

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 420(STA)(efd am)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Amended: 4/15/94

Offered: 4/13/94

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 or registered under this chapter, or registered a name under
19 this chapter, exclusive right to the use of the name. The person may enjoin the use
20 of a name that is not distinguishable from the name to which the person has the
21 exclusive right and the person has a cause of action for damages against a person who
22 uses a name that is not distinguishable from the name to which the person has the
23 exclusive right.

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

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

31 (2) proof from the jurisdiction where the company is organized that

1 indicates that the company is organized in that jurisdiction if the company is a foreign
2 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 proof of organization required for an original registration; and

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

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

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

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

24 (1) the name of the company;

25 (2) the address of its registered office;

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

28 (4) the name of its registered agent;

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

31 (6) a statement that the change is authorized by the company's

1 manager, or, if the company is not managed by a manager, by the members.

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

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

6 (a) A registered agent of a limited liability company may change the location of the
7 agent's office from one address to another in this state. The agent may change the
8 registered office for each company for which the person is acting as registered agent
9 by filing in the department a statement setting out the name of the agent, the address
10 of the agent's office before change, the address to which the office is changed, and a
11 list of companies for which the person is the registered agent. The statement shall be
12 executed by the registered agent in the individual name of the agent or, if the agent
13 is a corporation, it shall be executed and verified by its president or a vice-president.
14 The statement shall be delivered to the department and the limited liability company
15 and if the department finds that the statement complies with this chapter, the
16 department shall file it. The change becomes effective when the statement is filed.

17 (b) A registered agent may resign by filing a written notice and an exact copy
18 of the notice with the department. The written notice of resignation must set out the
19 latest address of the principal office of the company and the name, address, and title
20 of the manager, or, if the company is managed by its members, the names and
21 addresses of the members of the company known by the agent. The department shall
22 immediately mail a copy of the notice to the company at its principal office. The
23 resignation becomes effective 30 days after the filing of the written notice, unless the
24 company sooner appoints a successor registered agent, as provided in AS 10.50.060.

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

28 (b) If a limited liability company fails to appoint or maintain a registered agent
29 in this state, or if its registered agent cannot, with reasonable diligence, be found at the
30 registered office, the commissioner is an agent of the company upon whom the
31 process, notice, or demand may be served. A person may serve the commissioner

1 under this subsection by

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

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

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

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

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

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

20 (d) This section does not affect the right to serve process, notice, or demand
21 required or permitted by law to be served upon a company in any other manner
22 permitted.

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

24 **Sec. 10.50.070. ORGANIZERS.** Two or more persons may organize a limited
25 liability company by signing articles of organization and delivering the signed articles
26 to the department for filing. A person who organizes a limited liability company may
27 be a person who is not a member of the company when the company is organized or
28 after the company is organized.

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

31 (1) the name of the company;

1 (2) the purpose for which the company is organized, which may be
2 stated to be, or to include, the conduct of any or all lawful affairs for which a limited
3 liability company may be organized under this chapter;

4 (3) the mailing address of the company's registered office and the name
5 of the company's registered agent;

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

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

9 (6) any other provision for the regulation of the internal affairs of the
10 company that is consistent with this chapter and the laws of this state if the persons
11 organizing the company elect to include the provision in the articles of organization.

12 Sec. 10.50.078. DISCLOSURE OF COMPANY PURPOSES. The organizers
13 delivering articles of organization under AS 10.50.070 shall deliver with the articles
14 a separate statement of the codes from the identification codes established under
15 AS 10.06.870 that most closely describe the activities in which the company will
16 initially engage.

17 Sec. 10.50.080. EFFECTIVE DATE OF ORGANIZATION. A limited liability
18 company is organized when the articles of organization for the company that conforms
19 to the filing requirements of this chapter are delivered to the department for filing
20 under AS 10.50.820.

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

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

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

31 Sec. 10.50.090. CONCLUSIVE EVIDENCE OF COMPLIANCE. A copy of

1 the articles of organization that is stamped "filed" and marked with the filing date is
2 conclusive evidence that the organizers of the limited liability company have complied
3 with all conditions precedent required to be performed by the organizers and that the
4 company has been organized under this chapter.

5 Sec. 10.50.095. OPERATING AGREEMENT. The members of a limited
6 liability company may adopt an operating agreement for the company and may amend
7 and repeal the agreement. The articles of organization may restrict or eliminate the
8 power of the members to adopt, amend, or repeal an operating agreement.

9 ARTICLE 4. AMENDMENT OF ARTICLES.

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

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

- 16 (1) name of the company;
17 (2) date the articles of organization were filed; and
18 (3) amendment adopted by the company.

19 Sec. 10.50.105. RESTATEMENT OF ARTICLES. A limited liability
20 company may restate its articles of organization at any time. The company shall file
21 its restated articles with the department. The restated articles of organization must be
22 specifically designated as restated articles in the title to the restated articles and must
23 state, either in the title or in an introductory paragraph, the

- 24 (1) company's present and, if the name is changed, all of the
25 company's former names; and
26 (2) date of the filing of the company's original articles of organization.

27 ARTICLE 5. MANAGEMENT.

28 Sec. 10.50.110. MANAGEMENT GENERALLY. (a) Except as otherwise
29 provided in the company's articles of organization, the members of a limited liability
30 company manage the affairs and make the decisions of the company. Management by
31 the members is subject to a provision in an operating agreement or this chapter

1 limiting or increasing the management rights and duties of the members, including
2 limits or increases placed on a class of members or an individual member.

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

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

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

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

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

25 Sec. 10.50.130. LIMITATION OF MEMBER FIDUCIARY DUTY. Unless
26 otherwise provided in an operating agreement of the company, if a person is a member
27 of a limited liability company that is managed by a manager and if the person is not
28 a manager, the person does not have the fiduciary duty of a manager to the company
29 or to the other members of the company when the person acts solely in the capacity
30 of a member.

31 Sec. 10.50.135. DUTY OF CARE. (a) A person who is a manager or a

1 managing member of a limited liability company shall perform the duties of
2 management in good faith, in a manner the person reasonably believes to be in the best
3 interests of the company, and with the care, including reasonable inquiry, that an
4 ordinarily prudent person in a like position would use under similar circumstances.
5 Except as provided in (b) of this section, the person is entitled to rely on information,
6 opinions, reports, or statements, including financial statements and other financial data,
7 in each case prepared or presented by

8 (1) an employee of the company whom the person reasonably believes
9 to be reliable and competent in the matters presented; or

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

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

16 Sec. 10.50.140. CONFLICTS OF INTEREST. (a) A contract or other
17 transaction between a limited liability company and a manager or managing member
18 of a limited liability company, or between a limited liability company and a limited
19 liability company, foreign limited liability company, corporation, firm, or association
20 in which a manager or managing member of the company has a material financial
21 interest, is not void or voidable because the manager or managing member or the other
22 company, corporation, firm, or association are parties or because the manager or
23 managing member is present at the meeting that authorizes, approves, or ratifies the
24 contract or transaction, if the material facts as to the transaction and as to the interest
25 of the manager or managing member are fully disclosed or known to the members and
26 the contract or transaction is approved by the members in good faith, with the
27 interested manager or managing member not being entitled to vote.

28 (b) The fact that a manager or managing member of a limited liability
29 company is a manager or managing member of another entity involved in the
30 transaction does not alone constitute a material financial interest within the meaning
31 of this section. A manager or managing member is not interested within the meaning

1 of this section in a decision fixing the compensation of another manager or managing
2 member as a manager or managing member of the company, notwithstanding the fact
3 that the first manager or managing member is also receiving compensation from the
4 company.

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

16 (d) Nothing in this section affects the prohibitions or restraints imposed by
17 AS 45.50.562 - 45.50.596.

18 **Sec. 10.50.145. LOANS TO MANAGERS, MANAGING MEMBERS, AND**
19 **EMPLOYEES.** (a) A loan may not be extended by a limited liability company to an
20 employee without authorization by the company's managers or managing members.
21 A loan may not be extended to a manager or a managing member of a limited liability
22 company without the approval of two-thirds of the company's members. An employee
23 who is also a manager or managing member is considered a manager or managing
24 member for purposes of this section. A member is not disqualified from voting on a
25 loan to a member as a manager or managing member because of personal interest.

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

31 (c) For purposes of this section, a loan may consist of cash, securities, or

1 personal or real property.

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

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

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

11 Sec. 10.50.148. INDEMNIFICATION OF MANAGERS, MANAGING
12 MEMBERS, EMPLOYEES, AND AGENTS; INSURANCE. (a) A limited liability
13 company may indemnify a person who was, is, or is threatened to be made a party to
14 a completed, pending, or threatened action or proceeding, whether civil, criminal,
15 administrative, or investigative, other than an action by or in the right of the company,
16 by reason of the fact that the person is or was a manager, managing member,
17 employee, or agent of the company, or is or was serving at the request of the company
18 as a manager, managing member, employee, or agent of another limited liability
19 company, partnership, joint venture, trust, or other enterprise. Indemnification may
20 include reimbursement of expenses, attorney fees, judgments, fines, and amounts paid
21 in settlement actually and reasonably incurred by the person in connection with the
22 action or proceeding if the person acted in good faith and in a manner the person
23 reasonably believed to be in or not opposed to the best interests of the company, and,
24 with respect to a criminal action or proceeding, the person had no reasonable cause to
25 believe the conduct was unlawful. The termination of an action or proceeding by
26 judgment, order, settlement, conviction, or upon a plea of nolo contendere or its
27 equivalent, does not create a presumption that the person did not act in good faith and
28 in a manner which the person reasonably believed to be in or not opposed to the best
29 interests of the company, and, with respect to a criminal action or proceeding, the
30 person had reasonable cause to believe that the conduct was unlawful.

31 (b) A limited liability company may indemnify a person who was, is, or is

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

17 (c) To the extent that a manager, managing member, employee, or agent of a
18 limited liability company has been successful on the merits or otherwise in defense of
19 an action or proceeding referred to in (a) or (b) of this section, or in defense of a
20 claim, issue, or matter in the action or proceeding, the manager, managing member,
21 employee, or agent shall be indemnified against expenses and attorney fees actually
22 and reasonably incurred in connection with the defense.

23 (d) Unless otherwise ordered by a court, indemnification under (a) or (b) of
24 this section may only be made by a company upon a determination that
25 indemnification of the manager, managing member, employee, or agent is proper in
26 the circumstances because the manager, managing member, employee, or agent has
27 met the applicable standard of conduct set out in (a) and (b) of this section. The
28 determination shall be made by the members.

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

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

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

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

10 (f) The indemnification provided by this section is not exclusive of any other
11 rights to which a person seeking indemnification may be entitled. The right to
12 indemnification continues as to a person who has ceased to be a manager, managing
13 member, employee, or agent, and inures to the benefit of the heirs, executors, and
14 administrators of the person.

15 (g) A limited liability company may purchase and maintain insurance on behalf
16 of a person who is or was a manager, managing member, employee, or agent of the
17 company, or is or was serving at the request of the company as a manager, managing
18 member, employee, or agent of another limited liability company, partnership, joint
19 venture, trust, or other enterprise against any liability asserted against the person and
20 incurred by the person in that capacity, or arising out of that status, whether or not the
21 company has the power to indemnify the person against the liability under the
22 provisions of this section.

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

28 (b) Unless otherwise provided in an operating agreement of the company or
29 by this chapter, the consent of more than one-half of the number of managers of a
30 limited liability company is required to decide the affairs of the company.

31 (c) Notwithstanding (a) and (b) of this section, and unless another level of

1 member consent is required in an operating agreement of the company, the consent of
2 two-thirds of the members of a limited liability company is required to

- 3 (1) amend the articles of organization;
4 (2) amend an operating agreement of the company; or
5 (3) authorize a manager or member to perform an act on behalf of the
6 company that contravenes an operating agreement of the company, including an act
7 that contravenes a provision of the operating agreement that expressly limits the
8 purposes, affairs, or conduct of the affairs of the company.

9 (d) For the purposes of (c) of this section, the required level of consent
10 established by an operating agreement may not be less than a majority of the members.

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

12 **Sec. 10.50.155. ADMISSION OF MEMBERS.** A person may become a
13 member in a limited liability company if the person acquires a limited liability
14 company interest

15 (1) directly from the limited liability company

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

17 or

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

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

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

25 (1) when the company is organized;

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

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

30 **Sec. 10.50.165. AUTHORIZATION FOR ASSIGNEE TO BECOME**
31 **MEMBER.** (a) Unless otherwise provided in an operating agreement of the company,

1 an assignee of a limited liability company interest may not become a member unless
2 all other members consent.

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

7 **Sec. 10.50.170. RIGHTS, POWERS, AND LIABILITIES OF ASSIGNEE**
8 **WHO BECOMES A MEMBER.** (a) An assignee who becomes a member has, to the
9 extent assigned, the rights and powers of a member under the articles of organization,
10 an operating agreement, and this chapter, and is subject to the restrictions and
11 liabilities of a member under the articles of organization, an operating agreement, and
12 this chapter.

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

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

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

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

30 (b) Unless an operating agreement of the company provides that a member
31 may not withdraw voluntarily from the company, a member of a limited liability

1 company may withdraw as a member voluntarily at any time by giving 30 days'
2 written notice to the other members, or by giving other notice that is established by
3 an operating agreement of the company.

4 Sec. 10.50.190. WITHDRAWAL BEFORE END OF TERM OR
5 UNDERTAKING. Unless otherwise provided in an operating agreement of the
6 company, if a limited liability company has a definite term or particular undertaking,
7 the withdrawal of a member of the company before the end of the term or the
8 accomplishment of the undertaking is a breach of the operating agreement.

9 Sec. 10.50.195. REMEDIES FOR WRONGFUL WITHDRAWAL. (a) If the
10 voluntary withdrawal of a member with the power to withdraw from the company
11 breaches an operating agreement of the company, or if the withdrawal occurs as a
12 result of otherwise wrongful conduct of the member, a limited liability company may
13 recover from the withdrawing member damages that are for the breach of the operating
14 agreement or that result from the wrongful conduct, including the reasonable costs of
15 obtaining replacement of any services the withdrawn member was obligated to
16 perform.

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

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

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

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

1 company may withdraw as a member voluntarily at any time by giving 30 days'
2 written notice to the other members, or by giving other notice that is established by
3 an operating agreement of the company.

4 Sec. 10.50.190. WITHDRAWAL BEFORE END OF TERM OR
5 UNDERTAKING. Unless otherwise provided in an operating agreement of the
6 company, if a limited liability company has a definite term or particular undertaking,
7 the withdrawal of a member of the company before the end of the term or the
8 accomplishment of the undertaking is a breach of the operating agreement.

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11 breaches an operating agreement of the company, or if the withdrawal occurs as a
12 result of otherwise wrongful conduct of the member, a limited liability company may
13 recover from the withdrawing member damages that are for the breach of the operating
14 agreement or that result from the wrongful conduct, including the reasonable costs of
15 obtaining replacement of any services the withdrawn member was obligated to
16 perform.

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

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

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

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

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

7 **Sec. 10.50.215. TERMINATION OF TRUST OR DISTRIBUTION OF**
8 **INTEREST BY ESTATE MEMBERSHIP.** (a) Unless otherwise provided in an
9 operating agreement of the company or by the written consent of all of the members
10 of the company at the time, the limited liability company membership held by a trust
11 or trustee terminates when the trust terminates. In this subsection, "terminates" does
12 not include the substitution of a new trustee.

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, the limited
15 liability company membership held by an estate terminates when the estate's entire
16 limited liability company interest is distributed by the fiduciary of the estate.

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

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

26 **Sec. 10.50.225. OTHER EVENTS TERMINATING MEMBERSHIP.** (a)
27 Unless otherwise provided in writing in an operating agreement of the company or
28 authorized by the written consent of all of the members of the company at the time,
29 a person's membership in a limited liability company terminates when the person

- 30 (1) makes an assignment for the benefit of creditors;
31 (2) files a voluntary petition in bankruptcy;

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(3) is adjudicated a bankrupt or insolvent;

(4) files a petition or answer seeking for the person a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under law;

(5) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in a proceeding in the nature of (1) - (4) of this subsection; or

(6) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or a substantial part of the person's property.

(b) Unless otherwise provided in writing in an operating agreement of the company or consented to in writing by all of the members of the company at the time, a person's membership in a limited liability company terminates when

(1) a proceeding against the person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief is not dismissed within 120 days after the commencement of the proceeding; or

(2) an appointment, without the person's consent, of a trustee, receiver, or liquidator of the person or of all or a substantial part of the person's property is not vacated or stayed within 120 days after the appointment or after the expiration of the stay.

(c) The members of a limited liability company may provide in writing in an operating agreement that other events terminate a membership.

Sec. 10.50.240. EFFECT OF ELECTION. If an election to continue a limited liability company until a certain date or event is made under AS 10.50.085(a), 10.50.185 - 10.50.225(a) and (b) do not apply to the termination of the membership of a member unless the member is also a manager of the company.

ARTICLE 7. RELATIONSHIP TO THIRD PARTIES.

Sec. 10.50.250. AGENCY POWER OF MEMBERS AND MANAGERS. (a) Except as provided in (b) and (c) of this section, a member of a limited liability company is an agent of the company for the purpose of conducting the company's affairs. A member's act, including the execution of an instrument in the name of the

1 company, that appears to be performed in the usual and customary way of conducting
2 business, binds the company, unless the member does not in fact have the authority to
3 act for the company in the particular matter and the person with whom the member
4 is dealing knows that the member does not have the authority to act for the company
5 in the particular matter.

6 (b) If a limited liability company is managed by a manager, a member is not,
7 solely by reason of being a member, an agent of the company.

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

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

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

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

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

30 (1) manager about the affairs of the company is evidence against the
31 company if the admission or representation is within the scope of the manager's

1 authority under this chapter; and

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

4 Sec. 10.50.260. LIMITED LIABILITY COMPANY CHARGED WITH
5 KNOWLEDGE OF OR NOTICE TO MEMBER OR MANAGER. (a) Except as
6 provided in (b) and (c) of this section, and except for a fraud on the company
7 committed by or with the consent of the member who has the knowledge or receives
8 the notice, the following operate as notice to or knowledge of a limited liability
9 company:

10 (1) notice given to a company member of a matter relating to the
11 affairs of the company;

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

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

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

20 (1) notice given to a manager of a matter relating to the affairs of the
21 limited liability company;

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

24 (3) the knowledge of a company manager who reasonably could and
25 should have communicated the knowledge to the manager acting in the particular
26 matter.

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

30 Sec. 10.50.265. LIABILITY OF MEMBERS TO THIRD PARTIES. A person
31 who is a member of a limited liability company is not liable, solely by reason of being

1 a member, under a judgment, decree, or order of a court, or in another manner, for a
2 liability of the company, whether the liability arises in contract, tort, or another form,
3 or for the acts or omissions of another member, manager, agent, or employee of the
4 company.

5 ARTICLE 8. CONTRIBUTIONS.

6 Sec. 10.50.275. CONSIDERATION FOR COMPANY INTERESTS. An
7 interest in a limited liability company may be issued for property or services rendered.
8 A member who has contributed property or services rendered may also contribute a
9 promissory note or other obligation to contribute property or services.

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

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

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

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

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

30 ARTICLE 9. DISTRIBUTIONS.

31 Sec. 10.50.290. SHARING OF PROFITS. Subject to AS 10.50.305 -

1 10.50.320, and unless otherwise provided in an operating agreement of the company,
2 a member of a limited liability company shall be repaid the member's contribution to
3 capital and shares equally in the profits and other assets of the company remaining
4 after all liabilities, including liabilities to members, are satisfied.

5 Sec. 10.50.295. INTERIM DISTRIBUTIONS UNDER OPERATING
6 AGREEMENT. Subject to AS 10.50.305 - 10.50.320, if a limited liability company
7 makes an interim distribution of its assets to its members, the company shall make the
8 distribution to the members in the manner provided in an operating agreement of the
9 company. The operating agreement of the company may authorize different interim
10 distributions for different classes of members.

11 Sec. 10.50.300. INTERIM DISTRIBUTIONS WITHOUT OPERATING
12 AGREEMENT. Subject to AS 10.50.305 - 10.50.320, if an operating agreement of the
13 company does not provide for the interim distribution of the assets of the company,
14 when a limited liability company makes an interim distribution of its assets, the interim
15 distributions to each member of the company shall be equal.

16 Sec. 10.50.305. RESTRICTIONS ON DISTRIBUTIONS. (a) A distribution
17 may not be made by a limited liability company if, after giving effect to the
18 distribution,

19 (1) the company would not be able to pay its debts as they become due
20 in the usual course of conducting its affairs; or

21 (2) the limited liability company's assets would be less than the sum
22 of its liabilities plus, unless otherwise provided in an operating agreement, the amount
23 that would be needed, if the limited liability company were to be dissolved at the time
24 of the distribution, to satisfy the preferential rights of other members upon dissolution
25 that are superior to the rights of the member receiving the distribution.

26 (b) A limited liability company may base a determination that a distribution
27 is not prohibited under (a) of this section on

28 (1) financial statements prepared on the basis of accounting practices
29 and principles that are reasonable under the circumstances; or

30 (2) a fair valuation or other method that is reasonable under the
31 circumstances.

1 (c) Except as provided in (e) of this section, the effect of a distribution in
2 accordance with (a) of this section is measured as of the date

3 (1) the distribution is authorized if the payment occurs within 120 days
4 after the date of authorization; or

5 (2) payment is made if the payment occurs more than 120 days after
6 the date of authorization.

7 (d) If the terms of an indebtedness provide that payment of principal and
8 interest is to be made only if and to the extent that payment of a distribution to
9 members could then be made under this section, indebtedness of a limited liability
10 company, including indebtedness issued as a distribution, is not a liability for purposes
11 of determinations made under (b) of this section.

12 (e) If indebtedness is issued as a distribution, each payment of principal or
13 interest on the indebtedness is treated as a distribution, and the effect of the
14 distribution is measured on the date the payment is actually made.

15 **Sec. 10.50.315. ADDITIONAL RESTRICTIONS IN ARTICLES OR**
16 **OPERATING AGREEMENT.** Nothing in this chapter prohibits additional restrictions
17 upon the purchase or redemption of a company's own limited liability company
18 interests by provision in the articles of organization or operating agreement of the
19 limited liability company or in another agreement entered into by the company.

20 **Sec. 10.50.320. LIABILITY OF MEMBERS RECEIVING PROHIBITED**
21 **DISTRIBUTIONS; SUIT AGAINST MEMBERS.** (a) A member of a limited liability
22 company who receives a distribution prohibited by this chapter with knowledge of
23 facts indicating the impropriety of the distribution is liable to the company for the
24 benefit of all of the creditors or members entitled to institute an action under (b) of
25 this section for the amount received by the member with interest at the legal rate on
26 judgments until paid. The liability of the member under this subsection may not
27 exceed the liabilities of the company owed to nonconsenting creditors at the time of
28 the violation and the injury suffered by nonconsenting members.

29 (b) Suit may be brought in the name of the company to enforce the liability
30 to

31 (1) creditors arising under (a) of this section for a violation of

1 AS 10.50.305 against any or all members liable by any one or more creditors of the
2 company whose debts or claims arose before the time of the distribution to members
3 and who have not consented to the distribution, whether or not they have reduced their
4 claims to judgment; or

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

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

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

14 Sec. 10.50.330. TIME FOR INTERIM DISTRIBUTIONS. A member of a
15 limited liability company is entitled to receive interim distributions under AS 10.50.295
16 - 10.50.300 at the times or upon the happening of the events specified in an operating
17 agreement of the company, or at the times determined by the members or managers
18 under AS 10.50.150.

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

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

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

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

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

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

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

23 ARTICLE 10. OWNERSHIP AND TRANSFER OF PROPERTY.

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

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

31 Sec. 10.50.355. TRANSFER OF PROPERTY. (a) Except as provided in (b)

1 of this section, a limited liability company may transfer the property of the company
2 if the company uses an instrument of transfer signed by a member of the company in
3 the name of the company.

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

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

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

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

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

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

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

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

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

1 articles or operating agreement before or at the same time the election is stated in the
2 articles;

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

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

6 (A) the affairs of the company are continued by the consent of
7 all of the remaining members on or before the 90th day following the
8 termination of the membership;

9 (B) an operating agreement provides otherwise; or

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

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

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

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

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

21 Sec. 10.50.408. INVOLUNTARY DISSOLUTION. (a) A limited liability
22 company may be dissolved involuntarily by the commissioner if

23 (1) the company is delinquent six months in filing its biennial report
24 or in paying a fee or a penalty;

25 (2) the company has failed for 30 days to appoint and maintain a
26 registered agent in the state;

27 (3) the company has failed for 30 days after change of its registered
28 office or registered agent to file in the office of the commissioner a statement of the
29 change; or

30 (4) a misrepresentation of material facts has been made in the
31 application, report, affidavit, or other document submitted under this chapter.

1 **(b) A limited liability company may not be dissolved under this section unless**
2 **the commissioner has given the company written notice of its delinquency, failure, or**
3 **misrepresentation by certified mail addressed to its registered agent, registered office,**
4 **manager, or members at the last known address as shown by the records of the**
5 **commissioner. If the company fails, within 60 days after the notice is sent by certified**
6 **mail, to contest the alleged delinquency, failure, or misrepresentation, it may be**
7 **dissolved under (d) of this section.**

8 **(c) If, following a hearing, the commissioner determines the presence of the**
9 **delinquency, failure, or misrepresentation providing grounds for involuntary dissolution**
10 **under this section, the company may appeal to the superior court. The court shall**
11 **either sustain the commissioner or direct the commissioner to take action the court**
12 **considers proper.**

13 **(d) If a limited liability company has given cause for involuntary dissolution**
14 **and has failed to correct the neglect, omission, delinquency, or noncompliance as**
15 **provided in this section, and there has not been a controlling order of the superior**
16 **court, the commissioner shall dissolve the company by issuing a certificate of**
17 **involuntary dissolution containing a statement that the company has been dissolved,**
18 **the date, and the reason for which it was dissolved. The original certificate of**
19 **dissolution shall be placed in the department files and a copy of it mailed to the**
20 **company at its registered office or in care of its registered agent, manager, or members**
21 **at the last known address, as shown by the records of the commissioner. Upon the**
22 **issuance of the certificate of involuntary dissolution, the existence of the company**
23 **ceases, except as otherwise provided in this chapter, and its name shall be available**
24 **to use and may be adopted by another company on a date that is six months or later**
25 **after the dissolution.**

26 **(e) A company dissolved under this section may be reinstated within two years**
27 **from the date of the certificate of involuntary dissolution if it is established to the**
28 **satisfaction of the commissioner that in fact there was no cause for the dissolution, or**
29 **if the delinquency, failure, or misrepresentation resulting in dissolution has been**
30 **corrected and payment made of double the amount delinquent along with the amount**
31 **the company would have paid had it not been dissolved during the two-year period.**

1 Reinstatement may not be authorized if the name of the company is not distinguishable
2 upon the records of the department, unless the company being reinstated amends its
3 articles of organization to change its name to conform with the provisions of this
4 chapter.

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

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

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

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

14 (B) other cause is shown.

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

18 (1) prosecute and defend court actions;

19 (2) settle and close the affairs of the company;

20 (3) dispose of and transfer the property of the company;

21 (4) discharge the liabilities of the company; and

22 (5) distribute to the members the assets of the company.

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

27 (1) is appropriate for winding up the company's affairs or completing
28 transactions unfinished at dissolution; or

29 (2) would have bound the company if the company had not been
30 dissolved, if the other party to the transaction does not have notice of the dissolution;
31 in this paragraph, filing the articles of dissolution is presumed to constitute notice of

1 the dissolution.

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

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

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

12 (1) is appropriate for winding up the company's affairs or completing
13 transactions unfinished at dissolution; or

14 (2) would have bound the company if the company had not been
15 dissolved if the other party to the transaction does not have notice of the dissolution;
16 in this paragraph, filing the articles of dissolution is presumed to constitute notice of
17 the dissolution.

18 Sec. 10.50.425. DISTRIBUTION OF ASSETS. Upon the winding up of a
19 limited liability company, the assets of the company shall be distributed in the
20 following manner and order of priority:

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

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

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

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

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

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

4 (1) the name of the company;

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

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

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

10 (5) other information determined appropriate by the members or
11 managers filing the articles.

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

16 (b) A dissolved limited liability company shall notify its known claimants in
17 writing of the dissolution at any time after the effective date of dissolution. The
18 written notice must

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

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

21 (3) state the deadline, which may not be fewer than 120 days after the
22 later of the date of the written notice or the filing of articles of dissolution under
23 AS 10.50.430, for the company to receive the claim; and

24 (4) state that the claim is barred if it is not received by the company
25 by the deadline.

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

27 (1) who was given written notice under (b) of this section does not
28 deliver the claim to the company by the deadline; or

29 (2) whose claim is rejected by the company does not begin a
30 proceeding to enforce the claim within 90 days after the date of the rejection notice.

31 (d) In this section, "claim" does not include a contingent liability or a claim

1 based on an event occurring after the effective date of dissolution.

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

9 (1) a claim by a claimant who did not receive written notice under
10 AS 10.50.435;

11 (2) a claim sent within the time allowed if the company does not act
12 on the claim;

13 (3) a claim that is contingent or based on an event occurring after the
14 effective date of dissolution.

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

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

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

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

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

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

26 (1) against the company to the extent of the company's undistributed
27 assets; or

28 (2) if the company's assets have been distributed in liquidation, against
29 a member of the company to the extent of the member's pro rata share of the claim
30 or of the assets of the company distributed to the member in liquidation, whichever is
31 less; a member's total liability for all claims under this section may not exceed the

1 total amount of assets of the company that are distributed to the member.

2 **ARTICLE 12. MERGER AND CONSOLIDATION.**

3 **Sec. 10.50.500. AUTHORITY FOR MERGER OR CONSOLIDATION.**

4 Unless otherwise provided in an operating agreement of the company, and subject to
5 the law applicable to the other limited liability company, a limited liability company
6 may merge or consolidate with or into a limited liability company or a foreign limited
7 liability company.

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

12 **Sec. 10.50.510. APPROVAL OF MERGER OR CONSOLIDATION. (a)**
13 Unless otherwise provided in an operating agreement of the company, a limited
14 liability company may not approve a proposed merger or consolidation unless the
15 merger or consolidation is approved by all of the members of the company.

16 (b) A foreign limited liability company that is a party to a proposed merger
17 or consolidation may not approve the merger or consolidation unless the merger or
18 consolidation is approved in the manner and by the vote required by the law applicable
19 to the foreign limited liability company.

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

22 **Sec. 10.50.515. DELIVERY OF ARTICLES OF MERGER OR**
23 **CONSOLIDATION.** The limited liability company that survives or results from a
24 merger or consolidation under this chapter shall file with the department articles of
25 merger or consolidation signed by each limited liability company that is a party to the
26 merger or consolidation.

27 **Sec. 10.50.520. CONTENTS OF ARTICLES OF MERGER OR**
28 **CONSOLIDATION.** The articles of merger or consolidation required by AS 10.50.515
29 must state

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

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

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

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

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

9 (6) that the agreement of merger or consolidation is on file at an office
10 of the surviving or resulting limited liability company and the address of the office;

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

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

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

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

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

26 Sec. 10.50.525. EXECUTION OF ARTICLES OF MERGER OR
27 CONSOLIDATION. Articles of merger or consolidation shall be signed by a limited
28 liability company that is a party to the merger or consolidation.

29 Sec. 10.50.530. EQUIVALENT TO ARTICLES OF DISSOLUTION. Articles
30 of merger or consolidation constitute articles of dissolution for a limited liability
31 company that is not the surviving or resulting limited liability company in the merger

1 or consolidation.

2 **Sec. 10.50.535. EFFECTIVE DATE OF MERGER OR CONSOLIDATION.**

3 A merger or consolidation under AS 10.50.500 - 10.50.565 takes effect upon the later
4 of the effective date of the filing of the articles of merger or consolidation or an
5 effective date stated in the articles of merger or consolidation.

6 **Sec. 10.50.540. USE OF MERGER OR CONSOLIDATION AGREEMENT**
7 **TO AMEND OR ADOPT OPERATING AGREEMENT.** (a) An agreement of merger
8 or consolidation approved under AS 10.50.510 may amend an operating agreement of
9 a limited liability company or adopt a new operating agreement for the company if the
10 company is the surviving or resulting limited liability company in the merger or
11 consolidation.

12 (b) An approved agreement of merger or consolidation may provide that the
13 operating agreement of a limited liability company that is a party to the merger or
14 consolidation, including a limited liability company organized for the purpose of
15 consummating a merger or consolidation, is the operating agreement of a limited
16 liability company that is the surviving or resulting limited liability company.

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

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

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

24 (a) When a merger or consolidation becomes effective, the limited liability companies
25 that are parties to a merger or consolidation agreement become a single limited
26 liability company that, in the case of a merger, is the limited liability company named
27 in the plan of merger as the surviving limited liability company, and, in the case of a
28 consolidation, is the limited liability company named in the plan of consolidation as
29 the resulting limited liability company.

30 (b) When a merger or consolidation becomes effective, a limited liability
31 company that is a party to the merger or consolidation agreement and that is not the

1 surviving or resulting limited liability company ceases to exist.

2 (c) The surviving limited liability company of a merger or the limited liability
3 company resulting from a consolidation possesses all the rights, privileges, immunities,
4 and powers of each limited liability company that is a party to the merger or
5 consolidation agreement and is subject to all the restrictions, disabilities, and duties of
6 each limited liability company that is a party to the merger or consolidation to the
7 extent the rights, privileges, immunities, powers, franchises, restrictions, disabilities,
8 and duties apply to the type of limited liability company that is the surviving limited
9 liability company or the resulting limited liability company.

10 Sec. 10.50.550. EFFECT OF MERGER OR CONSOLIDATION ON
11 PROPERTY OF COMPANIES. The real and personal property, the debts due,
12 including promises to make capital contributions, other choses in action, and the other
13 interests of the limited liability companies that are parties to a merger or consolidation
14 belong to the surviving or resulting limited liability company without further action by
15 the companies.

16 Sec. 10.50.555. EFFECT OF MERGER OR CONSOLIDATION ON
17 LIABILITIES. (a) The surviving or resulting limited liability company in a merger
18 or consolidation is liable for the liabilities of the limited liability companies that are
19 parties to the merger or consolidation.

20 (b) A claim, action, or other proceeding that exists at the time of the merger
21 or consolidation and that is pending by or against a limited liability company that is
22 a party to a merger or consolidation may be pursued as if the merger or consolidation
23 had not taken place, or the surviving or resulting limited liability company may be
24 substituted in the claim, action, or other proceeding.

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

28 Sec. 10.50.565. CONVERSION AT MERGER OR CONSOLIDATION. (a)
29 Upon a merger or consolidation, the limited liability company interests that are to be
30 converted or exchanged into interests, cash, obligations, or other property under the
31 terms of a merger or consolidation agreement are converted as provided by the merger

1 or consolidation agreement.

2 (b) Upon a merger or consolidation, the former holders of interests converted
3 under (a) of this section have the rights provided in the merger or consolidation
4 agreement or otherwise provided by law.

5 Sec. 10.50.590. DEFINITION. In AS 10.50.500 - 10.50.590, "limited liability
6 company" means a limited liability company organized under this chapter or a foreign
7 limited liability company.

8 ARTICLE 13. FOREIGN LIMITED LIABILITY COMPANIES.

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

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

15 Sec. 10.50.605. REGISTRATION REQUIRED. Before conducting affairs in
16 this state, a foreign limited liability company shall register with the department. To
17 register, the company shall deliver to the department an application for registration as
18 a foreign limited liability company.

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

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

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

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

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

30 (4) that the department is appointed the agent of the company for
31 service of process if the foreign limited liability company fails to appoint or maintain

1 a registered agent under AS 10.50.635;

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

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

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

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

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

17 (b) In addition to the information required by (a) of this section, an application
18 must include proof from the jurisdiction where the company was organized that
19 indicates that the company was organized in that jurisdiction.

20 Sec. 10.50.620. NAME. The department may not file the application for
21 registration of a foreign limited liability company unless the name of the company
22 satisfies the requirements of AS 10.50.020 - 10.50.025. If the name under which a
23 foreign limited liability is organized in the state or other jurisdiction of its organization
24 does not satisfy the requirements of AS 10.50.020 - 10.50.025, the company may
25 register under AS 10.50.605 if the company uses an assumed name that is available
26 to the company under this chapter and that satisfies the requirements of AS 10.50.020 -
27 10.50.025.

28 Sec. 10.50.623. CHANGE OF NAME. If a foreign limited liability company
29 that is registered under this chapter changes its name to one under which it may not
30 register under this chapter, the registration of the company is suspended and the
31 company may not conduct affairs in this state until it has changed its name to a name

1 available to it under the laws of this state.

2 **Sec. 10.50.625. AMENDMENT OF REGISTRATION.** A foreign limited
3 liability company may amend its registration by filing an amendment of registration
4 with the department that is signed by a person who has the authority to sign it under
5 the law of the state or other jurisdiction of the company's organization.

6 **Sec. 10.50.630. CONTENTS OF AMENDMENT OF REGISTRATION.** (a)
7 The amendment of registration filed by a foreign limited liability company must state
8 the

- 9 (1) name of the company;
10 (2) date the original application for registration was filed; and
11 (3) amendment.

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

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

18 (1) office that may be, but need not be, the same as its office in this
19 state; and

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

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

- 28 (1) the name of the company;
29 (2) the address of its registered office;
30 (3) the address of the new registered office if the address of its
31 registered office is to be changed;

1 (4) the name of its registered agent;
2 (5) the name of its new registered agent if its registered agent is to be
3 changed;

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

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

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

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

16 **Sec. 10.50.645. SERVICE ON COMMISSIONER.** When a foreign limited
17 liability company that is registered under this chapter, or that conducts affairs in this
18 state without being registered under this chapter, fails to appoint or maintain a
19 registered agent in this state, when a registered agent cannot with reasonable diligence
20 be found at the registered office, or when the registration of a foreign company is
21 suspended or revoked, the commissioner is an agent upon whom process, notice, or
22 demand may be served. Service is made upon the commissioner as provided in
23 AS 10.50.065(b).

24 **Sec. 10.50.650. REVOCATION OF REGISTRATION.** (a) The registration
25 of a foreign limited liability company authorizing the company to conduct affairs in
26 this state may be revoked by the commissioner if

27 (1) the company fails to file its biennial report within the time
28 established by this chapter, or fails to pay fees or penalties established by this chapter
29 when they are due and payable;

30 (2) the company fails to appoint and maintain a registered agent in this
31 state;

1 (3) the company fails, after change of its registered office or registered
2 agent, to file with the commissioner a statement of the change as required by this
3 chapter; or

4 (4) a misrepresentation of a material matter has been made in an
5 application, report, affidavit, or other document submitted under this chapter.

6 (b) The commissioner may not revoke the registration of a foreign limited
7 liability company unless the

8 (1) commissioner has given the company at least 60 days notice by
9 certified mail addressed to its registered agent at its registered office; and

10 (2) company fails before revocation to file the report, pay the fees or
11 penalties, file the required statement of change of registered agent or registered office,
12 or correct the misrepresentation.

13 (c) Upon revoking a registration, the commissioner shall

14 (1) issue a certificate of revocation in duplicate;

15 (2) file one of the certificates in the commissioner's office; and

16 (3) mail one of the certificates of revocation to the limited liability
17 company at its registered office.

18 (d) Upon the issuance of the certificate of revocation, the authority of the
19 limited liability company to conduct affairs in this state ceases.

20 **Sec. 10.50.653. APPEAL FROM REVOCATION OF REGISTRATION.** If
21 the commissioner revokes the registration of a foreign limited liability company to
22 conduct affairs in this state under this chapter, the company may appeal to the superior
23 court. The court shall either sustain the action of the commissioner or direct the
24 commissioner to take action the court considers proper.

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

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

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

- 1 (2) that the company is not conducting affairs in this state;
2 (3) that the company cancels its registration in this state;
3 (4) that the company revokes the authority of its registered agent for
4 service of process in this state and consents that service of process may subsequently
5 be made on the company by service on the commissioner for a cause of action arising
6 in this state during the time the company was registered in this state; and
7 (5) an address for mailing a copy of a process to the company.

8 **Sec. 10.50.665. FORM, MANNER, AND EXECUTION OF APPLICATION**
9 **FOR CANCELLATION.** The application for cancellation must be in the form and
10 manner designated by the department and shall be signed on behalf of the foreign
11 limited liability company by

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

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

16 **Sec. 10.50.670. EFFECT OF CANCELLATION OF REGISTRATION.** The
17 cancellation of a registration under this chapter does not terminate the authority of the
18 commissioner to accept service of process on the foreign limited liability company
19 with respect to causes of action arising out of the company's conduct of affairs in this
20 state.

21 **Sec. 10.50.675. CONDUCTING AFFAIRS WITHOUT REGISTRATION.** (a)
22 A foreign limited liability company conducting affairs in this state may not maintain
23 an action or other proceeding in a court of this state until it has registered in this state.

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

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

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

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

31 **Sec. 10.50.690. LIABILITY FOR FEES AND PENALTIES.** A foreign limited

1 liability company that conducts affairs in this state without registration is liable to the
2 department for the following fees and penalties for the full or partial years when it
3 conducts affairs in this state without registration:

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

6 (2) the penalties imposed by this chapter.

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

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

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

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

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

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

30 (1) maintaining, defending, or settling a court action or other
31 proceeding or a claim;

- 1 (2) holding meetings of the members or managers of the company;
2 (3) maintaining bank accounts;
3 (4) selling through independent contractors;
4 (5) soliciting or procuring orders by mail, through employees, agents,
5 or otherwise, if the orders require acceptance outside the state before becoming binding
6 contracts;
7 (6) creating as borrower or lender, or acquiring, indebtedness or
8 mortgages or other security interests in real or personal property;
9 (7) securing or collecting debts, or enforcing rights in property securing
10 debts;
11 (8) conducting an isolated transaction that is completed within 30 days
12 and that is not part of a course of repeated transactions of a similar nature; or
13 (9) conducting affairs in interstate commerce.

14 **ARTICLE 14. SUITS BY AND AGAINST LIMITED**
15 **LIABILITY COMPANIES.**

16 **Sec. 10.50.730. ACTIONS AGAINST COMPANIES.** A court action may be
17 brought by or against a limited liability company. The court action may be brought
18 in the name of the company.

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

24 (b) Whether or not the company is managed by a manager, a member of a
25 limited liability company may bring a court action on behalf of the company in the
26 name of the company if the member is authorized to bring the action by more than
27 one-half of all of the members of the company who are eligible to consent to the
28 authorization, unless a larger number of the members are required under
29 AS 10.50.150(c) for the authorization. When determining whether the required number
30 of members consent under AS 10.50.150, the total number of all members does not
31 include a member who has an interest in the outcome of the action that is adverse to

1 the interest of the company and the member with the adverse interest is excluded from
2 determining the authorization.

3 (c) A manager of a limited liability company may bring a court action on
4 behalf of the company in the name of the company if the manager is authorized to
5 bring the action by the consent required under AS 10.50.150 of the members eligible
6 to consent to the authorization. When determining the number of managers required
7 to consent under AS 10.50.150, the number does not include a manager who has an
8 interest in the outcome of the action that is adverse to the interest of the company and
9 the manager with the adverse interest is excluded from determining the authorization.

10 ARTICLE 15. BIENNIAL REPORT.

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

14 Sec. 10.50.755. CONTENTS OF BIENNIAL REPORT. A biennial report
15 must set out

16 (1) the name of the company and the state or country where it is
17 organized;

18 (2) the address of the registered office of the company in this state, and
19 the name of its registered agent in this state at that address, and, in the case of a
20 foreign limited liability company, the address of its principal office in the state or
21 country where it is organized;

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

25 (4) the name and address of each person owning at least a five percent
26 interest in the company and the percentage of interest owned by that person in the
27 company.

28 Sec. 10.50.760. FILING OF BIENNIAL REPORT. (a) A biennial report
29 required by AS 10.50.750 shall be filed with the department and is due before
30 January 2 of the filing year. A limited liability company filing articles of organization
31 and a foreign limited liability company registering during an even-numbered year shall

1 file the biennial report each even-numbered year. A limited liability company filing
2 articles of organization and a foreign limited liability company registering during an
3 odd-numbered year shall file the biennial report each odd-numbered year. The biennial
4 report is delinquent if not filed before February 1 of each odd- or even-numbered year
5 as provided in this section.

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

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

13 (d) Upon receipt of a form from the department, a limited liability company
14 shall file a biennial report within six months after original organization.

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

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

24 ARTICLE 16. MISCELLANEOUS PROVISIONS.

25 Sec. 10.50.800. COMPANY CERTIFICATES. An operating agreement of a
26 limited liability company may authorize the company to issue a certificate as evidence
27 of a limited liability company interest. An operating agreement may also authorize
28 and provide for the assignment or transfer of the interest represented by the certificate.

29 Sec. 10.50.810. SUBMISSION OF DOCUMENTS TO DEPARTMENT.
30 When a document is required or allowed to be delivered to or filed with the
31 department under this chapter, the person delivering the document shall deliver to the

1 department the required fee, the original signed document, and an exact copy of the
2 document.

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

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

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

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

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

13 Sec. 10.50.830. DISAPPROVAL OF WRITING BY DEPARTMENT;
14 APPEAL. If the department fails to approve articles of organization, amendment,
15 merger, consolidation, or dissolution, or any other document required by this chapter
16 to be approved by the department, the department shall, within 10 days after the
17 delivery of the document to the department, give written notice of disapproval to the
18 person, limited liability company, or foreign limited liability company, delivering the
19 document, and specifying the reasons for disapproval. The person or company may
20 appeal the disapproval to the superior court.

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

24 (1) a manager of the company if the company is managed by a
25 manager;

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

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

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

31 (b) A person signing a document filed with the department under this chapter

1 shall state beneath or opposite the signature the person's name and the capacity in
2 which the person signs.

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

7 Sec. 10.50.850. FILING AND OTHER FEES. The department shall charge
8 fees established by the department by regulation adopted under AS 44.62
9 (Administrative Procedure Act) for

- 10 (1) filing the original articles of organization;
- 11 (2) filing an amendment of registration;
- 12 (3) filing articles of merger or consolidation;
- 13 (4) filing articles of dissolution;
- 14 (5) issuing a document not otherwise covered by this section;
- 15 (6) furnishing a copy of a document;
- 16 (7) accepting an application for reservation of a name, or filing a notice
17 of the transfer or cancellation of a name reservation;
- 18 (8) filing a statement of change of address for a registered office or
19 registered agent;
- 20 (9) accepting service of a notice, demand, or process upon the
21 department;
- 22 (10) filing the application for registration of a foreign limited liability
23 company;
- 24 (11) registering a name, reserving a name, or renewing a name
25 registration under this chapter; or
- 26 (12) filing another document allowed or required under this chapter.

27 Sec. 10.50.860. MAINTENANCE OF RECORDS. Unless otherwise provided
28 in an operating agreement, a limited liability company shall keep at its main office

- 29 (1) current and past lists that state in alphabetical order the full name
30 and last known mailing address of every member and manager of the company;
- 31 (2) a copy of the company's articles of organization and amendments

1 to the articles, including a signed copy of a power of attorney used by a person who
2 signed articles of amendment for the company;

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

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

10 (5) unless contained in an operating agreement,

11 (A) a document stating the amount of cash contributed by a
12 member of the company, the agreed value of other property or services
13 contributed by a member, and when a member is to make additional
14 contributions;

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

17 (C) other documents that an operating agreement requires the
18 company to prepare.

19 **Sec. 10.50.870. INSPECTION OF RECORDS.** (a) A limited liability
20 company shall make its books and records of account, or certified copies of them,
21 reasonably available for inspection and copying at its registered office or principal
22 office in the state by a member of the company. Member inspection shall be upon
23 written demand stating with reasonable particularity the purpose of the inspection. The
24 inspection may be in person or by agent or attorney, at a reasonable time and for a
25 proper purpose. Only books and records of account, minutes, and the record of
26 members directly connected to the stated purpose of the inspection may be inspected
27 or copied.

28 (b) A manager, or, if the company is not managed by a manager, a member,
29 who, or a limited liability company that, refuses to allow a member, or the agent or
30 attorney of the member, to examine and make copies from its books and records of
31 account, minutes, and record of members, for a proper purpose, is liable to the member

1 for a penalty in the amount of 10 percent of the value of the limited liability company
2 interests owned by the member or \$5,000, whichever is greater, in addition to other
3 damages or remedy given the member by law. It is a defense to an action for
4 penalties under this section that the person suing has within two years sold or offered
5 for sale a list of members of the company or any other limited liability company or
6 has aided or abetted a person in procuring a list of members for this purpose, or has
7 improperly used information secured through a prior examination of the books and
8 records of account, minutes, or record of members of the company or any other limited
9 liability company, or was not acting in good faith or for a proper purpose in making
10 the person's demand.

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

15 **Sec. 10.50.880. DISCLOSURE OF INFORMATION.** The members of a
16 limited liability company, if the articles of organization do not provide that the
17 company is managed by a manager, or the manager of the company, if the articles of
18 organization provide that the company is managed by a manager, shall provide, to the
19 extent just and reasonable under the circumstances, true and full information of all
20 matters that affect the members of a company to a member or to the legal
21 representative of a deceased member or a member under a legal disability.

22 **Sec. 10.50.890. WAIVER OF NOTICE.** If notice is required to be given to
23 a member or manager of a limited liability company under the provisions of this
24 chapter or under the provisions of the articles of organization or an operating
25 agreement of the company, a waiver of the notice in writing signed by the person
26 entitled to notice, whether before or after the time stated for notice, is equivalent to
27 the giving of notice.

28 **ARTICLE 17. GENERAL PROVISIONS.**

29 **Sec. 10.50.900. REGULATIONS.** In addition to the regulations the
30 department is required to adopt under this chapter, the department may adopt other
31 regulations under AS 44.62 (Administrative Procedure Act) to implement this chapter.

1 **Sec. 10.50.910. INTERSTATE APPLICATION.** A limited liability company
2 that is organized and existing under this chapter may conduct its affairs and exercise
3 the powers granted by this chapter in another jurisdiction, subject to the laws of that
4 jurisdiction.

5 **Sec. 10.50.990. DEFINITIONS.** In this chapter, unless the context indicates
6 otherwise,

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

9 (2) "commissioner" means the commissioner of commerce and
10 economic development;

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

13 (4) "department" means the Department of Commerce and Economic
14 Development;

15 (5) "filed," unless expressly provided otherwise, means filed with the
16 department;

17 (6) "foreign limited liability company" means an organization that is
18 (A) not incorporated;
19 (B) organized under the law of a state other than this state, or
20 under the law of a foreign country;
21 (C) organized under a statute that affords to each of its
22 members limited liability regarding the liabilities of the organization; and
23 (D) not required to be registered under a statute of this state
24 other than this chapter;

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

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

31 (9) "limited liability company" or "domestic limited liability company"

- 1 means an organization organized under this chapter;
- 2 (10) "limited liability company interest" means an interest in a limited
3 liability company issued under AS 10.50.275;
- 4 (11) "limited partnership" means a limited partnership organized under
5 AS 32.11 or under the law of another state or a foreign country;
- 6 (12) "manager" means a person who manages a limited liability
7 company, if the articles of organization provide that the company is managed by a
8 manager;
- 9 (13) "managing member" means a member of a limited liability
10 company if the company's articles of organization do not provide that the company is
11 managed by a manager;
- 12 (14) "member" means a person who has been admitted to membership
13 in a limited liability company under AS 10.50.155 - 10.50.160 and whose membership
14 has not terminated under AS 10.50.180 - 10.50.185 or 10.50.205 - 10.50.225;
- 15 (15) "operating agreement" means a written agreement among all of the
16 members of a limited liability company about conducting the affairs of the company;
- 17 (16) "property" includes cash;
- 18 (17) "state" means a state, territory, or possession of the United States,
19 and includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern
20 Mariana Islands, Guam, the Virgin Islands, American Samoa, and the Trust Territory
21 of the Pacific Islands.

22 Sec. 10.50.995. SHORT TITLE. This chapter may be cited as the Alaska
23 Limited Liability Act.

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

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

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

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

24 * Sec. 4. This Act takes effect July 1, 1995.