

Title 9. Code of Civil Procedure.

Chapter 05. Jurisdiction.

Sec. 09.05.010. Jurisdiction of action.

From the time of the service of a copy of the summons and complaint, or of the completion of the publication when service by publication is ordered, the court acquires jurisdiction and has control of all the subsequent proceedings. The voluntary appearance of the defendant is equivalent to personal service of a copy of the summons and complaint upon the defendant.

Sec. 09.05.015. Personal jurisdiction.

(a) A court of this state having jurisdiction over the subject matter has jurisdiction over a person served in an action according to the rules of civil procedure

(1) in an action, whether arising in or out of this state, against a defendant who, when the action is commenced,

(A) is a natural person present in this state when served;

(B) is a natural person domiciled in this state;

(C) is a domestic corporation; or

(D) is engaged in substantial and not isolated activities in this state, whether the activities are wholly interstate, intrastate, or otherwise;

(2) in an action that may be brought under statutes of this state that specifically confer grounds for personal jurisdiction over the defendant;

(3) in an action claiming injury to person or property in or out of this state arising out of an act or omission in this state by the defendant;

(4) in an action claiming injury to person or property in this state arising out of an act or omission out of this state by the defendant, provided, in addition, that at the time of the injury either

(A) solicitation or service activities were carried on in this state by or on behalf of the defendant; or

(B) products, materials, or things processed, serviced, or manufactured by the defendant were used or consumed in this state in the ordinary course of trade;

(5) in an action that

(A) arises out of a promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to perform services in this state or to pay for services to be performed in this state by the plaintiff;

(B) arises out of services actually performed for the plaintiff by the defendant in this state, or services actually performed for the defendant by the plaintiff in this state if the performance in this state was authorized or ratified by the defendant;

(C) arises out of a promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to deliver or receive in this state or to ship from this state

goods, documents of title, or other things of value;

(D) relates to goods, documents of title, or other things of value shipped from this state by the plaintiff to the defendant on the order or direction of the defendant; or

(E) relates to goods, documents of title, or other things of value actually received by the plaintiff in this state from the defendant without regard to where delivery to the carrier occurred;

(6) in an action that arises out of

(A) a promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to create in either party an interest in, or to protect, acquire, dispose of, use, rent, own, control, or possess by either party real property situated in this state;

(B) a claim to recover a benefit derived by the defendant through the use, ownership, control, or possession by the defendant of tangible property situated in this state either at the time of the first use, ownership, control, or possession or at the time the action is commenced; or

(C) a claim that the defendant return, restore, or account to the plaintiff for an asset or thing of value that was in this state at the time the defendant acquired possession or control over it;

(7) in an action to recover a deficiency judgment upon a mortgage note or conditional sales contract or other security agreement executed by the defendant or a predecessor of the defendant to whose obligations the defendant has succeeded and the deficiency is claimed

(A) in an action in this state to foreclose upon real property situated in this state;

(B) following sale of real property in this state by the plaintiff; or

(C) following resale of tangible property in this state by the plaintiff;

(8) in an action against a defendant who is or was an officer or director of a domestic corporation where the action arises out of the defendant's conduct as such officer or director or out of the activities of the corporation while the defendant held office as a director or officer;

(9) in an action for the collection of taxes or assessments levied, assessed, or otherwise imposed by a taxing authority after April 10, 1968;

(10) in an action that arises out of a promise made to the plaintiff or some third party by the defendant to insure upon or against the happening of an event if

(A) the person insured was a resident of this state when the event out of which the cause of action is claimed to arise occurred;

(B) the event out of which the cause of action is claimed to arise occurred in this state; or

(C) the promise to insure was made in the state;

(11) in an action against a personal representative to enforce a claim against the deceased person represented if one or more of the grounds stated in (2) — (10) of this subsection would have furnished a basis for jurisdiction over the deceased if living, and it is immaterial under this paragraph whether the action was commenced during the lifetime of the deceased;

(12) in an action for annulment, divorce, legal separation, or separate maintenance when a personal claim is asserted against the nonresident party if

(A) the parties resided in this state in a marital relationship for not less than six consecutive months within the six years preceding the commencement of the action;

(B) the party asserting the personal claim has continued to reside in this state; and

(C) the nonresident party receives notice as required by law.

(b) In an action brought in reliance upon jurisdictional grounds stated in (a)(2) — (10) of this section, there cannot be joined in the same action any other claim or cause against the defendant unless grounds exist under this section for personal jurisdiction over the defendant as to the claim or cause to be joined.

(c) The jurisdictional grounds stated in (a)(2) — (10) of this section are cumulative and in addition to any other grounds provided by the common law.

Sec. 09.05.020. Service of process on nonresident owner or operator of motor vehicle.

(a) The operation of a motor vehicle by a nonresident, or owned by a nonresident and operated by the express or implied consent of the owner, in the state is considered equivalent to an appointment of the commissioner of administration by the nonresident as the nonresident's attorney. The summons may be served on the commissioner in an action against the nonresident growing out of an accident or collision in which the vehicle is involved while being so operated. This operation is considered a signification of the nonresident's agreement that a summons against the nonresident which is so served has the same legal force as if served on the nonresident personally in the state.

(b) Service of the summons is made by leaving a copy of it with the commissioner of administration or the designee of the commissioner. The commissioner or a designee shall keep a record of each such process and the day and hour of service. This service is sufficient service on the nonresident.

(c) The plaintiff or the plaintiff's attorney shall send a notice of the service and a copy of the summons to the defendant by registered mail within 10 days after the date of service.

(d) The plaintiff or the plaintiff's attorney shall make an affidavit showing that service of the notice and summons on the defendant has been made by registered mail as provided in (c) of this section. The affiant shall attach to the affidavit a copy of the summons and notice so served and the registry receipt of the defendant. The affiant shall file the affidavit and attached papers with the court having jurisdiction of the cause.

(e) The court in which the action is pending may order an extension of time necessary to give the defendant reasonable opportunity to defend the action.

Sec. 09.05.030. Service on personal representative of deceased nonresident; substitution of personal representative.

(a) The death of a nonresident does not revoke the appointment of the commissioner of administration by the nonresident as attorney under [AS 09.05.020](#). If the nonresident dies, an action growing out of the accident or collision may be begun or prosecuted against an executor or administrator duly appointed by the state, territory, or district of the United States or foreign country where the nonresident is domiciled at the time of death. Service of the summons shall be made on the commissioner of administration. Notice of the service and the copy of the process

shall be given to the nonresident's executor or administrator in like manner, with the same force as service on a living nonresident.

(b) An action or proceeding pending in a state court, in which the court has obtained jurisdiction of a nonresident under [AS 09.05.020](#), does not abate by reason of the nonresident's death. The nonresident's executor or administrator duly appointed in the state, territory, or district of the United States or foreign country where the nonresident is domiciled at the time of death, shall, on the application of the plaintiff, be brought in and substituted in the place of the nonresident, and the action or proceeding shall continue.

Sec. 09.05.040. Service of process on resident who leaves state after accident.

A resident who has operated a motor vehicle, or has owned a motor vehicle operated with the express or implied consent of the owner that has been involved in an accident or collision on a public highway, and who has moved to another state after the accident or collision shall be treated as a nonresident for service of process as provided under [AS 09.05.020](#) and 09.05.030.

Sec. 09.05.050. Service of process on state prisoners.

(a) In a civil action to which a person committed to the custody of the commissioner of corrections is a party or witness, service of process shall be made by delivering a copy of the summons and the complaint or pleadings, together with a form for affidavit of proof of service, to the shift supervisor of the correctional facility in which the person is housed. The shift supervisor shall

(1) immediately hand deliver the summons and complaint or pleadings to the person whose name appears on the summons; and

(2) promptly complete the affidavit of proof of service on the form provided and return it to the party requesting service of process.

(b) A party requesting service of process under this section may locate a person committed to the custody of the commissioner of corrections by contacting the chief classification officer of the Department of Corrections during that officer's regular hours of work.

(c) In this section, "correctional facility" has the meaning given in [AS 33.30.901](#).

Chapter 10. Limitations of Actions.

Sec. 09.10.010. General limitations on civil actions.

A person may not commence a civil action except within the periods prescribed in this chapter after the cause of action has accrued, except when, in special cases, a different limitation is prescribed by statute.

Sec. 09.10.020. When action commenced. [Repealed, § 1 ch 27 SLA 1966. For present law, see Civ. R. 3.]

Sec. 09.10.030. Actions to recover real property.

(a) Except as provided in (b) of this section, a person may not bring an action for the recovery of

real property or for the recovery of the possession of it unless the action is commenced within 10 years. An action may not be maintained under this subsection for the recovery unless it appears that the plaintiff, an ancestor, a predecessor, or the grantor of the plaintiff was seized or possessed of the premises in question within 10 years before the commencement of the action.

(b) An action may be brought at any time by a person who was seized or possessed of the real property in question at some time before the commencement of the action or whose grantor or predecessor was seized or possessed of the real property in question at some time before commencement of the action, and whose ownership interest in the real property is recorded under [AS 40.17](#), in order to

(1) quiet title to that real property; or

(2) eject a person from that real property.

Sec. 09.10.040. Action upon judgment or sealed instrument in 10 years.

(a) A person may not bring an action upon a judgment or decree of a court of the United States, or of a state or territory within the United States, and an action may not be brought upon a sealed instrument, unless the action is commenced within 10 years.

(b) [Repealed, § 54 ch 132 SLA 1998.]

Sec. 09.10.050. Certain property actions to be brought in six years.

Unless the action is commenced within six years, a person may not bring an action for waste or trespass upon real property.

Sec. 09.10.053. Contract actions to be brought in three years.

Unless the action is commenced within three years, a person may not bring an action upon a contract or liability, express or implied, except as provided in [AS 09.10.040](#), or as otherwise provided by law, or, except if the provisions of this section are waived by contract.

Sec. 09.10.054. Limits on when certain design, construction, and remodeling actions may be brought.

(a) For actions covered under [AS 09.45.881](#) — 09.45.899, a claimant may not begin an action against a construction professional unless the notice of claim under [AS 09.45.881](#) is given within one year after the claimant discovers the defect that is the subject of the action, except that the action may not be begun more than 10 years after substantial completion of the dwelling construction or remodeling that contains or implements the alleged defect.

(b) A limitation imposed under this chapter for an action under [AS 09.45.881](#) — 09.45.899 is tolled between the time the claimant serves notice under [AS 09.45.881](#) and the time the claimant should reasonably understand that settlement under the procedures in [AS 09.45.881](#) — 09.45.899 will not succeed.

(c) In this section,

(1) “action,” “claim,” “construction professional,” and “dwelling” have the meanings given in [AS 09.45.899](#);

(2) “substantial completion” means the date when the construction or remodeling is sufficiently completed to allow the owner of the dwelling or a person authorized by the owner to use or occupy the dwelling or the improvement to the dwelling in the manner for which the dwelling or improvement was intended.

Sec. 09.10.055. Statute of repose of 10 years.

(a) Notwithstanding the disability of minority described under [AS 09.10.140](#)(a), a person may not bring an action for personal injury, death, or property damage unless commenced within 10 years of the earlier of the date of

(1) substantial completion of the construction alleged to have caused the personal injury, death, or property damage; however, the limitation of this paragraph does not apply to a claim resulting from an intentional or reckless disregard of specific project design plans and specifications or building codes; in this paragraph, “substantial completion” means the date when construction is sufficiently completed to allow the owner or a person authorized by the owner to occupy the improvement or to use the improvement in the manner for which it was intended; or

(2) the last act alleged to have caused the personal injury, death, or property damage.

(b) This section does not apply if

(1) the personal injury, death, or property damage resulted from

(A) prolonged exposure to hazardous waste;

(B) an intentional act or gross negligence;

(C) fraud or misrepresentation;

(D) breach of an express warranty or guarantee;

(E) a defective product; in this subparagraph, “product” means an object that has intrinsic value, is capable of delivery as an assembled whole or as a component part, and is introduced into trade or commerce; or

(F) breach of trust or fiduciary duty;

(2) the facts that would give notice of a potential cause of action are intentionally concealed;

(3) a shorter period of time for bringing the action is imposed under another provision of law;

(4) the provisions of this section are waived by contract; or

(5) the facts that would constitute accrual of a cause of action of a minor are not discoverable in the exercise of reasonable care by the minor's parent or guardian.

(c) The limitation imposed under (a) of this section is tolled during any period in which there exists the undiscovered presence of a foreign body that has no therapeutic or diagnostic purpose or effect in the body of the injured person and the action is based on the presence of the foreign body.

Sec. 09.10.060. Actions for certain statutory penalties to be brought in three years.

(a) [Repealed, § 2 ch 70 SLA 1996.]

(b) A person may not bring an action upon a statute for penalty or forfeiture where the action is given to the party aggrieved or to that party and the state unless the action is brought within three years, except where the statute imposing it prescribes a different limitation.

(c) [Renumbered as [AS 09.10.065.](#)]

Sec. 09.10.065. Commencement of actions for acts constituting sexual offenses.

(a) A person may bring an action at any time for conduct that would have, at the time the conduct occurred, violated provisions of any of the following offenses:

- (1) felony sexual abuse of a minor;
- (2) felony sexual assault;
- (3) unlawful exploitation of a minor;
- (4) felony sex trafficking; or
- (5) felony human trafficking.

(b) Unless the action is commenced within three years of the accrual of the claim for relief, a person may not bring an action for conduct that would have, at the time the conduct occurred, violated the provisions of any of the following offenses:

- (1) misdemeanor sexual abuse of a minor;
- (2) misdemeanor sexual assault;
- (3) incest; or
- (4) felony indecent exposure.

Sec. 09.10.070. Actions for torts, for injury to personal property, for certain statutory liabilities, and against peace officers and coroners to be brought in two years.

(a) Except as otherwise provided by law, a person may not bring an action (1) for libel, slander, assault, battery, seduction, or false imprisonment, (2) for personal injury or death, or injury to the rights of another not arising on contract and not specifically provided otherwise; (3) for taking, detaining, or injuring personal property, including an action for its specific recovery; (4) upon a statute for a forfeiture or penalty to the state; or (5) upon a liability created by statute, other than a penalty or forfeiture; unless the action is commenced within two years of the accrual of the cause of action.

(b) A person may not bring an action against a peace officer or coroner upon a liability incurred by the doing of an act in an official capacity or by the omission of an official duty, including the nonpayment of money collected upon an execution, unless brought within two years. This subsection does not apply to an action for an escape.

Sec. 09.10.075. Actions related to claims based on medical assistance payment fraud. Except as provided in [AS 09.58.070](#), a person may not bring an action under [AS 09.58.010](#) — 09.58.025 unless the action is commenced by (1) six years after the act or omission was committed, or (2) three years after the date when facts material to the action were known, or reasonably should have been known, by the attorney general or the Department of Health, whichever is later, but in no event more than 10 years after the date the violation under [AS 09.58.010](#) occurred.

Sec. 09.10.080. Actions related to escape to be brought in one year. A person may not bring an action against a peace officer for the escape of a person arrested or imprisoned on civil process unless the action is commenced within one year.

Sec. 09.10.090. Actions for penalty. A person may not bring an action upon a statute for the penalty given in whole or in part to the person who will prosecute for the same unless the action is commenced within one year after the commission of the offense. If the action is not commenced within one year by a private party, it may be commenced on behalf of the state within two years after the period of limitation by a private party has expired.

Sec. 09.10.100. Other actions in 10 years. An action for a cause not otherwise provided for may be commenced within 10 years after the cause of action has accrued.

Sec. 09.10.110. Accrual of cause of action upon mutual, open, and current account. In an action brought to recover a balance due upon a mutual, open, and current account where there have been reciprocal demands between the parties, the cause of action accrues from the date of the last item proved in the account on either side. But when a period of more than one year elapses between any of a series of items or demands, they are not included as part of the account.

Sec. 09.10.120. Actions in name of state, political subdivisions, or public corporations.

(a) Except as provided in [AS 09.10.075](#), an action brought in the name of or for the benefit of the state, any political subdivision, or public corporation may be commenced only within six years after the date of accrual of the cause of action. However, if the action is for relief on the ground of fraud, the limitation commences from the time of discovery by the aggrieved party of the facts constituting the fraud.

(b) Notwithstanding (a) of this section or another provision of law, the state may bring an action in the name of or for the benefit of the state to (1) quiet or confirm the state's interests in real property, or (2) protect resources held in trust for the public, at any time.

Sec. 09.10.130. Effect of absence from state or concealment.

When the cause of action accrues against a person who is out of the state or concealed in the state, the action may be commenced within the periods provided in this chapter after that person

returns to the state or when the concealment ceases. If a person departs from the state or conceals one's person after the cause of action accrues, the time of absence or concealment is not part of the time limited for the commencement of the action.

Sec. 09.10.140. Disabilities of minority and incompetency.

(a) Except as provided under (c) of this section, if a person entitled to bring an action mentioned in this chapter is at the time the cause of action accrues either (1) under the age of majority, or (2) incompetent by reason of mental illness or mental disability, the time of a disability identified in (1) or (2) of this subsection is not a part of the time limit for the commencement of the action. Except as provided in (b) of this section, the period within which the action may be brought is not extended in any case longer than two years after the disability ceases.

(b) An action based on a claim of sexual abuse under [AS 09.55.650](#) that is subject to [AS 09.10.065](#)(b) may be brought more than three years after the plaintiff reaches the age of majority if it is brought under the following circumstances:

(1) if the claim asserts that the defendant committed one act of sexual abuse on the plaintiff, the plaintiff shall commence the action within three years after the plaintiff discovered or through use of reasonable diligence should have discovered that the act caused the injury or condition;

(2) if the claim asserts that the defendant committed more than one act of sexual abuse on the plaintiff, the plaintiff shall commence the action within three years after the plaintiff discovered or through use of reasonable diligence should have discovered the effect of the injury or condition attributable to the series of acts; a claim based on an assertion of more than one act of sexual abuse is not limited to plaintiff's first discovery of the relationship between any one of those acts and the injury or condition, but may be based on plaintiff's discovery of the effect of the series of acts.

(c) In an action for personal injury of a person who was under the age of eight years at the time of the injury, the time period before the person's eighth birthday is not a part of the time limit imposed under [AS 09.10.070](#)(a) for commencing the civil action.

Sec. 09.10.150. Death of a party before expiration of limitation period. [Repealed, § 5 ch 78 SLA 1972.]

Sec. 09.10.160. Disability of alien during war.

When a person is an alien subject or citizen of a country at war with the United States, the time of the continuance of the war is not a part of the period limited for the commencement of the action.

Sec. 09.10.170. Commencement stayed by injunction or statute.

When the commencement of an action is stayed by injunction or a statutory prohibition, the time of the continuance of the injunction or prohibition is not a part of the time limited for the commencement of the action.

Sec. 09.10.180. Time at which disability exists.

A person may not claim the benefit of a disability unless it existed when the right of action accrued or began before the time for commencing the action expired.

Sec. 09.10.190. Coexisting disabilities.

When two or more disabilities coexist at the time the right of action accrues, the limitation does not attach until they all are removed.

Sec. 09.10.200. Acknowledgment or promise.

No acknowledgment or promise is sufficient evidence of a new or continuing contract to take the case out of the operation of this chapter unless the acknowledgment or promise is contained in writing, signed by the party to be charged, and, as to instruments affecting real estate, acknowledged and recorded in the office of the recorder of the district where the original contract was filed or recorded. This section does not alter the effect of any payment of principal or interest.

Sec. 09.10.210. Past due payments.

When a past due payment of principal or interest is made upon any evidence of indebtedness, the running of the time within which an action may be commenced starts from the time the last payment is made.

Sec. 09.10.220. Action arising in other jurisdictions between nonresidents.

When a cause of action has arisen in another state or in a territory or foreign country between nonresidents of this state, and by the laws of the state, territory, or country where the cause of action arose that action cannot be maintained because of a lapse of time, the action may not be maintained in this state.

Sec. 09.10.230. Certain actions relating to real property.

A person may not bring an action for the determination of a right or claim to or interest in real property unless commenced within the limitations provided for actions for the recovery of the possession of real property. However, a person may not bring an action to set aside, cancel, annul, or otherwise affect a patent to land issued by this state or the United States, or to compel a person claiming or holding under a patent to convey the land described in the patent or a portion of the land to the plaintiff in the action, or to hold the land in trust for or to the use and benefit of the plaintiff, or on account of any matter, thing, or transaction that was had, done, suffered, or transpired before the date of the patent unless the action is commenced within 10 years from the date of the patent. In an action upon a new promise, fraud, or mistake, the running of the time within which an action may be commenced starts from the making of the new promise or the discovery of the fraud or mistake. This section does not bar an equitable owner in possession of real property from defending possession by means of the equitable title. The right of an equitable owner to defend possession in an action or by complaint for injunction is not barred by lapse of time while an action for the possession of the real property is not barred by the provisions of this chapter.

Sec. 09.10.240. Commencement of action after dismissal or reversal.

If an action is commenced within the time prescribed and is dismissed upon the trial or upon appeal after the time limited for bringing a new action, the plaintiff or, if the plaintiff dies and the cause of action in favor of the plaintiff survives, the heirs or representatives may commence a new action upon the cause of action within one year after the dismissal or reversal on appeal. All defenses available against the action, if brought within the time limited, are available against the action when brought under this provision.

Chapter 15. Parties.

Sec. 09.15.010. Parents or guardian may sue for injuries or death to child.

A parent may maintain an action as plaintiff for the injury or death of a child below the age of majority. A guardian may maintain an action as plaintiff for the injury or death of a ward.

Sec. 09.15.020. Parents or guardian may sue for seduction of child.

A parent may maintain an action as plaintiff for the seduction of a child below the age of majority. The guardian may maintain an action as plaintiff for the seduction of a ward. The action may be maintained even though the child or ward is not living with or in the service of the plaintiff at the time of the seduction or afterwards and there is no loss of service.

Sec. 09.15.030. Unmarried females may sue for seduction. [Repealed, § 64 ch 127 SLA 1974.]

Sec. 09.15.040. Death or disability of a party.

In case of the death or disability of a party to an action, the court may at any time within two years after the death or disability, on motion, allow the action to be continued by or against that party's personal representatives or successor in interest.

Chapter 16. Contribution Among Joint Tortfeasors.

[Repealed, 1987 Initiative Proposal No. 2, § 2. For current law, see [AS 09.17.080\(d\)](#).]

Chapter 17. Civil Damages and Apportionment of Fault.

Sec. 09.17.010. Noneconomic damages.

(a) In an action to recover damages for personal injury or wrongful death, all damage claims for noneconomic losses shall be limited to compensation for pain, suffering, inconvenience, physical impairment, disfigurement, loss of enjoyment of life, loss of consortium, and other nonpecuniary damage.

(b) Except as provided under (c) of this section, the damages awarded by a court or a jury under (a) of this section for all claims, including a loss of consortium claim, arising out of a single injury or death may not exceed \$400,000 or the injured person's life expectancy in years multiplied by \$8,000, whichever is greater.

(c) In an action for personal injury, the damages awarded by a court or jury that are described under (b) of this section may not exceed \$1,000,000 or the person's life expectancy in years multiplied by \$25,000, whichever is greater, when the damages are awarded for severe permanent physical impairment or severe disfigurement.

(d) Multiple injuries sustained by one person as a result of a single incident shall be treated as a single injury for purposes of this section.

Sec. 09.17.020. Punitive damages.

(a) In an action in which a claim of punitive damages is presented to the fact finder, the fact

finder shall determine, concurrently with all other issues presented, whether punitive damages shall be allowed by using the standards set out in (b) of this section. If punitive damages are allowed, a separate proceeding under (c) of this section shall be conducted before the same fact finder to determine the amount of punitive damages to be awarded.

(b) The fact finder may make an award of punitive damages only if the plaintiff proves by clear and convincing evidence that the defendant's conduct

(1) was outrageous, including acts done with malice or bad motives; or

(2) evidenced reckless indifference to the interest of another person.

(c) At the separate proceeding to determine the amount of punitive damages to be awarded, the fact finder may consider

(1) the likelihood at the time of the conduct that serious harm would arise from the defendant's conduct;

(2) the degree of the defendant's awareness of the likelihood described in (1) of this subsection;

(3) the amount of financial gain the defendant gained or expected to gain as a result of the defendant's conduct;

(4) the duration of the conduct and any intentional concealment of the conduct;

(5) the attitude and conduct of the defendant upon discovery of the conduct;

(6) the financial condition of the defendant; and

(7) the total deterrence of other damages and punishment imposed on the defendant as a result of the conduct, including compensatory and punitive damages awards to persons in situations similar to those of the plaintiff and the severity of the criminal penalties to which the defendant has been or may be subjected.

(d) At the conclusion of the separate proceeding under (c) of this section, the fact finder shall determine the amount of punitive damages to be awarded, and the court shall enter judgment for that amount.

(e) Unless that evidence is relevant to another issue in the case, discovery of evidence that is relevant to the amount of punitive damages to be determined under (c)(3) or (6) of this section may not be conducted until after the fact finder has determined that an award of punitive damages is allowed under (a) and (b) of this section. The court may issue orders as necessary, including directing the parties to have the information relevant to the amount of punitive damages to be determined under (c)(3) or (6) of this section available for production immediately at the close of the initial trial in order to minimize the delay between the initial trial and the separate proceeding to determine the amount of punitive damages.

(f) Except as provided in (g) and (h) of this section, an award of punitive damages may not exceed the greater of

(1) three times the amount of compensatory damages awarded to the plaintiff in the action; or

(2) the sum of \$500,000.

(g) Except as provided in (h) of this section, if the fact finder determines that the conduct proven under (b) of this section was motivated by financial gain and the adverse consequences of the

conduct were actually known by the defendant or the person responsible for making policy decisions on behalf of the defendant, it may award an amount of punitive damages not to exceed the greatest of

(1) four times the amount of compensatory damages awarded to the plaintiff in the action;

(2) four times the aggregate amount of financial gain that the defendant received as a result of the defendant's misconduct; or

(3) the sum of \$7,000,000.

(h) Notwithstanding any other provision of law, in an action against an employer to recover damages for an unlawful employment practice prohibited by [AS 18.80.220](#), the amount of punitive damages awarded by the court or jury may not exceed

(1) \$200,000 if the employer has less than 100 employees in this state;

(2) \$300,000 if the employer has 100 or more but less than 200 employees in this state;

(3) \$400,000 if the employer has 200 or more but less than 500 employees in this state; and

(4) \$500,000 if the employer has 500 or more employees in this state.

(i) Subsection (h) of this section may not be construed to allow an award of punitive damages against the state or a person immune under another provision of law. In (h) of this section, "employees" means persons employed in each of 20 or more calendar weeks in the current or preceding calendar year.

(j) If a person receives an award of punitive damages, the court shall require that 50 percent of the award be deposited into the general fund of the state. This subsection does not grant the state the right to file or join a civil action to recover punitive damages.

(k) In a civil action in which an employer is determined to be vicariously liable for the act or omission of an employee, punitive damages may not be awarded against the employer under principles of vicarious liability unless (1) the employer or the employer's managerial agent (A) authorized the act or omission and the manner in which the act was performed or omission occurred; or (B) ratified or approved the act or omission after the act or omission occurred; or (2) the employee (A) was unfit to perform the act or avoid the omission and the employer or the employer's managerial agent acted recklessly in employing or retaining the employee; or (B) was employed in a managerial capacity and was acting within the scope of employment. In this subsection, "managerial agent" means a management level employee with the stature and authority to exercise control, discretion, and independent judgment over a certain area of the employer's business and with some power to set policy for the employer.

Sec. 09.17.030. [Renumbered as [AS 09.65.210](#).]

Sec. 09.17.040. Award of damages; periodic payments.

(a) In every case where damages for personal injury are awarded by the court or jury, the verdict shall be itemized between economic loss and noneconomic loss, if any, as follows:

(1) past economic loss;

(2) past noneconomic loss;

(3) future economic loss;

(4) future noneconomic loss; and

(5) punitive damages.

(b) The fact finder shall reduce future economic damages to present value. In computing the portion of a lump-sum award that is attributable to future economic loss, the fact finder shall determine the present amount that, if invested at long-term future interest rates in the best and safest investments, will produce over the life expectancy of the injured party the amount necessary to compensate the injured party for

(1) the amount of wages the injured party could have been expected to earn during future years, taking into account future anticipated inflation and reasonably anticipated increases in the injured party's earnings; and

(2) the amount of money necessary during future years to provide for all additional economic losses related to the injury, taking into account future anticipated inflation.

(c) Subsection (b) of this section does not apply to future economic damages if the parties agree that the award of future damages may be computed under the rule adopted in the case of *Beaulieu v. Elliott*, 434 P.2d 665 (Alaska 1967).

(d) In an action to recover damages, the court shall, at the request of an injured party, enter judgment ordering that amounts awarded a judgment creditor for future damages be paid to the maximum extent feasible by periodic payments rather than by a lump-sum payment.

(e) The court may require security be posted, in order to ensure that funds are available as periodic payments become due. The court may not require security to be posted if an authorized insurer, as defined in [AS 21.97.900](#), acknowledges to the court its obligation to discharge the judgment.

(f) A judgment ordering payment of future damages by periodic payment shall specify the recipient, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments shall be made. Payments may be modified only in the event of the death of the judgment creditor, in which case payments may not be reduced or terminated, but shall be paid to persons to whom the judgment creditor owed a duty of support, as provided by law, immediately before death. In the event the judgment creditor owed no duty of support to dependents at the time of the judgment creditor's death, the money remaining shall be distributed in accordance with a will of the deceased judgment creditor accepted into probate or under the intestate laws of the state if the deceased had no will.

(g) If the court finds that the judgment debtor has exhibited a continuing pattern of failing to make payments required under (d) of this section, the court shall, in addition to the required periodic payments, order the judgment debtor to pay the judgment creditor any damages caused by the failure to make periodic payments, including costs and attorney fees.

Sec. 09.17.050. [Renumbered as [AS 09.65.170](#).]

Sec. 09.17.060. Effect of contributory fault.

In an action based on fault seeking to recover damages for injury or death to a person or harm to property, contributory fault chargeable to the claimant diminishes proportionately the amount awarded as compensatory damages for the injury attributable to the claimant's contributory fault, but does not bar recovery.

Sec. 09.17.070. Collateral benefits.

(a) After the fact finder has rendered an award to a claimant, and after the court has awarded costs and attorney fees, a defendant may introduce evidence of amounts received or to be received by the claimant as compensation for the same injury from collateral sources that do not have a right of subrogation by law or contract.

(b) If the defendant elects to introduce evidence under (a) of this section, the claimant may introduce evidence of

(1) the amount that the actual attorney fees incurred by the claimant in obtaining the award exceed the amount of attorney fees awarded to the claimant by the court; and

(2) the amount that the claimant has paid or contributed to secure the right to an insurance benefit introduced by the defendant as evidence.

(c) If the total amount of collateral benefits introduced as evidence under (a) of this section exceeds the total amount that the claimant introduced as evidence under (b) of this section, the court shall deduct from the total award the amount by which the value of the nonsubrogated sum awarded under (a) of this section exceeds the amount of payments under (b) of this section.

(d) Notwithstanding (a) of this section, the defendant may not introduce evidence of

(1) benefits that under federal law cannot be reduced or offset;

(2) a deceased's life insurance policy; or

(3) gratuitous benefits provided to the claimant.

(e) This section does not apply to a medical malpractice action filed under [AS 09.55](#).

(f) Notwithstanding any other provision of this section, if the teachers' retirement system ([AS 14.25](#)) or the public employees' retirement system ([AS 39.35](#)) obtains an award of damages or other recovery in compensation for harms caused by the wrongful or negligent conduct of a third party, the award of damages or other recovery is not subject to reduction under this section on account of additional state contributions under [AS 14.25.085](#) or [AS 39.35.280](#).

Sec. 09.17.080. Apportionment of damages.

(a) In all actions involving fault of more than one person, including third-party defendants and persons who have settled or otherwise been released, the court, unless otherwise agreed by all parties, shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings, indicating

(1) the amount of damages each claimant would be entitled to recover if contributory fault is disregarded; and

(2) the percentage of the total fault that is allocated to each claimant, defendant, third-party defendant, person who has been released from liability, or other person responsible for the damages unless the person was identified as a potentially responsible person, the person is not a person protected from a civil action under [AS 09.10.055](#), and the parties had a sufficient opportunity to join that person in the action but chose not to; in this paragraph, "sufficient opportunity to join" means the person is

(A) within the jurisdiction of the court;

(B) not precluded from being joined by law or court rule; and

(C) reasonably locatable.

(b) In determining the percentages of fault, the trier of fact shall consider both the nature of the conduct of each person at fault, and the extent of the causal relation between the conduct and the damages claimed.

(c) The court shall determine the award of damages to each claimant in accordance with the findings and enter judgment against each party liable. The court also shall determine and state in the judgment each party's equitable share of the obligation to each claimant in accordance with the respective percentages of fault as determined under (a) of this section. Except as provided under [AS 23.30.015](#)(g), an assessment of a percentage of fault against a person who is not a party may only be used as a measure for accurately determining the percentages of fault of a named party. Assessment of a percentage of fault against a person who is not a party does not subject that person to civil liability in that action and may not be used as evidence of civil liability in another action.

(d) The court shall enter judgment against each party liable on the basis of several liability in accordance with that party's percentage of fault.

Sec. 09.17.090. Effect of release. [Repealed, § 17 ch 14 SLA 1987.]

Sec. 09.17.100. [Renumbered as [AS 09.65.180](#).]

Sec. 09.17.900. Definition.

In this chapter, "fault" includes acts or omissions that are in any measure negligent, reckless, or intentional toward the person or property of the actor or others, or that subject a person to strict tort liability. The term also includes breach of warranty, unreasonable assumption of risk not constituting an enforceable express consent, misuse of a product for which the defendant otherwise would be liable, and unreasonable failure to avoid an injury or to mitigate damages. Legal requirements of causal relation apply both to fault as the basis for liability and to contributory fault.

Chapter 19. Prisoner and Correctional Facility Litigation Against the State.

Sec. 09.19.010. Limitation on exemption from filing fees.

(a) A prisoner may not commence litigation against the state unless the prisoner has paid full filing fees to the court or is a claimant under [AS 23.20](#), except that the court may exempt a prisoner from paying part of those fees if the court finds exceptional circumstances as described in this section.

(b) To apply for a filing fee exemption, a prisoner shall submit to the court

(1) an affidavit that clearly discloses that the person is a prisoner and that sets out

(A) the prisoner's complete financial situation, including the prisoner's income, money in financial accounts, assets, and court-ordered payments;

(B) the circumstances that prevent the prisoner from paying full filing fees; and

(C) the nature of the action or appeal and specific facts that would, if proven, state a claim

on which relief can be granted or entitle the prisoner to reversal on appeal;

(2) a certified copy of the prisoner's account statement from the correctional facility in which the prisoner is being or has been held for the six-month period preceding the submission of the application; and

(3) other documentation or financial information as the court may require.

(c) Based on the submission under (b) of this section, the court may grant an exemption from part of the applicable filing fees if the court finds that exceptional circumstances prevent the prisoner from paying full filing fees. Imprisonment and indigency do not constitute exceptional circumstances if the prisoner has available income or resources that can be applied to the filing fee.

(d) If the court orders an exemption under (c) of this section, the court shall determine the amount of the exemption and set a filing fee to be paid by the prisoner. In setting the fee, the court, at a minimum, shall require the prisoner to pay filing fees equal to 20 percent of the larger of the average monthly deposits made to the prisoner's account described in (b)(2) of this section, or the average balance in that account, not to exceed the amount of the full filing fee required under applicable court rules.

(e) The court shall mail or otherwise serve its order under (d) of this section on the prisoner. Along with its order, the court shall give written notice that the case or appeal will not be accepted for filing if payment of a filing fee is not made within 30 days after the date of distribution of the order, unless the time for payment is extended by the court. If timely payment is not made, the court may not accept any filing in the case or appeal. If payment is made, the prisoner's filing and supporting documents shall be accepted for filing with the court.

Sec. 09.19.020. Dismissal for material misstatements.

If a prisoner has filed litigation against the state, the court shall dismiss that litigation if the court finds that the pleadings filed by the prisoner or an application filed by the prisoner to obtain an exemption under [AS 09.19.010](#) contain a material statement made by the prisoner that is not true.

Sec. 09.19.030. Stay in prisoner disciplinary appeals.

A superior court that reviews a disciplinary decision of the Department of Corrections as an administrative appeal may not enter an order staying disciplinary sanctions unless the pleadings filed by the prisoner establish by clear and convincing evidence that the prisoner has alleged a violation of a fundamental constitutional right and is likely to succeed on the merits in the appeal, that the prisoner faces irreparable harm if a stay is not granted, that the Department of Corrections can be adequately protected if a stay is granted, and that a stay will not adversely affect the public interest in effective penal administration.

Sec. 09.19.040. Injunctions or orders imposing obligations in prisoner cases.

In litigation against the state brought by a prisoner, a court may not enter an injunction or issue an order or decision that would impose an obligation on the state or its employees that would exceed the obligations imposed by the United States Constitution, the Constitution of the State of Alaska, and applicable federal and state statutes and regulations, unless the obligation is agreed to by the state.

Sec. 09.19.050. Discovery in prisoner cases.

The automatic disclosure provisions of Rule 26, Alaska Rules of Civil Procedure, do not apply to litigation against the state brought by a prisoner.

Sec. 09.19.100. Definitions.

In this chapter,

(1) “litigation against the state” means a civil action or an appeal from a civil action or from the final decision of an administrative agency, a petition for review, a petition for hearing, an original application for relief, or another action filed under the Alaska Rules of Appellate Procedure that

(A) involves the state, an officer or agent of the state, or a state employee, or a former officer or agent of the state or state employee, regarding conduct that occurred during that former officer's, agent's, or employee's state employment or agency, whether the officer, agent, or employee is sued in an official or a personal capacity; and

(B) is related to a person's status or treatment as a prisoner, to a criminal charge against or involving the person, or to an alleged violation of the person's constitutional rights;

(2) “prisoner” has the meaning given in [AS 33.30.901](#).

Sec. 09.19.200. Correctional facility litigation.

(a) Except as provided in (b) and (e) of this section, a court may not order prospective relief in a civil action with respect to correctional facility conditions unless the court finds that (1) the plaintiff has proven a violation of a state or federal right, (2) the prospective relief is narrowly drawn and extends no further than is necessary to correct the violation of the right, (3) the prospective relief is the least intrusive means necessary to correct the violation of the right, and (4) the prisoner exhausted all administrative remedies available to the prisoner before filing the civil action. When a court finds multiple violations of a state or federal right, when multiple remedies are ordered by the prospective relief, or when prospective relief applies to multiple correctional facilities, the findings required by this subsection shall be made as to each violation, each remedy, and each facility, as appropriate. In a civil action with respect to correctional facility conditions that has been certified as a class action, prospective relief applicable to the class may only be ordered after the court makes the findings required by this subsection and finds that the violation of a state or federal right is applicable to the entire class. In making the findings required under this subsection, the court shall give substantial weight to any adverse effect on public safety or the operation of a criminal justice system caused by the prospective relief.

(b) In a civil action with respect to correctional facility conditions, to the extent otherwise authorized by law, the court may enter a temporary restraining order or an order for preliminary injunctive relief only if the court finds that the relief is (1) narrowly drawn and extends no further than is necessary to correct the harm that requires preliminary relief, and (2) the least intrusive means necessary to correct that harm. In making the findings required under this subsection, the court shall give substantial weight to any adverse effect on public safety or the operation of a criminal justice system caused by the preliminary relief. Preliminary injunctive relief shall automatically expire 90 days after the entry of the order unless the court orders final relief in the civil action before the expiration of the 90-day period.

(c) Prospective relief ordered in a civil action with respect to correctional facility conditions, including prospective relief ordered under a consent decree, regardless of whether that civil

action was filed or the relief ordered before or after August 30, 1999, shall be terminated upon the motion of the defendant unless the court finds that there exists a current violation of a state or federal right and makes the findings required by (a) of this section as to each current violation and as to each remedy and facility, as appropriate. A civil action that has been certified as a class action shall be terminated upon the motion of the defendant unless the court makes the findings required by this subsection and finds that the current violation of a state or federal right is applicable to the entire class. Prospective relief must be modified upon the motion of a party whenever, and to the extent, the findings required by this section no longer apply to one or more provisions of the prospective relief then in effect. This subsection and the time limits provided in (d) of this section do not prevent a party from seeking modification or termination before the relief is otherwise terminable under this section to the extent that modification or termination would otherwise be legally permissible.

(d) A defendant may not file a motion to modify or terminate under (c) of this section until

(1) two years after the date the court ordered the prospective relief if the order occurred after August 30, 1999;

(2) one year after the date the court entered an order denying modification or termination of prospective relief made under (1) or (3) of this subsection; or

(3) in the case of an order issued on or before August 30, 1999, one year after August 30, 1999.

(e) Notwithstanding (a) of this section, in a civil action with respect to correctional facility conditions, a court may order prospective relief as provided in a consent decree without complying with (a) of this section, provided the prospective relief does not continue for a period of more than two years unless the court finds and orders that the continuation of the relief is appropriate under the standards in (c) of this section. In addition, parties may enter into private settlement agreements that do not comply with the limitations of relief set out in (a) of this section if the terms of the agreements are not subject to court enforcement other than the reinstatement of the civil proceedings that the agreements settled.

(f) The court shall promptly rule on a motion to modify or terminate prospective relief in a civil action with respect to correctional facility conditions. A motion to modify or terminate prospective relief made under this section stays the order for prospective relief beginning on the 90th day after the motion is filed, and the stay ends on the date the court enters a final order ruling on the motion. An automatic stay under this subsection may be postponed by the court for not more than 30 days for good cause.

(g) In this section,

(1) “civil action with respect to correctional facility conditions” means a civil proceeding arising under state or federal law with respect to the conditions of confinement or the effects of actions by government officials on the lives of persons confined in correctional facilities;

(2) “consent decree” means a court order that is based on the agreement of the parties; the term “consent decree” does not include a private settlement agreement;

(3) “prisoner”

(A) means a person held in a state correctional facility or under authority of state or municipal law in official detention as defined in [AS 11.81.900](#)(b);

(B) includes a minor committed to the custody of the commissioner when,

(i) under [AS 47.12.030](#), 47.12.065, or 47.12.100, the minor has been charged, prosecuted, or convicted as an adult; or

(ii) under [AS 47.12.160](#)(e), the minor has been ordered transferred to the custody of the commissioner of corrections or a municipality;

(4) “private settlement agreement” means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil proceeding that the agreement settled;

(5) “prospective relief” means all relief other than compensatory monetary damages;

(6) “relief” means any legal or equitable remedy in any form that may be ordered by the court, and includes a consent decree but does not include a private settlement agreement;

(7) “state or federal right” means a right arising from the United States Constitution, the Constitution of the State of Alaska, or a federal or state statute.

Chapter 20. Trial.

Article 1. Jurors and Verdict.

Sec. 09.20.010. Qualification of jurors; interpreters.

(a) A person is qualified to act as a juror if the person is

- (1) a citizen of the United States;
- (2) a resident of the state;
- (3) at least 18 years of age;
- (4) of sound mind;
- (5) in possession of the person's natural faculties; and
- (6) able to read or speak the English language.

(b) A person is not disqualified from serving as a juror solely because of the loss of hearing or sight in any degree or a disability that substantially impairs or interferes with the person's mobility.

(c) The court shall provide, and pay the cost of services of, an interpreter or reader when necessary to enable a person with impaired hearing or sight to act as a juror.

Sec. 09.20.020. Disqualification of jurors.

A person is disqualified from serving as a juror if the person

- (1) has served as a juror in the state within one year of the time of examination for service; or
- (2) has been convicted of a felony for which the person has not been unconditionally discharged; unconditional discharge has the meaning given in [AS 12.55.185](#).

Sec. 09.20.025. Limitation on jury service.

A person may not be required to serve more than a total of three months as a juror during any consecutive two-year period. However, if a person is serving as a juror at the conclusion of the three months period, that person shall complete the trial then in progress. In this section, a person is “serving as a juror” whenever that person is in attendance in court as a member of a jury or a jury panel.

Sec. 09.20.030. Exemptions.

(a) A person may claim exemption and may be excused from service as a juror if it is shown that the person's health, the health or proper care of the person's family, a permanent physical or mental disability, or other substantial hardship expected to last more than two years makes it necessary for the person to be excused, or if the person is a judicial officer.

(b) A person may claim exemption and shall be excused by the court from service as a juror during the school term if it is shown that the person is a teacher in a school that is designated as a low performing school under regulations adopted by the state Board of Education and Early Development. In this subsection, “teacher” means a person who serves a school district in a teaching capacity in a classroom setting and is required to be certificated in order to hold the position.

Sec. 09.20.035. Deferral of jury service.

A person may have jury service deferred if the person shows that jury service at the time for which the person is summoned will cause hardship to that person or another, that transportation problems make it temporarily impossible for the person to serve, or that the person summoned is employed as a full-time or temporary election official and the jury service is during the month in which a primary or general election is held. Jury service may be deferred under this section only if the person seeking the deferment agrees to a deferred date. Jury service may not be deferred for more than 10 months from the date the initial jury service was to begin.

Sec. 09.20.037. Protection for employee on jury duty.

(a) An employer may not deprive an employee of employment or threaten, coerce, or penalize an employee because the employee receives or responds to a summons for jury service, serves as a juror, or attends court for prospective jury service. This section does not require an employer to pay wages to an employee for time spent on jury service or in court for prospective jury service.

(b) If an employer violates this section, the employee may bring a civil action to recover wages lost as a result of the violation, other damages that resulted from the violation, and may also seek an order requiring the reinstatement of the employee.

Sec. 09.20.040. Compliance with statute.

The selection of jurors shall be made in substantial compliance with [AS 09.20.040](#) — 09.20.090. A failure in substantial compliance that prejudices the rights of a party is reversible error.

Sec. 09.20.050. Jury list.

(a) At such times as need may require, but not later than November 30 of each year, the administrative director of the Alaska Court System shall prepare for each judicial district a list of the names of the residents of the district who are qualified by law for jury service. If the superior court is located in different cities in the same judicial district, the administrative director shall prepare for each location of the court a list of the names of the qualified residents of that portion of the district considered to be appropriate.

(b) The jury list shall be based on a list prepared by the Department of Revenue of all persons who filed an application for a distribution of Alaska permanent fund income under [AS 43.23](#) during the current calendar year that shows an Alaska address, and of all persons who volunteer for jury duty under (d) of this section. If considered necessary by the administrative director of the Alaska Court System, the jury list shall incorporate a list prepared by the Department of Administration of all persons who hold a valid Alaska driver's license. The departments shall submit their respective lists to the Alaska Court System not later than September 30 of each year. To the extent that it is available, the departments shall include on the lists they submit the following information for each person: first name, middle initial, and last name; mailing address, including the zip code; and birth date.

(c) A copy of the appropriate portion of the jury list shall be transmitted to the presiding judge of each judicial district and shall only be used to summon jurors and for other purposes of judicial administration. Duplicate names and the names of deceased persons and persons permanently excused from jury service shall be eliminated from the list before it is transmitted to the presiding judge. A questionnaire for prospective jurors may be adopted and submitted to them by the administrative director of the Alaska Court System.

(d) A person who is qualified as a juror under [AS 09.20.010](#) and is not disqualified from serving as a juror by [AS 09.20.020](#) may volunteer for jury duty by contacting the administrative director of the Alaska Court System and providing the information the administrative director may require.

Sec. 09.20.060. Use of jury box or computer list.

The clerk of the court shall write the names included in the list on separate pieces of paper or prepare metal, plastic, or other types of pieces to correspond to numbers on the jury list. As directed by the court, the clerk shall deposit the named or numbered pieces in the jury box in a number and manner to assure a fair and impartial drawing of the jury panel. A randomly generated computer list of prospective jurors may be used in place of the jury box. The jury box and the named or numbered pieces, or the computer list may be examined by the parties or by an attorney authorized to practice law in the state within limitations and under conditions prescribed by the court.

Sec. 09.20.070. Public drawing for jurors for panel.

Under the direction of the court the clerk shall conduct the public drawing of jurors for the panel by shaking the box to mix the named or numbered pieces. The clerk shall then draw as many names or numbers as are ordered by the court to fill the jury panel. A random selection of the jury panel by computer may be used in place of the public drawing of names. If the name or number of a person is drawn or selected and the person is deceased, unqualified, disqualified, or the person's attendance cannot be obtained within a reasonable time or may involve a large and unnecessary expense, and the fact appears to the satisfaction of the court through the use of

questionnaires or otherwise, the court may reject the name of that person and direct that the name or number of another be drawn.

Sec. 09.20.080. Jury panel.

(a) The jury panel for the trial of civil cases consists of at least twice the number of jurors needed to serve on a trial jury, including any needed alternate jurors. If the number of jurors on the panel falls below the number required by this section or if the regular panel is exhausted, the court shall order the clerk to complete the panel or to secure additional jurors by drawing names from the jury box or by obtaining names from the randomly generated computer list.

(b) If the list of prospective jurors for a court location does not produce sufficient names for a jury panel of minimum size, the administrative director of the Alaska Court System may authorize that additional names of prospective jurors be randomly selected from sources other than those listed in [AS 09.20.050](#).

Sec. 09.20.090. Impaneling the trial jury.

When a civil case that is to be tried by a jury is called for trial, the clerk shall draw from the trial jury box containing the names of those on the jury panel a number of names or numbers sufficient to name a jury of 12 unless the court directs otherwise. The prospective jurors shall be examined, challenged, and sworn as provided by rules of the supreme court.

Sec. 09.20.100. Verdicts.

In a civil case tried by a jury in any court, whether of record or not, not less than five-sixths of the jury may render a verdict, which is entitled to the legal effect of a unanimous verdict at common law. Special verdicts need not be concurred in by the same jurors.

Article 2. Witnesses.

Sec. 09.20.110. Service on concealed witness.

If a witness is concealed in a building or vessel for the purpose of preventing the service of a subpoena, a peace officer may break into the building or vessel to serve the subpoena upon the witness.

Sec. 09.20.120. Disobedience to subpoena.

A witness who disobeys a subpoena served on the witness shall also forfeit to the party requiring the attendance of the witness the sum of \$50 and all damages which that party may sustain by the failure of the witness to attend. The forfeiture and damages may be recovered in a civil action.

Sec. 09.20.130. Proceedings for examination of prisoner as a witness.

(a) If a witness is a prisoner confined in a prison in the state, a state court may order the prisoner's temporary removal and production before a state court for the purpose of being orally examined

(1) by the court or a judge of the court in which the action or proceeding is pending, unless it is a district court;

(2) by a judge of the superior or supreme court when the action or proceeding is pending in a district court, or when the witness's oral examination is required before a judge or other persons

out of court.

(b) In any other case, a state court may order the examination in prison upon a deposition.

Sec. 09.20.140. Compelling person to testify.

A person present in court or before a judicial officer may be required to testify in the same manner as if the person were in attendance before the court or officer on a subpoena.

Sec. 09.20.150. Witnesses are exonerated from civil arrest.

A person who has been served in good faith with a subpoena to attend as a witness before a court, judge, referee, or other official is exonerated from arrest in a civil action while going to the place of attendance, necessarily remaining there, and returning from there. The arrest of a witness contrary to this section is void, and when wilfully made is a contempt of court. The officer wilfully making it is responsible to the witness arrested for double the amount of damages that may be assessed against the witness, and is also liable to an action at the suit of the party serving the witness with the subpoena for the damages sustained by the party in consequence of the arrest.

Sec. 09.20.160. Affidavit as prerequisite to officer's liability.

(a) The officer making the arrest is not liable in any way therefor unless the person claiming exonerated from arrest, if required, makes an affidavit stating that the person

(1) has been served a subpoena to attend as a witness before a court, judge, referee, or other official, specifying the same, the place of attendance, and the action or proceeding in which the subpoena was issued; and

(2) has not been served by the person's own procurement with the intention of avoiding an arrest.

(b) The affidavit may be taken by the officer, and exonerates the officer from liability for not making the arrest or for discharging the witness when arrested.

Sec. 09.20.170. Discharge from improper arrest.

The court, judge, referee, or other person before whom the attendance of the witness is required may discharge a witness from an arrest made in violation of [AS 09.20.150](#).

Sec. 09.20.180. Exclusion of witnesses from courtroom.

Except as provided in [AS 12.61.010](#) and [AS 47.12.110](#)(b), upon the request of either party the judge may exclude from the courtroom any witness of the adverse party not under examination at the time so that the witness may not hear the testimony of other witnesses.

Sec. 09.20.185. Expert witness qualification.

(a) In an action based on professional negligence, a person may not testify as an expert witness on the issue of the appropriate standard of care unless the witness is

(1) a professional who is licensed in this state or in another state or country;

(2) trained and experienced in the same discipline or school of practice as the defendant or in an area directly related to a matter at issue; and

(3) certified by a board recognized by the state as having acknowledged expertise and training directly related to the particular field or matter at issue.

(b) The provisions of (a) of this section do not apply if the state has not recognized a board that has certified the witness in the particular field or matter at issue.

Chapter 25. Evidence, Presumptions, and Privileges.

Article 1. Evidence and Presumptions.

Sec. 09.25.010. Statute of frauds.

(a) In the following cases and under the following conditions an agreement, promise, or undertaking is unenforceable unless it or some note or memorandum of it is in writing and subscribed by the party charged or by an agent of that party:

(1) an agreement that by its terms is not to be performed within a year from the making of it;

(2) an agreement the performance of which is not to be completed by the end of a lifetime; this provision includes a contract to bequeath property or make a testamentary disposition of any kind, a contract to assign or an assignment, with or without consideration to the promisor, of a life or health or accident insurance policy, or a promise, with or without consideration to the promisor, to name a beneficiary of that type of policy; but this provision does not include an insurer's promise to issue a policy of insurance, or any promise or assignment with respect to a policy of industrial life or health or accident insurance;

(3) a special promise to answer for the debt of another;

(4) an agreement by an executor or administrator to pay the debts of the testator or intestate out of the personal estate of the executor or administrator;

(5) an agreement made upon consideration of marriage other than mutual promises to marry;

(6) an agreement for leasing for a longer period than one year, or for the sale of real property, or of any interest in real property, or to charge or encumber real property;

(7) an agreement concerning real property made by an agent of the party sought to be charged unless the authority of the agent is in writing;

(8) an agreement authorizing or employing an agent or broker to sell or purchase real estate for compensation or commission; however, if the note or memorandum of the agreement is in writing, subscribed by the party to be charged or by a lawfully authorized agent, contains a description of the property sufficient for identification, authorizes or employs the agent or broker named in it to sell the property, and expresses with reasonable certainty the amount of the commission or compensation to be paid the agent or broker, the agreement of authorization or employment is not unenforceable for failure to state a consideration;

(9) an agreement to establish a trust;

(10) a subsequent or new promise to pay a debt discharged in bankruptcy;

(11) a conveyance or assignment of a trust in personal property;

(12) an agreement to pay compensation for services rendered in negotiating a loan, effecting the procurement of a business opportunity, or the purchase and sale of a business, its good will, inventory, fixtures, or an interest in it, including a majority of the voting stock interest in a corporation and including the creating of a partnership interest, other than an agreement to pay compensation to an auctioneer or an attorney at law;

(13) an agreement to lend more than \$50,000 or to grant or extend credit of more than \$50,000, if the loan or grant or extension of credit is not primarily for personal, family, or household purposes and if the person who agrees to lend or grant or extend credit is engaged in the business of lending or arranging for the lending of money or the granting or extension of credit; in this paragraph a loan secured solely by residential property consisting of one to four dwelling units is considered to be a loan primarily for personal, family, or household purposes.

(b) No estate or interest in real property, other than a lease for a term not exceeding one year, nor any trust or power concerning the property may be created, transferred, or declared, otherwise than by operation of law, or by a conveyance or other instrument in writing subscribed by the party creating, transferring, or declaring it or by that party's agent under written authority and executed with the formalities that are required by law. If the estate or interest in real property is created, transferred, or declared to a nonresident alien or for the benefit of a nonresident alien, the instrument shall so state and shall contain the name and address of the alien. This subsection does not affect the power of a testator in the disposition of real property by will, nor prevent a trust's arising or being extinguished by implication or operation of law, nor affect the power of a court to compel specific performance of an agreement in relation to the property.

Sec. 09.25.020. Exceptions to statute of frauds.

A contract, promise, or agreement that is subject to [AS 09.25.010](#), that does not satisfy the requirements of that section, but that is otherwise valid is enforceable if

(1) there has been full performance on one side accepted by the other in accordance with the contract;

(2) there is a memorandum that would satisfy the requirements of [AS 09.25.010](#) except for error or omission in the recital of past events;

(3) there is a memorandum that would satisfy the requirements of [AS 09.25.010](#) except for error or omission that could be corrected by reformation if it occurred in a formal contract;

(4) the party against whom enforcement is sought admits, voluntarily or involuntarily, in pleadings or at any other stage of this or any other action or proceeding the making of an agreement; or

(5) it is a contract of employment for a period not exceeding one year from the commencement of work under its terms.

Sec. 09.25.030. Representations as to credit, skill, or character of a third person.

Evidence is not admissible to charge a person upon a representation as to the credit, skill, or character of a third person unless the representation or some memorandum of it is in writing, and either subscribed by or in the handwriting of the party to be charged.

Sec. 09.25.040. Rules for construing real estate descriptions.

The following are the rules for construing the descriptive part of a conveyance of real property when the construction is doubtful and there are no other sufficient circumstances to determine it:

(1) where there are certain definite and ascertained particulars in the description, the addition of others which are indefinite, unknown, or false does not frustrate the conveyance, but it is to be construed by those particulars if they constitute a sufficient description to ascertain its application:

(2) when permanent and visible or ascertained boundaries or monuments are inconsistent with the measurement, either of lines, angles, or surfaces, the boundaries or monuments are paramount:

(3) between different measurements which are inconsistent with each other, that of angles is paramount to that of surfaces, and that of lines paramount to both:

(4) when a road or stream of water not navigable is the boundary, the rights of the grantor to the middle of the road or the thread of the stream are included in the conveyance, except where the road or bed of the stream is held under another title:

(5) when tidewater is the boundary, the rights of the grantor to low-water mark are included in the conveyance:

(6) when the description refers to a map and that reference is inconsistent with other particulars, it controls them if it appears that the parties acted with reference to the map; otherwise the map is subordinate to other definite and ascertained particulars.

Sec. 09.25.050. [Renumbered as [AS 09.45.052.](#)]

Sec. 09.25.051. Admissibility of DNA profiles.

(a) In a civil action or proceeding, evidence of a DNA profile is admissible to prove or disprove any relevant fact if the court finds that the technique underlying the evidence is scientifically valid. The admission of the DNA profile does not require a finding of general acceptance in the relevant scientific community of DNA profile evidence.

(b) In this section,

(1) “deoxyribonucleic acid” means the molecules in all cellular forms that contain genetic information in a patterned chemical structure for each individual;

(2) “DNA profile”

(A) means an analysis of blood, semen, tissue, or other cells bearing deoxyribonucleic acid resulting in the identification of the individual's patterned chemical structure of genetic information;

(B) includes statistical population frequency comparisons of the patterned chemical structures described in (A) of this paragraph.

Sec. 09.25.060. Fraud presumed from retention of possession.

Every sale or assignment of personal property unless accompanied by the immediate delivery and the actual and continued change of possession of the thing sold or assigned is presumed prima facie to be a fraud against the creditors of the vendor or assignor, and subsequent purchasers in good faith and for a valuable consideration during the time the property remains in the possession of the vendor or assignor, except that retention of possession in good faith and current course of trade by a merchant seller for a commercially reasonable time after a sale or identification is not fraudulent, and nothing contained in this section shall supersede the provisions of [AS 45.01](#) — [AS 45.08](#), [AS 45.12](#), [AS 45.14](#), and [AS 45.29](#) (Uniform Commercial Code).

Sec. 09.25.070. Evidence of publication.

Evidence of the publication of a document or notice required by law to be published in a newspaper may be given by the affidavit of the printer, foreman, or business manager of the newspaper, annexed to a copy of the document or notice, specifying the times when and the paper in which the publication was made.

Sec. 09.25.080. Right to receipt upon payment or delivery.

A person who pays money or delivers an instrument or property is entitled to a receipt for it from the person to whom the payment or delivery is made, and may demand a proper signature to the receipt as a condition of the payment or delivery.

Sec. 09.25.090. Objections to tender.

The person to whom a tender is made shall at the time specify any objection the person may have to the money, instrument, or property, or the person waives it. If the objection is to the amount of money, the terms of the instrument, or the amount or kind of property, the person shall specify the amount, terms, or kind that the person requires, or is precluded from objecting later. This section may not be construed to modify or change in any manner corresponding provisions of [AS 45.01](#) — [AS 45.08](#), [AS 45.12](#), [AS 45.14](#), and [AS 45.29](#) (Uniform Commercial Code).

Sec. 09.25.095. Effect of private seals and scrolls.

Private seals and scrolls as a substitute for seals are abolished. They are not required to an instrument, but when used their effect remains unchanged.

Secs. 09.25.100 — 09.25.125. [Renumbered as [AS 40.25.110](#) — 40.25.125.]

Sec. 09.25.130. [Renumbered as [AS 09.25.095](#).]

Sec. 09.25.140. [Renumbered as [AS 40.25.140](#).]

Sec. 09.25.150. [Renumbered as [AS 09.25.300](#).]

Sec. 09.25.160. [Renumbered as [AS 09.25.310](#).]

Sec. 09.25.170. [Renumbered as [AS 09.25.320](#).]

Sec. 09.25.180. [Renumbered as [AS 09.25.330](#).]

Sec. 09.25.190. [Renumbered as [AS 09.25.340](#).]

Sec. 09.25.200. [Renumbered as [AS 09.25.350](#).]

Sec. 09.25.210. [Renumbered as [AS 09.25.360](#).]

Sec. 09.25.220. [Renumbered as [AS 40.25.220](#).]

Sec. 09.25.230. [Renumbered as [AS 09.25.400](#).]

Article 2. Privilege of Public Officials and Reporters.

Sec. 09.25.300. Claiming of privilege by public official or reporter.

Except as provided in [AS 09.25.300](#) — 09.25.390, a public official or reporter may not be compelled to disclose the source of information procured or obtained while acting in the course of duties as a public official or reporter.

Sec. 09.25.310. Challenge of privilege before superior or supreme court.

(a) When a public official or reporter claims the privilege in a cause being heard before the supreme court or a superior court of this state, a person who has the right to question the public official or reporter in that proceeding, or the court on its own motion, may challenge the claim of privilege. The court shall make or cause to be made whatever inquiry the court thinks necessary to a determination of the issue. The inquiry may be made instantaneously by way of questions put to the witness claiming the privilege and a decision then rendered, or the court may require the presence of other witnesses or documentary showing or may order a special hearing for the determination of the issue of privilege.

(b) The court may deny the privilege and may order the public official or the reporter to testify, imposing whatever limits upon the testimony and upon the right of cross-examination of the witness as may be in the public interest or in the interest of a fair trial, if it finds the withholding of the testimony would

(1) result in a miscarriage of justice or the denial of a fair trial to those who challenge the privilege; or

(2) be contrary to the public interest.

Sec. 09.25.320. Challenge of privilege before other bodies.

(a) This section is applicable to a hearing held under the laws of this state

(1) before a court other than the supreme or a superior court;

(2) before a court commissioner, referee, or other court appointee;

(3) in the course of legislative proceedings or before a commission, agency, or committee created by the legislature;

(4) before an agency or representative of an agency of the state, borough, city or other municipal corporation, or other body; or

(5) before any other forum of this state.

(b) If, in a hearing, a public official or a reporter should refuse to divulge the source of information, the agency body, person, official, or party seeking the information may apply to the superior court for an order divesting the official or reporter of the privilege. When the issue is raised before the supreme or a superior court, the application must be made to that court.

(c) Application for an order shall be made by verified petition setting out the reasons why the disclosure is essential to the administration of justice, a fair trial in the instant proceeding, or the protection of the public interest. Upon application, the court shall determine the notice to be given to the public official or reporter and fix the time and place of hearing. The court shall make or cause to be made whatever inquiry the court thinks necessary, and make a determination of the issue as provided for in [AS 09.25.310](#).

Sec. 09.25.330. Order subject to review.

An order of the superior court entered under [AS 09.25.300](#) — 09.25.390 shall be subject to review by the supreme court, by appeal or by certiorari, as the rules of that court may provide. During the pendency of the appeal, the privilege shall remain in full force and effect.

Sec. 09.25.340. Extent of privilege.

When a public official or reporter claims the privilege conferred by [AS 09.25.300](#) — 09.25.390 and the public official or reporter has not been divested of the privilege by order of the supreme or superior court, neither the public official or reporter nor the news organization with which the reporter was associated may thereafter be permitted to plead or prove the sources of information withheld, unless the informant consents in writing or in open court.

Sec. 09.25.350. Application of privilege in other courts.

[AS 09.25.300](#) — 09.25.390 also apply to proceedings held under the laws of the United States or any other state where the law of this state is being applied.

Sec. 09.25.360. [AS 09.25.300](#) — 09.25.390 do not abridge other privileges.

[AS 09.25.300](#) — 09.25.390 may not be construed to abridge any of the privileges recognized under the laws of this state, whether at common law or by statute.

Sec. 09.25.390. Definitions for [AS 09.25.300](#) — 09.25.390.

In [AS 09.25.300](#) — 09.25.390, unless the context otherwise requires,

(1) “news organization” means

(A) an individual, partnership, corporation, or other association regularly engaged in the business of

(i) publishing a newspaper or other periodical that reports news events, is issued at regular intervals, and has a general circulation;

(ii) providing newsreels or other motion picture news for public showing; or

(iii) broadcasting news to the public by wire, radio, television, or facsimile;

(B) a press association or other association of individuals, partnerships, corporations, or other associations described in (A)(i) — (iii) of this paragraph engaged in gathering news and disseminating it to its members for publication;

(2) “privilege” means the conditional privilege granted to public officials and reporters to refuse to testify as to a source of information;

(3) “public official” means a person elected to a public office created by the Constitution or laws of this state, whether executive, legislative, or judicial, and who was holding that office at the time of the communication for which privilege is claimed;

(4) “reporter” means a person regularly engaged in the business of collecting or writing news for publication, or presentation to the public, through a news organization; it includes persons who were reporters at the time of the communication, though not at the time of the claim of privilege.

Article 3. Other Privileges.

Sec. 09.25.400. Privilege relating to domestic violence and sexual assault counseling.

Confidential communications between a victim of domestic violence or sexual assault and a victim counselor are privileged under [AS 18.66.200](#) — 18.66.250.

Article 4. Privileges and Immunities Related to Disclosure of Certain Self-Audits and Violations.

Sec. 09.25.450. Audit report privilege.

(a) Except as provided in [AS 09.25.460](#), an owner or operator who prepares an audit report or causes an audit report to be prepared has a privilege to refuse to disclose, and to prevent another person from disclosing, the parts of the report that consist of confidential self-evaluation and analysis of the owner's or operator's compliance with environmental laws. Except as provided in [AS 09.25.455](#) — 09.25.480, the privileged information is not admissible as evidence or subject to discovery in

(1) a civil action, whether legal or equitable; or

(2) an administrative proceeding, except for workers' compensation proceedings.

(b) With respect to confidential self-evaluation and analysis in an environmental audit, in order to qualify for the privilege under this section and the immunity under [AS 09.25.475](#), at least 15 days before conducting the audit, the owner or operator conducting the audit must give notice by electronic filing that complies with an ordinance or regulation authorized under (j) of this section or by certified mail with return receipt requested to the commissioner's office of the department, and, when the audit includes an assessment of compliance with a municipality's ordinances, to the municipal clerk, of the fact that it is planning to commence the audit. The notice must specify the facility, operation, or property or portion of the facility, operation, or property to be audited, the date the audit will begin and end, and the general scope of the audit. The notice may provide notification of more than one scheduled environmental audit at a time. Once initiated, an audit shall be completed within a reasonable time, but no longer than 90 days, unless a longer period of time is agreed upon between the owner or operator and the department or the municipality, as appropriate. The audit report must be completed in a timely manner.

(c) The following persons may claim the privilege available under (a) of this section:

(1) the owner or operator who prepared the audit report or caused the audit report to be prepared;

(2) a person who conducted all or a portion of the audit but did not personally observe or participate in the relevant instances or events being reviewed for compliance;

(3) a person to whom confidential self-evaluation or analysis is disclosed under [AS 09.25.455](#)(b); or

(4) a custodian of the audit results.

(d) A person who conducts or participates in the preparation of an audit report and who actually observed or participated in conditions or events being reviewed for compliance may testify about those conditions or events but may not, in a proceeding covered by (a) of this section, be compelled to testify about or produce documents consisting of confidential self-evaluation and analysis.

(e) A person claiming the privilege described in this section has the burden of establishing the

applicability of the privilege.

(f) To facilitate identification, each document in an audit report that contains confidential self-evaluation or analysis shall be labeled "AUDIT REPORT: PRIVILEGED DOCUMENT."

(g) A government agency or its employees or agents may not, as a condition of a permit, license, or approval issued under an environmental law, require an owner or operator to waive the privilege available under this section.

(h) Except when the privilege is waived under [AS 09.25.455\(a\)](#) or disclosure is made under [AS 09.25.455\(b\)\(3\)](#) or 09.25.475 or 09.25.480, neither a government agency nor its employees or agents may review or otherwise use the part of an audit report consisting of confidential self-evaluation or analysis during an inspection of a regulated facility, operation, or property or an activity of a regulated facility, operation, or property.

(i) This section may not be construed to

(1) prevent a government agency from issuing an emergency order, seeking injunctive relief, independently obtaining relevant facts, conducting necessary inspections, or taking other appropriate action regarding implementation and enforcement of an applicable environmental law, except as otherwise provided in [AS 09.25.475](#); or

(2) authorize a privilege for uninterrupted or continuous environmental audits.

(j) The department or municipality may, by regulation or ordinance, respectively, allow the notice required under (b) of this section to be filed by facsimile or other electronic means if the means ensures adequate proof of

(1) submittal of the notice by the owner or operator; and

(2) receipt by the department or municipality.

(k) There is no privilege under this section for documents or communications in a criminal proceeding.

Sec. 09.25.455. Waiver and disclosure.

(a) The privilege in [AS 09.25.450](#) does not apply to the extent the privilege is expressly waived in writing by the owner or operator who prepared the audit report or caused the report to be prepared.

(b) Disclosure of the part of an audit report or information consisting of confidential self-evaluation or analysis does not waive the privilege established by [AS 09.25.450](#) if the disclosure is made

(1) to address or correct a matter raised by the environmental audit and is made to

(A) a person employed by the owner or operator, including temporary and contract employees;

(B) the owner's or operator's lawyer or the lawyer's representative;

(C) an officer or director of the regulated facility, operation, or property;

(D) a partner of the owner or operator;

(E) an independent contractor retained by the owner or operator; or

(F) the principal of the independent contractor who conducted an audit on the principal's behalf;

(2) under the terms of a confidentiality agreement between the owner or operator who prepared the audit report or caused the audit report to be prepared and

(A) a partner or potential partner of the owner or operator of the facility, operation, or property;

(B) a transferee or potential transferee of an interest in the facility, operation, or property;

(C) a lender or potential lender for the facility, operation, or property;

(D) a person engaged in the business of insuring, underwriting, or indemnifying the facility, operation, or property; or

(E) a person who, along with the person who prepared the audit report or caused the audit report to be prepared, also is an owner or operator of part or all of the facility, operation, or property; or

(3) under a written claim of confidentiality to a government official or agency by the owner or operator who prepared the audit report or who caused the audit report to be prepared.

(c) Documents consisting of confidential self-evaluation and analysis that are disclosed under (b) (3) of this section are required to be kept confidential and are not subject to disclosure under [AS 40.25.110](#) — 40.25.220.

(d) A party to a confidentiality agreement described in (b)(2) of this section who violates the agreement is liable for damages caused by the violation and for other penalties stipulated in the agreement.

Sec. 09.25.460. Nonprivileged materials.

(a) There is no privilege under [AS 09.25.450](#) for that part of an audit report that contains the following:

(1) a document, communication, datum, report, or other information required by a government agency to be collected, developed, maintained, or reported under an environmental law, under a permit issued under an environmental law, as a requirement for obtaining, maintaining, or renewing a license, as a requirement under a contract or lease with the state or a municipality, or as a requirement under an administrative order or court order or decree;

(2) information that a government agency obtains by observation, sampling, or monitoring;

(3) information that a government agency obtains from a source that was not involved in compiling, preparing, or conducting the environmental audit report;

(4) a document, communication, datum, report, or other information collected, developed, or maintained in the course of a regularly conducted business activity or regular practice other than an environmental audit;

(5) a document, communication, datum, report, or other information that is independent of the

environmental audit, whether prepared or existing before, during, or after the audit; and

(6) a document, communication, datum, report, or other information, including an agreement or order between a government agency and an owner or operator, regarding a compliance plan or strategy.

(b) An audit report is not privileged and is admissible as evidence and subject to discovery and use in a proceeding relating to pipeline rates, tariffs, fares, or charges. The owner or operator who prepared the audit report or caused the report to be prepared is entitled to a protective order in a proceeding relating to pipeline rates, tariffs, fares, or charges to maintain the confidentiality of the audit from discovery, use, or admission in evidence in other types of proceedings. Discovery, use, or admission in evidence in a proceeding relating to pipeline rates, tariffs, fares, or charges is not considered to have waived the privilege for any other purpose.

Sec. 09.25.465. Exception: disclosure required by court.

(a) A court or administrative hearing officer with jurisdiction may require disclosure of confidential self-evaluation and analysis contained in an audit report in a civil or administrative proceeding if the court or administrative hearing officer determines, after an in camera review consistent with the appropriate rules of procedure, that the

(1) privilege is asserted for a criminal or fraudulent purpose;

(2) information for which the privilege is claimed is evidence of substantial injury, or the imminent or present threat of substantial injury, to one or more persons at the site audited or to persons, property, or the environment offsite or is evidence of the causes and circumstances leading to such injury or the imminent or present threat of such injury;

(3) audit report shows evidence of noncompliance with an environmental law and appropriate efforts to achieve compliance with the law were not promptly initiated and pursued with reasonable diligence after discovery of noncompliance;

(4) audit report was prepared for the purpose of avoiding disclosure of information required for an investigative, administrative, or judicial proceeding that, at the time of the report's preparation, was imminent or in progress; or

(5) privilege would result in a miscarriage of justice or the denial of a fair trial to the party challenging the privilege.

(b) A party seeking an in camera review as provided under (a) of this section shall provide to the court or administrative hearing officer a factual basis adequate to support a good faith belief by a reasonable person that the documents or communications for which disclosure is sought are likely to reveal evidence to establish that an exception in (a) of this section applies.

(c) A party seeking disclosure of confidential self-evaluation and analysis during an in camera review under this section has the burden of proving that an exception in (a) of this section applies.

Sec. 09.25.475. Voluntary disclosure; immunity.

(a) Except as provided by this section, an owner or operator who makes a voluntary disclosure of a violation of an environmental law, or of circumstances, conditions, or occurrences that

constitute or may constitute such a violation, is immune from an administrative or civil penalty for the violation disclosed, for a violation based on the facts disclosed, and for a violation discovered because of the disclosure that was unknown to the owner or operator making the disclosure.

(b) Immunity is not available under this section if the violation resulted in, or poses or posed an imminent or present threat of, substantial injury to one or more persons at the site audited or to persons, property, or the environment offsite.

(c) A disclosure is voluntary for the purposes of this section only if

(1) the disclosure is made promptly after knowledge of the information disclosed is obtained by the owner or operator;

(2) the disclosure is made in writing by certified mail to the department or a municipality with enforcement jurisdiction with regard to the violation disclosed;

(3) an investigation of the violation was not initiated or the violation was not independently detected by the department or a municipality with enforcement jurisdiction before the disclosure was made using certified mail; under this paragraph, the department or municipality has the burden of proving that an investigation of the violation was initiated or the violation was detected before receipt of the certified mail; and

(4) the disclosure arises out of a voluntary environmental audit.

(d) To qualify for immunity under this section, the owner or operator making the disclosure must

(1) promptly initiate appropriate efforts to achieve compliance and remediation and pursue those efforts with due diligence;

(2) promptly initiate appropriate efforts to discontinue, abate, or mitigate any conditions or activities causing injury or likely to cause imminent injury to one or more persons at the site audited or to person, property, or the environment offsite;

(3) correct the violation within 90 days or enter into a compliance agreement with the department or the municipality, as appropriate, that provides for completion of corrective and remedial measures within a reasonable time;

(4) implement appropriate measures designed to prevent the recurrence of the violation; and

(5) cooperate with the department or municipality, as appropriate, in connection with an investigation of the issues identified in the disclosure; the department or municipality may request that the owner or operator allow the department or municipality to review, under a written claim of confidentiality as described in [AS 09.25.455\(b\)\(3\)](#), the part of the audit report that describes the implementation plan or tracking system developed to correct past noncompliance, improve current compliance, or prevent future noncompliance.

(e) A disclosure is not voluntary for purposes of this section if it is a disclosure to the department or municipality expressly required by an environmental law, a permit, a license, or an enforcement order or decree.

(f) Immunity under this section for violation of an environmental law is available only for a violation that is discovered as a result of information or documents first produced or obtained during the time period specified in the notice required under [AS 09.25.450\(b\)](#).

(g) During the period between receipt of the audit notice required under [AS 09.25.450\(b\)](#) and the

specified end date of the audit, the department or municipality may not initiate an inspection, monitoring, or other investigative activity concerning the audited facility, operation, or property based on the receipt of a notice under [AS 09.25.450](#). The department or municipality has the burden of proving that an inspection, monitoring, or other investigative activity concerning the audited facility, operation, or property initiated after receiving a notice under [AS 09.25.450](#) was not initiated based on receiving the notice.

(h) A violation that has been voluntarily disclosed and to which immunity applies under this section shall be identified by the department or municipality in its compliance history report as having been voluntarily disclosed.

(i) This section may not be construed to prevent the department or municipality from
(1) seeking injunctive relief; or

(2) issuing an emergency order in a situation involving an imminent and substantial danger to public health or welfare or the environment.

Sec. 09.25.480. Exceptions to immunity; mitigation.

(a) There is no immunity under [AS 09.25.475](#) if a court or administrative hearing officer finds that

(1) the owner or operator claiming the immunity has

(A) intentionally, knowingly, or recklessly committed or authorized the violation;

(B) within the 36 months preceding the violation, committed, at the same facility or associated facilities located in the state, a pattern of violations that are the same as or closely related to the violation for which the immunity is sought; or

(C) not attempted to bring the facility, operation, or property into compliance so as to constitute a pattern of disregard of environmental laws;

(2) the violation was authorized or committed intentionally, knowingly, or recklessly by a member of the owner's or operator's management and the owner's or operator's policies contributed materially to the occurrence of the violation; or

(3) the owner or operator, after taking into account the cost of completing corrective and remedial measures within a reasonable time and implementing appropriate measures to prevent recurrence of the violation, realized substantial economic savings in not complying with the requirement for which a violation is charged; the exception to immunity in this paragraph applies only to that portion of a penalty that reflects the economic savings of noncompliance after taking into account the cost of completing the corrective, remedial, and preventive measures necessary to qualify for immunity.

(b) There is no immunity under [AS 09.25.475](#) from an administrative or civil penalty for the violation of an administrative or court order or for violation of a term or condition of an administrative or court order.

(c) An administrative or civil penalty that is imposed on an owner or operator for violation of an environmental law when the owner or operator has made a voluntary disclosure under [AS 09.25.475](#)(a) but is not granted immunity because of (a) of this section may, to the extent appropriate and not prohibited by law, be mitigated by

(1) the good faith actions of the owner or operator in disclosing the violation;

(2) efforts by the owner or operator to conduct environmental audits and to complete any resulting implementation plan or tracking system for corrective and preventive action;

(3) remediation;

(4) cooperation with government officials investigating the disclosed violation;

(5) the nature of the violation; and

(6) other relevant considerations.

Sec. 09.25.485. Relationship to other recognized privileges.

[AS 09.25.450](#) — 09.25.490 do not limit, waive, or abrogate the scope or nature of a statutory or common law privilege, including the work product doctrine, the attorney-client privilege, and any other privilege recognized by a court with appropriate authority in this state.

Sec. 09.25.490. Definitions.

(a) In [AS 09.25.450](#) — 09.25.490,

(1) “audit report” means a report that includes each document and communication, other than those set out in [AS 09.25.460](#), produced from an environmental audit; general components that may be contained in a completed audit report include

(A) a report, prepared by an auditor, monitor, or similar person, including the scope of the audit, the dates the audit began and ended, the information gained in the audit, findings, conclusions, recommendations, exhibits, and appendices; the types of exhibits and appendices that may be contained in an audit report include supporting information that is collected or developed for the primary purpose and in the course of an environmental audit, including

(i) interviews with current or former employees;

(ii) field notes and records of observations;

(iii) findings, opinions, suggestions, conclusions, guidance, notes, drafts, and memoranda;

(iv) legal analyses;

(v) drawings;

(vi) photographs;

(vii) laboratory analyses and other analytical data;

(viii) computer generated or electronically recorded information;

(ix) maps, charts, graphs, and surveys; and

(x) other communications and documents associated with an environmental audit;

(B) memoranda and documents analyzing all or a portion of the materials described in (A) of this paragraph or discussing implementation issues; and

(C) an implementation plan or tracking system to correct past noncompliance, improve current compliance, or prevent future noncompliance;

(2) “confidential self-evaluation and analysis” means the part of an audit report that consists of interviews with current or former employees conducted by the auditor; field notes and records of observations made by the auditor; findings, opinions, suggestions, conclusions, guidance, notes, drafts, and analyses performed by the auditor; memoranda and documents that evaluate or analyze all or part of the material contained in the audit report, including findings, conclusions, opinions, recommendations made by the auditor, and an audit implementation plan or tracking system to correct past noncompliance, improve current compliance, or prevent future noncompliance with an environmental law; and that is

(A) a voluntary, confidential, critical, internal, and retrospective review, self-evaluation, or analysis of conduct, practices, and occurrences and their resulting consequences; and

(B) prepared and maintained with the expectation that it will be kept confidential;

(3) “department” means the Department of Environmental Conservation;

(4) “environmental audit” means a voluntary audit that an owner or operator of a regulated facility, operation, or property conducts or causes to be conducted, whether or not on a regular basis or in response to a particular event, that is specifically designed and undertaken to assess compliance with environmental laws or a permit, license, or approval issued under those laws, including an assessment that is part of the owner's or operator's compliance management system and that is a

(A) systematic, objective, and periodic review of the facility, operation, or property related to meeting the requirements of environmental laws or a permit, license, or approval issued under those laws; or

(B) documented, systematic procedure or practice that reflects the owner's or operator's due diligence in preventing, detecting, and correcting violations of environmental laws or a permit, license, or approval issued under those laws at the facility, operation, or property;

(5) “environmental law” means

(A) a federal or state environmental law implemented by the department; or

(B) a rule, regulation, or municipal ordinance adopted in conjunction with or to implement a law described by (A) of this paragraph;

(6) “operator” means a person or persons who direct, control, or supervise all or part of a regulated facility, operation, or property;

(7) “owner” means a person or persons with a proprietary or possessory interest in a regulated facility, operation, or property;

(8) “penalty” means an administrative or civil sanction imposed by the state or a municipality to punish a person for a violation of a statute, rule, regulation, or ordinance; the term does not include a technical or remedial provision ordered by a government agency, nor an administrative or civil sanction relating to pipeline rates, tariffs, fares, or charges;

(9) “regulated facility, operation, or property” means a facility, operation, or property that is regulated under an environmental law.

(b) To fully implement the privilege and immunity established under [AS 09.25.450](#) — 09.25.490,

the term “environmental law” shall be construed broadly.

(c) For purposes of this chapter, unless the context requires otherwise, a person acts

(1) “intentionally” with respect to a result described by a provision of law defining a violation when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of a violation, that intent need not be the person's only objective;

(2) “knowingly” with respect to conduct or to a circumstance described by a provision of law defining a violation when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of a violation, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) “recklessly” with respect to a result or to a circumstance described by a provision of law defining a violation when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to the risk.

Article 5. Electronic Signatures.

Secs. 09.25.500 — 09.25.520. Purposes and construction; electronic records and signatures; definitions. [Repealed, § 2 ch 110 SLA 2004. For current provisions, see [AS 09.80.](#)]

Chapter 30. Judgments.

Article 1. Judgments.

Sec. 09.30.010. Recording copy of judgment as lien.

A certified copy of the judgment or decree of a court of this state or a court of record of the United States upon which execution may issue, the enforcement of which has not been stayed, may be recorded with the recorder of a recording district. From the recording, the judgment or decree becomes a lien upon the real property of the defendant that is in the recording district, that is not exempt from execution, and that is owned by the defendant at the time or acquired by the defendant afterward but before the lien expires. The lien continues during the time execution may issue on the judgment or decree but for not more than 10 years from date of entry of the judgment or decree. After expiration of the lien, the court may grant leave for issuance of execution upon the judgment or decree. From the date of recording the judgment or decree, together with the order allowing issuance of execution, the judgment or decree becomes a lien in the manner provided in this section.

Sec. 09.30.020. Priority of lien of judgment.

A conveyance of real property or interest in real property is void against a judgment lien that is recorded before the conveyance is recorded.

Sec. 09.30.030. Judgment where summons not served on all defendants.

When an action is against two or more defendants jointly indebted upon a contract and the

summons is served on one or more but not all of them and judgment is recovered, it may be entered against all the defendants jointly indebted only so far as it may be enforced against the joint property of all and the separate property of the defendants served and, if they are subject to arrest, against the persons of the defendants served.

Sec. 09.30.040. Judgments against boroughs and cities.

Where judgment is against a borough, city, or other public corporation, no execution may issue on it but the judgment may be satisfied only as follows:

(1) the party in whose favor the judgment is given may, at any time within 10 years of the date of the judgment, present a certified copy of the judgment to the officer of the borough, city, or other public corporation authorized to draw orders on its treasurer;

(2) upon presentation, the officer shall draw an order on the treasurer for the amount of the judgment in favor of the party for whom the judgment was given; after that the order may be presented for payment and paid in the manner and with the effect of other orders upon the treasurer of a borough, city, or other public corporation.

Sec. 09.30.050. Confession of judgment.

A judgment by confession may be entered with or without action against a person for any amount or relief. The confession may be made only by the confessor in person or by the person's attorney-in-fact under a power of attorney so authorizing, or, if the confessor is a corporation, only by a person who at that time has a relation to the corporation that would authorize the service of summons on that person.

Sec. 09.30.055. [Renumbered as [AS 09.30.065.](#)]

Sec. 09.30.060. Confession of judgment against jointly liable defendant.

When an action upon a contract is pending against one or more defendants jointly liable, judgment may be given on the confession of one or more defendants against all the defendants jointly liable, whether all defendants have been served with the summons or not. However, the judgment may be enforced only against their joint property and against the joint and separate property of the defendant making the confession.

Sec. 09.30.065. Offers of judgment.

(a) At any time more than 10 days before the trial begins, either the party making a claim or the party defending against a claim may serve upon the adverse party an offer to allow judgment to be entered in complete satisfaction of the claim for the money or property or to the effect specified in the offer, with costs then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service, and the clerk shall enter judgment. An offer not accepted within 10 days is considered withdrawn, and evidence of that offer is not admissible except in a proceeding to determine the form of judgment after verdict. If the judgment finally entered on the claim as to which an offer has been made under this section is at least five percent less favorable to the offeree than the offer, or if there are multiple defendants at least 10 percent less favorable to the offeree than the offer, the offeree, whether the party making the claim or defending against the claim, shall pay all costs as allowed under the Alaska Rules of Civil Procedure and shall pay reasonable actual attorney fees incurred by the offeror from the date the offer was made, as follows:

(1) if the offer was served no later than 60 days after both parties made the disclosures

required by the Alaska Rules of Civil Procedure, the offeree shall pay 75 percent of the offeror's reasonable actual attorney fees;

(2) if the offer was served more than 60 days after both parties made the disclosures required by the Alaska Rules of Civil Procedure but more than 90 days before the trial began, the offeree shall pay 50 percent of the offeror's reasonable actual attorney fees;

(3) if the offer was served 90 days or less but more than 10 days before the trial began, the offeree shall pay 30 percent of the offeror's reasonable actual attorney fees.

(b) If an offeror receives costs and reasonable actual attorney fees under (a) of this section, that offeror shall be considered the prevailing party for purposes of an award of attorney fees under the Alaska Rules of Civil Procedure. Notwithstanding (a) of this section, if the amount awarded an offeror for attorney fees under the Alaska Rules of Civil Procedure is greater than a party would receive under (a) of this section, the offeree shall pay to the offeror attorney fees specified under the Alaska Rules of Civil Procedure and is not required to pay reasonable actual attorney fees under (a) of this section. A party who receives attorney fees under this section may not also receive attorney fees under the Alaska Rules of Civil Procedure.

Sec. 09.30.070. Interest on judgments; prejudgment interest.

(a) Notwithstanding [AS 45.45.010](#), the rate of interest on judgments and decrees for the payment of money, including prejudgment interest, is three percentage points above the 12th Federal Reserve District discount rate in effect on January 2 of the year in which the judgment or decree is entered, except that a judgment or decree founded on a contract in writing, providing for the payment of interest until paid at a specified rate not exceeding the legal rate of interest for that type of contract, bears interest at the rate specified in the contract if the interest rate is set out in the judgment or decree.

(b) Except when the court finds that the parties have agreed otherwise and except as provided by [AS 45.05.111](#)(d), prejudgment interest accrues from the day process is served on the defendant or the day the defendant received written notification that an injury has occurred and that a claim may be brought against the defendant for that injury, whichever is earlier. The written notification must be of a nature that would lead a prudent person to believe that a claim will be made against the person receiving the notification, for personal injury, death, or damage to property.

(c) Prejudgment interest may not be awarded for future economic damages, future noneconomic damages, or punitive damages.

Article 2. Uniform Foreign Money-Judgments Recognition Act.

Sec. 09.30.100. Applicability.

[AS 09.30.100](#) — 09.30.180 apply to any foreign judgment that is final and conclusive and enforceable where rendered even though an appeal is pending or it is subject to appeal.

Sec. 09.30.110. Recognition and enforcement.

Except as provided in [AS 09.30.120](#), a foreign judgment meeting the requirements of [AS 09.30.100](#) is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. The foreign judgment is enforceable in the same manner as the judgment of a sister

state which is entitled to full faith and credit.

Sec. 09.30.120. Grounds for nonrecognition.

(a) A foreign judgment is not conclusive if

(1) the judgment was rendered under a system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(2) the foreign court did not have personal jurisdiction over the defendant; or

(3) the foreign court did not have jurisdiction over the subject matter.

(b) A foreign judgment need not be recognized if

(1) the defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable the defendant to defend;

(2) the judgment was obtained by fraud;

(3) the cause of action on which the judgment is based is repugnant to the public policy of this state;

(4) the judgment conflicts with another final and conclusive judgment;

(5) the proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court; or

(6) in the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

Sec. 09.30.130. Personal jurisdiction.

(a) The foreign judgment may not be refused recognition for lack of personal jurisdiction if

(1) the defendant was served personally in the foreign state;

(2) the defendant voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over the defendant;

(3) the defendant, before the commencement of the proceedings, had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;

(4) the defendant was domiciled in the foreign state when the proceedings were instituted, or, being a body corporate, had its principal place of business, was incorporated, or had otherwise acquired corporate status, in the foreign state;

(5) the defendant had a business office in the foreign state and the proceedings in the foreign court involved a cause of action arising out of business done by the defendant through that office in the foreign state; or

(6) the defendant operated a motor vehicle or airplane in the foreign state and the proceedings involved a cause of action arising out of that operation.

(b) The courts of this state may recognize other bases of jurisdiction.

Sec. 09.30.140. Stay in case of appeal.

If the defendant satisfies the court either that an appeal is pending or that the defendant is entitled and intends to appeal from the foreign judgment, the court may stay the proceedings until the appeal has been determined or until the expiration of a period of time sufficient to enable the defendant to prosecute the appeal.

Sec. 09.30.150. Saving clause.

[AS 09.30.100](#) — 09.30.180 do not prevent the recognition of a foreign judgment in situations not covered by [AS 09.30.100](#) — 09.30.180.

Sec. 09.30.160. Construction.

[AS 09.30.100](#) — 09.30.180 shall be so construed as to effectuate its general purpose to make uniform the law of those states that enact the Uniform Foreign Money-Judgments Recognition Act.

Sec. 09.30.170. Definitions.

In [AS 09.30.100](#) — 09.30.180,

(1) “foreign judgment” means a judgment of a foreign state granting or denying recovery of a sum of money other than a judgment for taxes, a fine or other penalty, or a judgment for support in matrimonial or family matters;

(2) “foreign state” means a governmental unit other than the United States, or a state, district, commonwealth, territory including trust territory, or insular possession thereof.

Sec. 09.30.180. Short title.

[AS 09.30.100](#) — 09.30.180 may be cited as the Uniform Foreign Money-Judgments Recognition Act.

Article 3. Uniform Enforcement of Foreign Judgments Act.

Sec. 09.30.200. Filing and status of foreign judgments.

A copy of a foreign judgment authenticated in accordance with the Act of Congress or the laws of this state may be filed in the office of the clerk of the court with jurisdiction in this state. The clerk shall treat the foreign judgment in the same manner as a domestic judgment. A judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a domestic judgment and may be enforced or satisfied in like manner.

Sec. 09.30.210. Notice of filing.

(a) At the time of the filing of the foreign judgment, the judgment creditor or the judgment creditor's lawyer shall make and file with the clerk of court an affidavit setting out the name and last known post office address of the judgment debtor, and the judgment creditor.

(b) Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice must include the name and post office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk may not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

(c) No execution or other process for enforcement of a foreign judgment filed under [AS 09.30.200](#) — 09.30.270 shall issue until 20 days after the date the judgment is filed.

Sec. 09.30.220. Stay.

(a) If the judgment debtor shows the court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

(b) If the judgment debtor shows the court any ground upon which enforcement of a judgment of the court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment that is required in this state.

Sec. 09.30.230. Fees.

A person filing a foreign judgment shall pay to the clerk of court the fee prescribed for the filing of an action. Fees for docketing, transcription, or other enforcement proceedings shall be as provided for domestic judgments.

Sec. 09.30.240. Optional procedure.

The right of a judgment creditor to bring an action to enforce the judgment instead of proceeding under [AS 09.30.200](#) — 09.30.270 remains unimpaired.

Sec. 09.30.250. Uniformity of interpretation.

[AS 09.30.200](#) — 09.30.270 shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact the Uniform Enforcement of Foreign Judgments Act.

Sec. 09.30.260. Definitions.

In [AS 09.30.200](#) — 09.30.270 “foreign judgment” means any judgment, decree, or order of a court of the United States or of any other court which is entitled to full faith and credit in this state.

Sec. 09.30.270. Short title.

[AS 09.30.200](#) — 09.30.270 may be cited as the Uniform Enforcement of Foreign Judgments Act.

Article 4. Satisfaction of Judgments.

Sec. 09.30.300. Satisfaction of judgment.

(a) Satisfaction of a judgment may be entered upon an execution returned satisfied, or upon an acknowledgment of satisfaction filed with the clerk, which may recite payment of the judgment in full or the acceptance by the judgment creditor of any lesser sum in full satisfaction of the judgment, made in the manner of an acknowledgment of a conveyance of real property by the judgment creditor or assignee of record, or by the attorney for the judgment creditor or assignee unless a revocation of the attorney's authority is filed. When a judgment is satisfied otherwise than upon an execution, the judgment creditor or the judgment creditor's attorney shall deliver a written acknowledgment of satisfaction of judgment suitable for recordation immediately upon payment in cash or within 10 days after payment if payment is made in any other manner, and, upon motion, the court may compel an acknowledgment of satisfaction or may order the entry of satisfaction to be made without it. When the state or an authorized officer or agency of the state is the judgment creditor, a written acknowledgment of satisfaction shall be delivered within 15 days after payment in cash or within 30 days after payment if payment is made in any other manner. The entry of satisfaction shall be made upon the civil docket of the court rendering the judgment satisfied.

(b) A judgment creditor or assignee who, after payment in full of the judgment and after written demand by the judgment debtor, fails without just cause for a period of 30 days to execute and file an acknowledgment of satisfaction with the court is liable to the judgment debtor or the grantees or heirs of the judgment debtor for all damages that may be sustained by reason of that failure and shall also forfeit to the judgment debtor or the grantees or heirs of the judgment debtor the sum of \$100.

Sec. 09.30.310. Recordation of acknowledgment of satisfaction.

If a certified copy of the judgment has been recorded with the recorder of any recording district, as provided in [AS 09.30.010](#), then the acknowledgment required under [AS 09.30.300](#) must identify the book and page of the official record in which the judgment has been recorded or the serial number assigned to the judgment by the recorder and show the full name of the judgment debtor as it appears upon the judgment recorded.

Chapter 35. Execution.

Sec. 09.35.010. Judgments enforceable by execution.

A writ of execution may be issued in favor of

(1) a party in whose favor a judgment is given that requires the payment of money or the delivery of real or personal property or either of them;

(2) the state on behalf of a victim of a crime or a delinquent act in whose favor a judgment of restitution is ordered.

Sec. 09.35.020. Issuance of execution after five years.

When a period of five years has elapsed after the entry of judgment and without an execution being issued on the judgment, no execution may issue except by order of the court in which judgment is entered. The court shall grant the motion if the court determines that there are just and sufficient reasons for the failure to obtain the writ of execution within five years after the entry of judgment.

Sec. 09.35.030. Substance of writ.

Writs of execution may be against the property of the judgment debtor, another against the person of the judgment debtor, and a third for the delivery of the possession of real or personal property, including damages for withholding the property. A writ of execution must require the officer or person to whom it is directed to proceed substantially as follows:

(1) if the writ is against the property of the judgment debtor and the judgment directs particular property to be sold, it shall require the officer or person to sell the particular property and apply the proceeds as directed by the judgment; otherwise, it shall require the officer or person to satisfy the judgment, with interest, out of the personal property of the debtor, and, if sufficient personal property cannot be found, then out of the real property belonging to the debtor on the day when the judgment became a lien or at any time after that day;

(2) if the writ is against real or personal property in the hands of the judgment debtor's personal representatives, heirs, devisees, legatees, tenants, or trustees, it shall require the officer or person to satisfy the judgment, with interest, out of that property;

(3) if the writ is against the person of an absconding judgment debtor, it shall require the officer or person to arrest the debtor and commit the debtor to jail until the judgment is paid, with interest, or is discharged according to law; if the writ is against the person of any judgment debtor and the application for the writ is made under oath, upon probable cause, and describing the things to be seized as in a warrant, the officer may search and seize valuables from that debtor;

(4) if the writ is for the delivery of the possession of real or personal property, it shall require the officer or person to deliver the possession of the property, describing it, to the party entitled to it, and may at the same time require the officer or person to satisfy any costs, charges, damages, rents, or profits recovered by that judgment out of the personal property of the person against whom it was rendered, and the value of the property for which the judgment was recovered to be specified in the writ, if a delivery cannot be had; and, if sufficient personal property cannot be found, then out of the real property as provided in (1) of this section.

Secs. 09.35.035 — 09.35.050. Default judgment or nonappearance of attorney for judgment debtor; execution against the person; imprisonment on execution. [Repealed, § 14 ch 62 SLA 1982.]

Sec. 09.35.060. Execution after death of judgment debtor.

If the judgment debtor dies after judgment, execution may be issued on the judgment in the manner and with the effect as if the debtor were still living, except as provided in [AS 13.16.505](#).

Sec. 09.35.070. Property liable.

All goods, chattels, money, or other property, both real and personal, or an interest in the property of the judgment debtor not exempt by law, and all property and rights of property seized and held under attachment in the action are liable to execution.

Secs. 09.35.080 — 09.35.090. Exemptions. [Repealed, § 14 ch 62 SLA 1982. For present provisions see [AS 09.38.](#)]

Sec. 09.35.100. Execution against property.

The person to whom the writ is directed shall execute the writ against property of the judgment debtor until the judgment is satisfied.

Sec. 09.35.110. Execution procedure.

All property shall be levied upon or released from levy in the manner that similar property is attached or released from attachment, and the proceedings against the garnishee and the liability of the garnishee are the same. Until a levy, property is not affected by the execution. Any excess in proceeds over the judgment and costs shall be returned to the judgment debtor.

Sec. 09.35.120. Retention of personal property by judgment debtor. [Repealed, § 14 ch 62 SLA 1982.]

Sec. 09.35.130. Third party claims.

If property levied upon is claimed by a third person as the person's property by an affidavit of title to the property, or right to the possession of the property and the ground of the title or right, stating the value of the property, and delivered to the person making the levy, that person shall release the property. However, the plaintiff, on demand of the person, may give the person an undertaking executed by two sufficient sureties in a sum equal to double the value of the property levied upon. The undertaking shall be in favor of and shall indemnify the third person against loss, liability, damages, and costs, by reason of the taking or sale of the property by the person.

Sec. 09.35.140. Notice of sale on execution.

(a) Before the sale of property on execution, notice of the sale shall be given as follows:

(1) notice of the sale of personal property is given by posting a written or printed notice of the time and place of sale in three public places within five miles of the place where the sale is to be held, not less than 10 days before the day of sale;

(2) notice of the sale of real property is given by posting a similar notice particularly describing the property, including the property's street address if there is a street address for the property, not less than 30 days before the day of sale in three public places, as provided in (1) of this subsection, and publishing a copy of the notice four times, once a week for four successive weeks in a newspaper of general circulation published nearest to the place of sale; an inaccuracy in the street address may not be used to set aside a sale if the legal description is correct.

(b) In addition to the notice required by (a) of this section, notice of the sale of real property on execution shall be given by publishing a notice of the sale on an Internet website beginning at least 45 days before the date of the sale. Publication of the notice must begin not later than the first day that the notice is published under (a)(2) of this section and must continue at least through the day in the fourth week that the notice is published under (a)(2) of this section.

(c) To qualify as an Internet website on which notices of sale may be published under (b) of this section, an Internet website must,

(1) if operated by a newspaper of general circulation, be completely free to the public for viewing and not require a subscription; or

(2) if operated by a person who is not covered by (1) of this subsection,

(A) be available to any person;

(B) be completely free to the public for viewing and not require a subscription;

(C) be used primarily to advertise real property under foreclosure;

(D) have been in continuous operation for more than one year;

(E) have a viewership of at least 5,000 different visitors each month that is verified by an independent audit; and

(F) have an office in the state and the office has staff that includes a senior management person.

(d) In this section, “newspaper of general circulation” means a publication that

(1) is published in newspaper format;

(2) is distributed at least once a week for at least 50 weeks each year within the judicial district where the place of sale is located, excluding a period when publication is interrupted by a labor dispute or by a natural disaster or other casualty that the publisher cannot control;

(3) holds a second class mailing permit from the United States Postal Service;

(4) is not published primarily to distribute advertising; and

(5) is not intended primarily for a particular professional or occupational group.

Sec. 09.35.142. Action to establish newspaper or Internet website status.

A person who owns a publication may bring an action under [AS 22.10.020\(g\)](#) to establish that the publication is a newspaper of general circulation under [AS 09.35.140](#). A person who owns an Internet website may bring an action under [AS 22.10.020\(g\)](#) to establish that the Internet website qualifies as an Internet website on which notices of sale may be published under [AS 09.35.140\(b\)](#).

Sec. 09.35.150. Sale.

All sales of property upon execution shall be made at auction between nine o'clock in the morning and four o'clock in the afternoon. After sufficient property has been sold to satisfy the execution, no more may be sold. Neither the officer holding the execution nor a deputy may become a purchaser or be interested in a purchase at the sale. When the sale is of personal property capable of manual delivery, it shall be within view of those who attend the sale unless the court directs the sale to be at some other place. The property shall be sold in parcels that are likely to bring the highest price. When the sale is of real property consisting of several known lots or parcels, they shall be sold separately or otherwise, as is likely to bring the highest price. When a portion of real property is claimed by a third person, that person may require it to be sold separately.

Sec. 09.35.160. Postponement of sale.

(a) If, at the time appointed for the sale, the person conducting it considers it to the advantage of all concerned to postpone the sale for want of purchasers, or other sufficient cause, the sale may be postponed from time to time, but each postponement may not exceed one week. Notice of every postponement shall be made by public proclamation. Whenever a request in writing is made by the judgment creditor for a postponement of the sale to a later date and hour and is given

to the person conducting the sale, that person shall by public declaration postpone the sale to the date and hour so fixed.

(b) If for any reason the sale cannot be held at the time appointed or within 30 days from the original sale date in the case of real property, the officer who is to conduct the sale shall notify the parties or their attorneys and designate a future day for the sale and give notice in the manner provided in [AS 09.35.140](#).

Sec. 09.35.170. Bill of sale for personal property.

When the purchaser of personal property capable of manual delivery and not in the possession of a third person, association, or corporation pays the purchase money, the peace officer shall deliver the property to the purchaser, and if desired, shall give the purchaser a bill of sale containing an acknowledgment of the payment. In all other sales of personal property, the peace officer shall give the purchaser a bill of sale with the like acknowledgment.

Sec. 09.35.180. Confirmation of sale or resale.

(a) Where real property executed upon has been sold, the judgment creditor may, upon motion, apply for an order confirming the sale. The judgment debtor may object to the confirmation of the sale on the grounds that there were substantial irregularities in the proceedings of sale that caused probable loss or injury to the judgment debtor.

(b) If the court finds that there were substantial irregularities in the proceedings concerning the sale to the probable loss or injury of the party objecting, it shall deny the motion and direct that the property be resold in whole or in part as upon an execution.

(c) Upon a resale, the bid of the purchaser at the former sale shall be considered to be renewed and continued in force, and no bid may be taken except for a greater amount. If the property sells to a person other than the former purchaser, the former purchaser shall be repaid out of the proceeds of the resale.

(d) An order confirming a sale is a conclusive determination of the regularity of the proceedings concerning the sale, as to all persons, in any other action or proceeding.

Sec. 09.35.190. Eviction of purchaser.

If the purchaser of real property sold on execution, or a successor in interest is evicted from the property because of irregularities in the proceedings concerning the sale or the reversal or discharge of the judgment, the purchaser or a successor may recover the price paid with interest, costs, and disbursements from the judgment creditor.

Sec. 09.35.200. Contribution among joint judgment debtors.

When property liable to an execution against several persons is sold and more than a due proportion of the judgment is satisfied out of the proceeds of the sale of the property of one of them or one of them pays more than a due proportion without a sale, that person may compel contributions from the others. When a judgment is against several and is upon an obligation of one of them as security for another and the surety pays the amount or a part of it, either by sale of the surety's property or before sale, the surety may compel repayment from the principal. In that

case, the person so paying or contributing is entitled to the benefit of the judgment to enforce contribution or repayment if the person files notice of payment and claim to contribution or repayment with the court where the judgment was rendered within 30 days after the payment.

Sec. 09.35.210. Absolute sales and right of redemption.

Sales of real property, when the estate is less than a leasehold of two years unexpired term, are absolute. In all other cases, the real property or interest in real property is subject to redemption. The person conducting the sale shall give to the purchaser a certificate of the sale that indicates the date of the judgment under which the sale was made and contains

- (1) a particular description of the real property sold;
- (2) the price bid for each distinct lot or parcel;
- (3) the whole price paid; and
- (4) whether or not the property is subject to redemption.

Sec. 09.35.220. Redemption.

Property sold subject to redemption or any part separately sold may be redeemed by the following persons or their successors in interest:

- (1) the judgment debtor; and
- (2) a creditor having a lien by judgment or mortgage on the property sold or on some part of it subsequent in time to that on which the property was sold; a lien creditor after having redeemed the property is a redemptioner.

Sec. 09.35.230. Redemption by lien creditor from purchaser.

A lien creditor may redeem the property at any time within 60 days after the date of the order confirming the sale on paying the amount of the purchase money, with interest at the rate of eight percent a year from the date of the sale, together with the amount of taxes and the expenses under [AS 09.35.300\(b\)](#) that the purchaser may have paid. If the purchaser is also a creditor having a lien prior to that of the redemptioner, the redemptioner shall also pay the amount of that lien with interest. When unpatented mining claims are redeemed, taxes include the annual assessment work required by law to be performed.

Sec. 09.35.240. Subsequent redemptions.

The property may be again, and as often as a lien creditor or redemptioner is disposed, redeemed from the previous redemptioner within 60 days after the last redemption on paying the sum paid on the last redemption, with interest at eight percent a year from the date of the last redemption, together with the taxes and expenses under [AS 09.35.300\(b\)](#) that the last redemptioner may have paid and the amount of any liens held by the last redemptioner previous to the lien of the last redemptioner.

Sec. 09.35.250. Redemption by judgment debtor or successor.

The judgment debtor or a successor in interest may redeem the property before the confirmation

of sale on paying the amount of the purchase money, with interest at the rate of eight percent a year from the date of sale, together with the amount of any taxes, and, in the case of unpatented mining claims, the annual assessment work required to be performed by law, and expenses under [AS 09.35.300\(b\)](#) that the purchaser or redemptioner may have paid after the purchase. If the judgment debtor does not redeem before the confirmation of the sale, the judgment debtor may redeem only within 12 months from the order of confirmation.

Sec. 09.35.260. Conveyance of property.

If no redemption is made within the time prescribed, the purchaser or last redemptioner is entitled to a conveyance. If the judgment debtor redeems, the effect of the sale is terminated and the estate of the judgment debtor is restored.

Sec. 09.35.270. Procedure for redemption.

(a) Redemption is made by paying the sum required to the peace officer. Upon a redemption, the peace officer shall give the person redeeming a certificate of redemption containing the sum paid on redemption, from whom redeemed, and the date of such redemption, and the peace officer shall immediately give notice of the redemption to the party from whom redeemed.

(b) A judgment debtor or redemptioner shall submit to the peace officer

(1) a copy of the judgment under which the right to redeem is claimed, certified by the clerk of the court; or, if the redemption is upon a mortgage, the certificate of the record of the mortgage;

(2) a copy of any assignment necessary to establish the claim, verified by the affidavit of the claimant or an agent;

(3) an affidavit by the claimant or an agent showing the amount then actually due on the judgment or mortgage.

Sec. 09.35.280. Priority of redemption.

If more than one person applies to the peace officer at the same time to redeem, the person having the prior lien is entitled to redeem first.

Sec. 09.35.290. Redemption payment or refusal to permit redemption.

The peace officer shall immediately pay the money over to the person from whom the property is redeemed. A person's right to redeem may not be prejudiced by the refusal of the peace officer to allow the redemption.

Sec. 09.35.300. Waste.

(a) Until the expiration of the time allowed for redemption, the court may restrain the commission of waste on the property by order granted with or without notice on the application of the purchaser or judgment creditor. It is not waste for the person in possession of the property at the time of sale or entitled to possession afterwards to continue to use it during the period allowed for redemption in the same manner in which it was previously used, or to use it in the ordinary course of husbandry, or to make the necessary repairs to buildings or fences, or to use wood or timber on the property for the repairs or for fuel for the family of the person in possession during occupancy.

(b) The purchaser at the execution sale or a subsequent purchaser may apply to the court for permission to make necessary repairs to preserve the property against waste or to insure the property against loss during the redemption period. If ordered by the court, the person making the necessary repairs or paying the insurance is entitled to reimbursement for the expenses from the person redeeming the property under this chapter.

Sec. 09.35.310. Rights of purchaser and redemptioner.

The purchaser, from the time of sale until a resale or a redemption, or a redemptioner, from the time of redemption until another redemption, is entitled to the possession of the property purchased or redeemed. Where the property is in the possession of a tenant, the purchaser or redemptioner is entitled to receive the rents of the property or the value of the use and occupation of the property.

Sec. 09.35.320. Arrest of judgment debtor and undertaking.

The court may order a peace officer to arrest the judgment debtor and bring the debtor before the court upon satisfactory proof that the debtor is leaving the state with intent to defraud the debtor's creditors or is absconding. Upon being brought before the court, the judgment debtor may be ordered to enter into an undertaking with one or more sufficient sureties that the debtor will appear before the court when directed, and that the debtor will not, during the pendency of the proceedings, dispose of any portion of the debtor's property not exempt from execution. In default of entering into the undertaking, the judgment debtor may be committed to jail.

Sec. 09.35.330. Satisfaction of judgment when judgment debtor is creditor of state or political subdivision.

Salary, wages, credits, or other personal property in the possession or under the control of the state, or an organized or unorganized borough, city, incorporated town, school district, or other political subdivision, or a board, institution, commission, or officer of the state, belonging or owed to any person, is subject to attachment and execution in the manner and with the effect as property in the possession of private persons. A clerk or officer of a court is not required to answer as to any money or property in the clerk's or officer's possession in the custody of the law.

Chapter 38. Alaska Exemptions Act.

Sec. 09.38.010. Homestead exemption.

(a) An individual is entitled to an exemption as a homestead of the individual's interest in property in this state used as the principal residence of the individual or the dependents of the individual, but the value of the homestead exemption may not exceed \$54,000.

(b) If property owned by the entirety or in common is used by one or more individual owners or their dependents as their principal residence, each owner is entitled to a homestead exemption of that owner's interest in the property as provided in (a) of this section. The aggregate value of multiple homestead exemptions allowable with respect to a single living unit may not exceed \$54,000. If there are multiple owners of property exempt as a homestead, the value of the exemption of each individual owner may not exceed the individual owner's pro rata portion of \$54,000.

(c) If property that includes a homestead is sold under an execution, the sale becomes effective

upon confirmation by order of the court. The court shall enter the order of confirmation unless, within 60 days after the sale, the individual repurchases the property under this section or the court extends the time for confirmation upon the filing of a timely motion by a party in interest. The individual may repurchase property, including that individual's homestead, at a sale on execution before confirmation by paying into court the costs of the sale plus the lesser of either (1) the difference between the highest bid and the amount of the exemption in the property, or (2) the amount of the creditor's claim. If the individual does not exercise the repurchase right under this subsection, the clerk of the court shall first remit an amount determined to be exempt to the individual from the proceeds of sale and the balance less the cost of the sale to the creditor. For the purpose of collecting an amount remaining unpaid on a judgment after repurchase of property by an individual under this subsection, the creditor or the creditor's assignee may not make another levy on the property repurchased.

(d) Upon entry of the order of confirmation under (c) of this section and expiration of the time period for repurchase, the clerk may execute a deed to the property and when delivered it shall be sufficient to convey all title of the individual in the premises sold to the purchaser at the sale.

Sec. 09.38.015. Property exempt without limitation.

(a) An individual is entitled to exemption of the following property:

(1) a burial plot for the individual and the individual's family;

(2) health aids reasonably necessary to enable the individual or a dependent to work or to sustain health;

(3) benefits paid or payable for medical, surgical, or hospital care to the extent they are or will be used to pay for the care;

(4) an award under [AS 18.67](#) (Violent Crimes Compensation Board) or a crime victim's reparations act of another jurisdiction;

(5) benefits paid or payable as a longevity bonus under [AS 47.45](#);

(6) compensation or benefits paid or payable and exempt under federal law;

(7) liquor licenses granted under [AS 04](#);

(8) tuition credit or savings accounts under an education savings account established under [AS 14.40.802](#) or an advance college tuition savings contract authorized under [AS 14.40.809\(a\)](#);

(9) a permanent fund dividend to the extent allowed under [AS 43.23.140](#);

(10) [See delayed repealed note.] benefits paid or payable under [AS 47.45.301](#) — 47.45.309.

(b) The right to benefits held by the state on behalf of an individual that may become payable by reason of disability, unemployment, or illness, amounts held in the teachers', judicial, or public employees' retirement system, or in the elected public officers' retirement system under former [AS 39.37](#), and child support collections made by the child support services agency are exempt.

(c) Property of the state, a municipality, and of the Alaska Municipal Bond Bank Authority or another state public corporation is exempt.

(d) Real property held by a cemetery association established under [AS 10.30](#) for the purpose of a cemetery and not exceeding 80 acres is exempt.

(e) Money held in an escrow account under [AS 06.60.360](#) is exempt.

Sec. 09.38.017. Exemption of retirement plan interests and payments.

(a) In addition to the exemption under [AS 09.38.015](#)(b), the following are exempt from a claim of an individual's or beneficiary's creditor:

(1) the interest of the individual or beneficiary in a retirement plan;

(2) the money or other assets payable to the individual from a retirement plan;

(3) the interest of a beneficiary in

(A) a retirement plan if the beneficiary acquired the interest as a result of the death of an individual; the beneficiary's interest is exempt to the same extent that the individual's interest was exempt immediately before the individual died;

(B) an individual retirement account that has been transferred by the individual to the beneficiary during the individual's lifetime; the beneficiary's interest is exempt to the same extent that the individual's interest was exempt immediately before the transfer to the beneficiary;

(4) the money or other assets payable to a beneficiary from

(A) a retirement plan if the beneficiary acquired the money or other assets as a result of the death of an individual who would have had, during the individual's life, an exemption in the money or other assets;

(B) an individual retirement account if the beneficiary acquired the money or other assets as a result of the transfer of the money or other assets by an individual who would have had, at the time of the transfer, an exemption in the money or other assets.

(b) The exemptions provided by (a) of this section do not apply to a contribution made by an individual to a retirement plan within 120 days before the individual files for bankruptcy.

(c) The exemptions provided by (a) of this section do not prevent the payment of benefits under a retirement plan to an alternate payee under a qualified domestic relations order. In this subsection, "qualified domestic relations order" has the meaning given in 26 U.S.C. 414(p).

(d) A retirement plan exempt from claims under (a) of this section is conclusively presumed to be a spendthrift trust under this section, except for transfers or assignments under [AS 34.40.118](#).

(e) In this section,

(1) "alternate payee" has the meaning given in 26 U.S.C. 414(p)(8);

(2) "beneficiary" includes a person, trust, or trustee who has, before or after the death of an individual, a direct or indirect beneficial interest in a retirement plan; in this paragraph, "beneficial interest" includes an interest that is acquired

(A) as a designated beneficiary, survivor, co-annuitant, heir, or legatee; or

(B) if excludible from gross income under 26 U.S.C. (Internal Revenue Code), as a

(i) rollover under 26 U.S.C. 408 or 26 U.S.C. 408A;

(ii) distribution from one retirement plan to another retirement plan; or

(iii) distribution that is similar to (i) or (ii) of this subparagraph;

(3) “individual” means a participant in, an owner of, or an alternate payee of a retirement plan;

(4) “individual retirement account” means an individual retirement account established under 26 U.S.C. 408 or a Roth IRA established under 26 U.S.C. 408A;

(5) “retirement plan” means

(A) a retirement plan that is qualified under 26 U.S.C. 401(a), 26 U.S.C. 403(a), 26 U.S.C. 403(b), 26 U.S.C. 409, 26 U.S.C. 414(d), 26 U.S.C. 414(e), or 26 U.S.C. 457 (Internal Revenue Code);

(B) an individual retirement account; and

(C) the teachers' retirement system under [AS 14.25](#), the judicial retirement system under [AS 22.25](#), the public employees' retirement system under [AS 39.35](#), and the elected public officers' retirement system under former [AS 39.37](#).

Sec. 09.38.020. Exemptions of personal property subject to value limitations.

(a) An individual is entitled to an exemption in property not to exceed an aggregate value of \$3,000 chosen by the individual from the following categories of property:

(1) household goods and wearing apparel reasonably necessary for one household;

(2) if reasonably held for the personal use of the individual or a dependent, books and musical instruments; and

(3) family portraits and heirlooms of particular sentimental value to the individual.

(b) An individual is entitled to exemption of jewelry, not exceeding \$1,000 in aggregate value, if held for the personal use of the individual or a dependent.

(c) An individual is entitled to exemption, not exceeding \$2,800 in aggregate value, of implements, professional books, and tools of the trade.

(d) An individual is entitled to the exemption of pets to the extent of a value not exceeding \$1,000.

(e) An individual is entitled to an exemption of one motor vehicle to the extent of a value not exceeding \$3,000 if the full value of the motor vehicle does not exceed \$20,000.

Sec. 09.38.025. Exemption of unmatured life insurance and annuity contracts.

(a) Except as provided in this section or [AS 09.38.017](#), an individual is entitled to exemption of unmatured life insurance and annuity contracts owned by the individual. If the contracts have accrued dividends and loan values available to the individual aggregating more than \$500,000, a creditor may obtain a court order requiring the individual debtor to pay the creditor, and authorizing the creditor on the debtor's behalf to obtain payment of, the amount of the accrued

dividends and loan values in excess of \$500,000 or the amount of the creditor's claim, whichever is less.

(b) A judgment creditor or other claimant of an insurer may not levy upon any of the assets or securities held in this state as a deposit for the protection of the insurer's policyholders or policyholders and creditors. Deposits under [AS 21.09.270](#) may be levied upon if provided in the order of the director of insurance, Department of Commerce, Community, and Economic Development, under which the deposit is made.

Sec. 09.38.030. Exemption of earnings and liquid assets.

(a) Except as provided in (b), (c), (f), and (h) of this section and [AS 09.38.050](#), an individual debtor is entitled to an exemption of the individual debtor's weekly net earnings not to exceed \$350. The weekly net earnings of an individual are determined by subtracting from the weekly gross earnings all sums required by law or court order to be withheld. The weekly net earnings of an individual paid on a monthly basis are determined by subtracting from the monthly gross earnings of the individual all sums required by law or court order to be withheld and dividing the remainder by 4.3. The weekly net earnings of an individual paid on a semi-monthly basis are determined by subtracting from the semi-monthly gross earnings all sums required by law or court order to be withheld and dividing the remainder by 2.17.

(b) An individual who does not receive earnings either weekly, semi-monthly, or monthly is entitled to a maximum exemption for the aggregate value of cash and other liquid assets available in any month of \$1,400, except as provided in (f) and (h) of this section and in [AS 09.38.050](#). The term "liquid assets" includes deposits, securities, notes, drafts, accrued vacation pay, refunds, prepayments, and receivables, but does not include permanent fund dividends before or after receipt by the individual.

(c) A creditor may levy upon earnings exempt under (a) and (b) of this section if the creditor's claim is

(1) enforceable against exempt property under [AS 09.38.065](#)(a)(1) or (3); or

(2) enforceable under an order of a court of bankruptcy under 11 U.S.C. 1301 — 1330 (Bankruptcy Reform Act of 1978).

(d) If the individual debtor is a nonresident, the limitations on garnishment imposed under 15 U.S.C. 1673 apply.

(e) The following property, unless exempt without limitation under [AS 09.38.015](#) or 09.38.017, upon receipt by and while it is in the possession of the individual, shall be treated as earnings, income, cash, or other liquid assets under this section:

(1) benefits paid by reason of disability, illness, or unemployment;

(2) money or property received for alimony or separate maintenance;

(3) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent;

(4) proceeds or benefits paid or payable on the death of an insured, if the individual was the spouse or a dependent of the insured; and

(5) amounts paid under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract, providing benefits by reason of age, illness, disability, or length of service.

(f) The state may execute on a judgment awarded to the state or on a judgment of restitution on behalf of a victim of a crime or a delinquent act, and an officer or agent of the state or a state employee, or a former officer, agent, or employee of the state may execute on a judgment to that person against a party to an action who is incarcerated for a criminal conviction by sending a notice of levy to the correctional facility in which the person is incarcerated. All money in an incarcerated person's account at a correctional facility is available for disbursement under a notice of levy under this subsection, in the following order of priority:

(1) to support the dependents of the incarcerated person and to provide child support payments as required by [AS 25.27](#);

(2) to satisfy restitution or fines ordered by a court to be paid by the incarcerated person;

(3) to pay a civil judgment entered against the incarcerated person as a result of that person's criminal conduct;

(4) to reimburse the state for an award made for violent crimes compensation under [AS 18.67](#) as a result of the incarcerated person's criminal conduct;

(5) to satisfy other judgments entered against a prisoner in litigation against the state; in this paragraph, "litigation against the state" has the meaning given in [AS 09.19.100](#).

(g) A creditor may levy upon earnings or liquid assets exempt under (a) or (b) of this section if the money is held outside a correctional facility and the claim is for court-ordered restitution to be paid by a prisoner to the creditor under a judgment for conviction of a crime or an adjudication of delinquency.

(h) In this section,

(1) "correctional facility" has the meaning given in [AS 33.30.901](#);

(2) "official detention" has the meaning given in [AS 11.81.900\(b\)](#);

(3) "prisoner" means a person held under the authority of state or municipal law in official detention.

Sec. 09.38.035. Continuing lien on wages.

(a) In the case of a garnishment of earnings, when the garnishee's answer reflects that the defendant is employed by the garnishee, the judgment or balance due as reflected on the writ of garnishment shall become a lien on earnings due at the time of service of the writ to the extent that they are not exempt from garnishment, and that lien shall continue as to subsequent nonexempt earnings until the total subject to the lien equals the amount stated on the writ of garnishment, except that the lien on subsequent earnings shall terminate sooner if the employment relationship is terminated, if the underlying judgment is vacated, modified, or satisfied in full, or if the writ is dismissed.

(b) A garnishee shall pay into court all nonexempt earnings of the defendant subject to the continuing lien under (a) of this section. Accrued interest on the judgment or balance due as reflected on the writ of attachment may be garnished under a supplemental writ of garnishment after the principal amount stated on the original writ of garnishment has been paid.

Sec. 09.38.040. Priorities between continuing liens.

A lien obtained under [AS 09.38.035](#) has priority over any subsequent garnishment lien or wage assignment. A writ creating a continuing lien served upon an employer while a continuing lien imposed by a previous writ is still in effect shall be answered by the employer with a statement that the employer is holding no funds and with a further statement stating when all previous liens are expected to terminate. The subsequent writ has full effect from the termination of all prior liens or until it is otherwise terminated under [AS 09.38.035](#). However, a subsequent writ is not effective if a writ in the same cause of action is pending at the time of service of garnishment.

Sec. 09.38.045. Effective date of continuing lien.

The effective date of a writ creating a continuing lien is the date of service upon the garnishee. However, if there are, on that date, liens by virtue of previous writs, the effective date is the date all previous writs terminate.

Sec. 09.38.050. Increased exemption amount.

(a) An individual debtor who is in possession of money that was obtained as payment for an injury or disability may request the court to order an increase in the exemption amounts under [AS 09.38.030](#). The individual debtor shall submit affidavits or offer testimony in support of the request as required by the court. The court shall determine the exemption amount after consideration of the individual's responsibilities and all the present and anticipated property and income of the individual, including that which is exempt.

(b) The exemption amounts under [AS 09.38.030](#) may be increased when the individual submits an affidavit, under penalty of perjury, stating that the individual's earnings alone support the individual's household; by so doing, the maximum part of the individual's aggregate disposable earnings for any week subject to execution may not exceed the amount by which the individual's disposable earnings for that week exceed \$550, or, if the individual is claiming an exemption for cash or other liquid assets under [AS 09.38.030\(b\)](#), a maximum amount of \$2,200 available in a month is exempt.

Sec. 09.38.055. Bankruptcy proceedings.

In a proceeding under 11 U.S.C. (Bankruptcy) only the exemptions under [AS 09.38.010](#), [09.38.015\(a\)](#), [09.38.017](#), [09.38.020](#), [09.38.025](#) and [09.38.030](#) apply.

Sec. 09.38.060. Tracing exempt property.

(a) If property, or a part of it, that could have been claimed as an exempt homestead under [AS 09.38.010](#), a burial plot under [AS 09.38.015\(a\)\(1\)](#), a health aid under [AS 09.38.015\(a\)\(2\)](#), or personal property subject to a value limitation under [AS 09.38.020\(a\)\(1\)](#), or (2) or [09.38.020\(c\)](#), has been taken or sold by condemnation, or has been lost, damaged, or destroyed and the owner has been indemnified for it, the individual is entitled to an exemption of proceeds that are traceable for 12 months after the proceeds are received. An individual is entitled to an exemption of proceeds from the voluntary sale of an exempt homestead under [AS 09.38.010](#) that are traceable for six months after the proceeds are received. The exemption of proceeds under this subsection does not entitle the individual to claim an aggregate exemption in excess of the value

limitation otherwise allowable under [AS 09.38.010](#) or 09.38.020.

(b) Money or other property and proceeds exempt under this chapter are traceable under this section by application of the principle of first-in first-out, last-in first-out, or any other reasonable basis for tracing selected by the individual claiming the exemption.

Sec. 09.38.065. Claims enforceable against exempt property.

(a) Subject to [AS 06.60.360](#)(e), and notwithstanding other provisions of this chapter,

(1) a creditor may make a levy against exempt property of any kind to enforce a claim for

(A) child support;

(B) unpaid earnings of up to one month's compensation or the full-time equivalent of one month's compensation for personal services of an employee; or

(C) state or local taxes;

(2) a creditor may make a levy against exempt property to enforce a claim for

(A) the purchase price of the property or a loan made for the express purpose of enabling an individual to purchase the property and used for that purpose;

(B) labor or materials furnished to make, repair, improve, preserve, store, or transport the property; and

(C) a special assessment imposed to defray costs of a public improvement benefiting the property; and

(3) a creditor may make a levy against exempt property of any kind to enforce the claim of a victim, including a judgment of restitution on behalf of a victim of a crime or a delinquent act, if the claim arises from conduct of the debtor that results in a conviction of a crime or an adjudication of delinquency, except that the debtor is entitled to an exemption in property

(A) not to exceed an aggregate value of \$3,000 chosen by the debtor from the following categories of property:

(i) household goods and wearing apparel reasonably necessary for one household;

(ii) books and musical instruments, if reasonably held for the personal use of the debtor or a dependent of the debtor; and

(iii) family portraits and heirlooms of particular sentimental value to the debtor; and

(B) not to exceed an aggregate value of \$2,800 of the debtor's implements, professional books, and tools of the trade.

(b) Except as provided in [AS 09.38.070](#) limiting the enforcement of certain security interests, this chapter does not affect any statutory lien or security interest in exempt property.

(c) A creditor having a claim enforceable under (a) of this section against exempt property, before, at the time of, or a reasonable time after making a levy on property of an individual, shall serve on the individual a notice of the levy and of the basis for the creditor's right to make a levy on exempt property.

(d) [Repealed, § 40 ch 92 SLA 2001.]

Sec. 09.38.070. Limitation on enforcement of certain security interests in exempt goods.

(a) This section applies to a security interest, except a purchase-money security interest, or a security interest in a motor vehicle, in an item of goods (1) possessed by an individual, (2) being used by that individual or a dependent, and (3) exempt under [AS 09.38.020\(a\)](#) — (d).

(b) Unless the individual, after receiving written notice of the individual's rights under this section, voluntarily surrenders to the secured creditor possession of an item of goods to which this section applies, the creditor may not take possession of the item or otherwise enforce the security interest according to its terms without an order or process of court.

(c) The court may order or authorize process respecting any item of goods to which this section applies only after a hearing, upon notice to the individual of the hearing and of the individual's rights at it. The notice shall be as directed by the court. The order or authorization may prescribe appropriate conditions as to payments upon the debt secured or otherwise. The court may not order or authorize process respecting the item if it finds upon the hearing both that the individual lacks the means to pay all or part of the debt secured and that continued possession or use of the item is necessary to avoid undue hardship for the individual or a dependent.

(d) The court, upon application of the creditor or the individual and notice to the other and after a hearing and finding of changed circumstances, may vacate or modify an order or authorization under this section.

Sec. 09.38.075. Special procedures relating to limited value exemptions; burden of proof.

(a) Unless a creditor is seeking collection of a claim enforceable against exempt property under [AS 09.38.065](#), the creditor may obtain a levy on an individual's property of a kind listed in [AS 09.38.020](#) only by complying with this section. Before levy, the creditor shall file with the court out of which the process issues

(1) an affidavit stating that the creditor has reason to believe the individual has property of a kind listed in [AS 09.38.020](#) that is not exempt, identifying the property, setting out facts constituting the basis for believing the property is not exempt; and

(2) a request for an order by the court notifying the individual

(A) of the creditor's claim of a right to levy on the property identified as nonexempt;

(B) of the individual's right to contest the creditor's claim of a right to levy by filing with the clerk of the court, on or before a date fixed by the court, but not exceeding 15 days after the issuance of the order, a written objection to the proposed levy and a statement of the grounds for the objection and of the right to describe the property in lieu of setting its value;

(C) of the possible consequences of failure to respond to the notice as provided in (c) of this section; and

(D) of the information required by [AS 09.38.085\(a\)](#).

(b) Notice of an order issued in accordance with a request under (a) of this section, together with the creditor's affidavit, shall be served on the individual. The order shall restrain the individual from removing, encumbering, damaging, or disposing of any property of the kind listed in [AS](#)

[09.38.020](#) for 30 days after receipt of the order, unless the court reduces, extends, or otherwise modifies the restraining order during the 30-day period.

(c) If exemption of property identified in a notice served on an individual under (b) of this section depends on its value, the individual may describe the property in the responsive statement and indicate the amount of any indebtedness chargeable against it. If the individual, within the time allowed by the order of the court, fails to respond to a notice served under (b) of this section that the creditor believes the debtor has nonexempt property of a kind listed under [AS 09.38.020](#), the court may order the individual to appear and disclose the description, location, and value of the individual's property. If the individual fails to appear and disclose the information specified in the order, the individual waives objection to the creditor's levy on property of that kind.

(d) Except to the extent the procedure is prescribed by this section, [AS 09.38.080](#)(e) governs a proceeding for the determination of a contest in respect to a claim to exemption of property under [AS 09.38.020](#).

(e) Costs incurred in making, or proposing to make, a levy on property of a kind listed in [AS 09.38.020](#) shall be paid out of the proceeds of a sale of property of that kind. If the proceeds of a sale of the property are insufficient to cover the costs incurred in proceedings commenced under this section, the creditor shall pay the costs and may not recover them from the individual, notwithstanding any agreement of the parties to the contrary.

(f) The burden of proving the validity of an exemption by a preponderance of the evidence is upon the individual claiming the exemption.

Sec. 09.38.080. Procedures applicable to a levy on property of an individual.

(a) Except in a proceeding under [AS 09.38.065](#), a creditor shall comply with this section in obtaining a levy on property of an individual. In a proceeding to levy on personal property of a kind listed in [AS 09.38.020](#), a creditor shall comply with this section and [AS 09.38.075](#).

(b) Before, at the time of, or within three days after levy against property of an individual, the creditor shall file with the court from which the process issued an affidavit stating that the creditor has reason to believe the individual has property that is not exempt, identifying the property, and stating facts constituting the basis for that belief.

(c) Before, at the time of, or within three days after levy, the creditor shall serve on the individual a notice under [AS 09.38.085](#), including a copy of the affidavit filed under (b) of this section.

(d) A bid for property that is less than the amount of the exempt value is not acceptable at a sale of property under a levy. If indebtedness secured by a valid lien is chargeable against the proceeds of the sale, the bid must exceed the amount of the indebtedness secured plus the amount of the exempt value. If a sufficient bid is not received, the officer shall file a notation of the fact with the clerk of the court and return the property to the individual. The costs incurred during levy, offering the property for sale, and returning the property shall be assessed against the creditor and are not recoverable from the individual, notwithstanding any agreement of the parties to the contrary.

(e) If any question arises as to the rights of an individual entitled to an exemption under this chapter, an interested person may file with the clerk of the court from which the process issued a statement of the claim of exemptions and the question raised. The statement shall be referred to the court as soon as practicable thereafter. The court shall order that notice of a hearing be given.

After hearing the matter, the court shall make findings and issue an appropriate order. The court may award to the prevailing party costs of a proceeding under this subsection.

(f) An objection to levy on the ground that the property seized is exempt must be filed with the clerk of the court within 15 days after the levy. The burden of proving the validity of an exemption by a preponderance of the evidence is upon the individual claiming the exemption. Failure to file a timely objection may be held to be a waiver of a claim to exemption in the property, unless for cause shown the court excuses the failure.

Sec. 09.38.085. Contents of notice; forms.

(a) The notice required by [AS 09.38.075](#)(b) and 09.38.080(c) must include the following information:

(1) the amount and date of the judgment to be enforced by levy and sale or other mode of appropriating the individual's property;

(2) the name and address of the clerk of the court with whom objections must be filed;

(3) the name and address of the creditor and of the creditor's attorney, if any;

(4) a copy of the affidavit filed under [AS 09.38.080](#)(b);

(5) a summary statement in lay terminology of the exemptions provided by the laws of this state;

(6) a summary statement in lay terminology of the procedures for claiming exemptions, objecting to a levy on exempt property, changing venue, and exercising the right to repurchase homestead property from a sale before its confirmation; and

(7) a statement in lay terminology of the rights of persons other than the individual as provided in [AS 09.38.090](#).

(b) The supreme court may prescribe forms to be used by creditors, debtors, and court officers under this chapter.

(c) A notice substantially complying with this section is effective even though the notice contains errors if those errors do not result in substantial prejudice to the rights of the individual debtor or of the dependents of the individual debtor.

Sec. 09.38.090. Assertion of rights by another.

If an individual fails to select property entitled to be claimed as exempt or to object to a levy on the property or to assert any other right under this chapter, the spouse or a dependent of the individual or any other person authorized by law may make the claim or objection or assert the rights provided by this chapter.

Sec. 09.38.095. Judicial relief.

(a) An individual or the spouse, a dependent of the individual, or any other person authorized by law is entitled to injunctive relief, damages, or both, against a creditor or other person to prevent

or redress a violation of this chapter as provided in the Alaska Rules of Civil Procedure. A court may award costs and reasonable attorney fees to a party entitled to injunctive relief or damages.

(b) For cause shown the court may relieve a person from the consequences of failing to take timely action to assert rights under this chapter.

Sec. 09.38.100. Debtor's property owned with another.

(a) If an individual and another own property in this state as tenants in common or tenants by the entirety, a creditor of the individual, subject to the individual's right to claim an exemption under this chapter, may obtain a levy on and sale of the interest of the individual in the property. A creditor who has obtained a levy, or a purchaser who has purchased the individual's interest at the sale, may have the property partitioned or the individual's interest severed.

(b) A partner's right in specific partnership property is exempt except on a claim against the partnership. If partnership property is attached for a partnership debt, the partners or any of them or the representatives of a deceased partner may not claim an exemption for that property under this chapter.

Sec. 09.38.105. Waiver of exemption.

A waiver of exemption executed in favor of an unsecured creditor before levy on an individual's property is unenforceable, but a valid security interest may be given in exempt property.

Sec. 09.38.110. Federal requirements.

If a federal department or agency issues a formal ruling that a section of this chapter relating to public assistance will cause a state plan for the delivery of services or benefits to be out of conformity with federal requirements, the section will not apply to the extent that it causes the program to be out of conformity with federal requirements.

Sec. 09.38.115. Adjustment of dollar amounts.

(a) The dollar amounts in this chapter change, as provided in this section, according to and to the extent of changes in the Consumer Price Index for all urban consumers for the Anchorage Metropolitan Area compiled by the Bureau of Labor Statistics, United States Department of Labor (the index). The index for January of 1982 is the reference base index.

(b) The dollar amounts change on October 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the index for January of that year and the most recent index used to change the exemption amount, is 10 percent or more, but

(1) the portion of the percentage change in the index in excess of a multiple of 10 percent is disregarded and the dollar amounts change only in multiples of 10 percent of the amounts appearing in this chapter on August 26, 1982; and

(2) the dollar amounts do not change if the amounts required by this section are those currently in effect as a result of earlier application of this section.

(c) If the index is revised, the percentage of change is calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index

is determined by multiplying the reference base index applicable by the rebasing factor furnished by the United States Bureau of Labor Statistics. If the index is superseded, the index referred to in this section is the one represented by the Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar for Alaskan consumers.

(d) The Department of Labor and Workforce Development shall adopt a regulation announcing

(1) on or before June 30 of each year in which dollar amounts are to change, the changes in dollar amounts required by (b) of this section; and

(2) promptly after the changes occur, changes in the index required by (c) of this section, including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of any index superseding the index.

(e) The Department of Labor and Workforce Development shall also provide notification of a change in exemption amounts required under (c) of this section to the clerks of court in each judicial district of the state.

Sec. 09.38.120. Protection of property of residents and nonresidents.

(a) Residents of this state are entitled to the exemptions provided under this chapter. Nonresidents are entitled to the exemptions provided by the law of the jurisdiction of their residence.

(b) The term “resident” means an individual who is physically present in the state and who intends to maintain a permanent home in the state.

Sec. 09.38.500. Definitions.

In this chapter, unless the context otherwise requires,

(1) “burial plot” means a parcel of real estate that is used for burial of human remains and that is located within an area designated for cemetery purposes by the state or a municipality;

(2) “creditor” includes the state on behalf of a victim of a crime or a delinquent act;

(3) “debt” means a legally enforceable monetary obligation or liability of an individual, whether arising out of contract, tort, or otherwise;

(4) “dependent” means an individual who derives support primarily from another individual;

(5) “earnings” means money received by an individual for personal services and denominated as wages, salary, commissions, or otherwise;

(6) “exempt” means protected, and “exemption” means protection, from subsection to process or a proceeding to collect an unsecured debt;

(7) “household goods” includes those items that make a residence habitable according to modern standards;

(8) “judgment of restitution”

(A) includes restitution ordered

(i) under [AS 47.12.120](#) that is considered as a civil judgment enforceable by execution under [AS 47.12.170](#); and

(ii) as part of a sentence under [AS 12.55.025](#)(f) that is considered as a judgment for money entered in a civil action;

(B) does not include a judgment for

(i) civil damages for torts under state law; or

(ii) restitution as a result of a violation of state law that is not a felony or misdemeanor;

(9) “judicial lien” means a lien on property obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding instituted for the purpose of collecting an unsecured debt;

(10) “levy” means the seizure of property under a writ of attachment, garnishment, execution, or any similar legal or equitable process issued for the purpose of collecting an unsecured debt;

(11) “lien” means

(A) a security interest;

(B) a judicial or statutory lien;

(C) a common law lien on property

(i) only if the lien was consented to by the owner of the property affected; or

(ii) if not consented to by the owner of the property affected as provided in (i) of this subparagraph, only when the lien is accompanied by a specific order authorizing the recording or filing of the lien issued by a court of competent jurisdiction recognized under state or federal law, which order shall be recorded or filed with the lien; or

(D) any interest in property other than one described in (A) — (C) of this paragraph securing payment of a debt or performance of an obligation;

(12) “principal residence” means the actual dwelling place of an individual or dependents of the individual and includes real and personal property;

(13) “security interest” means an interest in property created by contract to secure payment or performance of an obligation;

(14) “serve notice” means to give the person to be served a written personal notice in the same manner a summons in a civil action is served, or to mail the notice to the person's last known address by first-class mail and by using a form of mail requiring a signed receipt;

(15) “statutory lien” means a lien arising by force of a statute under specified circumstances or conditions, but does not include a security interest;

(16) “value” means fair market value of an individual's interest in property, exclusive of liens of record;

(17) “victim” has the meaning given in [AS 12.55.185](#);

(18) “victim of a crime or a delinquent act” means a victim of a crime or a delinquent act committed in violation of state law; “victim of a crime or a delinquent act” does not include a

victim of a violator of an ordinance of a political subdivision of the state;

(19) “wearing apparel” means clothing and garments intended and adapted to be worn on the person to protect the person against the elements or to provide personal comfort or decency, or serving to ornament the person but does not include jewelry.

Sec. 09.38.510. Short title.

This chapter may be cited as the Alaska Exemptions Act.

Chapter 40. Provisional Remedies.

Article 1. Attachment.

Sec. 09.40.010. Actions in which attachment is authorized.

(a) At any time after an action has been commenced the plaintiff may make application to the court to have the property of the defendant attached as security for the satisfaction of a judgment that may be recovered in the following cases:

(1) in an action upon an express or implied contract for the payment of money if the contract is neither secured by mortgage, lien, nor pledge upon real or personal property, or, if secured, the security is insufficient to satisfy a judgment that may be recovered by the plaintiff;

(2) in an action upon an express or implied contract against a defendant not residing in the state;

(3) in an action for the collection of a state tax or license fee.

(b) An attachment may not issue if the defendant gives security to pay a judgment that may be recovered as provided in [AS 09.40.010](#) — 09.40.110.

Sec. 09.40.020. Undertaking.

Before the writ is issued, the plaintiff shall give a written undertaking with sufficient sureties to the effect that, if the defendant recovers judgment, the plaintiff will pay all costs that may be awarded to the defendant and all damages that the defendant may sustain by reason of the attachment, not exceeding the sum specified in the undertaking, and that, if the attachment is discharged on the ground that the plaintiff was not entitled to it under [AS 09.40.010](#) — 09.40.110, the plaintiff will pay all damages that the defendant may have sustained by reason of the attachment, not exceeding the sum specified in the undertaking. The sum specified in the undertaking shall be equal to the amount claimed by the plaintiff, but not less than \$100.

Sec. 09.40.025. Appointment of person to serve attachment process.

Service of all process relating to attachment may be made by a person specially appointed by the court for that purpose.

Sec. 09.40.030. Property subject to attachment.

All property in the state not exempt from execution may be attached.

Sec. 09.40.040. Third party liability.

All persons having in their possession personal property belonging to the defendant or owing a debt to the defendant at the time of service upon them of the writ and notice shall deliver, transfer, or pay the property or debts to the peace officer, or be liable to the plaintiff for the amount of the property or debts until the attachment is discharged or a judgment recovered by plaintiff is satisfied. Debts and other personal property may be delivered, transferred, or paid to the peace officer without suit, and the receipt of the officer is a sufficient discharge.

Sec. 09.40.050. Lien on real estate.

If real property is attached, the peace officer shall make a certificate containing the title of the cause, the names of the parties, a description of the property attached, the date of attachment, a statement that a writ of attachment has been issued, and the date of issuance, and shall within 10 days deliver the certificate to the recorder of the recording district in which the real property is situated. The recorder shall record the certificate in a book to be kept for that purpose. When the certificate is recorded, the lien in favor of the plaintiff attaches to the real property described in the certificate from the date of the attachment, but if recorded afterwards, it only attaches as against third persons from the date of the subsequent recording. Whenever the lien is discharged, it is the duty of the recorder, when requested, to record the transcript of an order, entry of satisfaction of judgment, or other proceeding of record whereby it appears that the lien has been discharged.

Sec. 09.40.060. Third party indebted to defendant or possessing property of defendant.

When a peace officer with a writ of attachment applies to a person for the purpose of attaching property mentioned in the attachment, the person shall within a reasonable time and in any event within 24 hours furnish the peace officer with a statement designating the amount and description of any personal property in the person's possession belonging to the defendant, or any debt the person owes to the defendant. If the person refuses to do so, or if the statement is unsatisfactory to the plaintiff, the person may be ordered to appear before the court and be examined concerning the property or debt.

Sec. 09.40.070. Sale of perishable property.

If any of the property attached is perishable, the peace officer shall sell the property in the manner in which property is sold on execution. The proceeds and other property attached shall be retained by the officer to answer a judgment that may be recovered in the action unless sooner subjected to execution upon another judgment recovered previous to the levy of attachment.

Sec. 09.40.080. Liability on undertaking.

In a proceeding brought against the principal or the sureties upon an undertaking given to secure the release of attached property, it is a defense that the property for which the undertaking was given did not, at the execution of the writ of attachment, belong to the defendant against whom it was issued.

Sec. 09.40.090. Disposition of property after judgment in plaintiff's favor.

When plaintiff recovers judgment, and the property attached in the suit was not sold as perishable property or discharged from the attachment, the court shall order the property to be sold to satisfy the plaintiff's demands. If execution is issued upon the judgment, the peace officer shall apply the property attached, including money or the proceeds from the sale of the property, upon the

execution. If there is any of the property or proceeds remaining after satisfying the execution, the peace officer shall, upon demand, deliver the property or proceeds to the defendant.

Sec. 09.40.100. Return of property upon judgment for defendant.

If the defendant recovers judgment against the plaintiff and no appeal is taken, all the property attached, the proceeds from property attached, and the undertaking received in the action shall be delivered to the defendant upon service upon the peace officer of a certified copy of the order discharging the attachment.

Sec. 09.40.110. Delivery of property to defendant and redelivery bond.

The peace officer may deliver any of the property attached to the defendant, or to a person claiming it, upon the giving of a written undertaking for the property executed by one or more sufficient sureties, engaging to redeliver it or pay the value of the property to the peace officer to whom execution upon a judgment obtained by the plaintiff in that action may be issued.

Article 2. Civil Arrest.

Sec. 09.40.120. Arrest and bail in civil actions.

The plaintiff in a civil action may have the defendant arrested and held to bail in the manner provided in [AS 09.40.120](#) — 09.40.220. The writ of ne exeat is abolished.

Sec. 09.40.130. Grounds for arrest.

The defendant may be arrested in an action for debt when the defendant is about to remove from the state with intent to defraud creditors or is absconding.

Sec. 09.40.140. Order for arrest.

An order for the arrest of the defendant may be obtained only from a judge of the court in which the action is brought. The order shall be made immediately whenever it appears to the judge that a sufficient claim and proper grounds exist.

Sec. 09.40.150. Undertaking by plaintiff.

Before making the order, the judge shall require an undertaking on the part of the plaintiff, with one or more sufficient sureties, to the effect that the plaintiff will pay all costs that may be adjudged to the defendant, and all damages that the defendant may sustain by reason of the arrest if the same be wrongful or without sufficient cause, not exceeding the sum specified in the undertaking. The undertaking shall be in a sum to be fixed by the judge, but not less than \$300.

Sec. 09.40.160. Time for order for arrest.

The order may be made at the time of the issuing of the summons or afterwards but before the judgment. It shall require a peace officer to immediately arrest the defendant and to hold the defendant to bail in the amount specified.

Sec. 09.40.170. Discharge on bail or deposit.

The defendant, at any time before execution, shall be discharged from the arrest either upon giving bail or upon depositing the amount mentioned in the order for arrest.

Sec. 09.40.180. Amount of bail.

The defendant may give bail by causing a written undertaking to be executed by one or more sufficient sureties to the effect that they are bound in the amount mentioned in the order for arrest, that the defendant will be amenable to the process of the court during the pendency of the action and to processes that may be issued to enforce the judgment, or that they will pay the plaintiff the amount of the judgment that may be recovered in the action.

Sec. 09.40.190. Surrender of defendant by bail or in person.

At any time before failure to comply with the undertaking, the bail may surrender the defendant in their exoneration, or the defendant may surrender to a peace officer of the court where the action is pending.

Sec. 09.40.200. Arrest of defendant by or on authority of bail.

For the purpose of surrendering the defendant, the bail, at any time and place before they are finally charged, may personally arrest the defendant, or, by a written authority endorsed on a certified copy of the undertaking, may empower a peace officer to do so. Upon the arrest of the defendant by a peace officer, or upon delivery of the defendant to the peace officer by the bail, or upon the defendant's own surrender, the bail are exonerated if the arrest, delivery, or surrender takes place at a time before judgment. But if the arrest, delivery, or surrender does not take place before judgment, the bail are finally charged on their undertaking, and bound to pay the amount of the judgment.

Sec. 09.40.210. Exoneration of bail.

The bail are exonerated by the defendant's death, imprisonment in a penitentiary, or legal discharge from the obligation to be amenable to the process.

Sec. 09.40.220. Motion to vacate order for arrest or to reduce bail.

A defendant arrested may, at any time before judgment, apply on a motion to the court or a judge of the court in which the action is pending to vacate the order for arrest or to reduce the amount of bail. If upon the hearing of the motion it appears that there was not sufficient cause for the arrest, the order shall be vacated; or if it appears that the bail was fixed too high, the amount shall be reduced.

Article 3. Injunction.

Sec. 09.40.230. Authorization for injunction.

When it appears that (1) the plaintiff is entitled to the relief demanded, and the relief or any part of it includes restraining the commission or continuance of some act, the commission or continuance of which during the litigation would produce injury to the plaintiff; or (2) the defendant is doing, or threatens or is about to do, or is procuring or suffering to be done some act in violation of the plaintiff's rights concerning the subject of the action and tending to render the judgment ineffectual; or (3) the defendant threatens or is about to remove or dispose of property or a part of it with intent to delay or defraud creditors, an injunction may be allowed to restrain such act, removal, or disposition.

Sec. 09.40.235. Restraining orders, preliminary injunctions, and stays affecting industrial operations.

(a) Unless exempt under [AS 09.68.040\(a\)](#), a party seeking a restraining order, preliminary injunction, or order staying the operation of a permit that affects an industrial operation shall give

security, in an amount the court considers proper, for costs that may be incurred and damages that may be suffered by the industrial operation if the industrial operation is wrongfully enjoined or restrained. Upon request of any party and when that party presents evidence, one relevant factor the court shall consider is the amount of wages and benefits for employees and payment to contractors and subcontractors of the industrial operation that may be suffered if the industrial operation is wrongfully enjoined or restrained. In this subsection, "industrial operation" includes a construction, energy, or timber activity and oil, gas, and mineral exploration, development, and production.

(b) The existence of security under (a) of this section does not

(1) prohibit a person who is wrongfully enjoined or restrained from obtaining relief that may be available to that person; or

(2) limit the amount that a party may recover in the action.

(c) A party is not required to give security under (a) of this section if the challenged permitting decision or authorization is made by

(1) the Department of Environmental Conservation under [AS 46.03](#) or [AS 46.14](#) in a program approved or delegated by the United States Environmental Protection Agency; or

(2) the Department of Natural Resources under [AS 27.21](#) in a program approved or delegated by the Office of Surface Mining Reclamation and Enforcement in the United States Department of the Interior.

Article 4. Receivers.

Sec. 09.40.240. Appointment of receivers.

A receiver may be appointed by the court in any action or proceeding except an action for the recovery of specific personal property

(1) provisionally, before judgment, on the application of either party, when the party's right to the property that is the subject of the action or proceeding and that is in the possession of an adverse party is probable, and where it is shown that the property or its rents or profits are in danger of being lost or materially injured or impaired;

(2) after judgment, to carry the judgment into effect;

(3) after judgment, to dispose of the property according to the judgment or to preserve it during the pendency of an appeal, or when an execution has been returned unsatisfied and the debtor refuses to apply the debtor's property in satisfaction of the judgment;

(4) in the cases when a corporation has been dissolved, or is insolvent or in imminent danger of insolvency, or has forfeited its corporate rights;

(5) in the cases when a debtor has been declared insolvent;

(6) under [AS 32.06.504\(a\)](#).

Sec. 09.40.250. Oath and undertaking of receiver.

Before entering upon any duties, a receiver shall be sworn to perform them faithfully, and shall

file with the clerk of court an undertaking with one or more sufficient sureties in the sum the court may direct to the effect that the receiver will faithfully discharge the duties of receiver and obey the orders of the court.

Article 5. Recovery of Personal Property.

Sec. 09.40.260. Claim for delivery of personal property.

In an action to recover possession of personal property, the plaintiff may, at any time after the action is commenced and before judgment, claim the immediate delivery of the property.

Sec. 09.40.270. Undertaking.

A peace officer may not take personal property into custody until the plaintiff delivers to the peace officer the affidavit and undertaking of sufficient sureties to the effect that they are bound in double the value of the property for the prosecution of the action and the return of the property to the defendant, if return be adjudged, and for the payment to the defendant of any sum that may be recovered against the plaintiff.

Sec. 09.40.280. Undertaking for return of property to defendant.

The defendant may, within the time set by the court, require the return of the property upon delivering to the peace officer having custody of the property a written undertaking approved by the clerk of the court and executed by sufficient sureties to the effect that they are bound in double the value of the property for the delivery of the property to the plaintiff, if such delivery be adjudged, and for the payment to the plaintiff of such sum as may, for any cause, be recovered against the defendant.

Sec. 09.40.290. Property concealed in building or enclosure, demand and entry to effect seizure.

If the property or any part of it is concealed in a building or enclosure, the peace officer shall publicly demand its delivery. If it is not delivered, the peace officer shall cause the building or enclosure to be broken open and take the property into possession.

Sec. 09.40.300. Custody of property seized.

When the peace officer has taken the property into custody, the peace officer is responsible for it and shall keep it in a secure place and deliver it to the party entitled to it upon receiving the lawful fees for taking and the necessary expenses for keeping it.

Sec. 09.40.310. Third party claims.

If the property taken is claimed by any person other than the defendant, and that person makes an affidavit of title to the property or the right to the possession of it, stating the grounds of the title or right, and serves it upon the peace officer taking the property while the property is still in the peace officer's custody, the peace officer may release the property unless the plaintiff, on demand of the officer, indemnifies the peace officer against the third party claim by a written undertaking approved by the clerk of court and executed by sufficient sureties.

Chapter 43. Arbitration.

Article 1. Uniform Arbitration Act.

Sec. 09.43.010. Arbitration agreements valid; application of article.

(a) A written agreement to submit an existing controversy to arbitration or a provision in a written contract to submit to arbitration a subsequent controversy between the parties is valid, enforceable, and irrevocable, except upon grounds that exist at law or in equity for the revocation of a contract. However, [AS 09.43.010](#) — 09.43.180 do not apply to a labor-management contract unless they are incorporated into the contract by reference or their application is provided for by statute.

(b) Notwithstanding (a) of this section, [AS 09.43.010](#) — 09.43.180 do not apply to an agreement or a contract unless the agreement or contract is entered into before January 1, 2005, and is not otherwise subject to [AS 09.43.300](#) — 09.43.595. A person may not waive the effective date of this subsection, and a waiver of the effective date of this subsection is void.

Sec. 09.43.020. Proceedings to compel or stay arbitration.

(a) On application of a party showing an agreement described in [AS 09.43.010](#), and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration, but if the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of the issue and if the agreement is found to exist shall order arbitration.

(b) On application, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. The issue, when in substantial and bona fide dispute, shall be immediately and summarily tried and the stay ordered if no agreement is found to exist. If found for the opposing party, the court shall order the parties to proceed to arbitration.

(c) If an issue subject to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications under (a) of this section, the application shall be made in that court. Otherwise the application may be made in any court of competent jurisdiction.

(d) An action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application for the order has been made under this section or, if the issue is severable, the stay may be with respect to the issue only.

(e) An order for arbitration may not be refused on the ground that the claim in issue lacks merit or because a fault or ground for the claims sought to be arbitrated has not been shown.

Sec. 09.43.030. Appointment of arbitrators by court.

If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. If no method of appointment is provided, or if the agreed method fails or for any reason cannot be followed, or when before the hearing an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

Sec. 09.43.040. Majority action by arbitrators.

The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by [AS 09.43.010](#) — 09.43.180.

Sec. 09.43.050. Hearing.

Unless otherwise provided by the agreement,

(1) the arbitrators shall set a time and place for the hearing and cause notification to the parties to be served personally or by registered mail not less than five days before the hearing; appearance at the hearing waives the notice; the arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause or upon their own motion, may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date; the arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a properly notified party to appear;

(2) the parties are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing;

(3) the hearing shall be conducted by all the arbitrators but a majority may determine any question and render a final award; if, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals shall continue with the hearing and determination of the controversy.

Sec. 09.43.060. Representation by attorney.

A party has the right to be represented by an attorney at a proceeding or hearing under [AS 09.43.010](#) — 09.43.180. A waiver of the right before the proceeding or hearing is ineffective.

Sec. 09.43.070. Witnesses, subpoenas, depositions.

(a) The arbitrators may cause to be issued subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence, and have the power to administer oaths. Subpoenas shall be served, and upon application to the court by a party or the arbitrators, enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action.

(b) On application of a party and for use as evidence, the arbitrators may permit a deposition to be taken, in the manner and upon the terms designated by the arbitrators, of a witness who cannot be subpoenaed or is unable to attend the hearing.

(c) All provisions of law compelling a person under subpoena to testify are applicable.

(d) Fees for attendance as a witness shall be the same as for a witness in the superior court.

Sec. 09.43.080. Award.

(a) The award shall be in writing and signed by the arbitrators joining in the award. The arbitrators shall deliver a copy to each party personally or by registered mail, or as provided in the agreement.

(b) An award shall be made within the time fixed by the agreement or, if not so fixed, within the time the court orders on application of a party. The parties may extend the time in writing either

before or after the expiration of the time. A party waives the objection that an award was not made within the time required unless the party notifies the arbitrators of the objection before the delivery of the award to that party.

Sec. 09.43.090. Modification of award by arbitrators.

On application to the arbitrators by a party or, if an application to the court by a party is pending under [AS 09.43.110](#) — 09.43.130 on submission to the arbitrators by the court under the conditions the court may order, the arbitrators may modify or correct the award upon the grounds stated in [AS 09.43.130](#)(a)(1) and (3), or for the purpose of clarifying the award. An application to the arbitrators by a party shall be made within 20 days after delivery of the award to the applicant. Written notice of the application shall be given promptly to the opposing party, stating that objections to the application must be served within 10 days from the notice. A modified or corrected award is subject to the provisions of [AS 09.43.110](#) — 09.43.130.

Sec. 09.43.100. Fees and expenses of arbitration.

Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses and fees, together with other expenses, not including counsel fees, incurred in the conduct of the arbitration, shall be paid as provided in the award.

Sec. 09.43.110. Confirmation of an award.

Upon application of a party, the court shall confirm an award unless within the time limits imposed by [AS 09.43.120](#) and 09.43.130 grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in [AS 09.43.120](#) and 09.43.130.

Sec. 09.43.120. Vacating an award.

(a) On application of a party, the court shall vacate an award if

- (1) the award was procured by fraud or other undue means;
- (2) there was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of a party;
- (3) the arbitrators exceeded their powers;
- (4) the arbitrators refused to postpone the hearing upon sufficient cause being shown for postponement or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of [AS 09.43.050](#), as to prejudice substantially the rights of a party; or
- (5) there was no arbitration agreement and the issue was not adversely determined in proceedings under [AS 09.43.020](#) and the party did not participate in the arbitration hearing without raising the objection.

(b) The fact that the relief is such that it could not or would not be granted by a court of law or equity is not ground for vacating or refusing to confirm the award.

(c) An application under this section shall be made within 90 days after delivery of a copy of the award to the applicant. However, if the application is predicated upon corruption, fraud, or other

undue means by either the opposing party or an arbitrator, it shall be made within 90 days after the grounds are known or should have been known.

(d) In vacating the award on grounds other than those stated in (a)(5) of this section the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence of a provision in the agreement, by the court in accordance with [AS 09.43.030](#), or, if the award is vacated on grounds set out in (a)(3) or (4) of this section, the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with [AS 09.43.030](#). The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

(e) If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

Sec. 09.43.130. Modification or correction of award by court.

(a) On application made within 90 days after delivery of a copy of the award to the applicant, the court shall modify or correct the award if

(1) there was an evident miscalculation of figures or an evident mistake in the description of a person, thing, or property referred to in the award;

(2) the arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or

(3) the award is imperfect in a matter of form not affecting the merits of the controversy.

(b) If the application is granted, the court shall modify and correct the award to effect its intent and shall confirm the award as modified and corrected. Otherwise, the court shall confirm the award as made.

(c) An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

Sec. 09.43.140. Judgment or decree on award.

Upon the granting of an order confirming, modifying or correcting an award, a judgment or decree shall be entered in conformity with the award and be enforced as any other judgment or decree. Costs of the application and of the proceedings subsequent to the application, and disbursements may be awarded by the court.

Sec. 09.43.150. Applications to court.

An application to the court under [AS 09.43.010](#) — 09.43.180 shall be by motion and shall be heard in the manner and upon the notice provided by law or rule of court for the making and hearing of motions. Unless the parties have agreed otherwise, notice of an initial application for an order shall be served in the manner provided by law for the service of a summons in an action.

Sec. 09.43.160. Appeals.

(a) An appeal may be taken from

- (1) an order denying an application to compel arbitration made under [AS 09.43.020](#);
- (2) an order granting an application to stay arbitration made under [AS 09.43.020\(b\)](#);
- (3) an order confirming or denying confirmation of an award;
- (4) an order modifying or correcting an award;
- (5) an order vacating an award without directing a rehearing; or
- (6) a judgment or decree entered under the provisions of [AS 09.43.010](#) — 09.43.180.

(b) The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action.

Sec. 09.43.170. Court, jurisdiction.

In [AS 09.43.010](#) — 09.43.180, the term “court” means the court with jurisdiction in this state. The making of an agreement described in [AS 09.43.010](#) providing for arbitration in this state confers jurisdiction on the court to enforce the agreement under [AS 09.43.010](#) — 09.43.180 and to enter judgment on an award under the agreement.

Sec. 09.43.180. Short title.

[AS 09.43.010](#) — 09.43.180 may be cited as the Uniform Arbitration Act.

Article 2. Arbitration of Small Claims.

Sec. 09.43.190. Arbitration under court rules.

The supreme court may provide by rule for compulsory arbitration of a cause of action filed in a superior or district court, demanding only a money judgment, when it appears that the demand on the cause of action is for \$3,000 or less, exclusive of costs, or when it appears to the trial court as a result of a pretrial conference that the amount that will be recovered on the cause is not likely to exceed \$3,000.

Sec. 09.43.200. Appointment and compensation of arbitrator.

Arbitration of actions shall be by either a member of the Alaska Bar Association or a magistrate appointed and compensated by the court as provided by its rules.

Sec. 09.43.210. Practice and procedure.

The practice and procedure for conducting arbitration, the powers of the arbitrators, and the assessment of costs shall be prescribed by the court rules.

Sec. 09.43.220. Judgments and appeals.

Unless an appeal is taken from the award to the court that ordered arbitration as provided by the court rules, the court shall enter and enforce judgment in accordance with the award of the arbitrator. Any party aggrieved by the award may appeal. All appeals shall be determined in the manner permitted by the rules.

Article 3. Revised Uniform Arbitration Act.

Sec. 09.43.300. Application.

(a) [AS 09.43.300](#) — 09.43.595 govern an agreement to arbitrate made on or after January 1, 2005.

(b) [AS 09.43.300](#) — 09.43.595 govern an agreement to arbitrate made before January 1, 2005, if all the parties to the agreement or to the arbitration proceeding agree in a record that [AS 09.43.300](#) — 09.43.595 govern the agreement.

(c) Except as provided by (d) of this section, [AS 09.43.300](#) — 09.43.595 do not apply to a labor-management contract unless they are incorporated into the contract or their application is provided for by contract.

(d) [AS 09.43.300](#) — 09.43.595 do not apply to a collective bargaining agreement subject to [AS 23.40.070](#) — 23.40.260, except as provided by [AS 23.40.070](#) — 23.40.260.

(e) A person may not waive the effective date of a provision of [AS 09.43.300](#) — 09.43.595, and a waiver of the effective date of a provision of [AS 09.43.300](#) — 09.43.595 is void.

Sec. 09.43.310. Effect of agreement to arbitrate; nonwaivable provisions.

(a) Except as otherwise provided in (b) and (c) of this section, a party to an agreement to arbitrate or arbitration proceeding may waive, or the parties may vary the effect of, the requirements of [AS 09.43.300](#) — 09.43.595 to the extent permitted by law.

(b) Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not

(1) waive or agree to vary the effect of the requirements of [AS 09.43.320](#), 09.43.330(a) or (b), 09.43.350, 09.43.440(a) or (b), 09.43.530, or 09.43.550;

(2) agree to unreasonably restrict the right under [AS 09.43.360](#) to notice of the initiation of an arbitration proceeding;

(3) agree to unreasonably restrict the right under [AS 09.43.390](#) to disclosure of any facts by a neutral arbitrator; or

(4) waive the right under [AS 09.43.430](#) of a party to an agreement to arbitrate to be represented by an attorney at a proceeding or hearing under [AS 09.43.300](#) — 09.43.595, but an employer and a labor organization may waive the right to representation by an attorney in a labor arbitration.

(c) A party to an agreement to arbitrate or arbitration proceeding may not waive, or the parties may not vary the effect of, the requirements of this section, [AS 09.43.300](#)(a), (c), or (d), 09.43.340, 09.43.410, 09.43.450, 09.43.470(d) or (e), 09.43.490, 09.43.500, 09.43.510, 09.43.520, 09.43.560, or 09.43.570.

Sec. 09.43.320. Application for judicial relief.

Except as otherwise provided in [AS 09.43.550](#), an application for judicial relief under [AS](#)

[09.43.300](#) — 09.43.595 shall be made and heard in the manner provided by the court rules of this state.

Sec. 09.43.330. Validity of agreement to arbitrate.

(a) An agreement contained in a record to submit to arbitration an existing or subsequent controversy arising between the parties to the agreement is valid, enforceable, and irrevocable except upon a ground that exists at law or in equity for the revocation of a contract, and except as provided by (b) of this section.

(b) To the extent an agreement that contains an arbitration provision is invalidated on the grounds that a party was induced into entering into the agreement by fraud, the arbitration provision in the agreement is not enforceable, and the party is not required to prove that the party was induced into entering into the arbitration provision by fraud.

(c) The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

(d) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled.

(e) If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

Sec. 09.43.340. Application to compel arbitration; stay of related proceedings.

(a) On application of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate under the agreement,

(1) if the refusing party does not appear or does not oppose the application, the court shall order the parties to arbitrate; and

(2) if the refusing party opposes the application, the court shall proceed summarily to decide the issue and order the parties to arbitrate unless it finds that there is no enforceable agreement to arbitrate.

(b) On application of a person alleging that an arbitration proceeding has been initiated or threatened but that there is not an agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, the court shall order the parties to arbitrate.

(c) If the court finds that there is not an enforceable agreement, the court may not, under (a) or (b) of this section, order the parties to arbitrate.

(d) The court may not refuse to order arbitration because the claim subject to arbitration lacks merit or because grounds for the claim have not been established.

(e) If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, an application under this section shall be made in that court. Otherwise, an application under this section may be made in any court as provided in [AS 09.43.540](#).

(f) If a party makes an application to the court to order arbitration, the court shall, on just terms,

stay a judicial proceeding that involves a claim alleged to be subject to the arbitration until the court renders a final decision under this section.

(g) If the court orders arbitration, the court shall, on just terms, stay a judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

Sec. 09.43.350. Provisional remedies.

(a) Before an arbitrator is appointed and is authorized and able to act, the court, upon application of a party to an arbitration proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

(b) After an arbitrator is appointed and is authorized and able to act,

(1) the arbitrator may issue the orders for provisional remedies, including interim awards, that the arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

(2) a party to an arbitration proceeding may apply to the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

(c) A party does not waive a right of arbitration by making an application under (a) or (b) of this section.

Sec. 09.43.360. Initiation of arbitration.

(a) A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by certified or registered mail, return receipt requested and obtained, or by service as authorized for the commencement of a civil action. The notice must describe the nature of the controversy and the remedy sought.

(b) Unless a person objects for lack or insufficiency of notice under [AS 09.43.420\(c\)](#) not later than the beginning of the arbitration hearing, the person, by appearing at the hearing, waives any objection to lack or insufficiency of notice.

Sec. 09.43.370. Consolidation of separate arbitration proceedings.

(a) Except as otherwise provided in (c) of this section, upon application of a party to an agreement to arbitrate or arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if

(1) there are separate agreements to arbitrate or separate arbitration proceedings between the same persons or one of them is a party to a separate agreement to arbitrate or a separate arbitration proceeding with a third person;

(2) the claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;

(3) the existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings; and

(4) prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

(b) The court may order consolidation of separate arbitration proceedings as to some claims and allow other claims to be resolved in separate arbitration proceedings.

(c) The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

Sec. 09.43.380. Appointment of arbitrator; service as a neutral arbitrator.

(a) If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method shall be followed, unless the method fails. If the parties have not agreed on a method, the agreed method fails, or an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court, on application of a party to the arbitration proceeding, shall appoint the arbitrator. An arbitrator appointed by the court has all the powers of an arbitrator designated in the agreement to arbitrate or appointed under the agreed method.

(b) An individual who has a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party may not serve as an arbitrator required by an agreement to be neutral.

Sec. 09.43.390. Disclosure by arbitrator.

(a) Before accepting appointment, an individual who is requested to serve as an arbitrator shall, after making a reasonable inquiry, disclose to all parties to the agreement to arbitrate and arbitration proceeding and to other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including

(1) a financial or personal interest in the outcome of the arbitration proceeding; and

(2) an existing or past relationship with a party to the agreement to arbitrate or arbitration proceeding, counsel for or representatives of the parties, a witness, or another arbitrator.

(b) An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and arbitration proceeding and to other arbitrators any facts that the arbitrator learns after accepting appointment that a reasonable person would consider likely to affect the impartiality of the arbitrator.

(c) If an arbitrator discloses a fact required by (a) or (b) of this section to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based on the fact disclosed, the objection may be a ground under [AS 09.43.500\(a\)\(2\)](#) for vacating an award made by the arbitrator.

(d) If the arbitrator did not disclose a fact as required by (a) or (b) of this section, upon timely

objection by a party, the court may, under [AS 09.43.500\(a\)\(2\)](#), vacate an award.

(e) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party is rebuttably presumed to act with evident partiality under [AS 09.43.500\(a\)\(2\)](#).

(f) If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to an application to vacate an award on that ground under [AS 09.43.500\(a\)\(2\)](#).

Sec. 09.43.400. Action by majority.

If there is more than one arbitrator, the powers of an arbitrator shall be exercised by a majority of the arbitrators, but all of them shall conduct the hearing under [AS 09.43.420\(c\)](#).

Sec. 09.43.410. Immunity of arbitrator; competency to testify; attorney fees and costs.

(a) An arbitrator or an arbitration organization acting in that capacity is immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity.

(b) The immunity afforded by this section supplements any immunity under other law.

(c) The failure of an arbitrator to make a disclosure required by [AS 09.43.390](#) does not cause a loss of immunity under this section.

(d) In a judicial, administrative, or similar proceeding, an arbitrator or representative of an arbitration organization is not competent to testify and may not be required to produce records as to a statement, conduct, a decision, or a ruling occurring during the arbitration proceeding to the same extent as a judge of a court of this state acting in a judicial capacity. This subsection does not apply to

(1) the extent necessary to determine the claim of an arbitrator, arbitration organization, or representative of the arbitration organization against a party to the arbitration proceeding; or

(2) a hearing on an application to vacate an award under [AS 09.43.500\(a\)\(1\)](#) or (2) if the applicant establishes prima facie that a ground for vacating the award exists.

(e) If a person commences a civil action against an arbitrator, arbitration organization, or representative of an arbitration organization arising from the services of the arbitrator, organization, or representative, or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify or produce records in violation of (d) of this section, and the court decides that the arbitrator, arbitration organization, or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is not competent to testify, the court shall award to the arbitrator, organization, or representative attorney fees and expenses of litigation as determined under the court rules of this state.

Sec. 09.43.420. Arbitration process.

(a) An arbitrator may conduct an arbitration in the manner the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality, and weight of any evidence.

(b) An arbitrator may decide a request for summary disposition of a claim or particular issue
(1) if all interested parties agree; or

(2) on request of one party to the arbitration proceeding if that party gives notice to all other parties to the proceeding and the other parties have a reasonable opportunity to respond.

(c) If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than five days before the hearing begins. Unless a party to the arbitration proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives the objection. On request of a party to the arbitration proceeding and for good cause shown, or on the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy on the evidence produced although a party who was notified of the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

(d) At a hearing under (c) of this section, a party to the arbitration proceeding has a right to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

(e) If an arbitrator ceases acting or is unable to act during the arbitration proceeding, a replacement arbitrator shall be appointed under [AS 09.43.380](#) to continue the proceeding and to resolve the controversy.

Sec. 09.43.430. Representation by attorney.

A party to an arbitration proceeding may be represented by an attorney.

Sec. 09.43.440. Witnesses; subpoenas; depositions; discovery.

(a) An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at a hearing and may administer oaths. A subpoena shall be served in the manner for service of subpoenas in a civil action and, on application to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

(b) In order to make the proceedings fair, expeditious, and cost-effective, on request of a party to or witness in an arbitration proceeding, an arbitrator may permit a deposition of a witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions under which the deposition is taken.

(c) An arbitrator may permit the discovery the arbitrator decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitration proceeding and other

affected persons and the desirability of making the proceeding fair, expeditious, and cost-effective.

(d) If an arbitrator permits discovery under (c) of this section, the arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery proceeding, and take action against a noncomplying party to the extent a court could if the controversy were the subject of a civil action in this state.

(e) An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets, and other information protected from disclosure to the extent a court could if the controversy were the subject of a civil action in this state.

(f) All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, deposition, or discovery proceeding as a witness apply to an arbitration proceeding as if the controversy were the subject of a civil action in this state.

(g) The court may enforce a subpoena or discovery-related order for the attendance of a witness within this state and for the production of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another state upon conditions determined by the court so as to make the arbitration proceeding fair, expeditious, and cost-effective. A subpoena or discovery-related order issued by an arbitrator in another state shall be served in the manner provided by law for service of subpoenas in a civil action in this state and, on application to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner provided by law for enforcement of subpoenas in a civil action in this state.

Sec. 09.43.450. Judicial enforcement of preaward ruling by arbitrator.

If an arbitrator makes a preaward ruling in favor of a party to the arbitration proceeding, the party may request the arbitrator to incorporate the ruling into an award under [AS 09.43.460](#). A prevailing party may apply to the court for an expedited order to confirm the award under [AS 09.43.490](#), in which case the court shall summarily decide the application. The court shall issue an order to confirm the award unless the court vacates, modifies, or corrects the award under [AS 09.43.500](#) or 09.43.510.

Sec. 09.43.460. Award.

(a) An arbitrator shall make a record of an award. The record must be signed or otherwise authenticated by an arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

(b) An award shall be made within the time specified by the agreement to arbitrate or, if not specified in the agreement, within the time ordered by the court. The court may extend or the parties to the arbitration proceeding may agree in a record to extend the time. The court or the parties may extend the time within or after the time specified or ordered. A party waives an objection that an award was not timely made unless the party gives notice of the objection to the arbitrator before receiving notice of the award.

Sec. 09.43.470. Change of award by arbitrator.

(a) On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award

(1) on a ground stated in [AS 09.43.510](#)(a)(1) or (3);

(2) because the arbitrator has not made a final and definite award on a claim submitted by the parties to the arbitration proceeding; or

(3) to clarify the award.

(b) A motion under (a) of this section shall be made and notice shall be given to all parties within 20 days after the movant receives notice of the award.

(c) A party to the arbitration proceeding shall give notice of an objection to the motion within 10 days after receipt of the notice.

(d) If an application to the court is pending under [AS 09.43.490](#), 09.43.500, or 09.43.510, the court may submit the claim to the arbitrator to consider whether to modify or correct the award

(1) on a ground stated in [AS 09.43.510](#)(a)(1) or (3);

(2) because the arbitrator has not made a final and definite award on a claim submitted by the parties to the arbitration proceeding; or

(3) to clarify the award.

(e) An award modified or corrected under this section is subject to [AS 09.43.460](#)(a) and 09.43.490 — 09.43.510.

Sec. 09.43.480. Remedies; fees and expenses of arbitration proceeding.

(a) An arbitrator may award punitive damages or other exemplary relief if the award is authorized by law in a civil action involving the same claim and the evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.

(b) An arbitrator may award reasonable attorney fees and other reasonable expenses of arbitration if the award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.

(c) As to all remedies other than those authorized by (a) and (b) of this section, an arbitrator may order the remedies the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that the remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under [AS 09.43.490](#) or for vacating an award under [AS 09.43.500](#).

(d) An arbitrator's expenses and fees, together with other expenses, shall be paid as provided in the award.

(e) If an arbitrator awards punitive damages or other exemplary relief under (a) of this section, the arbitrator shall specify in the award the basis in fact justifying and the basis in law authorizing the award and shall state the amount of the punitive damages or other exemplary relief separately.

Sec. 09.43.490. Confirmation of award.

After a party to an arbitration proceeding receives notice of an award, the party may apply to the court for an order confirming the award, at which time the court shall issue a confirming order unless the award is modified or corrected under [AS 09.43.470](#) or 09.43.510 or is vacated under [AS 09.43.500](#).

Sec. 09.43.500. Vacating award.

(a) On application to the court by a party to an arbitration proceeding, the court shall vacate an award made in the arbitration proceeding if

(1) the award was procured by corruption, fraud, or other undue means;

(2) there was

(A) evident partiality by an arbitrator appointed as a neutral arbitrator;

(B) corruption by an arbitrator; or

(C) misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;

(3) an arbitrator refused to postpone the hearing on showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to [AS 09.43.420](#), so as to prejudice substantially the rights of a party to the arbitration proceeding;

(4) an arbitrator exceeded the arbitrator's powers;

(5) there was not an agreement to arbitrate, unless the person participated in the arbitration proceeding without raising the objection under [AS 09.43.420\(c\)](#) not later than the beginning of the arbitration hearing; or

(6) the arbitration was conducted without proper notice of the initiation of an arbitration as required under [AS 09.43.360](#) so as to prejudice substantially the rights of a party to the arbitration proceeding.

(b) An application under this section shall be filed within 90 days after the applicant receives notice of the award under [AS 09.43.460](#) or within 90 days after the applicant receives notice of a modified or corrected award under [AS 09.43.470](#), unless the applicant alleges that the award was procured by corruption, fraud, or other undue means, in which case the application shall be made within 90 days after the ground is known or, by the exercise of reasonable care, would have been known by the applicant.

(c) If the court vacates an award on a ground other than that stated in (a)(5) of this section, it may order a rehearing. If the award is vacated on a ground stated in (a)(1) or (2) of this section, the rehearing shall be before a new arbitrator. If the award is vacated on a ground stated in (a)(3), (4), or (6) of this section, the rehearing may be before the arbitrator who made the award or the arbitrator's successor. The arbitrator shall render the decision in the rehearing within the same time as that provided in [AS 09.43.460\(b\)](#) for an award.

(d) If the court denies an application to vacate an award, it shall confirm the award unless an application to modify or correct the award is pending.

Sec. 09.43.510. Modification or correction of award.

(a) On application made within 90 days after the applicant receives notice of the award under [AS 09.43.460](#) or within 90 days after the applicant receives notice of a modified or corrected award under [AS 09.43.470](#), the court shall modify or correct the award if

(1) there was an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property referred to in the award;

(2) the arbitrator has made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision on the claims submitted; or

(3) the award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.

(b) If an application made under (a) of this section is granted, the court shall modify or correct and confirm the award as modified or corrected. Otherwise, unless an application to vacate is pending, the court shall confirm the award.

(c) An application to modify or correct an award under this section may be joined with an application to vacate the award.

Sec. 09.43.520. Judgment on award.

On granting an order confirming, vacating without directing a rehearing, modifying, or correcting an award, the court shall enter a judgment in conformity with the order. The judgment may be recorded, docketed, and enforced as any other judgment in a civil action.

Sec. 09.43.530. Jurisdiction.

(a) A court of this state having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.

(b) An agreement to arbitrate providing for arbitration in this state confers exclusive jurisdiction on the court to enter judgment on an award under [AS 09.43.300](#) — 09.43.595.

Sec. 09.43.540. Venue.

An application to the court under [AS 09.43.320](#) shall be made in the court of the judicial district in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the judicial district in which it was held. Otherwise, the application may be made in the court of a judicial district in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this state, in the court of any judicial district in this state. All subsequent applications shall be made in the court hearing the initial application unless the court otherwise directs.

Sec. 09.43.550. Appeals.

(a) An appeal may be taken from

- (1) an order denying an application to compel arbitration;
- (2) an order granting an application to stay arbitration;
- (3) an order confirming or denying confirmation of an award;
- (4) an order modifying or correcting an award;
- (5) an order vacating an award without directing a rehearing; or
- (6) a final judgment entered under [AS 09.43.300](#) — 09.43.595.

(b) An appeal under this section shall be taken as from an order or a judgment in a civil action.

Sec. 09.43.560. Uniformity of application and construction.

In applying and construing [AS 09.43.300](#) — 09.43.595, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the Revised Uniform Arbitration Act.

Sec. 09.43.570. Relationship to Electronic Signatures in Global and National Commerce Act.

The provisions of [AS 09.43.300](#) — 09.43.595 governing the legal effect, validity, and enforceability of electronic records or electronic signatures, and of contracts performed with the use of the records or signatures shall conform to the requirements of 15 U.S.C. 7002 (Electronic Signatures in Global and National Commerce Act).

Sec. 09.43.580. Notice.

(a) Except as otherwise provided in [AS 09.43.300](#) — 09.43.595, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in the ordinary course of affairs, whether or not the other person acquires knowledge of the notice.

(b) A person has notice if the person has knowledge of the notice or has received notice.

(c) A person receives notice when the notice comes to the person's attention or the notice is delivered at the person's place of residence or place of business, or at another location held out by the person as a place of delivery of the communications.

Sec. 09.43.590. Definitions.

In [AS 09.43.300](#) — 09.43.595,

(1) “arbitration organization” means an association, agency, board, commission, or other entity that is neutral and initiates, sponsors, or administers an arbitration proceeding or is involved in the appointment of an arbitrator;

(2) “arbitrator” means an individual who is appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate;

(3) “court” means a court of competent jurisdiction in this state;

(4) “knowledge” means actual knowledge;

(5) “person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation; or another legal or commercial entity;

(6) “record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and may be retrieved in perceivable form.

Sec. 09.43.595. Short title.

[AS 09.43.300](#) — 09.43.595 may be cited as the Revised Uniform Arbitration Act.

Chapter 45. Actions Relating to Real Property.

Article 1. Quiet Title, Land Boundaries, and Adverse Possession.

Sec. 09.45.010. Action to quiet title.

A person in possession of real property, or a tenant of that person, may bring an action against another who claims an adverse estate or interest in the property for the purpose of determining the claim.

Sec. 09.45.015. Land adjoining highway reservation.

(a) A conveyance of land after April 7, 1958, that, at the time the conveyance was made, adjoined a highway reservation listed in section 1 of Public Land Order 1613 of the Secretary of the Interior (April 7, 1958), is presumed to have conveyed land up to the center-line of the highway subject to any highway reservation created by Public Land Order 601 and any highway easement created by Public Land Order 1613.

(b) The burden of proof in litigation involving land adjoining a highway reservation created by Public Land Order 601 or a highway easement created by Public Land Order 1613 is on the person who claims that the conveyance did not convey an interest in land up to the center-line of the highway.

Sec. 09.45.020. Action to establish boundaries.

When a dispute exists between two or more owners of adjacent or contiguous lands concerning the boundary lines of their lands, an owner may bring an action for the purpose of having the dispute determined and the boundary lines ascertained and marked.

Sec. 09.45.030. Appointment of referees to establish and mark boundaries.

In an action to establish boundaries, the court shall appoint three disinterested referees, one of whom is a surveyor, to establish and mark the boundary lines as ascertained and determined by the court.

Sec. 09.45.040. Oaths and report of referees.

Before entering upon the discharge of their duties, the referees shall file a written oath to faithfully and impartially perform their duties. After designating the boundary lines by proper marks, they shall file with the court a report describing the location of the marks.

Sec. 09.45.050. Court action on the referees' report.

The report may be confirmed unless a party excepts to the report. Upon the hearing, the court may confirm, modify, or set aside the report, and, in the latter case, may appoint new referees or refer the matter to the same referees with appropriate instructions.

Sec. 09.45.052. Adverse possession.

(a) The uninterrupted adverse notorious possession of real property under color and claim of title for seven years or more, or the uninterrupted adverse notorious possession of real property for 10 years or more because of a good faith but mistaken belief that the real property lies within the boundaries of adjacent real property owned by the adverse claimant, is conclusively presumed to give title to the property except as against the state or the United States. For the purpose of this section, land that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, is land owned by the state.

(b) Except for an easement created by Public Land Order 1613, adverse possession will lie against property that is held by a person who holds equitable title from the United States under paragraphs 7 and 8 of Public Land Order 1613 of the Secretary of the Interior (April 7, 1958).

(c) Notwithstanding [AS 09.10.030](#), the uninterrupted adverse notorious use of real property by a public utility for utility purposes for a period of 10 years or more vests in that utility an easement in that property for that purpose.

(d) Notwithstanding [AS 09.10.030](#), the uninterrupted adverse notorious use, including construction, management, operation, or maintenance, of private land for public transportation or public access purposes, including highways, streets, roads, or trails, by the public, the state, or a political subdivision of the state, for a period of 10 years or more, vests an appropriate interest in that land in the state or a political subdivision of the state. This subsection does not limit or expand the rights of a state or political subdivision under adverse possession or prescription as the law existed on July 17, 2003.

Article 2. Forcible Entry and Detainer.

Sec. 09.45.060. Prohibition of use of force for entry on realty.

A person may not enter upon any land, tenement, or other real property except in cases where entry is given by law. In those cases the entry may not be made with force but only in a peaceable manner.

Sec. 09.45.070. Action for forcible entry or detention.

(a) When a forcible entry is made upon a premises, or when an entry is made in a peaceable manner and the possession is held by force, the person entitled to the premises may maintain an action to recover the possession.

(b) [Repealed, § 1 ch 73 SLA 1966.]

Sec. 09.45.080. Undertaking on appeal. [Repealed, § 4 ch 10 SLA 1974.]

Sec. 09.45.090. Unlawful holding by force.

(a) For property to which the provisions of [AS 34.03](#) (Uniform Residential Landlord and Tenant Act) apply, unlawful holding by force includes each of the following:

(1) when, for failure or refusal to pay rent due on the lease or agreement under which the tenant or person holds, and after service, under [AS 09.45.100](#)(b), of the written notice required by [AS 34.03.220](#)(b) by the landlord for recovery of possession of the premises if the rent is not paid, the tenant or person in possession fails or refuses to vacate or pay the rent within seven days;

(2) when,

(A) after a violation of a condition or covenant set out in [AS 34.03.120](#)(a), other than a breach of [AS 34.03.120](#)(a)(5) due to the deliberate infliction of substantial damage to the premises, or after a breach or violation of a condition or covenant in a lease or rental agreement and following service of written notice to quit, the tenant fails or refuses to remedy the breach or to deliver up the possession of the premises within the number of days provided for termination under [AS 34.03.220](#)(a)(2);

(B) after a violation of [AS 34.03.120](#)(a)(5) by deliberate infliction of substantial damage to the premises, following service of written notice to quit, the tenant fails or refuses to deliver up the possession of the premises by the date set out in the written notice to quit under [AS 34.03.220](#)(a)(1);

(C) after a violation of [AS 34.03.220](#)(e) following discontinuance of a public utility service, following service of written notice to quit, the tenant fails or refuses to deliver up the possession of the premises by the date set out in the written notice to quit under [AS 34.03.220](#)(e);

(D) the landlord requires the tenant to vacate the premises for a reason set out in [AS 34.03.310](#)(c)(2) or (c)(4) — (7), following service of written notice to quit, the tenant fails or refuses to deliver up the possession of the premises within the longer of 30 days or the period of notice for the landlord's recovery of possession of the premises set out in the rental agreement;

(E) in a mobile home park, there is to be a change in the use of land for which termination of tenancy is authorized by [AS 34.03.225](#)(a)(4), following service of written notice to quit, the mobile home dweller or tenant fails or refuses to vacate within the number of days provided for termination under [AS 34.03.225](#)(a)(4);

(F) after termination of a periodic tenancy as prescribed by [AS 34.03.290](#)(a) or (b), following service of written notice to quit, the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or after the date of its expiration;

(G) after the tenant has violated [AS 34.03.120](#)(b) or the tenant has used the dwelling unit or allowed the dwelling unit to be used for an illegal purpose in violation of [AS 34.03.310](#)(c)(3) other than a breach of [AS 34.03.120](#)(b), following service of written notice to quit, the tenant fails or refuses to deliver up the possession of the premises within five days; or

(H) following service of written notice to quit, a person in possession continues in possession of the premises without a valid rental agreement, as that term is defined in [AS 34.03.360](#), and without the consent of the landlord; or

(3) when, without a notice to quit, a tenant or person in possession continues in possession of the premises after the tenancy has been terminated by issuance of an order of abatement under [AS](#)

[09.50.210\(a\)](#).

(b) For property to which the provisions of [AS 34.03](#) (Uniform Residential Landlord and Tenant Act) do not apply, unlawful holding by force includes each of the following:

(1) when, for failure or refusal to pay rent due on the lease or agreement under which the tenant or person in possession holds, after service, under [AS 09.45.100\(c\)](#), of demand made in writing by the landlord for the possession of the premises if the rent is not paid, the tenant or person in possession fails or refuses to vacate or pay the rent due within seven days;

(2) when, following service of a written notice to quit,

(A) after the tenant or person in possession has breached or violated a condition or covenant of the lease or rental agreement other than breach of a covenant or condition set out in (B) of this paragraph, the tenant or person in possession of a premises fails or refuses to deliver up the possession of the premises within 10 days;

(B) after the tenant or person in possession has deliberately inflicted substantial damage to the premises, the tenant or person in possession of a premises fails or refuses to deliver up the possession of the premises on the date required by the landlord; the date specified may not be less than 24 hours after demand for possession of the premises by the landlord;

(C) after the tenant or person in possession has violated [AS 34.05.100\(a\)](#) or has used the premises for or allowed the premises to be used for an illegal purpose, the tenant or person in possession fails or refuses to deliver up the possession of the premises within five days;

(D) for premises the lease or occupation of which is primarily for the purpose of farming or agriculture, after the tenant or person in possession has violated [AS 34.05.025](#), other than a violation that is a breach under (B) or (C) of this paragraph, the tenant fails or refuses to deliver up possession of the premises within 30 days;

(E) a tenancy based upon an estate at will terminates, and the tenant or person in possession continues in possession of the premises; or

(F) a person in possession continues in possession of the premises

(i) at the expiration of the time limited in the lease or agreement under which that person holds; or

(ii) without a written lease or agreement and without the consent of the landlord; or

(3) when, without a notice to quit, a tenant or person in possession continues in the possession of the premises after the tenancy has been terminated by issuance of an order of abatement under [AS 09.50.210\(a\)](#).

(c) When a landlord who is required to provide written notice to a tenant or person in possession under (a) or (b) of this section, provides notice by mail, notwithstanding any other provision of law, three days must be added to the period set out in (a) or (b) of this section to determine the date on and after which the tenant or person in possession unlawfully holds by force.

Sec. 09.45.100. Notice to quit.

(a) Except where service of written notice is made under [AS 09.45.090\(a\)\(1\)](#) or (b)(1), or except when notice to quit is not required by [AS 09.45.090\(a\)\(3\)](#) or (b)(3), a person entitled to the premises who seeks to recover possession of the premises may not commence and maintain an

action to recover possession of premises under [AS 09.45.060](#) — 09.45.160 unless the person first gives a notice to quit to the person in possession.

(b) To recover possession of premises after a tenant or person in possession has failed or refused to pay rent due, service of the written notice required by [AS 34.03.220](#)(b) or of a demand in writing for possession of the premises

(1) constitutes notice to quit, and service of a separate notice to quit is not required; and

(2) satisfies the requirements of (c) of this section and [AS 34.03.310](#)(c).

(c) A notice to quit shall be in writing and shall be served upon the tenant or person in possession by being

(1) delivered to the tenant or person;

(2) left at the premises in case of absence from the premises; or

(3) sent by registered or certified mail.

Sec. 09.45.105. Content of notice to quit.

Notice to quit served upon the tenant or person in possession must

(1) state

(A) the nature of the breach or violation of the lease or rental agreement or other reason for termination of the tenancy of the tenant or person in possession;

(B) in circumstances in which the breach or violation described in (A) of this paragraph may be corrected by the tenant or person in possession to avoid the termination of the tenancy, the nature of the remedial action to be taken, and the date and time by which the corrective actions must be completed in order to avoid termination of the tenancy;

(C) the date and time when the tenancy of the tenant or person in possession under the lease or rental agreement will terminate;

(2) direct the tenant or person in possession to quit the premises not later than the date and time of the termination of the tenancy; and

(3) give notice to the tenant or person in possession that, if the tenancy terminates and the tenant or person in possession continues to occupy the premises, the landlord may commence a civil action to remove the tenant or person and recover possession.

Sec. 09.45.110. Time when action to recover possession may be brought.

An action for the recovery of the possession of the premises may be commenced on or after the date the tenant or person in possession unlawfully holds possession of the dwelling unit or rental premises by force, as determined under [AS 09.45.090](#).

Sec. 09.45.120. Summons and continuance.

Summons in actions for forcible entry and detainer shall be served not less than two days before the date of trial. A continuance may not be granted for a longer period than two days unless the

defendant applying for the continuance gives an undertaking to the adverse party, with sureties approved by the court conditioned to the payment of the rent that may accrue if judgment is rendered against the defendant.

Sec. 09.45.130. Action against persons paying rent in advance.

The service of a notice to quit upon a tenant or person in possession does not authorize an action to be maintained against the tenant or person for the possession of the premises until the expiration of the period for which that tenant or person may have paid rent for the premises in advance. To authorize an action against a tenant or person in possession who has paid rent in advance, a notice must be given at least 10 days before the date the rent is due again in case of a month-to-month tenancy or at least three days before in the case of a week-to-week tenancy.

Sec. 09.45.135. Action against tenant occupying premises abated as nuisance.

In an action under [AS 09.45.060](#) — 09.45.160 against a tenant or person in possession of premises for which an order of abatement has been entered under [AS 09.50.210\(a\)](#), a certified copy of the order of abatement is prima facie evidence of unlawful holding of the premises by force by a person who remains on the premises.

Sec. 09.45.140. Agricultural tenant.

When the leasing or occupation is for the purpose of farming or agriculture, the tenant or person in possession shall, after the termination of the lease or occupancy, have free access to the premises to cultivate and harvest or gather any crop or produce of the soil planted or sown by the tenant or person before the service of the notice to quit.

Sec. 09.45.150. Inquiry into merits of title.

In an action to recover the possession on the land, tenement, or other real property where the entry is forcible or when the possession is unlawfully held by force, there shall be no inquiry into the merits of the title. Three years' quiet possession of the premises immediately preceding the commencement of the action by the party in possession or those under whom the party holds may be pleaded in bar thereof unless the estate of the party in the premises is ended.

Sec. 09.45.158. Action by nonprofit housing corporation.

A nonprofit housing corporation may designate an officer or employee of the corporation who is not an attorney to commence and maintain an action under [AS 09.45.060](#) — 09.45.160 on behalf of the corporation against a tenant or person in possession. When, under this section, a nonprofit corporation appears by an officer or employee of the corporation who is not an attorney, the written proceedings shall be in the name of the person representing the corporation and that person is the sole representative of the corporation as between the corporation and the adverse party.

Sec. 09.45.160. Actions for possession of realty.

In an action to recover the possession of real property as provided in [AS 09.45.630](#), notice to quit, when necessary, may be given as prescribed in [AS 09.45.060](#) — 09.45.160, and nothing in [AS 09.45.060](#) — 09.45.160 shall be construed so as to prevent such an action being maintained for the recovery of the possession.

Article 3. Actions Relating to Nonconsensual Common Law Liens.

Sec. 09.45.161. Lien against public servant.

If a nonconsensual common law lien is recorded or filed against the property of a public servant based upon the performance or nonperformance of the public servant's duties or having no stated basis and the nonconsensual common law lien was not accompanied by a specific order from a court of competent jurisdiction recognized under state or federal law authorizing the filing of the lien and recorded or filed with the lien, an attorney representing the public servant

(1) may sign, submit for recording or filing, and record or file a notice of invalid lien; and

(2) shall mail a copy of the notice of invalid lien submitted for recording or filing under (1) of this section to the person who recorded or filed the lien at the person's last known address.

Sec. 09.45.164. Request for release of nonconsensual common law lien.

(a) A person whose real or personal property is subject to a claim of nonconsensual common law lien that has been recorded or filed may submit to a court of competent jurisdiction a request that the court order the release of the claim of the nonconsensual common law lien. The request must state the grounds upon which relief is sought and must be supported by the affidavit of the person making the request or that person's attorney setting out a concise statement of the facts upon which the request is based.

(b) If facts alleging the need for an expedited decision are averred, the request may ask the court to order the person claiming the nonconsensual common law lien to appear at a hearing within 20 days of the service of the request and order on the lien claimant. The order may be granted ex parte and shall state that, if the lien claimant fails to appear at the time and place specified, the claim of nonconsensual common law lien shall be released, and the lien claimant shall be ordered to pay the costs and actual reasonable attorney fees incurred by the party making the request.

(c) If the court determines that the claim of nonconsensual common law lien is invalid, the court shall issue an order releasing the claim of lien and awarding costs and actual reasonable attorney fees to the party making the request. If the court determines that the claim of nonconsensual common law lien is valid, the court shall issue an order stating the claim of the lien is valid and shall award costs and actual reasonable attorney fees to the lien claimant.

Sec. 09.45.167. Liability of nonconsensual common law lien claimant or grantee.

(a) A person who offers a claim of nonconsensual common law lien for recording or filing that is not accompanied by a specific order from a court of competent jurisdiction recognized under state or federal law authorizing the recording or filing of the lien is liable to the owner of the property affected by the lien for actual and punitive damages, as well as costs and actual reasonable attorney fees.

(b) A grantee or other person purportedly benefited by a claim of nonconsensual common law lien that has been recorded or filed who refuses to release the lien upon request of the owner of the property affected by the lien is liable to the owner for actual and punitive damages, as well as costs and actual reasonable attorney fees.

Sec. 09.45.169. Definitions.

In [AS 09.45.161](#) — 09.45.169,

(1) “filed” means the acceptance of a document by a department or person having responsibility for the receipt and filing of documents that may be filed and that are presented for filing in the place of filing designated by law, whether or not under applicable law the department or person is directed to file the document;

(2) “nonconsensual common law lien” means a lien on real or personal property that

(A) is not provided for by a specific state or federal statute or municipal ordinance;

(B) does not depend on the consent of the owner of the property affected for its existence;
and

(C) is not an equitable, constructive, or other lien imposed by a court recognized under state or federal law;

(3) “public servant” means each of the following, whether compensated or not:

(A) an officer or employee of the state, a municipality or other political subdivision of the state, or a governmental instrumentality of the state;

(B) a person who serves as a member of a board or commission created by statute or by legislative, judicial, or administrative action by the state, a municipality or other political subdivision of the state, or a governmental instrumentality;

(C) an officer or employee of a federal agency, a member of the military or naval forces of the United States, a member of the National Guard while engaged in training or duty, or a person acting on behalf of a federal agency in an official capacity, temporarily or permanently in the service of the United States, whether with or without compensation; or

(D) a person nominated, elected, appointed, employed, or designated to act in a capacity defined in (A) — (C) of this paragraph, but who does not occupy the position;

(4) “record” means the acceptance of a document by the recorder that the recorder has determined is recordable under [AS 40.17](#) and that is presented for recording in the place of recording designated for the recording district where affected property is located whether or not the place of recording is in that district and whether or not under applicable law the recorder is directed to record the document;

(5) “recorder” means the commissioner of natural resources or the person designated by the commissioner of natural resources to perform the duties set out in [AS 40.17](#).

Article 4. Foreclosure of Liens.

Sec. 09.45.170. Judgment on foreclosure of lien.

A person having a lien upon real property, other than that of a judgment, whether created by mortgage or otherwise, to secure a debt or other obligation may bring an action to foreclose the lien. In the action, the court may direct the sale of the encumbered property or a portion of it and the application of the proceeds of the sale to the payment of costs, expenses of sale, and the amount due the plaintiff. The judgment shall also determine the personal liability of a defendant for the payment of the debt secured by the lien and be entered accordingly.

Sec. 09.45.180. Sale of encumbered property.

The sale of the encumbered property shall be conducted in the same manner as the sale of real property on execution. A deficiency between the amount of the judgment and the sale price may be enforced by execution.

Sec. 09.45.190. Redemption after foreclosure of lien.

Property sold upon a judgment of foreclosure may be redeemed in the manner and with the effect as real property sold on an execution issued upon a judgment for the payment of an unsecured debt.

Sec. 09.45.200. Effect of action to recover debt.

During or after the pendency of an action for the recovery of a debt secured by a lien mentioned in [AS 09.45.170](#), an action cannot be maintained for the foreclosure of the lien unless judgment is given in that action that the plaintiff recover the debt or a part of it, and an execution issued in the action against the property of the defendant is returned unsatisfied in whole or in part.

Sec. 09.45.210. Proceedings when debt secured is not all due.

When an action is commenced to foreclose a lien by which a debt is secured, which debt is payable in installments either of interest or principal, and any of the installments is not then due, the court shall adjudge a foreclosure of the lien, and may also adjudge a sale of the property for the satisfaction of the whole of the debt or so much of it as may be necessary to satisfy the installment then due, with costs of action. In the latter case the judgment of foreclosure as to the remainder of the property may be enforced by an order of sale, in whole or in part, whenever default is made in the payment of the installments not then due.

Sec. 09.45.220. Effect of payment before judgment or sale.

If, before a judgment is given, the amount then due, with the costs of action, is brought into court and paid to the clerk, the action shall be dismissed, and, if the same be done after judgment and before sale, the effect of the judgment as to the amount then due and paid shall be terminated and the execution, if any have issued, be recalled by the clerk. When an installment not due is adjudged to be paid, the court shall determine and specify in the judgment what sum shall be received in satisfaction thereof, which sum may be equal to the installment or otherwise, according to the present value thereof.

Article 5. Nuisances.

Sec. 09.45.230. Action based on private nuisance.

(a) A person may bring a civil action to enjoin or abate a private nuisance. Damages may be awarded in the action.

(b) A person may not maintain an action under this section based upon an air emission or water or solid waste discharge, other than the placement of nuclear waste, where the emission or discharge was expressly authorized by and is not in violation of a term or condition of

(1) a statute or regulation;

(2) a license, permit, or order that is

(A) issued after public hearing by the state or federal government; and

(B) subject to

(i) continuing compliance monitoring;

(ii) periodic review by the issuing agency; or

(iii) renewal on a periodic basis; or

(3) a court order or judgment.

(c) The provisions of (b) of this section do not apply to actions in which the air emission or water or solid waste discharge that is the subject of the action produces a result that was unknown or not reasonably foreseeable at the time of the authorization.

(d) The provisions of (b) of this section remain in effect only as long as both of the following are satisfied:

(1) [AS 46.03.900](#) defines “pollution” as including the contamination or altering of waters, land, or subsurface land of the state in a manner that creates a nuisance; and

(2) [AS 46.14.990](#) defines “emission” as the release of one or more air pollutants to the atmosphere.

(e) Notwithstanding other provisions of law, except [AS 09.50.170](#) — 09.50.240 and [AS 19.25.080](#) — 19.25.180, a person may not bring a civil action to enjoin or abate a private nuisance or to recover damages for a private nuisance unless the action is authorized by this section.

(f) A person who is shielded under (b) of this section from a nuisance action shall indemnify, defend, and hold the state harmless from a claim or court action for inverse condemnation, including damages, costs, and attorney fees, for which the state may become liable because of the air emission or wastewater or solid waste discharge for which the person is shielded by (b) of this section. The state shall immediately tender the defense of the inverse condemnation claim or court action to the person. The provisions of (b) of this section do not apply to shield the person, if the person fails to accept or refuses the tender of the defense. A person who prevails in the defense of the claim or court action for inverse condemnation described under this subsection shall be awarded full reasonable attorney fees and costs.

Sec. 09.45.235. Agricultural operations as private nuisances.

(a) An agricultural facility or an agricultural operation at an agricultural facility is not and does not become a private nuisance as a result of a changed condition that exists in the area of the agricultural facility if the agricultural facility was not a nuisance at the time the agricultural facility began agricultural operations. For purposes of this subsection, the time an agricultural facility began agricultural operations refers to the date on which any type of agricultural operation began on that site regardless of any subsequent expansion of the agricultural facility or adoption of new technology. An agricultural facility or an agricultural operation at an agricultural facility is not a private nuisance if the governing body of the local soil and water conservation district advises the commissioner in writing that the facility or operation is consistent with a soil conservation plan developed and implemented in cooperation with the district.

(b) The provisions of (a) of this section do not apply to

(1) liability resulting from improper, illegal, or negligent conduct of agricultural operations; or

(2) flooding caused by the agricultural operation.

(c) The provisions of (a) of this section supersede a municipal ordinance, resolution, or

regulation to the contrary.

(d) In this section,

(1) “agricultural facility” means any land, building, structure, pond, impoundment, appurtenance, machinery, or equipment that is used or is intended for use in the commercial production or processing of crops, livestock, or livestock products, or that is used in aquatic farming;

(2) “agricultural operation” means

(A) any agricultural and farming activity such as

(i) the preparation, plowing, cultivation, conserving, and tillage of the soil;

(ii) dairying;

(iii) the operation of greenhouses;

(iv) the production, cultivation, rotation, fertilization, growing, and harvesting of an agricultural, floricultural, apicultural, or horticultural crop or commodity;

(v) the breeding, hatching, raising, producing, feeding, keeping, slaughtering, or processing of livestock;

(vi) forestry or timber harvesting, manufacturing, or processing operations;

(vii) the application and storage of pesticides, herbicides, animal manure, treated sewage sludge or chemicals, compounds, or substances to crops, or in connection with the production of crops or livestock;

(viii) the manufacturing of feed for poultry or livestock;

(ix) aquatic farming;

(x) the operation of roadside markets; and

(B) any practice conducted on the agricultural facility as an incident to or in conjunction with activities described in (A) of this paragraph, including the application of existing, changed, or new technology, practices, processes, or procedures;

(3) “livestock” means horses, cattle, sheep, bees, goats, swine, poultry, reindeer, elk, bison, musk oxen, and other animals kept for use or profit.

Sec. 09.45.240. Manner of abatement.

If judgment is in favor of the plaintiff, an order may issue at any time within six months of the date of the judgment at plaintiff's request directing the issuance of a warrant to a peace officer to abate the nuisance. The expense of abating the nuisance is a part of the judgment and may be enforced by execution against the property of the defendant.

Sec. 09.45.250. Order staying issue of warrant.

At any time before the order is made, the defendant may apply to the court for an order to stay the issuance of the warrant for a period not exceeding six months to allow the defendant to abate the

nuisance. The court may grant the stay if the defendant gives an undertaking to the plaintiff in a sufficient amount and with satisfactory sureties that the issuance will be abated within the time and in the manner specified in the order. If the defendant fails to abate the nuisance within the time specified, an order directing the issuance of the warrant for the abatement of the nuisance may be made.

Sec. 09.45.255. Definition of nuisance.

In [AS 09.45.230](#) — 09.45.255, “nuisance” means a substantial and unreasonable interference with the use or enjoyment of real property, including water.

Article 6. Partition.

Sec. 09.45.260. Right of action for partition or sale.

When several persons own real property as tenants in common, in which one or more of them have an estate of inheritance or for life or years, or when real property is subject to a life estate with remainder over, an action may be brought by one or more of those persons or by the life tenant for a portion of it according to the respective rights of the interested persons, and for a sale of the property or a part of it if it appears that a partition cannot be had without great prejudice to the parties.

Sec. 09.45.270. Lien on undivided interest.

Where a lien is on an undivided interest or estate of any of the parties and a partition is made, the lien is then only upon the share assigned to that party, but the share shall first be charged with its just proportion of the costs of the partition, in preference to the lien.

Sec. 09.45.280. Determination of rights of parties.

The rights of the several parties may be determined in the action. If a party having a share or interest in or lien upon the property is unknown, or any of the known parties reside out of the state or cannot be found in the state, the summons may be served upon the absent or known party by publication as in other actions. Where a sale of the property is necessary, the title shall be ascertained by proof to the satisfaction of the court before the sale may be ordered.

Sec. 09.45.290. Order for partition or sale.

If it appears that the property or a part of it is so situated that partition cannot be made without great prejudice to the owners, the court may order a sale of the property. Otherwise, upon the requisite proofs being made, the court shall order a partition according to the respective rights of the parties as ascertained by it, may appoint one or more referees to partition the property, and shall designate the portion to remain undivided for the owners whose interests remain unknown or are not ascertained.

Sec. 09.45.300. Report of referees.

In making the partition the referees shall divide the property and allot its several portions to the respective parties, quality and quantity relatively considered, according to the respective rights of the parties as determined by the court, and designating the several portions by proper landmarks. The referees may employ a surveyor with the necessary assistants to aid them.

Sec. 09.45.310. Effect of judgment.

Upon hearing and confirmation of the report, the court shall give judgment that the partition be

effectual forever, which judgment is binding and conclusive on

(1) all parties named as parties to the action, and their legal representatives, who have at the time an interest in the property divided or a part of it as owners in fee or as tenants for life or for years or as entitled to the reversion, remainder, or inheritance of the property or a part of it, after the termination of a particular estate, and who by any contingency may be entitled to a beneficial interest in the property or who have an interest in an undivided share of it as tenants for years or for life;

(2) persons interested in the property, who may be unknown, to whom notice was given of the action for partition by publication;

(3) other persons claiming from the parties or persons or either of them.

Sec. 09.45.320. Tenant not affected by judgment.

The judgment and partition may not affect tenants for years or for life of the whole of the property that is the subject of partition, and may not preclude any person except those specified in [AS 09.45.310](#) from claiming title to the property in question or from contravening the title of the parties between whom the partition was made.

Sec. 09.45.330. Order of sale.

If it appears by evidence to the satisfaction of the court that a partition cannot be made without great prejudice to the owners, it shall order a sale of the property.

Sec. 09.45.340. Estate of life or years.

When a part of the property only is ordered to be sold, if there is an estate for life or years in an undivided share of the property, the estate may be set off in a part of the property not ordered to be sold.

Sec. 09.45.350. Reference to determine liens.

If it appears that there are outstanding liens upon the property or a part of it and the persons holding the liens were not made parties to the action, the court may appoint a referee to ascertain whether or not those liens have been paid, and, if not paid, what amount remains due, and their order among the liens severally held by those persons and the parties to the action.

Sec. 09.45.360. Appearance of lienholders before referee.

Persons having outstanding liens shall be notified to appear before the referee at a specified time and place to prove the amount due or to become due, contingently or absolutely.

Sec. 09.45.370. Effect of confirmation of report.

If the report of the referee is confirmed by the court, the order of confirmation is binding and conclusive on the parties to the action and upon the lien creditors who have been duly served with notice to appear before the referee.

Sec. 09.45.380. Application of proceeds from sale of encumbered property.

The proceeds of the sale of the encumbered property shall be applied under the direction of the

court as follows:

- (1) to pay its just proportion of the general cost of the action;
- (2) to pay the costs of the reference;
- (3) to satisfy the several liens in their order of priority by payment of the sums due and to become due;
- (4) the residue among the owners of the property sold according to their respective shares, as found by the court.

Sec. 09.45.390. Lienholder having other securities.

When a party to an action or a person who holds a lien upon the property or a part of it has other securities for the payment of the amount of the lien, the court may order the securities to be exhausted before a distribution of the proceeds of sale, or may order a just deduction to be made from the amount of the lien on the property on that account.

Sec. 09.45.400. Distribution of proceeds of sale.

The proceeds of sale and the securities taken by the referees, or a part of the proceeds shall be distributed to the persons entitled to them whenever the court directs. But if no direction is given, all the proceeds and securities shall be paid into court.

Sec. 09.45.410. Continuation of action to determine claims to proceeds.

When the proceeds of the sale of a share or parcel belonging to persons who are parties to the action are paid into court, the action may be continued as between the parties for the determination of their respective claims to the proceeds, which shall be ascertained and adjudged by the court. Further testimony may be taken in court or by a referee at the discretion of the court, and the court may, if necessary, require the parties to present the facts or law in controversy by pleadings as in an original action.

Sec. 09.45.420. Sale procedure.

All sales of real property made by the referee shall be made at public auction to the highest bidder in the manner required for the sale of real property on execution. The notice must state the time, place, and terms of sale, and, if the property or a part of it is to be sold subject to a prior estate, charge, or lien, that shall be stated in the notice.

Sec. 09.45.430. Credit terms.

In the order of sale, the court shall direct the terms of credit that may be allowed for the purchase money of a portion of the premises of which it may direct a sale on credit, and for that portion of which the purchase money is required, by the provisions contained in [AS 09.45.260](#) — 09.45.620, to be invested for the benefit of unknown owners, infants, and parties out of the state.

Sec. 09.45.440. Credit security.

Separate mortgages and other securities may be taken for the whole or convenient portions of the purchase money of those parts of the property directed by the court to be sold on credit in the name of any known owner of full age, otherwise competent, or in the name of the clerk of the

court as the court directs.

Sec. 09.45.450. Disposal of estate for life or years.

When the estate of a tenant for life or years in a undivided part of the property in question is admitted by the parties or ascertained by the court to be existing at the time of the order of sale, and the person entitled to that estate is a party to the action, the estate may be first set off out of a part of the property and a sale made of that part, subject to the estate of that tenant in that part. But, if in the judgment of the court a due regard to the interest of all the parties requires the sale of that estate also, the sale may be ordered.

Sec. 09.45.460. Compensation for sale of estate for life or years.

A person entitled to an estate for life or years in an undivided part of the property, whose estate has been sold, is entitled to receive a sum as reasonable satisfaction for the estate, the sum being based on principles of law applicable to annuities. The person so entitled shall consent to accept the sum for the person's estate by an instrument duly acknowledged or proved in the same manner as deeds for the purpose of record and filed with the clerk of court.

Sec. 09.45.470. Determination of value of estate for life or years sold without consent.

If the consent is not given under [AS 09.45.460](#), before the report of sale, the court shall determine what proportion of the proceeds of the sale, after deducting expenses, is a just and reasonable sum to be invested for the benefit of the person entitled to the estate for life or years, and shall order the sum to be deposited in court for investment.

Sec. 09.45.480. Rules for determining value.

(a) The proportion of the proceeds of the sale to be invested under [AS 09.45.470](#) shall be determined as follows: if an estate for life or years be included in the order of sale, its proportion shall be the whole proceeds of the sale of the property, or of the sale of the undivided share in which that estate may be.

(b) In all cases, the proportion of the expenses of the proceeding shall be deducted from the proceeds of the sale.

Sec. 09.45.490. Protection of unknown tenants.

If the persons entitled to the estate for life or years are unknown, the court shall provide for the protection of their rights in a similar manner, as far as possible, as if they were known and had appeared.

Sec. 09.45.496. [Renumbered (a) as [AS 34.03.285](#) and (b) as [AS 34.03.115](#).]

Sec. 09.45.500. Vested or contingent future rights or estate.

In cases of sales in partition, when it appears that a person has a vested or contingent future right or estate in any of the property sold, the court shall determine the proportional value of the contingent or vested right or estate according to the principles of law applicable to annuities and survivorship, and shall direct that portion of the proceeds of the sale to be invested, secured, or paid over in a manner that will protect the rights and interests of the parties.

Sec. 09.45.510. Separate sales of farms or lots.

The terms of sales of property shall be known at the time of sale, and, if the premises consist of distinct farms or lots, they shall be sold separately unless the court directs otherwise.

Sec. 09.45.520. Persons ineligible to purchase. [Repealed, § 5 ch 78 SLA 1972.]

Sec. 09.45.530. Report of sale.

After the sale of property ordered to be sold, a report shall be made to the court, with a description of the different parcels of lands sold to each purchaser, the name of the purchaser, the price paid or secured, the terms and conditions of the sale, and any securities taken.

Sec. 09.45.540. Confirmation or vacation of sale.

(a) After the filing of the report, a party entitled to a share of the proceeds may move the court to confirm or set aside the sale or sales reported. If the sale is set aside, the court may order a new sale. If the sale is confirmed, the court shall enter an order directing conveyances to be executed and securities to be taken under the sale.

(b) The order confirming the sale discharges the property of the estate or interest of every person mentioned in [AS 09.45.310](#) and of tenants for life or years of the property sold, and is binding and conclusive on all those persons in the same manner as a judgment of partition. The order is conclusive evidence as to the regularity of the proceedings relating to the sale.

Sec. 09.45.550. Investment of proceeds belonging to unknown or nonresident owner.

When there are proceeds of a sale belonging to an unknown owner or to a person outside the state who has no legal representatives inside it, or where there are proceeds arising from the sale of an estate subject to the prior estate of a tenant for life or years that are paid into the court or otherwise deposited by order of the court, the court may order the proceeds to be invested in securities bearing interest for the benefit of the persons entitled to the proceeds.

Sec. 09.45.560. Security taken and investments made in name of court clerk.

When the security for the proceeds of sale is taken or when an investment of any proceeds is made, it shall be done, except as herein otherwise provided, in the name of the clerk of the court, who shall hold the same for the use and benefit of the parties interested, subject to the order of the court.

Sec. 09.45.570. Security taken in names of parties when interests ascertained.

When security is taken on a sale and the parties interested in the security agree on the shares and proportions to which they are respectively entitled, or when shares and proportions have been previously adjudged by the court, the securities shall be taken in the names of and payable to the parties respectively entitled to them, and shall be delivered to the parties.

Sec. 09.45.580. Duties of clerk in securities and investments.

The clerk in whose name a security is taken or by whom an investment is made shall receive the interest and principal as it becomes due, and apply and invest it as the court may direct. The clerk shall deposit in the clerk's office all securities taken, and keep an account in a book provided and kept for that purpose in the clerk's office, free for inspection by all persons, of investments and money received by the clerk from the investments, and their disposition.

Sec. 09.45.590. Compensation for unequal partition.

When it appears that partition cannot be made equal between the parties according to their respective rights, without prejudice to the rights and interests of some of them, and a partition is ordered, the court may adjudge compensation to be made by one party to another on account of the inequality. However, the compensation may not be required to be made to others by owners unknown or by infants unless it appears that the infant has personal property sufficient for that purpose and that the infant's interest will be promoted by giving compensation.

Sec. 09.45.600. Payment to guardian of share of infant.

When the share of an infant is sold, the proceeds of the sale may be paid to the general guardian of the infant or the special guardian appointed for the infant in the action upon the guardian's giving the security required by law or directed by order of the court.

Sec. 09.45.610. Payment to guardian of share of insane or incompetent person.

The guardian who may be entitled to the custody and management of the estate of an insane person or other person adjudged incapable of conducting one's own affairs whose interest in real property has been sold may receive in behalf of that person that person's share of the proceeds of the real property on executing an undertaking, with sufficient sureties and approved by the judge of the court, that the guardian will faithfully discharge the trust reposed in the guardian and will render a true and just account to the person entitled or to the legal representatives of that person.

Sec. 09.45.620. Apportionment of cost of partition.

The costs of partition, including fees or referees and other disbursements, shall be paid by the parties respectively entitled to share in the lands divided in proportion to their respective interests in the property, and may be included and specified in the judgment. In that case they are a lien on the several shares, and the judgment may be enforced by execution against the parties separately. When, however, a litigation arises between some of the parties only, the court may require the expenses of the litigation to be paid by any or all of the parties to the litigation.

Article 7. Recovery of Possession.

Sec. 09.45.630. Actions for recovery of real property.

A person who has a legal estate in real property and has a present right to the possession of the property may bring an action to recover the possession of the property with damages for withholding it; however, recovery of possession from a tenant shall be made under [AS 09.45.060](#) — 09.45.160.

Sec. 09.45.640. Damages for withholding property and value of improvements as setoff.

When property is recovered from a defendant who, in good faith, holds the property under color of title adversely to the claim of the plaintiff, the value of any permanent improvements that the defendant or those under whom the defendant claims have made to the property shall be allowed as a setoff against damages allowed for the withholding of the property. The plaintiff may recover damages for withholding the property for a term of six years before the commencement of the action and for the period from the commencement to the verdict, both excluding the use of permanent improvements made by the defendant.

Sec. 09.45.650. Termination of right to recover property during pendency of action.

Where the plaintiff shows a right to recover at the time the action was commenced, but it appears that the plaintiff's right has terminated during the pendency of the action, the plaintiff may only recover damages for the withholding of the property.

Sec. 09.45.660. Order for survey and measurement of property.

The court in which the action is pending may allow a party and the party's surveyors to go on the property to make a survey for the purposes of the action.

Sec. 09.45.670. Effect of alienation by person in possession.

An action for the recovery of the possession of real property against a person in possession cannot be prejudiced by an alienation made by that person either before or after the commencement of the action. If the alienation is made after the commencement of the action and the defendant does not satisfy the judgment recovered for damages for withholding the possession, the damages may be recovered by action against the purchaser.

Sec. 09.45.680. Mortgage not a conveyance.

A mortgage of real property is not a conveyance that will enable the owner of the mortgage to recover possession of the real property without a foreclosure and sale.

Sec. 09.45.690. Failure to pay rent.

Unless otherwise provided in the lease, a landlord has a right to re-enter leased premises when a tenant fails to pay rent, and may bring action to recover the possession of the premises and the action is equivalent to a demand of the rent. If, at any time before judgment, the lessee or a successor in interest pays the amount of rent in arrears with interest and costs of the action and performs the other covenants or agreements, the lessee or successor is entitled to continue in possession unless otherwise provided in the lease.

Sec. 09.45.700. Judgment in actions to recover possession.

The judgment in an action to recover the possession of real property is conclusive as to the estate in the property and the right to the possession so far as it is determined upon the party against whom it is given and against all persons claiming from, through, or under that party after the commencement of the action. However, when service of the summons is by publication and judgment is given for failure of a party to answer, that party or a successor in interest is at any time within two years from the entry of the judgment, upon application to the court, entitled to an order vacating the judgment and granting that party or a successor a new trial upon the payment of the costs of the action.

Sec. 09.45.710. Possession when new trial granted.

If the judgment is set aside and a new trial granted as provided in [AS 09.45.700](#), after the plaintiff has taken possession of the property, the plaintiff shall remain in possession. But if judgment is given for the defendant in the new trial, the defendant is entitled to restitution by execution as if the defendant were plaintiff.

Sec. 09.45.720. Actions to recover possession by tenant in dower. [Repealed, § 1 ch 89 SLA 1984.]

Article 8. Trespass.

Sec. 09.45.730. Trespass by cutting or injuring trees or shrubs.

A person who without lawful authority cuts down, girdles, or otherwise injures or removes a tree, timber, or a shrub on (1) the land of another person or on the street or highway in front of a person's house, or (2) a village or municipal lot, or cultivated grounds, or the commons or public land of a village or municipality, or (3) the street or highway in front of land described in (2) of this section, is liable to the owner of that land, or to the village or municipality for treble the amount of damages that may be assessed in a civil action. However, if the trespass was unintentional or involuntary, or the defendant had probable cause to believe that the land on which the trespass was committed was the defendant's own or that of the person in whose service or by whose direction the act was done, or where the timber was taken from unenclosed woodland for the purpose of repairing a public highway or bridge on or adjoining the land, only actual damages may be recovered.

Sec. 09.45.735. Trespass related to geotechnical surveys and mining.

A person who trespasses upon the land of another to gather geotechnical data or take mineral resources is liable to the owner of the land for treble the amount of damages that may be assessed in a civil action. If the trespass is unintentional or involuntary or the defendant had probable cause to believe that the land on which the trespass was committed was the defendant's own or that of the person in whose service or by whose direction the act was done, only actual damages may be recovered.

Article 9. Waste.

Sec. 09.45.740. Right of action for waste.

If a guardian, tenant for life or years, or tenant in common of real property commits waste on the property, a person injured by the waste may bring an action for damages for the injury. In an action for waste there may be judgment for treble damages. Where the plaintiff has a reversionary interest and the injury due to waste equals or exceeds the value of the interest held by the one committing the waste, or the waste is committed with malice, judgment may be for forfeiture of the estate and eviction.

Secs. 09.45.750 — 09.45.790. [Renumbered as [AS 09.45.900](#) — 09.45.940.]

Sec. 09.45.795. [Renumbered as [AS 09.65.200](#).]

Sec. 09.45.797. [Renumbered as [AS 09.65.220](#).]

Article 10. Earthslide Relief Act.

Sec. 09.45.800. Prerequisite earthslide changing land boundaries.

If the boundaries of land, owned either by public or by private persons have been moved by an act of God, consisting of an earthslide, so that they are in a location different from that at which, by solar survey, they were located before the earthslide, an action in rem to recognize the boundaries as they presently exist and to quiet title within the boundaries in the persons judicially found entitled to title under [AS 09.45.800](#) — 09.45.880, is authorized, maintainable by the persons and with the procedures in [AS 09.45.800](#) — 09.45.880 for the handling of the emergencies dealt with in [AS 09.45.800](#) — 09.45.880.

Sec. 09.45.805. Parties.

(a) An action authorized by [AS 09.45.800](#) — 09.45.880 may be commenced by

(1) a borough with the joinder of a city or cities included in the borough;

(2) a city not included within the boundaries of a borough, if the earthslide has affected land in the city, or land outside the city as to which outside land the city has statutory power to approve a land map;

(3) a school district that has statutory power to approve a land map; or

(4) any other entity or person, granted permission by the court to bring the action.

(b) In an action authorized by [AS 09.45.800](#) — 09.45.880 every person in actual and peaceable possession of, or having an estate or interest in any of the land affected by the action, whose possession or evidence of estate or interest is either recorded or known to the plaintiffs, must be designated in the complaint of the action, and given notice in the manner required by [AS 09.45.800](#) — 09.45.880 and the court rules of civil procedure.

(c) All unknown parties, including owners, claimants, heirs, devisees, legatees, or assigns, may be described in the caption and complaint as “all persons claiming any interest in or lien upon, the real property herein described or any part of it.”

Sec. 09.45.810. Separate actions as to separate slide areas.

An entity that is a permissible plaintiff under [AS 09.45.805](#), may, in its discretion, bring a separate action under [AS 09.45.800](#) — 09.45.880 with respect to each separate slide area located within its boundaries and its decision regarding the desirability of the separate action, and regarding the area to be dealt with in each action is final.

Sec. 09.45.815. Complaint.

The complaint must substantially include

(1) a statement of the facts making the provisions in [AS 09.45.800](#) — 09.45.880 applicable;

(2) a description of the entire real property sought to be affected by the action;

(3) a specification of the estate, title, and interest owned, and in the actual possession of the plaintiff or plaintiffs in described parts of the entire real property sought to be affected by the action;

(4) a specification of the estate, title, and interest, so far as they are known to the plaintiffs or either of them, and so far as they are capable of being discovered by reasonably diligent search by the plaintiff or plaintiffs, in each separate part of the entire real property sought to be affected by the action;

(5) a specification of the street areas offered by the plaintiff, or plaintiffs, to be vacated in whole or in part for judicial equitable allocation to landowners for the mitigation of the losses inflicted upon the landowners by the act of God consisting of the earthslide;

(6) a proposed replatting of the entire real property sought to be affected by the action, embodying the land boundaries as fixed by the act of God, except as these have been liberalized by judicially directed use of the vacated lands.

Sec. 09.45.820. Publication and posting of notice.

The notice required by Rule 4(e)(4), Alaska Rules of Civil Procedure shall be published as provided in the rules, and a copy of the notice shall be posted in a conspicuous place on each separate parcel of the entire real property described in the complaint within 20 days after the first

publication of the notice.

Sec. 09.45.825. Procedure applicable.

Except as otherwise provided in [AS 09.45.800](#) — 09.45.880, the Alaska Rules of Civil Procedure shall apply to actions authorized by [AS 09.45.800](#) — 09.45.880.

Sec. 09.45.830. Jurisdiction.

Upon the completion of the service, publication and posting of the summons, as may be required by [AS 09.45.800](#) — 09.45.880 and the Alaska Rules of Civil Procedure, the court has complete jurisdiction over the parties plaintiff or plaintiffs and the entire real property described in the complaint as intended to be affected by the action and over the person of everyone having or claiming an estate, right, title, or interest in or to, or lien upon, all or any part of the property and shall be considered to have obtained the possession and control of the property for the purposes of the action with complete jurisdiction to render the judgment provided for in [AS 09.45.800](#) — 09.45.880.

Sec. 09.45.835. Answer.

(a) An answer to the complaint must be served within 90 days after the first publication of the notice, or such further time not exceeding 30 days, as the court for good cause may grant.

(b) An answer must

(1) specifically set out the particulars in which the claimant's estate, right, title, or interest in or to, or lien upon all or any part of the property is different from, or greater than, the interest of the claimant as it is described in the complaint;

(2) be confined to rights based on events occurring at the time of, or since the time of the act of God, consisting of the earthslide.

(c) To whatever extent, if at all, the answering party has rights against anyone whatsoever, based upon facts or events that occurred before the earthslide, the claims shall remain unaffected by the action brought under [AS 09.45.800](#) — 09.45.880 and shall be assertable subsequent to the conclusion of the action at any time and in any manner permitted by law, notwithstanding the judgment granted in this action, recognizing however the finality of this judgment as to the consequences, with respect to land boundaries, of the earthslide.

Sec. 09.45.840. Lis pendens.

A party to an action authorized by [AS 09.45.800](#) — 09.45.880 may record a notice of the pendency of the action in the form and at the place and with the effects specified in [AS 09.45.940](#).

Sec. 09.45.845. Vacating of streets in whole or in part.

The vacating of streets in whole or in part by the voluntary action of a municipality, for the purpose of making it possible for the court to mitigate the hardships suffered by individuals because of the change in land boundaries caused by the act of God, consisting of an earthslide, can be accomplished by the offer of the municipality expressed in the complaint followed by the court's approval of it in the action authorized in [AS 09.45.800](#) — 09.45.880, without other formalities. This provision is a special emergency substitute for the provisions contained in [AS](#)

[29.40.120](#) — 29.40.160.

Sec. 09.45.850. Proof of facts.

In an action of the type authorized in [AS 09.45.800](#) — 09.45.880, judgment may not be given by default, but the court must require proof of the facts alleged in the complaint and other pleadings.

Sec. 09.45.855. Scope of judgment.

The judgment shall

(1) determine the land boundaries of each parcel of land located within the entire area of real property sought to be affected by the action, whether owned publicly or privately after judicial equitable allocation of lands voluntarily vacated by a municipality under [AS 09.45.845](#);

(2) determine the person or persons having estates, rights, titles, interests, and claims in and to each parcel, whether legal or equitable, present or future, vested or contingent, or whether they consist of mortgages or liens of any description;

(3) approve and direct the proper filing of a new plat map covering the entire area of real property sought to be affected by the action, as a substitute for the plat maps previously filed, but rendered inaccurate by the act of God, consisting of an earthslide.

Sec. 09.45.860. Standards for judgment.

In reaching the conclusions called for by [AS 09.45.855](#) the court shall give effect to the changes in land boundaries caused by the earthslide, mitigated, however, so far as can equitably be done, by allocating to contiguous lots parts of the land released by a municipality by its voluntary vacation of areas formerly constituting public ways, which vacatings of streets shall be approved in this judgment.

Sec. 09.45.865. Effect of judgment.

The judgment shall be conclusive with respect to land boundaries upon every person who at the commencement of the action had or claimed an estate, right, title, or interest in or to a part of the entire area of real property described in the complaint as intended to be affected by this action, and upon every person claiming under any such person by title subsequent to the commencement of the action.

Sec. 09.45.870. Recording of judgment.

A certified copy of the judgment shall be recorded, at the expense of the plaintiff or plaintiffs in the action, in the office of the recorder of the recording district in which the affected land is situated.

Sec. 09.45.875. Cumulative remedies.

The remedies provided for by [AS 09.45.800](#) — 09.45.880 are cumulative and in addition to any other remedy provided by law for quieting or establishing title to real property or the boundaries of it.

Sec. 09.45.880. Short title.

[AS 09.45.800](#) — 09.45.880 may be cited as the Earthslide Relief Act.

Article 11. Action for Dwelling Design, Construction, or Remodeling Claims.

Sec. 09.45.881. Notice of claim.

(a) In an action brought on a claim against a construction professional, the claimant shall, at least 90 days before filing the action, serve written notice of the claim on the construction professional.

(b) The notice of the claim in (a) of this section must state that the claimant asserts a claim against the construction professional for a defect in the design, construction, or remodeling of a dwelling and must describe the claim in reasonable detail sufficient to determine the general nature of the alleged defect and the results of the defect if known.

(c) At the request of the construction professional, the claimant shall provide to the construction professional any evidence that the claimant possesses that depicts the nature and cause of the defect and the nature and extent of the repairs necessary to repair the defect, including expert reports, photographs, and videotapes.

Sec. 09.45.882. Written response to notice of claim.

(a) Within 21 days after service of the notice under [AS 09.45.881](#), the construction professional shall serve a written response on the claimant.

(b) The written response under (a) of this section must state that the construction professional

- (1) offers to inspect the dwelling that is the subject of the claim within a specified time to determine if the construction professional will offer to repair the defect, will compromise and settle the claim by payment of money, or will dispute the claim;

- (2) offers to compromise and settle the claim by a payment of money without inspection; or

- (3) disputes the claim and will not repair the alleged defect or compromise and settle the claim by a payment of money.

Sec. 09.45.883. Court action allowed if claim disputed or not responded to.

If the construction professional disputes the claim in the notice under [AS 09.45.882\(b\)\(3\)](#) or does not respond to the claimant's notice of claim within the time required by [AS 09.45.882\(a\)](#), the claimant may bring an action against the construction professional for the claim described in the notice of the claim made under [AS 09.45.881](#) without further notice.

Sec. 09.45.884. Consequence of rejecting inspection or settlement offer.

(a) If the claimant rejects the inspection offer under [AS 09.45.882\(b\)\(1\)](#) or the settlement offer under [AS 09.45.882\(b\)\(2\)](#), the claimant shall serve written notice of the claimant's rejection on the construction professional.

(b) The notice under (a) of this section must include the basis for the claimant's rejection of the construction professional's offer.

(c) After service of the rejection notice required by (a) of this section, the claimant may bring an

action against the construction professional for the claim described in the notice of claim made under [AS 09.45.881](#) without further notice.

Sec. 09.45.885. Consequence of accepting inspection offer.

If a claimant elects to allow the construction professional to make an inspection under [AS 09.45.882](#)(b)(1), the claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's dwelling during normal working hours to inspect the dwelling and the alleged defect to determine the nature and cause of the alleged defect and the nature and extent of any repairs necessary to repair the alleged defect.

Sec. 09.45.886. Procedure after inspection.

Within 14 days after completion of an inspection made under [AS 09.45.885](#), the construction professional shall serve on the claimant a written

(1) offer to repair the defect without charge to the claimant; the offer must include a report of the scope of the inspection, the findings and results of the inspection, a description of any repairs necessary to repair the defect, and a schedule for the completion of the repairs;

(2) offer to compromise and settle the claim by a payment of money under [AS 09.45.882](#)(b)(2); or

(3) statement that the construction professional will not repair the defect.

Sec. 09.45.887. Court action allowed after failure to repair or to settle.

If the construction professional does not respond within the time required by [AS 09.45.886](#), does not repair the defect to the satisfaction of the claimant within the time agreed under [AS 09.45.886](#)(1), does not provide an offer under [AS 09.45.886](#)(2), or serves a statement under [AS 09.45.886](#)(3), the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.

Sec. 09.45.888. Court action allowed if claimant rejects offer.

(a) If the claimant rejects an offer made by the construction professional under [AS 09.45.886](#)(1) or (2), the claimant shall serve written notice of the claimant's rejection on the construction professional that includes the basis for the claimant's rejection of the construction professional's offer.

(b) After service of the notice under (a) of this section, the claimant may bring an action against the construction professional for the claim described in the notice of claim made under [AS 09.45.881](#) without further notice.

Sec. 09.45.889. Unreasonable rejection of offer.

(a) If a claimant unreasonably rejects an offer made under [AS 09.45.881](#) — 09.45.899 or does not give the construction professional a reasonable opportunity to repair the defect under an accepted offer of settlement, the claimant may not recover an amount that exceeds

(1) the reasonable cost of the repairs offered under [AS 09.45.886](#)(1) that are necessary to cure the defect and that are the responsibility of the construction professional; or

(2) the amount of a reasonable settlement offer of money that was made under [AS 09.45.886](#)(2).

(b) If a claimant unreasonably rejects a construction professional's offer made under [AS 09.45.881](#) — 09.45.899 or does not give the construction professional a reasonable opportunity to repair the defect under an accepted offer of settlement, the court may deny the claimant an award of attorney fees and costs and may award attorney fees and costs to the construction professional.

Sec. 09.45.890. Acceptance of offer.

(a) To accept an offer of a construction professional to repair a defect under [AS 09.45.886](#)(1), a claimant shall serve the construction professional with a written notice of acceptance within a reasonable period of time, not to exceed 30 days, after receiving the offer.

(b) A claimant who accepts an offer under (a) of this section shall provide the construction professional and its contractors or other agents reasonable access to the claimant's dwelling during normal working hours to perform the repairs by the time stated in the offer.

Sec. 09.45.891. Presumption of mitigation.

If a claimant fails to allow a construction professional to make a reasonable inspection requested by the construction professional under [AS 09.45.882](#)(b)(1), or fails to provide a good faith written response to a construction professional's offer under [AS 09.45.882](#)(b)(2) or 09.45.886(1) or (2), the failure establishes a rebuttable presumption that the claimant's damages could have been mitigated.

Sec. 09.45.892. Noncompliance assertion prohibited.

Unless there is good cause for the failure, a construction professional may not assert that the claimant did not comply with [AS 09.45.881](#) — 09.45.899 if the construction professional fails to respond in good faith to the claimant's notice of claim made under [AS 09.45.881](#).

Sec. 09.45.893. Notice required in contract.

(a) In order to take advantage of any rights of a construction professional under [AS 09.45.881](#) — 09.45.899, when a construction professional enters into a contract with another person to design, construct, or remodel a dwelling, the construction professional shall give the person a notice of the construction professional's right to offer to cure a defect before the person may file an action in court against the construction professional.

(b) The notice required by (a) of this section must be included on a separate page attached to the contract and must contain a title at the top of the page that reads "Notice of Potential Claims Must Be Provided within One Year." This form shall be signed by the purchaser or purchaser's authorized representative. The signature of either spouse to a design, construction, or remodeling contract shall be considered to be the authorization of both spouses.

(c) The notice required by (a) of this section must be conspicuous and must be in substantially

the following form:

ALASKA LAW AT [AS 09.45.881](#) — 09.45.899 CONTAINS IMPORTANT REQUIREMENTS THAT YOU MUST FOLLOW BEFORE YOU MAY FILE A COURT ACTION FOR DEFECTIVE DESIGN, CONSTRUCTION, OR REMODELING AGAINST THE DESIGNER, BUILDER, OR REMODELER OF YOUR HOME. WITHIN ONE YEAR OF THE DISCOVERY OF A DESIGN, CONSTRUCTION, OR REMODELING DEFECT, BEFORE YOU FILE A COURT ACTION, YOU MUST DELIVER TO THE DESIGNER, BUILDER, OR REMODELER A WRITTEN NOTICE OF ANY DESIGN, CONSTRUCTION, OR REMODELING CONDITIONS YOU ALLEGE ARE DEFECTIVE IN ORDER TO PROVIDE YOUR DESIGNER, BUILDER, OR REMODELER WITH THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE DESIGNER, BUILDER, OR REMODELER. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR RIGHT TO FILE A COURT ACTION. ALASKA LAW AT [AS 09.45.895](#) CONTAINS LIMITATIONS TO THE AMOUNT OF DAMAGES THAT MAY BE RECOVERED IN A COURT ACTION FOR DEFECTIVE DESIGN, CONSTRUCTION, OR REMODELING.

Sec. 09.45.894. Additional construction defects; additional notice of claim required.

A court action for a defect that is discovered after a claimant has provided a construction professional with a notice of claim required in [AS 09.45.881](#) — 09.45.899 may not be commenced until the claimant has complied with the provisions of [AS 09.45.881](#) — 09.45.899.

Sec. 09.45.895. Limitation on damages; collateral sources.

(a) Except as provided in (c) of this section, in an action covered under [AS 09.45.881](#) — 09.45.899, a claimant may recover only the following damages caused by a defect:

(1) the reasonable cost of repairs necessary to cure a defect, or actual damages that result from the construction defect, including reasonable and necessary engineering or consulting fees required to evaluate and cure the defect, that the construction professional is responsible for repairing;

(2) the reasonable expenses of temporary housing reasonably necessary during the repair period;

(3) the reduction in market value, if any, to the extent that the reduction is due to the defect;
and

(4) reasonable and necessary attorney fees and costs.

(b) In an action under [AS 09.45.881](#) — 09.45.899, a court shall deduct from the compensation awarded to a claimant any compensation paid to the claimant under a homeowner's warranty contract or a homeowner's insurance policy as compensation for the defects that are the subject of the action. The amount of this deduction does not include any compensation paid by the construction professional to the claimant to satisfy the claim, any compensation paid under an insurance policy issued to the construction professional to satisfy the claim, or any amount the claimant is required to repay under the terms of the homeowner's warranty contract or homeowner's insurance policy.

(c) Subsections (a) and (b) of this section do not apply if the defect was caused by gross

negligence or reckless or intentional misconduct by the construction professional.

Sec. 09.45.896. Exemption.

[AS 09.45.881](#) — 09.45.899 do not apply to claims for personal injury, including death.

Sec. 09.45.899. Definitions.

In [AS 09.45.881](#) — 09.45.899,

- (1) “action” means a civil action or an arbitration proceeding for damages or indemnification;
- (2) “claim” means a claim against a construction professional concerning a defect in the design, construction, or remodel of a dwelling;
- (3) “claimant” means a person who owns or is purchasing a dwelling and who asserts a claim;
- (4) “construction professional” means a registered contractor, architect, or engineer who is engaged in the business of designing, constructing, or remodeling a dwelling; in this paragraph, “contractor” has the meaning given in [AS 08.18.171](#);
- (5) “dwelling” means a single-family house, a duplex, or a multi-family housing unit, and the mechanical and other systems, the other components, and all improvements that are part of the house, duplex, or housing unit when the dwelling is constructed or remodeled; for purposes of this paragraph, “multi-family housing unit” means
 - (A) an individual housing unit in a multi-family housing facility; and
 - (B) the interest of the owner of an individual housing unit in the common areas and improvements of a multi-family housing facility;
- (6) “multi-family housing facility” means a residential horizontal property regime organized under [AS 34.07](#), a residential condominium organized under [AS 34.08](#), and a residential cooperative organized under [AS 10.15](#);
- (7) “remodel” means a change to a dwelling if the change has a value that is more than 25 percent of the value of the structure being changed;
- (8) “serve” means to deliver by personal service or by certified mail, return receipt requested, to the last known address of the addressee.

Article 12. Miscellaneous Provisions.

Sec. 09.45.900. Joining unknown heirs as defendants in real property suits.

When the heirs of a deceased person are proper parties defendant to an action relating to real property in this state, and when the names and residences of the heirs are unknown, the heirs may be proceeded against under the name and title of “the unknown heirs” of the deceased.

Sec. 09.45.910. Service on unknown heirs by publication.

Upon presenting an affidavit to the court or judge showing to the satisfaction of the court or judge that the heirs of the deceased person are proper parties to the action and that their names and

residences cannot with the use of reasonable diligence be ascertained, the court or judge may grant an order that service of the summons in the action may be made on the “unknown heirs” by publication of the summons in the same manner as in actions against nonresident defendants.

Sec. 09.45.920. Unknown claimants in real property suits.

In any action brought to determine an adverse claim, estate, lien, or interest in real property or to quiet title to real property, the plaintiff may include as a defendant in the action and insert in the title of the action, in addition to the names of the persons or parties that appear of record to have, and other persons or parties who are known to have some title, claim, estate, lien, or interest in the lands in controversy, the following: “Also all other persons or parties unknown claiming a right, title, estate, lien, or interest in the real estate described in the complaint in this action.” Service of summons may be had upon all unknown persons or parties defendant by publication as provided by law in cases of nonresident defendants.

Sec. 09.45.930. Rights of unknown heirs and parties served by publication.

All the unknown heirs of deceased persons and all the unknown persons or parties served by publication as provided in [AS 09.45.920](#) have the same rights as are provided by law in the case of all other defendants upon whom service is made by publication, and the action shall proceed against the unknown heirs or unknown persons or parties in the same manner as against defendants who are named and upon whom service is made by publication, and with the same effect. The unknown heirs or unknown persons or parties who have or claim an interest, right, estate, or lien in the said real property in controversy at the time of the commencement of the action and who are served as aforesaid shall be bound and concluded by the judgment or decree in the action as effectually as if the action was brought against the defendant by name and constructive service of summons obtained.

Sec. 09.45.940. Lis pendens.

In an action affecting the title to or the right of possession of real property, the plaintiff at the time of filing the complaint, or afterwards, and the defendant, when affirmative relief is claimed, at the time of filing the answer, or afterwards, may record in the office of the recorder of the recording district in which the property is situated a notice of the pendency of the action, containing the names of the parties, and the object of the action or defense, and a description of the property affected in that district. From the time of recording the notice, a purchaser, holder of a contract or option to purchase, or encumbrancer of the property affected has constructive notice of the pendency of the action and of its pendency against parties designated by their real names.

Article 13. General Provisions.

Sec. 09.45.990. Definitions.

In this chapter,

(1) “manufactured home” has the meaning given in [AS 45.29.102](#);

(2) “real property” includes a manufactured home that has become real property under [AS 34.85.010](#).

Article 1. Contempt.

Sec. 09.50.010. Acts or omissions constituting contempt.

The following acts or omissions with respect to a court of justice or court proceedings are contempts of the authority of the court:

(1) disorderly, contemptuous, or insolent behavior toward the judge while holding the court, tending to impair its authority or to interrupt the course of a trial or other judicial proceeding;

(2) a breach of the peace, boisterous conduct, or violent disturbance, tending to interrupt the course of a trial or other judicial proceeding;

(3) misbehavior in office, or other wilful neglect or violation of duty by an attorney, clerk, peace officer, or other person appointed or elected to perform a judicial or ministerial service;

(4) deceit or abuse of the process or proceedings of the court by a party to an action or proceeding;

(5) disobedience of a lawful judgment, order, or process of the court;

(6) falsely pretending to act under authority to an order or process of the court;

(7) rescuing a person or property in the custody of an officer by virtue of an order or process of the court;

(8) unlawfully detaining a witness or party to an action or proceeding while going to, remaining at, or returning from the court where the witness or party is for trial;

(9) any other unlawful interference with the process or proceedings of the court;

(10) disobedience of a subpoena duly served, or refusing to be sworn or answer as a witness;

(11) when summoned as a juror in a court, neglecting to attend or serve, or improperly conversing with a party to an action or proceeding to be tried at the court or with another person in relation to the merits of the action, or receiving a communication from a party or other person in respect to it without immediately disclosing it to the court;

(12) disobedience by an inferior court, judge, magistrate, referee, master, or officer of the lawful judgment, order, or process of a higher court, or proceeding in an action or proceeding contrary to law after the action or proceeding is removed from the jurisdiction of that inferior court, judge, magistrate, or officer.

Sec. 09.50.020. Penalties; damages; license revocation.

(a) A person who commits a criminal contempt is guilty of a class A misdemeanor. A person who commits a civil contempt is subject to damages, a civil penalty of \$5,000 or less for each violation, and other orders as the court finds appropriate.

(b) In addition to the penalty specified in (a) of this section, the court may suspend, restrict, or revoke, for a period not to exceed six months, a driver's license as defined in [AS 28.90.990](#), a license as defined in [AS 25.27.244](#)(s), or a recreational license, or any combination of these licenses, or the person's ability to obtain the licenses, if

(1) the person is a natural person;

(2) the contempt is one under [AS 09.50.010](#)(4) — (10); and

(3) the court, sitting without a jury, finds by a preponderance of evidence that the contempt related to failure to pay money in connection with a child support action or proceeding or failure to comply with a subpoena or warrant relating to a paternity or child support proceeding.

(c) In this section, “recreational license” means a recreational fishing license or recreational hunting license. In this subsection,

(1) “recreational fishing license” means a sport fishing license under [AS 16.05.340](#) unless that license is required for participation in personal use fishing, as defined in [AS 16.05.940](#), or subsistence fishing, as defined in [AS 16.05.940](#) and modified by decisions of the Alaska Supreme Court;

(2) “recreational hunting license” means a hunting license under [AS 16.05.340](#) unless that license is required for participation in subsistence hunting, as defined in [AS 16.05.940](#) and modified by decisions of the Alaska Supreme Court.

Sec. 09.50.030. Jury trial.

A person who is charged with contempt of court not committed in the presence of the court, where the act or thing so charged as a contempt is of such nature as to constitute also a criminal offense under a statute of the United States or a law of this state, has a right to jury trial.

Sec. 09.50.040. Indemnification of party aggrieved.

If a loss or injury to a party in an action or proceeding has been caused by the contempt, the court, in addition to the punishment imposed for the contempt, may give judgment in favor of the party aggrieved and against the person guilty of contempt for a sum of money sufficient to indemnify that party and to satisfy the costs and disbursements of that party. The judgment and the acceptance of that amount is a bar to an action or proceeding by the aggrieved party for the loss or injury.

Sec. 09.50.050. Imprisonment to compel performance of an act.

When the contempt consists of the omission or refusal to perform an act which is yet in the power of the defendant to perform, the defendant may be imprisoned until the defendant has performed it.

Sec. 09.50.060. Prosecution on nonappearance.

If the defendant does not appear on the day ordered by the court, the court may order the undertaking to be prosecuted. If the undertaking is prosecuted, the measure of damages is the extent of the loss or injury sustained by the aggrieved party by reason of the misconduct for which the warrant was issued and the costs of the proceeding.

Secs. 09.50.070 , 09.50.080. Property subject to escheat; enforcement of rights by state.
[Repealed, § 14 ch 133 SLA 1986.]

Sec. 09.50.090. Transmittal of personal property to state. [Repealed, § 5 ch 78 SLA 1972.]

Secs. 09.50.100 — 09.50.160. Escheat actions, claims, and reports. [Repealed, § 14 ch 133 SLA

1986.]

Article 2. Abatement of Illegal Uses of Premises.

Sec. 09.50.170. Abatement of places used for certain acts.

(a) A person who erects, establishes, continues, maintains, uses, owns, or leases a building, structure, or other place used for one of the following activities is guilty of maintaining a nuisance, and the building, structure, or place, or the ground itself in or upon which or in any part of which the activity is conducted, permitted, carried on, continues, or exists, and its furniture, fixtures, and other contents, constitute a nuisance and may be enjoined and abated:

- (1) prostitution;
- (2) an illegal activity involving a place of prostitution; or
- (3) an illegal activity involving
 - (A) alcoholic beverages;
 - (B) a controlled substance;
 - (C) an imitation controlled substance; or
 - (D) gambling or promoting gambling.

(b) In this section, “illegal activity involving alcoholic beverages,” “illegal activity involving a controlled substance,” “illegal activity involving gambling or promoting gambling,” “illegal activity involving an imitation controlled substance,” “illegal activity involving a place of prostitution,” and “prostitution” have the meanings given in [AS 34.03.360](#).

Sec. 09.50.175. Admissibility of evidence to prove nuisance.

In an action brought under [AS 09.50.170](#)(a) to prove the existence of a nuisance, the court may consider

- (1) evidence of reputation within a community;
- (2) evidence derived from records of the courts of the state or of the United States that relate to previous complaints concerning alleged violations of, and to arrests for or convictions of violations of, laws based on activity set out in [AS 09.50.170](#).

Sec. 09.50.180. Injunction.

When there is reason to believe that a nuisance as defined in [AS 09.50.170](#) — 09.50.240 exists, the attorney general shall, or a citizen, or a home rule municipality if the nuisance is located in the home rule municipality, may, bring an action to perpetually enjoin the nuisance, the person maintaining it, and the owner, lessee, or agent of the building or group upon which the nuisance exists.

Sec. 09.50.190. Dismissal.

If the complaint is filed by a citizen, the action may be dismissed only upon approval of the attorney general and affidavit of the complainant and the complainant's attorney giving the reasons why the suit should be dismissed. The court may refuse to dismiss the suit and may direct the attorney general to prosecute the action.

Sec. 09.50.200. Contempt proceeding.

If an injunction granted under the provisions of [AS 09.50.170](#) — 09.50.240 is violated, the court may summarily try and punish the offender. A party found guilty of contempt under the provisions of [AS 09.50.170](#) — 09.50.240 is punishable by a fine of not more than \$1,000, or by imprisonment for not less than three months nor more than six months, or by both.

Sec. 09.50.210. Order of abatement.

(a) If the court finds and enters judgment that a nuisance exists, the court shall enter an order of abatement. The order of abatement must direct

(1) termination of the lease or rental agreement, if any, on the premises subject to the order of abatement, if the tenant who occupies under the lease or rental agreement has been given notice of the proceedings under [AS 09.50.170](#) — 09.50.240;

(2) the removal from the building or place of the fixtures, furniture, and movable property used in the nuisance and their sale in the manner provided for the sale of chattels under execution;

(3) the closing of the building or place against its use for any purpose for a period of one year unless sooner released.

(b) A person who breaks and enters or uses a building, structure, or other place directed to be closed by an order entered under (a)(3) of this section is guilty of contempt and shall be punished for contempt as provided in [AS 09.50.200](#).

Sec. 09.50.220. Proceeds of sale.

(a) The proceeds of the sale of the contents shall be applied as follows:

(1) to the payment of fees and costs of the removal and sale;

(2) to payment of the allowances and costs of closing and keeping closed the buildings or places;

(3) to the payment of plaintiff's costs;

(4) to the payment of any balance remaining to the owner of the property sold.

(b) If the proceeds do not fully discharge all the costs, fees, and allowances, the premises may also be sold under execution issued upon the order of the court and the proceeds of the sale applied in like manner. However, the building or realty in which the nuisance is conducted or real estate on which it stands may not be subject to a lien, judgment, or costs unless the owner, or an agent or representative of the owner, has been duly served with process in the action and been given an opportunity to show good faith and to immediately abate the nuisance.

Sec. 09.50.230. Release of premises to owner.

(a) The court may order premises abated under [AS 09.50.210](#) delivered to the owner and cancel the order of abatement if the owner of the premises

(1) has not been guilty of a contempt in the proceedings;

(2) appears and pays all costs, fees, and allowances that are a lien on the premises; and

(3) files a bond with sureties approved by the court in an amount determined by the court to the effect that the owner will abate the nuisance that exists at the building or place and prevent the nuisance from being established within a period of one year thereafter.

(b) The lease of the property does not release it from a judgment, lien, penalty, or liability to which it may be subject by law.

(c) A cancellation of the order of abatement does not affect a termination of a lease or rental agreement made under [AS 09.50.210](#)(a)(1).

Sec. 09.50.240. Fine for contempt as lien on premises.

A fine imposed as punishment for contempt against the owner is a lien upon the premises to the extent of the interest of that person in the premises and is enforceable and collectible by execution issued by the order of the court.

Article 3. Claims Against the State or State Employees.

Sec. 09.50.250. Actionable claims against the state.

A person or corporation having a contract, quasi-contract, or tort claim against the state may bring an action against the state in a state court that has jurisdiction over the claim. A person who may present the claim under [AS 44.77](#) may not bring an action under this section except as set out in [AS 44.77.040](#)(c). A person who may bring an action under [AS 36.30.560](#) — 36.30.695 may not bring an action under this section except as set out in [AS 36.30.685](#). However, an action may not be brought if the claim

(1) is an action for tort, and is based upon an act or omission of an employee of the state exercising due care in the execution of a statute or regulation, whether or not the statute or regulation is valid; or is an action for tort, and based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state agency or an employee of the state, whether or not the discretion involved is abused;

(2) is for damages caused by the imposition or establishment of, or the failure to impose or establish, a quarantine or isolation, or by other actions, by the state or its agents, officers, or employees under [AS 18.15.355](#) — 18.15.395, except for damages caused by negligent medical treatment provided under [AS 18.15.355](#) — 18.15.395 by a state employee, or except that, if a state employee quarantines or isolates a person with gross negligence or in intentional violation of [AS 18.15.385](#), the state shall pay to the person who was quarantined or isolated a penalty of \$500 for each day of the improper quarantine;

(3) arises out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;

(4) arises out of the use of an ignition interlock device certified under [AS 33.05.020](#)(c); or

(5) arises out of injury, illness, or death of a seaman that occurs or manifests itself during or in the course of, or arises out of, employment with the state; [AS 23.30](#) provides the exclusive remedy for such a claim, and no action may be brought against the state, its vessels, or its employees under the Jones Act (46 U.S.C. 30104 — 30105), in admiralty, or under the general

maritime law.

Sec. 09.50.253. Actionable claims against state employees.

(a) Except as provided in (f) of this section, the remedy against the state provided by [AS 09.50.250](#) for injury or loss of property or personal injury or death arising or resulting from an act or omission of a state employee while acting within the scope of the employee's office or employment is exclusive of any other civil action or proceeding for money damages by reason of the same subject matter against the employee whose act or omission gave rise to the claim or against the estate of the employee. Any other civil action or proceeding for money damages arising out of or relating to the same subject matter against the employee or the employee's estate is precluded without regard to when the act or omission occurred.

(b) A state employee against whom a civil action or proceeding is brought under (a) of this section shall deliver all pleadings and process served upon the employee, or a copy of the papers served, to the person designated by the head of the employee's agency to receive the papers and to the attorney general. The state employee shall deliver these documents within the time period established by the attorney general in a regulation adopted under this section. The initial delivery of these documents to the attorney general constitutes an agreement by the employee to cooperate with the attorney general in the state employee's defense of the action or proceeding and a consent that the attorney general conduct the defense as the attorney general considers advisable and in the best interests of the employee, including settlement in the attorney general's discretion.

(c) Upon certification by the attorney general that the state employee was acting within the scope of the employee's office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon the claim in a state court is considered an action or proceeding against the state under the provisions of this title, and the state is substituted as the party defendant. The civil action or proceeding certified under this subsection is subject to the same limitations and defenses applicable to an action or proceeding against the state. The attorney general or the attorney general's designee shall defend the civil action or proceeding on behalf of the state.

(d) If the attorney general refuses to make the certification under (c) of this section, the state employee may, at any time before trial, petition the superior court to find and certify that the employee was acting within the scope of the employee's office or employment at the time of the incident out of which the claim arose. Upon certification by the court, the civil action is considered to be a civil action or proceeding brought against the state under the provisions of this title, and the state is substituted as the party defendant. Upon certification by the court, the state shall reimburse the state employee the employee's reasonable costs and attorney fees incurred in bringing the petition. A copy of the petition under this subsection shall be served upon the state in accordance with the provisions of Rule 4(d)(7), Alaska Rules of Civil Procedure. The petition to the superior court is the exclusive remedy to challenge the noncertification decision by the attorney general of a state employee under this section.

(e) A claim or suit for damages may not be filed against the state or the attorney general arising out of the process for certification under this section.

(f) This section does not extend or apply to a civil action or proceeding against an employee of the state that is brought for a violation of the Constitution of the United States or that is brought for a violation of a law of the state under which an action or proceeding against an employee is expressly authorized.

(g) The provisions of this section are in addition to and do not supersede a term in a state employee collective bargaining agreement addressing legal defense and indemnity.

(h) In this section,

(1) “acting within the scope of the employee's office or employment” means acts or omissions

(A) that the state employee is employed or authorized to perform;

(B) of the state employee that occur substantially within the authorized time and space limit;

(C) that are activated by a purpose to serve the state; and

(D) that do not constitute acting, or failing to act, with wilful, reckless, or intentional misconduct, or with gross negligence or malice;

(2) “state employee”

(A) means

(i) a permanent, probationary, seasonal, temporary, provisional, or nonpermanent employee in the executive, legislative, or judicial branch of state government, whether in the classified, partially exempt, or exempt service; or

(ii) a person appointed to a board or commission of state government;

(B) does not include an employee of

(i) the University of Alaska;

(ii) the Alaska Railroad Corporation; or

(iii) a political subdivision of the state, including a regional educational attendance area.

Sec. 09.50.260. Undertaking. [Repealed, § 2 ch 19 SLA 1975.]

Sec. 09.50.270. Payment of judgment against the state.

An attachment or execution may not issue against the state. When a final judgment is rendered against the state in an action, the clerk of the court shall immediately transmit a certified copy of the judgment to the Department of Administration which shall either approve payment of the judgment against the state if a sufficient appropriation exists for payment, or audit the amount and transmit a copy to the legislature with the recommendation that an appropriation be made for its payment.

Sec. 09.50.280. Judgment for plaintiff; punitive damages.

If judgment is rendered for the plaintiff, it shall be for the legal amount found due from the state with interest as provided under [AS 09.30.070](#) and without punitive damages.

Sec. 09.50.290. Trial by court. [Repealed, § 1 ch 147 SLA 1975.]

Sec. 09.50.300. Compromise by attorney general.

Except as provided in [AS 09.50.253](#), the attorney general may, with the approval of the court, arbitrate, compromise, or settle any action filed under [AS 09.50.250](#) — 09.50.300.

Article 4. Usurpation.

Sec. 09.50.310. Action for usurpation of office or franchise.

An action may be brought by the attorney general upon the attorney general's own information or upon complaint of a private party against (1) a person who usurps, intrudes into, or unlawfully holds or exercises a public office, civil or military, or a franchise, or an office in a corporation, either public or private; (2) a public officer who has acted to forfeit the office; or (3) any number of persons acting as a corporation without being incorporated.

Sec. 09.50.320. Action on information or application of private party.

When the action is brought upon the information or application of a private party, the attorney general may require that party to enter into an undertaking with sureties to be approved by the attorney general, conditioned on that party's paying a judgment for costs or damages recovered against the plaintiff and costs and expenses incurred in the prosecution of the action.

Sec. 09.50.330. Determination of rights of defendant and claimant.

When the action is brought and the claim is made that another person is rightfully entitled to the office, judgment may be given upon the right of the defendant and also upon the right of the person so claimed to be entitled, or only upon the right of the defendant as justice may require.

Sec. 09.50.340. Judgment for claimant.

If judgment is for the person claiming the franchise or office, that person is entitled to the possession and enjoyment of the franchise, or to assume the execution of the office after qualifying as required by law.

Sec. 09.50.350. Recovery of damages by claimant; civil arrest.

If judgment is for the person claiming the franchise or office, that person may recover the damages that may have been sustained by reason of the usurpation of the office by the defendant. In the action, the defendant may be provisionally arrested and held to bail in the manner as in actions where the defendant is subject to arrest.

Sec. 09.50.360. Multiple claimants.

When several persons claim to be entitled to the same office or franchise, one action may be brought against all those persons in order to try their respective rights to that office or franchise.

Sec. 09.50.370. Judgment against defendant.

If a defendant is adjudged guilty of usurping or intruding into or unlawfully holding or exercising an office or franchise, judgment shall be given that the defendant be excluded from holding or exercising the office or franchise. The court may also, in its discretion, impose a fine upon the defendant of not more than \$2,000. If a corporation is defendant and a judgment is given that causes the corporation to cease to exist, the corporation shall dissolve.

Sec. 09.50.380. Enforcement of judgment for costs.

A judgment given in an action provided for in [AS 09.50.310](#) — 09.50.380 in respect to costs and disbursements may be enforced by execution as a judgment that requires the payment of money.

Article 6. Pleadings.

Sec. 09.50.390. Nature of state interest.

A complaint or pleading naming the State of Alaska as a defendant must set out, with such particularity as reasonably available information will permit, the nature of the interest or lien of the state. In actions or suits involving liens of the state, the complaint or pleading must include the name and address, if known, of the person whose liability created the lien and, if a notice of the lien was recorded, the amount shown on the lien, the department of the state government involved, the recording district, and the book and page on which the lien was recorded or the serial number assigned to the lien by the recorder.

Chapter 55. Special Actions and Proceedings.

Article 1. Change of Name.

Sec. 09.55.010. Jurisdiction in action for change of name; notice.

(a) A person may bring an action for change of name in the superior court. A change of name of a person may not be made unless the court finds sufficient reasons for the change and also finds it consistent with the public interest. A change of name upon marriage, dissolution, or divorce meets these requirements.

(b) A person seeking a change of name under this section shall notify the court if the person is

(1) committed to the custody of the Department of Corrections, on probation under [AS 33.05](#), or on parole under [AS 33.16](#); a person subject to this paragraph shall provide proof satisfactory to the court that notice of the petition has been provided to the person's assigned probation or parole officer;

(2) required to register as a sex offender under [AS 12.63](#); a person subject to this paragraph shall provide proof satisfactory to the court that notice of the petition has been provided by the Department of Public Safety; or

(3) charged with an offense; a person subject to this paragraph shall provide the court with the case number associated with the offense.

(c) In addition to the requirements provided under (a) of this section, a court may not grant a change of name of a person subject to (b) of this section unless the court finds that the change

(1) does not have a fraudulent purpose;

(2) is not intended to hinder or obstruct law enforcement purposes; and

(3) would not interfere with the rights of others.

Article 2. Declaration of Death.

Sec. 09.55.020. Petition and inquiry.

If a petition is presented by an interested person to a district judge or magistrate alleging that a designated person has disappeared and after diligent search cannot be found, and if it appears to the satisfaction of the judge or magistrate that the circumstances surrounding the disappearance afford reasonable grounds for the belief that the person has suffered death from accidental or other violent means, the judge or magistrate shall summon and impanel a jury of six qualified persons to inquire into the facts surrounding and the presumption to be raised from the disappearance. If no one submits a petition within 40 days, a judge or magistrate may submit the

petition from personal knowledge of the case.

Sec. 09.55.030. Verdict and entry of order.

If the jury by their unanimous verdict in writing find that sufficient evidence has been presented to them from which it fairly may be presumed that the missing person has met death, and if the judge or magistrate approves the finding, then, after a period of six months has elapsed, the person shall be presumed to be dead and the judge or magistrate shall enter an order to that effect. However, in cases where there is clear and convincing evidence of the presumed death the judge or magistrate may sooner enter the order.

Sec. 09.55.040. Compensation and expenses allowed.

The members of the jury and witnesses are entitled to the same compensation as in civil actions in a district court, and the compensation and other incidental expenses shall be audited and allowed as in the case of other similar expenses.

Sec. 09.55.050. Effect of presumptive death certificate.

After the judge or magistrate has entered an order declaring that the person is presumed to be dead either under [AS 09.55.020](#) — 09.55.060 or under the laws dealing with missing persons, the judge or magistrate shall make out and sign a certificate entitled “Presumptive Death Certificate” in the form and manner and containing the information required by the Bureau of Vital Statistics. In addition to the information required by the Bureau of Vital Statistics, the certificate must contain the decedent's social security number, if ascertainable. The certificate shall be recorded by the judge or magistrate and then filed with the Bureau of Vital Statistics. Upon the entry of the order and the recording and filing of the “Presumptive Death Certificate” as herein provided, the missing person is presumed to be dead, and the person's estate may be administered in accordance with the then existing provisions of law applicable to the administration of the estates of deceased persons.

Sec. 09.55.060. Correction or removal of presumptive certificates.

The Bureau of Vital Statistics shall make provisions for the correction, substitution, or removal of the certificates where the body of the person is later found, where additional facts are brought to light, or where the person is later discovered to be alive.

Article 3. Death Inquests.

Sec. 09.55.062. Death inquests.

Upon petition by the state medical examiner or a state prosecutor, a judicial officer shall conduct proceedings under [AS 09.55.062](#) — 09.55.069 to determine the cause and manner of a person's death. The prosecutor shall present the evidence in the death inquest and assist the court in instructing the jury and conducting the inquest only when the inquest is based on a petition filed by the prosecutor or when the prosecutor requests to participate in the proceedings.

Sec. 09.55.064. Jurors for inquest.

(a) When a death inquest is to be held under [AS 09.55.062](#) — 09.55.069, the judicial officer shall promptly summon six persons qualified by law to serve as jurors to appear before the court.

(b) When six jurors attend as required under (a) of this section, they shall be sworn by the court to

(1) inquire into the identity of the deceased, and when, where, and by what means the person

died;

- (2) inquire into the circumstances attending the death; and
- (3) give a true verdict according to the evidence.

Sec. 09.55.066. Subpoena and examination of witnesses.

The judicial officer or a prosecuting attorney may, when necessary to determine the material facts relating to the death, subpoena and examine witnesses for a proceeding under [AS 09.55.062](#) — 09.55.069.

Sec. 09.55.068. Verdict of inquest jury.

After hearing the testimony, the jury or two thirds of its number shall give its written verdict, signed and setting out

- (1) the name of the deceased and when, where, and by what means the deceased died; and
- (2) whether the deceased was killed or the death was occasioned by the act of another by criminal means.

Sec. 09.55.069. Compensation and expenses allowed.

The members of the jury and witnesses in an inquest under [AS 09.55.062](#) — 09.55.069 are entitled to the same compensation as in civil actions in a district court, and the compensation and other incidental expenses shall be audited and allowed as in the case of other similar expenses.

Secs. 09.55.070 — 09.55.230. [Renumbered as [AS 25.24.010](#) — 25.24.180.]

Secs. 09.55.231 — 09.55.237. [Renumbered as [AS 25.24.200](#) — 25.24.260.]

Sec. 09.55.238. [Renumbered as [AS 25.24.300](#).]

Article 4. Eminent Domain.

Sec. 09.55.240. Uses for which authorized; rights-of-way.

(a) Except as provided in (d) and (e) of this section, the right of eminent domain may be exercised for the following public uses:

- (1) all public uses authorized by the government of the United States;
- (2) public buildings and grounds for the use of the state and all other public uses authorized by the legislature of the state;
- (3) public buildings and grounds for the use of an organized or unorganized borough, city, town, village, school district, or other municipal division, whether incorporated or unincorporated; canals, aqueducts, flumes, ditches, or pipes conducting water, heat, or gas for the use of the inhabitants of an organized or unorganized borough, city, town, or other municipal division, whether incorporated or unincorporated; raising the banks of streams, removing obstructions from them, and widening, deepening, or straightening their channels; and roads, streets, and alleys, and all other public uses for the benefit of an organized or unorganized borough, city, town, or other municipal division whether incorporated or unincorporated, or its inhabitants, which may be authorized by the legislature;

(4) wharves, docks, piers, chutes, booms, ferries, bridges of all kinds, private roads, plant and turnpike roads, railroads, canals, ditches, flumes, aqueducts, and pipes for public transportation, supplying mines and farming neighborhoods with water, and draining and reclaiming land, and for floating logs and lumber on streams not navigable, and sites for reservoirs necessary for collecting and storing water;

(5) roads, tunnels, ditches, flumes, pipes, and dumping places for working mines; also outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines; also an occupancy in common by the owners or possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines, and sites for reservoirs necessary for collecting and storing water;

(6) private roads leading from highways to residences, mines, or farms;

(7) telephone lines;

(8) fiber-optic lines;

(9) sewerage of an organized or unorganized borough, city, town, village, or other municipal division, whether incorporated or unincorporated, or a subdivision of it, or of a settlement consisting of not less than 10 families, or of public buildings belonging to the state or to a college or university;

(10) tramway lines;

(11) electric power lines;

(12) for the location of pipelines for gathering, transmitting, transporting, storing, or delivering natural or artificial gas or oil or any liquid or gaseous hydrocarbons, including pumping stations, terminals, storage tanks, or reservoirs, and related installations.

(b) The use of water for mining, power, and municipal purposes and the use of pole and power lines for telephone and telegraph wires, for aerial trams, and for the transmission of electric light and electric power, by whomever utilized, are each declared to be beneficial to the public and to be a public use within the provisions of [AS 09.55.240](#) — 09.55.460. Rights-of-way across private property when they are necessary for the operation of the mine or other project in connection with which it is intended to be used may be condemned in the manner as for any other condemnation. The right-of-way may extend only to a right-of-way along, on, and across the surface of the land to be condemned and to a strip of the land of sufficient width to permit the construction on the land of a ditch, flume, pipeline, canal, or other means of conveying water as is adequate for the purposes intended, for the setting of poles or the construction of towers on which to string wires for telephone lines and lines for the transmission of electric light or power for the operation of aerial trams, and to permit maintaining the lines and keeping them in repair.

(c) [Repealed, § 15 ch 59 SLA 1982.]

(d) The power of eminent domain may not be exercised to acquire private property from a private person for the purpose of transferring title to the property to another private person for economic development purposes. This subsection does not apply to transfers of private property to another private person if one or more of the following apply:

(1) the landowner consents, either before or after a condemnation proceeding has been filed, to the use of the property for a private commercial enterprise or other economic development;

(2) the private person has been expressly authorized by statute either to exercise the power of eminent domain or to receive an interest in land acquired by the exercise of eminent domain;

(3) the transferred property is used for a private way of necessity to permit essential access for extraction or use of resources;

(4) the acquisition is used, in part, for leasing property to a private person that occupies a portion of public property or a public facility, including a private business that occupies a portion of an airport, port, or public building;

(5) the property is transferred to a person by oil and gas lease under [AS 38.05.180](#);

(6) the property is transferred to a common carrier.

(e) The power of eminent domain may not be exercised for the purpose of developing a recreational facility or project if the property to be acquired includes an individual landowner's personal residence or recreational structure or that portion of an individual's property attached to and within 250 linear feet of an individual landowner's personal residence or recreational structure unless the landowner consents either before or after a condemnation proceeding has been filed.

(f) Notwithstanding the limitations on the power of eminent domain in (d) and (e) of this section, the legislature may approve the exercise of eminent domain against private property in an Act, the subject of which is limited to the transfer of the property for a purpose otherwise restricted under (d) or (e) of this section.

(g) The power of eminent domain may only be delegated by statute.

(h) In this section,

(1) "common carrier" has the meaning given in [AS 04.16.125](#);

(2) "economic development" means development of property for a commercial enterprise carried on for profit or to increase tax revenue, tax base, or employment;

(3) "personal residence" means a structure that is the dwelling place of an individual that

(A) must be used by the owner or beneficiary of a trust holding legal title to the structure as a dwelling unit, as opposed to a rental, storage, or other commercial space;

(B) must be inhabited by the owner, prior owner, or beneficiary of a trust holding legal title to the structure for at least 90 days during the 12-month period immediately before the date an action for the exercise of the power of eminent domain is filed;

(C) must constitute an ordinary home for general living purposes; and

(D) may not have been constructed, placed, or occupied for the purpose of avoiding eminent domain proceedings;

(4) "private person" means a person that is not a public corporation as defined in [AS 45.77.020](#) or a government as defined in [AS 11.81.900](#);

(5) "recreational facility or project"

(A) means a facility or project, the primary purpose of which is recreational;

(B) includes a park, trail or pedestrian pathway, greenbelt, amusement park, fresh water boat harbor, sports facility, playground, infrastructure, or other facility related to or in support of an indoor or outdoor recreational facility or project;

(C) does not include

(i) a highway, sidewalk, or path within the right-of-way of a highway;

(ii) a path, trail, or lane used as a safe route to a school program;

(iii) a wayside or rest stop;

(iv) a development, the primary purpose of which is not recreational, such as a path, trail, or lane developed to reduce congestion, or to encourage use of an alternate, gas-saving mode of transportation;

(v) a path or trail to or between villages or from a village to a facility or resource;

(vi) a stormwater retention or treatment facility or wetland, habitat, or other acquisition required to obtain a permit for a highway, airport, or other public project;

(vii) a taking under [AS 19.05.110](#), 19.05.120, [AS 19.22.020](#), [AS 27.21.300](#), [AS 35.20.040](#), 35.20.050, or [AS 41.35.060](#);

(viii) a taking not prohibited by law before January 1, 2007, under [AS 41.21](#); and

(ix) a path, trail, road, or site for which no reasonable alternative exists and which is necessary to preserve or establish public access to or along publicly owned land or water, if the use of the path, trail, road, or site itself is for transportation to or to facilitate use of publicly owned land or water;

(6) “recreational structure” means a permanent structure that

(A) is used by the owner or beneficiary of a trust holding legal title to the structure as a dwelling for seasonal recreational purposes, as opposed to a rental, storage, or other commercial space; and

(B) may not have been constructed, placed, or occupied for the purpose of avoiding eminent domain proceedings.

Sec. 09.55.250. Classification of estates and land subject to be taken.

The following is a classification of the estates and rights in land subject to be taken for public use:

(1) a fee simple, when taken for public buildings or grounds, or for permanent buildings, for reservoirs and dams and permanent flooding occasioned by them, or for an outlet for a flow, or a place for the deposit of debris or tailings of a mine, or when, in the judgment of the Department of Natural Resources, or the Department of Transportation and Public Facilities, a fee simple is necessary for any of the purposes for which the department, on behalf of the state, is authorized by law to acquire real property by condemnation;

(2) an easement when taken for any other use;

(3) the right of entry upon an occupation of land, and the right to take from the land earth, gravel, stones, trees, and timber as may be necessary for a public use.

Sec. 09.55.260. Private property subject to be taken.

The private property that may be taken under [AS 09.55.240](#) — 09.55.460 includes

- (1) all real property belonging to any person;
- (2) land belonging to the state or to an organized or unorganized borough, city, town, village, or other municipal division, whether incorporated or unincorporated, not appropriated to a public use;
- (3) property appropriated to public use, but the property may not be taken unless for a more necessary purpose than that to which it has already been appropriated;
- (4) franchises for a public utility, but those franchises may not be taken unless for a more necessary public use;
- (5) all rights-of-way for any of the purposes mentioned in [AS 09.55.240](#), and the structures and improvements on the rights-of-way, and the land held and used in connection with them shall be subject to be connected with, crossed, or intersected by another right-of-way or improvements or structures on them; they shall also be subject to a limited use, in common with the owner, when necessary; but the uses, crossings, intersections, and connections shall be made in the manner most compatible with the greatest public benefit and least private injury;
- (6) all classes of private property not enumerated may be taken for public use when the taking is authorized by law.

Sec. 09.55.265. Taking of property under reservation void.

After April 14, 1966, no agency of the state may take privately-owned property by the election or exercise of a reservation to the state acquired under the Act of June 30, 1932, ch. 320, § 5, as added July 24, 1947, ch. 313, 61 Stat. 418, and taking of property after April 14, 1966 by the election or exercise of a reservation to the state under that federal Act is void.

Sec. 09.55.266. Existing rights not affected.

[AS 09.55.265](#) may not be construed to divest the state of, or to require compensation by the state for, any right-of-way or other interest in real property that was taken by the state, before April 14, 1966, by the election or exercise of its right to take property through a reservation acquired under the Act of June 30, 1932, ch. 320, § 5, as added July 24, 1947, ch. 313, 61 Stat. 418.

Sec. 09.55.270. Prerequisites.

Before property can be taken, it shall appear that

- (1) the use to which it is to be applied is a use authorized by law;
- (2) the taking is necessary to the use;
- (3) if already appropriated to a public use, the public use to which it is to be applied is a more necessary public use.

Sec. 09.55.275. Replat approval.

An agency of the state or municipality acquiring property in fee that results in a boundary change located within a municipality exercising the powers conferred by [AS 29.35.180](#) or 29.35.260(c) shall conform to this section by obtaining preliminary approval of a replat showing clearly the location of the proposed public street or other acquisition of property. The platting authority may establish applicable review procedures and standards for a replat made for the purpose of a right-of-way acquisition or condemnation. Neither the adequacy of the municipal replat process or standards, if any, nor the failure of a municipality to follow its own replat process and standards shall deprive the state of the authority to exercise its power of eminent domain. Final approval of replat shall also be obtained. However, if a state agency clearly demonstrates an overriding state interest, a waiver of the municipal approval requirements in this section may be granted by the governor.

Sec. 09.55.280. Entry upon land.

In all cases where land is required for public use, the state, the public entity, or persons having the authority to condemn, or its agents in charge of the use may enter upon the land and make examination, surveys, and maps and locate the boundaries; but it shall be located in the manner that will be most compatible with the greatest public good and the least private injury, and subject to the provisions of [AS 09.55.300](#). The entry shall constitute no cause of action in favor of the owners of the land except for injuries resulting from negligence, wantonness, or malice.

Sec. 09.55.290. Jurisdiction.

Eminent domain proceedings may be commenced in the superior court.

Sec. 09.55.300. Powers of court.

(a) The court has power

(1) to regulate and determine the place and manner of making the connections and crossings or of enjoying the common uses mentioned in [AS 09.55.260\(5\)](#), and of the occupying of canyons, passes, and defiles for railroad purposes, as permitted and regulated by law;

(2) to limit the amount of property sought to be condemned if, in its opinion, the quantity sought to be condemned is not necessary.

(b) If the court determines that the property is to be taken for a public use, and if all parties to the action do not object, the court shall appoint a master to determine the amount to be paid by the plaintiffs to each owner or other person interested in the property as compensation and damages by reason of the appropriation of the property. If all parties to the action object to the appointment of a master the court shall proceed with a jury trial, unless the jury is waived by all parties to the action.

Sec. 09.55.310. Hearing.

(a) The jury or master shall hear the allegations and evidence of persons interested and shall ascertain and assess the following:

(1) the value of the property sought to be condemned, and all improvements on it pertaining to the realty, and of each separate estate or interest in it; if it consists of different parcels, the value of each parcel and each estate or interest in each parcel shall be separately assessed;

(2) if the property sought to be condemned constitutes only a part of a larger parcel, the damages that will accrue to the portion not sought to be condemned by reason of its severance from the portion sought to be condemned, and the construction of the improvements in the manner proposed by the plaintiff;

(3) separately, how much the portion not sought to be condemned and each estate or interest in it will be benefited, if at all, by the construction of the improvements proposed by the plaintiff; and, if the benefit is equal to the damages assessed under (2) of this section, the owner of the parcel shall be allowed no damages except the value of the portion taken; but if the benefits are less than the damages so assessed, the former shall be deducted from the latter and the remainder shall be the only damages allowed in addition to the value;

(4) if the property sought to be condemned is for a railroad, the cost of good and sufficient fences along the line of the railroad, and the cost of cattle guards where fences may cross the line of the railroad.

(b) As far as practicable, compensation shall be assessed for each source of damages separately.

Sec. 09.55.320. Right to jury trial as to damages and value of property.

An interested party may appeal the master's award of damages and valuation of the property, in which case there shall be a trial by jury on the question of the amount of damages and the value of the property, unless the jury is waived by the consent of all parties to the appeal.

Sec. 09.55.330. Compensation and damages.

For the purpose of assessing compensation and damages, the right to them accrues at the date of issuance of the summons, and its actual value at that date is the measure of compensation of the property to be actually taken, and the basis of damages to property not actually taken but injuriously affected in the cases where the damages are allowed. If an order is made letting the plaintiff into possession, as provided in [AS 09.55.380](#), the compensation and damages awarded shall draw lawful interest from the date of the order. Improvements put upon the property after the date of the service of summons may not be included in the assessment of compensation or damages.

Sec. 09.55.340. Defective title.

If the title attempted to be acquired is found to be defective from any cause, the plaintiff may again institute proceedings to acquire the same as provided in [AS 09.55.240](#) — 09.55.460.

Sec. 09.55.350. Time for paying compensation or damages and bond to build railroad fences and cattle guards.

The plaintiff shall, within 30 days after final judgment, pay the sum of money assessed. If the use is for railroad purposes, the plaintiff may, at the time of or before the payment, elect to build the fences and cattle guards. If the plaintiff so elects, the plaintiff shall execute to the defendant a bond, with one or more sureties to be approved by the court, in double the assessed cost of the same to build such fences and cattle guards within eight months from the time the railroad is built on the land taken. If the bond is given, the plaintiff need not pay the cost of the fences and cattle guards. In an action on the bond, the plaintiff may recover reasonable attorney fees.

Sec. 09.55.360. Payment or deposit and execution.

Payment may be made to the defendants entitled to payment, or the money may be deposited in court for the defendants and be distributed to those entitled to it. If the money is not so paid or deposited, the defendants may have execution as in civil cases. If the money cannot be obtained on execution, the court, upon a showing to that effect, shall set aside and annul the entire proceedings and restore possession of the property to the defendants if possession has been taken by the plaintiff.

Sec. 09.55.370. Final order of condemnation.

When payments have been made and the bond given, if the plaintiff elects to give one as required by [AS 09.55.350](#), the court shall make a final order of condemnation, which shall describe the property condemned and the purposes of the condemnation. A copy of the order shall be recorded in the office of the recording district where the land is located, at which time the property described in the order vests in the plaintiff for the purposes specified in the order.

Sec. 09.55.380. Order authorizing plaintiff to continue in or take possession.

Upon application of the plaintiff at any time after the jury's verdict has been returned or the master's report has been filed in the court, the court may make an order that, upon payment into court of the amount of damages assessed in the report or by the jury, the plaintiff, if already in possession of the property sought to be condemned, may continue in possession and, if not in possession, the court may authorize the plaintiff to take possession of the property and use and possess it until the final conclusion of the proceedings, and that all actions and proceedings against the plaintiff on that account be stayed until that time. However, where an appeal is taken by the defendant, the court may also require the plaintiff to give a bond or undertaking with sufficient sureties before continuing or taking possession. The bond or undertaking shall be approved by the court and shall be in the sum the court may direct, and conditioned to pay defendant any additional damages and costs given by the judgment over and above the amount assessed, and the damages which defendant sustains if the property is not taken for public uses. For the purposes of this section the amount assessed as damages in the report or by the jury is considered as just compensation for the property appropriated until reassessed or changed in further proceedings. However, the plaintiff, by payment into court of the amount assessed or by giving security as above provided, is not precluded from an appeal, but may appeal in the manner and with the effect as if no money had been deposited or security given. If the plaintiff deposits the amount of the assessment and continues in possession or takes possession of the property and there is no dispute as to the ownership of the property, the defendant may at any time demand and receive from the court the money deposited, and the demand or receipt does not bar or preclude the defendant from the right of appeal. However, if the amount of the assessment is reduced on appeal by either party, the defendant who has received the amount of the assessment deposited is liable to the plaintiff for the difference between the amount received by the defendant and the amount finally assessed with legal interest from the time the defendant received the money deposited, and it may be recovered by action.

Sec. 09.55.390. Acquisition of easements and additional powers of the court to require surrender of possession to plaintiff.

The right to take possession under this section is in addition to any other right to take possession provided in [AS 09.55.240](#) — 09.55.460. In proceedings for the acquisition of easements for the transmission and distribution of electric energy, communications, water, steam, and gas, the court may, upon motion and after a hearing, fix the time during which and the terms upon which the parties in possession are required to surrender possession to the plaintiff. If the court finds that urgent public necessity requires, it may grant the plaintiff possession at any time after the action has been commenced. Notice of the hearing shall be as provided in the Alaska Rules of Civil

Procedure, except that, where service by publication is required, notice may be given at any time following the date of the last publication by registered mail addressed to the defendant and to parties in possession at their last known addresses as shown on the latest tax roll of the political subdivision in which the premises are located or as indicated by other evidence that shall be satisfactory to the court.

Sec. 09.55.400. Deposit into court of estimated compensation and damages; costs and fees. The order given under [AS 09.55.390](#) requiring the parties in possession to surrender possession to the plaintiff shall require that the plaintiff deposit with the clerk of the court an amount of money determined by the court fairly to represent the estimated compensation and the estimated damages to the defendant and for the speedy occupation, including reasonable relocation costs if required. In addition the court shall include in its order a further requirement that the plaintiff execute and file with the clerk of the court a bond, approved as to form and as to sufficiency of the sureties by the court, in an amount equal to the amount of money required to be deposited, conditioned upon payment to the defendant of additional damages and costs found to be due to the defendant in the action. Costs or attorney fees may not be assessed against the defendant in an action brought under [AS 09.55.390](#).

Sec. 09.55.410. Withdrawal of funds by party in interest.

The money deposited in the court or a part of it may be withdrawn by a party in interest in the manner provided in [AS 09.55.440](#), and the court shall have the power to direct the payment of delinquent taxes and special assessments out of the amount determined to be just compensation and to make orders with respect to encumbrances, liens, rents, insurance, and other charges as are just and equitable.

Sec. 09.55.420. Declaration of taking by state or municipality.

(a) Where a proceeding is instituted under [AS 09.55.240](#) — 09.55.460 by the state, it may file a declaration of taking with the complaint or at any time after the filing of the complaint, but before judgment. Where a proceeding is instituted under [AS 09.55.240](#) — 09.55.460 by a municipality in the exercise of eminent domain for street or highway, off-street automobile parking facilities, school, sewer, water, telephone, electric, other utility, and slum clearance purposes or use granted to cities of the first class, the governing body of the municipality may exercise the power through the filing of a declaration of taking with the complaint or at any time after the filing of the complaint, but before judgment. The declaration of taking procedure may not be used with relation to the property of rural electrification or telephone cooperatives or nonprofit associations receiving financial assistance from the federal government under the Rural Electrification Act; provided that no declaration of taking for off-street parking purposes may be used unless there has been public notice by publication in a newspaper of general circulation in the area for not less than once a week for four consecutive weeks followed by a full and complete public hearing held before the governing body of the first class city or municipality.

(b) [Repealed, § 15 ch 59 SLA 1982.]

Sec. 09.55.430. Contents of declaration of taking.

The declaration of taking must contain

- (1) a statement of the authority under which the property or an interest in it is taken;
- (2) a statement of the public use for which the property or an interest in it is taken;

(3) a description of the property sufficient for the identification of it;

(4) a statement of the estate or interest in the property;

(5) a map or plat showing the location of the property;

(6) a statement of the amount of money estimated by the plaintiff to be just compensation for the property or the interest in it;

(7) a statement that the property is taken by necessity for a project located in a manner that is most compatible with the greatest public good and the least private injury.

Sec. 09.55.440. Vesting of title and compensation.

(a) Upon the filing of the declaration of taking and the deposit with the court of the amount of the estimated compensation stated in the declaration, title to the estate as specified in the declaration vests in the plaintiff, and that property is condemned and taken for the use of the plaintiff, and the right to just compensation for it vests in the persons entitled to it. The compensation shall be ascertained and awarded in the proceeding and established by judgment. The judgment must include interest at the rate of 10.5 percent a year on the amount finally awarded that exceeds the amount paid into court under the declaration of taking. The interest runs from the date title vests to the date of payment of the judgment.

(b) Upon motion of a party in interest and notice to all parties, the court may order that the money deposited or a part of it be paid immediately to the person or persons entitled to it for or on account of the just compensation to be awarded in the proceedings. If the compensation finally awarded exceeds the amount of money deposited, the deposit shall be offset against the award. If the compensation finally awarded is less than the amount of money deposited, the court shall enter judgment in favor of the plaintiff and against the proper parties for the amount of the excess.

Sec. 09.55.450. Right of entry and possession.

(a) Upon the filing of the declaration of taking and the deposit of the estimated compensation, the court may, upon motion, fix the time during which and the terms upon which the parties in possession are required to surrender possession to the petitioner. However, the right of entry may not be granted the plaintiff until after the running of the time for the defendant to file an objection to the declaration of taking or until after the hearing on any objection to the declaration of taking if the objection is made in the time allowed by law. Where the party in possession withdraws any part of the award and remains in possession, the court may fix a reasonable rental for the premises to be paid by that party to the plaintiff during such possession.

(b) The court may direct the payment of delinquent taxes and special assessments out of the amount determined to be just compensation, and make orders with respect to encumbrances, liens, rents, insurance, and other charges as are just and equitable.

(c) The right to take possession and title in advance of final judgment where a declaration of taking is filed is in addition to any other rights to take possession provided in [AS 09.55.240](#) — 09.55.460.

Sec. 09.55.460. Effect of appeal.

(a) An appeal or a bond or undertaking given does not operate to prevent or delay the vesting of title to real property or the right to possession of it.

(b) The plaintiff may not be divested of a title or possession acquired except where the court finds that the property was not taken by necessity for a public use or purpose in a manner compatible with the greatest public good and the least private injury. In the event of that finding, the court shall enter the judgment necessary to (1) compensate the persons entitled to it for the period during which the property was in the possession of the plaintiff, (2) recover for the plaintiff any award paid to any person, and (3) order the plaintiff to restore the property to the condition in which it existed at the time of the filing of the declaration of taking unless such restoration is impossible, in which case the court shall award damages to the proper persons as compensation for any diminution in the value of the property caused by the plaintiff's wrongful possession.

Article 5. Official Bonds, Fines, and Forfeitures.

Sec. 09.55.470. Suits on undertakings.

(a) The official undertaking or other security of a public officer to the state, a borough, city, town, or other municipal or public corporation of like character therein is considered a security to the state or to the borough, city, town, or other municipal or public corporation, as the case may be, and also to all persons severally for the official delinquency against which it is intended to provide.

(b) When a public officer, by official misconduct or neglect of duty, forfeits the officer's official undertaking or other security or renders the sureties liable upon the undertaking or other security, a person injured by the misconduct or neglect or who is by law entitled to the benefit of the security may maintain an action thereon in the person's own name against the officer and the sureties to recover the amount to which the person may be entitled.

Sec. 09.55.480. Subsequent actions on same undertaking.

A judgment in favor of a party for one delinquency does not preclude the same or another party from maintaining another action on the same undertaking or other security for another delinquency.

Sec. 09.55.490. Amount of judgment.

In an action upon an official undertaking or other security, if judgment has already been recovered against the surety therein other than by confession equal in the aggregate to the penalty or a part of the penalty of the undertaking or other security and if the recovery be established on the trial, judgment may not be given against the surety for an amount exceeding the penalty or such portion of the penalty as is not already recovered against the surety.

Sec. 09.55.500. Actions for fines or forfeitures.

Fines and forfeitures may be recovered by an action in the name of the state or the officer or person to whom they were given by law, or in the name of the state, officer, or person who is authorized to prosecute for them.

Sec. 09.55.510. Amount that may be claimed and recovered.

When an action is commenced for a penalty that by law is not to exceed a certain amount, the action may be commenced for that amount, and, if the judgment is given for the plaintiff, it may be for that amount or less, in the discretion of the court, in proportion to the offense.

Sec. 09.55.520. Collusive judgment not a bar to another action.

Recovery of a judgment for a penalty or forfeiture obtained by collusion between the plaintiff and defendant with intent to save the defendant wholly or partially from the consequence contemplated by law in cases where penalty or forfeiture is given wholly or partly to the person who prosecutes, does not bar the recovery of a penalty or forfeiture by another person in a separate action.

Article 6. Medical Malpractice Actions.

Sec. 09.55.530. Declaration of purpose.

The legislature considers that there is a need in the state to codify the law with regard to medical liability in order to establish that the law in the state in this regard is the same as elsewhere.

Sec. 09.55.535. Voluntary arbitration.

(a) A patient and any health care provider may execute an agreement to submit to arbitration any dispute, controversy, or issue arising out of care or treatment by the health care provider during the period that the agreement is in force or that has already arisen between the parties. Execution of an agreement under this subsection by a patient may not be made a prerequisite to receipt of care or treatment by the health care provider.

(b) An agreement to arbitrate executed before care or treatment is provided must clearly provide in bold print on the face of the agreement that execution of the agreement by the patient is not a prerequisite to receiving care or treatment. If this subsection is not complied with by the health care provider, the agreement to arbitrate is void. The form to be used shall be approved in advance by the attorney general of the state to assure it fairly informs both parties to the agreement and properly protects their interests.

(c) The agreement must provide that the person receiving health care may revoke the agreement within 30 days after execution by notifying the health care provider in writing. The period for revocation shall be tolled during any period that the person receiving health care is physically unable to execute a revocation. The health care provider may not revoke the agreement after its execution.

(d) An arbitration agreement entered into by the parents or legal guardian of a minor person receiving health care is binding upon the minor person.

(e) An agreement to arbitrate between a patient and a hospital must be reexecuted each time a person is admitted to a hospital. The agreement may be extended by written agreement of all parties to apply to care after hospitalization. A person receiving outpatient care from a hospital or clinic or a member of a health maintenance organization may execute an agreement with the hospital that provides for continuation of the agreement for a continuing program of treatment or during continued membership.

(f) Upon the filing of a malpractice claim that is subject to an agreement to arbitrate, the claim shall be submitted to an arbitration board. The arbitration board shall consist of three arbitrators: one arbitrator designated by the claimant or claimants, one arbitrator designated by the health care provider or providers against whom the claim is made, and a third arbitrator designated by mutual agreement who shall serve as chairperson of the board. If the parties cannot agree on the third person, the court will provide a choice of three or more persons who might serve as chairperson of the arbitration board, which shall be from a list of qualified arbitrators furnished by the attorney general. Claimant or claimants together and health care provider or providers together may each strike one or more names so that after each side has done so at least one name remains, providing a basis for the final selection by the court.

(g) The attorney general shall prepare a list of persons consisting of lawyers or other persons qualified to serve as chairperson of an arbitration board. They shall be selected on the basis of their technical expertise, judicial temperament, and capability of impartially acting on malpractice claims. The attorney general shall submit a list of at least three names whenever requested to do so by the court along with detailed biographical information on each person listed.

(h) Each member of the arbitration board shall receive reasonable compensation to be paid by the court based on the extent and duration of services rendered. The court shall pay the costs of expert witnesses called by the board and the costs of expert witnesses called by the parties to the arbitration up to a maximum of three witnesses for each side and \$150 per day for each expert witness.

(i) The arbitration board may appoint an expert advisory panel, with the powers of the expert advisory panel under [AS 09.55.536](#), to advise the board on the medical facts of the case.

(j) The court shall specify the shortest practical deadline for completion of the work of the arbitration board, taking into account all the circumstances and the nature of the case.

(k) The provisions of [AS 09.43.010](#) — 09.43.180 (Uniform Arbitration Act) or [AS 09.43.300](#) — 09.43.595 (Revised Uniform Arbitration Act) apply as provided in [AS 09.43.010](#) and 09.43.300 to arbitrations under this section if they do not conflict with the provisions of this section; arbitrations under this section shall be conducted in accordance with procedures established by any rules of court that may be adopted and according to provisions of [AS 09.55.540](#) — 09.55.548, 09.55.554 — 09.55.560, and [AS 09.65.090](#).

Sec. 09.55.536. Expert advisory panel.

(a) In an action for damages due to personal injury or death based upon the provision of professional services by a health care provider, including a person providing services on behalf of a governmental entity, when the parties have not agreed to arbitration of the claim under [AS 09.55.535](#), the court shall appoint within 20 days after the filing of an answer to a summons and complaint a three-person expert advisory panel unless the court decides that an expert advisory opinion is not necessary for a decision in the case. When the action is filed, the court shall, by order, determine the professions or specialties to be represented on the expert advisory panel, giving the parties the opportunity to object or make suggestions.

(b) The expert advisory panel may compel the attendance of witnesses, interview the parties, physically examine the injured person if alive, consult with the specialists or learned works they consider appropriate, and compel the production of and examine all relevant hospital, medical, or

other records or materials relating to the health care in issue. The panel may meet in camera, but shall maintain a record of any testimony or oral statements of witnesses, and shall keep copies of all written statements it receives.

(c) Not more than 30 days after selection of the panel, the panel shall make a written report to the parties and to the court, answering the following questions and other questions submitted to the panel by the court in sufficient detail to explain the case and the reasons for the panel's answers:

(1) Why did the claimant seek medical care?

(2) Was a correct diagnosis made? If not, what was incorrect about the diagnosis?

(3) Was the treatment or lack of treatment appropriate? If not, what was inappropriate about the treatment or lack of treatment?

(4) Was the claimant injured during the course of evaluation or treatment or by failure to diagnose or treat?

(5) If the answer to question 4 is "yes," what is the nature and extent of the medical injury?

(6) What specifically caused the medical injury?

(7) Was the medical injury caused by unskillful care? Explain.

(8) If a medical injury had not occurred, what would have been the likely outcome of the medical case?

(d) In any case in which the answer to one or more of the questions submitted to the panel depends upon the resolution of factual questions that are not the proper subject of expert opinion, the report must so state and may answer questions based upon hypothetical facts that are fully set out in the opinion. The report must include copies of all written statements, opinions, or records relied upon by the panel and either a transcription or other record of any oral statements or opinions; must specify any medical or scientific authority relied upon by the panel; and must include the results of any physical or mental examination performed on the plaintiff. Each member shall sign the report and the signature constitutes the member's adoption of all statements and opinions contained in it; however, a member may, instead of signing the report, submit a concurring or dissenting report that complies with the requirements of this subsection. A member may not attest to any portion of the report as to which the member is not qualified to give expert testimony.

(e) The report of the panel with any dissenting or concurring opinion is admissible in evidence to the same extent as though its contents were orally testified to by the person or persons preparing it. The court shall delete any portion that would not be admissible because of lack of foundation for opinion testimony, or otherwise. Either party may submit testimony to support or refute the report. The jury shall be instructed in general terms that the report shall be considered and evaluated in the same manner as any other expert testimony. Any member of the panel may be called by any party and may be cross-examined as to the contents of the report or of that member's dissenting or concurring opinion.

(f) Discovery may not be undertaken in a case until the report of the expert advisory panel is received or 60 days after selection of the panel, whichever occurs first. However, the court may relax this prohibition upon a showing of good cause by any party. If the panel has not completed its report within the 30-day period prescribed in (c) of this section, the court may, upon application, grant the panel an additional 30 days.

(g) Members of a panel are entitled to travel expenses and per diem in accordance with state law pertaining to members of boards and commissions for all time spent in preparing its report. If a panel member is called upon as a witness at trial or upon deposition, the member is entitled to payment of an expert witness fee, which may not exceed \$150 per day. All expenses incurred by the panel shall be paid by the court. However, in any case in which the court determines that a party has made a patently frivolous claim or a patently frivolous denial of liability, it shall order that all costs of the expert advisory panel be borne by the party making that claim or denial.

(h) Parties to the case and their counsel may not initiate communication out of court with members of the panel on the subject matter of its inquiry and report or cause or solicit others to do so, except through ordinary discovery proceedings.

(i) This section applies regardless of whether a party in the action or the health care provider whose professional services are the subject of the action is a governmental entity or in the public or private sector.

Sec. 09.55.540. Burden of proof.

(a) In a malpractice action based on the negligence or wilful misconduct of a health care provider, the plaintiff has the burden of proving by a preponderance of the evidence

(1) that the plaintiff had a health care provider-patient relationship with the defendant at the time of the act complained of;

(2) the degree of knowledge or skill possessed or the degree of care ordinarily exercised under the circumstances, at the time of the act complained of, by health care providers in the field or specialty in which the defendant is practicing;

(3) that the defendant either lacked this degree of knowledge or skill or failed to exercise this degree of care; and

(4) that, as a proximate result of this lack of knowledge or skill or the failure to exercise this degree of care, the plaintiff suffered injuries that would not otherwise have been incurred.

(b) In malpractice actions there is no presumption of negligence on the part of the defendant.

(c) In this section, “health care provider-patient relationship” means a relationship between a health care provider and a patient formed for the purpose of the health care provider providing examination, diagnosis, or treatment to the patient.

Sec. 09.55.544. Evidence.

(a) In a civil action or arbitration under [AS 09.55.530](#) — 09.55.560, notwithstanding [AS 09.43.050](#)(2), 09.43.420(a), or 09.43.440(e), the following are not admissible as evidence:

(1) an expression of apology, sympathy, commiseration, compassion, or benevolence made orally, by conduct, or in writing by a health care provider or an employee of a health care provider to a patient, the patient's relative, or a legal representative of a patient concerning an unanticipated outcome of medical treatment or care regarding the patient's discomfort, pain, suffering, injury, or death;

(2) evidence of an offer made by a health care provider to a patient, the patient's relative, or a

legal representative of a patient to correct or remediate an unanticipated outcome of medical treatment or care;

(3) evidence of conduct or statements by a health care provider to furnish, offer, accept, or promise to furnish or accept valuable consideration to compromise or attempt to compromise or settle a medical malpractice claim disputed as to validity or amount;

(4) evidence of furnishing, offering, or promising to pay medical, hospital, or similar expenses, in full or in part, by a health care provider following an unanticipated outcome of medical treatment or care;

(5) evidence of a health care provider requesting, demanding, inquiring, or directing another to write-off, offer, or promise to pay medical, hospital, or similar expenses, in whole or in part, following an unanticipated outcome of medical treatment or care.

(b) If an expression of apology, sympathy, commiseration, compassion, or benevolence made under (a)(1) of this section is made in conjunction with an admission of liability or negligence, only the expression of apology, sympathy, commiseration, compassion, or benevolence is inadmissible, and the admission of liability or negligence may be admissible as evidence.

(c) This section does not apply to an offer of judgment under [AS 09.30.065](#).

(d) In this section,

(1) “legal representative” means a legal guardian, attorney, person designated to make decisions on behalf of a patient under a power of attorney, or patient's agent;

(2) “relative” means

(A) the spouse of the patient;

(B) a parent, grandparent, stepparent, child, stepchild, grandchild, brother, sister, half brother, or half sister of the patient;

(C) a parent of the patient's spouse; or

(D) an individual adopted by the patient.

Sec. 09.55.545. Agreement to correct unanticipated outcome or settle claim; legal advice.

An agreement to correct an unanticipated outcome of medical treatment or care or to settle a claim of medical malpractice made between a health care provider and a patient or the patient's legal representative is voidable if the health care provider has not advised the patient or the patient's legal representative in writing that the patient or the patient's legal representative may seek legal advice.

Sec. 09.55.546. Advance payments.

In an action to recover damages under [AS 09.55.530](#) — 09.55.560, no advance payment made by the defendant health care provider or the professional liability insurer of the defendant to or on behalf of the plaintiff is admissible as evidence or may be construed as an admission of liability for injuries or damages suffered by the plaintiff; however, a final award in favor of the plaintiff shall be reduced to the extent of any advance payment. The advance payment shall inure to the exclusive benefit of the defendant or the insurer making the payment.

Sec. 09.55.547. Pleading of damages.

In a cause of action against a health care provider for malpractice, the complaint or any other pleadings may not contain an ad damnum clause or monetary amount claimed against the defendant health care provider, except as necessary for jurisdictional purposes.

Sec. 09.55.548. Awards; collateral source.

(a) Damages shall be awarded in accordance with principles of the common law. The fact finder in a malpractice action shall render any award for damages by category of loss. The court may enter a judgment that future damages be paid in whole or in part by periodic payments rather than by a lump-sum payment; the judgment must include, if necessary, other provisions to assure that funds are available as periodic payments become due. Insurance from an authorized insurer as defined in [AS 21.97.900](#) is sufficient assurance that funds will be available. Any part of the award that is paid on a periodic basis shall be adjusted annually according to changes in the consumer price index in the community where the claimant resides. In this subsection, "future damages" includes damages for future medical treatment, care or custody, loss of future earnings, or loss of bodily function of the claimant.

(b) Except when the collateral source is a federal program that by law must seek subrogation and except death benefits paid under life insurance, a claimant may only recover damages from the defendant that exceed amounts received by the claimant as compensation for the injuries from collateral sources, whether private, group, or governmental, and whether contributory or noncontributory. Evidence of collateral sources, other than a federal program that must by law seek subrogation and the death benefit paid under life insurance, is admissible after the fact finder has rendered an award. The court may take into account the value of claimant's rights to coverage exhausted or depleted by payment of these collateral benefits by adding back a reasonable estimate of their probable value, or by earmarking and holding for possible periodic payment under (a) of this section that amount of the award that would otherwise have been deducted, to see if the impairment of claimant's rights actually takes place in the future.

Sec. 09.55.549. Limitation on damages from health care provider's services.

(a) Notwithstanding [AS 09.17.010](#), noneconomic damages for personal injury or death based on the provision of services by a health care provider may only be awarded as provided in this section.

(b) In an action to recover damages for personal injury or wrongful death based on the provision of services by a health care provider, damages may include both economic and noneconomic damages.

(c) Damage claims for noneconomic losses shall be limited to compensation for pain, suffering, inconvenience, physical impairment, disfigurement, loss of enjoyment of life, loss of consortium, and other nonpecuniary damage, but may not include hedonic damages.

(d) Except as provided in (e) of this section, the damages awarded by a court or a jury under (c) of this section for all claims including a loss of consortium claim or other derivative claim arising out of a single injury may not exceed \$250,000 regardless of the number of health care providers against whom the claim is asserted or the number of separate claims or causes of action brought with respect to the injury.

(e) The damages awarded by a court or jury under (c) of this section for all claims including a loss of consortium claim or other derivative claim arising out of a single injury or death may not exceed \$400,000 regardless of the number of health care providers against whom the claim is asserted or the number of separate claims or causes of action brought with respect to the injury or death when damages are awarded for wrongful death or severe permanent physical impairment that is more than 70 percent disabling.

(f) The limitation on noneconomic damages in this section does not apply if the damages resulted from an act or omission that constitutes reckless or intentional misconduct.

(g) Multiple injuries sustained by one person as a result of a single course of treatment shall be treated as a single injury for purposes of this section.

(h) In this section,

(1) “economic damages” means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for, or failure to provide, use, or pay for health care services or medical products, and includes past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, burial expenses, loss of use of property, cost of replacement or repair, loss of employment, and loss of business or employment opportunities;

(2) “health care provider” has the meaning given in [AS 09.55.560](#) and includes a state agency or municipality the health care services of which are the subject of an action that is subject to this section;

(3) “hedonic damages” means damages that attempt to compensate for the pleasure of being alive.

Sec. 09.55.550. Jury instructions.

In medical malpractice actions the jury shall be instructed that the plaintiff has the burden of proving the health care provider's negligence or wilful misconduct in accordance with the standard of proof specified in [AS 09.55.540](#). The jury shall be further instructed that injury alone does not raise a presumption of the health care provider's negligence or misconduct.

Sec. 09.55.554. Immunity for oral contracts.

A cause of action against a health care provider does not arise for breach of an oral contract to provide a cure or achieve a specific medical result.

Sec. 09.55.556. Informed consent.

(a) A health care provider is liable for failure to obtain the informed consent of a patient if the claimant establishes by a preponderance of the evidence that the provider has failed to inform the patient of the common risks and reasonable alternatives to the proposed treatment or procedure, and that but for that failure the claimant would not have consented to the proposed treatment or procedure.

(b) It is a defense to any action for medical malpractice based upon an alleged failure to obtain informed consent that

(1) the risk not disclosed is too commonly known or is too remote to require disclosure;

(2) the patient stated to the health care provider that the patient would undergo the treatment or

procedure regardless of the risk involved or that the patient did not want to be informed of the matters to which the patient would be entitled to be informed;

(3) under the circumstances consent by or on behalf of the patient was not possible; or

(4) the health care provider after considering all of the attendant facts and circumstances used reasonable discretion as to the manner and extent that the alternatives or risks were disclosed to the patient because the health care provider reasonably believed that a full disclosure would have a substantially adverse effect on the patient's condition.

Sec. 09.55.560. Definitions.

In [AS 09.55.530](#) — 09.55.560,

(1) “board” means an arbitration board established under [AS 09.55.535](#);

(2) “health care provider” means an acupuncturist licensed under [AS 08.06](#); an audiologist or speech-language pathologist licensed under [AS 08.11](#); a chiropractor licensed under [AS 08.20](#); a dental hygienist licensed under [AS 08.32](#); a dentist licensed under [AS 08.36](#); a nurse licensed under [AS 08.68](#); a dispensing optician licensed under [AS 08.71](#); a naturopath licensed under [AS 08.45](#); an optometrist licensed under [AS 08.72](#); a pharmacist licensed under [AS 08.80](#); a physical therapist or occupational therapist licensed under [AS 08.84](#); a physician or physician assistant licensed under [AS 08.64](#); a podiatrist; a psychologist and a psychological associate licensed under [AS 08.86](#); a hospital as defined in [AS 47.32.900](#), including a governmentally owned or operated hospital; an employee of a health care provider acting within the course and scope of employment; an ambulatory surgical facility and other organizations whose primary purpose is the delivery of health care, including a health maintenance organization, individual practice association, integrated delivery system, preferred provider organization or arrangement, and a physical hospital organization;

(3) “panel” means an expert advisory panel established under [AS 09.55.536](#);

(4) “professional negligence” means a negligent act or omission by a health care provider in rendering professional services;

(5) “professional services” means service provided by a health care provider that is within the scope of services for which the health care provider is licensed and that is not prohibited under the health care provider's license or by a facility in which the health care provider practices.

Article 7. Survival and Wrongful Death Actions.

Sec. 09.55.570. All causes of action survive.

All causes of action by one person against another, whether arising on contract or otherwise, except those involving defamation of character, survive to the personal representatives of the former and against the personal representatives of the latter, but this may not be construed so as to abate an action for a wrong where any party has died after the verdict or to defeat or prejudice the right of action given by [AS 09.15.010](#). The personal representatives may maintain an action thereon against the party against whom the cause of action accrued, or, after the party's death, against the personal representatives of the party.

Sec. 09.55.580. Action for wrongful death.

(a) Except as provided under (f) of this section and [AS 09.65.145](#), when the death of a person is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefor against the latter, if the former might have maintained an action, had the person lived, against the latter for an injury done by the same act or omission. The action shall be commenced within two years after the death, and the damages therein shall be the damages the court or jury may consider fair and just. The amount recovered, if any, shall be exclusively for the benefit of the decedent's spouse and children when the decedent is survived by a spouse or children, or other dependents. When the decedent is survived by no spouse or children or other dependents, the amount recovered shall be administered as other personal property of the decedent but shall be limited to pecuniary loss. When the plaintiff prevails, the trial court shall determine the allowable costs and expenses of the action and may, in its discretion, require notice and hearing thereon. The amount recovered shall be distributed only after payment of all costs and expenses of suit and debts and expenses of administration.

(b) The damages recoverable under this section shall be limited to those which are the natural and proximate consequence of the negligent or wrongful act or omission of another.

(c) In fixing the amount of damages to be awarded under this section, the court or jury shall consider all the facts and circumstances and from them fix the award at a sum which will fairly compensate for the injury resulting from the death. In determining the amount of the award, the court or jury shall consider but is not limited to the following:

(1) deprivation of the expectation of pecuniary benefits to the beneficiary or beneficiaries, without regard to age thereof, that would have resulted from the continued life of the deceased and without regard to probable accumulations or what the deceased may have saved during the lifetime of the deceased;

(2) loss of contributions for support;

(3) loss of assistance or services irrespective of age or relationship of decedent to the beneficiary or beneficiaries;

(4) loss of consortium;

(5) loss of prospective training and education;

(6) medical and funeral expenses.

(d) The death of a beneficiary or beneficiaries before judgment does not affect the amount of damages recoverable under this section.

(e) The right of action granted by this section is not abated by the death of a person named or to be named the defendant.

(f) A person whose act or omission constitutes the felonious killing of another person may not recover damages for the death of that person either directly or as a personal representative of that person's estate. In this subsection, a "felonious killing" means a crime defined by [AS 11.41.100](#) — 11.41.140.

Sec. 09.55.585. Action for wrongful death of an unborn child; applicability.

(a) A parent of an unborn child may maintain an action as plaintiff for the death of an unborn

child that was caused by the wrongful act or omission of another.

(b) This section does not apply to acts or omissions that

(1) cause the death of an unborn child if those acts or omissions are committed during a legal abortion to which the pregnant woman or a person authorized by law to act on her behalf consents or for which consent is implied by law;

(2) are committed under usual and customary standards of medical practice during diagnostic testing, during therapeutic treatment, or while assisting a pregnancy; or

(3) are committed by a pregnant woman against herself and her unborn child.

(c) This section does not limit any other cause of action that a parent may maintain for the death of an unborn child.

(d) In this section,

(1) “abortion” has the meaning given in [AS 18.16.090](#);

(2) “unborn child” has the meaning given in [AS 11.81.900](#).

Article 8. Removal of Disabilities of a Minor.

Sec. 09.55.590. Removal of disabilities of minority.

(a) A minor who is a resident of this state and is at least 16 years of age, who is living separate and apart from the parents or guardian of the minor, capable of sustained self-support and of managing one's own financial affairs, or the legal custodian of such a minor, may petition the superior court to have the disabilities of minority removed for limited or general purposes.

(b) A minor or the legal custodian of a minor may institute a petition under this section in the name of the minor.

(c) The petition for removal of disabilities of minority must state

(1) the name, age, and residence address of the minor;

(2) the name and address of each living parent;

(3) the name and address of the guardian of the person and the guardian of the estate, if any;

(4) the reasons why removal would be in the best interest of the minor; and

(5) the purposes for which removal is sought.

(d) The person who institutes a petition under this section must obtain the consent of each living parent or guardian having control of the person or property of the minor. If the person who is to consent to the petition is unavailable or the whereabouts of that person are unknown, or if a parent or guardian unreasonably withholds consent, the court, acting in the best interest of the minor, may waive this requirement of consent as to that parent or guardian.

(e) The court may appoint an attorney or a guardian ad litem to represent the interests of the minor at the hearing. Appointment of an attorney or guardian ad litem shall be made in accordance with [AS 25.24.310](#).

(f) If the petition under this section is filed by a minor, the court may remove the disabilities of minority as requested in the petition if the court finds on the record after a hearing that the minor is a resident of the state, at least 16 years of age, living separate and apart from the parent or guardian of the minor, and capable of sustained self-support and managing the minor's own financial affairs. If the petition under this section is filed by the legal custodian of a minor, the court may remove the disabilities of minority as requested in the petition only if the minor consents on the record to the removal of disabilities and the court, in addition to making the other findings required under this subsection for a petition filed by a minor, makes a finding on the record that there is interpersonal conflict involving the legal custodian and the minor that the custodian and the minor have been unable to resolve satisfactorily through other means; the finding must include a description of the efforts that were made by the legal custodian to resolve the interpersonal conflict before the custodian filed the petition under this section. If the court determines that removal of disabilities is in the best interests of the minor, the court may waive the requirement for the minor's consent that is otherwise imposed under this subsection. In making its decision under this subsection, the court may consider whether a noncustodial parent of the minor is able and willing to petition for custody of the minor.

(g) Except for specific constitutional and statutory age requirements for voting and use of alcoholic beverages, a minor whose disabilities are removed for general purposes has the power and capacity of an adult, including the right to self-control, the right to be domiciled where one desires, the right to receive and control one's earnings, the right to sue or to be sued, and the capacity to contract.

Sec. 09.55.600. [Renumbered as [AS 25.35.010](#).]

Sec. 09.55.601. [Renumbered as [AS 09.60.070](#).]

Secs. 09.55.610 — 09.55.640. [Renumbered as [AS 25.35.020](#) — 25.35.060.]

Article 9. Actions by Crime Victims.

Sec. 09.55.650. Claim based on sexual abuse to a minor under 16 years of age.

(a) A person who, as a minor under 16 years of age, was the victim of sexual abuse may maintain an action for recovery of damages against the perpetrator of the act or acts of sexual abuse based on the perpetrator's intentional conduct for an injury or condition suffered as a result of the sexual abuse.

(b) If the defendant committed more than one act of sexual abuse on the plaintiff, the plaintiff is not required to prove which specific act caused the injury.

(c) In this section, “sexual abuse” means an act committed by the defendant against the plaintiff maintaining the cause of action if the defendant's conduct would have violated a provision of [AS 11.41.410](#) — 11.41.440 or 11.41.450 — 11.41.458, former [AS 11.15.120](#), 11.15.134, or 11.15.160, or former [AS 11.40.110](#) at the time it was committed.

Article 10. Civil in rem Forfeiture.

Sec. 09.55.700. In rem civil forfeiture actions.

Common law civil in rem forfeiture actions are abolished if used instead of a criminal proceeding.

Chapter 58. Alaska Medical Assistance False Claim and Reporting Act.

Sec. 09.58.010. False claims for medical assistance; civil penalty.

(a) A medical assistance provider or medical assistance recipient may not

(1) knowingly submit, authorize, or cause to be submitted to an officer or employee of the state a false or fraudulent claim for payment or approval under the medical assistance program;

(2) knowingly make, use, or cause to be made or used, directly or indirectly, a false record or statement to get a false or fraudulent claim for payment paid or approved by the state under the medical assistance program;

(3) conspire to defraud the state by getting a false or fraudulent claim paid or approved under the medical assistance program;

(4) knowingly make, use, or cause to be made or used, a false record or statement to conceal, avoid, increase, or decrease an obligation to pay or transmit money or property to the medical assistance program;

(5) knowingly enter into an agreement, contract, or understanding with an officer or employee of the state for approval or payment of a claim under the medical assistance program knowing that the information in the agreement, contract, or understanding is false or fraudulent.

(b) A beneficiary of an intentional or inadvertent submission of a false or fraudulent claim under the medical assistance program who later discovers the claim is false or fraudulent shall disclose the false or fraudulent claim to the state not later than 60 days after discovering the false claim.

(c) In addition to any criminal penalties under [AS 47.05](#), a medical assistance provider or medical assistance recipient who violates (a) or (b) of this section shall be liable to the state in a civil action for

(1) a civil penalty of not less than \$5,500 and not more than \$11,000;

(2) three times the amount of actual damages sustained by the state;

(3) full reasonable attorney fees and costs in a case involving a fraudulent claim, agreement, contract, or understanding; and

(4) reasonable attorney fees and costs calculated under applicable court rules in a case that does not involve a fraudulent claim, agreement, contract, or understanding.

(d) Liability for actual damages under (c) of this section may be reduced to not less than twice the amount of actual damages that the state sustains if the court finds that a person liable for an act under (a) or (b) of this section

(1) furnished the attorney general or the Department of Health with all information known to the person about the violation not later than 30 days after the date the information was obtained;

(2) fully cooperated with the investigation of the violation under [AS 09.58.020](#);

(3) at the time the person furnished the attorney general with the information about the violation, no criminal prosecution, civil action, investigation, or administrative action had been started in this state with respect to the violation, and the person did not have actual knowledge of the existence of an investigation of the violation.

(e) A corporation, partnership, or other individual is liable under this section for acts of its agents if the agent acted with apparent authority, regardless of whether the agent acted, in whole or in

part, to benefit the principal and regardless of whether the principal adopted or ratified the agent's claims, representations, statement, or other action or conduct.

Sec. 09.58.015. Attorney general investigation; civil action.

(a) The attorney general or the Department of Health may investigate an alleged violation of [AS 09.58.010](#). The attorney general may request assistance from the Department of Health in an investigation under this section.

(b) The attorney general may bring a civil action in superior court under [AS 09.58.010](#) — 09.58.025.

Sec. 09.58.020. Private plaintiff; civil action.

Sec. 09.58.025. Subpoenas.

In conducting an investigation under [AS 09.58.015](#), the attorney general may issue subpoenas to compel the production of books, papers, correspondence, memoranda, and other records in connection with an investigation under or the administration of [AS 09.58.010](#) — 09.58.025. If a medical assistance provider or a medical assistance recipient fails or refuses, without just cause, to obey a subpoena issued under this section, the superior court may, upon application by the attorney general, issue an order requiring the medical assistance provider or medical assistance recipient to appear before the attorney general to produce evidence.

§§ 09.58.030 — 09.58.060. Rights in false or fraudulent claims actions; award to false or fraudulent claim plaintiff; certain actions barred; state not liable for attorney fees, costs, and other expenses.

Sec. 09.58.070. Employee protection for retaliation.

(a) An employee of a medical assistance provider who is discharged, demoted, suspended, threatened, harassed, or discriminated against in the terms and conditions of employment by the employee's employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this chapter, including investigation for, initiation of, testimony for or assistance in an action filed or to be filed under this chapter, is entitled to the same relief authorized under [AS 39.90.120](#).

(b) Notwithstanding (a) of this section, a state employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in the terms and conditions of employment because of lawful acts done by the employee on behalf of the employee or in furtherance of an action under this chapter, including investigation, initiation of, testimony for or assistance in an action filed or to be filed under this chapter, is entitled to relief under [AS 39.90.100](#) — 39.90.150 (Alaska Whistleblower Act).

(c) A person may not bring an action under this section unless the action is commenced not later than three years after the date the employee was subject to retaliation under (a) or (b) of this section.

Sec. 09.58.080. Regulations.

The attorney general may adopt regulations under [AS 44.62](#) as necessary to carry out the purposes of this chapter.

Sec. 09.58.090. Special provisions.

(a) This chapter does not apply to any controversy involving damages to the state of less than \$5,500 in value.

(b) No punitive damages may be awarded in an action brought under [AS 09.58.010](#) — 09.58.025.

Sec. 09.58.100. Definitions.

In this chapter,

(1) “attorney general” includes a designee of the attorney general;

(2) “claim” means a request for payment of health care services or equipment, whether made to a contractor, grantee, or other person, when the state provides, directly or indirectly, a portion of the money, property, or services requested or demanded, or when the state will, directly or indirectly, reimburse the contractor, grantee, or other recipient for a portion of the money, property, or services requested or demanded;

(3) “controversy” means the aggregate of one or more false claims submitted by the same medical assistance provider or medical assistance recipient under this chapter;

(4) “knowingly” means that a person, with or without specific intent to defraud,
(A) has actual knowledge of the information;

(B) acts in deliberate ignorance of the truth or falsity of the information; or

(C) acts in reckless disregard of the truth or falsity of the information;

(5) “medical assistance program” means the federal-state program administered by the Department of Health under [AS 47.05](#) and [AS 47.07](#) and regulations adopted under [AS 47.05](#) and [AS 47.07](#);

(6) “medical assistance provider” has the meaning given in [AS 47.05.290](#);

(7) “medical assistance recipient” has the meaning given in [AS 47.05.290](#);

(8) “obligation” means an established duty, whether or not fixed, arising from

(A) an express or implied contractual grantor or grantee or licensor or licensee relationship;

(B) a fee-based or similar relationship;

(C) a statute or regulation; or

(D) the retention of any overpayment.

Sec. 09.58.110. Short title.

This chapter may be cited as the Alaska Medical Assistance False Claim and Reporting Act.

Chapter 60. Costs and Attorney Fees; Settlements.

Article 1. Costs and Attorney Fees.

Sec. 09.60.010. Costs and attorney fees allowed prevailing party.

(a) The supreme court shall determine by rule or order the costs, if any, that may be allowed a prevailing party in a civil action. Unless specifically authorized by statute or by agreement between the parties, attorney fees may not be awarded to a party in a civil action for personal injury, death, or property damage related to or arising out of fault, as defined in [AS 09.17.900](#), unless the civil action is contested without trial, or fully contested as determined by the court.

(b) Except as otherwise provided by statute, a court in this state may not discriminate in the award of attorney fees and costs to or against a party in a civil action or appeal based on the nature of the policy or interest advocated by the party, the number of persons affected by the outcome of the case, whether a governmental entity could be expected to bring or participate in the case, the extent of the party's economic incentive to bring the case, or any combination of these factors.

(c) In a civil action or appeal concerning the establishment, protection, or enforcement of a right under the United States Constitution or the Constitution of the State of Alaska, the court

(1) shall award, subject to (d) and (e) of this section, full reasonable attorney fees and costs to a claimant, who, as plaintiff, counterclaimant, cross claimant, or third-party plaintiff in the action or on appeal, has prevailed in asserting the right;

(2) may not order a claimant to pay the attorney fees of the opposing party devoted to claims concerning constitutional rights if the claimant as plaintiff, counterclaimant, cross claimant, or third-party plaintiff in the action or appeal did not prevail in asserting the right, the action or appeal asserting the right was not frivolous, and the claimant did not have sufficient economic incentive to bring the action or appeal regardless of the constitutional claims involved.

(d) In calculating an award of attorney fees and costs under (c)(1) of this section,

(1) the court shall include in the award only that portion of the services of claimant's attorney fees and associated costs that were devoted to claims concerning rights under the United States Constitution or the Constitution of the State of Alaska upon which the claimant ultimately prevailed; and

(2) the court shall make an award only if the claimant did not have sufficient economic incentive to bring the suit, regardless of the constitutional claims involved.

(e) The court, in its discretion, may abate, in full or in part, an award of attorney fees and costs otherwise payable under (c) and (d) of this section if the court finds, based upon sworn affidavits or testimony, that the full imposition of the award would inflict a substantial and undue hardship upon the party ordered to pay the fees and costs or, if the party is a public entity, upon the taxpaying constituents of the public entity.

Sec. 09.60.015. Attorney fees in certain small claims actions.

(a) In any action for damages where the amount pleaded is \$1,000 or less, and the plaintiff, when represented by counsel, prevails in the action, the plaintiff shall be allowed a reasonable amount to be fixed by the court as attorney fees for the prosecution of the action as a part of the costs of the action if the court finds that written demand for the payment of the claim was made on the defendant 20 days or more before the commencement of the action. However, attorney fees may not be allowed to the plaintiff if the court finds that the defendant tendered to the plaintiff before the commencement of the action, an amount not less than the damages awarded to the plaintiff.

(b) If the defendant, when represented by counsel, pleads a counterclaim that does not exceed \$1,000, and the defendant prevails in the action, the defendant shall be allowed a reasonable amount to be fixed by the court as attorney fees for the prosecution of the counterclaim as part of the costs of the action.

(c) This section is subject to [AS 45.50.537](#).

Sec. 09.60.020. Liability of guardian ad litem for costs.

A person appointed guardian ad litem by a court for an infant or incompetent defendant is not liable for the costs of the action.

Sec. 09.60.030. Guardian's responsibility for allowance against infant plaintiff.

When costs or disbursements are adjudged against an infant plaintiff or incompetent, the guardian by whom the plaintiff appeared in the action is responsible for the payment, and payment may be enforced against the guardian as if the guardian were the actual plaintiff.

Sec. 09.60.040. Costs where party is a representative.

In actions in which an executor, administrator, trustee of an express trust, or a person authorized to represent a party is a party, costs may be allowed as in other cases. However, when costs are allowed against that party, they are chargeable solely upon the estate, fund, or party represented unless the court orders the costs to be paid by that party personally for mismanagement or bad faith in the conduct of the action.

Sec. 09.60.050. Costs awarded against state, borough, city, or other public agencies.

When the state or a borough, city, or other public agency or entity or an officer thereof in an official capacity is a party, costs shall be awarded against it on the same basis as against any other natural person or party. However, when the action is brought upon the information of a natural person, that person shall be liable for costs awarded against the state. The costs may not be recovered from the state until after execution has issued for the costs against that person and has been returned unsatisfied in whole or in part.

Sec. 09.60.060. Security for costs where plaintiff a nonresident or foreign corporation.

When the plaintiff in an action resides out of the state or is a foreign corporation, security for the costs and attorney fees, which may be awarded against the plaintiff, may be required by the defendant, if timely demand is made within 30 days after the defendant discovers that the plaintiff is a nonresident. When required, all proceedings in the action shall be stayed until an undertaking executed by one or more sufficient sureties is filed with the court to the effect that they will pay the costs and attorney fees which are awarded against the plaintiff, for not less than \$200. A new

or an additional undertaking may be ordered by the court upon proof that the original undertaking is insufficient in amount or security.

Sec. 09.60.070. Attorney fees for victims of serious criminal offenses.

(a) A person who has been injured or damaged, or the estate of a person who has died, may recover from the offender full reasonable attorney fees in a civil action or a wrongful death action if the injury, damage, or death resulted from

(1) an attempt on the part of the person to prevent the commission of a serious criminal offense or to apprehend an offender who has committed a serious criminal offense, or aiding or attempting to aid a police officer to do so, or aiding a victim of a serious criminal offense; or

(2) the commission or attempt on the part of the offender to commit a serious criminal offense.

(b) If a judgment for attorney fees is entered against an offender in a civil action brought under this section, and a contract of insurance requires an insurer to pay the attorney fees, the insurer shall be liable only for the attorney fees that would be awarded to the plaintiff under Rule 82(b)(1), Alaska Rules of Civil Procedure.

(c) In this section, “serious criminal offense” means the following offenses:

(1) murder in any degree;

(2) manslaughter;

(3) criminally negligent homicide;

(4) assault in any degree;

(5) kidnapping;

(6) sexual assault in any degree;

(7) sexual abuse of a minor in any degree;

(8) robbery in any degree;

(9) coercion;

(10) extortion;

(11) arson in any degree;

(12) burglary in any degree;

(13) criminal mischief in the first, second, third, or fourth degree;

(14) driving while under the influence of an alcoholic beverage, inhalant, or controlled substance or another crime resulting from the operation of a motor vehicle, boat, or airplane when the offender is under the influence of an alcoholic beverage, inhalant, or controlled substance;

(15) a crime involving domestic violence, as defined in [AS 18.66.990](#).

Sec. 09.60.080. Contingent fee agreements.

If an attorney contracts for or collects a contingency fee in connection with an action for personal injury, death, or property damage, and the damages awarded by a court or jury include an award of punitive damages, the contingent fee due the attorney shall be calculated before that portion of punitive damages due the state under [AS 09.17.020\(j\)](#) has been deducted from the total award of damages.

Article 2. Structured Settlements.

Sec. 09.60.200. Conditions to transfers of structured settlement payment rights and structured settlement agreements.

(a) A transfer of structured settlement payment rights is not effective and a structured settlement obligor or annuity issuer is not required to make a payment directly or indirectly to a transferee of structured settlement payment rights unless the transfer has been approved by a superior court based on the court's written express findings that

(1) the structured settlement arose from an action filed in the state or that could have been filed in the state, or the payee of the structured settlement is domiciled in the state;

(2) the transfer complies with the requirements of [AS 09.60.200](#) — 09.60.230, other applicable state and federal law, and the orders of any court;

(3) not less than 10 days before the date on which the payee first incurred an obligation with respect to the transfer, the payee has received by certified mail, return receipt requested, or other means that provide a comparable record of delivery, a disclosure statement in bold type, no smaller than 14 points, specifying

(A) the amounts and due dates of the structured settlement payments to be transferred;

(B) the aggregate amount of the payments;

(C) the discounted present value of the payments, together with the discount rate used in determining the discounted present value;

(D) the gross amount payable to the payee in exchange for the payments;

(E) an itemized listing of all broker's commissions, service charges, application fees, processing fees, closing costs, filing fees, referral fees, administrative fees, legal fees, notary fees, and other commissions, fees, costs, expenses, and charges payable by the payee or deductible from the gross amount otherwise payable to the payee;

(F) the net amount payable to the payee after deduction of all commissions, fees, costs, expenses, and charges described in (E) of this paragraph;

(G) the quotient, expressed as a percentage, obtained by dividing the net payment amount by the discounted present value of the payments; and

(H) the amount of any penalty and the aggregate amount of any liquidated damages, including penalties, payable by the payee in the event of a breach of the transfer agreement by the payee;

(4) the payee has established that the transfer is in the best interests of the payee and the payee's dependents;

(5) the payee has received independent professional advice regarding the legal, tax, and

financial implications of the transfer;

(6) the transferee has given written notice of the transferee's name, address, and taxpayer identification number to the annuity issuer and the structured settlement obligor and has filed a copy of the notice with the court; and

(7) the transfer agreement provides that any disputes between the parties will be governed, interpreted, construed, and enforced in accordance with the laws of this state and that the domicile state of the payee is the proper venue to bring any cause of action arising out of a breach of the agreement; the transfer agreement must also provide that the parties agree to the jurisdiction of any court of competent jurisdiction located in this state.

(b) If the transfer would contravene the terms of the structured settlement, upon the filing of a written objection by any interested party and after considering the objection and any response to it, the court may grant, deny, or impose conditions upon the proposed transfer as the court considers just and proper under the facts and circumstances in accordance with established principles of law. Any order approving a transfer must require that the transferee indemnify the annuity issuer and the structured settlement obligor for any liability including reasonable costs and attorney fees arising from compliance by the issuer or obligor with the order of the court.

(c) A provision in a transfer agreement giving a transferee power to confess judgment against a payee is unenforceable to the extent the amount of the judgment would exceed the amount paid by the transferee to the payee, less any payments received from the structured settlement obligor or the payee.

Sec. 09.60.210. Jurisdiction; procedure for approval of transfers.

(a) The superior court where the action giving rise to the structured settlement was maintained or could have been maintained or where the payee is domiciled has jurisdiction over an application for approval under [AS 09.60.200](#) of a transfer of structured settlement payment rights.

(b) Not less than 30 days before the scheduled hearing on an application for authorization of a transfer of structured settlement payment rights under [AS 09.60.200](#), the transferee shall file with the court and serve on any other government authority that previously approved the structured settlement and all interested parties a notice of the proposed transfer and the application for its authorization. The notice must include

(1) a copy of the transferee's application to the court;

(2) a copy of the transfer agreement;

(3) a copy of the disclosure statement required under [AS 09.60.200](#);

(4) notification that an interested party is entitled to support, oppose, or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or by participating in the hearing; and

(5) notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed in order to be considered by the court.

(c) Written responses to the application must be filed within 15 days after service of the transferee's notice.

Sec. 09.60.220. No waiver and no penalty.

(a) The provisions of [AS 09.60.200](#) — 09.60.230 may not be waived.

(b) A payee who proposes to make a transfer of structured settlement payment rights may not incur a penalty, forfeit an application fee or other payment, or otherwise incur any liability to the proposed transferee based on the failure of the transfer to satisfy the conditions of [AS 09.60.200](#) — 09.60.230.

Sec. 09.60.230. Definitions.

In [AS 09.60.200](#) — 09.60.230,

(1) “annuity issuer” means an insurer that has issued an annuity contract to be used to fund periodic payments under a structured settlement;

(2) “dependents” means a payee's spouse and minor children and all other family members and other persons for whom the payee is legally obligated to provide support, including spousal maintenance;

(3) “discounted present value” means, with respect to a proposed transfer of structured settlement payment rights, the fair present value of future payments, as determined by discounting the payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service;

(4) “independent professional advice” means advice of an attorney, certified public accountant, actuary, or other professional adviser

(A) who is engaged by a payee to render advice concerning the legal, tax, and financial implications of a transfer of structured settlement payment rights;

(B) who is not in any manner affiliated with or compensated by the transferee of the transfer; and

(C) whose compensation for providing the advice is not affected by whether a transfer occurs or does not occur;

(5) “interested parties” means the payee, a beneficiary designated under the annuity contract to receive payments following the payee's death or, if the designated beneficiary is a minor, the designated beneficiary's parent or guardian, the annuity issuer, the structured settlement obligor, and any other party that has continuing rights or obligations under the structured settlement;

(6) “payee” means an individual who is receiving tax-free damage payments under a structured settlement and proposes to make a transfer of payment rights under the structured settlement;

(7) “qualified assignment agreement” means an agreement providing for a qualified assignment as provided by 26 U.S.C. 130 (United States Internal Revenue Code), as amended through December 31, 1998;

(8) “settled claim” means the original tort claim or workers' compensation claim resolved by a structured settlement;

(9) “structured settlement” means an arrangement for periodic payment of damages for personal injuries established by settlement or judgment in resolution of a tort claim or for periodic payments in settlement of a workers' compensation claim;

(10) “structured settlement agreement” means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement, including the rights of the payee to receive periodic payments;

(11) “structured settlement obligor” means the party that has the continuing periodic payment obligation to the payee under a structured settlement agreement or a qualified assignment agreement;

(12) “structured settlement payment rights” means rights to receive periodic payments, including lump-sum payments, under a structured settlement, whether from the settlement obligor or the annuity issuer, where

(A) the payee or any other interested party is domiciled in the state;

(B) the structured settlement agreement was approved by a court in the state; or

(C) the settled claim was pending before the courts of this state when the parties entered into the structured settlement agreement;

(13) “terms of the structured settlement” means the terms of the structured settlement agreement, the annuity contract, a qualified assignment agreement, and an order or approval of a court, responsible administrative authority, or other government authority authorizing or approving the structured settlement;

(14) “transfer” means a sale, assignment, pledge, hypothecation, or other form of alienation or encumbrance made by a payee for consideration;

(15) “transfer agreement” means the agreement providing for transfer of structured settlement payment rights from a payee to a transferee;

(16) “transferee” means a person who is receiving or will receive structured settlement payment rights resulting from a transfer.

Chapter 63. Oath, Acknowledgment, and Other Proof.

Article 1. Oaths, Certifications, Notarizations, and Verifications.

Sec. 09.63.010. Oath, affirmation, and acknowledgment.

The following persons may take an oath, affirmation, or acknowledgment in the state:

(1) a justice, judge, or magistrate of a court of the State of Alaska or of the United States;

(2) a clerk or deputy clerk of a court of the State of Alaska or of the United States;

(3) a notary public;

(4) a United States postmaster;

(5) a commissioned officer under [AS 09.63.050](#)(4);

(6) a municipal clerk carrying out the clerk's duties under [AS 29.20.380](#);

(7) the lieutenant governor when carrying out the lieutenant governor's duties under [AS 24.05.160](#);

(8) the presiding officer of each legislative house when carrying out the officer's duties under [AS 24.05.170](#).

Sec. 09.63.020. Certification of documents.

(a) A matter required or authorized to be supported, evidenced, established, or proven by the sworn statement, declaration, verification, certificate, oath, or affidavit, in writing of the person making it (other than a deposition, an acknowledgment, an oath of office, or an oath required to be taken before a specified official other than a notary public) may be supported, evidenced, established, or proven by the person certifying in writing “under penalty of perjury” that the matter is true. The certification shall state the date and place of execution, the fact that a notary public or other official empowered to administer oaths is unavailable, and the following:

“I certify under penalty of perjury that the foregoing is true.”

(b) A person who makes a false sworn certification which the person does not believe to be true under penalty of perjury is guilty of perjury.

Sec. 09.63.030. Notarization.

(a) When a document is required by law to be notarized, the person who executes the document shall sign and swear to or affirm it before an officer authorized by law to take the person's oath or affirmation and the officer shall certify on the document that it was signed and sworn to or affirmed before the officer.

(b) The certificate required by this section may be in substantially the following form:
Subscribed and sworn to or affirmed before me at _____ on

If the document is sworn to or affirmed before a notary public of the state, the notary public shall

(1) affix on the document the

(A) notary public's official signature and official seal; and

(B) date of expiration of the notary public's commission; and

(2) comply with [AS 44.50.060](#) — 44.50.065 and other applicable law.

Sec. 09.63.040. Verification.

(a) When a document is required by law to be verified, the person required to verify it shall certify under oath or affirmation that the person has read the document and believes its content to be true.

(b) The person who makes the verification shall sign it before a person authorized by law to take the person's oath or affirmation.

(c) A verification made under this section may be in substantially the following form:

I _____ say on oath or affirm that I have read the foregoing (or attached) document and believe all statements made in the document are true. _____ Subscribed and sworn to or affirmed before me at _____ on _____

If the verification is sworn to or affirmed before a notary public of the state, the notary public shall

(1) affix on the document the

(A) notary public's official signature and official seal; and

(B) date of expiration of the notary public's commission; and

(2) comply with [AS 44.50.060](#) — 44.50.065 and other applicable law.

Article 2. Uniform Recognition of Acknowledgments Act.

Sec. 09.63.050. Recognition of notarial acts performed outside the state.

Notarial acts may be performed outside the state for use in the state with the same effect as if performed by a notary public of the state by

(1) a notary public authorized to perform notarial acts in the place in which the act is performed;

(2) a justice, judge, magistrate, clerk, or deputy clerk of a court of record in the place in which the notarial act is performed;

(3) an officer of the foreign service of the United States, a consular agent, or a person authorized by regulation of the United States Department of State to perform notarial acts in the place in which the act is performed;

(4) a commissioned officer in active service with the armed forces of the United States or a person authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for a merchant seaman of the United States, a member of the armed forces of the United States, a person serving with or accompanying the armed forces of the United States, or their dependents; or

(5) a person authorized to perform notarial acts in the place in which the act is performed.

Sec. 09.63.060. Authentication of authority of officer.

(a) If the notarial act is performed by a person described in [AS 09.63.050](#)(1) — (4) other than a

person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank or title and, if appropriate, the serial number of the person are sufficient proof of the authority of a person to perform the act.

(b) If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to act if

(1) either a foreign service officer of the United States resident in the country in which the act is performed or a diplomatic or consular officer of the foreign country resident in the United States certifies that a person holding that office is authorized to perform the act;

(2) the official seal of the person performing the notarial act is affixed to the document; or

(3) the title and indication of authority to perform notarial acts of the person appear either in a digest of foreign law or in a list customarily used as a source of that information.

(c) If the notarial act is performed by a person other than a person described in this section, there is sufficient proof of the authority of the person to act if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of the person and to the person's authority to perform the notarial act.

(d) The signature and title of the person performing the act are prima facie evidence that the person has the designated title and that the signature is genuine.

Sec. 09.63.070. Certificate of person taking acknowledgment.

The person taking an acknowledgment shall certify that

(1) the person acknowledging appeared before the person taking the acknowledgment and acknowledged that the person executed the instrument; and

(2) the person acknowledging was known to the person taking the acknowledgment or the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

Sec. 09.63.080. Recognition of certificate of acknowledgment.

The form of a certificate of acknowledgment used by a person whose authority is recognized under [AS 09.63.010](#) or 09.63.050 shall be accepted in the state if

(1) the certificate is in a form prescribed by the laws or regulations of the state;

(2) the certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or

(3) the certificate contains the words "acknowledged before me" or their substantial equivalent.

Sec. 09.63.090. Certificate of acknowledgment.

The words "acknowledged before me" mean that

(1) the person acknowledging

(A) appeared before the person taking the acknowledgment;

(B) acknowledged that the person executed the instrument;

(C) in the case of

(i) a natural person, acknowledged that the person executed the instrument for the purposes stated in it;

(ii) an officer or agent of a corporation, acknowledged that the person held the position or title set out in the instrument and certificate, acknowledged that the person signed the instrument on behalf of the corporation by proper authority, and acknowledged that the instrument was the act of the corporation for the purposes stated in it;

(iii) a member or manager of a limited liability company, acknowledged that the individual signed the instrument on behalf of the limited liability company by proper authority and executed the instrument as the act of the limited liability company for the purposes stated in it;

(iv) a partner or agent of a partnership, limited partnership, or limited liability partnership, acknowledged that the person signed the instrument on behalf of the partnership by proper authority and executed the instrument as the act of the partnership for the purposes stated in it;

(v) a person acknowledging as a principal by an attorney-in-fact, acknowledged that the person executed the instrument by proper authority as the act of the principal for the purposes stated in it;

(vi) a person acknowledging as a public officer, trustee, administrator, guardian, or other representative, acknowledged that the person signed the instrument in the capacity and for the purposes stated in it; and

(2) the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging is the person named in the instrument or certificate.

Sec. 09.63.100. Forms of acknowledgment.

(a) The forms of acknowledgment set out in this subsection may be used and are sufficient for their respective purposes under a law of the state. The authorization of the forms in this section does not preclude the use of other forms.

(1) For an individual acting in the individual's own right:

State of _____ Judicial District (or
County of _____ or Municipality of
_____) The foregoing instrument was acknowledged before
me this (date) by (name of person who acknowledged).

Signature of Person Taking
Acknowledgment

Title or Rank

Serial Number, if any

(2) For a corporation:

State of _____ Judicial District (or
County of _____ or Municipality of _____)
The foregoing instrument was acknowledged before
me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation
acknowledging) a (state or place of incorporation) corporation, on behalf of the corporation.
Signature of Person Taking
Acknowledgment

Title or Rank

Serial Number, if any

(3) For a limited liability company:

State of _____ Judicial District (or
County of _____ or Municipality of _____)
The foregoing instrument was acknowledged before
me this (date) by (name of member or manager), member (or manager) of (name of limited
liability company acknowledging) a (state or place of organization) limited liability company, on
behalf of the limited liability company.
Signature of Person Taking
Acknowledgment

Member (or Manager)

Serial Number, if any

(4) For a partnership:

State of _____ Judicial District (or
County of _____ or Municipality of _____)
The foregoing instrument was acknowledged before
me this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name
of partnership), a (partnership, limited partnership, or limited liability partnership).
Signature of Person Taking
Acknowledgment

Title or Rank

Serial Number, if any

(5) For an individual acting as principal by an attorney-in-fact:

State of _____ Judicial District (or
County of _____ or Municipality of _____)
The foregoing instrument was acknowledged before
me this (date) by (name of attorney-in-fact) as attorney-in-fact on behalf of (name of principal).
Signature of Person Taking
Acknowledgment

Title or Rank

Serial Number, if any

(6) By a public officer, trustee, or personal representative:

State of _____ Judicial District (or
County of _____ or Municipality of
_____) The foregoing instrument was acknowledged before
me this (date) by (name and title of position).

Signature of Person Taking
Acknowledgment

Title or Rank

Serial Number, if any

(b) If a document is acknowledged before a notary public of the state, the notary public shall

(1) affix on the document the

(A) notary public's official signature and official seal; and

(B) date of expiration of the notary public's commission; and

(2) comply with [AS 44.50.060](#) — 44.50.065 and other law.

Sec. 09.63.110. Uniformity of interpretation.

[AS 09.63.050](#) — 09.63.130 shall be interpreted as to make uniform the laws of those states which enact them.

Sec. 09.63.120. Definition.

In [AS 09.63.010](#) — 09.63.130, “notarial acts” means acts that the laws and regulations of the state authorize notaries public of the state to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgment of instruments, and attesting documents.

Sec. 09.63.130. Short title.

[AS 09.63.050](#) — 09.63.130 may be cited as the Uniform Recognition of Acknowledgments Act.

Chapter 65. Actions, Immunities, Defenses, and Duties.

Secs. 09.65.010 — 09.65.012. Officers authorized to administer oath or affirmation; certification of documents. [Repealed, § 6 ch 37 SLA 1981. For present provisions, see [AS 09.63.](#)]

Secs. 09.65.020 — 09.65.040. [Renumbered as [AS 09.68.020](#) — 09.68.040.]

Sec. 09.65.050. [Renumbered as [AS 09.15.040.](#)]

Sec. 09.65.060. [Renumbered as [AS 09.68.060.](#)]

Sec. 09.65.070. Suits against incorporated units of local government.

(a) Except as provided in this section, an action may be maintained against a municipality in its corporate character and within the scope of its authority.

(b) A municipality may not require a person to post bond as a condition to bringing a cause of action against it.

(c) An action may not be maintained against an employee or member of a fire department operated and maintained by a municipality or village if the claim is an action for tort or breach of a contractual duty and is based upon the act or omission of the employee or member of the fire department in the execution of a function for which the department is established.

(d) An action for damages may not be brought against a municipality or any of its agents, officers, or employees if the claim

(1) is based on a failure of the municipality, or its agents, officers, or employees, when the municipality is neither owner nor lessee of the property involved,

(A) to inspect property for a violation of any statute, regulation, or ordinance, or a hazard to health or safety;

(B) to discover a violation of any statute, regulation, or ordinance, or a hazard to health or safety if an inspection of property is made; or

(C) to abate a violation of any statute, regulation, or ordinance, or a hazard to health or safety discovered on property inspected;

(2) is based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty by a municipality or its agents, officers, or employees, whether or not the discretion involved is abused;

(3) is based upon the grant, issuance, refusal, suspension, delay, or denial of a license, permit, appeal, approval, exception, variance, or other entitlement, or a rezoning;

(4) is based on the exercise or performance during the course of gratuitous extension of municipal services on an extraterritorial basis;

(5) is based upon the exercise or performance of a duty or function upon the request of, or by the terms of an agreement or contract with, the state to meet emergency public safety requirements; or

(6) is based on the exercise or performance of a duty in connection with an enhanced 911 emergency system and is not based on an intentional act of misconduct or on an act of gross negligence.

(e) In this section

(1) “municipality” has the meaning given in [AS 01.10.060](#) and includes a public corporation established by a municipality;

(2) “village” means an unincorporated community where at least 25 people reside as a social unit.

Sec. 09.65.080. Suits by incorporated units of local government.

An action may be maintained by an incorporated borough, city, or other public corporation of like

character in its corporate name, and upon a cause of action accruing to it in its corporate character

(1) upon a contract made with the public corporation;

(2) upon a liability prescribed by law in favor of the public corporation;

(3) to recover a penalty or forfeiture given to the public corporation;

(4) to recover damages for an injury to the corporate rights or property of the public corporation.

Sec. 09.65.083. Civil liability of nonprofit and university fire departments.

(a) An action for tort or breach of a contractual duty based on the act or omission of an employee or member of a nonprofit or university fire department in the execution of a function for which the department is established may not be maintained against an employee or member of the nonprofit or university fire department.

(b) An action for tort or breach of a contractual duty based on the act or omission of an employee or member of a nonprofit or university fire department in the execution of a function for which the department is established may not be maintained against the nonprofit or university fire department unless the action

(1) alleges intentional misconduct or gross negligence; or

(2) is based on the act or omission of an employee or member of the nonprofit or university fire department in the execution of a duty under contract with a private entity.

(c) The immunity afforded by this section is in addition to any immunity under other law.

(d) This section does not limit the authority of a municipality or village to maintain an action against a contractor, vendor, or supplier providing services or goods to the municipality or village.

(e) In this section,

(1) “nonprofit or university fire department” means a fire department registered with the state fire marshal that is

(A) operated and maintained by a university; or

(B) a nonprofit that provides services under contract or agreement with a municipality or village;

(2) “village” means an unincorporated community where at least 25 people reside as a social unit.

Sec. 09.65.085. Civil liability of electric utility.

(a) A utility offering electrical service to the public for compensation under a certificate of public convenience and necessity issued by the former Alaska Public Utilities Commission or the Regulatory Commission of Alaska under [AS 42.05.221](#) may not be held strictly liable for property damage, death, or personal injury resulting from an act or omission of the utility relating to the production, delivery, or sale of electricity.

(b) This section does not preclude liability for civil damages that are the result of an intentional, reckless, or negligent act or omission.

Sec. 09.65.087. Civil liability for use of an automated external defibrillator.

(a) A person who uses or attempts to use an automated external defibrillator device on a victim of a perceived medical emergency is not liable for civil damages resulting from the use or attempted use of the device. This subsection does not apply to civil damages resulting from a failure to notify the appropriate emergency medical services agency.

(b) A person who acquires or provides an automated external defibrillator device for use on a victim of a perceived medical emergency is not liable for civil damages resulting from the use or attempted use of the device. This subsection does not apply to civil damages resulting from gross negligence.

(c) The immunity provided by (b) of this section does not apply to a manufacturer of an automated external defibrillator.

(d) [Repealed, § 2 ch 19 SLA 2015.]

Sec. 09.65.090. Civil liability for emergency aid.

(a) A person at a hospital or any other location who renders emergency care or emergency counseling to an injured, ill, or emotionally distraught person who reasonably appears to the person rendering the aid to be in immediate need of emergency aid in order to avoid serious harm or death is not liable for civil damages as a result of an act or omission in rendering emergency aid.

(b) A member of an organization that exists for the purpose of providing emergency services is not liable for civil damages for injury to a person that results from an act or omission in providing first aid, search, rescue, or other emergency services to the person, regardless of whether the member is under a preexisting duty to render assistance, if the member provided the service while acting as a volunteer member of the organization; in this subsection, “volunteer” means a person who is paid not more than \$10 a day and a total of not more than \$500 a year, not including ski lift tickets and reimbursement for expenses actually incurred, for providing emergency services.

(c) The immunity provided under (b) of this section does not apply to civil damages that result from providing or attempting to provide any of the following advanced life support techniques unless the person who provided them was authorized by law to provide them:

- (1) manual electric cardiac defibrillation;
- (2) administration of antiarrhythmic agents;
- (3) intravenous therapy;
- (4) intramuscular therapy; or
- (5) use of endotracheal intubation devices.

(d) This section does not preclude liability for civil damages as a result of gross negligence or reckless or intentional misconduct.

(e) [Repealed, § 2 ch 92 SLA 2003.]

(f) [Repealed, § 2 ch 92 SLA 2003.]

Sec. 09.65.091. Civil liability for responding to disaster.

(a) A person who provides equipment or services on the request of a police agency, fire department, rescue or emergency squad, or other governmental agency during a state of emergency declared by an authorized representative of the state or local government is not liable for the death of or injury to any person or damage to any property caused by that person's actions, except when the trier of facts finds that the person acted intentionally, recklessly, or with gross negligence.

(b) This section does not affect the right of a person to receive benefits to which the person would otherwise be entitled under the workers' compensation law or under any pension law, nor does it affect entitlement to any other benefits or compensation authorized by state or federal law.

Sec. 09.65.092. Civil liability for voluntary aircraft safety inspection.

An aircraft or power plant technician or mechanic certified by the Federal Aviation Administration who participates without compensation in a voluntary aircraft safety inspection program is not liable for civil damage resulting from an act or omission arising out of an aircraft safety inspection in that program unless the act or omission constitutes gross negligence or reckless or intentional misconduct.

Sec. 09.65.093. Civil liability relating to aircraft runways, airfields, and landing areas.

(a) Except as provided in (c) of this section, a person who without compensation owns, operates, constructs, maintains, or repairs an aircraft runway, airfield, or landing area may not be held civilly liable, except for an act or omission that constitutes gross negligence or recklessness or intentional misconduct, for the injury to or death of a person or for damage to an aircraft, resulting from the use of the runway, airfield, or landing area to take off, land, park, or operate an aircraft.

(b) [Repealed, § 2 ch 3 SLA 2008.]

(c) The immunity from civil liability under (a) of this section does not limit the liability of an owner or operator of an aircraft runway, airfield, or landing area to a provider of flight services or its passengers under contract with the owner or operator.

Sec. 09.65.094. Liability for inspection, installation, or adjustment of a child safety seat.

(a) Except as provided in (b) of this section, a person other than a manufacturer of child safety seats or an agent or employee of a manufacturer of child safety seats is not liable for civil damages as a result of an act or omission that occurs in the inspection, installation, or adjustment of a child safety seat or in providing education regarding the installation or adjustment of a child safety seat if

(1) the person

(A) has successfully completed the National Child Passenger Safety Certification Training Program and maintains a current child passenger safety technician or technician instructor certification issued under that program;

(B) offers or arranges a nonprofit child safety seat educational program, checkup event, or checking station program for the public with instruction by certified child passenger safety technicians or technician instructors; or

(C) owns property where a nonprofit child safety seat educational program, checkup event, or checking station program for the public occurs with instruction by certified child passenger safety technicians or technician instructors; and

(2) the services are provided

(A) without a fee, other than for the reimbursement of actual expenses;

(B) in good faith; and

(C) within the scope of training for which the person is currently certified.

(b) This section does not apply to a civil action

(1) for damages resulting from gross negligence or wilful or wanton misconduct; or

(2) where the inspection, installation, or adjustment of a child safety seat, or education provided regarding the inspection, installation, or adjustment of a child safety seat, is performed in conjunction with the for-profit sale of a child safety seat.

Sec. 09.65.095. Liability for administration of blood test.

(a) A civil or criminal action arising out of battery may not be brought against a health care provider for the act of taking a blood sample if the sample is taken

(1) at the request of a police officer under the circumstances specified in [AS 28.35.035](#) or when the arresting officer has a search warrant or court order authorizing the taking of the blood sample; and

(2) without the use of excessive or unreasonable force.

(b) Nothing in this section shall be construed to prohibit recovery of damages incident to the improper or negligent withdrawal of blood.

(c) In this section,

(1) "health care provider" means a nurse licensed under [AS 08.68](#), a physician licensed under [AS 08.64](#), and a person certified by a hospital as competent to take blood samples;

(2) "hospital" means a hospital as defined in [AS 47.32.900](#), including a governmentally owned or operated hospital.

Sec. 09.65.096. Civil liability of hospitals for certain physicians.

(a) A hospital is not liable for civil damages as a result of an act or omission by an emergency

room physician who is not an employee or actual agent of the hospital if the hospital provides notice that the emergency room physician is an independent contractor and the emergency room physician is insured as described under (c) of this section. The hospital is responsible for exercising reasonable care in granting privileges to practice in the hospital, for reviewing those privileges on a regular basis, and for taking appropriate steps to revoke or restrict privileges in appropriate circumstances. The hospital is not otherwise liable for the acts or omissions of an emergency room physician who is an independent contractor. The notice required by this subsection must (1) be posted conspicuously in all admitting areas of the hospital; (2) consist of a sign at least two feet high and two feet wide, with print at least two inches high; (3) be published at least annually in a newspaper of general circulation in the area; and (4) be in substantially the following form:

Notice to Hospital Users and Notice of Limited Liability (Name of hospital) may not be responsible for the actions of emergency room physicians in (name of hospital's emergency room). The following emergency room physicians are independent contractors and are not employees of the hospital: (List specific emergency room physicians)

(b) This section does not preclude liability for civil damages that are the proximate result of the hospital's negligence or intentional misconduct.

(c) A hospital is not immune from liability under (a) of this section for an act or omission of an emergency room physician who is an independent contractor unless the emergency room physician has liability insurance coverage in the amount of at least \$500,000 for each incident and \$1,500,000 for all incidents in a year, and the coverage is in effect and applicable to those health care services offered by the emergency room physician that the hospital is required to provide by law or by accreditation requirements.

(d) In this section,

(1) "emergency room physician" means a physician who does not have an ongoing physician-patient relationship with the emergency room patient and who provides emergency health care services in a hospital emergency room;

(2) "hospital" has the meaning given in [AS 47.32.900](#) and includes a governmentally owned or operated hospital;

(3) "independent contractor" means an emergency room physician who is not an employee or actual agent of the hospital in connection with the rendition of the health care services.

Sec. 09.65.097. Civil liability for emergency veterinary care.

(a) A veterinarian licensed in this or another licensing jurisdiction, or a person working under the direct supervision of a licensed veterinarian, who renders emergency care to an injured or ill animal that reasonably appears to the veterinarian or supervised person to be in immediate need of emergency aid in order to avoid serious harm or death is not liable for civil damages as a result of an act or omission in rendering emergency aid.

(b) This section does not apply to service rendered at the request of an owner of the animal and does not preclude liability for civil damages as a result of gross negligence or reckless or intentional misconduct.

Sec. 09.65.100. [Renumbered as [AS 25.20.025.](#)]

Secs. 09.65.110 — 09.65.120. [Renumbered as [AS 09.68.110](#) — 09.68.120.] .

Sec. 09.65.112. Civil liability for aircraft and watercraft guest passengers.

(a) An owner or operator of an aircraft or watercraft is not liable for the civil damages of a person being transported in the owner's or operator's aircraft or watercraft if the aircraft or watercraft is not being used for commercial purposes.

(b) This section does not apply to a civil action

(1) for damages resulting from

(A) gross negligence or reckless or intentional misconduct;

(B) an act or omission of an owner or operator of an aircraft or watercraft if the aircraft or watercraft is being operated as a common carrier; or

(C) an act or omission of an owner or operator of an aircraft or watercraft that occurs while demonstrating an aircraft or watercraft to a prospective buyer; or

(2) described under (a) of this section if the owner or operator

(A) has insurance that would compensate the claimant for civil damages awarded against the owner or operator; an owner or operator who is insured as described in this subparagraph is not liable for civil damages described in (a) of this section that exceed the applicable insurance; or

(B) does not have insurance that would compensate a person being transported as described under (a) of this section for civil damages awarded against the owner or operator and, before the person being transported enters the aircraft or watercraft, the owner or operator fails to provide notice to the person being transported that the owner or operator is uninsured as described in this subparagraph.

Sec. 09.65.130. [Renumbered as [AS 25.24.310.](#)]

Sec. 09.65.132. [Renumbered as [AS 25.27.062.](#)]

Sec. 09.65.135. Limitations on claims arising from skiing. [Repealed, § 3 ch 63 SLA 1994. For current law, see [AS 05.45.](#)]

Sec. 09.65.145. Liability for injuries or death resulting from livestock activities.

(a) Livestock are unpredictable and inherently dangerous. All persons who knowingly place themselves in proximity to livestock for any reason involving an activity that includes livestock subject themselves to serious injury or death and are considered a participant in livestock activity and assume the risk of injury or death caused by the livestock.

(b) Except as otherwise provided in this section, a person, and the personal representative of a person, who suffers an injury or death resulting from a livestock activity may not recover civil damages for the injury or death from a livestock activity sponsor, livestock professional, or livestock activity participant, or the agents or employees of a livestock activity sponsor, livestock professional, or livestock activity participant.

(c) This section does not affect a civil action for damages resulting from

(1) gross negligence or reckless or intentional misconduct of the livestock activity sponsor, livestock professional, or livestock activity participant, or agents or employees of the livestock activity sponsor, livestock professional, or livestock activity participant;

(2) equipment, tack, or a product provided by the livestock activity sponsor, livestock

professional, or livestock activity participant that the livestock activity sponsor, livestock professional, or livestock activity participant knows is faulty or defective;

(3) the failure of the livestock activity sponsor, livestock professional, or livestock activity participant who provided the livestock to make a reasonable and prudent effort to determine the ability of the participant to safely manage the livestock activity, after taking into account the participant's representation of ability; a participant in a livestock show, livestock sale, or rodeo is presumed to be competent to handle livestock if an entry form is required for the activity and is signed or submitted by the participant.

(d) This section does not nullify coverage or an award for an injury to or death of an employee of a livestock activity sponsor or livestock professional if the employee suffers an injury or death resulting from a livestock activity and the injury or death is covered by or subject to workers' compensation provisions under [AS 23.30](#).

(e) This section does not prevent or limit the liability of a livestock activity sponsor, livestock professional, or livestock activity participant, or their agents or employees under a liability provision as provided in a law relating to product liability.

(f) A livestock activity sponsor may not be held vicariously liable for the acts or omissions of a livestock activity participant or a livestock professional.

(g) A person may agree, in writing, to waive the entire right to recover damages resulting from an inherent risk of a livestock activity.

(h) This section does not affect the immunity of an owner of unimproved land under [AS 09.65.200](#).

(i) In this section,

(1) "inherent risk of a livestock activity" means those dangers or conditions that are an integral part of a livestock activity, including

(A) the propensity of livestock to behave in ways that may result in injury to a person on or around livestock;

(B) the unpredictability of livestock's reaction to sound, sudden movement, and unfamiliar objects or persons, or other animals;

(C) hazards or conditions unknown to a livestock activity sponsor;

(D) collisions with other livestock or objects;

(E) the potential of tack to become dislodged or move in ways that may result in injury to a person on or around a livestock activity; and

(F) the potential of a person to negligently engage in conduct that contributes to an injury or death during a livestock activity;

(2) "livestock" includes a domestic cow, domestic bison, hog, sheep, goat, domestic musk ox, yak, pig, legally possessed caribou, reindeer, domestic elk, rabbit, hamster, guinea pig, turkey, chicken, pheasant, peafowl, pigeon, horse, mule, donkey, camel, llama, alpaca, or a waterfowl that does not require a federal permit; "livestock" does not mean a dog or cat;

(3) "livestock activity" includes

(A) livestock shows, fairs, sales, competitions, or performances that involve any or all

breeds of livestock and any of the livestock disciplines, including rodeos, auctions, driving, pulling, judging, cutting, therapeutic riding, and showing;

(B) livestock training or teaching activities or both training and teaching activities;

(C) boarding or pasturing livestock;

(D) testing, inspecting, or evaluating livestock belonging to another person, whether or not the owner has received monetary consideration or other thing of value for the use of the livestock or is permitting a prospective purchaser of the livestock to inspect or evaluate the livestock;

(E) driving, riding, grooming, traveling, or other livestock activities of any type, however informal or impromptu, that are sponsored by a livestock activity sponsor;

(F) placing or replacing horseshoes on an equine, or otherwise preparing livestock for show; and

(G) assisting in providing medical treatment to livestock;

(4) “livestock activity sponsor” means an individual, group, club, partnership, limited liability company, nonprofit corporation, or corporation operating for profit that sponsors, organizes, or provides the livestock, equipment, tack, facilities, or instruction for a livestock activity;

(5) “livestock professional” means a person who receives compensation for instructing a participant, renting livestock to a participant for the purpose of engaging in livestock activity, or renting equipment or tack to a participant;

(6) “participant” means a person, whether amateur or professional, who engages in a livestock activity or who is near or close to livestock, whether or not a fee is paid to participate in the livestock activity.

Sec. 09.65.150. Duty to disabled pedestrians.

(a) The driver of a vehicle approaching a physically disabled pedestrian who is carrying a white or metallic-colored cane, or using special equipment for mobility, or using a service animal, shall take precautions necessary to avoid injury to the pedestrian or the service animal. A driver who fails to take necessary precautions and, as a result, causes injury to the pedestrian or the service animal, or causes property damage, is liable for the injury or damage caused.

(b) In this section,

(1) “physically disabled pedestrian” means a person who has a physical condition that limits the person’s ability to function as a pedestrian without the assistance of another person, a service animal, a cane, or other equipment or device;

(2) “service animal” means a dog guide or other animal that assists a physically disabled person to function as a pedestrian.

Sec. 09.65.155. Civil liability of firearms or ammunition manufacturer or dealer.

A civil action to recover damages or to seek injunctive relief may not be brought against a person

who manufactures or sells firearms or ammunition if the action is based on the lawful sale, manufacture, or design of firearms or ammunition. However, this section does not prohibit a civil action resulting from a negligent design, a manufacturing defect, a breach of contract, or a breach of warranty.

Sec. 09.65.160. Immunity for good faith disclosures of job performance information.

An employer who discloses information about the job performance of an employee or former employee to a prospective employer of the employee or former employee at the request of the prospective employer or the employee or former employee is presumed to be acting in good faith and, unless lack of good faith is shown by a preponderance of the evidence, may not be held liable for the disclosure or its consequences. For purposes of this section, the presumption of good faith is rebutted upon a showing that the employer or former employer

(1) recklessly, knowingly, or with a malicious purpose disclosed false or deliberately misleading information; or

(2) disclosed information in violation of a civil right of the employee or former employee that is protected under [AS 18.80](#) or under comparable federal law.

Sec. 09.65.161. Immunity for disclosure of required health care data.

A person who reports health care data required to be reported under [AS 18.05](#) and regulations adopted under that chapter for conditions or diseases of public health importance may not be held liable for the disclosure to the Department of Health or for the use of the data by the department.

Sec. 09.65.170. Limited liability of certain directors and officers.

(a) Unless the act or omission constituted gross negligence, a person may not recover tort damages for personal injury, death, or damage to property for an act or omission to act in the course and scope of official duties, from one of the following:

(1) a member of the board of directors or an officer of a nonprofit corporation;

(2) a member of the board of directors of a public or nonprofit hospital, or a member of a citizen's advisory board of any hospital;

(3) a member of a school board of a school district;

(4) a member of the governing body, a commission, or a citizen's advisory committee of a municipality of the state;

(5) a member of the board of directors, an officer, or an employee of a regional development organization.

(b) Notwithstanding (a) of this section, the duties and liabilities of a director or officer of a nonprofit corporation to the corporation or the corporation's shareholders may not be limited or modified.

(c) In this section,

(1) "nonprofit corporation" means a corporation that qualifies for exemption from taxation under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue Code);

(2) "regional development organization" means a nonprofit organization or nonprofit

corporation formed to encourage economic development within a particular region of the state that includes the entire area of each municipality within that region and that has a board of directors that represents the region's economic, political, and social interests.

Sec. 09.65.180. Civil liability of zoos.

(a) Except as provided in (b) of this section, a person who owns or operates a zoo is strictly liable for injury to a person or property if the injury is caused by an animal owned by or in the custody of the zoo.

(b) A person who owns or operates a zoo is not strictly liable as provided in (a) of this section if

(1) the animal that caused the injury was within the animal's normal place of confinement at the time the injury occurred;

(2) the zoo owner or operator had posted signs at prominent places within the zoo, including at each entrance, warning that the liability of the zoo for injuries caused by animals within their normal place of confinement is limited by law; and

(3) the enclosure within which the animal was confined at the time of the injury was constructed and maintained in a manner that prevents a person who exercises ordinary care customary for a person of similar age, intelligence, and experience from contacting the animal or entering the enclosure.

Sec. 09.65.200. Tort immunity for personal injuries or death occurring on unimproved land.

(a) An owner of unimproved land is not liable in tort, except for an act or omission that constitutes gross negligence or reckless or intentional misconduct, for damages for the injury to or death of a person who enters onto or remains on the unimproved portion of land if

(1) the injury or death resulted from a natural condition of the unimproved portion of the land or the person entered onto the land for recreation; and

(2) the person had no responsibility to compensate the owner for the person's use or occupancy of the land.

(b) This section does not enhance or diminish rights granted under former 43 U.S.C. 932 (R.S. 2477).

(c) In this section, "unimproved land" includes land that contains

(1) a trail;

(2) an abandoned aircraft landing area; or

(3) a road built to provide access for natural resource extraction, but which is no longer maintained or used.

Sec. 09.65.202. Tort immunity for landowners' allowing recreational activity; adverse possession.

(a) A landowner that allows a recreational activity on the landowner's land without charge does not, by allowing that activity,

(1) owe a duty of care to maintain the land safe for entry or use for a recreational activity or to eliminate, alter, or control the inherent risks of a recreational activity;

(2) owe a duty to warn persons using the land for a recreational activity of any dangerous condition, known or unknown, apparent or hidden;

(3) owe a duty to curtail or prevent use of the land for recreational activities;

(4) implicitly ensure that the land is safe for any purpose;

(5) confer a legal status, such as invitee or licensee, to which a special duty of care is owed; or

(6) assume responsibility for any injury to persons or property.

(b) This section applies only during the time that a landowner allows recreational use under a recorded grant of a public recreational use easement as required in [AS 34.17.100](#).

(c) This section does not apply to a civil action

(1) if the landowner collects a charge for entry on the land for a recreational activity; or

(2) that is based on intentional, reckless, or grossly negligent conduct of the landowner.

(d) This section may not be construed to conflict with, nor does it have any effect on, a liability release agreement between a participant in a recreational activity and a landowner.

(e) Except as provided for under [AS 09.45.052](#)(d), land use allowed by a landowner for a recreational activity without charge may not form the basis of a claim for adverse possession, prescriptive easement, or a similar claim.

(f) In this section,

(1) "charge" means a fee or admission price imposed for access to or use of land, a recreational activity, a service, an entertainment, or another activity, except that the following is not considered a "charge":

(A) consideration received by the landowner from the state or political subdivision for land leased or dedicated to the state or political subdivision;

(B) property tax relief in exchange for a landowner's agreement to open land for a recreational activity; or

(C) a contribution in kind, service, or cash from a user if all of the contribution is used to improve access or trails, to remedy or reduce damage, to provide warning of a hazard, or to remove a hazard from the land;

(2) "land" includes private

(A) unimproved land;

(B) improved land, exclusive of buildings, structures, machinery, or equipment on the land;

(C) ways or land subject to an easement or right-of-way;

(D) roads and trails;

(E) water and watercourses on or running through the land;

(3) “landowner” means a private person who owns land;

(4) “private person” has the meaning given in [AS 09.55.240](#);

(5) “recreational activity” has the meaning given “sports or recreational activity” in [AS 09.65.290](#).

Sec. 09.65.205. Civil liability for controlled substances offense.

(a) A person who sells or barter a controlled substance in violation of [AS 11.71](#) is strictly liable

(1) to the recipient or another person for civil damages if, while under the influence of the controlled substance, the person receiving the controlled substance engages in conduct that results in civil damages and the recipient's being under the influence of the controlled substance substantially contributes to the civil damages; and

(2) for the cost to the state or political subdivision to criminally prosecute a person who receives a controlled substance from a person who violates [AS 11.71](#) if the prosecution results from the violation of [AS 11.71](#) described in this subsection.

(b) In an action under (a) of this section, it is not a defense that the person receiving the controlled substance voluntarily consumed the controlled substance or was voluntarily under the influence of the controlled substance.

(c) In this section,

(1) “civil damages” includes damages for personal injury, death, or injury to property of a person, including the state or a political subdivision of the state;

(2) “controlled substance” has the meaning given in [AS 11.71.900](#).

Sec. 09.65.210. Damages resulting from commission of a felony or while under the influence of alcohol or drugs.

A person who suffers personal injury or death or the person's personal representative under [AS 09.55.570](#) or 09.55.580 may not recover damages for the personal injury or death if the injury or death occurred while the person was

(1) engaged in the commission of a felony, the person has been convicted of the felony, including conviction based on a guilty plea or plea of nolo contendere, and the party defending against the claim proves by clear and convincing evidence that the felony substantially contributed to the personal injury or death;

(2) engaged in conduct that would constitute the commission of an unclassified felony, a class A felony, or a class B felony for which the person was not convicted and the party defending against the claim proves by clear and convincing evidence

(A) the felonious conduct; and

(B) that the felonious conduct substantially contributed to the personal injury or death;

(3) fleeing after the commission, by that person, of conduct that would constitute an

unclassified felony, a class A felony, or a class B felony or being apprehended for conduct that would constitute an unclassified felony, a class A felony, or a class B felony if the party defending against the claim proves by clear and convincing evidence

(A) the felonious conduct; and

(B) that the conduct during the flight or apprehension substantially contributed to the injury or death;

(4) operating a vehicle, aircraft, or watercraft while under the influence of intoxicating liquor or any controlled substance in violation of [AS 28.35.030](#), was convicted, including conviction based on a guilty plea or plea of nolo contendere, and the party defending against the claim proves by clear and convincing evidence that the conduct substantially contributed to the personal injury or death; or

(5) engaged in conduct that would constitute a violation of [AS 28.35.030](#) for which the person was not convicted if the party defending against the claim proves by clear and convincing evidence

(A) the violation of [AS 28.35.030](#); and

(B) that the conduct substantially contributed to the personal injury or death.

Sec. 09.65.215. Immunity of peace officer for use of body wire eavesdropping device.

(a) A peace officer who intercepts an oral communication by use of an electronic, mechanical, or other eavesdropping device that is concealed on or carried on the person of the peace officer and that transmits that oral communication by means of radio to a receiving unit that is monitored by other peace officers, or who monitors the receiving unit, is not liable for damages to a person whose oral communication is intercepted if

(1) the interception and monitoring occurs

(A) during the investigation of a crime or the arrest of a person for a crime; and

(B) for the purpose of ensuring the safety of the peace officer conducting the investigation or making the arrest;

(2) the peace officer who intercepts the oral communication is a party to the communication and has consented to the interception; and

(3) the communication intercepted is not recorded.

(b) In this section,

(1) "intercept" has the meaning given in [AS 42.20.390](#);

(2) "oral communication" has the meaning given in [AS 42.20.390](#);

(3) "peace officer" has the meaning given in [AS 11.81.900\(b\)](#).

Sec. 09.65.220. Immunity for certain real property disclosures.

The owner of an interest in real property, the owner's agent, and the agent of the transferee of the interest are not liable to the transferee for the owner or agent's failure to disclose information on

the real property to the transferee, if the disclosure would constitute discrimination prohibited by 42 U.S.C. 3601 — 3631 (Fair Housing Act). In this section, “transferee” includes a purchaser, lessee, and easement holder.

Sec. 09.65.230. Innocent misrepresentations by agents in real property transfers.

The agent of a transferor or transferee is not liable for an innocent misrepresentation in information provided to the transferor or transferee in the transfer of an interest in real property if the agent does not have personal knowledge of the error, inaccuracy, or omission that is the basis for the misrepresentation.

Sec. 09.65.235. Immunity for negotiated regulation making committee and its members.

A civil action for damages or costs may not be brought against a negotiated regulation making committee established under [AS 44.62.710](#) — 44.62.800 or any of its members for an act or omission occurring in the course and scope of the official duties of the committee under [AS 44.62.710](#) — 44.62.800.

Sec. 09.65.240. Liability of the state and regional educational attendance areas for release of hazardous substances.

(a) Notwithstanding [AS 46.03.822\(a\)](#), neither the state nor a regional educational attendance area established under [AS 14.08](#), nor an agent or employee of the state or a regional educational attendance area acting within the scope of that agency or employment, is subject to liability under [AS 46.03.822](#) for damages, as defined in [AS 46.03.822\(n\)](#) and 46.03.824, for the release of a hazardous substance at or from any facility used in relation to a regional educational attendance area school as described in [AS 14.08.151](#) or at or from any facility used in relation to a school operated by the state under [AS 14.16](#).

(b) In this section,

(1) “facility” has the meaning given in [AS 46.03.826](#);

(2) “hazardous substance” has the meaning given in [AS 46.03.826](#).

Sec. 09.65.245. Immunity for certain persons supplying or using gravel or other aggregate material; limitations on asbestos-related actions against defendants.

(a) Notwithstanding [AS 09.50.250](#), a civil action or claim for damages or costs alleging a death, injury, illness, disability, property damage, or any other damages resulting from the use of gravel or other aggregate material that contains naturally occurring asbestos may not be brought against a defendant, including a contractor meeting the requirements of the program or the state and its agencies, officers, and employees,

(1) based on the ownership of land within an area designated by the Department of Transportation and Public Facilities under [AS 44.42.400\(b\)](#) or (c) from which gravel or other aggregate material is extracted that, when tested using a bulk method prescribed by the Department of Transportation and Public Facilities by regulation, is determined to have a content equal to or greater than 0.25 percent naturally occurring asbestos by mass; or

(2) for an act or omission occurring in the course of extracting, supplying, transporting, or using gravel or other aggregate material containing naturally occurring asbestos within an area designated by the Department of Transportation and Public Facilities under [AS 44.42.400\(b\)](#) or (c) when the act or omission was in compliance with the requirements of [AS 18.31.250](#) or [AS](#)

[44.42.410](#)(b), as applicable, and [AS 44.42.410](#)(a) and (e) and applicable regulations developed under [AS 44.42.420](#).

(b) A civil action or claim based on noncompliance with the requirements of [AS 18.31.250](#) or [AS 44.42.410](#)(b), as applicable, and [AS 44.42.410](#)(a) and (e) and applicable regulations developed under [AS 44.42.420](#) for damages or costs alleging an asbestos-related death, injury, illness, or disability or alleging asbestos-related property damage or any other asbestos-related damages may only be brought against a defendant that has direct control over or responsibility for compliance with the requirements of [AS 18.31.250](#) or [AS 44.42.410](#)(b), as applicable, and [AS 44.42.410](#)(a) and (e) and applicable regulations developed under [AS 44.42.420](#).

(c) Notwithstanding [AS 09.50.250](#), a civil action or claim for damages or costs alleging an asbestos-related death, injury, illness, or disability or alleging asbestos-related property damage or any other asbestos-related damages may not be brought against any state agency or officer or employee of the state for an act or omission occurring in the course of designating a project area under [AS 44.42.400](#)(b) or (c), approving a site-specific use plan, or developing or approving a monitoring plan or a mitigation plan under [AS 44.42.410](#).

(d) In this section, “naturally occurring asbestos” has the meaning given in [AS 44.42.430](#).

Sec. 09.65.250. Immunity for certain actions related to child support.

A person, including the state and its subdivisions, agencies, officers, and employees, may not be held liable for good faith

(1) compliance with a subpoena of this or another state that requests information, including the social security number and employment history of a person, issued by the child support services agency created in [AS 25.27.010](#), or the child support enforcement agency of another state, for child support purposes authorized under law;

(2) collection of child support, including encumbering or surrendering assets in response to a notice of lien or levy for the payment of child support; or

(3) compliance with an income withholding notice or an order to withhold and deliver that is regular on its face and is for child support purposes.

Sec. 09.65.255. Liability for acts of minors.

(a) Except as provided under (d) and (e) of this section, a person, municipal corporation, association, village, school district, or religious or charitable organization, incorporated or unincorporated, may recover damages in a civil action in an amount not to exceed \$15,000 and court costs from either parent or both parents of an unemancipated minor under the age of 18 years who, as a result of a knowing or intentional act, destroys real or personal property belonging to the person, municipal corporation, association, village, school district, or religious or charitable organization. However, for purposes of this subsection, recovery in damages shall be apportioned by the court between the parents without regard to legal custody but with due consideration for the actual care and custody of the minor provided by the parents.

(b) A state agency or its agents, including a person working in or responsible for the operation of a foster home, as defined in [AS 47.32.900](#), juvenile treatment facility, juvenile detention facility, or treatment institution, is not liable for the acts of unemancipated minors in its charge or

custody. A state agency or an agent of a state agency, including a nonprofit corporation that designates shelters for runaways under [AS 47.10.392](#) — 47.10.399 and employees of or volunteers with that corporation, is not liable for the acts of a minor sheltered in a shelter for runaways, as defined in [AS 47.10.399](#). In this subsection,

(1) “juvenile detention facility” has the meaning given in [AS 47.12.990](#);

(2) “juvenile treatment facility” has the meaning given in [AS 47.12.990](#);

(3) “treatment institution” has the meaning given in [AS 47.14.990](#).

(c) A parent of an unemancipated minor under the age of 18 years who is a runaway or missing minor is not liable under (a) of this section for the acts of the minor that are committed by the minor after a parent of the minor has made a report to a law enforcement agency, as authorized by [AS 47.10.141](#)(a), that the minor has run away or is missing. In this subsection, “runaway or missing minor” means a minor who a parent reasonably believes is absent from the minor's residence for the purpose of evading a parent or who is otherwise missing from the minor's usual place of abode without the consent of a parent.

(d) If a parent has an insurance policy that would compensate a claimant for civil damages described under (a) of this section, and the policy limits are in excess of \$15,000, civil damages may be recovered under (a) of this section in an amount not to exceed the policy limits or \$25,000, whichever amount is lower.

(e) Subsection (a) of this section does not authorize the recovery of damages from

(1) a legal guardian; or

(2) the adoptive parents of a hard-to-place child if the adoptive parents are receiving, at the time the property is destroyed, financial assistance from the state as a result of the adoption; in this paragraph, “hard-to-place child” has the meaning given in [AS 25.23.240](#).

(f) If damages are recovered in a civil action as allowed under (a) of this section, the court shall require the unemancipated minor who caused the damages to provide a written report to the court regarding

(1) financial resources of the minor that are available for purposes of restitution;

(2) restitution the minor has made to the claimants; and

(3) what, if anything, the minor has learned from the civil justice process.

Sec. 09.65.260. Claims against persons engaged in business arising out of or in connection with the year 2000 date change. [Repealed, § 3 ch 79 SLA 1999.]

Sec. 09.65.270. Civil immunity related to the sale or transfer of a firearm.

(a) A person may not bring a civil action for damage or harm caused by an individual for whom a federal firearm certificate was executed if the action arises from the execution of the federal firearm certificate by a public official with the authority under federal law to execute the certificate and the individual causing the damage or harm

(1) is the transferee of the firearm; and

(2) at the time the certificate is executed either

(A) has a permit to carry a concealed handgun issued under [AS 18.65.700](#); or

(B) meets the qualifications imposed under [AS 18.65.705\(1\)](#) — (5) for obtaining a concealed handgun permit.

(b) In this section, “federal firearm certificate” means the certificate required on a federal “Form 1 (Firearms),” “Form 4 (Firearms),” or “Form 5 (Firearms).”

Sec. 09.65.280. Civil liability of state for acts or omissions of village public safety officers. Notwithstanding another provision of law, the state and its officers, agents, and employees are not liable in tort, except for an act or omission that constitutes gross negligence or reckless or intentional misconduct, for damages for the injury to or death of a person or property damage resulting from the supervision of, training of, actions of or failure to act of, or use of or failure to use village public safety officers in communicating with or monitoring the activities of persons on probation or parole.

Sec. 09.65.290. Civil liability for sports or recreational activities.

(a) A person who participates in a sports or recreational activity assumes the inherent risks in that sports or recreational activity and is legally responsible for all injuries or death to the person or other persons and for all damage to property that results from the inherent risks in that sports or recreational activity.

(b) This section does not require a provider to eliminate, alter, or control the inherent risks within the particular sports or recreational activity that is provided.

(c) This section does not apply to a civil action based on the

(1) negligence of a provider if the negligence was the proximate cause of the injury, death, or damage; or

(2) design or manufacture of sports or recreational equipment or products or safety equipment used incidental to or required by a sports or recreational activity.

(d) Nothing in this section shall be construed to conflict with or render as ineffectual a liability release agreement between a person who participates in a sports or recreational activity and a provider.

(e) In this section,

(1) “farm touring” means briefly visiting a farm to observe or experience aspects of raising, growing, producing, cultivating, harvesting, or processing an agricultural product as a tourist, without receiving pay;

(2) “inherent risks” means those dangers or conditions that are characteristic of, intrinsic to, or an integral part of a sports or recreational activity;

(3) “provider” means a person or a federal, state, or municipal agency that promotes, offers, or conducts a sports or recreational activity, whether for pay or otherwise;

(4) “sports or recreational activity”

(A) means a commonly understood sporting activity, whether undertaken with or without permission, including baseball, softball, football, soccer, basketball, hockey, bungee jumping, parasailing, bicycling, hiking, swimming, skateboarding, horseback riding and other equine activity, farm touring, dude ranching, mountain climbing, river floating, whitewater rafting,

canoeing, kayaking, hunting, fishing, backcountry trips, mushing, backcountry or helicopter-assisted skiing, alpine skiing, Nordic skiing, snowboarding, telemarking, snow sliding, snowmobiling, and off-road and all-terrain vehicle use;

(B) does not include

(i) boxing contests, sparring or wrestling matches, or exhibitions that are subject to the requirements of [AS 05.10](#);

(ii) activities involving the use of devices that are subject to the requirements of [AS 05.20](#); or

(iii) skiing or sliding activities at a ski area that are subject to the requirements of [AS 05.45](#).

Sec. 09.65.292. Parental waiver of child's negligence claim against provider of sports or recreational activity.

(a) Except as provided in (b) of this section, a parent may, on behalf of the parent's child, release or waive the child's prospective claim for negligence against the provider of a sports or recreational activity in which the child participates to the extent that the activities to which the waiver applies are clearly and conspicuously set out in the written waiver and to the extent the waiver is otherwise valid. The release or waiver must be in writing and shall be signed by the child's parent.

(b) A parent may not release or waive a child's prospective claim against a provider of a sports or recreational activity for reckless or intentional misconduct.

(c) In this section,

(1) "child" means a minor who is not emancipated;

(2) "parent" means

(A) the child's natural or adoptive parent;

(B) the child's guardian or other person appointed by the court to act on behalf of the child;

(C) a representative of the Department of Family and Community Services if the child is in the legal custody of the state;

(D) a person who has a valid power of attorney concerning the child; or

(E) for a child not living with the child's natural or adoptive parent, the child's grandparent, aunt, uncle, sister, or brother who has reached the age of majority and with whom the child lives;

(3) "provider" has the meaning given in [AS 09.65.290](#);

(4) "sports or recreational activity" has the meaning given in [AS 09.65.290](#).

Sec. 09.65.295. Liability involving a peace officer or firefighter.

(a) A peace officer or firefighter injured while in the line of duty or the personal representative of

a peace officer or firefighter who died in the line of duty may not bring a civil action to recover damages for a negligent act or omission if the negligent act or omission created the need for the activity being performed by the peace officer or firefighter.

(b) This section does not apply to a negligent act or omission that is unrelated to the activity that created the need for the presence of the peace officer or firefighter.

(c) In this section, “firefighter” means a person employed by a municipal fire department or who is a member of a volunteer fire department registered with the state fire marshal, or a person registered for purposes of workers' compensation with the state fire marshal as a member of a volunteer fire department.

Sec. 09.65.300. Immunity for providing free health care services.

(a) [See delayed amendment note.] Except as otherwise provided in this section, a health care provider who provides health care services to another person is not liable for civil damages resulting from an act or omission in providing the health care services if the health care

(1) provider is licensed in this state to provide health care services; in this paragraph, “health care provider” includes a health care provider who holds a temporary license or permit to practice as a health care provider;

(2) services provided were within the scope of the health care provider's license;

(3) services were provided at a medical clinic, medical facility, nonprofit facility, temporary emergency site, or other facility owned or operated by a governmental entity or nonprofit organization and the health care provider was acting within the scope of the provider's responsibilities in the medical clinic, governmental entity, or nonprofit organization;

(4) services were provided voluntarily and without pay to the health care provider for the services, except as provided in (b)(2) and (3) of this section; and

(5) provider

(A) obtains informed consent in writing from the person receiving the health care services as described under [AS 09.55.556](#), except in the case of an emergency;

(B) provides the person receiving the health care services advance written notice of the immunity provided under this section to a health care provider when providing voluntary health care services as described under this section; and

(C) provides the person receiving health care services with written notice of the name of a licensed health care provider in the state that the person receiving health care services may contact for emergency follow-up care within 30 days after a procedure is performed.

(b) This section does not preclude

(1) liability for civil damages that are the result of gross negligence or reckless or intentional misconduct;

(2) a health care provider from receiving payment or being reimbursed for expenses, including travel and room and board while providing voluntary services;

(3) a medical clinic or facility from charging for its services.

(c) In this section,

(1) [See delayed amendment note.] “health care provider” means a physician, physician assistant, dentist, dental hygienist, osteopath, optometrist, chiropractor, registered nurse, practical nurse, advanced practice registered nurse, naturopath, physical therapist, occupational therapist, marital and family therapist, psychologist, psychological associate, behavior analyst, assistant behavior analyst, licensed clinical social worker, athletic trainer, or certified direct-entry midwife;

(2) “health care services” means services received by an individual in order to treat or to prevent illness or injury;

(3) “nonprofit organization” means an organization that qualifies for exemption from taxation under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue Code).

Sec. 09.65.305. Immunity for distributing free recycled used eyeglasses.

A nonprofit organization approved by the department is not liable for distributing recycled used eyeglasses if

(1) the eyeglasses are distributed and fitted free of charge and the fitting conforms, to the extent possible, with a written prescription from a licensed physician or optometrist; and

(2) the organization obtains informed consent from the person receiving the eyeglasses and provides the person receiving the eyeglasses advance written notice of the immunity provided under this section.

Sec. 09.65.310. Damages resulting from driving the vehicle of a person under the influence of an alcoholic beverage. [Repealed, § 3 ch 69 SLA 2004.]

Sec. 09.65.315. Damages resulting from driving the vehicle of a person under the influence of an alcoholic beverage.

(a) A person is not liable beyond the limits of any applicable insurance policy purchased by or on behalf of the owner of the vehicle, or the taxicab or limousine company or the company's owner, agents, or employees, for damages resulting from a motor vehicle accident if the person was driving a vehicle involved in the accident and

(1) before the accident, started driving the vehicle involved in the accident from or near licensed premises;

(2) is, at the time of the accident, a person employed in the course and scope of employment to or under contract to drive a taxicab or limousine, a taxicab or limousine owner, a holder of a taxicab or limousine permit issued by a municipality, or an owner or employee of a company that dispatches taxicabs or limousines;

(3) was not under the influence of an alcoholic beverage, inhalant, or controlled substance at the time of the accident;

(4) was driving the vehicle to the motor vehicle owner's residence or designated residential location at the request of the motor vehicle owner or operator or a law enforcement officer; and

(5) was driving the vehicle because the motor vehicle owner or operator was under the influence of an alcoholic beverage or reasonably believed to be under the influence of an alcoholic beverage.

(b) A person licensed under [AS 04.09.020](#) — 04.09.370, or an agent or employee of the person, is not liable for damages resulting from a motor vehicle accident described under (a) of this section. A person or entity that participates in making arrangements for transportation of a vehicle under (a) of this section is not liable for damages resulting from a motor vehicle accident described in (a) of this section.

(c) This section does not

(1) preclude liability for civil damages as a result of gross negligence or reckless or intentional misconduct;

(2) limit the ability of a person to recover damages under any applicable uninsured or underinsured motor vehicle insurance coverage; or

(3) limit the ability of a person to recover damages under any applicable liability insurance coverage purchased by or on behalf of the person being transported under (a) of this section.

(d) A motor vehicle owner is considered to have given consent to another person to drive the owner's motor vehicle if the other person is involved in an accident and the provisions of (a) of this section apply to the other person.

(e) In this section,

(1) “controlled substance” has the meaning given in [AS 28.33.190](#);

(2) “inhalant” has the meaning given to the phrase “hazardous volatile material or substance” in [AS 47.37.270](#);

(3) “licensed premises” has the meaning given in [AS 04.21.080](#).

Sec. 09.65.320. Nonrecovery for damages for noneconomic losses resulting from operating a motor vehicle while uninsured.

(a) Except as provided in (b) of this section, in an action to recover damages for personal injury or wrongful death, a person who suffers personal injury or death or the person's personal representative under [AS 09.55.570](#) or 09.55.580 may not recover damages for noneconomic losses if the injury or death occurred while the person was operating a motor vehicle and the person knew that the person was not in compliance with the motor vehicle liability insurance provisions of [AS 28.22.011](#) or, if applicable, the motor vehicle liability insurance provisions of [AS 28.20](#). In this subsection, “damages for noneconomic losses” means the compensation claimed for the losses identified in [AS 09.17.010\(a\)](#).

(b) The prohibition against the recovery of noneconomic losses in (a) of this section does not apply if the person who is liable for the personal injury or wrongful death

(1) was driving while under the influence of an alcoholic beverage, inhalant, or controlled substance;

(2) acted intentionally, recklessly, or with gross negligence;

(3) fled from the scene of the accident; or

(4) was acting in furtherance of an offense or in immediate flight from an offense that constitutes a felony as defined in [AS 11.81.900](#) at the time of the accident.

Sec. 09.65.325. Immunity relating to use or nonuse of investigational drugs, biological products, and devices.

(a) A person is not liable in an action for damages for the injury or death of a patient with a terminal illness resulting from the patient's use of an investigational drug, biological product, or device for the purpose of sustaining the patient's life if the person, acting in good faith and with reasonable care, is a

(1) physician or member of the medical team who prescribed, dispensed, or administered the investigational drug, biological product, or device, or provided related treatment, to the patient and, before prescribing, dispensing, or administering the drug, product, or device, or providing related treatment, the physician or member of the medical team

(A) obtained the informed consent of the patient in writing after presenting to the patient all treatment options currently approved by the United States Food and Drug Administration for treatment of the patient's terminal illness; and

(B) provided to the patient written notice of the immunity provided under this section; or

(2) manufacturer, importer, or distributor of the investigational drug, biological product, or device and, before providing the drug, product, or device to the patient's physician, presented to the physician all treatment options currently approved by the United States Food and Drug Administration for treatment of the patient's terminal illness and provided to the patient written notice of the immunity provided under this section.

(b) A person, acting in good faith and with reasonable care, is not liable in an action for damages solely for declining to

(1) prescribe, dispense, or administer an investigational drug, biological product, or device to a patient; or

(2) provide an investigational drug, biological product, or device to a patient's physician.

(c) In this section, "investigational drug, biological product, or device" and "terminal illness" have the meanings given in [AS 08.64.367](#).

Sec. 09.65.330. Immunity: Use of defensive force.

(a) A person who uses force in defense of self, other persons, or property as permitted in [AS 11.81](#) is not liable for the death of or injury to the person against whom the force was intended to be used, unless the person against whom force was used was

(1) a peace officer, whether on or off duty, who was engaged in the performance of official duties;

(2) a firefighter, emergency medical technician, or paramedic engaged in the performance of official duties; or

(3) medical personnel, a health care provider, or a first responder in an emergency situation.

(b) The court shall award reasonable attorney fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of a civil action brought by a plaintiff if the court finds that the defendant is not liable under (a) of this section.

Sec. 09.65.340. Immunity for prescribing, providing, or administering an opioid overdose drug.

(a) Except as provided in (c) of this section, a person is not liable for civil damages resulting from an act or omission in prescribing or providing an opioid overdose drug to a person at risk of experiencing an opioid overdose or to a family member, friend, caregiver, or other person in a position to administer an opioid overdose drug to a person at risk of experiencing an opioid overdose if

(1) the person

(A) prescribing or providing the opioid overdose drug is a health care provider; or

(B) providing the opioid overdose drug is an employee or volunteer of an opioid overdose program; and

(2) each person to whom the opioid overdose drug is prescribed or provided has been educated and trained in the proper emergency use and administration of the opioid overdose drug by the health care provider or the opioid overdose program; education and training under this paragraph may be provided by any reasonable means, including through the use of electronic, video, or automated education or training resources.

(b) Except as provided in (c) of this section, a person who administers an opioid overdose drug to another person who the person reasonably believes is experiencing an opioid overdose emergency is not liable for civil damages resulting from an act or omission in the emergency administration of the opioid overdose drug.

(c) This section does not preclude liability for civil damages that are the result of gross negligence or reckless or intentional misconduct.

(d) In this section,

(1) “health care provider” means a licensed physician, osteopath, dentist, advanced nurse practitioner, physician assistant, nurse, village health aide, or pharmacist operating within the scope of the health care provider's authority;

(2) “opioid” includes the opium and opiate substances and opium and opiate derivatives listed in [AS 11.71.140](#);

(3) “opioid overdose drug” means a drug that reverses, in whole or in part, the pharmacological effects of an opioid overdose;

(4) “opioid overdose program” means a program that provides opioid overdose drugs to persons at risk of experiencing an opioid overdose or to a family member, friend, or other person in a position to assist a person at risk of experiencing an opioid overdose.

Sec. 09.65.350. Immunity for certain actions related to transportation network companies.

(a) The state or a municipality, and the officers, employees, and agents of the state or a municipality, are not liable in tort for damages for the injury to or death of a person or property damage resulting from an act, omission, or failure of a transportation network company or driver to comply with the requirements of [AS 28.23](#) or other law.

(b) In this section, “transportation network company” and “driver” have the meanings given in [AS 28.23.180](#).

Chapter 68. Miscellaneous Provisions.

Sec. 09.68.020. Successive actions.

Successive actions may be maintained upon the same contract or transaction when a new cause of action arises under the contract.

Sec. 09.68.030. Corporate sureties.

When, by the laws of the state or by a charter, ordinance, rule, or regulation of a political subdivision, municipality, public corporation, or by a board, body, organization, court, or judge, a recognizance, stipulation, bond, undertaking, or bail in an action, suit, proceeding, or matter conditioned for the faithful performance of an act or duty or for the doing of an act or thing is permitted or required to be given with one or more sureties, it is sufficient compliance if the instrument is executed by a corporation that has complied with the laws of the state and is authorized by law to act as surety upon instruments and in proceedings, actions, suits, and matters as set out in this section.

Sec. 09.68.040. Parties exempt from giving bond.

(a) In an action or proceeding in a court in which the state or a municipality is a party or in which the state or a municipality is interested, a bond or undertaking is not required of the state, a municipality, or an officer of the state or municipality.

(b) A bond for costs on appeal need not be filed by a party to an action if a court finds that party to be indigent and the appeal not frivolous; this finding may be made upon an affidavit filed by that party showing that the party is unable to pay for a bond and further stating the grounds for the appeal and the belief that the party is entitled to redress.

(c) A court in this state may not excuse a litigant requesting the entry of a stay or other interlocutory relief from posting a bond or other security to protect the persons who will be adversely affected if the excuse is based on the nature of the policy or interest advocated by the party, the number of persons affected by the outcome of the case, whether a governmental entity could be expected to bring or participate in the case, the extent of the party's economic incentive to bring the case, or any combination of these factors.

Sec. 09.68.050. Civil liability for malicious claim against state permitted project.

(a) A person who initiates or maintains a malicious claim for injunctive relief against a state permitted project is, in addition to any other penalty or sanction provided by law, liable in a civil action to the permittee or owner of the project for all of the following:

(1) actual damages suffered by the permittee or owner of the project as a result of the malicious claim, including

(A) wages and salaries paid to employees or contractors idled or put to nonproductive labor as a result of prosecution of the malicious claim; and

(B) increased material costs caused by prosecution of the malicious claim; and

(2) incidental or consequential damages arising under contracts associated with the project that were caused by prosecution of the malicious claim.

(b) The liability of a person for damages under this section is in addition to liability for an award of reasonable attorney fees and costs that may be made to a prevailing party under the Alaska Rules of Civil Procedure.

(c) For purposes of this section, a person “initiates or maintains a malicious claim for injunctive relief against a state permitted project” if

(1) the person initiates or maintains a baseless legal or administrative claim, including an original claim, a counterclaim, or a cross-claim, against a project or activity in the state requiring one or more permits, authorizations, or approvals from a state agency;

(2) the claim is rejected by a court or administrative tribunal of competent jurisdiction or otherwise terminated adverse to the person;

(3) the claim is initiated or maintained in bad faith for an end other than the end it was designed to accomplish;

(4) the person acts with malice in initiating or maintaining the claim; and

(5) the permittee or owner of the project is damaged by the initiation or maintenance of the claim.

Sec. 09.68.060. Defense not prejudiced by assignment.

If there is an assignment of a thing in action, the action by the assignee is without prejudice to a setoff or other defense existing at the time of, or before notice of the assignment. But, this section does not apply to a negotiable promissory note or bill of exchange transferred in good faith and upon valuable consideration before due.

Sec. 09.68.110. Civil liability for shoplifting.

(a) A person who has attained the age of 18 years or an emancipated minor who shoplifts merchandise is, in addition to any criminal penalty provided by law, liable in a civil action to the owner or seller of the merchandise for all of the following:

(1) actual damages;

(2) a penalty equal to the retail value of the merchandise or \$1,000, whichever is less; and

(3) a penalty of not less than \$100 nor more than \$200.

(b) A person having legal custody of an unemancipated minor who shoplifts merchandise is liable in a civil action to the owner or seller of the merchandise for both of the following:

(1) a penalty equal to the retail value of the merchandise or \$500, whichever is less; and

(2) a penalty of not less than \$100 nor more than \$200.

(c) It is a condition precedent to maintaining an action under this section that the owner or seller of the merchandise send a notice demanding the relief authorized to the defendant by first class

mail at the defendant's last known address 15 days or more before the action is commenced. The Department of Law may adopt regulations prescribing the form of this notice. It is not a condition precedent to maintaining an action under this section that the person who shoplifted merchandise was charged or convicted under any statute or ordinance.

(d) Judgments, but not claims, arising under this section may be assigned.

(e) For purposes of this section, a person “shoplifts merchandise” if, without authority and with intent to deprive the owner of the merchandise,

(1) the person removes the merchandise of a commercial establishment, not purchased by the person, from the premises of the commercial establishment;

(2) the person knowingly conceals on, in, or about the person the merchandise of a commercial establishment, not purchased by the person, while still upon the premises of the commercial establishment; or

(3) the person knowingly substitutes or alters a price ticket in order to pay less than the indicated retail price.

(f) Merchandise found concealed on or about the person which has not been purchased by the person is prima facie evidence of a knowing concealment for purposes of (e)(2) of this section.

(g) The liability of a person for damages and penalties under this section is in addition to liability for an award of reasonable attorney fees that may be made to the prevailing party in a civil action under Rule 82, Alaska Rules of Civil Procedure.

(h) In this section, “emancipated minor” means a minor whose disabilities have been removed for general purposes under [AS 09.55.590](#).

Sec. 09.68.115. Bad check civil penalties.

(a) In an action against a person who issues a check that is dishonored, the plaintiff may recover damages in an amount equal to \$100 or triple the amount of the check, whichever is greater, except that damages recovered under this section may not exceed the amount of the check by more than \$1,000 and may be awarded only if

(1) the plaintiff makes a written demand for payment of the check at least 15 days before commencing the action; and

(2) the defendant fails to tender, before the action commences, an amount equal to the amount of the check plus up to a maximum \$30 fee.

(b) An action under this section may be brought as a small claims action if the amount claimed does not exceed the jurisdictional limits for small claims actions, or may be brought in any other court that has jurisdiction.

(c) After the beginning of an action under this section but before the case is tried, the defendant may satisfy the claim by tendering an amount of money equal to the amount of the check plus court, legal, and service costs incurred by the plaintiff up to a maximum of \$150.

(d) In this section,

(1) “check” has the meaning given in [AS 11.46.280](#);

(2) “dishonored” means the nonpayment of a check because of

(A) lack of funds;

(B) closure or nonexistence of an account; or

(C) a stop payment order issued without cause;

(3) “written demand” means a written notice to the issuer of a check personally delivered or sent by first class mail to the address shown on the dishonored check, advising the issuer that the check has been dishonored and explaining the civil penalties set out in this section.

Sec. 09.68.120. Definition of death.

An individual is considered dead if, in the opinion of a physician licensed or exempt from licensing under [AS 08.64](#) or a registered nurse authorized to pronounce death under [AS 08.68.700](#), based on acceptable medical standards, or in the opinion of a mobile intensive care paramedic, physician assistant, or emergency medical technician authorized to pronounce death based on the medical standards in [AS 18.08.089](#), the individual has sustained irreversible cessation of circulatory and respiratory functions, or irreversible cessation of all functions of the entire brain, including the brain stem. Death may be pronounced in this circumstance before artificial means of maintaining respiratory and cardiac function are terminated.

Sec. 09.68.130. Collection of settlement information.

Chapter 70. General Provisions.

Sec. 09.70.010. Applicability of title.

This title governs all proceedings in actions brought after January 1, 1963, and all further proceedings in actions then pending, except to the extent that, in the opinion of the court, their application in a particular action pending when the rules take effect would not be feasible or would work injustice, in which event, the laws in effect before January 1, 1963, apply.

Sec. 09.70.020. Short title.

This title may be cited as the Code of Civil Procedure.

Sec. 09.70.030. Good faith.

The parties to every contract have a duty to act fairly and in good faith in the performance and enforcement of the contract.

Chapter 80. Uniform Electronic Transactions Act.

Sec. 09.80.010. Scope.

(a) Except as otherwise provided in (b) and (c) of this section, this chapter applies to electronic records and electronic signatures relating to a transaction.

(b) This chapter does not apply to a transaction to the extent it is governed by
(1) a law governing the creation and execution of wills, codicils, or testamentary trusts;

(2) the Uniform Commercial Code other than [AS 45.01.306](#), [AS 45.02](#), [AS 45.12](#), and, to the extent allowed by [AS 45.07.113\(c\)](#), [AS 45.07](#).

(c) This chapter applies to a transaction governed by 15 U.S.C. 7001 — 7031 (Electronic Signatures in Global and National Commerce Act), but this chapter is not intended to limit, modify, or supersede 15 U.S.C. 7001(c). To the extent excluded from the scope of 15 U.S.C. 7001 — 7031 under 15 U.S.C. 7003, this chapter does not apply to a notice to the extent that it is governed by a law requiring the furnishing of

(1) any notice of

(A) the cancellation or termination of utility services, including water, heat, and power;

(B) default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual;

(C) the cancellation or termination of health insurance or benefits or life insurance benefits, excluding annuities; or

(D) recall of a product, or material failure of a product, that risks endangering health or safety; or

(2) a document to accompany any transportation or handling of hazardous materials, pesticides, or other toxic or dangerous materials.

(d) This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter under (b) or (c) of this section to the extent it is governed by a law other than those specified in (b) or (c) of this section.

(e) A transaction subject to this chapter is also subject to other applicable substantive law.

Sec. 09.80.020. Use of electronic records and electronic signatures; variation by agreement.

(a) This chapter does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This chapter applies only to transactions between parties each of whom has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(c) A party who agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this subsection may not be waived by agreement.

(d) Except as otherwise provided in this chapter, the effect of any of the provisions of this chapter may be varied by agreement. The presence in certain provisions of this chapter of the words “unless otherwise agreed,” or words of similar meaning, does not imply that the effect of other provisions may not be varied by agreement.

(e) Whether an electronic record or electronic signature has legal consequences is determined by this chapter and other applicable law.

Sec. 09.80.030. Construction and application.

This chapter shall be construed and applied to

- (1) facilitate electronic transactions consistent with other applicable law;
- (2) be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and
- (3) carry out its general purpose to make the law with respect to the subject of this chapter uniform among states enacting it.

Sec. 09.80.040. Legal recognition of electronic records, electronic signatures, and electronic contracts.

(a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(c) If a law requires a record to be in writing, an electronic record satisfies the law.

(d) If a law requires a signature, an electronic signature satisfies the law.

Sec. 09.80.050. Provision of information in writing; presentation of records.

(a) If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

(b) If a law other than this chapter requires a record to be posted or displayed in a certain manner, to be sent, communicated, or transmitted by a specified method, or to contain information that is formatted in a certain manner, the following rules apply:

- (1) the record must be posted or displayed in the manner specified in the other law;
 - (2) except as otherwise provided in (d)(2) of this section, the record shall be sent, communicated, or transmitted by the method specified in the other law;
 - (3) the record must contain the information formatted in the manner specified in the other law.
- (c) If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

(d) The requirements of this section may not be varied by agreement, but

(1) to the extent a law other than this chapter requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement under (a) of this section that the information be in the form of an electronic record capable of retention may also be varied by agreement; and

(2) a requirement under a law other than this chapter to send, communicate, or transmit a record by regular United States mail may be varied by agreement to the extent permitted by the other law.

Sec. 09.80.060. Attribution and effect of electronic record and electronic signature.

(a) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to whom the electronic record or electronic signature was attributable.

(b) The effect of an electronic record or electronic signature attributed to a person under (a) of this section is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

Sec. 09.80.070. Effect of change or error.

If a change or an error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

(1) if the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record;

(2) in an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual

(A) promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person;

(B) takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record; and

(C) has not used or received any benefit or value from the consideration, if any, received from the other person;

(3) if (1) and (2) of this section do not apply, the change or error has the effect provided by other law, including the law of mistake, and the parties' contract, if any;

(4) paragraphs (2) and (3) of this section may not be varied by agreement.

Sec. 09.80.080. Notarization and acknowledgment.

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

Sec. 09.80.090. Retention of electronic records; originals.

(a) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record that

(1) accurately reflects the information set out in the record after it was first generated in its final form as an electronic record or otherwise; and

(2) remains accessible for later reference.

(b) A requirement to retain a record under (a) of this section does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

(c) A person may satisfy (a) of this section by using the services of another person if the requirements of that subsection are satisfied.

(d) If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with (a) of this section.

(e) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with (a) of this section.

(f) A record retained as an electronic record in accordance with (a) of this section satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after July 1, 2004, specifically prohibits the use of an electronic record for the specified purpose.

(g) This section does not preclude a governmental agency of this state from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

Sec. 09.80.100. Admissibility in evidence.

In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

Sec. 09.80.110. Automated transaction.

In an automated transaction, the following rules apply:

(1) a contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements;

(2) a contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and that the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance;

(3) the terms of the contract are determined by the substantive law applicable to it.

Sec. 09.80.120. Time and place of sending and receipt.

(a) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it

(1) is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;

(2) is in a form capable of being processed by that system; and

(3) enters an information processing system outside the control of the sender or of a person who sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient that is under the control of the recipient.

(b) Unless otherwise agreed between a sender and the recipient, an electronic record is received when it

(1) enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(2) is in a form capable of being processed by that system.

(c) Subsection (b) of this section applies even if the place the information processing system is located is different from the place the electronic record is considered to be received under (d) of this section.

(d) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is considered to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection, the following rules apply:

(1) if the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction;

(2) if the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(e) An electronic record is received under (b) of this section even if no individual is aware of its receipt.

(f) Receipt of an electronic acknowledgment from an information processing system described in (b) of this section establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(g) If a person is aware that an electronic record purportedly sent under (a) of this section, or purportedly received under (b) of this section, was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by the other law, the requirements of this subsection may not be varied by agreement.

Sec. 09.80.130. Transferable records.

(a) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to whom the transferable record was issued or transferred.

(b) A system satisfies (a) of this section, and a person is considered to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that

(1) a single authoritative copy of the transferable record exists that is unique, identifiable, and, except as otherwise provided in (4) — (6) of this subsection, unalterable;

(2) the authoritative copy identifies the person asserting control as the person to whom the transferable record was

(A) issued; or

(B) most recently transferred if the authoritative copy indicates that the transferable record has been transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or the person's designated custodian;

(4) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(c) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in [AS 45.01.211\(b\)](#), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under [AS 45.03.302\(a\)](#), [AS 45.07.501](#), or [AS 45.29.308](#) are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise a right under this subsection.

(d) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the Uniform Commercial Code.

(e) If requested by a person against whom enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

(f) In this section, “transferable record” means an electronic record that

(1) would be a note under [AS 45.03](#) or a document under [AS 45.07](#) if the electronic record were in writing; and

(2) the issuer of the electronic record expressly has agreed is a transferable record.

Sec. 09.80.140. Creation and retention of electronic records and conversion of written records by governmental agencies.

Each governmental agency of this state shall determine whether, and the extent to which, the governmental agency will create and retain electronic records and convert written records to electronic records.

Sec. 09.80.150. Acceptance and distribution of electronic records by governmental agencies.

(a) Except as otherwise provided in [AS 09.80.090\(f\)](#), each governmental agency of this state shall determine whether, and the extent to which, the governmental agency will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(b) To the extent that a governmental agency uses electronic records and electronic signatures under (a) of this section, the governmental agency, giving due consideration to security, may specify

(1) the manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes;

(2) if electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, a third party used by a person filing a document to facilitate the process;

(3) control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and

(4) any other required attributes for electronic records that are specified for corresponding nonelectronic records or that are reasonably necessary under the circumstances.

(c) Except as otherwise provided in [AS 09.80.090\(f\)](#), this chapter does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

Sec. 09.80.160. Interoperability.

A governmental agency of this state that adopts standards under [AS 09.80.150](#) may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the federal government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose

in implementing the most appropriate standard for a particular application.

Sec. 09.80.190. Definitions.

In this chapter,

(1) “agreement” means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction;

(2) “automated transaction” means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course of affairs in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction;

(3) “computer program” means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result;

(4) “contract” means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law;

(5) “electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(6) “electronic agent” means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual;

(7) “electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means;

(8) “electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record;

(9) “governmental agency” means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality, of the federal government or of a state or of a county, municipality, or other political subdivision of a state;

(10) “information” means data, text, images, sounds, codes, computer programs, software, databases, or similar items;

(11) “information processing system” means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information;

(12) “person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity;

(13) “record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(14) “security procedure” means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record; “security procedure” includes a procedure that

requires the use of algorithms or other codes, identifying words or numbers, encryption, or call-backs or other acknowledgment procedures;

(15) “state” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States, and includes an Indian tribe or band or Alaska Native village that is recognized by federal law or formally acknowledged by a state;

(16) “transaction” means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs;

(17) “Uniform Commercial Code” means [AS 45.01](#) — [AS 45.08](#), [AS 45.12](#), [AS 45.14](#), and [AS 45.29](#).

Sec. 09.80.195. Short title.

This chapter may be cited as the Uniform Electronic Transactions Act.