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

1 IN THE SENATE

2

SENATE BILL NO. 204

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 corporations; and providing for

7

an effective date."

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

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* Section 1. AS 10.06.010 is amended to read:

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Sec. 10.06.010. GENERAL POWERS. Subject to the limitations in

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its articles of incorporation, the provisions of this chapter and

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other applicable law, a corporation has all the powers of a natural

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person in carrying out its business activities, including, without

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limitation, the power to

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(1) have perpetual succession by its corporate name;

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(2) sue and be sued in its corporate name;

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(3) adopt a corporate seal and alter it, and use it by

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having it or a facsimile of it impressed, affixed, or reproduced;

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(4) buy, take, receive, lease, or otherwise acquire, own,

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hold, improve, use, and otherwise deal in, real or personal property

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or an interest in the property, wherever situated;

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(5) sell, convey, mortgage, pledge, lease, exchange, trans-

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fer, and otherwise dispose of all or a part of its property and as-

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sets;

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(6) lend money, if properly approved, to its employees,

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[AND, IF PROPERLY APPROVED, TO ITS] officers, and directors, and

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otherwise assist its employees, officers, and directors;

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(7) buy, take, receive, subscribe for, or otherwise ac-

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quire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or

1 otherwise dispose of, and otherwise use and deal in shares or other
2 interests in, or obligations of, other domestic or foreign corpora-
3 tions, associations, partnerships, or individuals, or direct or indi-
4 rect obligations of the United States or of any other government,
5 state, territory, governmental district or municipality or an instru-
6 mentality of these;

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

12 (9) lend money for its corporate purposes, invest and
13 reinvest its money, and take and hold real and personal property as
14 security for the payment of money loaned or invested;

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

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

20 (12) make and alter bylaws not inconsistent with its arti-
21 cles of incorporation or with state law, for the administration and
22 regulation of the affairs of the corporation;

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

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

28 (15) pay pensions and establish pension plans, pension
29 trusts, profit-sharing plans, stock bonus plans, stock option plans

1 and other incentive plans for its directors, officers, and employees;

2 (16) cease its corporate activities and surrender its corpo-
3 rate franchise;

4 (17) have and exercise the powers of a limited or general
5 partner [PARTNERSHIP] or a joint venturer [ADVENTURER] in association
6 with one or more persons, corporations, partnerships, or associations;

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

9 * Sec. 2. AS 10.06.020 is amended to read:

10 Sec. 10.06.020. LIMITATIONS ON AUTHORITY OF CORPORATE AGENTS. A
11 limitation upon the powers of the shareholders, officers, or direc-
12 tors, or the manner or exercise of their powers, contained in or
13 implied by the [ARTICLES OF INCORPORATION,] bylaws, by [OR] action of
14 the board, [OR] by AS 10.06.605 - 10.06.678, [OR] 10.06.705 - 10.06.-
15 788, or by a shareholders' agreement may not be asserted as between
16 the corporation or a shareholder and a third person, except in a
17 proceeding

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

22 (2) to dissolve the corporation; or

23 (3) by the corporation or by a shareholder suing in a
24 representative suit against the officers or directors of the corpo-
25 ration for violation of their duty.

26 * Sec. 3. AS 10.06.025(a) is amended to read:

27 (a) A contract or conveyance made in the name of the corporation
28 that is authorized or ratified by the board, or is done within the
29 scope of the authority, actual or apparent, conferred by the board or

1 within the agency power of the officers executing it, except as the
2 board's authority is limited by law [OTHER THAN THIS CHAPTER], binds
3 the corporation, and the corporation acquires rights under the con-
4 tract, whether the contract is executed or is wholly or in part execu-
5 tory.

6 * Sec. 4. AS 10.06.105(c) is amended to read:

7 (c) A person may not adopt a name that contains the word "corpo-
8 ration", "incorporated", or "limited", or an abbreviation of one of
9 these words, unless the person has been issued a certificate of incor-
10 poration, or, in the case of a foreign corporation, a certificate of
11 authority, by the commissioner. This subsection does not prohibit a
12 limited partnership from using the word "limited" in its name.

13 * Sec. 5. AS 10.06.130 is amended to read:

14 Sec. 10.06.130. USE OF SAME OR DECEPTIVELY SIMILAR NAME. Incor-
15 poration, obtaining a certificate of authority by a foreign corpora-
16 tion, or registration [REGISTRATION] of a corporate name gives the
17 exclusive right to the use of the name. The person who has incorpo-
18 rated, received a certificate of authority, or registered the corpo-
19 rate name under this chapter may enjoin the use of the same or decep-
20 tively similar name and has a cause of action for damages against a
21 person who uses the same or deceptively similar name.

22 * Sec. 6. AS 10.06.343 is amended to read:

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

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

11 * Sec. 7. AS 10.06.348 is amended to read:

12 Sec. 10.06.348. CERTIFICATES REPRESENTING SHARES. Except as
13 otherwise provided under AS 10.06.349, the [THE] shares of a corpo-
14 ration shall be represented by certificates signed by the president or
15 vice-president and the secretary or an assistant secretary of the
16 corporation, and may be sealed with the seal of the corporation or a
17 facsimile of the seal. The signatures of the president or vice-
18 president and the secretary or assistant secretary upon a certificate
19 may be facsimiles if the certificate is countersigned by a transfer
20 agent or registered by a registrar, other than the corporation itself
21 or an employee of the corporation. If an officer who has signed or
22 whose facsimile signature has been placed on the certificate ceases to
23 be an officer before the certificate is issued, the certificate may be
24 issued by the corporation with the same effect as if the officer were
25 an officer at the date of its issue.

26 * Sec. 8. AS 10.06 is amended by adding a new section to read:

27 Sec. 10.06.349. SHARES WITHOUT CERTIFICATES. (a) Unless the
28 articles or bylaws provide otherwise, the board of directors may
29 authorize the issuance without certificates of some or all of the

1 corporation's classes or series of shares. The authorization does not
2 affect shares that are already represented by certificates until the
3 certificates are surrendered to the corporation.

4 (b) Within a reasonable time after the issuance or transfer of
5 shares without certificates, the corporation shall send the share-
6 holder a written statement giving the information required by AS 10.-
7 06.350 to be on certificates, and, if applicable, the information
8 required by AS 10.06.424(c) to be disclosed to the shareholder when
9 there is no certificate.

10 * Sec. 9. AS 10.06.353 is amended to read:

11 Sec. 10.06.353. FULL PAYMENT REQUIRED FOR CERTIFICATE. A share
12 with or without a certificate may not be issued [FOR A SHARE] until
13 the share is fully paid.

14 * Sec. 10. AS 10.06.355 is amended to read:

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

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

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

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

4 * Sec. 11. AS 10.06 is amended by adding a new section to read:

5 Sec. 10.06.356. SHARES HELD BY NOMINEES. (a) A corporation may
6 establish a procedure by which the beneficial owner of shares that are
7 registered in the name of a nominee is recognized by the corporation
8 as the shareholder.

9 (b) The procedure may set out

10 (1) the types of nominees to whom it applies;

11 (2) the rights or privileges that the corporation recog-
12 nizes in a beneficial owner;

13 (3) the manner in which the procedure is selected by the
14 nominee;

15 (4) the information that must be provided when the proce-
16 dure is selected;

17 (5) the period when selection of the procedure is effec-
18 tive; and

19 (6) other aspects of the rights and duties created.

20 * Sec. 12. AS 10.06.358(c) is amended to read:

21 (c) For the purposes of this chapter, the amount of a distribu-
22 tion payable in property shall be determined on the basis of the value
23 at which the property is carried on the corporation's financial state-
24 ments in accordance with this section [GENERALLY ACCEPTED ACCOUNTING
25 PRINCIPLES].

26 * Sec. 13. AS 10.06.358(d) is amended to read:

27 (d) Only a corporation that classifies its assets as current
28 assets and fixed assets in accordance with this section [UNDER GEN-
29 ERALLY ACCEPTED ACCOUNTING PRINCIPLES] is governed by (a)(2)(B) of

1 this section.

2 * Sec. 14. AS 10.06.358 is amended by adding new subsections to read:

3 (e) For the purposes of this section, the board of directors may
4 base a determination that a distribution is not prohibited either on
5 financial statements prepared in accordance with generally accepted
6 accounting principles or on the basis of accounting practices and
7 principles that are fair and reasonable in the circumstances.

8 (f) Financial statements and determinations prepared or arrived
9 at in accordance with generally accepted accounting principles are
10 fair and reasonable. The fair and reasonable quality of statements
11 and determinations prepared under other practices and principles shall
12 be proved by the corporation.

13 * Sec. 15. AS 10.06.360 is amended to read:

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

20 * Sec. 16. AS 10.06.385(b) is amended to read:

21 (b) Subject to any provisions in its articles [OF INCORPORATION]
22 with respect to the notice required for redemption of shares, the
23 corporation may give notice of the redemption of any or all shares
24 subject to redemption by publishing a notice of redemption in a news-
25 paper of general circulation in the judicial district in which the
26 principal executive office of the corporation is located at least once
27 a week for two successive weeks, beginning not earlier than 60 nor
28 later than 20 days before the date fixed for redemption. The notice of
29 redemption shall set out the following:

1 (1) the class or series of shares or part of any class of
2 series of shares to be redeemed;
3 (2) the date fixed for redemption;
4 (3) the redemption price; and
5 (4) the place at which the shareholders may obtain payment
6 of the redemption price upon surrender of their share certificates or
7 certificateless shares.

8 * Sec. 17. AS 10.06.385(d) is amended to read:

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

1 * Sec. 18. AS 10.06.405 is amended by adding a new subsection to read:

2 (d) The failure of a corporation to hold an annual meeting at
3 the time stated in or fixed under its bylaws does not cause the corpo-
4 ration to forfeit its status, does not cause a dissolution of the
5 corporation, and does not affect the validity of corporate action.

6 * Sec. 19. AS 10.06.410 is amended to read:

7 Sec. 10.06.410. NOTICE OF SHAREHOLDERS' MEETINGS. Written or
8 printed notice stating the place, day, and hour of the meeting and, in
9 the case of a special meeting, the purpose for which the meeting is
10 called, shall be delivered not less than 10 [20] or more than 60 days
11 before the date of the meeting, either personally or by mail, by or at
12 the direction of the president, the secretary, the officer, or persons
13 calling the meeting, to each shareholder of record entitled to vote at
14 the meeting. If mailed, the notice is considered delivered when
15 deposited with postage prepaid in the United States mail addressed to
16 the shareholder at the address of the shareholder as it appears on the
17 stock transfer books of the corporation, or, if the shareholder has
18 filed with the secretary of the corporation a written request that
19 notice be mailed to a different address, addressed to the shareholder
20 at [THE CORPORATION SHALL MAIL THE NOTICE TO] the new address. An
21 affidavit of the secretary or other person giving the notice or of a
22 transfer agent of the corporation that the notice required by this
23 section has been given, is prima facie evidence of the facts stated in
24 the affidavit.

25 * Sec. 20. AS 10.06.418(b) is amended to read:

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

1 section. A person may revoke a proxy by a writing delivered to the
2 corporation stating that the proxy is revoked, by a subsequent proxy
3 executed by the person executing the prior proxy and delivered [PRE-
4 SENTED] to the corporation [MEETING], or by attendance at the meeting
5 and voting in person by the person executing the proxy. The dates
6 contained on the forms of proxy presumptively determine the order of
7 execution, regardless of the postmark dates on the envelopes in which
8 the proxies are mailed.

9 * Sec. 21. AS 10.06.418(e) is amended to read:

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

13 (1) a person to whom the shares are pledged for the perfor-
14 mance of an obligation or the payment of a debt [PLEDGEE];

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

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

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

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

28 * Sec. 22. AS 10.06.418(f) is amended to read:

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

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

11 * Sec. 23. AS 10.06.418(g) is repealed and reenacted to read:

12 (g) Notwithstanding a provision in a proxy that makes the proxy
13 irrevocable, a proxy is revoked when the shares are transferred unless
14 the transferee knows about the provision or the proxy, or the irrevocability or notice of the proxy appears on a certificate representing
15 the shares.
16

17 * Sec. 24. AS 10.06.420(c) is amended to read:

18 (c) A shareholder or a shareholder's authorized attorney-in-fact
19 may vote either in person or by proxy executed in writing [BY THE
20 SHAREHOLDER OR BY THE AUTHORIZED ATTORNEY-IN-FACT OF THE SHAREHOLDER].

21 * Sec. 25. AS 10.06.420(e) is repealed and reenacted to read:

22 (e) Except as prohibited in this subsection, shares standing in
23 the name of another corporation may be voted by the officer, agent, or
24 proxy as the bylaws of the other corporation may prescribe, or, in the
25 absence of a provision, as the board of the other corporation may
26 determine. The shares of a corporation may not be voted if they are
27 owned, directly or indirectly, by a second corporation, domestic or
28 foreign, and the first corporation owns, directly or indirectly, a
29 majority of the shares entitled to vote for the directors of the

1 second corporation.

2 * Sec. 26. AS 10.06.420(i) is amended to read:

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

11 * Sec. 27. AS 10.06 is amended by adding a new section to read:

12 Sec. 10.06.421. CORPORATION'S ACCEPTANCE OF CERTAIN DOCUMENTS.

13 (a) If the name signed on a vote, consent, waiver, or proxy appoint-
14 ment corresponds to the name of a shareholder, the corporation, if
15 acting in good faith, is entitled to accept the document and give it
16 effect as the act of the shareholder.

17 (b) If the name signed on a document does not correspond to the
18 name of its shareholder, the corporation, if acting in good faith, is
19 nevertheless entitled to accept the document and give it effect as the
20 act of the shareholder if

21 (1) the shareholder is an entity and the name signed pur-
22 ports to be that of an officer or agent of the entity;

23 (2) the name signed purports to be that of an administra-
24 tor, executor, guardian, or conservator representing the shareholder
25 and, if the corporation requests, evidence of fiduciary status accept-
26 able to the corporation has been presented with respect to the docu-
27 ment;

28 (3) the name signed purports to be that of a receiver or
29 trustee in bankruptcy of the shareholder and, if the corporation

1 requests, evidence of this status acceptable to the corporation has
2 been presented with respect to the document;

3 (4) the name signed purports to be that of a pledgee,
4 beneficial owner, or attorney-in-fact of the shareholder and, if the
5 corporation requests, evidence acceptable to the corporation or the
6 signatory's authority to sign for the shareholder has been presented
7 with respect to the document;

8 (5) two or more persons are the shareholder as cotenants or
9 fiduciaries, the name signed purports to be the name of at least one
10 of the coowners, and the person signing appears to be acting on behalf
11 of all the coowners.

12 (c) The corporation is entitled to reject a document if the
13 secretary or other officer or agent authorized to tabulate votes,
14 acting in good faith, has a reasonable basis to doubt the validity of
15 the signature on the document or the signatory's authority to sign for
16 the shareholder.

17 (d) The corporation and its officer or agent who accepts or
18 rejects a document in good faith and in accordance with the standards
19 of this section are not liable in damages to the shareholder for the
20 consequences of the acceptance or rejection.

21 (e) Corporate action based on the acceptance or rejection of a
22 document under this section is valid unless a court of competent
23 jurisdiction determines otherwise.

24 (f) In this section, "document" means vote, consent, waiver, or
25 proxy appointment.

26 * Sec. 28. AS 10.06.425(a) is amended to read:

27 (a) Any number of shareholders of a corporation may create a
28 voting trust for the purpose of conferring upon a trustee or trustees
29 the right to vote or otherwise represent their shares, for a period

1 not to exceed 10 years, by entering into a written voting trust agree-
2 ment specifying the terms and conditions of the voting trust, by
3 depositing a copy of the agreement with the corporation at its regis-
4 tered office, and by transferring their shares to the trustee or
5 trustees for the purpose of the agreement. The trustee or trustees
6 shall keep a record of the holders of voting trust certificates evi-
7 dencing a beneficial interest in the voting trust, giving the names
8 and addresses of all the holders and the number and class of the
9 shares for which the voting trust certificates are issued, and shall
10 deposit a copy of the record with the corporation at its registered
11 office. The copies of the voting trust agreement and the record
12 deposited with the corporation are subject to the same right of ex-
13 amination by a shareholder of the corporation, in person or by agent
14 or attorney, as are the books and records of the corporation under
15 AS 10.06.430, and the copies of the agreement and the record are
16 subject to examination by a holder of record of voting trust certifi-
17 cates, either in person or by agent or attorney, at a reasonable time
18 for a proper purpose. This subsection does not invalidate an irrevoc-
19 able proxy complying with AS 10.06.418(e).

20 * Sec. 29. AS 10.06.425(b) is repealed and reenacted to read:

21 (b) Shareholders may enter into a voting agreement or any other
22 agreement if the agreement is consistent with this chapter.

23 * Sec. 30. AS 10.06.430(a) is amended to read:

24 (a) A corporation organized under this chapter shall keep cor-
25 rect and complete books and records of account, minutes of proceedings
26 of its shareholders, board, and committees of the board, and a record
27 of its shareholders, containing the names and addresses of all share-
28 holders and the number and class of the shares held by each. The
29 books and [,] records of account, [AND] minutes, and the record of

1 shareholders may be in written form or in any other form capable of
2 being converted into written form within a reasonable time.

3 * Sec. 31. AS 10.06.430(b) is amended to read:

4 (b) A corporation organized under this chapter shall make its
5 books and records of account, or certified copies of them, reasonably
6 available for inspection and copying at the registered office or
7 principal place of business in the state [BY THE DEPARTMENT OR] by a
8 shareholder of the corporation. Shareholder inspection shall be upon
9 written demand stating with reasonable particularity the purpose of
10 the inspection. The inspection may be in person or by agent or attor-
11 ney, at a reasonable time and for a proper purpose. Only books and
12 records of account, minutes, and the record of shareholders directly
13 connected [RELEVANT] to the stated purpose of the inspection may be
14 inspected or copied.

15 * Sec. 32. AS 10.06.430(c) is amended to read:

16 (c) An officer or agent who, or a corporation that, refuses to
17 allow a shareholder, or the agent or attorney of the shareholder, to
18 examine and make copies from its books and records [RECORD] of ac-
19 count, minutes, and record of shareholders, for a proper purpose, is
20 liable to the shareholder for a penalty in the amount of 10 percent of
21 the value of the shares owned by the shareholder or \$5,000, whichever
22 is greater, in addition to other damages or remedy given the share-
23 holder by law. It is a defense to an action for penalties under this
24 section that the person suing has within two years sold or offered for
25 sale a list of shareholders of the corporation or any other corpo-
26 ration or has aided or abetted a person in procuring a list of share-
27 holders for this purpose, or has improperly used information secured
28 through a prior examination of the books and records of account, [OR]
29 minutes, or record of shareholders of the corporation or any other

1 corporation, or was not acting in good faith or for a proper purpose
2 in making the person's demand.

3 * Sec. 33. AS 10.06.433(a) is amended to read:

4 (a) The board shall send an annual report to the shareholders
5 not later than 180 days after the close of the fiscal year or the date
6 on which notice of the annual meeting in the next fiscal year is sent
7 under AS 10.06.410, whichever is first. A [, UNLESS IN THE CASE OF A]
8 corporation with less than 100 holders of record of its shares, as
9 determined under AS 10.06.408, is exempt from this annual requirement
10 unless its articles or bylaws impose the requirement [IS EXPRESSLY
11 WAIVED IN THE ARTICLES OF INCORPORATION]. The annual report must
12 [SHALL] contain a balance sheet as of the end of the fiscal year and
13 an income statement and statement of changes in financial position for
14 the fiscal year, accompanied by a report on the fiscal year by inde-
15 pendent accountants or, if there is no such report, the certificate of
16 an authorized officer of the corporation that the statements were pre-
17 pared without audit from the books and records of the corporation.

18 * Sec. 34. AS 10.06.435(a) is amended to read:

19 (a) An action may be brought in the right of a domestic or
20 foreign corporation to procure a judgment in its favor by a holder of
21 shares of the corporation of voting trust certificates of the corpo-
22 ration, or of a beneficial interest in shares [OR CERTIFICATES] of the
23 corporation.

24 * Sec. 35. AS 10.06.450(c) is repealed and reenacted to read:

25 (c) A director is not acting in good faith if the director has
26 knowledge concerning the matter in question that makes reliance other-
27 wise permitted by (b) of this section unwarranted.

28 * Sec. 36. AS 10.06.450 is amended by adding a new subsection to read:

29 (f) A director who makes a business judgment in good faith

1 fulfills the duty of care under this section if the director

2 (1) is not interested in the subject of the business judg-
3 ment;

4 (2) is informed about the subject of the business judgment
5 to the extent the director reasonably believes to be appropriate under
6 the circumstances; and

7 (3) rationally believes that the business judgment is in
8 the best interest of the corporation.

9 * Sec. 37. AS 10.06.453(a) is repealed and reenacted to read:

10 (a) The board of directors shall consist of one or more members.
11 The number of directors shall be fixed by, or in the manner provided
12 in, the bylaws, unless the articles fix the number of directors, in
13 which case a change in the number of directors shall be made only by
14 amendment of the articles. If the number of directors is not other-
15 wise set, the number of directors is three.

16 * Sec. 38. AS 10.06.453(b) is amended to read:

17 (b) Except as otherwise provided in (a) of this section, the
18 [THE] number of directors may be increased or decreased by amendment
19 of the articles or the bylaws or by action of the board or the share-
20 holders under the specific provisions of an article or a bylaw adopted
21 by approval of the outstanding shares. A change in the number of
22 directors, including by amendment of the articles, is [,] subject to
23 the following limitations:

24 (1) if [IF] the board is authorized by the articles or the
25 bylaws to change the number of directors, whether by amending the
26 bylaws or by taking action under the specific provision of an article
27 or a bylaw adopted by approval of the outstanding shares, the amend-
28 ment or action shall require the vote of a majority of the entire
29 board; [.]

1 (2) a [A] decrease in the number of directors may not
2 shorten the term of an incumbent director.

3 * Sec. 39. AS 10.06.465(d) is amended to read:

4 (d) Notwithstanding AS 10.06.453(e), a [A] director may resign
5 effective upon giving written notice to the chairman of the board, the
6 president, the secretary, or the board of directors of the corpo-
7 ration, unless the notice specifies a later time for the effectiveness
8 of the resignation. [NOTWITHSTANDING THE EFFECTIVENESS OF THE RESIG-
9 NATION, UNDER AS 10.06.453(d) A DIRECTOR HOLDS OFFICE UNTIL A SUCCE-
10 SOR HAS BEEN ELECTED AND QUALIFIED.] If the resignation is effective
11 at a future time, a successor may be elected to take office when the
12 resignation becomes effective.

13 * Sec. 40. AS 10.06.470(a) is amended to read:

14 (a) A regular or special meeting of the board or a committee of
15 the board may be called by the chairman of the board, the president, a
16 vice-president, the secretary, or a director [TWO DIRECTORS] and may
17 be held at any place inside or outside this state.

18 * Sec. 41. AS 10.06.470(b) is amended to read:

19 (b) A regular meeting of the board or a committee designated by
20 the board may be held without notice if the time and place of the
21 meeting is fixed by the bylaws or the board. A special meeting of the
22 board or a committee designated by the board shall be held as provided
23 in the bylaws or, in the absence of bylaw provision, after [UPON]
24 either notice in writing sent 10 [20] days before the meeting or
25 notice by electronic means, personal messenger, or comparable person-
26 to-person communication given at least 24 [72] hours before the meet-
27 ing. Unless otherwise provided in the bylaws [IN THE CASE OF A SPE-
28 CIAL MEETING] the notice of a special meeting shall include disclosure
29 of the business to be transacted and the purpose of the meeting.

1 * Sec. 42. AS 10.06.483(d) is amended to read:

2 (d) Subject to the provisions of AS 10.06.020 [AS 10.06.020(a)],
3 a note, mortgage, evidence of indebtedness, contract, [SHARE CERTIFI-
4 CATE,] conveyance, or other instrument in writing, and an assignment
5 or endorsement of these, executed or entered into between the corpora-
6 tion and another person, if signed by two individuals, one of whom is
7 the chairman of the board, the president, or a vice-president and the
8 other of whom is the secretary, an assistant secretary, the treasurer,
9 or an assistant treasurer of the corporation, is not invalidated as to
10 the corporation by a lack of authority of the signing officers in the
11 absence of actual knowledge on the part of the other person that the
12 signing officers had no authority to execute the instrument.

13 * Sec. 43. AS 10.06.483(e) is amended to read:

14 (e) An officer shall perform the duties of the office [AN OFFI-
15 CER] in good faith and with that degree of care, including reasonable
16 inquiry, that an ordinarily prudent person in a like position would
17 use under similar circumstances. Except as provided in (f) of this
18 section, an officer is entitled to rely on information, opinions,
19 reports or statements, including financial statements and other finan-
20 cial data in each case prepared or presented by legal counsel or
21 public accountants.

22 * Sec. 44. AS 10.06.483 is amended by adding new subsections to read:

23 (f) An officer is not acting in good faith if the officer has
24 knowledge concerning the matter in question that makes reliance other-
25 wise permitted by (e) of this section unwarranted.

26 (g) An officer who makes a business judgment in good faith
27 fulfills the duty of care under this section if the officer

28 (1) is not interested in the subject of the business judg-
29 ment;

1 (2) is informed about the subject of the business judgment
2 to the extent the officer reasonably believes to be appropriate under
3 the circumstances; and

4 (3) rationally believes that the business judgment is in
5 the best interest of the corporation.

6 * Sec. 45. AS 10.06.576(f) is amended to read:

7 (f) At the time of filing the notice of election to dissent, or
8 within 30 days after the shareholder has filed the notice, the share-
9 holder shall submit to the corporation, or to its transfer agent, the
10 certificates representing the shares for which payment is claimed, if
11 certificates have been issued. The corporation or its transfer agent
12 shall note conspicuously on the certificates, or on a separate docu-
13 ment if certificates have not been issued for the shares, that a
14 notice of election has been filed, and shall return the certificates
15 or the separate document to the shareholder or to the person who
16 submitted them on the shareholder's behalf. Unless a court, for good
17 cause shown, otherwise directs, a shareholder who fails to comply with
18 this subsection loses the right to dissent granted by this chapter, if
19 the corporation gives written notice that the right to dissent will be
20 lost to the shareholder within 45 days from the date that the share-
21 holder filed the notice of election to dissent. If the corporation
22 fails to exercise this notice option in a timely manner, the share-
23 holder retains the right to dissent granted by this chapter.

24 * Sec. 46. AS 10.06.576(g) is repealed and reenacted to read:

25 (g) When a share of a dissenting shareholder under (f) of this
26 section is transferred, the new certificate must bear a notation
27 similar to that made under (f) of this section and state the name of
28 the original dissenting holder of the shares, or, if the share is a
29 certificateless share, the corporation must give the transferee a

1 written notice stating that a notice of election to dissent has been
2 filed and giving the name of the original dissenting holder. A trans-
3 feree acquires only the rights in the corporation that the original
4 dissenting shareholder had at the time of transfer.

5 * Sec. 47. AS 10.06.578(c) is amended to read:

6 (c) If the corporate action has been completed the offer re-
7 quired by (a) of this section shall also be accompanied by

8 (1) advance payment to each shareholder who submitted the
9 share certificates to the corporation, or to whom notice was sent if
10 the shares were certificateless, as provided in AS 10.06.576(f), of
11 the amount offered under (a) of this section; or

12 (2) a statement to a shareholder who has not submitted the
13 share certificates, if certificates were issued for the shares, that
14 advance payment of the amount offered under (a) of this section will
15 be made by the corporation promptly upon submission of the certifi-
16 cates.

17 * Sec. 48. AS 10.06.580(f) is amended to read:

18 (f) Unless prohibited by AS 10.06.578(g), within 60 days after
19 the final determination of the proceeding, the corporation shall pay
20 to each dissenting shareholder who is a party the amount determined
21 under (e) of this section in exchange for the surrender of the certifi-
22 cate representing the dissenter's shares or the dissenter's shares if
23 the shares are certificateless. Upon payment of the judgment, the
24 dissenting shareholder ceases to have an interest in the shares.

25 * Sec. 49. AS 10.06.605(b) is amended to read:

26 (b) A corporation [THE FOLLOWING CORPORATIONS] may elect by
27 approval of the board to wind up and dissolve if the [A] corporation
28 [THAT] has:

29 (1) been adjudicated bankrupt;

1 (2) disposed of all of its assets and has not conducted any
2 business for a period of five years immediately preceding the adoption
3 of the resolution to dissolve the corporation; or [AND]

4 (3) issued no shares.

5 * Sec. 50. AS 10.06.628(d) is amended to read:

6 (d) For purposes of this section, "shareholder" includes a
7 beneficial owner of shares who has entered into an agreement under
8 AS 10.06.425(a) [AS 10.06.425].

9 * Sec. 51. AS 10.06.630(e) is amended to read:

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

13 * Sec. 52. AS 10.06.633(a) is amended to read:

14 (a) A corporation may be dissolved involuntarily by the commis-
15 sioner if

16 (1) the corporation is delinquent six months in filing its
17 biennial report or in paying its biennial corporation tax [A LICENSE
18 FILING FEE] or a penalty;

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

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

24 (4) the corporation has failed for two years to complete
25 dissolution under a certificate of election under AS 10.06.608 to
26 dissolve;

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

29 (6) a misrepresentation of material facts has been made in

1 the application, report, affidavit, or other document submitted under
2 this chapter; or

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

6 (8) THE CORPORATION IS CONTROLLED BY A PERSON WHO WILFULLY
7 FAILS TO COMPLY WITH AS 10.06.155 WITHIN 30 DAYS AFTER RECEIPT BY THE
8 CORPORATION OR ITS REGISTERED AGENT OF NOTICE OF NONCOMPLIANCE SENT BY
9 THE DEPARTMENT BY CERTIFIED MAIL].

10 * Sec. 53. AS 10.06.828 is amended to read:

11 Sec. 10.06.828. INCORPORATION OR FILING FEES. A domestic or
12 foreign corporation that is required to file articles of incorpo-
13 ration, an application for a certificate of authority, [OR] amendatory
14 articles, or other application with the department, except corporate
15 entities organized under AS 10.20 and corporate entities organized
16 under the laws of the United States or the laws of a state or terri-
17 tory of the United States or the laws of a foreign country for the
18 same purposes as those allowed under AS 10.20, shall pay to the com-
19 missioner a filing fee established by the department by regulation.
20 The filing fee shall be uniform and fixed without reference to the
21 amount of authorized shares.

22 * Sec. 54. AS 10.06.855 is amended to read:

23 Sec. 10.06.855. PAYMENTS TO BE MADE IN ADVANCE. Fees and
24 charges provided for in this chapter, including the biennial corpo-
25 ration tax, shall [MAY] be paid in advance.

26 * Sec. 55. AS 10.06.960 is amended to read:

27 Sec. 10.06.960. CORPORATIONS ORGANIZED UNDER ALASKA NATIVE
28 CLAIMS SETTLEMENT ACT [P.L. 92-203]. (a) A corporation organized
29 under 43 U.S.C. 1601 - 1629(a) as amended [43 U.S.C. 1601 - 1629a]

1 (Alaska Native Claims Settlement Act) shall be incorporated under and
2 is subject to this chapter except

3 (1) each corporation shall issue without further considera-
4 tion the number of shares of common stock that may be necessary to
5 comply with the requirements of the act [43 U.S.C. 1601 - 1629a] and
6 all stock so issued is considered fully paid and nonassessable when
7 issued;

8 (2) unless otherwise provided in the articles of incorpo-
9 ration, the capital

10 (A) is considered the consideration for the initial
11 issuance of shares; and

12 (B) of a corporation organized under the act [43
13 U.S.C. 1601 - 1629a] includes the

14 (i) land or interests in it conveyed to the
15 corporation by the United States under the act [43 U.S.C.
16 1601 - 1629a], except that which is required to be conveyed
17 under 43 U.S.C. 1613(c)(1), (3), and (4), entered at its
18 fair value to the corporation upon receiving the conveyance
19 of it; and

20 (ii) money, when received under 43 U.S.C. 1605 and
21 43 U.S.C. 1608, that is retained by the corporation and that
22 is not immediately distributed or required to be distributed
23 under 43 U.S.C. 1606(j).

24 (b) Notwithstanding the provisions of AS 10.06.305 - 10.06.390,
25 payment from the money of a corporation organized under the act [43
26 U.S.C. 1601 - 1629a] that is required by the language of the act [43
27 U.S.C. 1601 - 1629a] to be distributed to shareholders or to other
28 corporations so organized is not a distribution to its shareholders as
29 defined in AS 10.06.990.

1 (c) Notwithstanding the provisions of AS 10.06.546, a plan of
2 merger, consolidation, or exchange in which each participating corpo-
3 ration either (1) was organized under the act [43 U.S.C. 1601 - 1629a
4 (ALASKA NATIVE CLAIMS SETTLEMENT ACT)], within the same one of the 12
5 regions of Alaska established under the act [43 U.S.C. 1601 - 1629a],
6 or (2) resulted from the prior merger, consolidation, or exchange of
7 other similarly organized corporations within the same region, is
8 approved if it receives the affirmative vote of the holders of at
9 least a majority of the outstanding shares of each corporation. If a
10 class of shares of a corporation specified in this subsection is
11 entitled to vote as a class, the plan of merger, consolidation, or
12 exchange is approved if it receives the affirmative vote of the hold-
13 ers of at least a majority of the outstanding shares of each class of
14 shares entitled to vote as a class and of the total outstanding
15 shares. Notwithstanding AS 10.06.574 - 10.06.582, a plan of merger,
16 consolidation, or exchange approved under this section before
17 December 19, 1991, may not include a right of shareholder to dissent.

18 (d) A director or officer of a corporation organized under the
19 act [43 U.S.C. 1601 - 1629a] is not personally liable to the contract
20 creditors specified in AS 10.06.490 except as otherwise provided by
21 law.

22 * Sec. 56. AS 10.06.960 is amended by adding new subsections to read:

23 (e) Notwithstanding the provisions of AS 10.06.502 - 10.06.510,
24 a corporation organized under the act may amend its articles by a vote
25 of the board of directors in order for the corporation to comply with
26 the mandatory requirements of the act.

27 (f) In this section, "act" means 43 U.S.C. 1601 - 1629e (Alaska
28 Native Claims Settlement Act).

29 * Sec. 57. AS 10.06.990(12) is amended to read:

1 (12) "control" [OR "CONTROLLING INTEREST"] means

2 (A) owning directly or indirectly, or having the power
3 to vote, 25 percent or more of a class of voting securities of a
4 corporation subject to this chapter; or

5 (B) influencing or affecting in any substantive manner
6 the election of a majority of the directors or trustees of a
7 corporation subject to this chapter;

8 * Sec. 58. AS 10.06.990 is amended by adding a new paragraph to read:

9 (47) "entire board" means the total number of directors that
10 the corporation has if there are no vacancies.

11 * Sec. 59. AS 10.06.155 is repealed.

12 * Sec. 60. This Act takes effect July 1, 1989.