

**ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672**  
**7061 HOUSE LABOR & COMMERCE**

1 nominees, in the same issue of the publication, an equal amount of space, with equal prominence,  
2 to be used by these nominees for purposes reasonably related to the election.

3 Sec. 10.21.250. MAILINGS OF ELECTION MATERIAL AT REQUEST OF  
4 NOMINEES; NOMINEE INSPECTION RIGHTS. (a) Upon written request by a nominee for  
5 election to the board and the payment of the reasonable costs of mailing, including postage, a  
6 domestic corporation shall within 10 business days mail to the members, or to that portion of the  
7 members that the nominee reasonably specifies, material reasonably related to the election that  
8 is furnished by the nominee.

9 (b) Notwithstanding (a) of this section, the corporation may, within five business days  
10 after the request, allow the nominee the rights as set out in AS 10.21.290.

11 Sec. 10.21.253. DUTY OF CORPORATION TO PUBLISH OR MAIL  
12 MATERIAL; INDEMNIFICATION BY NOMINEE; ACTIONS TO RELIEVE CORPORATION  
13 FROM PUBLICATION AND MAILING OBLIGATIONS. (a) Except as provided in (c) of this  
14 section, a domestic corporation may not decline to publish or mail material otherwise required  
15 to be published or mailed on behalf of a nominee under AS 10.21.200 - 10.21.323 on the basis  
16 of the content of the material.

17 (b) The corporation and its agents, officers, directors, or employees may not be held  
18 criminally liable for negligence, or otherwise liable for damages to a person on account of  
19 material that is supplied by a nominee for director and that is published or mailed as provided  
20 in AS 10.21.248 or 10.21.250. The nominee on whose behalf material was published or mailed  
21 shall indemnify and hold the corporation and its agents, officers, directors, and employees  
22 harmless from all demands, costs, reasonable legal fees and expenses, claims, damages, and  
23 causes of action arising from the material or the mailing or publication.

24 (c) Notwithstanding (a) of this section a domestic corporation or its agents, officers,  
25 directors, or employees may petition the court to relieve the corporation from its obligations  
26 under AS 10.21.248 and 10.21.250 on the ground that the material will expose the petitioner to  
27 liability.

28 Sec. 10.21.255. USE OF CORPORATE FUNDS TO SUPPORT NOMINEES  
29 PROHIBITED. Except as provided in AS 10.21.240 - 10.21.250, the corporation may not spend  
30 corporate money to support nominees for the board.

31 Sec. 10.21.258. VOTING LIST. (a) At least 20 days before each meeting of members,

1 the officer or agent having charge of the membership records of a domestic corporation shall  
2 make a list of the members entitled to vote at the meeting or an adjournment of the meeting  
3 arranged in alphabetical order with the address of each member. The list shall be kept on file  
4 at the registered office of the corporation and is subject to inspection by a member or the  
5 member's agent or attorney at any time during usual business hours for a period of 20 days  
6 before the meeting. The list shall also be produced and kept open at the time and place of the  
7 meeting and shall be subject to the inspection of a member during the meeting. The membership  
8 records are prima facie evidence as to the members entitled to examine the list or membership  
9 records or to vote at a meeting of members.

10 (b) Failure to comply with the requirements of this section does not affect the validity  
11 of the action taken at the meeting.

12 Sec. 10.21.260. LIABILITY FOR VIOLATION OF AS 10.21.258. An officer or agent  
13 having charge of the membership records who wilfully fails to prepare a list of members, keep  
14 it on file for a period of 20 days, or produce and keep it open for inspection at the meeting, as  
15 provided in AS 10.21.258 is liable for \$5,000 to a member who had made a written demand to  
16 inspect the list and, in addition, for all damages sustained by that member as a result of the  
17 officer or agent's failure to comply.

18 Sec. 10.21.263. QUORUM OF MEMBERS. (a) Unless otherwise provided in the  
19 articles of incorporation (AS 10.21.110(1)(D)), a majority of the members entitled to vote,  
20 represented in person or by proxy, constitutes a quorum at a meeting of members, but in no event  
21 may a quorum consist of less than 10 percent of the members entitled to vote at the meeting.  
22 If a quorum is present, the affirmative vote of the majority of the members represented at the  
23 meeting and entitled to vote on the subject matter is the act of the members, unless the vote of  
24 a greater number or voting by classes is required by this chapter, or the articles of incorporation  
25 (AS 10.21.110(1)(C)).

26 (b) Where the articles of incorporation authorize a corporation to conduct a meeting with  
27 a quorum of less than one-third of the voting power, the only matters that may be voted upon  
28 at a regular meeting actually attended, in person or by proxy, by less than one-third of the voting  
29 power are matters noticed under AS 10.21.238.

30 (c) Members present at a meeting at which a quorum was present may continue to  
31 transact business until adjournment, notwithstanding the withdrawal of enough members to leave

1 less than a quorum; any action other than adjournment, must be approved by at least a majority  
2 of the number of members required to constitute a quorum.

3 Sec. 10.21.265. PROXIES: PUBLIC BENEFIT CORPORATIONS. (a) Each person  
4 entitled to vote a membership in a public benefit corporation may authorize another person to act  
5 by proxy (AS 10.21.990) with respect to that membership. The right to vote by proxy may be  
6 limited or withdrawn by the articles or bylaws, as provided in (e) of this section. A proxy  
7 purporting to be executed in accordance with the provisions of this chapter is presumed valid.

8 (b) A proxy in a public benefit corporation is not valid after the expiration of 11 months  
9 from the date of the proxy unless the proxy provides otherwise. The maximum term of a proxy  
10 is three years from the date of its execution. A proxy continues in full force and effect until  
11 revoked by the person executing it. A person may revoke a proxy by a writing delivered to the  
12 corporation stating that the proxy is revoked, by a subsequent proxy executed by the person  
13 executing the prior proxy and delivered to the corporation, or by attendance at a meeting and  
14 voting in person by the person executing the proxy. The dates contained on the forms of proxy  
15 presumptively determine the order of execution, regardless of the postmark dates on the  
16 envelopes in which the proxies are mailed.

17 (c) A proxy in a public benefit corporation is not revoked by the death or incapacity of  
18 the maker or the termination of a membership as a result of death or incapacity unless, before  
19 the vote is counted, written notice of the death or incapacity is received by the corporation.

20 (d) The proxy of a member in a public benefit corporation may not be irrevocable.

21 (e) Notwithstanding (a) of this section, an amendment of the articles or bylaws repealing,  
22 restricting, creating, or expanding proxy rights in a public benefit corporation may not be adopted  
23 without approval by a majority of all the members (AS 10.21.990(4)).

24 (f) Notwithstanding any provision to the contrary, a proxy covering matters requiring a  
25 vote of the members under AS 10.21.265(e), 10.21.375, 10.21.385, 10.21.453, 10.21.513,  
26 10.21.533, or 10.21.553 is not valid as to a matter unless the proxy sets out the general nature  
27 of the matter to be voted on or, in the event of a vote under AS 10.21.355, unless the proxy lists  
28 those nominated at the time the notice of the vote is given to members.

29 Sec 10.21.268. PROXIES: MUTUAL BENEFIT CORPORATIONS. (a) Each person  
30 entitled to vote a membership in a mutual benefit corporation may authorize another person or  
31 persons to act by proxy (AS 10.21.990) with respect to that membership. The right to vote by

1 proxy may be limited or withdrawn by the articles or bylaws, as provided in (f) of this section.  
2 A proxy purporting to be executed in accordance with the provisions of this chapter is presumed  
3 valid.

4 (b) A proxy in a mutual benefit corporation is not valid after the expiration of 11 months  
5 from the date of the proxy unless the proxy provides otherwise. The maximum term of a proxy  
6 is three years from the date of its execution. A proxy continues in full force and effect until  
7 revoked by the person executing it, except as otherwise provided in this section. A person may  
8 revoke a proxy by a writing delivered to the corporation stating that the proxy is revoked, by a  
9 subsequent proxy executed by the person executing the prior proxy and presented to the meeting,  
10 or by attendance at a meeting and voting in person by the person executing the proxy. The dates  
11 contained on the forms of proxy presumptively determine the order of execution, regardless of  
12 the postmark dates on the envelopes in which the proxies are mailed.

13 (c) A proxy in a mutual benefit corporation is not revoked by the death or incapacity of  
14 the maker or the termination of a membership as a result of death or incapacity unless, before  
15 the vote is written, notice of the death or incapacity is received by the corporation.

16 (d) Unless otherwise provided in the articles or bylaws, the proxy of a member that states  
17 that it is irrevocable is irrevocable for the period specified in the proxy when it is held by the  
18 following persons or a nominee of

19 (1) a person who has purchased or who has agreed to purchase membership;

20 (2) a creditor of the corporation, a member who extended or continued credit to  
21 the corporation or a member in consideration of the proxy if the proxy states that it was given  
22 in consideration of the extension or continuation of credit and the name of the person extending  
23 or continuing the credit; or

24 (3) a person who has contracted to perform services as an employee of the  
25 corporation, if the proxy is required by the contract of employment and if the proxy states that  
26 it was given in consideration of the contract of employment, the name of the employee, and the  
27 period of employment.

28 (e) Notwithstanding a provision making a proxy in a mutual benefit corporation  
29 irrevocable, a proxy may be revoked by a transferee of a membership without knowledge of the  
30 existence of the provision unless the existence of the proxy and its irrevocability appears on the  
31 certificate representing the membership.

1 (f) Notwithstanding (a) of this section,

2 (1) an amendment of the articles or bylaws repealing, restricting, creating, or  
3 expanding proxy rights in a mutual benefit corporation may not be adopted without approval by  
4 a majority of all members; and

5 (2) an amendment of the articles or bylaws restricting or limiting the use of  
6 proxies in a mutual benefit corporation may not affect the validity of a previously issued  
7 irrevocable proxy during the term of its irrevocability, if the proxy was in compliance with the  
8 applicable provisions, if any, of the article or bylaws at the time of its issuance, and is otherwise  
9 valid under this section.

10 (g) Notwithstanding any provision to the contrary, a revocable proxy covering matters  
11 requiring a vote of the members under AS 10.21.268(f)(1), 10.21.355(a), 10.21.375, 10.21.385,  
12 10.21.453, 10.21.513, 10.21.533, or 10.21.633, is not valid as to these matters unless it sets out  
13 the general nature of the matter to be voted on.

14 Sec. 10.21.270. ONE VOTE ENTITLEMENT. Except as provided in the articles or  
15 bylaws or AS 10.21.280, each member is entitled to one vote (AS 10.21.990) on each matter  
16 submitted to a vote of the members. Single memberships in which two or more persons have  
17 an indivisible interest shall be voted as provided in AS 10.21.278.

18 Sec. 10.21.273. DELEGATES. A domestic corporation may provide in its articles or  
19 bylaws for delegates having some or all of the authority of members. If delegates are provided  
20 for, the bylaws shall set out delegate terms of office, which may not exceed three years, a  
21 reasonable method for delegate selection and removal, and a reasonable method for calling,  
22 noticing, and holding meetings of delegates. Delegates may only act personally at a meeting  
23 and may not act by proxy, written consent, or written ballot. Delegates may be given a name  
24 other than "delegates".

25 Sec. 10.21.275. VOTING BY MEMBERS OR DELEGATES ON CHAPTER OR  
26 REGIONAL BASIS AUTHORIZED. A domestic corporation may provide in its articles or  
27 bylaws for voting by its members or delegates on the basis of chapter or other organizational  
28 units, or by region or other geographic grouping.

29 Sec. 10.21.278. VOTING WHERE MEMBERSHIP CAN BE VOTED BY TWO OR  
30 MORE PERSONS. If membership stands of record in the names of two or more persons,  
31 whether fiduciaries, members of a partnership, joint tenants, tenants in common, husband and

1 wife as community property, tenants by ~~the~~ entirety, or otherwise, or if two or more persons  
2 including proxy holders have the same fiduciary relationship respecting the same membership,  
3 unless the secretary of the corporation is given written notice to the contrary and is furnished  
4 with a copy of the instrument or order appointing them or creating the relationship, their acts  
5 with respect to voting have the following effect:

6 (1) if only one person votes, the vote binds all the persons; or

7 (2) if more than one person votes, the vote of the majority binds all the persons.

8 Sec. 10.21.280. CUMULATIVE VOTING. (a) If the articles or bylaws authorize  
9 cumulative voting, each member entitled to vote at an election of directors may cumulate votes  
10 and give one candidate a number of votes equal to the number of directors to be elected  
11 multiplied by the number of votes to which the member is entitled, or distribute those votes  
12 among as many candidates as the member determines. An article or bylaw provision authorizing  
13 cumulative voting may not be repealed or amended if the votes cast against the repeal or  
14 amendment would be sufficient to elect one director absent the repeal or amendment. The  
15 articles or bylaws may require the vote of a greater proportion than normal of the members, or  
16 of the members of any class, for the repeal of a provision authorizing cumulative voting.

17 (b) A member is not entitled to cumulate votes for a candidate unless the name of the  
18 candidate has been placed in nomination before the voting and the member has given notice at  
19 the meeting before the voting of intention to cumulate votes. If a member has given this notice,  
20 all members may cumulate their votes for candidates in nomination.

21 (c) In an election of directors, the candidates receiving the highest number of votes are  
22 elected, subject to a lawful provision specifying election by classes.

23 (d) Elections for directors need not be by ballot unless a member demands election by  
24 ballot at the meeting before the voting begins or unless the bylaws require election by ballot.

25 Sec. 10.21.283. ACTIONS TAKEN WITHOUT MEETING: WRITTEN CONSENT;  
26 REVOCATION OF CONSENT. (a) Unless prohibited by the articles of incorporation or the  
27 bylaws and except as expressly provided in this chapter, if under this chapter members are  
28 required or permitted to take action by vote, the action may be taken without a meeting by  
29 written consents, identical in content, setting out the action taken, signed by all members entitled  
30 to vote on the action.

31 (b) A member giving a written consent, or the member's proxy holder, or a transferee

1 of the membership or a personal representative of the member or their respective proxy holders,  
2 may only revoke the consent by a writing received by the corporation before the time that written  
3 consents of the number required to authorize the proposed action have been filed with the  
4 secretary of the corporation. The revocation is effective on receipt by the secretary of the  
5 corporation.

6 Sec. 10.21.285. VOTING AGREEMENTS AND TRUSTS UNENFORCEABLE. A  
7 voting agreement or voting trust agreement entered into by a member of a domestic corporation  
8 is not enforceable.

9 Sec. 10.21.288. MUTUAL BENEFIT CORPORATIONS: MEMBERSHIP LISTS:  
10 INSPECTION RIGHTS. (a) Subject to AS 10.21.293 and 10.21.303, and unless a mutual  
11 benefit corporation provides a reasonable alternative under (c) of this section, a member or a  
12 member's agent or attorney may

13 (1) inspect and copy the record of all the names, addresses, and voting rights of  
14 the members, at reasonable times on written demand on the corporation received at least five  
15 business days before the date of inspection stating the purpose for which the inspection rights are  
16 requested;

17 (2) obtain from the secretary of the corporation, on written demand and tender  
18 of a reasonable charge, a list of the names, addresses, and voting rights of the members entitled  
19 to vote for the election of directors, as of the most recent record date for which it has been  
20 compiled or as of a date specified by the member after the date of demand; the demand must  
21 state the purpose for which the list is requested; the membership list shall be made available on  
22 or before 10 business days after the demand is received or after the date specified in the demand  
23 as the date on which the list is to be compiled, whichever is later.

24 (b) The rights under (a) of this section may be exercised by a member, for a purpose  
25 reasonably related to the interest of the person as a member. If the corporation reasonably  
26 believes that information obtained under (a) of this section will be used for another purpose, or  
27 if it provides a reasonable alternative under (c) of this section, the corporation may deny the  
28 member access to the list. In a later action brought by the member under AS 10.21.305, the  
29 court shall enforce the rights set out in (a) of this section unless the corporation proves that the  
30 member will allow use of the information for purposes unrelated to the interest of the person as  
31 a member or that an alternative method offered by the corporation reasonably achieves a proper

1 purpose set out in the demand.

2 (c) The corporation may, within 10 business days after receiving a demand under (a) of  
3 this section, deliver to the person making the demand a written offer of an alternative method  
4 of achieving the purpose identified in the demand without providing access to or a copy of the  
5 membership list. A method that reasonably and in a timely manner accomplishes a proper  
6 purpose set out in a demand made under (a) of this section is a reasonable alternative, unless  
7 within a reasonable time after acceptance of the offer the corporation fails to do those things that  
8 it offered to do. A rejection of the offer by the member must be in writing and state the reasons  
9 why the alternative method proposed by the corporation does not meet the proper purpose stated  
10 in the demand.

11 Sec. 10.21.290. PUBLIC BENEFIT CORPORATIONS: MEMBERSHIP LISTS; INSPEC-  
12 TION RIGHTS. (a) Subject to AS 10.21.293 and 10.21.303 and unless a public benefit  
13 corporation provides a reasonable alternative under (c) of this section, a member, or a member's  
14 agent or attorney may

15 (1) inspect and copy the record of all the names, addresses, and voting rights of  
16 the members, at reasonable times on written demand on the corporation received at least five  
17 business days before the date of inspection stating the purpose for which the inspection rights are  
18 requested;

19 (2) obtain from the secretary of the corporation, on written demand and tender  
20 of a reasonable charge, a list of the names, addresses, and voting rights of the members entitled  
21 to vote for the election of directors, as of the most recent record date for which it has been  
22 compiled or as of a date specified by the member after the date of demand; the demand must  
23 state the purpose for which the list is requested; the membership list shall be made available on  
24 or before 10 business days after the demand is received or after the date specified in the demand  
25 as the date on which the list is to be compiled, whichever is later.

26 (b) The rights set out under (a) of this section may be exercised by a member, for a  
27 purpose reasonably related to the interest of the person as a member. If the corporation  
28 reasonably believes that information obtained under (a) of this section will be used for another  
29 purpose, or if it provides a reasonable alternative under (c) of this section, the corporation may  
30 seek an order of the superior court allowing the corporation to refuse to grant the member access  
31 to the list. In an action brought by the corporation for an order denying access to the

1 membership list, the court shall enforce the rights set out in (a) of this section unless the  
2 corporation proves that the member will allow use of the information for purposes unrelated to  
3 the interest of the person as a member or that an alternative method offered by the corporation  
4 reasonably achieves a proper purpose set out in the demand.

5 (c) The corporation may, within 10 business days after receiving demand under (a) of  
6 this section, deliver to the person making the demand a written offer of an alternative method  
7 of achieving the purpose identified in the demand without providing access to or a copy of the  
8 membership list. A method that reasonably and in a timely manner accomplishes a proper  
9 purpose set out in a demand made under (a) of this section is a reasonable alternative, unless the  
10 corporation fails to do those things that it offered to do. A rejection of the offer by the member  
11 must be in writing and indicate the reasons why the alternative method proposed by the  
12 corporation does not meet the proper purpose stated in the demand.

13 Sec. 10.21.293. LIMITATIONS AND RESTRICTIONS ON INSPECTION RIGHTS.

14 (a) On petition of a corporation or a member, the superior court may limit or restrict the rights  
15 set out in AS 10.21.288 and 10.21.290 if and only if the limitation or restriction is necessary to  
16 protect the rights of a member under the Constitution of the United States or the Constitution of  
17 the State of Alaska. An order issued under this section may provide for alternative mechanisms  
18 by which a person seeking to exercise rights under AS 10.21.288 or 10.21.290 may communicate  
19 with members for a purpose reasonably related to the interest of the person as a member.

20 (b) On the filing of a petition under (a) of this section, the court may, if requested by the  
21 person filing the petition, issue a temporary restraining order suspending the running of a time  
22 limit specified in AS 10.21.288 and 10.21.290 for compliance with those sections. The  
23 temporary order may be extended after notice and hearing until final adjudication of the petition,  
24 if it is equitable to extend the order and it appears that the petitioner may prevail on the merits.

25 Sec. 10.21.295. FRUSTRATION OF INSPECTION RIGHTS; POSTPONEMENT OF  
26 MEMBERS' MEETING, REMEDIES. If the proper purpose of a person making a demand  
27 under AS 10.21.288 or 10.21.290 is frustrated by (1) delay by the corporation in complying  
28 beyond the time limits specified in AS 10.21.288 and 10.21.290, (2) delay caused by the filing  
29 of a petition under AS 10.21.293 or 10.21.303, or (3) delay caused by an alternative proposed  
30 under AS 10.21.288(c) or 10.21.290(c), the person making the demand may obtain from the  
31 superior court an order postponing a meeting of the members previously noticed for a period

1 equal to the period of the delay. A member may obtain this order in a proceeding brought by  
2 filing a verified complaint and after a hearing, notice of which shall be given to the persons and  
3 in the manner the court directs. This right of postponement is in addition to other legal or  
4 equitable remedies to which the member is entitled.

5 Sec. 10.21.298. BOOKS AND RECORDS. (a) A domestic corporation shall keep

6 (1) adequate and correct books and records of account;

7 (2) minutes of the proceedings of its members, board, and committees of the  
8 board; and

9 (3) a record of the names and addresses of its members and the class of  
10 membership held by each.

11 (b) Minutes shall be kept in written form. The books and records of account and the  
12 record of members shall be kept in written form or in another form capable of being converted  
13 into written form within a reasonable time.

14 Sec. 10.21.300. INSPECTION OF BOOKS, RECORDS, AND MINUTES OF  
15 PROCEEDINGS. The books and records of account, minutes of proceedings of the members and  
16 the board and committees of the board, and the record of members shall be open to inspection  
17 at a reasonable time on written demand on the corporation by a member for a purpose reasonably  
18 related to the interests of the person as a member.

19 Sec. 10.21.303. LIABILITY FOR DENIAL OF ACCESS TO BOOKS AND RECORDS.

20 (a) An officer or agent who, or a domestic corporation that wilfully refuses to allow a member,  
21 or a member's agent or attorney, to examine and make copies from the books and records of  
22 account, minutes, or records of members of a corporation, for a proper purpose, is liable to a  
23 member suffering damage because of this refusal for \$5,000 and, in addition, all actual damages  
24 caused to the member because of the failure of the corporation to permit inspection and copying.

25 (b) It is a defense to an action for penalties under this section that the person bringing the  
26 action has, within two years before the action, improperly sold or offered for sale a list of the  
27 members of a corporation or assisted in obtaining a list of members for the purpose of sale, or  
28 has improperly used information obtained from an earlier examination of the books and records  
29 of account, minutes, or record of members of a corporation, or was not acting in good faith or  
30 for a proper purpose in making the demand.

31 (c) Nothing contained in this chapter impairs the power of a court of competent

1 jurisdiction to compel the production of books and records of account, minutes, and record of  
2 members of a corporation.

3 (d) Notwithstanding (a) of this section, a corporate agent or officer is not liable for  
4 refusing to allow access to requested records if the court finds that an alternative proposed under  
5 AS 10.21.288(c) or 10.21.290(c) would have reasonably and in timely fashion accomplished the  
6 proper purpose set out in the written demand for inspection.

7 Sec. 10.21.305. COURT ENFORCEMENT OF INSPECTION RIGHTS. (a) If the  
8 corporation refuses a lawful demand for inspection of accounting books, records, or minutes of  
9 proceedings of the corporation under this chapter, the superior court may enforce the demand or,  
10 for good cause shown, appoint one or more competent inspectors or independent accountants to  
11 audit the financial statements of the corporation kept in this state and to investigate a subsidiary  
12 corporation keeping records of the corporation in this state.

13 (b) Officers and agents of the corporation shall produce under penalty for contempt of  
14 court the books and documents in their custody or power for the inspectors or accountants  
15 appointed under (a) of this section.

16 (c) The expense of an investigation or audit under (a) of this section shall be paid by the  
17 applicant unless the court orders the expense to be paid or shared by the corporation.

18 (d) If the court finds that the failure of a corporation to comply with a proper demand  
19 for inspection under this chapter was without justification, the court may award the member  
20 reasonable costs and expenses, including reasonable attorney fees, in connection with the action  
21 or proceeding.

22 (e) In this section, "independent accountant" means a certified public accountant or a  
23 public accountant who is independent of the corporation as determined in accordance with  
24 generally accepted auditing standards and who is engaged to audit financial statements of the  
25 corporation or perform other accounting services.

26 Sec. 10.21.308. MEMBERSHIP LIST AS CORPORATE ASSET; USES PROHIBITED.

27 (a) A membership list is a corporate asset. A membership list may not be used by a person for  
28 a purpose unrelated to the interest of the person as a member without the consent of the board.  
29 Without the consent of the board a membership list may not be

30 (1) used to solicit money or property unless the money or property will be used  
31 solely to solicit the vote of members in an election to be held by their corporation;

1 (2) used for a purpose that the user does not reasonably and in good faith believe  
2 will benefit the corporation;

3 (3) used for a commercial purpose or a purpose in competition with the  
4 corporation; or

5 (4) sold to or purchased by a person.

6 (b) A person who violates the provisions of (a) of this section is liable for the damage  
7 the violation causes the corporation and shall account for and pay to the corporation any profit  
8 derived as a result of the violation. In addition, a court in its discretion may award exemplary  
9 damages for a fraudulent or malicious violation of (a) of this section.

10 (c) Nothing in this chapter limits the right of a corporation to obtain injunctive relief  
11 necessary to restrain misuse of a membership list.

12 (d) In an action or proceeding under this section, a court may award the corporation  
13 reasonable costs and expenses, including reasonable attorney fees, in connection with the action  
14 or proceeding.

15 (e) In this section, the term "membership list" means the record of all the members'  
16 names and addresses.

17 Sec. 10.21.310. ANNUAL REPORT TO MEMBERS. (a) On or before July 1 of each  
18 year, a domestic corporation and a foreign corporation authorized to conduct affairs in the state  
19 shall prepare an annual report that includes

20 (1) the name of the corporation and the state or country where it is incorporated;

21 (2) the address of the registered office of the corporation in this state, and the  
22 name of its registered agent in this state at that address, and, in the case of a foreign corporation,  
23 the address of its principal office in the state or country where it is incorporated;

24 (3) a brief statement of the purposes of the corporation in this state;

25 (4) the names and addresses of the directors and officers of the corporation;

26 (5) a statement of the number of memberships that the corporation has authority  
27 to issue, itemized by classes;

28 (6) a statement of the number of members itemized by classes;

29 (7) the name and address of each alien affiliate (AS 10.21.990), the percentage  
30 of control held by each alien affiliate, and a specific description of the nature of the relationship  
31 between the corporation and its alien affiliates, or a statement that there is no alien affiliate; in

1 this paragraph, "percentage of control" means the percentage of the members of the entire board  
2 of directors (AS 10.21.990(18)) that a person has the power to elect or designate;

3 (8) the name and address of each person holding as of September 30 of each year  
4 the power to directly cause the election or designation of one or more members of the board;

5 (9) the gross receipts of the corporation during the reporting period from all  
6 sources;

7 (10) the amount, expressed in dollars and as a percentage of the gross receipts of  
8 the corporation, of each of the following:

9 (A) membership fees, dues, and assessments;

10 (B) donations;

11 (C) grants from governmental entities;

12 (D) sales of goods or services; and

13 (E) all other sources;

14 (11) in the case of a mutual benefit corporation, the amount, expressed in dollars  
15 and as a percentage of the total income, of the total income used or held for the following  
16 purposes:

17 (A) recurrent administrative costs;

18 (B) nonrecurrent administrative costs;

19 (C) providing services or making facilities available to members as  
20 authorized in its articles, exclusive of the administrative cost of providing these services;  
21 and

22 (D) all other expenses of the corporation;

23 (12) in the case of a public benefit corporation, the amount, expressed in dollars  
24 and as a percentage of total income, of the total income used or held for the following purposes:

25 (A) recurrent administrative costs;

26 (B) nonrecurrent administrative costs;

27 (C) public or charitable purposes as stated in its articles;

28 (D) all other expenses of the corporation;

29 (13) information required by AS 10.21.293.

30 (b) Not later than 30 days after the report has been prepared, a corporation that has  
31 voting members shall send each member a notice that the annual report is available and will be

1 provided promptly upon written request. Unless the articles provide otherwise  
2 (AS 10.21.110(1)(K)), the notice to members must include a self-addressed, postage prepaid form  
3 that the member may sign and return effecting a written request to receive a copy of the annual  
4 report. Unless the articles provide otherwise (AS 10.21.110(1)(L)), the annual report shall be  
5 sent without charge to members making written request. The secretary, or other official  
6 designated in the articles or bylaws, shall send the requested report within 20 days of the  
7 postmarked written request.

8 (c) This section does not apply to corporations that do not have

9 (1) more than 100 members at any time during the reporting period; or

10 (2) gross receipts or revenue in excess of \$10,000 during the reporting period.

11 (d) A public benefit corporation that in writing solicits contributions from 500 or more  
12 persons during the affected reporting period need not comply with (b) of this section if the  
13 corporation

14 (1) includes with written material used to solicit contributions a written statement  
15 that a copy of its most recent annual report will be mailed free of charge upon request and that  
16 a request may be sent to the corporation at the name and address set out in the statement;

17 (2) promptly mails free of charge a copy of its most recently filed annual report  
18 to a person who requests a copy of the report; and

19 (3) publishes its annual report (AS 10.21.856) not later than 30 days after  
20 preparing the report.

21 Sec. 10.21.311. PUBLICATION OF NOTICE OF ANNUAL REPORT; DUTY TO  
22 FURNISH COPIES OF THE ANNUAL REPORT. (a) Not later than 30 days after it has  
23 prepared the annual report required by AS 10.21.310, a public benefit corporation, and a  
24 corporation that, during the affected reporting period, received from donations (AS 10.21.990)  
25 more than 10 percent of its gross income, shall publish in a newspaper of general circulation  
26 notice that the report is on file with the corporation and that the corporation will furnish a copy  
27 of the report to

28 (1) any member under AS 10.21.310; and

29 (2) any other person within 50 days of receipt of a written request; a corporation  
30 required to furnish copies of an annual report under this subsection may charge the person  
31 requesting the report a fee of not more than \$5.

1 (b) In addition to observing (a) of this section, a public benefit corporation and any  
2 corporation that, during its most recent accounting period, received more than 10 percent of its  
3 gross income from donations, shall furnish to each solicitee at the time of solicitation written  
4 notice that a copy of its most recent annual report is available and will be furnished free of  
5 charge upon written request.

6 (c) In (a) of this section, "general circulation" means a newspaper with a circulation large  
7 enough to reach persons affected by corporate fund-raising and program activities.

8 Sec. 10.21.313. ANNUAL STATEMENT TO MEMBERS OF INSIDER  
9 TRANSACTIONS. (a) Notwithstanding a provision of the articles of incorporation or bylaws  
10 to the contrary, a corporation shall, within 120 days of the close of its fiscal year, furnish  
11 annually to its members (AS 10.21.990) a statement of transactions or indemnifications of the  
12 kind described in (d) or (e) of this section, if any transactions or indemnifications took place.

13 (b) Except as provided in (c) of this section, a covered transaction under this section is  
14 a transaction in which the corporation, its parent, or its subsidiary (AS 10.21.990) was a party  
15 and in which either of the following had a direct or indirect material financial interest:

16 (1) a director, officer, or employee of the corporation, or its parent or subsidiary;

17 or

18 (2) a holder of a controlling interest (AS 10.21.990) in the corporation, its parent,  
19 or its subsidiary.

20 (c) The statement required under (a) of this section must describe briefly

21 (1) a covered transaction, excluding compensation of officers and directors, during  
22 the previous fiscal year involving more than \$15,000, or that was one of the number of covered  
23 transactions in which the same interested person had a direct or indirect material financial  
24 interest, if these transactions in the aggregate involved more than \$15,000;

25 (2) the name of the interested person involved in the transaction, a statement of  
26 the relationship of the person to the corporation, the nature of the relationship of the person to  
27 the corporation, the nature of the interest of the person in the transaction and, where practicable,  
28 the amount of that interest; in the case of a transaction with a partnership of which the interested  
29 person is a partner, only the interest of the partnership need be stated; in this paragraph,  
30 "interested person" means a person described in (b)(1) or (b)(2) of this section; or

31 (3) the amount and circumstances of indemnifications or advances aggregating

1 more than \$10,000 that were authorized, obligated, or paid during the fiscal year to an officer  
2 or director of the corporation under AS 10.21.435; information concerning an indemnification  
3 approved by the members under AS 10.21.435(e)(3) need not be included in this statement.

4 (d) For the purpose of this section, a mere common directorship is not material financial  
5 interest.

6 Sec. 10.21.315. COURT ENFORCEMENT OF INFORMATION AND FINANCIAL  
7 STATEMENT REQUIREMENTS. (a) The superior court shall enforce the duty of making and  
8 mailing or delivering the information and financial statements required by AS 10.21.200 -  
9 10.21.320. The superior court, for good cause shown, may extend the time for the making and  
10 mailing or delivering of that information and those financial statements.

11 (b) In an action or proceeding under this section, if the court finds that the failure of the  
12 corporation to comply with information and financial statement requirements was without  
13 justification, the court may award the person reasonable expenses, including reasonable attorney  
14 fees, in connection with the action or proceeding.

15 Sec. 10.21.318. MEMBERS' DERIVATIVE ACTION BROUGHT IN THE RIGHT OF  
16 THE CORPORATION TO PROCURE A JUDGMENT IN ITS FAVOR. (a) An action may be  
17 brought in the right of a domestic or foreign corporation to procure a judgment in its favor by  
18 a member of the corporation.

19 (b) In a derivative action, the complaint shall be verified and shall allege that plaintiff  
20 was a member at the time or during any part of the transaction of which plaintiff complains, or  
21 that plaintiff's membership devolved upon plaintiff by operation of law from a member who was  
22 a member at the time or during any part of the transaction complained of. A member who does  
23 not meet the requirements of this section may be allowed, in the discretion of the court, to  
24 maintain the action on a preliminary showing to and determination by the court that

25 (1) there is a strong prima facie case in favor of the claim asserted on behalf of  
26 the corporation;

27 (2) no other similar action has been or is likely to be instituted;

28 (3) the plaintiff acquired the membership before there was disclosure to the public  
29 or the plaintiff of the wrongdoing of which plaintiff complains;

30 (4) unless the action can be maintained the defendant may retain a gain derived  
31 from defendant's wilful breach of a fiduciary duty; and

1 (5) the requested relief will not result in unjust enrichment of the corporation or  
2 a member of the corporation.

3 (c) Unless excused on grounds that a majority of the directors is implicated in or under  
4 the direct or indirect control of a person who is implicated in the injury to the corporation, before  
5 an action in the right of a domestic or foreign corporation is instituted a plaintiff who has  
6 standing under (b) of this section shall make a formal demand upon the board to secure the  
7 action the plaintiff desires.

8 (d) If a member fails to make a formal demand under (c) of this section the complaint  
9 shall state with particularity the facts establishing excuse under (c) of this section. In a motion  
10 to dismiss for failure to make demand on the board the member shall have the burden to establish  
11 excuse.

12 (e) In a case in which demand on the board is made under (c) of this section, a decision  
13 by the board that, in its business judgment, the litigation would not be in the best interest of the  
14 corporation terminates the right created by (a) of this section.

15 (f) In a case in which demand on the board is excused under (c) of this section or the  
16 decision of the board under (e) of this section is rejected by the court as inconsistent with the  
17 directors' duties of care and loyalty to the corporation, a plaintiff who has standing under (b) of  
18 this section shall have the right to commence or continue the action created by (a) of this section.  
19 Notwithstanding (c) or (e) of this section, disinterested, noninvolved directors acting as the board  
20 or a duly charged board committee may petition the court to dismiss the plaintiff's action on  
21 grounds that in their independent, informed business judgment the action is not in the best  
22 interests of the corporation. The petitioners shall have the burden of establishing to the  
23 satisfaction of the court their disinterest, independence from any direct or indirect control by  
24 defendants in the action, and the informed basis on which they have exercised their asserted  
25 business judgment. If the court is satisfied that the petitioners are disinterested, independent, and  
26 informed it shall then exercise an independent appraisal of the plaintiff's action to determine  
27 whether, considering the welfare of the corporation, its purpose or purposes, the fate of any  
28 donated assets, and relevant issues of public policy, it should dismiss the action.

29 (g) A member action otherwise in conformity with this section may not be dismissed  
30 because the alleged injury or wrong to the corporation has been ratified by the members of the  
31 corporation. A court may consider the fact of ratification by members of a mutual benefit

1 corporation in framing an order for relief to which it considers the corporation entitled.

2 (h) In a derivative action instituted or maintained in the right of a domestic or foreign  
3 corporation by members totaling less than five percent of the outstanding memberships of a class  
4 of the corporation, the corporation in whose right the action is brought or the defendants may at  
5 any time before final judgment move the court to require the plaintiff to give security for the  
6 reasonable expenses, including attorney fees, that may be incurred by the moving party. The  
7 amount of the security may be increased or decreased from time to time in the discretion of the  
8 court upon a showing that the security has become inadequate or excessive. The corporation or  
9 other defendants may have recourse to the security in an amount as the court may determine  
10 upon the termination of the derivative action, whether or not the court finds the derivative action  
11 was brought without reasonable cause.

12 (i) A derivative action may not be discontinued, abandoned, compromised or settled,  
13 without the approval of the court having jurisdiction of the action. If the court determines that  
14 the interests of the members or a class of members will be substantially affected by a  
15 discontinuance, abandonment, compromise, or settlement, the court, in its discretion, may direct  
16 that notice, by publication or otherwise, be given to the members or class of members whose  
17 interests will be affected. If the court directs notice to be given, it shall determine which one or  
18 more of the parties to the action shall bear the expense of giving the notice, in an amount the  
19 court determines to be reasonable in the circumstances, and the amount of the expense shall be  
20 awarded as special costs of the action.

21 (j) If the derivative action is successful, in whole or in part, or if anything is received  
22 as a result of the judgment, compromise, or settlement of an action or claim, the court may award  
23 the plaintiff reasonable expenses, including reasonable attorney fees, and shall direct the plaintiff  
24 or plaintiffs to account to the corporation for the remainder of the proceeds received by the  
25 plaintiff in excess of attorney fees and costs.

26 (k) Notwithstanding (j) of this section, the court rules regarding the award of attorney  
27 fees and costs, rather than (j) of this section, apply to a judgment rendered only for the benefit  
28 of injured members and limited to a recovery of the loss or damage sustained by them.

29 Sec. 10.21.320. LIABILITIES OF MEMBERS. (a) A member of a corporation is not  
30 personally liable for the debts, liabilities, or obligations of the corporation.

31 (b) A member is liable to the corporation only to the extent of the unpaid portion of the

1 initiation fees, membership dues, or assessments that the corporation has lawfully imposed upon  
2 the member, or for other indebtedness owed by the member to the corporation.

3 (c) An action may not be brought by a creditor of the corporation under (b) of this  
4 section until

5 (1) a final judgment has been rendered against the corporation in favor of the  
6 creditor and execution on the judgment has been returned unsatisfied;

7 (2) the corporation has been adjudged bankrupt;

8 (3) a receiver has been appointed with power to collect debts, if the receiver, on  
9 demand of a creditor to bring suit on the debt, has refused to sue for the unpaid amount; or

10 (4) the corporation has been dissolved or ceased its activities leaving debts unpaid.

11 (d) An action under (c) of this section may not be brought more than three years after  
12 the happening of any one of the events specified in (c)(1) - (4) of this section.

### 13 ARTICLE 6. DIRECTORS AND OFFICERS.

14 Sec. 10.21.350. BOARD OF DIRECTORS: FUNCTIONS; DUTIES; RIGHT OF  
15 INSPECTION; FAILURE TO DISSENT. (a) All corporate powers shall be exercised by or  
16 under the authority of, and the affairs of a domestic corporation shall be managed under the  
17 direction of, a board of directors. A director need not be a resident of this state or a member of  
18 the corporation unless required by the articles or bylaws. The articles or bylaws may prescribe  
19 other qualifications for directors. The board may fix the compensation of directors unless other-  
20 wise provided in the articles.

21 (b) A director shall perform the duties as a director, including duties as a member of a  
22 committee of the board on which the director may serve, in good faith, in a manner the director  
23 reasonably believes to be in the best interests of the corporation, and with the care, including  
24 reasonable inquiry, as an ordinarily prudent person in a like position would use under similar  
25 circumstances. Except as provided in (c) of this section, a director is entitled to rely on  
26 information, opinions, reports or statements, including financial statements and other financial  
27 data, in each case prepared or presented by

28 (1) one or more officers or employees of the corporation whom the director  
29 reasonably believes to be reliable and competent in the matters presented;

30 (2) counsel, public accountants, or other persons as to matters that the director  
31 reasonably believes to be within the person's professional or expert competence; or

1 (3) a committee of the board on which the director does not serve, designated in  
2 accordance with a provision of the articles or the bylaws, as to matters within the authority of  
3 the committee if the director reasonably believes the committee to merit confidence.

4 (c) A director is not acting in good faith if the director knows, or as a reasonable person  
5 ought to know, that, as to the matter in question, reliance under (b) of this section is unwarranted.

6 (d) A director has the absolute right at a reasonable time to inspect and copy all books,  
7 records, and documents of every kind and to inspect the physical properties of the corporation  
8 or a domestic or foreign subsidiary of the corporation. Inspection by a director may be made in  
9 person or by agent or attorney and the right of inspection includes the right to copy and make  
10 extracts. This subsection applies to a director of a foreign corporation having its principal  
11 executive office in this state or customarily holding meetings of its board in this state.

12 (e) A director of a domestic corporation who is present at a meeting of its board at which  
13 action on a corporate matter is taken is presumed to have assented to the action unless the dissent  
14 of the director is entered in the minutes of the meeting or unless the director files a written  
15 dissent to the action with the secretary of the meeting before adjournment or forwards a written  
16 dissent by certified mail to the secretary of the corporation within 48 hours after adjournment.  
17 The right to dissent does not apply to a director who voted in favor of the action.

18 Sec. 10.21.355. NUMBER AND ELECTION OF DIRECTORS; DESIGNATION. (a)  
19 The number of directors constituting the entire board may not be less than three. Subject to the  
20 limitation of this section, the number of directors may be fixed by the articles, the bylaws, or by  
21 the action of the board or members under the specific provisions of an article or bylaw adopted  
22 by approval of a majority of all the members (AS 10.21.990(4)). If the number of directors is  
23 not otherwise fixed the number of directors is three.

24 (b) Except as otherwise provided in AS 10.21.145 and this section, the number of  
25 directors may be increased or decreased by amendment of the articles, the bylaws, or by action  
26 of the board or the members under the specific provisions of an article or a bylaw adopted by  
27 approval of a majority of all the members (AS 10.21.990(4)). A change in the number of  
28 directors is subject to the following limitations:

29 (1) if the board is authorized by the articles or the bylaws to change the number  
30 of directors, whether by amending the bylaws or by taking action under specific provision of an  
31 article or bylaw adopted by approval of a majority of all the members, the amendment or action

1 shall require the approval of a majority of the entire board (AS 10.21.990(5)); and

2 (2) a decrease in the number of directors may not shorten the term of an  
3 incumbent director.

4 (c) The articles may provide for the election of one or more directors by the members  
5 of a class.

6 (d) Notwithstanding (b) and (c) of this section, all or a portion of the directors authorized  
7 in the articles or bylaws of a domestic corporation without members, and up to one-third of the  
8 directors authorized in the articles or bylaws of a domestic corporation with members, may hold  
9 office by virtue of designation as provided by the articles or bylaws rather than by election. A  
10 director who holds office by virtue of designation or selection under this section continues in  
11 office for the term prescribed by the articles or bylaws, or, if no term is prescribed, until the  
12 article or bylaw is amended or repealed, except as provided in AS 10.21.375(c) and (d). A bylaw  
13 provision authorized by this subsection shall be adopted or repealed by a majority of all the  
14 members (AS 10.21.990(4)) subject, if provided in the bylaws, to the consent of the person  
15 entitled to designate or select the director.

16 (e) At the first annual meeting of members of a mutual benefit corporation and at each  
17 subsequent annual meeting the members with voting rights, if any, shall elect directors to hold  
18 office until the next succeeding annual meeting, except in the case of the classification of  
19 directors as permitted by AS 10.21.365. A director, including a director elected to fill a vacancy,  
20 shall hold office until a successor has been elected and qualified.

21 (f) At the first regular meeting of members of a public benefit corporation and at each  
22 regular meeting thereafter the members with voting rights, if any, shall elect directors. A  
23 director, including a director elected to fill a vacancy, shall hold office until a successor has been  
24 elected and qualified.

25 **Sec. 10.21.360. ATTACKING VALIDITY OF ELECTION.** An action challenging the  
26 validity of an election, appointment, or removal of a director shall be commenced within nine  
27 months after the election, appointment, or removal. If an action challenging the validity is not  
28 commenced, in the absence of fraud, an election, appointment, or removal of a director is  
29 conclusively presumed valid after nine months if the only defect in the election, appointment, or  
30 removal is the failure to give notice as provided in this chapter or in the articles or bylaws of the  
31 corporation.

1           Sec. 10.21.365. CLASSIFICATION OF DIRECTORS. (a) If a corporation is required  
2 by AS 10.21.233(c) or another provision of this chapter or by its articles or bylaws to have  
3 annual meetings of the members the articles may provide that the directors be divided into either  
4 two or three classes, each class to be as nearly equal in number as possible, with the term of  
5 office of directors of the first class to expire at the first annual meeting of members after their  
6 election, that of the second class to expire at the second annual meeting after their election and  
7 that of the third class, if any, to expire at the third annual meeting after their election. At each  
8 annual meeting after the classification, the number of directors equal to the number of the class  
9 whose term expires at the time of the meeting shall be elected to hold office until the second  
10 succeeding meeting if there are two classes, or until the third succeeding meeting if there are  
11 three classes. A classification is not effective before the first annual meeting of members.

12           (b) If cumulative voting rights have been established by the articles, an amendment of  
13 the articles that would establish or require classification of the board under (a) of this section  
14 may not be adopted when the votes cast against the amendment would be sufficient to elect a  
15 director if voted cumulatively at an election of the entire board (AS 10.21.990(18)).

16           Sec. 10.21.370. DECLARATION OF VACANCY BY BOARD. The board may declare  
17 vacant the office of a director who has been declared of unsound mind by court order or whose  
18 civil rights have been suspended.

19           Sec. 10.21.375. REMOVAL OF DIRECTORS WITHOUT CAUSE. (a) A director may  
20 be removed without reason if the removal is approved by a majority of all of the members  
21 (AS 10.21.990(4)), subject to the following:

22           (1) if cumulative voting rights have been established by the articles, a director  
23 may not be removed unless the entire board (AS 10.21.990(18)) is removed if the votes cast  
24 against removal, or not consenting in writing to the removal, would be sufficient to elect a  
25 director if voted cumulatively at an election at which the same total number of votes were cast,  
26 or, if the action is taken by written consent, if all members entitled to vote on the removal voted  
27 and the entire number of directors authorized at the time of the director's most recent election  
28 were then being elected; and

29           (2) if the articles provide that the members of a class, voting as a class, are  
30 entitled to elect one or more directors, a director so elected may be removed only by the vote  
31 of a majority of all the members of that class.

1 (b) Except as provided in this section, AS 10.21.370, 10.21.380, and 10.21.385(c), a  
2 director may not be removed before the expiration of the director's term of office.

3 (c) If a director removed under this section or under AS 10.21.370 or 10.21.380 was  
4 chosen by designation as provided by AS 10.21.355(d), then

5 (1) if a different person may be designated as provided by the governing article  
6 or bylaw provision, a new designation shall be made; or

7 (2) if the governing article or bylaw provision does not contain a provision under  
8 which a different person may be designated, the governing article or bylaw provision is  
9 considered repealed.

10 (d) If articles or bylaws provide that a person is entitled to designate a director, a director  
11 designated may only be removed under this section with the written consent of that person.

12 Sec. 10.21.380. REMOVAL OF DIRECTOR BY SUPERIOR COURT. The superior  
13 court may, at the suit of members (AS 10.21.990) totalling at least 10 percent of all the members  
14 of a class, remove from office a director for fraudulent or dishonest acts or gross abuse of  
15 authority or discretion with reference to a domestic corporation and may bar from reelection or  
16 redesignation a director removed in this manner for a period prescribed by the court. The  
17 corporation shall be made a party to this suit.

18 Sec. 10.21.385. VACANCIES AND RESIGNATION: SPECIAL MEETING OF  
19 MEMBERS. (a) Unless otherwise provided in the articles or bylaws and except for a vacancy  
20 created by the removal of a director, a vacancy (AS 10.21.990) on the board may be filled by  
21 a majority of the directors then in office, whether or not less than a quorum, or by a sole  
22 remaining director. Unless the articles or a bylaw adopted with approval of a majority of all the  
23 members provide that the board may fill a vacancy occurring on the board by reason of removal  
24 of a director, the vacancy may be filled only by approval of a majority of all of the members.

25 (b) The members with voting rights, if any, may elect a director to fill a vacancy not  
26 filled by the directors.

27 (c) If, after the filling of a vacancy by the directors, the directors then in office who have  
28 been elected by the members constitute less than a majority of the directors, members totalling  
29 10 percent or more of the members with voting rights may call a special meeting of members  
30 to elect the entire board (AS 10.21.990(18)) subject to the rights of a person to select or  
31 designate a director. The term of office of a director terminates upon the election and

1 qualification of a successor.

2 (d) A director may resign effective upon giving written notice to the board chair, the  
3 president, the secretary, or the board of directors of the corporation, unless the notice specifies  
4 a later time for the effectiveness of the resignation. If the resignation is effective at a future  
5 time, a successor may be elected to take office when the resignation becomes effective.

6 Sec. 10.21.390. EXECUTIVE AND OTHER BOARD COMMITTEES. (a) If authorized  
7 by the articles or the bylaws, the board, by resolution approved by a majority of the entire board,  
8 may designate from among its members an executive committee and other committees of the  
9 board. Each committee, to the extent provided in the resolution or the articles or bylaws of the  
10 corporation, has the authority of the board, except that a committee may not

11 (1) approve or recommend to members actions or proposals required by this  
12 chapter to be approved by members;

13 (2) designate candidates for the office of director, for purposes of proxy  
14 solicitation or otherwise, or fill vacancies on the board or a committee of the board;

15 (3) amend the bylaws;

16 (4) approve a plan of merger not requiring approval of the members;

17 (5) fix the compensation for service on the board or on a committee of the board;

18 (6) appoint a committee of the board or a member of the committee; or

19 (7) authorize, approve, or ratify contracts or other transactions between the  
20 corporation and one or more of its directors, or between the corporation and a corporation, firm,  
21 or association in which one or more of its directors has a material financial interest.

22 (b) The designation of a committee, the delegation to the committee of authority, or  
23 action by the committee under that authority does not alone constitute compliance by a member  
24 of the board or committee in question with the responsibility to act in good faith, in a manner  
25 the director reasonably believes to be in the best interests of the corporation, and with the care,  
26 including reasonable inquiry, as an ordinarily prudent person in a like position would use under  
27 similar circumstances.

28 Sec. 10.21.395. MEETINGS: CALL, PLACE, NOTICE, AND WAIVER. (a) A regular  
29 or special meeting of the board or a committee of the board may be called by the board chair,  
30 the president, a vice-president, the secretary, or two directors and may be held at any place inside  
31 or outside the state.

1 (b) A regular meeting of the board or a committee designated by the board may be held  
2 without notice if the time and place of the meeting is fixed by the bylaws or a resolution of the  
3 board. A special meeting of the board or a committee designated by the board shall be held on  
4 either notice in writing sent 20 days before the meeting or notice by electronic means, personal  
5 messenger, or comparable person-to-person communication given at least 72 hours before the  
6 meeting. In the case of a special meeting the notice shall include disclosure of the business to  
7 be transacted and the purpose of the meeting.

8 (c) Notice of a meeting need not be given to a director who signs a waiver of notice,  
9 whether before or after the meeting, or who attends the meeting without protesting before or at  
10 the commencement of the meeting the lack of notice.

11 Sec. 10.21.400. QUORUM OF DIRECTORS. (a) A majority of the number of directors  
12 fixed by the articles or bylaws constitutes a quorum for the transaction of business unless a  
13 greater number is required by the articles or the bylaws. The act of a majority of the directors  
14 present at a meeting at which a quorum is present is the act of the board, unless the act of a  
15 greater number is required by the articles, the bylaw, or this chapter.

16 (b) The provisions of this section apply to committees of the board and action by  
17 committees.

18 Sec. 10.21.405. INFORMAL ACTION BY DIRECTORS. (a) Unless prohibited by the  
19 articles or bylaws, the members of the board of a domestic corporation, or a committee  
20 designated by the board can validly conduct a meeting by communicating simultaneously with  
21 each other by means of conference telephones or similar communications equipment.

22 (b) Unless prohibited by the articles or bylaws, action required or permitted to be taken  
23 by the board or a committee designated by the board may be taken without a meeting on written  
24 consents, identical in content, setting out the action taken and signed by all of the members of  
25 the board or the committee. The written consents shall be filed with the minutes. The consents  
26 have the same effect as a unanimous vote.

27 Sec. 10.21.410. MUTUAL BENEFIT CORPORATIONS: DIRECTOR CONFLICTS OF  
28 INTEREST. (a) A contract or other transaction between a domestic mutual benefit corporation  
29 and a director of the corporation, or between a domestic mutual benefit corporation and a  
30 corporation, firm, or association in which a director of the mutual benefit corporation has a  
31 material financial interest, is neither void nor voidable because the director or the other

1 corporation, firm, or association are parties or because the director is present at the meeting of  
2 the board that authorizes, approves, or ratifies the contract or transaction, if

3 (1) the material facts of the transaction and the director's interest are fully  
4 disclosed or known to the members and the contract or transaction is approved by a majority of  
5 all the members (AS 10.21.990(4)) in good faith, with the interested director not being entitled  
6 to vote; or

7 (2) the material facts of the transaction and the director's interest are fully  
8 disclosed or known to the board, and the board authorizes, approves, or ratifies the contract or  
9 transaction in good faith by a sufficient vote without counting the vote of the interested director,  
10 and the person asserting the validity of the contract or transaction sustains the burden of proving  
11 that the contract or transaction was just and reasonable as to the corporation at the time it was  
12 authorized, approved, or ratified.

13 (b) A common directorship does not alone constitute a material financial interest within  
14 the meaning of this section. A director is not interested within the meaning of this section in a  
15 resolution fixing the compensation of another director as a director, officer, or employee of the  
16 corporation, notwithstanding the fact that the first director is also receiving compensation from  
17 the corporation.

18 (c) A contract or other transaction between a domestic mutual benefit corporation and  
19 a corporation or association of which a director of the mutual benefit corporation is a director  
20 is neither void nor voidable because the director is present at the meeting of the board that  
21 authorizes, approves, or ratifies the contract or transaction, if the material facts of the transaction  
22 and the director's other directorship are fully disclosed or known to the board and the board  
23 authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient  
24 without counting the vote of the common director or the contract or transaction is approved by  
25 a majority of all the members (AS 10.21.990(4)) in good faith. This subsection does not apply  
26 to contract or transactions covered by (a) of this section.

27 (d) Interested or common directors may be counted in determining the presence of a  
28 quorum at a meeting of the board that authorizes, approves, or ratifies a contract or transaction.

29 (e) Nothing contained in this section affects the prohibitions or restraints imposed by  
30 AS 45.50.

31 Sec. 10.21.415. PUBLIC BENEFIT CORPORATIONS: SELF-DEALING; LIABILITY

1 OF DIRECTOR FOR GOOD FAITH ACTS. (a) The commissioner or, if the commissioner is  
2 joined as a party, any of the following may bring an action in the superior court for the remedies  
3 specified in (b) of this section:

4 (1) the corporation, or a member (AS 10.21.990) asserting the right in the name  
5 of the corporation under AS 10.21.318;

6 (2) a director of the corporation;

7 (3) an officer of the corporation;

8 (4) a person granted relator status by the commissioner.

9 (b) If a self-dealing transaction that has not been approved as provided in (c) of this  
10 section has taken place, the court shall order an equitable and fair remedy to the corporation. The  
11 court may take into account benefits received by the corporation and whether the interested  
12 director acted in good faith and with intent to further the best interest of the corporation. The  
13 court may order the director to do any or all of the following:

14 (1) account for profits made from the transaction, and pay them to the  
15 corporation;

16 (2) pay the corporation the value of the use of corporate property used in the  
17 transaction; and

18 (3) return or replace property lost to the corporation as a result of the transaction,  
19 together with income or appreciation lost to the corporation by reason of the transaction, or  
20 account for proceeds of the sale of the property, and pay the proceeds to the corporation with  
21 interest at the legal rate, and, in addition, the court may order the director to pay exemplary  
22 damages for a fraudulent or malicious violation of this section.

23 (c) In an action brought under (a) of this section, the remedies specified in (b) of this  
24 section may not be granted if

25 (1) the commissioner, or the court in an action in which the commissioner is a  
26 party, has approved the transaction before or after it was consummated;

27 (2) the person asserting the validity of the transaction sustains the burden of  
28 proving that

29 (A) the corporation entered into the transaction for its own benefit;

30 (B) the transaction was fair and reasonable as to the corporation at the  
31 time the corporation entered into the transaction;

1 (C) before completing the transaction or a part of it the full board  
2 authorized or approved the transaction in good faith by a vote of a majority of the  
3 directors then in office, without counting the vote of the interested director, and with  
4 knowledge of the material facts concerning the transaction and the director's interest in  
5 the transaction; and

6 (D) the corporation could not in fact have obtained a more advantageous  
7 arrangement with reasonable effort, or, before authorizing or approving the transaction,  
8 the board considered and in good faith determined after a reasonable investigation that  
9 the corporation could not have obtained a more advantageous arrangement with reasonable  
10 effort; or

11 (3) the person asserting the validity of the transaction sustains the burden of  
12 proving that

13 (A) a committee or person authorized by the board approved the  
14 transaction in a manner consistent with (d)(2) of this section;

15 (B) it was not practicable to obtain approval of the board  
16 (AS 10.21.990(6)) before entering into the transaction; and

17 (C) the board, after determining in good faith that the conditions of (A)  
18 and (B) of this paragraph were satisfied, ratified the transaction at its next meeting by a  
19 vote of the majority of the directors then in office without counting the vote of the  
20 interested director.

21 (d) Except as provided in (e) of this section, an action under (a) of this section shall be  
22 filed within two years after written notice setting out the material facts of the transaction and the  
23 director's interest in the transaction is filed with the commissioner or, if notice is not filed with  
24 the commissioner, 10 years after the cause of action has accrued.

25 (e) In an action for breach of an obligation of the corporation owed to an interested  
26 director, if the obligation arises from a self-dealing transaction that has not been approved as  
27 provided in (c) of this section, the court may, by way of offset only, make an order authorized  
28 under (b) of this section, notwithstanding the expiration of the applicable period specified in (d)  
29 of this section.

30 (f) Interested directors may be counted in determining the presence of a quorum at a  
31 meeting of the board that authorizes, approves, or ratifies a contract or transaction.

1 (g) The provisions of this section do not apply to the following:

2 (1) the action of the board in fixing the compensation of a director as a director  
3 or officer of the corporation;

4 (2) a transaction that is part of a public or charitable program of the corporation  
5 if it

6 (A) is approved or authorized by the corporation in good faith and without  
7 unjustified favoritism; and

8 (B) results in a benefit to a director or the family of a director because  
9 they are in the class of persons intended to be benefitted by the public or charitable  
10 program; or

11 (3) a transaction of which the interested director had no actual knowledge and that  
12 does not exceed one percent of the gross receipts of the corporation for the preceding fiscal year  
13 or \$100,000, whichever is less.

14 (h) In (b) - (f) of this section, "self-dealing transaction" means a transaction to which a  
15 public benefit corporation is a party and in which a director of the corporation has a material  
16 financial interest.

17 (i) In this section, "interested director" means a director who has a material financial  
18 interest in a transaction.

19 Sec. 10.21.420. LIABILITY OF DIRECTOR. (a) In addition to other liabilities, a  
20 director is liable in the following circumstances unless the director complies with the standards  
21 provided in AS 10.21.350(b) for the performance of the duties of a director:

22 (1) a director who votes for or assents to a distribution to the corporation's  
23 members, other than during the liquidation of the corporation, is liable to the corporation, jointly  
24 and severally with the other directors voting for or assenting to the distribution, for the amount  
25 of the distribution that is paid or the value of the assets that are distributed;

26 (2) a director who votes for or assents to a distribution to the corporation's  
27 members during the liquidation of the corporation without the payment and discharge of, or  
28 making of adequate provision for, all known debts, obligations, and liabilities of the corporation  
29 is liable to the corporation, jointly and severally with the other directors voting for or assenting  
30 to the distribution, for the value of the assets that are distributed, to the extent that the debts,  
31 obligations, and liabilities of the corporation are not paid and discharged;

1 (3) a director who votes for or assents to a loan of assets of the corporation to  
2 an officer or employee contrary to the provisions of AS 10.21.435 or contrary to a restriction in  
3 the articles of incorporation, is liable to the corporation, jointly and severally with the other  
4 directors voting for or assenting to the loan, for the amount of the loan in excess of the amount  
5 that could have been loaned under AS 10.21.435 or within the restriction in the articles of  
6 incorporation.

7 (b) A director against whom a claim is asserted under this section for the distribution of  
8 assets of the corporation is entitled to contribution in proportion to the amounts received by them  
9 from a member who accepted or received those assets, knowing the distribution to have been  
10 made in violation of this chapter. A director against whom a claim is asserted under this section  
11 for the extension of a loan is entitled to contribution from the person receiving the loan.

12 (c) A director against whom a claim is asserted under this section is entitled to  
13 contribution from the other directors who voted for or assented to the action on which the claim  
14 is asserted.

15 Sec. 10.21.425. ACTION AGAINST DIRECTOR OR OFFICER FOR MISCONDUCT.

16 (a) An action may be brought against a director or officer of a domestic corporation to procure  
17 a judgment for the following relief:

18 (1) to compel the defendant to account for official conduct in the following cases:

19 (A) the neglect of, failure to perform, or other violation of duties in the  
20 management and disposition of corporate assets; or

21 (B) the acquisition by the defendant, transfer to others, or loss or waste  
22 of corporate assets due to the neglect of or failure to perform the defendant's duties;

23 (2) to set aside an unlawful conveyance, assignment, or transfer of corporate  
24 assets, if the transferee knew or should reasonably have known of the unlawfulness of the  
25 conveyance, assignment, or transfer; or

26 (3) to enjoin a proposed unlawful conveyance, assignment, or transfer of corporate  
27 assets, where there are reasonable grounds for belief that the transfer will be made.

28 (b) An action may be brought for the relief provided in this section and in  
29 AS 10.21.420(a) by the commissioner, the corporation, or, in the right of the corporation, by any  
30 of the following:

31 (1) a director or officer of the corporation;

1 (2) a receiver, trustee in bankruptcy, or judgment creditor of the corporation; or

2 (3) a member of the corporation under AS 10.21.318.

3 Sec. 10.21.430. OFFICERS; TENURE; RESIGNATION; AGENCY; DUTY OF CARE.

4 (a) A domestic corporation shall have a chair of the board or president, or both, a secretary, a  
5 treasurer and other officers with titles and duties as stated in the bylaws or determined by the  
6 board and as may be necessary to enable the corporation to sign instruments. The president, or  
7 if there is no president, the chair of the board, is the general manager and chief executive officer  
8 of the corporation. Two or more offices may be held by the same person, except that neither the  
9 secretary nor the treasurer may serve concurrently as the president or chair of the board.

10 (b) Except as otherwise provided in the articles or bylaws, officers shall be chosen by  
11 the board and serve at the pleasure of the board, subject to the rights, if any, of an officer under  
12 a contract of employment. An officer may resign at any time on written notice to the corporation  
13 without prejudice to the rights, if any, of the corporation under a contract to which the officer  
14 is a party.

15 (c) All officers as between themselves and the corporation have the authority and shall  
16 perform the duties in the management of the corporation as provided in the bylaws, or to the  
17 extent not provided in the bylaws, as provided by the board.

18 (d) Subject to the provisions of AS 10.21.020(c), a note, mortgage, evidence of  
19 indebtedness, contract, conveyance, or other instrument in writing and an assignment or  
20 endorsement of these instruments, executed or entered into between the corporation and another  
21 person, if signed by two individuals, one of whom is the chair of the board, president or a  
22 vice-president and the other of whom is the assistant secretary, the treasurer, or an assistant  
23 treasurer of the corporation, is not invalidated as to the corporation by any lack of authority of  
24 the signing officers in the absence of actual knowledge on the part of the other person that the  
25 signing officers had no authority to execute the instrument.

26 (e) An officer shall perform the duties of an officer in good faith and with that degree  
27 of care, including reasonable inquiry, that an ordinarily prudent person in a like position would  
28 use under similar circumstances. Except as provided in (f) of this section, an officer is entitled  
29 to rely on information, opinions, reports or statements, including financial statements and other  
30 financial data in each case prepared or presented by legal counsel or public accountants.

31 (f) An officer is not acting in good faith if the officer has knowledge concerning the

1 matter in question that makes reliance otherwise permitted by (e) of this section unwarranted.

2 Sec. 10.21.435. LOANS TO OR GUARANTEES FOR A DIRECTOR OR OFFICER  
3 PROHIBITED; ADVANCES. (a) A domestic corporation, its parent or its subsidiary may not  
4 loan money or property to, or guarantee the obligation of, a director or officer.

5 (b) Notwithstanding (a) of this section, a domestic corporation may advance money to  
6 a director or officer of the corporation, its parent or its subsidiary for expenses reasonably  
7 anticipated to be incurred in the performance of the duties of the officer or director, if in the  
8 absence of an advance, the director or officer would be entitled to be reimbursed for the expenses  
9 by the corporation, its parent, or a subsidiary.

10 Sec. 10.21.440. INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES,  
11 AND AGENTS; INSURANCE. (a) A domestic corporation may indemnify a person who was,  
12 is, or is threatened to be made a party to a completed, pending, or threatened action or  
13 proceeding, whether civil, criminal, administrative, or investigative, other than an action by or  
14 in the right of the corporation, by reason of the fact that the person is or was a director, officer,  
15 employee, or agent of the corporation. Indemnification may include reimbursement of expenses,  
16 including attorney fees, judgments, fines, and amounts paid in settlement actually and reasonably  
17 incurred in connection with the action or proceeding if the person acted in good faith and in a  
18 manner the person reasonably believed to be in or not opposed to the best interests of the  
19 corporation, and, with respect to a criminal action or proceeding, had no reasonable cause to  
20 believe the conduct was unlawful. Except as provided in (b) of this section, the termination of  
21 an action or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo  
22 contendere or its equivalent, does not create a presumption that the person did not act in good  
23 faith and in a manner that the person reasonably believed to be in or not opposed to the best  
24 interests of the corporation, and, with respect to a criminal action or proceeding, had no reason-  
25 able cause to believe that the conduct was unlawful.

26 (b) Notwithstanding (a) of this section a public benefit corporation may not indemnify  
27 a person with regard to an action or proceeding arising out of the conduct of that person if

28 (1) the person was convicted of or entered a plea of nolo contendere or its  
29 equivalent to a crime based on that conduct; or

30 (2) the conduct of the person was adjudicated to have been grossly negligent by  
31 a court of competent jurisdiction.

1 (c) A domestic corporation may indemnify a person who was, or is threatened to be made  
2 a party to a completed, pending, or threatened action by or in the right of the corporation to  
3 procure a judgment in its favor by reason of the fact that the person is or was a director, officer,  
4 employee, or agent of the corporation. Indemnification may include reimbursement for expenses  
5 and attorney fees actually and reasonably incurred in connection with the defense or settlement  
6 of the action if the person acted in good faith and in a manner the person reasonably believed  
7 to be in or not opposed to the best interests of the corporation. Indemnification may not be made  
8 in respect of any claim, issue or matter as to which the person has been adjudged to be liable for  
9 negligence or misconduct in the performance of duties to the corporation except to the extent that  
10 the court in which the action was brought determines upon application that, despite the  
11 adjudication of liability, in view of all the circumstances of the case the person is fairly and  
12 reasonably entitled to indemnity for expenses which the court considers proper.

13 (d) To the extent that a director, officer, employee, or agent of a domestic corporation  
14 has been successful on the merits or otherwise in defense of an action or proceeding referred to  
15 in (a) or (c) of this section, or in defense of a claim, issue, or matter in the action or proceeding,  
16 the person shall be indemnified against expenses and attorney fees actually and reasonably  
17 incurred in connection with the defense.

18 (e) Unless otherwise ordered by a court, indemnification under (a) or (c) of this section  
19 may only be made by a corporation as authorized in a specific case upon a determination that  
20 indemnification of the director, officer, employee, or agent is proper in the circumstances because  
21 that person has met the applicable standard of conduct set out in (a) or (c) of this section. The  
22 determination shall be made by

23 (1) the board by a majority vote of a quorum consisting of directors who were  
24 not parties to the action or proceeding;

25 (2) independent legal counsel in a written opinion if

26 (A) a quorum of directors under (1) of this subsection is not obtainable;

27 or

28 (B) a quorum of directors under (1) of this subsection is obtainable but  
29 a majority of disinterested directors so directs; or

30 (3) approval of a majority of all the members (AS 10.21.990(4)).

31 (f) Expenses incurred in defending a civil or criminal action or proceeding may be paid

1 by the corporation in advance of the final disposition of the action or proceeding as authorized  
2 in the manner provided in (e) of this section on receipt of an undertaking by or on behalf of the  
3 director, officer, employee, or agent to repay the amount unless it is ultimately determined that  
4 the person is entitled to be indemnified by the corporation as authorized in this section.

5 (g) The indemnification provided by this section is not exclusive of other rights to which  
6 a person seeking indemnification may be entitled under a bylaw or a vote of members or  
7 disinterested directors, both as to action in the official capacity of the person and as to action in  
8 another capacity while holding the office, and continues as to a person who has ceased to be a  
9 director, officer, employee, or agent, and inures to the benefit of the heirs, executors, and  
10 administrators of the person.

11 (h) A domestic corporation may purchase and maintain insurance on behalf of a person  
12 who is or was a director, officer, employee, or agent of the corporation, against any liability  
13 asserted against and incurred by a person in that capacity, or arising out of that status to, and  
14 only to, the extent that the corporation would have the power to indemnify the person against the  
15 liability under the provisions of this section.

#### 16 ARTICLE 7. AMENDMENTS AND CHANGES.

17 Sec. 10.21.450. AUTHORIZATION: PERMITTED AND PROHIBITED  
18 AMENDMENTS. (a) By complying with the provisions of this chapter a domestic corporation  
19 may amend its articles of incorporation from time to time and in any and as many respects as  
20 may be desired, if its articles of incorporation, as amended, contain only provisions that would  
21 be lawful to insert in original articles of incorporation filed at the time of the filing of the  
22 amendment.

23 (b) In particular, and without limitation on the general power of amendment, a domestic  
24 corporation may amend its articles of incorporation to

25 (1) change its corporate name;

26 (2) extend a limitation on its period of duration;

27 (3) change, enlarge, or diminish a limitation on its corporate purpose if the change  
28 is consistent with the status of the corporation as a public benefit or mutual benefit corporation.

29 (c) A domestic corporation may not amend its articles of incorporation to alter a  
30 statement that may appear in the original articles of the names and addresses of the first directors,  
31 or the name and address of the initial agent, except to correct an error in the statement or to

1 delete either after the corporation has filed a notice under AS 10.21.083 or 10.21.876.

2 Sec. 10.21.453. PROCEDURE TO AMEND ARTICLES OF INCORPORATION. (a)

3 A domestic corporation shall amend its articles of incorporation in the following manner:

4 (1) if there are no members entitled to vote, the board shall adopt a resolution  
5 setting out the proposed amendment;

6 (2) subject to AS 10.21.455, if there are members entitled to vote

7 (A) written notice setting out the proposed amendment or a summary of  
8 the changes to be made by the amendment shall be given to each member entitled to vote  
9 on the amendment within the time and in the manner provided in this chapter for the  
10 giving of notice of meetings of members; if the amendment is to be considered at an  
11 annual meeting, the proposed amendment or a summary may be included in the notice of  
12 the meeting;

13 (B) an amendment shall be adopted if approved by the board  
14 (AS 10.21.990(6)) and a majority of all members (AS 10.21.990(4)); approval may be  
15 initiated by the members either before or after consideration by the board; if the board  
16 adopts a resolution setting out a proposed amendment, the board shall direct that the  
17 amendment be submitted to a vote at a meeting of the members that may be either the  
18 annual or a special meeting; if approval of a majority of all the members is obtained  
19 before action by the board, the board shall consider and either approve or reject the  
20 amendment at the next regular or special meeting.

21 (b) Notwithstanding approval under (a) of this section, if the corporation has donated  
22 assets and their disposition would be affected by the amendment, that amendment does not  
23 become effective under AS 10.21.465 or 10.21.473 unless and until the commissioner issues a  
24 written finding that the disposition or expenditures of the donated assets would be in reasonable  
25 conformity with the probable intention of the donor or donors.

26 (c) Provided that there has been conformity with the procedures set out in (a) of this  
27 section and, if necessary, a written finding by the commissioner under (b) of this section, a  
28 proposed amendment may be contained in restated articles that contain a statement that

29 (1) except for the designated amendment the restated articles correctly set out  
30 without change the provisions of the articles being amended; and

31 (2) the restated articles together with the designated amendment supersede the

1 original articles and all amendments to the original articles.

2 Sec. 10.21.455. CLASS VOTING ON AMENDMENTS. (a) The members of a class  
3 may vote as a class on a proposed amendment, whether or not the members are entitled to vote  
4 on the amendment by the provisions of the articles of incorporation, if the amendment

5 (1) materially and adversely affects the rights, privileges, preferences, restrictions,  
6 or condition<sup>s</sup> of that class as to voting or dissolution, or, in the case of a mutual benefit  
7 corporation, as to transfer or redemption in a manner different than the action affects another  
8 class;

9 (2) materially and adversely affects the class as to voting or dissolution, or, in the  
10 case of a mutual benefit corporation, as to transfer or redemption by changing the rights,  
11 privileges, preferences, restrictions or conditions of another class;

12 (3) increases or decreases the number of memberships authorized in a class;

13 (4) exchanges, reclassifies, or cancels all or part of the memberships of the class;

14 or

15 (5) authorizes a new class of memberships.

16 (b) If the members of a class are entitled to vote as a class under (a) of this section, the  
17 amendment is not approved unless it receives a majority vote of the members of that class and  
18 of all the members entitled to vote on the amendment.

19 Sec. 10.21.458. GREATER VOTING REQUIREMENTS. If the articles of incorporation  
20 require the vote of a larger proportion or all of the members of a class or of a larger proportion  
21 or all the directors, than is otherwise required by this chapter, the provision in the articles  
22 requiring the greater vote may not be altered, amended, or repealed except by that greater vote  
23 unless otherwise provided in the articles.

24 Sec. 10.21.460. ARTICLES OF AMENDMENT. The articles of amendment shall be  
25 executed in duplicate by the corporation by its board chair, president, or a vice-president, and by  
26 its secretary or an assistant secretary, and verified by one of the officers signing the articles, and  
27 must set out

28 (1) the name of the corporation;

29 (2) the amendment adopted;

30 (3) the date of the approval of the amendment by the board and members, or by  
31 the board if no members are entitled to vote;

1 (4) the number of members and the number of members entitled to vote, and if  
2 the members of a class are entitled to vote as a class, the designation and number of members  
3 of each class entitled to vote;

4 (5) the number of members who voted for and against the amendment and, if the  
5 members of a class are entitled to vote as a class, the number of members of each class who  
6 voted for and against the amendment, or if no members are entitled to vote, a statement to that  
7 effect.

8 Sec. 10.21.463. FILING OF ARTICLES OF AMENDMENT. Duplicate originals of the  
9 articles of amendment shall be delivered to the commissioner for processing according to  
10 AS 10.21.905 and issuance of a certificate of amendment.

11 Sec. 10.21.465. EFFECT OF CERTIFICATE OF AMENDMENT. (a) An amendment  
12 is effective upon the issuance of a certificate of amendment by the commissioner, or on a later  
13 date, not more than 30 days after the filing of the certificate with the commissioner as provided  
14 in the articles of amendment.

15 (b) An amendment may not affect an existing cause of action in favor or against the  
16 corporation, or a pending suit to which the corporation is a party, or the existing rights of a  
17 person other than a member (AS 10.21.990). If the corporate name is changed by amendment,  
18 a suit brought by or against the corporation under its former names does not abate.

19 Sec. 10.21.468. RESTATED ARTICLES OF INCORPORATION. A domestic  
20 corporation may, by resolution adopted by the board, restate its articles of incorporation as  
21 amended up to that time. Upon adoption of the resolution, restated articles shall be executed in  
22 duplicate by the corporation by its board chair, president or a vice-president and by its secretary  
23 or an assistant secretary and verified by one of the officers signing the articles, and shall set out  
24 all of the operative provisions of the articles as amended up to that time together with a statement  
25 that the restated articles correctly set out, without change, the corresponding provisions of the  
26 articles as amended up to that time and that the restated articles supersede the original articles  
27 and all amendments to them.

28 Sec. 10.21.470. FILING OF RESTATED ARTICLES OF INCORPORATION. Duplicate  
29 originals of the restated articles shall be delivered to the commissioner for processing according  
30 to AS 10.21.905 and issuance of a restated certificate of incorporation.

31 Sec. 10.21.473. EFFECT OF ISSUANCE OF RESTATED CERTIFICATE OF

1 INCORPORATION. Upon the issuance of a restated certificate of incorporation, the restated  
2 articles become effective and supersede the original articles and all amendments.

3 Sec. 10.21.475. PUBLIC BENEFIT CORPORATIONS: PROCEDURE FOR  
4 ALTERATION OF CORPORATE STATUS. (a) A public benefit corporation (AS 10.21.990)  
5 may amend its articles of incorporation to change its status to that of a mutual benefit corporation  
6 (AS 10.21.990).

7 (b) If a public benefit corporation has assets, an amendment to change its status to a  
8 mutual benefit corporation shall be approved in advance in writing by the commissioner. If a  
9 public benefit corporation does not have assets, the commissioner shall be given a copy of the  
10 amendment at least 20 days before the amendment is filed.

11 (c) Amended articles authorized by this section must include the provisions that would  
12 have been required and may include only those provisions that would have been permitted in  
13 original articles filed by a mutual benefit corporation.

14 Sec. 10.21.478. MUTUAL BENEFIT CORPORATIONS: PROCEDURE FOR  
15 ALTERATION OF CORPORATE STATUS. (a) A mutual benefit corporation (AS 10.21.990)  
16 may amend its articles of incorporation to change its status to a public benefit corporation  
17 (AS 10.21.990).

18 (b) If the corporation has members entitled to vote, an amendment to change its status  
19 to a public benefit corporation shall

20 (1) be approved by the members, and shall be approved in writing by the  
21 commissioner; or

22 (2) be approved by 100 percent of the voting power.

23 (c) Amended articles authorized by this section must include the provisions that would  
24 have been required and may include only those provisions that would have been permitted in  
25 original articles filed by a public benefit corporation.

26 Sec. 10.21.480. AMENDMENT OF ARTICLES OF INCORPORATION IN  
27 REORGANIZATION PROCEEDINGS. (a) If a plan of reorganization of a domestic corporation  
28 has been confirmed by decree or order of a court of competent jurisdiction in proceedings for the  
29 reorganization of the corporation under an applicable statute of the United States relating to  
30 reorganizations of corporations, the articles of the corporation may be amended as necessary in  
31 the manner provided in (c) of this section in order to carry out the plan and put it into effect.

1 The articles as amended may contain provisions that might be lawfully contained in original  
2 articles at the time of making of the amendment.

3 (b) In particular, and without limitation on the general power of amendment, the articles  
4 may be amended to

5 (1) change the corporate name, period of duration, or corporate purposes of the  
6 corporation;

7 (2) repeal, alter, or amend the bylaws of the corporation;

8 (3) change the number of memberships or memberships of a class that the  
9 corporation has authority to issue;

10 (4) change the preferences, limitations, and relative rights of all or part of the  
11 memberships of the corporation, and classify, reclassify, or cancel all or part of the membership;

12 (5) authorize the issuance of and fix the terms of bonds, debentures, or other  
13 obligations of the corporation; and

14 (6) constitute or reconstitute and classify or reclassify the board of the  
15 corporation, and appoint directors and officers in place of or in addition to all or any of the  
16 directors or officers then in office.

17 (c) Articles of amendment approved by decree or order of a court shall be executed and  
18 verified in duplicate by the person the court designates or appoints for the purpose, and shall set  
19 out the name of the corporation, the amendments of the articles approved by the court, the date  
20 of the decree or order approving the articles of amendment, the title of the proceedings in which  
21 the decree or order was entered, and a statement that the decree or order was entered by a court  
22 having jurisdiction of the proceedings for the reorganization of the corporation under an  
23 applicable statute of the United States.

24 Sec. 10.21.483. FILING OF AMENDMENT OF ARTICLES IN REORGANIZATION  
25 PROCEEDINGS. Duplicate originals of the articles of amendment in reorganization proceedings  
26 shall be delivered to the commissioner for processing under AS 10.21.905 and issuance of a  
27 certificate of amendment.

28 Sec. 10.21.485. EFFECT OF ISSUANCE OF CERTIFICATE OF AMENDMENT IN  
29 REORGANIZATION PROCEEDINGS. An amendment becomes effective upon the issuance of  
30 the certificate of amendment in reorganization proceedings, and the articles are amended without  
31 action by the directors or members of the corporation with the same effect as if the amendments

1 had been adopted by unanimous action of the directors and members of the corporation.

2 ARTICLE 8. ORGANIC CHANGE.

3 Sec. 10.21.500. PUBLIC BENEFIT CORPORATION: RESTRICTION ON MERGER  
4 OR CONSOLIDATION; CONSENT OF COMMISSIONER. (a) A public benefit corporation  
5 may only merge or consolidate with a domestic corporation (AS 10.21.990) or a foreign  
6 corporation (AS 10.21.990).

7 (b) Without the prior written consent of the commissioner, a public benefit corporation  
8 may only merge or consolidate with another public benefit corporation or a foreign corporation  
9 that would be a public benefit corporation if formed under this chapter.

10 (c) A copy of a proposed agreement of merger or consolidation allowed under (a) of this  
11 section shall be filed with the commissioner at least 20 days before the consummation of the  
12 merger or consolidation.

13 (d) Without the prior written consent of the commissioner, if a merger or consolidation  
14 occurs as provided under (a) of this section, each member (AS 10.21.990) of a constituent  
15 corporation may only receive or keep a membership in the surviving (AS 10.21.990) or new  
16 corporation.

17 Sec. 10.21.503. MUTUAL BENEFIT CORPORATION: MERGER OR  
18 CONSOLIDATION. A mutual benefit corporation may merge or consolidate with a foreign  
19 corporation (AS 10.21.990), or domestic corporation (AS 10.21.990). A merger or consolidation  
20 of a mutual benefit corporation with a public benefit corporation shall have the prior written  
21 consent of the commissioner.

22 Sec. 10.21.505. PROCEDURE FOR MERGER. A written plan of merger approved by  
23 the board (AS 10.21.990(6)) of each corporation shall be proposed setting out

24 (1) the names and places of incorporation of the corporations proposing to merge  
25 and the name of the surviving corporation (AS 10.21.990) into which they propose to merge;

26 (2) the terms and conditions of the proposed merger;

27 (3) the manner and basis, if any, of converting the memberships of each merging  
28 corporation into memberships or obligations of the surviving corporation;

29 (4) a statement of changes in the articles of incorporation or bylaws of the  
30 surviving corporation caused by the merger and whether or not the surviving corporation will be  
31 a public benefit corporation or a foreign corporation that would be a public benefit corporation

1 if formed under this chapter, and

2 (5) other provisions of the merger considered necessary or desirable.

3 Sec. 10.21.508. PROCEDURE FOR CONSOLIDATION. A written plan of consolidation  
4 approved by the board (AS 10.21.990(6)) of each corporation shall be proposed setting out

5 (1) the names and places of incorporation of the corporations proposing to  
6 consolidate and the name of the new corporation into which they propose to consolidate;

7 (2) the terms and conditions of the proposed consolidation, and whether the new  
8 corporation is a public benefit, a mutual benefit corporation, or a foreign corporation;

9 (3) the manner and basis, if any, of converting the memberships of each  
10 corporation into memberships or obligations of the new corporation;

11 (4) the statements of the new corporation required to be set out in the articles of  
12 incorporation (AS 10.21.105) for corporations organized under this chapter; and

13 (5) other provisions of the consolidation considered necessary or desirable.

14 Sec. 10.21.510. NOTICE TO AND APPROVAL BY MEMBERS. (a) On approval by  
15 the board (AS 10.21.990(6)) of each corporation of a plan of merger or consolidation, each board  
16 shall, by resolution, direct that the plan be submitted at either an annual or special meeting for  
17 approval by the members (AS 10.21.990(7)) of each corporation as provided in AS 10.21.513.  
18 Written notice shall be given to each member, whether or not the member's voting rights are  
19 extinguished under the provisions of the articles of incorporation or bylaws of the corporation,  
20 at least 20 days before the meeting, in the manner provided in AS 10.21.238 for the giving of  
21 notice of meetings of members. Whether the meeting is an annual or special meeting, the notice  
22 shall state that the purpose or one of the purposes of the meeting is to consider the proposed plan  
23 of merger or consolidation. A copy or summary of the plan of merger or consolidation as well  
24 as a copy of AS 10.21.530 and 10.21.533 concerning the rights of dissenting members of mutual  
25 benefit corporations shall be included with the notice.

26 (b) The provisions of this section do not apply to a corporation having no members.

27 Sec 10.21.513. MANNER OF APPROVAL BY MEMBERS. (a) At each meeting for  
28 which notice is given under AS 10.21.510, a vote of the members shall be taken on the proposed  
29 plan of merger or consolidation. Each member of each corporation may vote on the proposed  
30 plan whether or not the member has voting rights under the articles of incorporation of the  
31 corporation. The plan is approved if it receives the affirmative vote of a least two-thirds of the

1 members of each corporation. If a class of members of a corporation is entitled to vote on the  
2 plan as a class, the plan is approved if it receives the affirmative vote of at least two-thirds of  
3 the members of each class of members entitled to vote on the plan as a class and the affirmative  
4 vote of at least two thirds of the total memberships entitled to vote on the plan. A class of  
5 members of a corporation is entitled to vote as a class if a plan contains a provision that, if  
6 contained in a proposed amendment to the articles of incorporation, would entitle the class of  
7 members to vote as a class.

8 (b) The provisions of this section do not apply to a corporation having no members.

9 Sec. 10.21.515. ABANDONMENT OF PLAN OF MERGER OR CONSOLIDATION.

10 After approval by the members of each corporation under AS 10.21.513, and before the filing  
11 of the articles of merger or consolidation, the merger or consolidation may be abandoned under  
12 provisions set out in the plan.

13 Sec. 10.21.518. ARTICLES OF MERGER OR CONSOLIDATION. After approval of  
14 the plan of merger or consolidation by the members under AS 10.21.513 or, if there are no  
15 members, by the board under AS 10.21.200(b)(1), articles of merger or articles of consolidation  
16 shall be executed in duplicate by each corporation by its board chair, president or a vice  
17 president, and by its secretary or an assistant secretary, and verified by one of the officers of each  
18 corporation signing the articles, and shall set out

19 (1) the plan of merger or consolidation;

20 (2) the number of memberships of each corporation outstanding, and, if the  
21 members of a class were entitled to vote as a class, the designation and number of the  
22 outstanding memberships of the class; and

23 (3) the number of members who voted for and against the plan and, if the  
24 members of a class were entitled to vote as a class, the number of members of the class who  
25 voted for and against the plan.

26 Sec. 10.21.520. FILING OF ARTICLES OF MERGER OR CONSOLIDATION.

27 Duplicate originals of the articles of merger or consolidation shall be delivered to the  
28 commissioner for processing according to AS 10.21.905 and the issuance of a certificate of  
29 merger or consolidation.

30 Sec. 10.21.523. EFFECT OF MERGER OR CONSOLIDATION. (a) A merger or con-  
31 solidation is effective upon the issuance of a certificate of merger or consolidation by the

1 commissioner, or on a later date, not more than 30 days after the filing of the certificate with the  
2 commissioner, as provided in the plan.

3 (b) When a merger or consolidation has become effective,

4 (1) the corporations that are parties to the plan of merger or consolidation are a  
5 single corporation that, in the case of a merger, is that corporation designated in the plan of  
6 merger as the surviving corporation (AS 10.21.990), and, in the case of a consolidation, is the  
7 new corporation provided for in the plan of consolidation;

8 (2) the separate existence of all corporations or parties to the plan of merger or  
9 consolidation, except the surviving or new corporation, ceases;

10 (3) a surviving or new corporation has all the rights, privileges, immunities, and  
11 powers and is subject to all the duties and liabilities of a corporation organized under this  
12 chapter;

13 (4) the surviving or new corporation possesses all the public and private rights,  
14 privileges, immunities, and franchises of each of the merging or consolidating corporations; all  
15 property real, personal, and mixed, and all debts due on whatever account, and all other choses  
16 in action, and every other interest of, belonging to, or due to each of the merged or consolidated  
17 corporations, is transferred to and vested in the corporation without further act; and the title to  
18 real estate, or an interest in real estate, vested in any of the corporations may not revert and is  
19 not in any way impaired by reason of a merger or consolidation; however, property received by  
20 a corporation by a conditional grant or similar device remains subject to the same conditions as  
21 if the merger or consolidation had not occurred;

22 (5) a surviving or new corporation is responsible and liable for all the liabilities  
23 and obligations of each of the merged or consolidated corporations; a claim existing or action or  
24 proceeding pending by or against the merged or consolidated corporations may be prosecuted as  
25 if the merger or consolidation had not taken place, or the surviving or new corporation may be  
26 substituted in its place; and the rights of creditors or any liens on any of the property of the  
27 merged or consolidated corporation are not impaired by the merger or consolidation;

28 (6) in the case of a merger, the articles of incorporation of the surviving  
29 corporation are considered to be amended to the extent that changes in its articles of  
30 incorporation are stated in the plan of merger; and, in the case of a consolidation, the statements  
31 set out (AS 10.21.105 and 10.21.110) in the articles of consolidation that are required or

1 permitted to be set out in the articles of incorporation of corporations organized under this  
2 chapter are considered to be the original articles of incorporation of the new corporation.

3 (c) When a merger or consolidation has become effective, the memberships of the  
4 corporations party to the plan that are to be converted under the terms of the plan cease to exist,  
5 and the members are entitled only to the membership or obligations into which the membership  
6 has been converted in accordance with the plan, subject to the rights of dissenting members under  
7 AS 10.21.533.

8 Sec. 10.21.525. MERGER OR CONSOLIDATION WITH A FOREIGN  
9 CORPORATION. (a) Subject to the provisions of AS 10.21.500 and 10.21.503, one or more  
10 foreign corporations may be merged or consolidated if the merger or consolidation is authorized  
11 by the law under which they are formed. In the case of a merger the surviving corporation shall  
12 be one of the constituent corporations and the surviving corporation continues to exist under the  
13 laws of the state or place of its incorporation. In the case of a consolidation, the new corporation  
14 may be either a domestic corporation formed under this chapter or a foreign corporation formed  
15 under the laws of another state.

16 (b) If the surviving or new corporation is a public benefit corporation, the merger or  
17 consolidation proceedings of that corporation and a disappearing corporation shall conform to the  
18 provisions of this chapter governing the merger of corporations. If the surviving or new  
19 corporation is a foreign corporation, the merger or consolidation proceeding may be in  
20 accordance with the laws of the state or place of incorporation of the surviving or new  
21 corporation subject to the approval of the boards and members under AS 10.21.505, 10.21.508,  
22 and 10.21.513.

23 (c) If the surviving or new corporation is a public benefit corporation, the merger or  
24 consolidation agreement and the officers' certificate of each constituent corporation shall be filed  
25 under AS 10.21.520 and after filing, subject to AS 10.21.523(a), the merger or consolidation is  
26 effective as to each corporation; a foreign disappearing corporation that is qualified for the  
27 conduct of intrastate affairs automatically surrenders its right to conduct intrastate affairs by filing  
28 a merger or consolidation agreement under this subsection.

29 (d) If the surviving or new corporation is a mutual benefit corporation, the merger or  
30 consolidation proceedings of that corporation and a domestic disappearing corporation shall  
31 conform to the provisions of this chapter and other applicable laws of this state. If the surviving

1 or new corporation is a foreign corporation, the merger or consolidation proceeding may be in  
2 accordance with the laws of the state or place of incorporation of the surviving or new and  
3 10.21.513.

4 (e) If the surviving or new corporation is a foreign corporation, the merger or  
5 consolidation becomes effective under the law of the jurisdiction in which it is organized, but is  
6 effective as to a disappearing corporation as of the time of effectiveness in the foreign  
7 jurisdiction after the filing in this state as required by this subsection. A surviving or new  
8 corporation shall file as to the domestic disappearing corporation a copy of the merger or consol-  
9 idation agreement, certificate, or other document filed by the surviving or new corporation in the  
10 state or place of its incorporation for the purpose of effecting the merger or consolidation,  
11 certified by the public officer having official custody of the original or, in lieu of a certified  
12 copy, an executed copy of the merger or consolidation agreement, certificate, or other document.  
13 A foreign disappearing corporation that is qualified for the transaction of intrastate business  
14 automatically surrenders its right to transact intrastate business by filing a merger or consolidation  
15 agreement under this subsection.

16 Sec. 10.21.530. MUTUAL BENEFIT CORPORATION: RIGHT OF MEMBERS TO  
17 DISSENT. (a) A member of a mutual benefit corporation may dissent from the following  
18 corporate actions:

- 19 (1) a plan of merger or consolidation to which the corporation is a party; or  
20 (2) a sale or exchange of all or substantially all of the property and assets of the  
21 corporation not made in the usual and regular course of its business, including a sale in  
22 dissolution, but not including a sale under an order of a court having jurisdiction.

23 (b) The rights of a member who dissents as to less than all of the memberships registered  
24 in that member's name shall be determined as if the memberships as to which the member  
25 dissents and the member's other memberships are registered in the names of different members.

26 Sec. 10.21.533. RIGHTS OF DISSENTING MEMBERS; WITHDRAWAL OF  
27 DEMAND. (a) A member electing to exercise a right of dissent shall file with the corporation,  
28 before or at the meeting of members at which the proposed corporate action is submitted to a  
29 vote, a written objection to the proposed corporate action. If the proposed corporate action is  
30 approved by the vote required under AS 10.21.513 and the member did not vote in favor of the  
31 action, the member may, within 10 days after the date on which the vote was taken, make a

1 written demand on the corporation or, in the case of a merger or consolidation, on the surviving  
2 or new domestic or foreign corporation, for payment of the fair value of the membership. If the  
3 proposed corporate action is effected, the corporation shall pay to the dissenting member, upon  
4 tender of a resignation from membership, the fair value of the membership on the day before the  
5 date on which the vote was taken approving the proposed corporate action, excluding any  
6 appreciation or depreciation in anticipation of the corporate action. A member failing to make  
7 timely demand under this section is bound by the terms of the proposed corporate action. A  
8 dissenting member making demand under this section is entitled only to payment as provided in  
9 this section and is not entitled to vote or to exercise any other rights of a member.

10 (b) A demand may not be withdrawn without the consent of the corporation. If a  
11 demand is withdrawn with consent, the proposed corporate action is abandoned or rescinded, or  
12 the members revoke the authority for the action or if, in the case of a merger, on the date of the  
13 filing of the articles of merger the surviving corporation has 100 percent control of the other  
14 domestic and foreign corporations that are parties to the merger, or if no demand or petition for  
15 the determination of fair value by a court has been made or filed within the time provided in  
16 AS 10.21.540, or if a court of competent jurisdiction determines that a member is not entitled  
17 to the relief provided by AS 10.21.540, then the right of the member to be paid the fair value  
18 of the membership ceases and status as a member is restored, without prejudice to a corporate  
19 proceeding that may have been taken during the interim. In this subsection, "100 percent control"  
20 of a corporation means the power to elect or designate all of the members of the board of  
21 directors of that corporation.

22 Sec. 10.21.535. NOTICE TO DISSENTING MEMBER. Within 10 days after a  
23 corporation takes action to which a member dissents under AS 10.21.530, the corporation or, in  
24 the case of a merger or consolidation, the surviving or new domestic or foreign corporation shall  
25 give written notice of the action to each dissenting member who has made demand under  
26 AS 10.21.533, and shall make a written offer to each dissenting member to pay for the  
27 membership a specified price considered by the corporation to be the fair value of the  
28 membership. The notice and offer shall be accompanied by a balance sheet of the corporation  
29 of which the dissenter is a member as of the latest available date but not more than 12 months  
30 before the making of the offer, and by a profit and loss statement of that corporation for the 12-  
31 month period ending on the date of the balance sheet.

1           Sec. 10.21.538. PAYMENT TO DISSENTING MEMBER AFTER AGREEMENT ON  
2 VALUE OF MEMBERSHIPS. If within 30 days after a corporation effects an organic change  
3 (AS 10.21.990) to which a member dissents under AS 10.21.530, the fair value of the  
4 memberships is agreed on between the dissenting member and the corporation, payment for the  
5 memberships shall be made to the dissenting member within 90 days after the action was  
6 effected, upon surrender of the certificate representing the memberships. On payment of the  
7 agreed value the dissenting member ceases to have an interest in the memberships.

8           Sec. 10.21.540. ACTION TO DETERMINE VALUE UPON FAILURE TO AGREE.

9           (a) If within 30 days after a corporation effects an organic change (AS 10.21.990) to which a  
10 member dissents under AS 10.21.530, the member and the corporation do not agree on the value  
11 of the memberships, the corporation, within 30 days after receipt of a written demand from a  
12 dissenting member given within 60 days after the corporate action was effected, shall within 60  
13 days of the corporate action file a petition in a court of competent jurisdiction in the judicial  
14 district where the registered office of the corporation is located, requesting that the fair value of  
15 the membership be found and determined. If, in the case of a merger or consolidation, the  
16 surviving or new corporation is a foreign corporation without a registered office in this state, the  
17 petition shall be filed in the judicial district where the registered office of the domestic  
18 corporation was last located. If the corporation fails to institute a proceeding as provided in this  
19 section, a dissenting member may institute a proceeding in the name of the corporation. All  
20 dissenting members, wherever residing, shall be made parties to the proceeding as an action  
21 against their memberships quasi in rem. A copy of the petition shall be served by registered mail  
22 on each dissenting member who is a nonresident. Service on nonresidents shall also be made by  
23 publication as provided by law. The jurisdiction of the court is plenary and exclusive. All  
24 members who are parties to the proceeding are entitled to judgment against the corporation for  
25 the amount of the fair value of their memberships. The court may appoint one or more persons  
26 as appraisers to receive evidence and recommend a decision on the question of fair value of the  
27 memberships. The appraisers have the power and authority specified in the order of their  
28 appointment or as amended. The judgment is payable only on and concurrently with the tender  
29 to the corporation of a written resignation from membership by the dissenting member. On  
30 payment of the judgment, the dissenting member ceases to have an interest in the membership.

31           (b) The judgment may include an allowance for interest at a rate the court finds to be

1 fair and equitable, from the date on which the vote was taken on the proposed corporate action  
2 to the date of payment.

3 (c) The costs and expenses of a proceeding under this section shall be determined by the  
4 court and assessed against the corporation. If the court finds that the failure of members to  
5 accept the offer was arbitrary, vexatious, or not in good faith, all or any part of the costs and  
6 expenses may be apportioned and assessed against any or all of the dissenting members. The  
7 expenses shall include the reasonable compensation and expenses of the appraisers but shall  
8 exclude the fees and expenses of counsel for, and experts employed by, any party.

9 (d) Notwithstanding (c) of this section, if the fair value of the memberships as determined  
10 by the court materially exceeds the amount that the corporation offered to pay, or if no offer was  
11 made, the court in its discretion may award to a member who is party to the proceeding  
12 reasonable compensation for an expert or experts employed by the member in the proceeding.

13 **Sec. 10.21.543. TENDER OF DISSENTERS' RESIGNATION FROM MEMBERSHIP.**  
14 Within 20 days after demanding payment for a membership, a member shall tender to the  
15 corporation a written resignation from membership. If the member fails to tender resignation to  
16 the corporation the corporation may terminate the member's rights under this article unless  
17 ordered otherwise by a court of competent jurisdiction. A member who has tendered a  
18 resignation from membership under this section may not transfer the membership unless the  
19 resignation is revoked with permission of the corporation.

## 20 **ARTICLE 9. DISSOLUTION OF PUBLIC BENEFIT CORPORATIONS.**

21 **Sec. 10.21.550. APPLICATION OF AS 10.21.550 - 10.21.628.** The provisions of  
22 AS 10.21.550 - 10.21.628 apply only to a public benefit corporation.

### 23 **Sec. 10.21.553. PUBLIC BENEFIT CORPORATIONS: VOLUNTARY DISSOLUTION.**

24 (a) A corporation may voluntarily elect to wind up and dissolve

25 (1) by the approval of a majority of all members (AS 10.21.990(4)); or

26 (2) by approval of the board and approval of the members (AS 10.21.990(7)).

27 (b) A corporation may elect by approval of the board (AS 10.21.990(6)) to wind up and  
28 dissolve if the corporation

29 (1) has been adjudicated bankrupt;

30 (2) has disposed of all of its assets and has not conducted activity for a period  
31 of five years immediately preceding the adoption of the resolution electing to dissolve the

1 corporation; or

2 (3) has no members (AS 10.21.990).

3 Sec. 10.21.555. FILING OF CERTIFICATE OF ELECTION TO WIND UP AND  
4 DISSOLVE. (a) A corporation that has elected to wind up and dissolve shall file a certificate  
5 evidencing the election with the commissioner.

6 (b) The certificate shall be signed and verified by at least a majority of the directors then  
7 in office or by one or more members authorized to do so by approval of a majority of all  
8 members (AS 10.21.990(4)) and must contain

9 (1) a statement that the corporation has elected to wind up and dissolve;

10 (2) a statement of the number of votes for the election if the election was made  
11 by the vote of the members alone and that the election was made by approval of a majority of  
12 all members;

13 (3) a statement of whether or not the election was made by the board and  
14 members under AS 10.21.553(a)(2);

15 (4) if the certificate is executed by a member, a statement that the person  
16 executing the certificate is authorized to execute the certificate by approval of a majority of all  
17 members;

18 (5) if the election was made by the board under AS 10.21.553(b), a statement of  
19 the circumstances showing the corporation to be within one of the categories described in  
20 AS 10.21.553(b).

21 Sec. 10.21.558. REVOCATION OF ELECTION TO WIND UP AND DISSOLVE  
22 CORPORATION; FILING OF REVOCATION CERTIFICATE; CONTENTS. (a) A voluntary  
23 election to wind up and dissolve under AS 10.21.533 may be revoked before distribution of assets

24 (1) if the election was made under AS 10.21.553(a)(1), by approval of a majority  
25 of all members (AS 10.21.990(4));

26 (2) if the election was made under AS 10.21.553(a)(2), by approval of the board  
27 (AS 10.21.990(6)) and the members (AS 10.21.990(7)); or

28 (3) if the election was made under AS 10.21.553(b), by approval of the board  
29 (AS 10.21.990(6)).

30 (b) After a revocation a certificate evidencing the revocation shall be signed, verified,  
31 and filed in the manner prescribed in AS 10.21.555.

- 1 (c) The certificate required by (b) of this section must contain a statement  
2 (1) that the corporation has revoked its election to wind up and dissolve;  
3 (2) that no assets have been distributed as a result of the election;  
4 (3) of the number of votes for the revocation and that the revocation was made  
5 by approval of a majority of all members if the revocation was made by a vote of the members  
6 alone;  
7 (4) of whether or not the revocation was made by the board and members under  
8 AS 10.21.553(a)(2); and  
9 (5) of whether or not the revocation was made by the board alone.

10 Sec. 10.21.560. COMMENCEMENT AND CONDUCT OF VOLUNTARY  
11 DISSOLUTION; POWERS AND DUTIES OF BOARD; CESSATION OF CORPORATE  
12 ACTIVITIES; NOTICE. (a) Voluntary proceedings for winding up the corporation commence  
13 with the approval required under AS 10.21.553.

14 (b) If a voluntary proceeding for winding up has commenced, the board shall continue  
15 to act as a board and has full powers to wind up and settle the corporation's affairs before and  
16 after filing of the certificate of dissolution.

17 (c) If a voluntary proceeding for winding up has commenced, the corporation shall cease  
18 to conduct its activities except to the extent necessary for beneficial winding up, to carry out the  
19 corporation's purposes, and to preserve the corporation's goodwill or going concern value  
20 pending a sale or other disposition of its assets, or both, in whole or in part. The board shall  
21 give written notice by mail of the commencement of the proceeding for voluntary winding up  
22 to all members (AS 10.21.990) of the corporation. It is unnecessary to give notice to members  
23 who voted in favor of winding up and dissolving of the corporation. Written notice shall also  
24 be given by mail to all known creditors and claimants whose addresses appear on the records of  
25 the corporation, and to the commissioner.

26 Sec. 10.21.563. JURISDICTION AND POWER OF COURT OVER VOLUNTARY  
27 WINDING UP; PROTECTION OF CREDITORS AND ASSETS. If a corporation is in the  
28 process of voluntary winding up, the superior court, upon the petition of the corporation, the  
29 commissioner, or three or more creditors of the corporation, and upon notice to the members  
30 (AS 10.21.990) and creditors as the court may order, may take jurisdiction over the voluntary  
31 winding up proceeding if it appears necessary for the protection of a party in interest or if it

1 appears necessary to protect the purposes served by the corporation. The court, if it assumes  
2 jurisdiction, may make orders as to any and all matters concerning the winding up of the affairs  
3 of the corporation and the protection of its creditors, assets, and purposes. The provisions of  
4 AS 10.21.573 - 10.21.600 apply to court proceedings under this section.

5 Sec. 10.21.565. CERTIFICATE OF DISSOLUTION; CONTENTS. (a) If a corporation  
6 has been completely wound up without court proceedings, a majority of the directors then in  
7 office shall sign and verify a certificate of dissolution stating

8 (1) that the corporation has been completely wound up;

9 (2) that its known debts and liabilities have been paid or adequately provided for,  
10 as far as the corporation's assets permitted, or that it has incurred no known debts or liabilities;  
11 if there are known debts or liabilities as to which adequate provision for payment has been made,  
12 the name and address of the corporation, person, or governmental agency that has assumed or  
13 guaranteed the payment, or the name and address of the depository with which deposit has been  
14 made and other information as necessary to enable the creditor or other person to whom payment  
15 is to be made to appear and claim payment of the debt or liability;

16 (3) that its known assets have been distributed to the persons entitled to the assets  
17 or that the corporation acquired no known assets;

18 (4) that the corporation is dissolved.

19 (b) The certificate of dissolution shall be filed with the commissioner. After filing the  
20 certificate of dissolution the corporate existence ceases, except for the purpose of further winding  
21 up if needed.

22 Sec. 10.21.568. TERMINATION OF CORPORATION ON EXPIRATION OF TERM  
23 OF EXISTENCE. Except as otherwise provided by law, if the term of existence for which a  
24 corporation was organized expires without renewal or extension, the board shall terminate its  
25 activities and wind up its affairs. After the affairs of the corporation have been wound up under  
26 this section, a majority of the directors then in office shall execute and file a certificate of  
27 dissolution conforming to the requirements in AS 10.21.565.

28 Sec. 10.21.570. PETITION FOR COURT ORDER DECLARING CORPORATION  
29 DULY WOUND UP AND DISSOLVED. (a) Instead of filing a certificate of dissolution, the  
30 board may petition the superior court for an order declaring the corporation duly wound up and  
31 dissolved. The petition shall be filed in the name of the corporation.

1 (b) Upon the filing of a petition under (a) of this section, the court shall order all  
2 interested persons, including the commissioner, to show cause why an order should not be made  
3 declaring the corporation duly wound up and dissolved. Notice of the order shall be served on  
4 all creditors, claimants, and members (AS 10.21.990) in the same manner as the notice given  
5 under AS 10.21.600(b). Notice shall also be served upon the commissioner.

6 (c) A person claiming to be an interested party to the winding up and dissolution as a  
7 member, creditor, or otherwise may appear in the proceeding at any time before the expiration  
8 of 30 days from the completion of publication of the order to show cause and contest the petition.  
9 The claim of a person who fails to appear within 30 days is barred.

10 (d) Thirty days after the filing of a petition under (a) of this section, the court may issue  
11 an order declaring the corporation duly wound up and dissolved. This order has the effect  
12 prescribed in AS 10.21.603 and shall be filed in the same manner as provided under  
13 AS 10.21.605.

14 Sec 10.21.573. INVOLUNTARY DISSOLUTION; COMMISSIONER  
15 AS INDISPENSABLE PARTY. (a) A complaint for involuntary dissolution of a corporation  
16 on any of the grounds specified in (b) of this section may be filed in the superior court by the  
17 following persons:

18 (1) one-half or more of the directors in office;

19 (2) a person holding or authorized in writing by persons holding not less than  
20 33-1/3 percent of the voting power exclusive of memberships held by persons who have  
21 personally participated in a transaction listed in (b)(5) of this section;

22 (3) a member if the ground for dissolution is that the period for which the  
23 corporation was formed has terminated without extension;

24 (4) a person authorized to do so in the articles;

25 (5) the commissioner.

26 (b) The grounds for involuntary dissolution are

27 (1) the corporation has abandoned its activity for more than one year;

28 (2) the corporation has an even number of directors who are equally divided and  
29 cannot agree as to the management of its affairs, so that corporate activities can no longer be  
30 conducted to the corporation's advantage or so that there is danger that corporate property will  
31 be impaired or lost or its activities impaired and the members are so divided into factions that

1 they cannot elect a board consisting of an uneven number;

2 (3) there is internal dissension and factions of members in the corporation are so  
3 deadlocked that corporate activities can no longer be conducted to the advantage of the  
4 corporation;

5 (4) if, during a four-year period, or, if all voting power has been exercised at two  
6 consecutive meetings or in two written ballots for the election of directors during the period of  
7 those meetings or ballots, whichever period is shorter, the members have failed to elect  
8 successors to directors whose terms have expired or would have expired upon election of their  
9 successors;

10 (5) if members, other persons with a controlling interest (AS 10.21.990) in the  
11 corporation, officers, directors, or employees have

12 (A) been guilty of or have knowingly allowed persistent and pervasive  
13 fraud, mismanagement, or abuse of authority; or

14 (B) misapplied or wasted the corporation's property;

15 (6) liquidation is reasonably necessary because the corporation is failing and has  
16 continuously failed to carry out its purposes; or

17 (7) the period for which the corporation was formed has terminated without  
18 extension.

19 (c) A creditor may intervene before trial of an action under this section.

20 (d) In an action brought under (a) of this section the commissioner is an indispensable  
21 party.

22 Sec. 10.21.575. AUTHORITY OF THE COMMISSIONER TO PROCURE  
23 INVOLUNTARY DISSOLUTION; GROUNDS; NOTICE FOR CORRECTIVE ACTIONS;  
24 APPOINTMENT OF RECEIVER. (a) The commissioner may bring an action against a  
25 corporation or purported corporation in the name of the people of this state, on the commis-  
26 sioner's own information or on complaint of a private party, to procure a judgment dissolving  
27 the corporation and annulling, vacating, or forfeiting its corporate existence if

28 (1) the corporation has seriously violated a statute regulating domestic  
29 corporations or charitable organizations;

30 (2) the corporation has fraudulently abused or usurped corporate privileges or  
31 powers; or

1 (3) the corporation has violated a provision of law by an act or default that under  
2 the law is a ground for forfeiture of corporate existence.

3 (b) If the ground for involuntary dissolution is an act that the corporation has done or  
4 omitted to do that can be corrected by amendment of its articles or by other corporate action, suit  
5 may not be maintained unless

6 (1) the commissioner, not less than 30 days before the commencement of suit, has  
7 given the corporation written notice of the act or omission; and

8 (2) the corporation has failed to institute proceedings to correct the act or  
9 omission within the 30-day period or after the institution of proceedings to make the required  
10 correction the corporation fails to make the amendment or take the corrective corporate action.

11 (c) In an action under this section the court may order dissolution or other relief. The  
12 court may also appoint a receiver for winding up the affairs of the corporation or may order that  
13 the corporation be wound up by its board subject to the supervision of the court.

14 (d) The commissioner shall publish one time, in a newspaper of general circulation in  
15 the state, a notice to the members of the corporation of the commencement of an action under  
16 this section.

17 Sec. 10.21.578. INVOLUNTARY DISSOLUTION BY THE COMMISSIONER;  
18 GROUNDS; PROCEDURE; REINSTATEMENT. (a) A corporation may be dissolved involun-  
19 tarily by the commissioner if

20 (1) the corporation has failed to file and, if required, publish any document or pay  
21 any fee required under this chapter as provided in AS 10.21.858;

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

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

26 (4) the corporation has failed for two years to complete dissolution under a  
27 certificate of election to dissolve filed under AS 10.21.555;

28 (5) a vacancy (AS 10.21.990) in the board of the corporation is not filled within  
29 six months or the next annual meeting, whichever occurs first; or

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

1 (b) A corporation may not be dissolved under this section unless the commissioner has  
2 given the corporation at least 60 days' notice of its delinquency, omission, or noncompliance by  
3 certified mail addressed to its registered office or in care of its registered agent, board chair,  
4 president, or secretary at the last known address as shown by the records of the commissioner,  
5 and the corporation has failed, within 30 days after receipt of the notice, to contest the alleged  
6 delinquency, omission, or noncompliance at a hearing before the commissioner or, having failed  
7 to request a hearing, has failed to correct the alleged delinquency, omission, or noncompliance.

8 (c) If, following a hearing, the commissioner determines a delinquency, omission, or  
9 noncompliance exists that is grounds for involuntary dissolution under this section, the  
10 corporation may appeal to the superior court by filing with the clerk a petition setting out a copy  
11 of the notice given by the commissioner under (b) of this section, together with a copy of a  
12 timely demand for a hearing by the corporation, and a copy of a statement by the commissioner  
13 of an intention to dissolve the corporation under (d) of this section. The matter shall be tried de  
14 novo by the superior court, and the court shall either sustain the commissioner or direct the  
15 commissioner to take action the court considers proper.

16 (d) If a corporation has given cause for involuntary dissolution or has failed to correct  
17 the delinquency, omission, or noncompliance as provided in this section, and there has been no  
18 order of the superior court, the commissioner shall dissolve the corporation by issuing a  
19 certificate of involuntary dissolution containing a statement that the corporation has been  
20 dissolved, the date, and the reason for which it was dissolved. The original certificate of  
21 dissolution shall be placed in the department files and a copy of it mailed to the corporation at  
22 its registered office or in care of its registered agent, president, or secretary at the last known  
23 address, as shown by the records of the commissioner. Upon the issuance of the certificate of  
24 involuntary dissolution, the existence of the corporation ceases, except as otherwise provided in  
25 this section, and its name becomes available to and may be adopted by another corporation after  
26 at least six months following the dissolution.

27 (e) A corporation dissolved under this section may be reinstated within two years from  
28 the date of the certificate of involuntary dissolution if it is established to the satisfaction of the  
29 commissioner that in fact there was no cause for the dissolution, or if the delinquency, omission,  
30 or noncompliance resulting in dissolution has been corrected and the corporation pays double the  
31 amount delinquent along with the amount the corporation would have paid had it not been

1 dissolved during the two-year period. Reinstatement may not be authorized if the corporation's  
2 name is the same as, or undistinguishable on the records of the department from, a corporate,  
3 reserved, or registered name currently on file with the commissioner, unless the corporation being  
4 reinstated amends its articles to change its name to conform with the provisions of this chapter.

5 (f) Nothing in this section relieves a corporation reinstated under this section from  
6 penalty or forfeiture of its powers as a body corporate in a case of failure to pay subsequently  
7 accruing licensing fees imposed by a law of this state.

8 (g) An action arising out of a contract assigned by a corporation dissolved under this  
9 section may be brought in the name of the assignee. The fact of assignment and of purchase by  
10 the plaintiff shall be set out in the complaint or other process. The defendant may use any matter  
11 or defense that the defendant could have used in a suit on the claim by the corporation, had it  
12 not been dissolved under this section.

13 (h) Service of process on a corporation dissolved under this section shall be made in the  
14 same manner prescribed by law as if the corporation had not been dissolved.

15 Sec. 10.21.580. DEADLOCK AS GROUND FOR INVOLUNTARY DISSOLUTION;  
16 APPOINTMENT OF PROVISIONAL DIRECTOR. (a) If the ground for the complaint for  
17 involuntary dissolution of the corporation is a deadlock in the board as set out in  
18 AS 10.21.573(b)(2), the court may appoint a provisional director.

19 (b) A party, an attorney of a party, or a person interested in the action or related  
20 according to the common law by consanguinity or affinity within the third degree to a judge of  
21 the court appointing the provisional director, may not be appointed provisional director in the  
22 action without the written consent of the parties, including the party to be appointed, filed with  
23 the clerk. If a provisional director is appointed upon an ex parte application, the court, before  
24 making the order, shall require from the applicant an undertaking, with sufficient sureties, in an  
25 amount to be fixed by the court, to the effect that the applicant will pay to the defendant all  
26 damages sustained by reason of the appointment of the provisional director, in case the applicant  
27 has procured the appointment wrongfully, maliciously, or without sufficient cause. The court  
28 may, in its discretion, at any time after the appointment, require an additional undertaking.

29 (c) Before entering upon the duties of a director, the provisional director shall be sworn  
30 to perform those duties faithfully, and with two or more sureties, approved by the court, execute  
31 an undertaking to the state, in a sum the court or judge directs, to the effect that the provisional

1 director will faithfully discharge the duties of provisional director and obey the orders of the  
2 court in the action.

3 Sec. 10.21.583. APPOINTMENT OF RECEIVER; APPLICATION, HEARING AND  
4 NOTICE, SECURITY, QUALIFICATIONS, POWERS, COMPENSATION. (a) If, at the time  
5 of filing of a complaint for involuntary dissolution or at a later time, the court has reasonable  
6 grounds to believe that unless a receiver of the corporation is appointed the interests of the  
7 corporation or the public or charitable purpose of the corporation will suffer pending the hearing  
8 and determination of the complaint, on application of the plaintiff, and after a hearing on notice  
9 to the corporation as the court directs and on the giving of security under (b) and (c) of this  
10 section, the court may appoint a receiver to take over and manage the affairs of the corporation  
11 and to preserve its property pending the hearing and determination of the complaint for  
12 dissolution.

13 (b) A party, an attorney of a party, or a person interested in the action or related  
14 according to the common law by consanguinity or affinity within the third degree to a judge of  
15 the court appointing the receiver, may not be appointed receiver in the action without the written  
16 consent of the parties, including the party to be appointed, filed with the clerk. If a receiver is  
17 appointed upon an ex parte application, the court, before making the order, shall require from the  
18 applicant an undertaking, with sufficient sureties, in an amount to be fixed by the court, to the  
19 effect that the applicant will pay to the defendant all damages sustained by reason of the  
20 appointment of the receiver, in case the applicant has procured the appointment wrongfully,  
21 maliciously, or without sufficient cause. The court may, in its discretion, at any time after the  
22 appointment, require an additional undertaking.

23 (c) Before entering upon the duties of a receiver, the receiver shall be sworn to perform  
24 those duties faithfully, and with two or more sureties, approved by the court or judge, execute  
25 an undertaking to the state, in a sum the court or judge directs, to the effect that the receiver will  
26 faithfully discharge the duties of receiver and obey the orders of the court in the action.

27 (d) The compensation of the receiver shall be paid out of the assets of the corporation  
28 and, unless otherwise agreed, shall be fixed by the court.

29 Sec. 10.21.585. DECREE WINDING UP AND DISSOLVING CORPORATION;  
30 FURTHER JUDICIAL RELIEF. After hearing the court may decree a winding up and dissolu-  
31 tion of the corporation if cause for winding up and dissolution is shown, or with or without

1 winding up and dissolution, may make orders and decrees and issue injunctions in the case as  
2 justice and equity may require.

3 Sec. 10.21.588. COMMENCEMENT OF INVOLUNTARY PROCEEDINGS; BOARD  
4 TO CONDUCT AFFAIRS OF CORPORATION; CESSATION OF CORPORATE ACTIVITIES.

5 (a) Involuntary proceedings for winding up a public benefit corporation commence when an  
6 order for winding up is entered under AS 10.21.585.

7 (b) If an involuntary proceeding for winding up has commenced, the board shall conduct  
8 the winding up of the affairs of the corporation, subject to the supervision of the court, unless  
9 other persons are appointed by the court to conduct the winding up. The directors or other  
10 persons may, subject to restrictions imposed by the court, exercise their powers through the  
11 executive officers of the corporation without order of court.

12 (c) If an involuntary proceeding for winding up has commenced, the corporation shall  
13 cease to conduct its activities except to the extent necessary for the beneficial winding up of the  
14 corporation and to preserve the corporation's goodwill or going concern value, pending a sale or  
15 other disposition of its assets in whole or in part. The directors shall mail written notice of the  
16 commencement of the proceeding for involuntary winding up to all members (AS 10.21.990) and  
17 all known creditors and claimants whose addresses appear on the records of the corporation,  
18 unless the order for winding up has been stayed by appeal or the proceeding or the execution of  
19 the order has been enjoined.

20 Sec. 10.21.590. JURISDICTION OF COURT IN INVOLUNTARY DISSOLUTION. If  
21 an involuntary proceeding for winding up has been commenced, the jurisdiction of the court  
22 includes:

23 (1) the determination of the validity of all claims and demands against the  
24 corporation, whether due or not yet due, contingent, unliquidated or sounding only in damages,  
25 and the barring from participation of creditors and claimants failing to make and present claims  
26 and proof as required by an order;

27 (2) the determination or compromise of all claims of every nature against the  
28 corporation or any of its property, and the determination of the amount of money or assets  
29 required to be retained to pay or provide for the payment of claims;

30 (3) the presentation and filing of intermediate and final accounts of the directors  
31 or other persons appointed to conduct the winding up and hearing, the allowance, disallowance,

1 or settlement of the accounts and the discharge of the directors or other persons from their duties  
2 and liabilities;

3 (4) the appointment of a master to hear and determine any or all matters, with  
4 power or authority the court considers proper;

5 (5) the filling of vacancies on the board that the directors or members are unable  
6 to fill;

7 (6) the removal of a director if it appears that the director has been guilty of  
8 dishonesty, misconduct, neglect, or breach of trust in conducting the winding up or if the director  
9 is unable to act; the court may order an election to fill a vacancy caused by the removal of a  
10 director under this subsection, and may enjoin, for the time it considers proper, the reelection of  
11 the removed director; or the court, instead of ordering an election, may appoint a director to fill  
12 the vacancy caused by removal under this paragraph; a director appointed by the court under this  
13 paragraph shall serve until the next regular meeting of members or until a successor is elected  
14 or appointed;

15 (7) the staying of the prosecution of a suit, proceeding, or action against the  
16 corporation and requiring the parties to present and prove their claims in the manner required of  
17 other creditors;

18 (8) the determination of whether adequate provision has been made for payment  
19 or satisfaction of all debts and liabilities not actually paid;

20 (9) the making of orders for the withdrawal or termination of proceedings to wind  
21 up and dissolve, subject to conditions for the protection of creditors;

22 (10) the making of an order, on the allowance or settlement of the final accounts  
23 of the directors or other persons, that the corporation has been duly wound up and is dissolved;

24 (11) the making of orders for the bringing in of new parties the court considers  
25 proper for the determination of all questions and matters; and

26 (12) the disposition of assets held in charitable trust.

27 Sec. 10.21.593. POWERS AND DUTIES OF DIRECTORS AND OFFICERS IN  
28 DISSOLUTION PROCEEDING. The powers and duties of the directors, other persons appointed  
29 by the court under AS 10.21.588, and officers after commencement of a dissolution proceeding  
30 include, but are not limited to, the following acts in the name and on behalf of the corporation:

31 (1) to elect officers and employ agents and attorneys to liquidate or wind up the

1 corporation's affairs;

2 (2) to continue to conduct the affairs of the corporation to the extent necessary  
3 for disposal or winding up;

4 (3) to carry out contracts and collect, pay, compromise, and settle debts and  
5 claims for or against the corporation;

6 (4) to defend suits brought against the corporation;

7 (5) to sue, in the name of the corporation, for all sums due or owing to the  
8 corporation or to recover property of the corporation;

9 (6) to collect amounts remaining unpaid on memberships;

10 (7) to recover unlawful distributions;

11 (8) to sell at public or private sale, exchange, convey, or otherwise dispose of all  
12 or a part of the assets of the corporation for reasonable amounts as determined by the board and  
13 to execute bills of sale and deeds of conveyance in the name of the corporation;

14 (9) in general, to make contracts and do all things in the name of the corporation  
15 that are proper or convenient for the purposes of winding up, settling, and liquidating the affairs  
16 of the corporation.

17 Sec. 10.21.595. VACANCIES ON BOARD DURING WINDING UP. A vacancy  
18 (AS 10.21.990) on the board may be filled during a winding-up proceeding in the manner  
19 provided in AS 10.21.385.

20 Sec. 10.21.598. PROCEEDING TO DETERMINE IDENTITY OF DIRECTORS OR TO  
21 APPOINT DIRECTORS. If the identity of a director or the right to hold office is in doubt, or  
22 if a director is dead or unable to act, a director fails or refuses to act or the whereabouts of a  
23 director cannot be ascertained, an interested person, including the commissioner, may petition the  
24 superior court to determine the identity of the director or, if there are no directors, to appoint  
25 directors to wind up the affairs of the corporation, after hearing upon notice to the persons the  
26 court directs.

27 Sec. 10.21.600. RIGHTS OF CREDITORS AND CLAIMANTS; NOTICE;  
28 ALLOWANCE OF CLAIMS. (a) In a court-directed winding up of a corporation creditors and  
29 claimants may be barred from participation in a distribution of the general assets if they fail to  
30 make and present claims and proofs within the time the court directs. The time in which to  
31 present claims may not be less than four or more than six months after the first publication of

1 notice to creditors unless it appears by affidavit that there are no claims, in which case the time  
2 limit may be three months. If it is shown that a claimant did not receive notice because of  
3 absence from the state or other cause, the court may allow a claim to be filed or presented at any  
4 time before distribution is completed.

5 (b) Notice to creditors in a court-directed winding up shall be published not less than  
6 once a week for three consecutive weeks in a newspaper of general circulation in the state or in  
7 a newspaper that is designated by the court. The notice shall direct creditors and claimants to  
8 make and present claims and proofs to the person, at the place and within the time specified in  
9 the notice. A copy of the notice shall be mailed to the last known address of each person shown  
10 as a creditor or claimant on the books of the corporation.

11 (c) A holder of a secured claim may prove for the whole debt in order to secure payment  
12 of a deficiency. If a secured creditor fails to present a claim the claim is barred only as to a  
13 right to claim against the general assets for a deficiency in the amount realized on the security.

14 (d) Before a distribution is made in a court-directed winding up the amount of an  
15 unmatured, contingent, or disputed claim against the corporation that has been presented and has  
16 not been disallowed, or the part of a claim to which the holder would be entitled if the claim  
17 were due, established, or absolute, shall be paid into court and remain there to be paid over to  
18 the party if the party becomes entitled to payment or, if the party fails to establish a claim, to  
19 be paid over or distributed with the other assets of the corporation to those entitled to the assets.  
20 Other provisions for the full payment of unmatured, contingent, or disputed claims, if and when  
21 established, may be made by the court. A creditor who has a claim that has been allowed but  
22 is not yet due is entitled to the present value of the claim upon distribution.

23 (e) A suit against the corporation on a claim that has been rejected shall be commenced  
24 within 30 days after written notice of rejection is given to the claimant.

25 Sec. 10.21.603. ORDER DECLARING CORPORATION DULY WOUND UP AND  
26 DISSOLVED; CESSATION OF CORPORATE EXISTENCE. (a) After the final settlement of  
27 the accounts of the directors or other persons appointed under AS 10.21.588 and the  
28 determination that the corporation's affairs are in condition for it to be dissolved, the court shall  
29 make an order declaring the corporation duly wound up and dissolved.

30 (b) An order issued under (a) of this section shall state

31 (1) that the corporation has been duly wound up and that its known debts and

1 liabilities have been paid or adequately provided for, or that the debts and liabilities have been  
2 paid as far as the corporation's assets permit;

3 (2) if there are known debts or liabilities as to which adequate provision for  
4 payment has been made, the order shall state what provision has been made, the name and  
5 address of the corporation, person, or governmental agency that has assumed or guaranteed the  
6 payment, or the name and address of the depository with which deposit has been made or other  
7 information that is necessary to enable the creditor or other person to whom payment is to be  
8 made to appear and claim payment of the debt or liability;

9 (3) that the known assets of the corporation have been distributed to the persons  
10 entitled to the assets or that the corporation acquired no assets;

11 (4) that the accounts of directors or other persons have been settled and that they  
12 are discharged from their duties and liabilities to creditors and members;

13 (5) that the corporation is dissolved.

14 (c) The court may make additional orders and grant further relief it considers proper on  
15 the evidence submitted.

16 (d) After making the order declaring the corporation dissolved, corporate existence ceases  
17 except for the purposes of further winding up if needed. The directors or other persons appointed  
18 under AS 10.21.588 are discharged from their duties and liabilities except with respect to  
19 completion of the winding up.

20 Sec. 10.21.605. FILING OF CERTIFIED ORDER, DECREE OR JUDGMENT OF  
21 DISSOLUTION. If a corporation is dissolved or its existence forfeited by order, decree, or  
22 judgment of a court, a copy of the order, decree, or judgment, certified by the clerk of court,  
23 shall be filed with the commissioner.

24 Sec. 10.21.608. DISTRIBUTION OF REMAINING CORPORATE ASSETS. (a) After  
25 determining that all of the known debts and liabilities of a corporation in the process of winding  
26 up have been paid or adequately provided for, the board shall distribute all the remaining  
27 corporate assets in the manner provided in AS 10.21.613 - 10.21.618.

28 (b) If the winding up is by court proceeding or subject to court supervision, the  
29 distribution may not be made until after the expiration of any period for the presentation of  
30 claims that has been prescribed by order of the court.

31 (c) Assets that are not subject to attachment, execution, or sale for the corporation's debts

1 and liabilities may be distributed under AS 10.21.613 - 10.21.618 even though all debts and  
2 liabilities have not been paid or adequately provided for.

3 Sec. 10.21.610. PAYMENT OF DEBTS AND LIABILITIES. (a) The payment of a debt  
4 or liability, whether the whereabouts of the creditor is known or unknown, has been adequately  
5 provided for if

6 (1) payment of the debt or liability has been assumed or guaranteed in good faith  
7 by one or more financially responsible persons or by the United States government or an agency  
8 of the United States, and the provision, including the financial responsibility of the persons, was  
9 determined in good faith and with reasonable care by the board to be adequate at the time of  
10 distribution of the assets by the board under this chapter;

11 (2) the amount of the debt or liability has been deposited with the commissioner  
12 of revenue.

13 (b) This section does not prescribe the exclusive means of making adequate provision  
14 for debts and liabilities.

15 Sec 10.21.613. RETURN, TRANSFER, OR CONVEYANCE OF ASSETS. After  
16 complying with the provisions of AS 10.21.608, if the corporation holds assets subject to a valid  
17 condition requiring return, transfer, or conveyance, and the condition has occurred or will occur  
18 by reason of the dissolution, the assets shall be returned, transferred, or conveyed in accordance  
19 with the condition.

20 Sec. 10.21.615. DISPOSITION OF ASSETS HELD FOR PUBLIC OR CHARITABLE  
21 PURPOSES. (a) Assets held in charitable trust under AS 10.21.185, or received and held by  
22 the corporation for a public or charitable purpose or that are legally required to be used for a  
23 particular purpose shall, unless disposed of under AS 10.21.613, be distributed to one or more  
24 domestic or foreign corporations or other organizations engaged in activities substantially similar  
25 to those of the dissolved corporation.

26 (b) A disposition contained in a will or other instrument, in trust or otherwise, made  
27 before or after the dissolution, to or for the benefit of a dissolved corporation inures to or for the  
28 benefit of the corporation or organization acquiring the assets of the dissolved corporation as  
29 provided in this section, and, so far as is necessary for that purpose, the corporation or  
30 organization acquiring the assets of the dissolved corporation is considered a successor to the  
31 dissolved corporation. Property received under this subsection shall be devoted by the acquiring

1 corporation or organization to the purposes expressed by the testator or grantor.

2 Sec. 10.21.618. DISPOSAL OF CORPORATE ASSETS; DISPOSITION BY COURT  
3 ORDER. (a) Subject to the provisions of AS 10.21.608 and except as provided in AS 10.21.613  
4 and 10.21.615, all of a corporation's assets shall be disposed of on dissolution in conformity with  
5 its articles or bylaws subject to complying with the provisions of a trust under which assets are  
6 held.

7 (b) The disposition required in (a) of this section shall be made by decree of the superior  
8 court in proceedings to which the commissioner is a party. The decree shall be made on the  
9 petition of the commissioner or, on 30 days' notice to the commissioner, by a person interested  
10 in the dissolution.

11 (c) Notwithstanding the provisions of (a) of this section a distribution of corporate assets  
12 may not be made to the members (AS 10.21.990), directors, officers, or employees of the  
13 corporation, or to its parent or its subsidiary (AS 10.21.990) as such.

14 Sec. 10.21.620. DISTRIBUTIONS AUTHORIZED IN MONEY, PROPERTY, OR  
15 SECURITIES; INSTALLMENTS. Subject to the provisions of a trust under which assets to be  
16 distributed are held, distribution of assets may be made either in money, property, or securities  
17 and either in periodic installments or as a whole, if this can be done fairly and ratably and in  
18 conformity with the provisions of the articles and bylaws. Distribution of assets shall be made  
19 as soon as reasonably consistent with the beneficial liquidation of the corporation.

20 Sec. 10.21.623. RECOVERY OF IMPROPER DISTRIBUTIONS. (a) If a distribution  
21 of assets has been made in the process of winding up a corporation without a court order and  
22 without prior payment or adequate provision for payment of the debts and liabilities of the  
23 corporation, the amount improperly distributed to a person may be recovered by the corporation.  
24 A person who received an improper distribution may be joined as a defendant in the same action  
25 or be brought in on the motion of another defendant.

26 (b) Suit may be brought in the name of the corporation to enforce the liability under (a)  
27 of this section against a person receiving a distribution by the commissioner or by a creditor of  
28 the corporation, whether or not the creditor has reduced the claim to judgment.

29 (c) In this section, "process of winding up" includes a proceeding under AS 10.21.553 -  
30 10.21.628 and any other distribution of assets to a person made in contemplation of termination  
31 or abandonment of the corporate business.

1           Sec. 10.21.625. EXISTENCE OF CORPORATION AFTER DISSOLUTION. (a) A  
2 corporation that is dissolved voluntarily or involuntarily continues to exist for the purpose of  
3 winding up its affairs, defending actions by or against it, enabling it to collect and discharge  
4 obligations, dispose of and convey its property, and collect and divide its assets, but not for the  
5 purpose of continuing its activities except to the extent necessary for winding up.

6           (b) An action or proceeding to which a corporation is a party does not abate by the  
7 dissolution of the corporation or by reason of proceedings for winding up and dissolution. A  
8 corporation that is dissolved voluntarily or involuntarily may not commence a court action, except  
9 for a court action under AS 10.21.623.

10           (c) Assets inadvertently or otherwise omitted from the winding up continue in the  
11 dissolved corporation for the benefit of the persons entitled to the assets on dissolution of the  
12 corporation and on realization shall be distributed to the persons entitled.

13           (d) The directors of the corporation on the date of its dissolution, or as determined under  
14 AS 10.21.605, shall exercise and have the powers necessary to act under this section.

15           Sec. 10.21.628. SUITS AGAINST PERSONS TO WHOM ASSETS WERE  
16 DISTRIBUTED UPON DISSOLUTION; QUIET TITLE ACTION. (a) If a corporation has been  
17 dissolved, a person to whom assets were distributed on dissolution may be sued in the corporate  
18 name upon a cause of action against the corporation that arose before dissolution. Notice of the  
19 action shall be given to the commissioner. The commissioner may intervene in a suit brought  
20 under this section.

21           (b) Summons or other process against a dissolved corporation may be served by  
22 delivering a copy to an officer, director, or person having charge of the corporation's assets or,  
23 if no such person can be found, to an agent on whom process might be served at the time of  
24 dissolution. If it is shown by affidavit to the satisfaction of the court that none of these persons  
25 can be found with due diligence then the court may order that summons or other process be  
26 served on the dissolved corporation by personally delivering a copy, together with a copy of the  
27 order, to the commissioner. Service in this manner is complete 10 days after the delivery of  
28 process to the commissioner.

29           (c) A dissolved corporation survives and continues to exist indefinitely for the purpose  
30 of being sued in a quiet title action. A judgment rendered in a quiet title action binds every  
31 person having an interest in the corporation, to the extent of their interest. Service of summons

1 or other process may be made as provided in (b) of this section.

2 (d) After receipt of the process under (b) of this section and the fee for filing, the  
3 commissioner shall give notice to the corporation at the last known address of the corporation  
4 or at the last known address of the last registered agent of the corporation. If those addresses  
5 are not known the commissioner is not required to take any action.

6 (e) This section is procedural in nature and is not intended to determine liability.

7 **ARTICLE 10. DISSOLUTION OF MUTUAL BENEFIT CORPORATIONS.**

8 **Sec. 10.21.630. APPLICATION OF AS 10.21.630 - 10.21.710.** The provisions of  
9 AS 10.21.630 - 10.21.710 apply only to a mutual benefit corporation.

10 **Sec. 10.21.633. MUTUAL BENEFIT CORPORATIONS: VOLUNTARY**  
11 **DISSOLUTION.** (a) A corporation may voluntarily elect to wind up and dissolve by the  
12 affirmative vote of members representing at least two-thirds of its voting power.

13 (b) A corporation may elect by approval of the board to wind up and dissolve if the  
14 corporation has

15 (1) been adjudicated bankrupt; or

16 (2) disposed of all of its assets and has not conducted activity for a period of five  
17 years immediately preceding the adoption of the resolution electing to dissolve the corporation.

18 **Sec. 10.21.635. FILING OF CERTIFICATE OF ELECTION TO WIND UP AND**  
19 **DISSOLVE; CONTENTS.** (a) A corporation that has elected to wind up and dissolve shall file  
20 a certificate evidencing the election with the commissioner.

21 (b) The certificate shall be signed and verified by at least a majority of the directors then  
22 in office or by one or more members (AS 10.21.990) authorized to do so by the affirmative vote  
23 of members representing at least two-thirds of its voting power and contain

24 (1) a statement that the corporation has elected to wind up and dissolve;

25 (2) a statement of the number of votes for the election if the election was made  
26 by vote of the members alone and that the election was made by the affirmative vote of members  
27 representing at least two-thirds of its voting power;

28 (3) if the certificate is executed by a member, a statement that the person  
29 executing the certificate was authorized to execute the certificate by the affirmative vote of  
30 members representing at least two-thirds of its voting power;

31 (4) if the election was made by the board under AS 10.21.633(b), a statement of

1 the circumstances showing the corporation to be in one of the categories described in  
2 AS 10.21.633(b).

3 Sec. 10.21.638. REVOCATION OF ELECTION TO WIND UP AND DISSOLVE  
4 CORPORATION; FILING OF REVOCATION CERTIFICATE; CONTENTS. (a) A voluntary  
5 election to wind up and dissolve under AS 10.21.633 may be revoked before distribution of assets

6 (1) if the election was made under AS 10.21.633(a), by the affirmative vote of  
7 members representing at least two-thirds of its voting power; or

8 (2) if the election was by the board under AS 10.21.633(b), by approval of the  
9 board (AS 10.21.990(6)).

10 (b) After a revocation a certificate evidencing the revocation shall be signed, verified,  
11 and filed in the same manner prescribed under AS 10.21.635.

12 (c) The certificate required by (b) of this section must contain

13 (1) a statement that the corporation has revoked its election to wind up and  
14 dissolve;

15 (2) a statement that no assets have been distributed as a result of the election;

16 (3) a statement of the number of votes for the revocation and that the revocation  
17 was made by the affirmative vote of members representing at least two thirds of its voting power,  
18 if the revocation was made by the vote of the members alone;

19 (4) a statement of whether or not the revocation was made by the board alone and  
20 reciting the circumstances permitting the board to make the revocation.

21 Sec. 10.21.640. COMMENCEMENT AND CONDUCT OF VOLUNTARY  
22 DISSOLUTION; POWERS AND DUTIES OF BOARD; CESSATION OF CORPORATE  
23 ACTIVITIES; NOTICE. (a) Voluntary proceedings for winding up the corporation commence  
24 with the approval required under AS 10.21.633.

25 (b) If a voluntary proceeding for winding up has commenced, the board shall continue  
26 to act as a board and has full powers to wind up and settle the corporation's affairs both before  
27 and after filing of the certificate of dissolution.

28 (c) If a voluntary proceeding for winding up has commenced, the corporation shall cease  
29 to conduct its activities except to the extent necessary for beneficial winding up, to carry out the  
30 corporation's purposes, and to preserve the corporation's good will or going-concern value  
31 pending a sale or other disposition of assets, or both, in whole or in part. The board shall give

1 written notice by mail of the commencement of the proceeding for voluntary winding up to all  
2 members (AS 10.21.990) of the corporation. It is unnecessary to give notice to members who  
3 voted in favor of the winding up and dissolving of the corporation. Written notice shall also be  
4 given by mail to all known creditors and claimants whose addresses appear on the records of the  
5 corporation, and to the commissioner.

6 Sec. 10.21.643. JURISDICTION AND POWER OF COURT OVER VOLUNTARY  
7 WINDING UP; PROTECTION OF CREDITORS AND ASSETS. If a corporation is in the  
8 process of voluntary winding up, the superior court, upon the petition of the corporation, the  
9 members representing 10 percent of the voting power of the corporation, the commissioner or  
10 three or more creditors, and upon notice to the members (AS 10.21.990) and creditors as the  
11 court may order, may take jurisdiction over the voluntary winding-up proceeding if it appears  
12 necessary for the protection of a party in interest, or in the case of a corporation holding assets  
13 in charitable trust, for the protection of these assets. The court, if it assumes jurisdiction, may  
14 make orders as to any and all matters concerning the winding up of the affairs of the corporation  
15 and the protection of its members, creditors, and, in the case of a corporation holding assets in  
16 charitable trust, assets. The provisions of AS 10.21.653 - 10.21.678 apply to court proceedings  
17 under this section.

18 Sec. 10.21.645. CERTIFICATE OF DISSOLUTION; CONTENTS. (a) If a corporation  
19 has been completely wound up without court proceedings, a majority of the directors then in  
20 office shall sign and verify a certificate of dissolution stating that

21 (1) the corporation has been completely wound up;

22 (2) its known debts and liabilities have been paid, or adequately provided for, or  
23 paid or adequately provided for as far as the corporation's assets permitted, or that it has incurred  
24 no known debts or liabilities; if there are known debts or liabilities as to which adequate  
25 provision has been made, the certificate must state what provision for payment has been made,  
26 the name and address of the corporation, person, or governmental agency that has assumed or  
27 guaranteed the payment, or the name and address of the depository with which deposit has been  
28 made and other information that is necessary to enable the creditor or other person to whom  
29 payment is to be made to appear and claim payment of the debt or liability;

30 (3) its known assets have been distributed to the person entitled to the assets or  
31 that the corporation acquired no known assets, as the case may be; and

1 (4) the corporation is dissolved.

2 (b) The certificate of dissolution shall be filed with the commissioner. After filing the  
3 certificate of dissolution, corporate existence ceases, except for the purpose of further winding  
4 up if needed.

5 Sec. 10.21.648. TERMINATION OF CORPORATION ON EXPIRATION OF TERM  
6 OF EXISTENCE. Except as otherwise provided by law, if the term of existence for which a  
7 corporation was organized expires without renewal or extension, the board shall terminate its  
8 activities and wind up its affairs. After the affairs of the corporation have been wound up under  
9 this section, a majority of the directors then in office shall execute and file a certificate  
10 conforming to the requirements in AS 10.21.648.

11 Sec. 10.21.650. PETITION FOR COURT ORDER DECLARING CORPORATION  
12 DULY WOUND UP AND DISSOLVED. (a) Instead of filing a certificate of dissolution, the  
13 board may petition the superior court for an order declaring the corporation duly wound up and  
14 dissolved. The petition shall be filed in the name of the corporation.

15 (b) Upon the filing of a petition under (a) of this section, the court shall order all  
16 interested persons, including the commissioner, to show cause why an order should not be made  
17 declaring the corporation duly wound up and dissolved. The order shall be served by notice to  
18 all creditors, claimants, and members (AS 10.21.990) in the same manner as the notice given  
19 under AS 10.21.673(b). Notice shall also be served on the commissioner.

20 (c) A person claiming to be an interested party to the winding up or dissolution as a  
21 member, creditor, or otherwise may appear in the proceeding at any time before the expiration  
22 of 30 days from the completion of publication of the order to show cause and contest the petition.  
23 The claim of a person who fails to appear shall be barred.

24 (d) Thirty days after the filing of a petition under (a) of this section, the court may issue  
25 an order declaring the corporation duly wound up and dissolved. This order has the effect  
26 prescribed in AS 10.21.683 and shall be filed as in the same manner provided in AS 10.21.685.

27 Sec. 10.21.653. INVOLUNTARY DISSOLUTION; COMMISSIONER  
28 AS INDISPENSABLE PARTY. (a) A complaint for involuntary dissolution of a corporation  
29 on any of the grounds specified in (b) of this section may be filed in the superior court by

30 (1) one-half or more of the directors in office;

31 (2) a person holding or authorized in writing by persons holding not less than 33-

1 1/3 percent of the voting power exclusive of memberships held by persons who have personally  
2 participated in a transaction listed in (b)(4) of this section;

3 (3) a member if the ground for dissolution is that the period for which the  
4 corporation was formed has terminated without extension;

5 (4) a person authorized to do so in the articles; or

6 (5) the commissioner.

7 (b) The grounds for involuntary dissolution are

8 (1) the corporation has an even number of directors who are equally divided and  
9 cannot agree as to the management of its affairs, so that the corporate activities can no longer  
10 be conducted to the corporation's advantage or so that there is danger that corporate property will  
11 be impaired or lost or its activities impaired and the members are so divided into factions that  
12 they cannot elect a board consisting of an uneven number;

13 (2) there is internal dissension and factions of members in the corporation are so  
14 deadlocked that corporate activities can no longer be conducted to the advantage of the  
15 corporation;

16 (3) if during any four-year period, or, if all voting power has been exercised at  
17 two consecutive meetings or in two written ballots for the election of directors during the period  
18 of those meetings or ballots, whichever period is shorter, the members have failed to elect  
19 successors to directors whose terms have expired or would have expired on the election of their  
20 successors;

21 (4) if members or other persons with a controlling interest (AS 10.21.990) in the  
22 corporation, the officers, or directors have

23 (A) been guilty of or have knowingly allowed persistent and pervasive  
24 fraud, mismanagement, abuse of authority, or persistent unfairness toward a member; or

25 (B) misapplied or wasted the corporation's property;

26 (5) in the case of a corporation with 35 or fewer members (AS 10.21.990),  
27 liquidation is reasonably necessary for the protection of the rights or interests of a complaining  
28 member or members; or

29 (6) the period for which the corporation was formed has terminated without  
30 extension.

31 (c) A member, creditor, or the commissioner may intervene before trial of an action

1 under this section.

2 (d) In an action brought under (a) of this section the commissioner is an indispensable  
3 party.

4 Sec. 10.21.655. AUTHORITY OF THE COMMISSIONER TO PROCURE  
5 INVOLUNTARY DISSOLUTION; GROUNDS; NOTICE FOR CORRECTIVE ACTIONS;  
6 APPOINTMENT OF RECEIVER. (a) The commissioner may bring an action against a  
7 corporation or purported corporation in the name of the people of this state, upon the  
8 commissioner's own information or upon complaint of a private party, to procure a judgment  
9 dissolving the corporation and terminating its corporate existence if the corporation has

10 (1) seriously violated a statute regulating corporations;

11 (2) has fraudulently abused or usurped corporate privileges or powers; or

12 (3) has violated a provision of law by an act or default that under the law is a  
13 ground for forfeiture of corporate existence.

14 (b) If the ground for involuntary dissolution is a matter or act that the corporation has  
15 done or omitted to do that can be corrected by amendment of its articles or by other corporate  
16 action, suit may not be maintained unless

17 (1) the commissioner, not less than 30 days before the commencement of suit, has  
18 given the corporation written notice of the act or omission; and

19 (2) the corporation fails to institute proceedings to correct the act or omission  
20 within the 30-day period or after the institution of proceedings to make the required correction  
21 the corporation fails to make the amendment or take the corrective corporate action.

22 (c) In an action under this section the court may order dissolution or other relief. The  
23 court may also appoint a receiver for winding up the affairs of the corporation or may order that  
24 the corporation be wound up by its board subject to the supervision of the court.

25 (d) The commissioner shall also publish one time in a newspaper of general circulation  
26 in the state a notice to the members of the corporation of the commencement of an action under  
27 this section.

28 Sec. 10.21.658. INVOLUNTARY DISSOLUTION BY THE COMMISSIONER;  
29 GROUNDS; PROCEDURE; REINSTATEMENT. (a) A corporation may be dissolved  
30 involuntarily by the commissioner if

31 (1) the corporation is delinquent six months in filing its biennial report or in

1 paying a license filing fee or penalty;

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

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

6 (4) the corporation has failed for two years to complete dissolution under a  
7 certificate of election to dissolve filed under AS 10.21.635;

8 (5) a vacancy (AS 10.21.990) in the board of the corporation is not filled within  
9 six months or the next annual meeting, whichever occurs first;

10 (6) a misrepresentation of material fact has been made in the application, report,  
11 affidavit or other document submitted under this chapter; or

12 (7) the corporation is 90 days delinquent in filing notice of change of an officer  
13 or director as required by this chapter.

14 (b) A corporation may not be dissolved under this section unless the commissioner has  
15 given the corporation at least 60 days' notice of its delinquency, omission, or noncompliance by  
16 certified mail addressed to its registered office or in care of its registered agent, board chair,  
17 president, or secretary at the last known address as shown by the records of the commissioner,  
18 and the corporation has failed, within 30 days after receipt of the notice, to contest the alleged  
19 delinquency, omission, or noncompliance at a hearing before the commissioner or, having failed  
20 to request a hearing, has failed to correct the alleged delinquency, omission, or noncompliance.

21 (c) If, following a hearing, the commissioner determines a delinquency, omission, or  
22 noncompliance exists that provides grounds for involuntary dissolution under this section, the  
23 corporation may appeal to the superior court by filing with the clerk a petition setting out a copy  
24 of the notice given by the commissioner under (b) of this section, together with a copy of a  
25 timely demand for a hearing by the corporation, and a copy of a statement by the commissioner  
26 of an intention to dissolve the corporation under (d) of this section. The matter shall be tried de  
27 novo by the superior court, and the court shall either sustain the commissioner or direct the  
28 commissioner to take action the court considers proper.

29 (d) If a corporation has given cause for involuntary dissolution and has failed to correct  
30 the delinquency, omission, or noncompliance as provided in this section, and there has been no  
31 order of the superior court, the commissioner shall dissolve the corporation by issuing a

1 certificate of involuntary dissolution containing a statement that the corporation has been  
2 dissolved, the date, and the reason for which it was dissolved. The original certificate of dissolu-  
3 tion shall be placed in the department files and a copy of it mailed to the corporation at its  
4 registered office or in care of its registered agent, president, or secretary at the last known  
5 address, as shown by the records of the commissioner. Upon the issuance of the certificate of  
6 involuntary dissolution, the existence of the corporation ceases, except as otherwise provided in  
7 this section, and its name shall be available to and may be adopted by another corporation after  
8 at least six months following the dissolution.

9 (e) A corporation dissolved under this section may be reinstated within two years from  
10 the date of the certificate of involuntary dissolution if it is established to the satisfaction of the  
11 commissioner that in fact there was no cause for the dissolution, or if the delinquency, omission,  
12 or noncompliance resulting in dissolution has been corrected and the corporation pays double the  
13 amount delinquent along with the amount the corporation would have paid had it not been  
14 dissolved during the two-year period. Reinstatement may not be authorized if the corporation's  
15 name is the same as, or undistinguishable on the records of the department from, a corporate,  
16 reserved, or registered name currently on file with the commissioner, unless the corporation being  
17 reinstated amends its articles to change its name to conform with the provisions of this chapter.

18 (f) Nothing in this section relieves a corporation reinstated under this section from  
19 penalty or forfeiture of its powers as a body corporate in a case of failure to pay subsequently  
20 accruing licensing fees imposed by a law of this state.

21 (g) An action arising out of a contract assigned by a corporation dissolved under this  
22 section may be brought in the name of the assignee. The fact of assignment and of purchase by  
23 the plaintiff shall be set out in the complaint or other process. The defendant may use any matter  
24 or defense the defendant could have used in a suit on the claim by the corporation, had it not  
25 been dissolved under this section.

26 (h) Service of process on a corporation dissolved under this section shall be made in the  
27 same manner prescribed by law as if the corporation had not been dissolved.

28 **Sec. 10.21.660. DEADLOCK AS GROUND FOR INVOLUNTARY DISSOLUTION:**  
29 **APPOINTMENT OF PROVISIONAL DIRECTOR.** (a) If the ground for the complaint for  
30 involuntary dissolution of the corporation is a deadlock in the board as set out in  
31 AS 10.21.653(b)(1), the court may appoint a provisional director.

1 (b) A party, an attorney of a party, or a person interested in the action, or related  
2 according to the common law by consanguinity or affinity within the third degree of kindred to  
3 a judge of the court appointing the provisional director may not be appointed provisional director  
4 in the action without the written consent of the parties, including the party to be appointed, filed  
5 with the clerk. If a provisional director is appointed upon an ex parte application, the court,  
6 before making the order, shall require from the applicant an undertaking with sufficient sureties,  
7 in an amount to be fixed by the court, to the effect that the applicant will pay to the defendant  
8 all damages sustained by reason of the appointment of the provisional director in case the  
9 applicant has procured the appointment wrongfully, maliciously, or without sufficient cause. The  
10 court may, in its discretion, at any time after the appointment, require an additional undertaking.

11 (c) Before entering upon the duties of a director, the provisional director shall be sworn  
12 to perform those duties faithfully, and with two or more sureties, approved by the court, execute  
13 an undertaking to the state, in an amount the court or judge directs, to the effect that the  
14 provisional director will faithfully discharge the duties of provisional director and obey the orders  
15 of the court in the action.

16 Sec. 10.21.663. APPOINTMENT OF A RECEIVER; APPLICATION, HEARING AND  
17 NOTICE, SECURITY, QUALIFICATIONS, POWERS, COMPENSATION. (a) If at the time  
18 of filing of a complaint for involuntary dissolution or at a later time, the court has reasonable  
19 grounds to believe that unless a receiver of the corporation is appointed the interests of the  
20 corporation or its members will suffer pending the hearing and determination of the complaint,  
21 upon application of the plaintiff, and after a hearing upon notice to the corporation as the court  
22 directs and upon the giving of security under (b) and (c) of this section, the court may appoint  
23 a receiver to take over and manage the affairs of the corporation and to preserve its property  
24 pending the hearing and determination of the complaint for dissolution.

25 (b) A party, an attorney of a party, or any person interested in an action or related  
26 according to the common law by consanguinity or affinity within the third degree of kindred to  
27 a judge of the court appointing the receiver, may not be appointed receiver in the action without  
28 the written consent of the parties, including the party to be appointed, filed with the clerk. If a  
29 receiver is appointed upon an ex parte application, the court, before making the order, shall  
30 require from the applicant an undertaking, with sufficient sureties, in an amount to be fixed by  
31 the court, to the effect that the applicant will pay to the defendant all damages sustained by

1 reason of the appointment of the receiver, in case the applicant has procured the appointment  
2 wrongfully, maliciously, or without sufficient cause. The court may, in its discretion, at any time  
3 after the appointment, require an additional undertaking.

4 (c) Before entering upon the duties of a receiver, the receiver shall be sworn to perform  
5 those duties faithfully, and with two or more sureties, approved by the court or judge, execute  
6 an undertaking to the state, in an amount the court or judge directs, to the effect that the receiver  
7 will faithfully discharge the duties of receiver and obey the orders of the court in the action.

8 (d) The compensation of the receiver shall be paid out of the assets of the corporation  
9 and unless otherwise agreed shall be fixed by the court.

10 Sec. 10.21.665. DECREE WINDING UP AND DISSOLVING CORPORATION:  
11 FURTHER JUDICIAL RELIEF. After hearing, the court may decree a winding up and dissolu-  
12 tion of the corporation if cause for dissolution and winding up is shown, or with or without  
13 winding up and dissolution, may make orders and decrees and issue injunctions in the case as  
14 justice and equity may require.

15 Sec. 10.21.668. COMMENCEMENT OF INVOLUNTARY PROCEEDINGS; BOARD  
16 TO CONDUCT AFFAIRS OF CORPORATION; CESSATION OF CORPORATE ACTIVITIES.

17 (a) Involuntary proceedings for winding up a mutual benefit corporation commence when an  
18 order for winding up is entered under AS 10.21.665.

19 (b) If an involuntary proceeding for winding up has commenced, the board shall conduct  
20 the winding up of the affairs of the corporation, subject to the supervision of the court, unless  
21 other persons are appointed by the court to conduct the winding up. The directors or other  
22 persons may, subject to restrictions imposed by the court, exercise their powers through the  
23 executive officers of the corporation without order of court.

24 (c) If an involuntary proceeding for winding up has commenced, the corporation shall  
25 cease to conduct its activities except to the extent necessary for the beneficial winding up of the  
26 corporation and to preserve the corporation's goodwill or going concern value, pending a sale or  
27 other disposition of its assets in whole or in part. The directors shall mail written notice of the  
28 commencement of the proceeding for involuntary winding up to all members (AS 10.21.990) and  
29 all known creditors and claimants whose addresses appear on the records of the corporation,  
30 unless the order for winding up has been stayed by appeal or the proceeding or the execution of  
31 the order has been enjoined.

1           Sec. 10.21.670. JURISDICTION OF COURT IN INVOLUNTARY DISSOLUTION. If  
2 an involuntary proceeding for winding up has been commenced, the jurisdiction of the court  
3 includes

4                   (1) the determination of the validity of all claims and demands against the  
5 corporation, whether due or not yet due, contingent, unliquidated or sounding only in damages,  
6 and the barring from participation of creditors and claimants failing to make and present claims  
7 and proof as required by an order;

8                   (2) the determination or compromise of all claims of every nature against the  
9 corporation or its property, and the determination of the amount of money or assets required to  
10 be retained to pay or provide for the payment of claims;

11                   (3) the determination of the rights of members and classes of members in and to  
12 the assets of the corporation;

13                   (4) the presentation and filing of intermediate and final accounts of the directors  
14 or other persons appointed to conduct the winding up and hearing, the allowance, disallowance  
15 or settlement of the accounts, and the discharge of the directors or other persons from their duties  
16 and liabilities;

17                   (5) the appointment of a master to hear and determine all matters, with the power  
18 or authority the court considers proper;

19                   (6) the filling of vacancies on the board that the directors or members are unable  
20 to fill;

21                   (7) the removal of a director if it appears that the director has been guilty of  
22 dishonesty, misconduct, neglect, or breach of trust in conducting the winding up or if the director  
23 is unable to act; the court may order an election to fill the vacancy caused by the removal of a  
24 director under this section, and may enjoin, for the time it considers proper, the reelection of the  
25 removed director; or the court instead of ordering an election, may appoint a director to fill the  
26 vacancy caused by removal under this paragraph; a director appointed by the court under this  
27 paragraph shall serve until the next regular meeting of members or until a successor is elected  
28 or appointed;

29                   (8) the staying of the prosecution of a suit, proceeding, or action against the  
30 corporation and requiring the parties to present and prove their claims in the manner required of  
31 other creditors;

1 (9) the determination of whether adequate provision has been made for payment  
2 or satisfaction of all debts and liabilities not actually paid;

3 (10) the making of orders for the withdrawal or termination of proceedings to  
4 wind up and dissolve, subject to conditions for the protection of creditors;

5 (11) the making of an order, upon the allowance or settlement of the final  
6 accounts of the directors or other persons, that the corporation has been duly wound up and is  
7 dissolved;

8 (12) the making of orders for the bringing in of new parties the court considers  
9 proper for the determination of all questions and matters; and

10 (13) the disposition of assets held in charitable trust.

11 Sec. 10.21.673. POWERS AND DUTIES OF DIRECTORS AND OFFICERS IN  
12 DISSOLUTION PROCEEDING. The powers and duties of the directors, other persons appointed  
13 by the court under AS 10.21.668, and officers after commencement of a dissolution proceeding  
14 include, but are not limited to, the following acts in the name and on behalf of the corporation:

15 (1) to elect officers and employ agents and attorneys to liquidate or wind up the  
16 corporation's affairs;

17 (2) to continue to conduct the affairs of the corporation to the extent necessary for  
18 disposal or winding up;

19 (3) to carry out contracts and collect, pay, compromise, and settle debts and  
20 claims for or against the corporation;

21 (4) to defend suits brought against the corporation;

22 (5) to sue, in the name of the corporation, for all sums due or owing to the  
23 corporation or to recover the corporation's property;

24 (6) to collect amounts remaining unpaid on memberships;

25 ~~---~~ (7) to recover unlawful distributions;

26 (8) to sell at public or private sale, exchange, convey, or otherwise dispose of all  
27 or a part of the assets of the corporation for reasonable amounts as determined by the board and  
28 to execute bills of sale and deeds of conveyance in the name of the corporation;

29 (9) in general, to make contracts and do all things in the name of the corporation  
30 that are proper or convenient for the purposes of winding up, settling, and liquidating the affairs  
31 of the corporation.

1           Sec. 10.21.675. VACANCIES ON BOARD DURING WINDING UP. A vacancy  
2 (AS 10.21.990) on the board may be filled during a winding-up proceeding in the manner  
3 provided in AS 10.21.385.

4           Sec. 10.21.678. PROCEEDING TO DETERMINE IDENTITY OF DIRECTORS OR TO  
5 APPOINT DIRECTORS. If the identity of a director or the right to hold office is in doubt, if  
6 a director is dead or unable to act, if a director fails or refuses to act, or if the whereabouts of  
7 a director cannot be ascertained, an interested person, including the commissioner, may petition  
8 the superior court to determine the identity of the director or, if there are no directors, to appoint  
9 directors to wind up the affairs of the corporation, after hearing upon notice to the persons the  
10 court directs.

11           Sec. 10.21.680. RIGHTS OF CREDITORS AND CLAIMANTS; NOTICE;  
12 ALLOWANCE OF CLAIMS. (a) In a court-directed winding up of a corporation, creditors and  
13 claimants may be barred from participation in a distribution of the general assets if they fail to  
14 make and present claims and proofs within the time the court directs. The time in which to  
15 present claims may not be less than four or more than six months after the first publication of  
16 notice to creditors unless it appears by affidavit that there are no claims, in which case the time  
17 limit may be three months. If it is shown that a claimant did not receive notice because of  
18 absence from the state or other cause, the court may allow a claim to be filed or presented at any  
19 time before distribution is completed.

20           (b) Notice to creditors in a court-directed winding up shall be published not less than  
21 once a week for three consecutive weeks in a newspaper of general circulation in the state or in  
22 a newspaper designated by the court. The notice must direct creditors and claimants to make and  
23 present claims and proofs to the person, at the place and within the time specified in the notice.  
24 A copy of the notice shall be mailed to the last known address of each person shown as a  
25 creditor or claimant on the books of the corporation.

26           (c) A holder of a secured claim may prove for the whole debt in order to secure payment  
27 of a deficiency. If a secured creditor fails to present a claim, the claim shall be barred only as  
28 to a right to claim against the general assets for a deficiency in the amount realized on the  
29 security.

30           (d) Before a distribution is made in a court-directed winding up the amount of an  
31 unmatured, contingent, or disputed claim against the corporation that has been presented and has

1 not been disallowed, or the part of a claim to which the holder would be entitled if the claim  
2 were due, established, or absolute, shall be paid into court and remain there to be paid over to  
3 the party if the party becomes entitled to payment or, if the party fails to establish a claim, to  
4 be paid over or distributed with the other assets of the corporation to those entitled to the assets.  
5 Other provisions for the full payment of unmatured, contingent, or disputed claims, if and when  
6 established, may be made by the court. A creditor who has a claim that has been allowed but  
7 is not yet due is entitled to the present value of the claim upon distribution.

8 (e) A suit against the corporation on a claim that has been rejected shall be commenced  
9 within 30 days after written notice of rejection is given to the claimant.

10 Sec. 10.21.683. ORDER DECLARING CORPORATION DULY WOUND UP AND  
11 DISSOLVED; CESSATION OF CORPORATE EXISTENCE. (a) After the final settlement of  
12 the accounts of the directors or other person appointed under AS 10.21.668 and the determination  
13 that the corporation's affairs are in condition for it to be dissolved, the court shall make an order  
14 declaring the corporation duly wound up and dissolved.

15 (b) An order issued under (a) of this section shall state

16 (1) that the corporation has been duly wound up and that its known debts and  
17 liabilities have been paid or adequately provided for, or that the debts and liabilities have been  
18 paid as far as the corporation's assets permit;

19 (2) if there are known debts or liabilities for which adequate provision for  
20 payment has been made, the order shall state what provision has been made, the name and  
21 address of the corporation, person, or governmental agency that has assumed or guaranteed the  
22 payment, or the name and address of the depository with which deposit has been made or other  
23 information as is necessary to enable the creditor or other person to whom payment is to be made  
24 to appear and claim payment of the debt or liability;

25 (3) that the known assets of the corporation have been distributed to the persons  
26 entitled to the assets or that the corporation acquired no assets;

27 (4) that the accounts of directors or other persons have been settled and that they  
28 are discharged from their duties and liabilities to creditors and members;

29 (5) that the corporation is dissolved.

30 (c) The court may make additional orders and grant further relief as it considers proper  
31 on the evidence submitted.

1 (d) After making the order declaring the corporation dissolved, corporate existence ceases  
2 except for the purposes of further winding up if needed. The directors or other persons appointed  
3 under AS 10.21.668 are discharged from their duties and liabilities except with regard to  
4 completion of the winding up.

5 Sec. 10.21.685. FILING OF CERTIFIED ORDER, DECREE OR JUDGMENT OF  
6 DISSOLUTION. If a corporation is dissolved or its existence forfeited by order, decree, or  
7 judgment of a court, a copy of the order, decree, or judgment, certified by the clerk of court,  
8 shall be filed with the commissioner.

9 Sec. 10.21.688. DISTRIBUTION OF REMAINING CORPORATE ASSETS. (a) After  
10 determining that all of the known debts and liabilities of a corporation in the process of winding  
11 up have been paid or adequately provided for, the board shall distribute all the remaining  
12 corporate assets in the manner provided in AS 10.21.693 - 10.21.697.

13 (b) If the winding up is by court proceeding or subject to court supervision, the  
14 distribution may not be made until after the expiration of any period for the presentation of  
15 claims prescribed by order of the court.

16 (c) Any assets that are not subject to attachment, execution or sale for the corporation's  
17 debts and liabilities may be distributed under AS 10.21.693 - 10.21.697 even though all debts and  
18 liabilities have not been paid or adequately provided for.

19 Sec. 10.21.690. PAYMENT OF DEBTS AND LIABILITIES. (a) The payment of a debt  
20 or liability, whether the whereabouts of the creditor is known or unknown, has been adequately  
21 provided for if

22 (1) payment of the debt or liability has been assumed or guaranteed in good faith  
23 by one or more financially responsible persons or by the United States government or an agency  
24 of the United States government, and the provision, including the financial responsibility of the  
25 person, was determined in good faith and with reasonable care by the board to be adequate at the  
26 time of distribution of the assets by the board under this chapter, and

27 (2) the amount of the debt or liability has been deposited with the commissioner  
28 of revenue.

29 (b) This section does not prescribe the exclusive means of taking adequate provision for  
30 debts and liabilities.

31 Sec. 10.21.693. RETURN, TRANSFER, OR CONVEYANCE OF ASSETS. After