfer or  
15 pledge subject thereto.

16           (f) If the transfer or pledge of the security is registered  
17 subject to an adverse claim, a notation of the claim must be included  
18 in the initial transaction statement and all subsequent statements  
19 sent to the transferee and pledgee under AS 45.08.408.

20           (g) Notwithstanding (d) and (e) of this section, if an uncertif-  
21 icated security was subject to a registered pledge at the time the  
22 issuer first came under a duty as to a particular adverse claim, the  
23 issuer has no duty as to that claim if transfer of the security is  
24 requested by the registered pledgee or an appropriate person acting  
25 for the registered pledgee unless

26           (1) the claim was embodied in legal process which expressly  
27 provides otherwise;

28           (2) the claim was asserted in a written notification from  
29 the registered pledgee;

1                   (3) the claim was one as to which the issuer was charged  
2 with notice from a controlling instrument it required under  
3 AS 45.08.402(d) in connection with the pledgee's request for transfer;  
4 or

5                   (4) the transfer requested is to the registered owner.

6 \* Sec. 44. AS 45.08.404 is amended to read:

7                   Sec. 45.08.404. LIABILITY AND NONLIABILITY FOR REGISTRATION.

8                   (a) Except as [OTHERWISE] provided in a law relating to the col-  
9 lection of taxes, the issuer is not liable to the owner, pledgee or  
10 any other person suffering loss as a result of the registration of a  
11 transfer, pledge, or release of a security if

12                   (1) there were on or with a certificated [THE] security the  
13 necessary endorsements or the issuer had received an instruction  
14 originated by an appropriate person (AS 45.08.308); and

15                   (2) the issuer had no duty as to [INQUIRE INTO] adverse  
16 claims or has discharged the duty (AS 45.08.403).

17                   (b) If an issuer has registered a transfer of a certificated  
18 security to a person not entitled to it, the issuer on demand shall  
19 [MUST] deliver a like security to the true owner unless

20                   (1) the registration was under (a) of this section;

21                   (2) the owner is precluded from asserting a claim for  
22 registering the transfer under AS 45.08.405(a); or

23                   (3) the delivery would result in overissue, in which case  
24 the issuer's liability is governed by AS 45.08.104.

25                   (c) If an issuer has improperly registered a transfer, pledge,  
26 or release of an uncertificated security, the issuer on demand from  
27 the injured party shall restore the records as to the injured party to  
28 the condition that would have obtained if the improper registration  
29 had not been made unless

1                   (1) the registration was pursuant to (a) of this section;  
2                   or  
3                   (2) the registration would result in overissue, in which  
4                   case the issuer's liability is governed by AS 45.08.104.

5 \* Sec. 45. AS 45.08.405 is amended to read:

6                   Sec. 45.08.405. LOST, DESTROYED, AND STOLEN CERTIFICATED SECU-  
7                   RITIES. (a) If a certificated security has been lost, apparently  
8                   destroyed, or wrongfully taken, and the owner fails to notify the  
9                   issuer of that fact within a reasonable time after the owner has  
10                   notice of it and the issuer registers a transfer of the security  
11                   before receiving the notification, the owner may not assert against  
12                   the issuer a claim for registering the transfer under AS 45.08.404 or  
13                   a claim to a new security under this section.

14                   (b) If the owner of a certificated security claims that the  
15                   security has been lost, destroyed, or wrongfully taken, the issuer  
16                   shall [MUST] issue a new security in place of the original security,  
17                   if the owner

18                   (1) so requests before the issuer has notice that the  
19                   security has been acquired by a bona fide purchaser;

20                   (2) files with the issuer a sufficient indemnity bond; and

21                   (3) satisfies any other reasonable requirements imposed by  
22                   the issuer.

23                   (c) If, after the issue of a [THE] new certificated or uncertif-  
24                   icated security, a bona fide purchaser of the original certificated  
25                   security presents it for registration of transfer, the issuer shall  
26                   [MUST] register the transfer unless registration would result in  
27                   overissue, in which event the issuer's liability is governed by AS  
28                   45.08.104. In addition to rights on the indemnity bond, the issuer  
29                   may recover the new certificated security from the person to whom it

1 was issued or any person taking under that person except a bona fide  
2 purchaser or may cancel the uncertificated security unless a bona fide  
3 purchaser or any person taking under a bona fide purchaser is then the  
4 registered owner or registered pledgee of the security.

5 \* Sec. 46. AS 45.08.406 is amended to read:

6 Sec. 45.08.406. DUTY OF AUTHENTICATING TRUSTEE, TRANSFER AGENT,  
7 OR REGISTRAR. (a) If a person acts as authenticating trustee, trans-  
8 fer agent, registrar, or other agent for an issuer in the registration  
9 of transfers of its certificated securities or in the registration of  
10 transfers, pledges, and releases of its uncertificated securities, in  
11 the issue of new securities, or in the cancellation of surrendered  
12 securities,

13 (1) the person is under a duty to the issuer to exercise  
14 good faith and due diligence in performing the person's functions; and

15 (2) [THE PERSON HAS] with regard to the particular  
16 functions the person performs, the person has the same obligation to  
17 the holder or owner of a certificated [THE] security or to the owner  
18 or pledgee of an uncertificated security and has the same rights and  
19 privileges as the issuer has in regard to those functions.

20 (b) Notice to an authenticating trustee, transfer agent, regis-  
21 trar, or other [SUCH] agent is notice to the issuer with respect to  
22 the functions performed by the agent.

23 \* Sec. 47. AS 45.08 is amended by adding new sections to read:

24 Sec. 45.08.407. EXCHANGEABILITY OF SECURITIES. (a) No issuer  
25 is subject to the requirements of this section unless it regularly  
26 maintains a system for issuing the class of securities involved under  
27 which both certificated and uncertificated securities are regularly  
28 issued to the category of owners, which includes the person in whose  
29 name the new security is to be registered.

1 (b) Upon surrender of a certificated security with all necessary  
2 endorsements and presentation of a written request by the person  
3 surrendering the security, the issuer, if the issuer has no duty as to  
4 adverse claims or has discharged the duty (AS 45.08.403), shall issue  
5 to the person or a person designated by that person an equivalent  
6 uncertificated security subject to all liens, restrictions, and claims  
7 that were noted on the certificated security.

8 (c) Upon receipt of a transfer instruction originated by an  
9 appropriate person who so requests, the issuer of an uncertificated  
10 security shall cancel the uncertificated security and issue an equiva-  
11 lent certificated security on which must be noted conspicuously any  
12 liens and restrictions of the issuer and any adverse claims (as to  
13 which the issuer has a duty under AS 45.08.403(d)) to which the uncer-  
14 tificated security was subject. The certificated security must be  
15 registered in the name of and delivered to

16 (1) the registered owner, if the uncertificated security  
17 was not subject to a registered pledge; or

18 (2) the registered pledgee, if the uncertificated security  
19 was subject to a registered pledge.

20 Sec. 45.08.408. STATEMENTS OF UNCERTIFICATED SECURITIES. (a)  
21 Within two business days after the transfer of an uncertificated  
22 security has been registered, the issuer shall send to the new regis-  
23 tered owner and, if the security has been transferred subject to a  
24 registered pledge, to the registered pledgee a written statement  
25 containing

26 (1) a description of the issue of which the uncertificated  
27 security is a part;

28 (2) the number of shares or units transferred;

29 (3) the name and address and any taxpayer identification

1 number of the new registered owner and, if the security has been  
2 transferred subject to a registered pledge, the name and address and  
3 any taxpayer identification number of the registered pledgee;

4 (4) a notation of any liens and restrictions of the issuer  
5 and any adverse claims (as to which the issuer has a duty under  
6 AS 45.08.403(d)) to which the uncertificated security is or may be  
7 subject at the time of registration or a statement that there are none  
8 of those liens, restrictions, or adverse claims; and

9 (5) the date the transfer was registered.

10 (b) Within two business days after the pledge of an uncertif-  
11 icated security has been registered, the issuer shall send to the  
12 registered owner and the registered pledgee a written statement con-  
13 taining

14 (1) a description of the issue of which the uncertificated  
15 security is a part;

16 (2) the number of shares or units pledged;

17 (3) the name and address and any taxpayer identification  
18 number of the registered owner and the registered pledgee;

19 (4) a notation of any liens and restrictions of the issuer  
20 and any adverse claims (as to which the issuer has a duty under  
21 AS 45.08.403(d)) to which the uncertificated security is or may be  
22 subject at the time of registration or a statement that there are none  
23 of those liens, restrictions, or adverse claims; and

24 (5) the date the pledge was registered.

25 (c) Within two business days after the release from pledge of an  
26 uncertificated security has been registered, the issuer shall send to  
27 the registered owner and the pledgee whose interest was released a  
28 written statement containing

29 (1) a description of the issue of which the uncertificated

1 security is a part;

2 (2) the number of shares or units released from pledge;

3 (3) the name and address and any taxpayer identification  
4 number of the registered owner and the pledgee whose interest was  
5 released;

6 (4) a notation of any liens and restrictions of the issuer  
7 and any adverse claims (as to which the issuer has a duty under  
8 AS 45.08.403(d)) to which the uncertificated security is or may be  
9 subject at the time of registration or a statement that there are none  
10 of those liens, restrictions, or adverse claims; and

11 (5) the date the release was registered.

12 (d) An "initial transaction statement" is the statement sent to  
13 (1) the new registered owner and, if applicable, to the registered  
14 pledgee under (a) of this section; (2) the registered pledgee under  
15 (b) of this section; or (3) the registered owner under (c) of this  
16 section. Each initial transaction statement must be signed by or on  
17 behalf of the issuer and must be identified as "Initial Transaction  
18 Statement."

19 (e) Within two business days after the transfer of an uncertif-  
20 icated security has been registered, the issuer shall send to the  
21 former registered owner and the former registered pledgee, if any, a  
22 written statement containing

23 (1) a description of the issue of which the uncertificated  
24 security is a part;

25 (2) a number of shares or units transferred;

26 (3) the name and address and any taxpayer identification  
27 number of the former registered owner and of any former registered  
28 pledgee; and

29 (4) the date the transfer was registered.

1 (f) At periodic intervals no less frequent than annually and at  
2 any time upon the reasonable written request of the registered owner,  
3 the issuer shall send to the registered owner of each uncertificated  
4 security a dated written statement containing

5 (1) a description of the issue of which the uncertificated  
6 security is a part;

7 (2) the name and address and any taxpayer identification  
8 number of the registered owner;

9 (3) the number of shares or units of the uncertificated  
10 security registered in the name of the registered owner on the date of  
11 the statement;

12 (4) the name and address and any taxpayer identification  
13 number of any registered pledgee and the number of shares or units  
14 subject to the pledge; and

15 (5) a notation of any liens and restrictions of the issuer  
16 and any adverse claims (as to which the issuer has a duty under  
17 AS 45.08.403(d)) to which the uncertificated security is or may be  
18 subject or a statement that there are none of those liens, re-  
19 strictions, or adverse claims.

20 (g) At periodic intervals no less frequent than annually and at  
21 any time upon the reasonable written request of the registered  
22 pledgee, the issuer shall send to the registered pledgee of each  
23 uncertificated security a dated written statement containing

24 (1) a description of the issue of which the uncertificated  
25 security is a part;

26 (2) the name and address and any taxpayer identification  
27 number of the registered owner;

28 (3) the name and address and any taxpayer identification  
29 number of the registered pledgee;

1 (4) the number of shares or units subject to the pledge;  
2 and

3 (5) a notation of any liens and restrictions of the issuer  
4 and any adverse claims (as to which the issuer has a duty under  
5 AS 45.08.403(d)) to which the uncertificated security is or may be  
6 subject or a statement that there are none of those liens, re-  
7 strictions, or adverse claims.

8 (h) If the issuer sends the statements described in (f) and (g)  
9 of this section at periodic intervals no less frequent than quarterly,  
10 the issuer is not obliged to send additional statements upon request  
11 unless the owner or pledgee requesting them pays to the issuer the  
12 reasonable cost of furnishing them.

13 (i) Each statement sent under this section must bear a conspicu-  
14 ous legend reading substantially as follows: "This statement is  
15 merely a record of the rights of the addressee as of the time of its  
16 issuance. Delivery of this statement, of itself, confers no rights on  
17 the recipient. This statement is neither a negotiable instrument nor  
18 a security."

19 \* Sec. 48. AS 45.09.103(c) is amended to read:

20 (c) This subsection applies to accounts (other than an account  
21 described in (e) of this section) and general intangibles (other than  
22 uncertificated securities) and to goods which are mobile and which are  
23 of a type normally used in more than one jurisdiction, such as motor  
24 vehicles, trailers, rolling stock, airplanes, shipping containers,  
25 road building and construction machinery and commercial harvesting  
26 machinery and the like, if the goods are equipment or are inventory  
27 leased or held for lease by the debtor to others, and are not covered  
28 by a certificate of title described in (b) of this section.

29 (1) The law (including the conflict of laws rules) of the

1 jurisdiction in which the debtor is located governs the perfection and  
2 the effect of perfection or nonperfection of the security interest.

3 (2) If, however, the debtor is located in a jurisdiction  
4 which is not a part of the United States, and which does not provide  
5 for perfection of the security interest by filing or recording in that  
6 jurisdiction, the law of the jurisdiction in the United States in  
7 which the debtor has the debtor's major executive office in the United  
8 States governs the perfection and the effect of perfection or nonper-  
9 fection of the security interest through filing. In the alternative,  
10 if the debtor is located in a jurisdiction which is not a part of the  
11 United States or Canada and the collateral is accounts or general  
12 intangibles for money due or to become due, the security interest may  
13 be perfected by notification to the account debtor. As used in this  
14 paragraph, "United States" includes its territories and possessions  
15 and the Commonwealth of Puerto Rico.

16 (3) A debtor shall be considered located at the debtor's  
17 place of business if the debtor has one, at the debtor's chief execu-  
18 tive office if the debtor has more than one place of business, or  
19 otherwise at the debtor's residence. If, however, the debtor is a  
20 foreign air carrier under the Federal Aviation Act of 1958, as amend-  
21 ed, it shall be considered located at the designated office of the  
22 agent upon whom service of process may be made on behalf of the for-  
23 eign air carrier.

24 (4) A security interest perfected under the law of the  
25 jurisdiction of the location of the debtor is perfected until the  
26 expiration of four months after a change of the debtor's location to  
27 another jurisdiction, or until perfection would have ceased by the law  
28 of the first jurisdiction, whichever period first expires. Unless  
29 perfected in the new jurisdiction before the end of that period, the

1 security interest becomes unperfected thereafter and is considered to  
2 have been unperfected as against a person who became a purchaser after  
3 the change.

4 \* Sec. 49. AS 45.09.103 is amended by adding a new subsection to read:

5 (f) The law (including the conflict of laws rules) of the juris-  
6 diction of organization of the issuer governs the perfection and the  
7 effect of perfection or nonperfection of a security interest in  
8 uncertificated securities.

9 \* Sec. 50. AS 45.09.105(a)(9) is amended to read:

10 (9) "instrument" means a negotiable instrument (defined in  
11 AS 45.03.104), or a certificated security (defined in AS 45.08.102),  
12 or any other writing that [WHICH] evidences a right to the payment of  
13 money and is not itself a security agreement or lease and is of a type  
14 that [WHICH] is in ordinary course of business transferred by delivery  
15 with any necessary endorsement or assignment;

16 \* Sec. 51. AS 45.09.203(a) is amended to read:

17 (a) Subject to the provisions of AS 45.04.208 on the security  
18 interest of a collecting bank, AS 45.08.321 on security interests in  
19 securities, and AS 45.09.113 on a security interest arising under AS  
20 45.02, a security interest is not enforceable against the debtor or  
21 third parties with respect to the collateral and does not attach  
22 unless

23 (1) the collateral is in the possession of the secured  
24 party pursuant to agreement or the debtor has signed a security agree-  
25 ment that [WHICH] contains a description of the collateral, and, in  
26 addition, if the security interest covers crops growing or to be grown  
27 or timber to be cut, a description of the land concerned;

28 (2) value has been given; and

29 (3) the debtor has rights in the collateral.

1 \* Sec. 52. AS 45.09.302(a) is amended to read:

2 (a) A financing statement must be filed to perfect all security  
3 interests except the following:

4 (1) a security interest in collateral in possession of the  
5 secured party under AS 45.09.305;

6 (2) a security interest temporarily perfected in instru-  
7 ments or documents without delivery under AS 45.09.304 or in proceeds  
8 for a 10-day period under AS 45.09.306;

9 (3) a security interest created by an assignment of a  
10 beneficial interest in a trust or a decedent's estate;

11 (4) a purchase money security interest in consumer goods;  
12 but filing is required for a motor vehicle required to be registered;  
13 and fixture filing is required for priority over conflicting interests  
14 in fixtures to the extent provided in AS 45.09.313;

15 (5) an assignment of accounts which does not alone or in  
16 conjunction with other assignments to the same assignee transfer a  
17 significant part of the outstanding accounts of the assignor;

18 (6) a security interest of a collecting bank ([SEE]  
19 AS 45.04.208), or in securities (AS 45.08.321), or arising under AS  
20 45.02 (see AS 45.09.113) or covered in (c) of this section;

21 (7) as assignment for the benefit of all the creditors of  
22 the transferor, and subsequent transfers by the assignee.

23 \* Sec. 53. AS 45.09.304(a) is amended to read:

24 (a) A security interest in chattel paper or negotiable documents  
25 may be perfected by filing. A security interest in money or instru-  
26 ments (other than certificated securities or instruments that [WHICH]  
27 constitute part of chattel paper) can be perfected only by the secured  
28 party's taking possession, except as provided in (d) and (e) of this  
29 section and AS 45.09.306(b) and (c) on proceeds.

1 \* Sec. 54. AS 45.09.304(d) is amended to read:

2 (d) A security interest in instruments (other than certificated  
3 securities) or negotiable documents is perfected without filing or the  
4 taking of possession for a period of 21 days from the time it attaches  
5 to the extent that it arises for new value given under a written  
6 security agreement.

7 \* Sec. 55. AS 45.09.304(e) is amended to read:

8 (e) A security interest remains perfected for a period of 21  
9 days without filing if a secured party has a perfected security inter-  
10 est in an instrument (other than a certificated security), a negotia-  
11 ble document, or goods in possession of a bailee other than one who  
12 has issued a negotiable document for the goods, and

13 (1) makes the goods or documents representing the goods  
14 available to the debtor for ultimate sale or exchange or to load,  
15 unload, store, ship, transship, manufacture, process, or otherwise  
16 dealing with them in a manner preliminary to their sale or exchange,  
17 but priority between conflicting security interests in the goods is  
18 subject to AS 45.09.312; or

19 (2) delivers the instrument to the debtor for ultimate  
20 sale, exchange, presentation, collection, renewal, or registration of  
21 transfer.

22 \* Sec. 56. AS 45.09.305 is amended to read:

23 Sec. 45.09.305. WHEN POSSESSION BY SECURED PARTY PERFECTS SECU-  
24 RITY INTEREST WITHOUT FILING. A security interest in letters of  
25 credit and advices of credit (AS 45.05.116(b)(1)), goods, instruments  
26 (other than certificated securities), money, negotiable documents, or  
27 chattel paper may be perfected by the secured party's taking pos-  
28 session of the collateral. If the collateral, other than goods  
29 covered by a negotiable document, is held by a bailee, the secured

1 party is considered to have possession from the time the bailee re-  
2 ceives notification of the secured party's interest. A security  
3 interest is perfected by possession from the time possession is taken  
4 without relation back and continues only so long as possession is  
5 retained unless otherwise specified in this chapter. The security  
6 interest may be otherwise perfected as provided in this chapter before  
7 or after the period of possession by the secured party.

8 \* Sec. 57. AS 45.09.309 is amended to read:

9 Sec. 45.09.309. PROTECTION OF PURCHASERS OF INSTRUMENTS AND  
10 DOCUMENTS AND SECURITIES. Nothing in this chapter limits the rights  
11 of a holder in due course of a negotiable instrument (AS 45.03.302) or  
12 a holder to whom a negotiable document of title has been duly negoti-  
13 ated (AS 45.07.501) or a bona fide purchaser of a security  
14 (AS 45.08.302 [45.08.301]), and the holders or purchasers take  
15 priority over an earlier security interest even though perfected.  
16 Filing under this chapter does not constitute notice of the security  
17 interest to the holders or purchasers.

18 \* Sec. 58. AS 45.09.312(g) is amended to read:

19 (g) If future advances are made while a security interest is  
20 perfected by filing or the taking of possession, or perfected under  
21 AS 45.08.321 on securities, the security interest has the same priori-  
22 ty for the purposes of (e) of this section with respect to the future  
23 advances as it does with respect to the first advance. If a commit-  
24 ment is made before or while the security interest is so perfected,  
25 the security interest has the same priority with respect to advances  
26 made under the commitment. In other cases a perfected security inter-  
27 est has priority from the date the advance is made.