

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 420(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/6/94

Referred: State Affairs

Sponsor(s): REPRESENTATIVES THERRIault, Mulder, James

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to limited liability companies; and providing for an effective
2 date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * Section 1. AS 10 is amended by adding a new chapter to read:

5 **CHAPTER 50. LIMITED LIABILITY COMPANY ACT.**

6 **ARTICLE 1. PURPOSES AND ACTIVITIES.**

7 **Sec. 10.50.010. AUTHORIZED PURPOSES.** A limited liability company may
8 be organized under this chapter for any lawful purpose.

9 **Sec. 10.50.015. COMPLIANCE WITH OTHER LAWS.** If an activity of a
10 limited liability company or the purpose for which a limited liability company is
11 organized is subject to another provision of law, the company shall also comply with
12 the other provision of law.

13 **ARTICLE 2. NAME; REGISTERED OFFICE AND AGENT;**

14 **SERVICE OF PROCESS.**

1 **Sec. 10.50.020. LIMITED LIABILITY COMPANY NAME.** (a) The name
2 of a limited liability company stated in the company's articles of organization must
3 contain the words "limited liability company" or the abbreviation "L.L.C.," or "LLC".
4 The word "limited" may be abbreviated as "Ltd.," and the word "company" may be
5 abbreviated as "Co."

6 (b) The name of a city, borough, or village may be used in a limited liability
7 company name; however, the name may not contain the word "city," "borough," or
8 "village" or otherwise imply that the company is a municipality.

9 (c) A person may not adopt a name that contains the words "limited liability
10 company" unless the person is organized under this chapter or is registered as a foreign
11 limited liability company under this chapter.

12 **Sec. 10.50.025. DISTINGUISHABLE NAMES.** The name of a limited
13 liability company must be distinguishable on the records of the department from

14 (1) the name of a limited liability company, limited partnership, or
15 corporation organized under the laws of this state;

16 (2) the name of a foreign limited liability company that is registered
17 under this chapter;

18 (3) the name of a foreign corporation that is authorized to transact
19 business in this state;

20 (4) a name reserved or registered under AS 10.06.110 - 10.06.145 or
21 this chapter; or

22 (5) a name reserved under AS 10.35.

23 **Sec. 10.50.030. RIGHT TO RESERVE NAME.** The exclusive right to use a
24 name may be reserved by a

25 (1) person intending to organize a limited liability company and to
26 adopt the name;

27 (2) person intending to organize a foreign limited liability company and
28 to register under this chapter;

29 (3) limited liability company, or a foreign limited liability company
30 registered under this chapter, that intends to change its name; or

31 (4) foreign limited liability company that intends to register under this

1 chapter and to adopt the name.

2 **Sec. 10.50.035. APPLICATION TO RESERVE COMPANY NAME.**

3 Reservation of a name under AS 10.50.030 is made by filing an application with the
4 department. If the department finds that the name is available for use by a limited
5 liability company, and is not a reserved or registered business name under AS 10.35
6 or this chapter, the department shall reserve it for the exclusive use of the applicant
7 for a period of 120 days.

8 **Sec. 10.50.038. TRANSFER OF RESERVED NAME.** The holder of a name
9 reserved under AS 10.50.030 may transfer the right to the exclusive use of the name
10 to another person by filing a notice of transfer with the department, signed by the
11 holder of the name, and specifying the name and address of the transferee.

12 **Sec. 10.50.040. REGISTRATION OF COMPANY NAME.** A limited liability
13 company or a foreign limited liability company may register its name if the name is
14 distinguishable on the records of the department from the names identified under
15 AS 10.50.025.

16 **Sec. 10.50.043. USE OF NONDISTINGUISHABLE NAME.** Organization or
17 registration under this chapter, or registration of a name under this chapter, gives the
18 person who has organized, reserved, or registered a name under this chapter exclusive
19 right to the use of the name. The person may enjoin the use of a name that is not
20 distinguishable from the name to which the person has the exclusive right and the
21 person has a cause of action for damages against a person who uses a name that is not
22 distinguishable from the name to which the person has the exclusive right.

23 **Sec. 10.50.048. PROCEDURE FOR REGISTRATION OF COMPANY**
24 **NAME.** Registration of a name under AS 10.50.040 is made by filing with the
25 department

26 (1) a signed application for registration setting out the name of the
27 company, the state or territory under the laws of which it is organized, the date of
28 organization, a statement that it is conducting affairs, and a brief statement of its
29 principal activities; and

30 (2) a certificate from an official of the state or territory where the
31 company is organized who has custody of the records pertaining to limited liability

1 companies stating that the company is in good standing under the laws of that state or
2 territory, if the company is a foreign limited liability company.

3 **Sec. 10.50.050. DURATION OF REGISTERED NAME.** The registration of
4 a name under AS 10.50.040 is effective until the close of the calendar year in which
5 the application for registration is filed.

6 **Sec. 10.50.053. RENEWAL OF REGISTERED NAME.** (a) The registration
7 of a name under AS 10.50.040 may be renewed each year by

8 (1) filing an application for renewal setting out the facts required in an
9 original application for registration;

10 (2) filing a certificate of good standing required for an original
11 registration; and

12 (3) paying a fee established by the department.

13 (b) An application for renewal shall be filed between October 1 and December
14 31 in each year. The renewal extends the registration for the following calendar year.

15 **Sec. 10.50.055. REGISTERED OFFICE AND REGISTERED AGENT.** A
16 limited liability company shall continuously maintain in this state a registered agent
17 and a registered office. The registered office may be the same as the office of the
18 company. The registered agent may be either an individual resident of this state whose
19 business office is the same as the registered office, or a domestic or foreign
20 corporation authorized to transact business in this state whose business office is the
21 same as the registered office.

22 **Sec. 10.50.058. FILING LIST OF COMPANIES AND REGISTERED**
23 **AGENTS WITH SUPERIOR COURT; UPDATING AND PUBLISHING.** The
24 department shall file with the superior court of each judicial district a list of the names
25 of each limited liability company and each foreign limited liability company registered
26 under this chapter, and the name and address of the registered agents of the companies.
27 The department shall provide a weekly update of the list indicating additions, deletions,
28 and changes by mechanical or electronic means that can be reduced to legible written
29 copy. Upon request, the department shall make available a copy of the list and weekly
30 updates for a fee established by the department by regulation. The department shall
31 publish an updated compilation of the entire list at least once each year.

1 **Sec. 10.50.060. CHANGE OF REGISTERED OFFICE OR AGENT. (a) A**
2 **limited liability company may change its registered office, agent, or both, by filing**
3 **with the department a verified signed statement that includes**

- 4 (1) the name of the company;
5 (2) the address of its registered office;
6 (3) the address of its new registered office if the registered office is to
7 be changed;
8 (4) the name of its registered agent;
9 (5) the name of its new registered agent, if the registered agent is to
10 be changed; and
11 (6) a statement that the change is authorized by the company's
12 manager, or, if the company is not managed by a manager, by the members.

13 (b) If the department finds that the verified statement complies with this
14 chapter, the department shall file it in the department's office. The change becomes
15 effective when the statement is filed.

16 **Sec. 10.50.063. CHANGE OR RESIGNATION OF REGISTERED AGENT.**

17 (a) A registered agent of a limited liability company may change the location of the
18 agent's office from one address to another in this state. The agent may change the
19 registered office for each company for which the person is acting as registered agent
20 by filing in the department a statement setting out the name of the agent, the address
21 of the agent's office before change, the address to which the office is changed, and a
22 list of companies for which the person is the registered agent. The statement shall be
23 executed by the registered agent in the individual name of the agent or, if the agent
24 is a corporation, it shall be executed and verified by its president or a vice-president.
25 The statement shall be delivered to the department and if the department finds that the
26 statement complies with this chapter, the department shall file it. The change becomes
27 effective when the statement is filed.

28 (b) A registered agent may resign by filing a written notice and an exact copy
29 of the notice with the department. The written notice of resignation must set out the
30 latest address of the principal office of the company and the name, address, and title
31 of the manager, or, if the company is managed by its members, the names and

1 addresses of the members of the company known by the agent. The department shall
2 immediately mail a copy of the notice to the company at its principal office. The
3 resignation becomes effective 30 days after the filing of the written notice, unless the
4 company sooner appoints a successor registered agent, as provided in AS 10.50.060.

5 **Sec. 10.50.065. SERVICE OF PROCESS ON COMPANY.** (a) The registered
6 agent of a limited liability company is an agent upon whom process, notice, or demand
7 required or permitted by law to be served upon the company may be served.

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

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

17 (2) sending to the company being served by certified mail a notice that
18 service has been made on the commissioner under this subsection and a copy of the
19 process, notice, or demand and accompanying papers; notice to the company shall be
20 sent to

21 (A) the address of the last registered office of the company as
22 shown by the records on file in the department; and

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

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

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

31 (d) This section does not affect the right to serve process, notice, or demand

1 required or permitted by law to be served upon a company in any other manner
2 permitted.

3 **ARTICLE 3. ORGANIZATION AND DURATION.**

4 **Sec. 10.50.070. ORGANIZERS.** Two or more persons may organize a limited
5 liability company by signing articles of organization and delivering the signed articles
6 to the department for filing. A person who organizes a limited liability company may
7 be a person who is not a member of the company when the company is organized or
8 after the company is organized.

9 **Sec. 10.50.075. CONTENTS OF ARTICLES OF ORGANIZATION.** The
10 articles of organization of a limited liability company must state

11 (1) the name of the company;

12 (2) the purpose for which the company is organized, which may be
13 stated to be, or to include, the transaction of any or all lawful business for which a
14 limited liability company may be organized under this chapter;

15 (3) the mailing address of the company's registered office and the name
16 and business, residence, or mailing address of the company's registered agent;

17 (4) if an election has been made that the existence of the company will
18 continue until a certain date or event, a statement of the election and the date or event;

19 (5) if applicable, that the company will be managed by a manager;

20 (6) the limits or increases, including limits or increases placed on a
21 class of members or on an individual member, of the members' management rights,
22 if the company is managed by the members and if the members' management rights
23 or duties are limited or increased; and

24 (7) any other provision for the regulation of the internal affairs of the
25 company that is consistent with this chapter and the laws of this state if the persons
26 organizing the company elect to include the provision in the articles of organization.

27 **Sec. 10.50.080. EFFECTIVE DATE OF ORGANIZATION.** A limited liability
28 company is organized when the articles of organization for the company that conforms
29 to the filing requirements of this chapter are delivered to the department for filing
30 under AS 10.50.820 even if the department is not able at the time of delivery to make
31 the determination required under AS 10.50.820(a) for filing.

1 **Sec. 10.50.085. ELECTION OF DURATION.** (a) If an election to continue
2 the existence of a limited liability company until a certain date or event is made and
3 stated in the articles of organization, the company's existence continues until the date
4 or event unless the company is dissolved under AS 10.50.400 for a reason that can
5 cause dissolution while the election is in effect.

6 (b) An election under (a) of this section may not be revoked unless the
7 election is revoked by the persons, if any, who are identified in the election at the time
8 the election is made as having the power to revoke the election.

9 (c) An election under (a) of this section may expressly limit the membership
10 terminations that can cause dissolution under AS 10.50.400(3).

11 **Sec. 10.50.090. CONCLUSIVE EVIDENCE OF COMPLIANCE.** A copy of
12 the articles of organization that is stamped "filed" and marked with the filing date is
13 conclusive evidence that the organizers of the limited liability company have complied
14 with all conditions precedent required to be performed by the organizers and that the
15 company has been organized under this chapter.

16 **Sec. 10.50.095. OPERATING AGREEMENT.** The members of a limited
17 liability company may adopt an operating agreement for the company and may amend
18 and repeal the agreement. The articles of organization may restrict or eliminate the
19 power of the members to adopt, amend, or repeal an operating agreement.

20 **ARTICLE 4. AMENDMENT OF ARTICLES.**

21 **Sec. 10.50.100. AMENDMENT OF ARTICLES.** (a) A limited liability
22 company may amend its articles of organization in any respect if the articles as
23 amended contain only the provisions that are required or permitted by this chapter to
24 be included in the original articles of organization at the time of the amendment.

25 (b) A limited liability company may amend its articles of organization by filing
26 articles of amendment with the department. The articles of amendment must state the

27 (1) name of the company;

28 (2) date the articles of organization were filed; and

29 (3) amendment adopted by the company.

30 **Sec. 10.50.105. RESTATEMENT OF ARTICLES.** A limited liability
31 company may restate its articles of organization at any time. The company shall file

1 its restated articles with the department. The restated articles of organization must be
2 specifically designated as restated articles in the title to the restated articles and must
3 state, either in the title or in an introductory paragraph, the

4 (1) company's present and, if the name is changed, all of the
5 company's former names; and

6 (2) date of the filing of the company's original articles of organization.

7 ARTICLE 5. MANAGEMENT.

8 Sec. 10.50.110. MANAGEMENT GENERALLY. (a) Except as otherwise
9 provided by the company's articles of organization, the members of a limited liability
10 company manage the affairs and make the decisions of the company.

11 (b) If a limited liability company is managed by a manager, the manager has
12 the exclusive power to manage the affairs of the company to the extent authorized by
13 the operating agreement.

14 Sec. 10.50.115. APPOINTMENT, REMOVAL, AND REPLACEMENT OF
15 MANAGERS. Except as otherwise provided in an operating agreement of a limited
16 liability company, a manager of the company may not be appointed, removed, or
17 replaced, unless more than one-half of all of the members of the company authorize
18 the appointment, removal, or replacement.

19 Sec. 10.50.120. MANAGER ELIGIBILITY. Unless otherwise provided in an
20 operating agreement of the company, a manager of a limited liability company may
21 be a person who is not an individual or a member of the company. A company may
22 have more than one manager.

23 Sec. 10.50.125. TENURE OF MANAGER. (a) Unless otherwise provided in
24 an operating agreement of the company, a manager of a limited liability company
25 holds office until the manager's successor is elected and qualified, unless the manager
26 resigns or is removed earlier.

27 (b) A manager of a limited liability company may resign by giving written
28 notice to the other managers, or, if there is only one manager for the company, to the
29 members of the company. The resignation is effective when the notice is given, unless
30 the notice specifies a later time for the effectiveness of the resignation. If the
31 resignation is effective at a future time, a successor may be selected to take office

1 when the resignation becomes effective.

2 **Sec. 10.50.130. LIMITATION OF MEMBER FIDUCIARY DUTY.** Unless
3 otherwise provided in an operating agreement of the company, if a person is a member
4 of a limited liability company that is managed by a manager and if the person is not
5 a manager, the person does not have the fiduciary duty of a manager to the company
6 or to the other members of the company when the person acts solely in the capacity
7 of a member.

8 **Sec. 10.50.135. DUTY OF CARE.** (a) A person who is a manager or a
9 managing member of a limited liability company shall perform the duties of
10 management in good faith, in a manner the person reasonably believes to be in the best
11 interests of the company, and with the care, including reasonable inquiry, that an
12 ordinarily prudent person in a like position would use under similar circumstances.
13 Except as provided in (b) of this section, the person is entitled to rely on information,
14 opinions, reports, or statements, including financial statements and other financial data,
15 in each case prepared or presented by

16 (1) an employee of the company whom the director reasonably believes
17 to be reliable and competent in the matters presented; or

18 (2) counsel, public accountants, or other professionals or experts as to
19 matters that the person reasonably believes to be within the professional's or expert's
20 competence.

21 (b) A person is not acting in good faith under (a) of this section if the person
22 has knowledge concerning the matter in question that makes reliance otherwise
23 permitted by (a) of this section unwarranted.

24 **Sec. 10.50.140. CONFLICTS OF INTEREST.** (a) A contract or other
25 transaction between a limited liability company and a manager or managing member
26 of a limited liability company, or between a limited liability company and a limited
27 liability company, foreign limited liability company, corporation, firm, or association
28 in which a manager or managing member of the company has a material financial
29 interest, is not void or voidable because the manager or managing member or the other
30 company, firm, or association are parties or because the manager or managing member
31 is present at the meeting that authorizes, approves, or ratifies the contract or

1 transaction, if the material facts as to the transaction and as to the interest of the
2 manager or managing member are fully disclosed or known to the members and the
3 contract or transaction is approved by the members in good faith, with the interested
4 manager or managing member not being entitled to vote.

5 (b) The fact that a manager or managing member of a limited liability
6 company is a manager or managing member of another entity involved in the
7 transaction does not alone constitute a material financial interest within the meaning
8 of this section. A manager or managing member is not interested within the meaning
9 of this section in a decision fixing the compensation of another manager or managing
10 member as a manager or managing member of the company, notwithstanding the fact
11 that the first manager or managing member is also receiving compensation from the
12 company.

13 (c) A contract or other transaction between a manager or managing member
14 and a limited liability company or association of which one or more managers or
15 managing members of the company are managers or managing members is not void
16 or voidable because the managers or managing members are present at the meeting that
17 authorizes, approves, or ratifies the contract or transaction, if the material facts of the
18 transaction and the manager's or managing member's other management position are
19 fully disclosed or known to the members and the members authorize, approve, or ratify
20 the contract or transaction in good faith by a sufficient vote without counting the vote
21 of the common manager or managing member or the contract or transaction is
22 approved by the members in good faith. This subsection does not apply to contracts
23 or transactions covered by (a) of this section.

24 (d) Interested or common managers or managing members may be counted in
25 determining the presence of a quorum at a meeting that authorizes, approves, or ratifies
26 a contract or transaction.

27 (e) Nothing in this section affects the prohibitions or restraints imposed by
28 AS 45.50.562 - 45.50.596.

29 **Sec. 10.50.145. LOANS TO MANAGERS, MANAGING MEMBERS, AND**
30 **EMPLOYEES.** (a) A loan may not be extended by a limited liability company to an
31 employee without authorization by the company's members. A loan may not be

1 extended to a manager or a managing member of a limited liability company without
2 the approval of two-thirds of the company's members. An employee who is also a
3 manager or managing member is considered a manager or managing member for
4 purposes of this section. A member is not disqualified from voting on a loan to a
5 member as a manager or managing member because of personal interest.

6 (b) A loan to a manager, managing member, or employee and a loan secured
7 by the limited liability company interests of the company may not be made unless the
8 loan would be permissible as a distribution under AS 10.50.290 - 10.50.345. A loan
9 under this subsection impairs the retained earnings or paid-in capital accounts to the
10 extent of the loan.

11 (c) For purposes of this section, a loan may consist of cash, securities, or
12 personal or real property.

13 (d) If a limited liability company acts as a guarantor on a loan to a manager,
14 managing member, or employee, the guarantee is treated as a loan under this section.

15 (e) A manager, managing member, or employee of an affiliated limited liability
16 company is a manager, managing member, or employee of the lending company for
17 purposes of this section.

18 (f) A loan is to be judged by the duties of managers and managing members
19 to act in good faith in a manner reasonably believed to be in the best interests of the
20 company and with the care, including reasonable inquiry, that an ordinarily prudent
21 person in a like position would use under similar circumstances.

22 Sec. 10.50.148. INDEMNIFICATION OF MANAGERS, MANAGING
23 MEMBERS, EMPLOYEES, AND AGENTS; INSURANCE. (a) A limited liability
24 company may indemnify a person who was, is, or is threatened to be made a party to
25 a completed, pending, or threatened action or proceeding, whether civil, criminal,
26 administrative, or investigative, other than an action by or in the right of the company,
27 by reason of the fact that the person is or was a manager, managing member,
28 employee, or agent of the company, or is or was serving at the request of the company
29 as a manager, managing member, employee, or agent of another limited liability
30 company, partnership, joint venture, trust, or other enterprise. Indemnification may
31 include reimbursement of expenses, attorney fees, judgments, fines, and amounts paid

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

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

28 (c) To the extent that a manager, managing member, employee, or agent of a
29 limited liability company has been successful on the merits or otherwise in defense of
30 an action or proceeding referred to in (a) or (b) of this section, or in defense of a
31 claim, issue, or matter in the action or proceeding, the manager, managing member,

1 employee, or agent shall be indemnified against expenses and attorney fees actually
2 and reasonably incurred in connection with the defense.

3 (d) Unless otherwise ordered by a court, indemnification under (a) or (b) of
4 this section may only be made by a company upon a determination that
5 indemnification of the manager, managing member, employee, or agent is proper in
6 the circumstances because the manager, managing member, employee, or agent has
7 met the applicable standard of conduct set out in (a) and (b) of this section. The
8 determination shall be made by

9 (1) the members by a majority vote of a quorum consisting of members
10 who were not parties to the action or proceeding; or

11 (2) independent legal counsel in a written opinion if a quorum under
12 (1) of this subsection is

13 (A) not obtainable; or

14 (B) obtainable but a majority of disinterested members so
15 directs.

16 (e) The company may pay or reimburse the reasonable expenses incurred in
17 defending a civil or criminal action or proceeding in advance of the final disposition
18 in the manner provided in (d) of this section if

19 (1) in the case of a manager or managing member, the manager or
20 managing member furnishes the company with a written affirmation of a good faith
21 belief that the standard of conduct described in AS 10.50.135(a) has been met;

22 (2) the manager, managing member, employee, or agent furnishes the
23 company a written unlimited general undertaking, executed personally or on behalf of
24 the individual, to repay the advance if it is ultimately determined that an applicable
25 standard of conduct was not met; and

26 (3) a determination is made that the facts then known to those making
27 the determination would not preclude indemnification under this chapter.

28 (f) The indemnification provided by this section is not exclusive of any other
29 rights to which a person seeking indemnification may be entitled under a bylaw,
30 agreement, vote of members or disinterested managers or managing members, or
31 otherwise, both as to action in the official capacity of the person and as to action in

1 another capacity while holding the office. The right to indemnification continues as
2 to a person who has ceased to be a manager, managing member, employee, or agent,
3 and inures to the benefit of the heirs, executors, and administrators of the person.

4 (g) A limited liability company may purchase and maintain insurance on behalf
5 of a person who is or was a manager, managing member, employee, or agent of the
6 company, or is or was serving at the request of the company as a manager, managing
7 member, employee, or agent of another limited liability company, partnership, joint
8 venture, trust, or other enterprise against any liability asserted against the person and
9 incurred by the person in that capacity, or arising out of that status, whether or not the
10 company has the power to indemnify the person against the liability under the
11 provisions of this section.

12 Sec. 10.50.150. AUTHORIZATION OF COMPANY AFFAIRS. (a) Unless
13 otherwise provided in an operating agreement of the company, the company's articles
14 of organization, or by this chapter, if the company is not managed by a manager, the
15 consent of more than one-half of all of the members of a limited liability company is
16 required to decide the affairs of the company.

17 (b) Unless otherwise provided in an operating agreement of the company or
18 by this chapter, if an operating agreement of the company names more than one
19 manager for the company, the consent of more than one-half of the number of
20 managers of a limited liability company is required to decide the affairs of the
21 company.

22 (c) Notwithstanding (a) and (b) of this section, and unless another level of
23 member consent is required in an operating agreement of the company, the consent of
24 two-thirds of the members of a limited liability company is required to

25 (1) amend the articles of organization;

26 (2) amend an operating agreement of the company; or

27 (3) authorize a manager or member to perform an act on behalf of the
28 company that contravenes an operating agreement of the company, including an act
29 that contravenes a provision of the operating agreement that expressly limits the
30 purposes, affairs, or conduct of the affairs of the company.

31 (d) For the purposes of (c) of this section, the required level of consent

1 established by an operating agreement may not be less than a majority of the members.

2 **ARTICLE 6. ADMISSION AND WITHDRAWAL OF MEMBERS.**

3 **Sec. 10.50.155. ADMISSION OF MEMBERS.** A person may become a
4 member in a limited liability company if the person acquires a limited liability
5 company interest

6 (1) directly from the limited liability company

7 (A) in compliance with an operating agreement of the company;

8 or

9 (B) with the written consent of all of the members of the
10 company if an operating agreement of the company does not provide for
11 acquiring an interest directly from the company; or

12 (2) by assignment of the interest by a company member in compliance
13 with AS 10.50.165.

14 **Sec. 10.50.160. EFFECTIVE DATE OF ADMISSION.** The effective date of
15 the admission of a member to a limited liability company is the later of the date

16 (1) when the company is organized;

17 (2) established in an operating agreement of the company; or

18 (3) when the person's admission is reflected in the records of the
19 company if an operating agreement of the company does not establish an effective
20 date.

21 **Sec. 10.50.165. AUTHORIZATION FOR ASSIGNEE TO BECOME**
22 **MEMBER.** (a) Unless otherwise provided in an operating agreement of the company,
23 an assignee of a limited liability company interest may not become a member unless
24 all other members consent.

25 (b) An operating agreement of the company may specify the manner for
26 evidencing the consent required by (a) of this section. If an operating agreement does
27 not specify the manner for evidencing the consent, the consent is evidenced by a
28 written instrument that is dated and signed by the members.

29 **Sec. 10.50.170. RIGHTS, POWERS, AND LIABILITIES OF ASSIGNEE**
30 **WHO BECOMES A MEMBER.** (a) An assignee who becomes a member has, to the
31 extent assigned, the rights and powers of a member under the articles of organization,

1 an operating agreement, and this chapter, and is subject to the restrictions and
2 liabilities of a member under the articles of organization, an operating agreement, and
3 this chapter.

4 (b) In addition to the liabilities imposed under (a) of this section, an assignee
5 of a limited liability company interest who becomes a member of the company is liable
6 for an obligation of the assignor to make a contribution under AS 10.50.280 that is not
7 imposed by the articles of organization, an operating agreement, or otherwise by this
8 chapter.

9 (c) Notwithstanding (a) and (b) of this section, an assignee who becomes a
10 member is not liable for liabilities that are unknown to the assignee when the assignee
11 becomes a member and that cannot be determined from the written records of the
12 company maintained under AS 10.50.860.

13 **Sec. 10.50.180. RIGHTS OF ASSIGNOR WHEN ASSIGNEE BECOMES A**
14 **MEMBER.** Unless otherwise provided in an operating agreement of the company,
15 when an assignee of a member's limited liability company interest becomes a member
16 of the company with respect to the assignor's entire interest, the assignor ceases to be
17 a member or to have the power to exercise the rights of a member.

18 **Sec. 10.50.185. VOLUNTARY TERMINATION OF MEMBERSHIP.** (a) A
19 person's membership in a limited liability company terminates if the person withdraws
20 voluntarily from the company.

21 (b) Unless an operating agreement of the company provides that a member
22 may not withdraw voluntarily from the company, a member of a limited liability
23 company may withdraw as a member voluntarily at any time by giving 30 days'
24 written notice to the other members, or by giving other notice that is established by
25 an operating agreement of the company.

26 **Sec. 10.50.190. WITHDRAWAL BEFORE END OF TERM OR**
27 **UNDERTAKING.** Unless otherwise provided in an operating agreement of the
28 company, if a limited liability company has a definite term or particular undertaking,
29 the withdrawal of a member of the company before the end of the term or the
30 accomplishment of the undertaking is a breach of the operating agreement.

31 **Sec. 10.50.195. REMEDIES FOR WRONGFUL WITHDRAWAL.** (a) If the

1 voluntary withdrawal of a member with the power to withdraw from the company
2 breaches an operating agreement of the company, or if the withdrawal occurs as a
3 result of otherwise wrongful conduct of the member, a limited liability company may
4 recover from the withdrawing member damages that are for the breach of the operating
5 agreement or that result from the wrongful conduct, including the reasonable costs of
6 obtaining replacement of any services the withdrawn member was obligated to
7 perform.

8 (b) A limited liability company may offset the damages authorized under (a)
9 of this section against the amount that is otherwise distributable to the withdrawing
10 member, and may pursue other remedies allowed in an operating agreement of the
11 company or otherwise available under applicable law.

12 Sec. 10.50.205. REMOVAL OF MEMBER. (a) A person's membership in
13 a limited liability company may not be terminated except as provided by (b) or (c) of
14 this section.

15 (b) Except as provided in (c) of this section, a person's membership in a
16 limited liability company terminates if the person assigns all of the person's interest
17 in the company and if a majority of the members who have not assigned their interests
18 in the company authorize the removal of the person as a member.

19 (c) If an operating agreement of the company provides for the removal of a
20 member with or without cause, a person's membership in a limited liability company
21 terminates if the person is removed as a member in the manner and under the
22 circumstances provided in the agreement.

23 Sec. 10.50.210. EFFECT OF DEATH OR INCOMPETENCY ON
24 MEMBERSHIP. Unless otherwise provided in an operating agreement or by the
25 written consent of all of the members at the time, the membership of a member of a
26 limited liability company who is an individual terminates if the member dies, or if a
27 court of competent jurisdiction enters an order adjudicating the member incompetent
28 to manage the member's person or property.

29 Sec. 10.50.215. TERMINATION OF TRUST OR DISTRIBUTION OF
30 INTEREST BY ESTATE MEMBERSHIP. (a) Unless otherwise provided in an
31 operating agreement of the company or by the written consent of all of the members

1 of the company at the time, the limited liability company membership held by a trust
2 or trustee terminates when the trust terminates. In this subsection, "terminates" does
3 not include the substitution of a new trustee.

4 (b) Unless otherwise provided in an operating agreement of the company or
5 by the written consent of all of the members of the company at the time, the limited
6 liability company membership held by an estate terminates when the estate's entire
7 limited liability company interest is distributed by the fiduciary of the estate.

8 Sec. 10.50.220. TERMINATION ON DISSOLUTION OF MEMBER. (a)
9 Unless otherwise provided in an operating agreement of the company or by the written
10 consent of all of the members of the company at the time, a limited liability company
11 membership of a member that is a separate limited liability company terminates when
12 the member dissolves and begins to wind up its affairs.

13 (b) Unless otherwise provided in an operating agreement of the company or
14 by the written consent of all of the members of the company at the time, a limited
15 liability company membership of a member that is a corporation terminates when the
16 corporation is dissolved and 90 days lapse without reinstatement.

17 Sec. 10.50.240. EFFECT OF ELECTION. If an election to continue a limited
18 liability company until a certain date or event is made under AS 10.50.085(a),
19 10.50.185 - 10.50.220 do not apply to the termination of the membership of a member
20 unless the member is also a manager of the company.

21 ARTICLE 7. RELATIONSHIP TO THIRD PARTIES.

22 Sec. 10.50.250. AGENCY POWER OF MEMBERS AND MANAGERS. (a)
23 Except as provided in (b) and (c) of this section, a member of a limited liability
24 company is an agent of the company for the purpose of conducting the company's
25 affairs. A member's act, including the execution of an instrument in the name of the
26 company, that appears to be performed in the usual and customary way of conducting
27 business, binds the company, unless the member does not in fact have the authority to
28 act for the company in the particular matter and the person with whom the member
29 is dealing knows that the member does not have the authority to act for the company
30 in the particular matter.

31 (b) If a limited liability company is managed by a manager, a member is not,

1 solely by reason of being a member, an agent of the company.

2 (c) If a limited liability company is managed by a manager, a manager is an
3 agent of a limited liability company for the purpose of conducting its affairs, and a
4 manager's act, including the execution of an instrument in the name of the company,
5 that appears to be performed in the usual and customary way of conducting business
6 binds the company, unless the manager does not in fact have the authority to act for
7 the company in the particular matter and the person with whom the manager is dealing
8 knows that the manager does not have the authority to act for the company in the
9 particular matter.

10 (d) A limited liability company manager's or member's act that does not
11 appear to be performed in the usual and customary way of conducting business does
12 not bind the company, unless the act is authorized by an operating agreement of the
13 company when the act is performed or at another time.

14 (e) A limited liability company manager's or member's act that contravenes
15 a restriction on the manager's or member's authority does not bind the company with
16 regard to persons who know about the restriction.

17 Sec. 10.50.255. ADMISSIONS OF MEMBERS AND MANAGERS. (a)
18 Except as provided in (b) of this section, an admission or representation made by a
19 member of a limited liability company about the affairs of the company is evidence
20 against the company if the admission or representation is within the scope of the
21 member's authority under this chapter.

22 (b) If a limited liability company is managed by a manager, an admission or
23 representation made by a

24 (1) manager about the affairs of the company is evidence against the
25 company if the admission or representation is within the scope of the manager's
26 authority under this chapter; and

27 (2) member, acting solely in the capacity of a member, is not evidence
28 against the company.

29 Sec. 10.50.260. LIMITED LIABILITY COMPANY CHARGED WITH
30 KNOWLEDGE OF OR NOTICE TO MEMBER OR MANAGER. (a) Except as
31 provided in (b) and (c) of this section, and except for a fraud on the company

1 committed by or with the consent of the member who has the knowledge or receives
2 the notice, the following operate as notice to or knowledge of a limited liability
3 company:

4 (1) notice given to a company member of a matter relating to the
5 affairs of the company;

6 (2) the knowledge of a company member acting in the particular matter,
7 whether acquired while a member or known at the time of becoming a member; and

8 (3) the knowledge of a company member who reasonably could and
9 should have communicated the knowledge to a member acting in the particular matter.

10 (b) If the company is managed by a manager, the following operate as notice
11 to or knowledge of a limited liability company, except for a fraud on the company
12 committed by or with the consent of the manager who has the knowledge or receives
13 the notice:

14 (1) notice given to a manager of a matter relating to the business or
15 affairs of the limited liability company;

16 (2) the knowledge of the manager acting in the particular matter,
17 acquired while a manager or known at the time of becoming a manager; and

18 (3) the knowledge of a company manager who reasonably could and
19 should have communicated the knowledge to the manager acting in the particular
20 matter.

21 (c) If the company is managed by a manager, notice to, or the knowledge of,
22 a member of a limited liability company while the member is acting solely in the
23 capacity of a member does not operate as notice to or knowledge of the company.

24 Sec. 10.50.265. LIABILITY OF MEMBERS TO THIRD PARTIES. A person
25 who is a member of a limited liability company is not liable, solely by reason of being
26 a member, under a judgment, decree, or order of a court, or in another manner, for a
27 liability of the company, whether the liability arises in contract, tort, or another form,
28 or for the acts or omissions of another member, manager, agent, or employee of the
29 company.

30 ARTICLE 8. CONTRIBUTIONS.

31 Sec. 10.50.275. CONSIDERATION FOR COMPANY INTERESTS. (a)

1 Except as provided in (b) of this section, an interest in a limited liability company may
2 be issued for money, other tangible or intangible property, or labor or services actually
3 performed for the company.

4 (b) An interest in a limited liability company may not be issued for a
5 promissory note or future services.

6 Sec. 10.50.280. LIABILITY FOR CONTRIBUTIONS. (a) Notwithstanding
7 AS 09.25.010 - 09.25.020, a promise by a member of a limited liability company to
8 contribute property or services to the company is not enforceable unless the promise
9 is stated in a writing signed by the member.

10 (b) Unless otherwise provided in an operating agreement of the company, a
11 member of a limited liability company is liable for performing an enforceable promise
12 made to the company to contribute property or services, even if the member is unable
13 to perform because of death, disability, or another reason.

14 (c) If a member of a limited liability company does not make the member's
15 required contribution of property or services, the member shall, at the option of the
16 company, contribute cash equal to that portion of value of the required contribution
17 that has not been made.

18 (d) Unless otherwise provided in an operating agreement of the company, an
19 assignor of a limited liability company interest is not released from the assignor's
20 liability to the company under this section, even if the assignee becomes a member
21 with respect to the assigned interest.

22 Sec. 10.50.285. COMPROMISE OF CONTRIBUTION. Unless otherwise
23 provided in an operating agreement of the company, the obligation of a member to
24 make a contribution to a limited liability company may not be compromised, unless
25 all of the other members consent to the compromise.

26 ARTICLE 9. DISTRIBUTIONS.

27 Sec. 10.50.290. SHARING OF PROFITS. Subject to AS 10.50.305 -
28 10.50.325, and unless otherwise provided in an operating agreement of the company,
29 a member of a limited liability company shall be repaid the member's contribution to
30 capital and shares equally in the profits and other assets of the company remaining
31 after all liabilities, including liabilities to members, are satisfied.

1 **Sec. 10.50.295. INTERIM DISTRIBUTIONS UNDER OPERATING**
2 **AGREEMENT.** Subject to AS 10.50.305 - 10.50.325, if a limited liability company
3 makes an interim distribution of its assets to its members, the company shall make the
4 distribution to the members in the manner provided in an operating agreement of the
5 company. The operating agreement of the company may authorize different interim
6 distributions for different classes of members.

7 **Sec. 10.50.300. INTERIM DISTRIBUTIONS WITHOUT OPERATING**
8 **AGREEMENT.** Subject to AS 10.50.305 - 10.50.325, if an operating agreement of the
9 company does not provide for the interim distribution of the assets of the company,
10 when a limited liability company makes an interim distribution of its assets, the interim
11 distributions to each member of the company shall be equal.

12 **Sec. 10.50.305. DISTRIBUTIONS: CONDITIONS.** (a) A limited liability
13 company may not make a distribution to the company's members unless

14 (1) the amount of the retained earnings of the company immediately
15 before the distribution equals or exceeds the amount of the proposed distribution; or

16 (2) immediately after giving effect to the distribution the

17 (A) sum of the assets of the company, exclusive of goodwill,
18 capitalized research and development expenses, evidences of debts owing from
19 a manager or managing member of the company or secured by the company's
20 own limited liability company interests, and deferred charges, would be at least
21 equal to one and one-fourth times its liabilities, not including deferred taxes,
22 deferred income, and other deferred credits; and

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

28 (b) For the purposes of this section,

29 (1) in determining the amount of the assets of the company, profits
30 derived from an exchange of assets may not be included unless the assets received are
31 currently realizable in cash;

1 (2) "current assets" may include net amounts determined in good faith
2 by the manager, or by the members, if the company is not managed by a manager, that
3 may reasonably be expected to be received from customers during the 12-month period
4 used in calculating current liabilities under existing contractual relationships obligating
5 the customers to make fixed or periodic payments during the term of the contracts after
6 in each case giving effect to future costs not then included in current liabilities but
7 reasonably expected to be incurred by the company in performing the contracts.

8 (c) For the purposes of this section, the amount of a distribution payable in
9 property shall be determined on the basis of the value at which the property is carried
10 on the company's financial statements in accordance with this section.

11 (d) Only a company that classifies its assets as current assets and fixed assets
12 in accordance with this section is governed by (a)(2)(B) of this section.

13 (e) For the purposes of this section, a determination that a distribution is not
14 prohibited may be based either on financial statements prepared in accordance with
15 generally accepted accounting principles or on the basis of accounting practices and
16 principles that are fair and reasonable in the circumstances.

17 (f) Financial statements and determinations prepared or arrived at in
18 accordance with generally accepted accounting principles are fair and reasonable. The
19 fair and reasonable quality of statements and determinations prepared under other
20 practices and principles shall be proved by the company.

21 Sec. 10.50.308. PROHIBITED DISTRIBUTION: INABILITY TO MEET
22 MATURING DEBTS AND LIABILITIES. A limited liability company may not make
23 a distribution to the company's members if the company is, or as a result of the
24 distribution would be, likely to be unable to meet its liabilities as they mature.

25 Sec. 10.50.310. PROHIBITED DISTRIBUTION ON JUNIOR INTERESTS;
26 LIQUIDATION PREFERENCE. A limited liability company may not make a
27 distribution to the company's members on any limited liability company interests of
28 a class or series that are junior to outstanding limited liability company interests of
29 another class or series with respect to distribution of assets on liquidation if, after
30 giving effect to the distribution, the excess of its assets, exclusive of goodwill,
31 capitalized research, and development expenses, evidences of debts owing from a

1 manager or managing member or secured by the company's own limited liability
2 company interests, and deferred charges, over its liabilities, not including deferred
3 taxes, deferred income and other deferred credits, would be less than the liquidation
4 preference of all limited liability company interests having a preference on liquidation
5 over the class or series to which the distribution is made.

6 Sec. 10.50.315. ADDITIONAL RESTRICTIONS IN ARTICLES OR
7 OPERATING AGREEMENT. Nothing in this chapter prohibits additional restrictions
8 upon the purchase or redemption of a company's own limited liability company
9 interests by provision in the articles of organization or operating agreement of the
10 limited liability company or in another agreement entered into by the company.

11 Sec. 10.50.320. LIABILITY OF MEMBERS RECEIVING PROHIBITED
12 DISTRIBUTIONS; SUIT AGAINST MEMBERS. (a) A member of a limited liability
13 company who receives a distribution prohibited by this chapter with knowledge of
14 facts indicating the impropriety of the distribution is liable to the company for the
15 benefit of all of the creditors or members entitled to institute an action under (b) of
16 this section for the amount received by the member with interest at the legal rate on
17 judgments until paid. The liability of the member under this subsection may not
18 exceed the liabilities of the company owed to nonconsenting creditors at the time of
19 the violation and the injury suffered by nonconsenting members.

20 (b) Suit may be brought in the name of the company to enforce the liability
21 to

22 (1) creditors arising under (a) of this section for a violation of
23 AS 10.50.305 or 10.50.308 against any or all members liable by any one or more
24 creditors of the corporation whose debts or claims arose before the time of the
25 distribution to members and who have not consented to the distribution, whether or not
26 they have reduced their claims to judgment; or

27 (2) members arising under (a) of this section for a violation of
28 AS 10.50.305 against any or all members liable by any one or more members holding
29 preferred limited liability company interests outstanding at the time of the distribution
30 who have not consented to the distribution, without regard to the provisions of
31 AS 10.50.735.

1 (c) A member sued under this section may compel contribution from all other
2 members liable under this section.

3 (d) This section does not affect the liability that a member may have under
4 other applicable law.

5 Sec. 10.50.325. IDENTIFICATION OF DISTRIBUTION IN NOTICE TO
6 MEMBERS. A distribution other than one chargeable to retained earnings shall be
7 identified in a notice to members as being made from a source other than retained
8 earnings, and shall include a statement of the accounting treatment of the distribution.
9 The notice must accompany the distribution or shall be given within three months after
10 the end of the fiscal year in which the distribution is paid.

11 Sec. 10.50.330. TIME FOR INTERIM DISTRIBUTIONS. A member of a
12 limited liability company is entitled to receive interim distributions under AS 10.50.295
13 - 10.50.300 at the times or upon the happening of the events specified in an operating
14 agreement of the company, or at the times determined by the members or managers
15 under AS 10.50.150.

16 Sec. 10.50.335. DISTRIBUTIONS WHEN A PERSON CEASES TO BE A
17 MEMBER. (a) Except for termination under AS 10.50.205, when the limited liability
18 company membership of a person terminates and the termination does not cause
19 dissolution of the company, the company shall distribute to the person any distribution
20 that the person was entitled to receive before the person's membership terminated.

21 (b) In addition to a distribution made under (a) of this section, a limited
22 liability company shall distribute to a terminating member the amount of the member's
23 limited liability company interest. If an operating agreement of the company does not
24 provide the amount of the distribution or a method for determining the amount of the
25 distribution, the company shall make the distribution within a reasonable time after
26 termination and the amount of the distribution is the fair value of the member's limited
27 liability company interest as of the date of termination based on the member's right
28 to share in distributions from the company.

29 (c) If an election to continue a limited liability company until a certain date
30 or event is in effect under AS 10.50.085, then (a) and (b) of this section do not apply
31 to the termination of the membership of a member unless the member is also a

1 manager of the company.

2 Sec. 10.50.340. DISTRIBUTION IN KIND. (a) Unless otherwise provided
3 in an operating agreement of the company, a member, regardless of the nature of the
4 member's contribution, may not demand and receive a distribution from a limited
5 liability company in a form other than cash.

6 (b) Unless otherwise provided in an operating agreement of the company, a
7 limited liability company may not compel a member of the company to accept from
8 the company a distribution of a company asset in a form other than cash to the extent
9 that the percentage of the asset distributed to the member exceeds the percentage that
10 the member would have shared in a cash distribution equal to the value of the asset
11 at the time of distribution.

12 Sec. 10.50.345. RIGHT TO DISTRIBUTION. When a member of a limited
13 liability company is entitled to receive a distribution from the company, the member
14 is a creditor of the company with respect to the distribution, and is entitled to all
15 remedies available to a creditor of the company.

16 Sec. 10.50.348. INAPPLICABILITY TO WINDING UP AND
17 INVOLUNTARY OR VOLUNTARY DISSOLUTION. AS 10.50.290 - 10.50.340 do
18 not apply in a proceeding for winding up and dissolution of a limited liability
19 company.

20 ARTICLE 10. OWNERSHIP AND TRANSFER OF PROPERTY.

21 Sec. 10.50.350. OWNERSHIP OF COMPANY PROPERTY. (a) Property
22 transferred to or otherwise acquired by a limited liability company is the property of
23 the company and is not the property of the members individually.

24 (b) A limited liability company may acquire, hold, and convey property,
25 including real property, in the name of the company. If a limited liability company
26 acquires an interest in property, the company shall acquire the interest in the name of
27 the company. If a limited liability company acquires an interest in property, the
28 company holds the title to the interest and not the members individually.

29 Sec. 10.50.355. TRANSFER OF PROPERTY. (a) Except as provided in (b)
30 of this section, a limited liability company may transfer the property of the company
31 if the company uses an instrument of transfer signed by a member of the company in

1 the name of the company.

2 (b) If the company is managed by a manager,

3 (1) title to limited liability company property may be transferred by an
4 instrument of transfer signed by a manager of the company in the name of the
5 company; and

6 (2) a member, solely by reason of being a member, does not have the
7 authority to transfer the property of the company.

8 Sec. 10.50.360. RECOVERY OF PROPERTY. A limited liability company
9 may recover property transferred under AS 10.50.355 if the company proves that the
10 execution of the instrument of transfer did not bind the company under AS 10.50.250,
11 unless the property has been transferred by the initial transferee, or by a person
12 claiming through the initial transferee, to a subsequent transferee who gives value
13 without having notice that the person who signed the instrument of initial transfer
14 lacked authority to bind the company.

15 Sec. 10.50.370. NATURE OF INTEREST IN COMPANY. A limited liability
16 company interest is personal property.

17 Sec. 10.50.375. ASSIGNMENT OF INTEREST IN COMPANY. (a) A
18 person may assign a limited liability company interest in whole or in part.

19 (b) The assignment of a limited liability company interest entitles the assignee
20 to receive, to the extent assigned, only the distributions to which the assignor is
21 entitled.

22 (c) The assignment of a limited liability company interest does not dissolve
23 the company or entitle the assignee to participate in the management and affairs of the
24 company, to become a member, or to exercise the rights of a member. Unless the
25 assignee of the interest becomes a member with respect to the interest, the assignor
26 continues to be a member and may exercise the rights of a member, subject to the
27 members' right to remove the assignor under AS 10.50.205.

28 (d) Unless the assignee becomes a member, an assignee of a limited liability
29 company interest is not liable as a member solely as a result of the assignment.

30 (e) The assignor of a limited liability company interest is not released, solely
31 as a result of the assignment, from the assignor's liability as a member.

1 (f) An operating agreement may establish terms different from those in (a) -
2 (e) of this section.

3 (g) Unless otherwise provided in an operating agreement of the company, the
4 pledge of, or granting of a security interest, lien, or other encumbrance in or against,
5 a part or all of a member's limited liability company interest is not an assignment
6 under this section and does not terminate the membership or the rights and powers of
7 the member.

8 Sec. 10.50.380. RIGHTS OF JUDGMENT CREDITORS. (a) If a judgment
9 creditor of a limited liability company member applies to a court of competent
10 jurisdiction, the court may charge the member's limited liability company interest for
11 payment of the unsatisfied amount of the judgment.

12 (b) To the extent a limited liability company interest is charged under (a) of
13 this section, the judgment creditor has only the rights of an assignee of the member's
14 interest.

15 Sec. 10.50.385. POWERS OF ESTATE OF A DECEASED OR
16 INCOMPETENT MEMBER. If a member who is an individual dies or if a court of
17 competent jurisdiction determines the member to be incompetent to manage the
18 member's person or property, the member's executor, administrator, guardian,
19 conservator, or other legal representative has the rights of an assignee of the member's
20 interest.

21 Sec. 10.50.390. POWERS OF DISSOLVED OR TERMINATED ENTITY.
22 If a member who is not an individual terminates or is dissolved, the member's legal
23 representative or successor has the rights of an assignee of the member's interest.

24 ARTICLE 11. DISSOLUTION.

25 Sec. 10.50.400. DISSOLUTION. A limited liability company is dissolved and
26 its affairs shall be wound up if

27 (1) an event occurs that is identified in the articles of organization or
28 an operating agreement as causing dissolution; if an election under AS 10.50.085(a)
29 is in effect, the event does not cause dissolution unless the event is identified in the
30 articles or operating agreement before or at the same time the election is stated in the
31 articles;

1 (2) all of the members of the company consent in writing unless an
2 election under AS 10.50.085(a) is in effect;

3 (3) a person's membership in the company terminates, unless

4 (A) the business of the company is continued by the consent of
5 all of the remaining members on or before the 90th day following the
6 termination of the membership;

7 (B) an operating agreement provides otherwise; or

8 (C) an election under AS 10.50.085(a) is in effect and

9 (i) the election provides that the termination does not
10 cause the company to dissolve; or

11 (ii) the person whose membership terminates is not a
12 manager of the company; or

13 (4) the superior court enters a decree for judicial dissolution of the
14 company under AS 10.50.405.

15 Sec. 10.50.405. DISSOLUTION BY COURT. On application by or for a
16 member of a limited liability company, the superior court may order the company
17 dissolved if the court determines that it is not reasonably practicable for the company
18 to conduct its affairs in conformity with an operating agreement of the company.

19 Sec. 10.50.410. AUTHORITY TO WIND UP. Unless otherwise provided in
20 an operating agreement, the affairs of a limited liability company may be wound up
21 by the

22 (1) members or managers who have authority under AS 10.50.110 to
23 manage the company before dissolution; or

24 (2) superior court on the application of a member of the company or
25 the member's legal representative or assignee if

26 (A) a member or manager identified in (1) of this subsection
27 has engaged in wrongful conduct; or

28 (B) other cause is shown.

29 Sec. 10.50.415. ACTS OF WINDING UP. Unless otherwise provided in an
30 operating agreement of the company, a person winding up the affairs of a limited
31 liability company may, in the name of, and for and on behalf of, the company,

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- (1) prosecute and defend court actions;
- (2) settle and close the affairs of the company;
- (3) dispose of and transfer the property of the company;
- (4) discharge the liabilities of the company; and
- (5) distribute to the members the assets of the company.

Sec. 10.50.420. AGENCY POWER OF MANAGER OR MEMBER AFTER DISSOLUTION. (a) Except as provided in (b) - (d) of this section, after dissolution of a limited liability company, a member having authority to wind up the company's affairs can bind the company by an act that

- (1) is appropriate for winding up the company's affairs or completing transactions unfinished at dissolution; or
- (2) would have bound the company if the company had not been dissolved, if the other party to the transaction does not have notice of the dissolution; in this paragraph, filing the articles of dissolution is presumed to constitute notice of the dissolution.

(b) A member's act that is not binding on the limited liability company under (a) of this section binds the company if the act is otherwise authorized by the company.

(c) A member's act that violates a restriction on the member's authority does not bind the member's limited liability company with regard to a person who knows about the restriction, even if the member's act would otherwise be binding under (a) of this section or is otherwise authorized.

(d) If the company is managed by a manager, a member does not have the authority to bind the company if the member is acting solely in the capacity of a member, and a manager of the company can bind the company by an act that

- (1) is appropriate for winding up the company's affairs or completing transactions unfinished at dissolution; or
- (2) would have bound the company if the company had not been dissolved if the other party to the transaction does not have notice of the dissolution; in this paragraph, filing the articles of dissolution is presumed to constitute notice of the dissolution.

1 **Sec. 10.50.425. DISTRIBUTION OF ASSETS.** Upon the winding up of a
2 limited liability company, the assets of the company shall be distributed in the
3 following manner and order of priority:

4 (1) payment, or adequate provision for payment, to creditors, including,
5 to the extent permitted by law, members who are creditors and not covered by (2) of
6 this section, in satisfaction of the liabilities of the company;

7 (2) unless otherwise provided in an operating agreement of the
8 company, payment to members or former members in satisfaction of the company's
9 liabilities for distributions under AS 10.50.295 - 10.50.335;

10 (3) unless otherwise provided in an operating agreement of the
11 company, to members and former members in the following order of priority:

12 (A) for the return of their contributions; and

13 (B) in proportion to the members' respective rights to share in
14 distributions from the company before dissolution.

15 **Sec. 10.50.430. ARTICLES OF DISSOLUTION.** After the dissolution of a
16 limited liability company under AS 10.50.400, the limited liability company may file
17 articles of dissolution with the department. The articles must state

18 (1) the name of the company;

19 (2) the date of filing of the company's articles of organization and of
20 any amendments to the articles of organization;

21 (3) the reason for filing the articles of dissolution;

22 (4) the effective date, which must be a specific date, of the articles of
23 dissolution if the articles of dissolution are not to be effective when filed; and

24 (5) other information determined appropriate by the members or
25 managers filing the articles.

26 **Sec. 10.50.435. KNOWN CLAIMS AGAINST DISSOLVED LIMITED**
27 **LIABILITY COMPANY.** (a) Upon dissolution, a limited liability company may
28 dispose of the known claims against it by filing articles of dissolution under
29 AS 10.50.430 and following the procedures described in this section.

30 (b) A dissolved limited liability company shall notify its known claimants in
31 writing of the dissolution at any time after the effective date of dissolution. The

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written notice must

- (1) describe the information that must be included in the claim;
- (2) provide a mailing address where the claim may be sent;
- (3) state the deadline, which may not be fewer than 120 days after the later of the date of the written notice or the filing of articles of dissolution under AS 10.50.430, for the company to receive the claim; and
- (4) state that the claim is barred if it is not received by the company by the deadline.

(c) A claim against a limited liability company is barred if a claimant

- (1) who was given written notice under (b) of this section does not deliver the claim to the company by the deadline; or
- (2) whose claim is rejected by the company does not begin a proceeding to enforce the claim within 90 days after the date of the rejection notice.

(d) In this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

Sec. 10.50.440. UNKNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY. (a) If a limited liability company publishes a newspaper notice in accordance with (b) of this section and files articles of dissolution under AS 10.50.430, the following claims are barred unless the claimant commences a proceeding to enforce the claim against the company within three years after the later of the publication date of the newspaper notice or the filing of the articles of dissolution:

- (1) a claim by a claimant who did not receive written notice under AS 10.50.435;
- (2) a claim sent within the time allowed if the company does not act on the claim;
- (3) a claim that is contingent or based on an event occurring after the effective date of dissolution.

(b) The notice published under (a) of this section shall be published once in a newspaper of general circulation in the judicial district where the company's principal office, or its registered office if it does not have a principal office in this

1 state, is located in this state, and must

2 (1) describe the information that must be included in a claim;

3 (2) provide a mailing address where the claim may be sent;

4 (3) state that a claim against the company is barred unless a proceeding
5 to enforce the claim is begun within three years after the publication of the notice; and

6 (4) request that persons with claims against the company present them
7 in writing to the company as provided in the notice.

8 (c) A claim may be enforced under this section

9 (1) against the company to the extent of the company's undistributed
10 assets; or

11 (2) if the company's assets have been distributed in liquidation, against
12 a member of the company to the extent of the member's pro rata share of the claim
13 or of the assets of the company distributed to the member in liquidation, whichever is
14 less; a member's total liability for all claims under this section may not exceed the
15 total amount of assets of the company that are distributed to the member.

16 ARTICLE 12. MERGER AND CONSOLIDATION.

17 Sec. 10.50.500. AUTHORITY FOR MERGER OR CONSOLIDATION.

18 Unless otherwise provided in an operating agreement of the company, and subject to
19 the law applicable to the other limited liability company, a limited liability company
20 may merge or consolidate with or into a limited liability company or a foreign limited
21 liability company.

22 Sec. 10.50.505. CONVERSION OF RIGHTS AND INTERESTS. The rights
23 of or interests in a limited liability company that is a party to a merger or
24 consolidation may be exchanged for or converted into cash, property, obligations,
25 rights or interests in the surviving or resulting limited liability company.

26 Sec. 10.50.510. APPROVAL OF MERGER OR CONSOLIDATION. (a)

27 Unless otherwise provided in an operating agreement of the company, a limited
28 liability company may not approve a proposed merger or consolidation unless the
29 merger or consolidation is approved by all of the members of the company.

30 (b) A foreign limited liability company that is a party to a proposed merger
31 or consolidation may not approve the merger or consolidation unless the merger or

1 consolidation is approved in the manner and by the vote required by the law applicable
2 to the foreign limited liability company.

3 (c) A party to a merger or consolidation under this chapter may abandon the
4 merger or consolidation as provided in the merger or consolidation agreement.

5 Sec. 10.50.515. DELIVERY OF ARTICLES OF MERGER OR
6 CONSOLIDATION. The limited liability company that survives or results from a
7 merger or consolidation under this chapter shall file with the department articles of
8 merger or consolidation signed by each limited liability company that is a party to the
9 merger or consolidation.

10 Sec. 10.50.520. CONTENTS OF ARTICLES OF MERGER OR
11 CONSOLIDATION. The articles of merger or consolidation required by AS 10.50.515
12 must state

13 (1) the name of each limited liability company that is a party to the
14 merger or consolidation;

15 (2) the jurisdiction where each limited liability company that is a party
16 to the merger or consolidation was organized;

17 (3) that an agreement of merger or consolidation has been approved and
18 signed by each limited liability company that is a party to the merger or consolidation;

19 (4) the name of the surviving or resulting limited liability company;

20 (5) the future effective date, which must be a specific date, of the
21 merger or consolidation if the merger or consolidation is not effective when the articles
22 are filed;

23 (6) that the agreement of merger or consolidation is on file at a place
24 of business of the surviving or resulting limited liability company and the address of
25 its place of business;

26 (7) that a copy of the agreement of merger or consolidation will be
27 furnished by the surviving or resulting limited liability company on request and
28 without cost to a person holding an interest in a limited liability company that is a
29 party to the merger or consolidation;

30 (8) if the surviving or resulting limited liability company is not
31 organized under the laws of this state, a statement that the surviving or resulting

1 **limited liability company**

2 (A) agrees that it may be served with process in this state in a
3 proceeding to enforce an obligation of a company that is a party to the merger
4 or consolidation and that was organized under the laws of this state, and to
5 enforce an obligation of the surviving or resulting company;

6 (B) appoints the department as its agent for service of process
7 in an enforcement proceeding under (A) of this paragraph; and

8 (C) the address to which a copy of the process may be mailed
9 to the surviving or resulting company by the department.

10 **Sec. 10.50.525. EXECUTION OF ARTICLES OF MERGER OR**
11 **CONSOLIDATION.** Articles of merger or consolidation shall be signed by a limited
12 liability company that is a party to the merger or consolidation.

13 **Sec. 10.50.530. EQUIVALENT TO ARTICLES OF DISSOLUTION.** Articles
14 of merger or consolidation constitute articles of dissolution for a limited liability
15 company that is not the surviving or resulting limited liability company in the merger
16 or consolidation.

17 **Sec. 10.50.535. EFFECTIVE DATE OF MERGER OR CONSOLIDATION.**
18 A merger or consolidation under AS 10.50.500 - 10.50.565 takes effect upon the later
19 of the effective date of the filing of the articles of merger or consolidation or an
20 effective date stated in the articles of merger or consolidation.

21 **Sec. 10.50.540. USE OF MERGER OR CONSOLIDATION AGREEMENT**
22 **TO AMEND OR ADOPT OPERATING AGREEMENT.** (a) An agreement of merger
23 or consolidation approved under AS 10.50.510 may amend an operating agreement of
24 a limited liability company or adopt a new operating agreement for the company if the
25 company is the surviving or resulting limited liability company in the merger or
26 consolidation.

27 (b) An approved agreement of merger or consolidation may provide that the
28 operating agreement of a limited liability company that is a party to the merger or
29 consolidation, including a limited liability company organized for the purpose of
30 consummating a merger or consolidation, is the operating agreement of a limited
31 liability company that is the surviving or resulting limited liability company.

1 (c) An amendment to an operating agreement or the adoption of a new
2 operating agreement under this section is effective when the merger or consolidation
3 is effective.

4 (d) This subsection is not intended to limit the accomplishment of a merger
5 or of a matter referred to in this section by other means provided for in an operating
6 agreement or in another agreement or as otherwise permitted by law.

7 **Sec. 10.50.545. GENERAL EFFECTS OF MERGER OR CONSOLIDATION.**

8 (a) When a merger or consolidation becomes effective, the limited liability companies
9 that are parties to a merger or consolidation agreement become a single limited
10 liability company that, in the case of a merger, is the limited liability company named
11 in the plan of merger as the surviving limited liability company, and, in the case of a
12 consolidation, is the limited liability company named in the plan of consolidation as
13 the resulting limited liability company.

14 (b) When a merger or consolidation becomes effective, a limited liability
15 company that is a party to the merger or consolidation agreement and that is not the
16 surviving or resulting limited liability company ceases to exist.

17 (c) The surviving limited liability company of a merger or the limited liability
18 company resulting from a consolidation possesses all the rights, privileges, immunities,
19 and powers of each limited liability company that is a party to the merger or
20 consolidation agreement and is subject to all the restrictions, disabilities, and duties of
21 each limited liability company that is a party to the merger or consolidation to the
22 extent the rights, privileges, immunities, powers, franchises, restrictions, disabilities,
23 and duties apply to the type of limited liability company that is the surviving limited
24 liability company or the resulting limited liability company.

25 **Sec. 10.50.550. EFFECT OF MERGER OR CONSOLIDATION ON**
26 **PROPERTY OF COMPANIES.** The real and personal property, the debts due,
27 including promises to make capital contributions and subscriptions for shares, other
28 choses in action, and the other interests of the limited liability companies that are
29 parties to a merger or consolidation belong to the surviving or resulting limited
30 liability company without further action by the companies.

31 **Sec. 10.50.555. EFFECT OF MERGER OR CONSOLIDATION ON**

1 **LIABILITIES. (a) The surviving or resulting limited liability company in a merger**
2 **or consolidation is liable for the liabilities of the limited liability companies that are**
3 **parties to the merger or consolidation.**

4 **(b) A claim, action, or other proceeding that exists at the time of the merger**
5 **or consolidation and that is pending by or against a limited liability company that is**
6 **a party to a merger or consolidation may be pursued as if the merger or consolidation**
7 **had not taken place, or the surviving or resulting limited liability company may be**
8 **substituted in the claim, action, or other proceeding.**

9 **Sec. 10.50.560. RIGHTS OF CREDITORS. The rights of creditors and liens**
10 **on the property of a limited liability company that is a party to a merger or**
11 **consolidation are not impaired by the merger or consolidation.**

12 **Sec. 10.50.565. CONVERSION AT MERGER OR CONSOLIDATION. (a)**
13 **Upon a merger or consolidation, the limited liability company interests that are to be**
14 **converted or exchanged into interests, cash, obligations, or other property under the**
15 **terms of a merger or consolidation agreement are converted as provided by the merger**
16 **or consolidation agreement.**

17 **(b) Upon a merger or consolidation, the former holders of interests converted**
18 **under (a) of this section have the rights provided in the merger or consolidation**
19 **agreement or otherwise provided by law.**

20 **Sec. 10.50.590. DEFINITION. In AS 10.50.500 - 10.50.590, "limited liability**
21 **company" means a limited liability company organized under this chapter or a foreign**
22 **limited liability company.**

23 **ARTICLE 13. FOREIGN LIMITED LIABILITY COMPANIES.**

24 **Sec. 10.50.600. GOVERNING LAW. (a) Subject to the constitution of this**
25 **state, the law of the state or other jurisdiction under which a foreign limited liability**
26 **company is organized governs the organization and internal affairs of the company.**

27 **(b) The department may not deny registration to a foreign limited liability**
28 **company because of differences between the law of this state and the law of the state**
29 **or other jurisdiction under which the foreign limited liability company is organized.**

30 **Sec. 10.50.605. REGISTRATION REQUIRED. Before conducting affairs in**
31 **this state, a foreign limited liability company shall register with the department. To**

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register, the company shall deliver to the department an application for registration as a foreign limited liability company.

Sec. 10.50.610. EXECUTION OF REGISTRATION APPLICATION. An application for registration filed by a foreign limited liability company under AS 10.50.605 shall be signed by a person who is authorized by the law of the state or other jurisdiction where the company was organized to sign the application.

Sec. 10.50.615. CONTENTS OF REGISTRATION APPLICATION. (a) An application for the registration of a foreign limited liability company must state

(1) the name of the foreign limited liability company and, if different, the name the company proposes to use in this state;

(2) the state or other jurisdiction where the company was organized, and date of its organization;

(3) the name and address of the company's registered agent;

(4) that the department is appointed the agent of the company for service of process if the foreign limited liability company fails to appoint or maintain a registered agent under AS 10.50.635;

(5) the address of the office required by the state or other jurisdiction of the company's organization to be maintained in that state or other jurisdiction, or, if the state or other jurisdiction does not require an office to be maintained in that state or other jurisdiction, the principal office of the company;

(6) the purpose the company proposes to pursue in the conduct of its affairs in this state and the codes from the identification code established under AS 10.06.870 that most closely describe the activities in which the company will engage in this state;

(7) the names and addresses of the managers of the company, or, if the company is not managed by a manager, the names and addresses of the members of the company;

(8) the name and address of each person owning at least a five percent interest in the company and the percentage of interest owned by that person in the company; and

(9) that the company is a foreign limited liability company.

1 **(b) In addition to the information required by (a) of this section, an application**
2 **must include a certificate from the jurisdiction where the company was organized that**
3 **indicates that the company is in good standing in that jurisdiction.**

4 **Sec. 10.50.620. NAME.** The department may not file the application for
5 registration of a foreign limited liability company unless the name of the company
6 satisfies the requirements of AS 10.50.020 - 10.50.025. If the name under which a
7 foreign limited liability is organized in the state or other jurisdiction of its organization
8 does not satisfy the requirements of AS 10.50.020 - 10.50.025, the company may
9 register under AS 10.50.605 if the company uses an assumed name that is available
10 to the company under this chapter and that satisfies the requirements of AS 10.50.020 -
11 10.50.025.

12 **Sec. 10.50.623. CHANGE OF NAME.** If a foreign limited liability company
13 that is registered under this chapter changes its name to one under which it may not
14 register under this chapter, the registration of the company is suspended and the
15 company may not conduct affairs in this state until it has changed its name to a name
16 available to it under the laws of this state.

17 **Sec. 10.50.625. AMENDMENT OF REGISTRATION.** A foreign limited
18 liability company may amend its registration by filing articles of amendment with the
19 department that are signed by a person who has the authority to sign them under the
20 law of the state or other jurisdiction of the company's organization.

21 **Sec. 10.50.630. CONTENTS OF ARTICLES OF AMENDMENT.** (a) The
22 articles of amendment filed by a foreign limited liability company must state the

- 23 (1) name of the company;
24 (2) date the original application for registration was filed; and
25 (3) amendment.

26 **(b) The application for registration may be amended in any way if the**
27 **application for registration as amended contains only provisions that this chapter allows**
28 **to be contained in an application for registration at the time of amendment.**

29 **Sec. 10.50.635. REGISTERED OFFICE AND REGISTERED AGENT OF**
30 **FOREIGN COMPANY.** A foreign limited liability company registered under this
31 chapter shall have and continuously maintain in the state a registered

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

3 (2) agent, who may be either an individual resident in this state whose
4 business office is identical to the registered office, a corporation organized under
5 AS 10.06, or a foreign corporation authorized to transact business in this state, that has
6 a business office identical to the registered office.

7 **Sec. 10.50.637. CHANGE OF REGISTERED OFFICE OR REGISTERED**
8 **AGENT OF FOREIGN COMPANY.** A foreign limited liability company registered
9 under this chapter may change its registered office or change its registered agent, or
10 both, upon filing with the department a signed statement setting out

11 (1) the name of the company;

12 (2) the address of its registered office;

13 (3) the address of the new registered office if the address of its
14 registered office is to be changed;

15 (4) the name of its registered agent;

16 (5) the name of its new registered agent if its registered agent is to be
17 changed;

18 (6) that the address of its registered office and the address of the
19 business office of its registered agent, as changed, will be identical; and

20 (7) that the change is authorized by the company.

21 **Sec. 10.50.638. FILING OF STATEMENT OF CHANGE.** If the department
22 finds that the statement conforms to the provisions of this chapter, the department shall
23 file the statement, and upon the filing, the change of address of the registered office,
24 or the appointment of a new registered agent, or both, as the case may be, becomes
25 effective.

26 **Sec. 10.50.640. SERVICE OF PROCESS ON FOREIGN COMPANY.** The
27 registered agent appointed by a foreign limited liability company registered under this
28 chapter shall be an agent of the company upon whom process, notice, or demand
29 required or permitted by law to be served upon the company may be served.

30 **Sec. 10.50.645. SERVICE ON COMMISSIONER.** When a foreign limited
31 liability company that is registered under this chapter, or that conducts affairs in this

1 state without being registered under this chapter, fails to appoint or maintain a
2 registered agent in this state, when a registered agent cannot with reasonable diligence
3 be found at the registered office, or when the registration of a foreign company is
4 suspended or revoked, the commissioner is an agent upon whom process, notice, or
5 demand may be served. Service is made upon the commissioner as provided in
6 AS 10.50.065(b).

7 Sec. 10.50.655. AUTHORITY TO CANCEL REGISTRATION. A foreign
8 limited liability company registered in this state may cancel its registration by filing
9 an application for cancellation with the department.

10 Sec. 10.50.660. CONTENTS OF APPLICATION FOR CANCELLATION.
11 An application for cancellation filed by a foreign limited liability company must state

12 (1) the name of the company and the state or other jurisdiction where
13 the company was organized;

14 (2) that the company is not conducting affairs in this state;

15 (3) that the company cancels its registration in this state;

16 (4) that the company revokes the authority of its registered agent for
17 service of process in this state and consents that service of process may subsequently
18 be made on the company by service on the commissioner for a cause of action arising
19 in this state during the time the company was registered in this state; and

20 (5) an address for mailing a copy of a process to the company.

21 Sec. 10.50.665. FORM, MANNER, AND EXECUTION OF APPLICATION
22 FOR CANCELLATION. The application for cancellation must be in the form and
23 manner designated by the department and shall be signed on behalf of the foreign
24 limited liability company by

25 (1) a person with authority to sign the application under the law of the
26 state or other jurisdiction of its organization; or

27 (2) if the company is controlled by a receiver, trustee, or other
28 court-appointed fiduciary, by the receiver, trustee, or other fiduciary.

29 Sec. 10.50.670. EFFECT OF CANCELLATION OF REGISTRATION. The
30 cancellation of a registration under this chapter does not terminate the authority of the
31 commissioner to accept service of process on the foreign limited liability company

1 with respect to causes of action arising out of the company's conduct of affairs in this
2 state.

3 **Sec. 10.50.675. CONDUCTING AFFAIRS WITHOUT REGISTRATION. (a)**

4 A foreign limited liability company conducting affairs in this state may not maintain
5 an action or other proceeding in a court of this state until it has registered in this state.

6 (b) The failure of a foreign limited liability company to register in this state
7 does not

8 (1) impair the validity of a contract or act of the company;

9 (2) affect the right of another party to a contract of the company to
10 maintain an action or proceeding on the contract; or

11 (3) prevent the company from defending an action or other proceeding
12 in a court of this state.

13 **Sec. 10.50.690. LIABILITY FOR FEES AND PENALTIES.** A foreign limited
14 liability company that conducts affairs in this state without registration is liable to the
15 department for the following fees and penalties for the full or partial years when it
16 conducts affairs in this state without registration:

17 (1) the fees that would have been imposed by this chapter on the
18 company if the company had been registered under this chapter; or

19 (2) the penalties imposed by this chapter.

20 **Sec. 10.50.700. CIVIL PENALTY. (a)** A foreign limited liability company
21 that conducts affairs in this state without registration is subject to a civil penalty
22 payable to the state not to exceed \$10,000 for each calendar year, including a partial
23 year, the company conducts affairs in this state without being registered under this
24 chapter.

25 (b) The civil penalty imposed in (a) of this section may be recovered in an
26 action brought in the superior court by the attorney general.

27 **Sec. 10.50.710. INJUNCTIVE RELIEF. (a)** Upon application to the court,
28 if a court finds that a foreign limited liability company has conducted affairs in this
29 state in violation of this chapter, the court may issue, in addition to imposing a civil
30 penalty, an injunction restraining the company from conducting further affairs in this
31 state and from further exercising the company's rights and privileges in this state.

1 (b) An injunction issued under (a) of this section may continue until the civil
2 penalties, interest, and court costs assessed by the court have been paid and until the
3 foreign limited liability company otherwise complies with this chapter.

4 Sec. 10.50.715. NONLIABILITY OF MEMBER OR MANAGER. A member
5 or manager of a foreign limited liability company is not liable for the debts and
6 obligations of the company solely because the company conducts affairs in this state
7 without registration.

8 Sec. 10.50.720. TRANSACTIONS NOT CONSTITUTING CONDUCTING
9 AFFAIRS. The activities of a foreign limited liability company that are not considered
10 to be conducting affairs in this state for the purposes of AS 10.50.600 - 10.50.720
11 include

12 (1) maintaining, defending, or settling a court action or other
13 proceeding or a claim;

14 (2) holding meetings of the members or managers of the company;

15 (3) maintaining bank accounts;

16 (4) selling through independent contractors;

17 (5) soliciting or procuring orders by mail, through employees, agents,
18 or otherwise, if the orders require acceptance outside the state before becoming binding
19 contracts;

20 (6) creating as borrower or lender, or acquiring, indebtedness or
21 mortgages or other security interests in real or personal property;

22 (7) securing or collecting debts, or enforcing rights in property securing
23 debts;

24 (8) conducting an isolated transaction that is completed within 30 days
25 and that is not part of a course of repeated transactions of a similar nature; or

26 (9) conducting affairs in interstate commerce.

27 ARTICLE 14. SUITS BY AND AGAINST LIMITED
28 LIABILITY COMPANIES.

29 Sec. 10.50.730. ACTIONS AGAINST COMPANIES. A court action may be
30 brought by or against a limited liability company. The court action may be brought
31 in the name of the company.

1 **Sec. 10.50.735. AUTHORITY TO SUE ON BEHALF OF COMPANY. (a)**
2 **Except as provided in AS 10.50.320, and unless otherwise provided in an operating**
3 **agreement of the company, a person may not bring a court action on behalf of a**
4 **limited liability company in the name of the company unless the person is authorized**
5 **under (b) or (c) or this section to bring the action.**

6 **(b) Whether or not the company is managed by a manager, a member of a**
7 **limited liability company may bring a court action on behalf of the company in the**
8 **name of the company if the member is authorized to bring the action by more than**
9 **one-half of all of the members of the company who are eligible to consent to the**
10 **authorization, unless a larger number of the members are required under**
11 **AS 10.50.145(c) for the authorization. When determining whether the required number**
12 **of members consents under AS 10.50.145, the total number of all members does not**
13 **include a member who has an interest in the outcome of the action that is adverse to**
14 **the interest of the company and the member with the adverse interest is excluded from**
15 **determining the authorization.**

16 **(c) A manager of a limited liability company may bring a court action on**
17 **behalf of the company in the name of the company if the manager is authorized to**
18 **bring the action by the consent required under AS 10.50.145 of the members eligible**
19 **to consent to the authorization. When determining the number of managers required**
20 **to consent under AS 10.50.145, the number does not include a manager who has an**
21 **interest in the outcome of the action that is adverse to the interest of the company and**
22 **the manager with the adverse interest is excluded from determining the authorization.**

23 **ARTICLE 15. BIENNIAL REPORT.**

24 **Sec. 10.50.750. BIENNIAL REPORT REQUIRED. A limited liability**
25 **company and a foreign limited liability company conducting affairs in this state shall**
26 **file a biennial report within the time established by this chapter.**

27 **Sec. 10.50.755. CONTENTS OF BIENNIAL REPORT. A biennial report**
28 **must set out**

29 **(1) the name of the company and the state or country where it is**
30 **organized;**

31 **(2) the address of the registered office of the company in this state, and**

1 the name of its registered agent in this state at that address, and, in the case of a
2 foreign limited liability company, the address of its principal office in the state or
3 country where it is organized;

4 (3) the names and addresses of the managers of the company, or, if the
5 company is not managed by a manager, the names and addresses of the members of
6 the company.

7 Sec. 10.50.760. FILING OF BIENNIAL REPORT. (a) A biennial report
8 required by AS 10.50.750 shall be filed with the department and is due before
9 January 2 of the filing year. A limited liability company filing articles of organization
10 and a foreign limited liability company registering during an even-numbered year shall
11 file the biennial report each even-numbered year. A limited liability company filing
12 articles of organization and a foreign limited liability company registering during an
13 odd-numbered year shall file the biennial report each odd-numbered year. The biennial
14 report is delinquent if not filed before February 1 of each odd- or even-numbered year
15 as provided in this section.

16 (b) Proof to the satisfaction of the department that on or before February 1 the
17 report was deposited in the United States mail in a sealed envelope, properly addressed
18 with postage prepaid, is compliance with (a) of this section.

19 (c) The department shall file the report if it conforms to the requirements of
20 this chapter. If the department finds that the report does not conform to the
21 requirements of this chapter, the report shall promptly be returned to the company for
22 necessary corrections.

23 (d) Upon receipt of a form from the department, a limited liability company
24 or a foreign limited liability company shall file a biennial report within six months
25 after original incorporation or authorization to transact business in this state.

26 Sec. 10.50.765. FILING NOTICE OF CHANGE OF MANAGERS OR
27 MANAGING MEMBERS. (a) In the event of a change of the manager of a limited
28 liability company or of a foreign limited liability company registered under this
29 chapter, or of a member of the company, if the members manage the company, during
30 the first year of the biennial reporting period, the company shall file a notice of change
31 amending the biennial report of the company before the following January 2.

1 (b) The notice shall be filed with the department and shall state the name and
2 current mailing address of the manager or member not included in the company's last
3 filed biennial report, and the name of the person replaced and the office held.

4 **ARTICLE 16. MISCELLANEOUS PROVISIONS.**

5 **Sec. 10.50.800. COMPANY CERTIFICATES.** An operating agreement of a
6 limited liability company may authorize the company to issue a certificate as evidence
7 of a limited liability company interest. An operating agreement may also authorize
8 and provide for the assignment or transfer of the interest represented by the certificate.

9 **Sec. 10.50.810. SUBMISSION OF DOCUMENTS TO DEPARTMENT.**
10 When a document is required or allowed to be delivered to or filed with the
11 department under this chapter, the person delivering the document shall deliver to the
12 department the required fee, the original signed document, and an exact copy of the
13 document.

14 **Sec. 10.50.820. FILING OF DOCUMENTS BY DEPARTMENT.** (a) If the
15 department determines that a document filed under this chapter conforms to the filing
16 requirements of this chapter, the department shall

17 (1) mark on the original signed document and on the exact copy the
18 word "filed" and the date and time of the document's acceptance for filing;

19 (2) retain the original signed document in the department's files; and

20 (3) return the exact copy to the person who filed the document or to
21 the person's representative.

22 (b) The department may not file a document if the requirements of this section
23 are not met.

24 **Sec. 10.50.830. DISAPPROVAL OF WRITING BY DEPARTMENT;**
25 **APPEAL.** If the department fails to approve articles of organization, amendment,
26 merger, consolidation, or dissolution, or any other document required by this chapter
27 to be approved by the department, the department shall, within 10 days after the
28 delivery of the document to the department, give written notice of disapproval to the
29 person, limited liability company, or foreign limited liability company, delivering the
30 document, and specifying the reasons for disapproval. The person or company may
31 appeal the disapproval to the superior court.

1 **Sec. 10.50.840. EXECUTION OF DOCUMENTS. (a) Unless otherwise**
2 **provided in this chapter, a document required by this chapter to be filed with the**
3 **department by or for a limited liability company shall be signed by**

4 (1) a manager of the company if the company is managed by a
5 **manager;**

6 (2) a member of the company if the articles of organization do not
7 **provide that the company is managed by a manager;**

8 (3) a person organizing the company if the company is not organized;

9 (4) the fiduciary if the company is controlled by a receiver, trustee, or
10 **other court-appointed fiduciary.**

11 (b) A person signing a document filed with the department under this chapter
12 **shall state beneath or opposite the signature the person's name and the capacity in**
13 **which the person signs.**

14 (c) A person signing a document filed with the department under this chapter
15 **may sign as an attorney-in-fact, but is not required to provide or file with the**
16 **department a document authorizing the person to act as attorney-in-fact for the signing**
17 **of a document.**

18 **Sec. 10.50.850. FILING AND OTHER FEES. The department shall charge**
19 **fees established by the department by regulation adopted under AS 44.62**
20 **(Administrative Procedure Act) for**

21 (1) filing the original articles of organization;

22 (2) filing articles of amendment;

23 (3) filing articles of merger or consolidation;

24 (4) filing articles of dissolution;

25 (5) issuing a document not otherwise covered by this section;

26 (6) furnishing a copy of a document;

27 (7) accepting an application for reservation of a name, or filing a notice
28 **of the transfer or cancellation of a name reservation;**

29 (8) filing a statement of change of address for a registered office or
30 **registered agent;**

31 (9) accepting service of a notice, demand, or process upon the

1 department;

2 (10) filing the application for registration of a foreign limited liability
3 company;

4 (11) registering a name, reserving a name, or renewing a name
5 registration under this chapter; or

6 (12) filing another document allowed or required under this chapter.

7 Sec. 10.50.860. MAINTENANCE OF RECORDS. Unless otherwise provided
8 in an operating agreement, a limited liability company shall keep at its principal place
9 of business

10 (1) current and past lists that state in alphabetical order the full name
11 and last known mailing address of every member and manager of the company;

12 (2) a copy of the company's articles of organization and amendments
13 to the articles, including a signed copy of a power of attorney used by a person who
14 signed articles of amendment for the company;

15 (3) a copy of the company's federal, state, and local income tax returns
16 and financial statements, if any, for the three most recent years or, if the returns and
17 statements are not prepared, a copy of the information and statements provided to, or
18 that should have been provided to, the members to enable the members to prepare their
19 federal, state, and local tax returns for the three-year period;

20 (4) a copy of any effective operating agreement of the company,
21 amendments to the agreement, and former operating agreements;

22 (5) unless contained in an operating agreement,

23 (A) a document stating the amount of cash contributed by a
24 member of the company, the agreed value of other property or services
25 contributed by a member, and when a member is to make additional
26 contributions;

27 (B) a document stating the events, if any, that cause the
28 company to be dissolved and its affairs wound up; and

29 (C) other documents that an operating agreement requires the
30 company to prepare.

31 Sec. 10.50.870. INSPECTION OF RECORDS. (a) A limited liability

1 company shall make its books and records of account, or certified copies of them,
2 reasonably available for inspection and copying at the registered office, principal
3 office, or principal place of business in the state by a member of the company.
4 Member inspection shall be upon written demand stating with reasonable particularity
5 the purpose of the inspection. The inspection may be in person or by agent or
6 attorney, at a reasonable time and for a proper purpose. Only books and records of
7 account, minutes, and the record of members directly connected to the stated purpose
8 of the inspection may be inspected or copied.

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

23 (c) Nothing in this chapter impairs the power of a court, upon proof by a
24 member of a demand properly made and for a proper purpose, to compel the
25 production for examination by the member of the books and records of account,
26 minutes, and record of members of a limited liability company.

27 **Sec. 10.50.880. DISCLOSURE OF INFORMATION.** The members of a
28 limited liability company, if the articles of organization do not provide that the
29 company is managed by a manager, or the manager of the company, if the articles of
30 organization provide that the company is managed by a manager, shall provide, to the
31 extent just and reasonable under the circumstances, true and full information of all

1 matters that affect the members of a company to a member or to the legal
2 representative of a deceased member or a member under a legal disability.

3 Sec. 10.50.890. WAIVER OF NOTICE. If notice is required to be given to
4 a member or manager of a limited liability company under the provisions of this
5 chapter or under the provisions of the articles of organization or an operating
6 agreement of the company, a waiver of the notice in writing signed by the person
7 entitled to notice, whether before or after the time stated for notice, is equivalent to
8 the giving of notice.

9 ARTICLE 17. GENERAL PROVISIONS.

10 Sec. 10.50.900. REGULATIONS. In addition to the regulations the
11 department is required to adopt under this chapter, the department may adopt other
12 regulations under AS 44.62 (Administrative Procedure Act) to implement this chapter.

13 Sec. 10.50.910. INTERSTATE APPLICATION. A limited liability company
14 that is organized and existing under this chapter may conduct its affairs and exercise
15 the powers granted by this chapter in another jurisdiction, subject to the laws of that
16 jurisdiction.

17 Sec. 10.50.990. DEFINITIONS. In this chapter, unless the context indicates
18 otherwise,

19 (1) "articles of organization" means the articles of organization filed
20 under AS 10.50.070 and the articles as amended or restated;

21 (2) "commissioner" means the commissioner of commerce and
22 economic development;

23 (3) "corporation" means a corporation organized under the laws of this
24 or another state, or of this or another country;

25 (4) "department" means the Department of Commerce and Economic
26 Development;

27 (5) "filed," unless expressly provided otherwise, means filed with the
28 department;

29 (6) "foreign limited liability company" means an organization that is

30 (A) not incorporated;

31 (B) organized under the law of a state other than this state, or

1 under the law of a foreign country;

2 (C) organized under a statute that affords to each of its
3 members limited liability regarding the liabilities of the organization; and

4 (D) not required to be registered under a statute of this state
5 other than this chapter;

6 (7) "interim distribution" means a distribution of the assets of a limited
7 liability company to the company's members, except as provided under AS 10.50.335
8 and 10.50.425;

9 (8) "know" means to have actual knowledge or to know other facts that
10 demonstrate bad faith in the circumstances; this definition applies also to the
11 derivatives of "know," including "known," "unknown," and "knowledge";

12 (9) "limited liability company" or "domestic limited liability company"
13 means an organization organized under this chapter;

14 (10) "limited liability company interest" means an interest in a limited
15 liability company issued under AS 10.50.275;

16 (11) "limited partnership" means a limited partnership organized under
17 AS 32.11 or under the law of another state or a foreign country;

18 (12) "manager" means a person who manages a limited liability
19 company, if the articles of organization provide that the company is managed by a
20 manager;

21 (13) "managing member" means a member of a limited liability
22 company if the company's articles of organization do not provide that the company is
23 managed by a manager;

24 (14) "member" means a person who has been admitted to membership
25 in a limited liability company under AS 10.50.155 - 10.50.160 and whose membership
26 has not terminated under AS 10.50.180 - 10.50.185 or 10.50.205 - 10.50.220;

27 (15) "operating agreement" means a written agreement among all of the
28 members of a limited liability company about conducting the affairs of the company;

29 (16) "property" includes cash;

30 (17) "state" means a state, territory, or possession of the United States,
31 and includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern

1 **Mariana Islands, Guam, the Virgin Islands, American Samoa, and the Trust Territory**
2 **of the Pacific Islands.**

3 **Sec. 10.50.995. SHORT TITLE. This chapter may be cited as the Alaska**
4 **Limited Liability Act.**

5 * **Sec. 2. AS 10.06.105(c) is amended to read:**

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

12 * **Sec. 3. AS 45.55.130(12) is amended to read:**

13 (12) "security" means a note; stock; treasury stock; bond; debenture;
14 evidence of indebtedness; certificate of interest or participation in any profit-sharing
15 agreement; a limited liability company interest under AS 10.50; collateral-trust
16 certificates; preorganization certificate or subscription; transferable share; investment
17 contract; voting-trust certificate; certificate of deposit for a security; a certificate of
18 interest or participation in an oil, gas, or mining title or lease or in payments out of
19 production under the title or lease or in any sale of or indenture or bond or contract
20 for the conveyance of land or any interest in land; an option on a contract for the
21 future delivery of agricultural or mineral commodities or any other commodity offered
22 or sold to the public and not regulated by the Commodity Futures Trading
23 Commission; however, the contract or option is not subject to the provisions of
24 AS 45.55.070 if it is sold or purchased on the floor of a bona fide exchange or board
25 of trade and offered or sold to the public by a broker-dealer or agent registered under
26 this chapter; investment of money or money's worth including goods furnished or
27 services performed in the risk capital of a venture with the expectation of some benefit
28 to the investor where the investor has no direct control over the investment or policy
29 decision of the venture; or, in general, any interest or instrument commonly known as
30 a "security," or any certificate of interest or participation in, temporary or interim
31 certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase,

1 any of the foregoing; "security" does not include an insurance or endowment policy
2 or annuity contract under which an insurance company promises to pay a fixed or
3 variable sum of money either in a lump sum or periodically for life or for some other
4 specified period;

5 • Sec. 4. This Act takes effect January 1, 1995.