

# Alaska State Legislature

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## Representative Mike Kelly

*House District 7*

### HB 92

*"An Act relating to the purchase of interests in corporations, including limited liability companies, by the University of Alaska."*

The University of Alaska has proven to be a valuable tool in Alaska's economic development. In a desire to allow the university to continue and expand its vital role in this area, we propose a much needed change in Alaska's corporate liability laws intended to protect the university from liability arising from the "piercing the corporate veil" concept.

The "piercing the corporate veil" concept is "a judicial process whereby the court will disregard the usual immunity of corporate entities from liability for wrongful corporate activities perpetrated fraud. The doctrine which holds that the corporate structure with its attendant limited liability of stockholders may be disregarded and personal liability imposed on stockholders, officers, and directors in the case of fraud or other wrongful acts done in the name of the corporation."<sup>1</sup> Generally, we believe this is a sound policy intended to protect consumers from fraudulent corporate abuses and encourage good corporate citizenship. However, in the university context the application of this theory has the unintended consequence of discouraging university investment in new corporate endeavors resulting from intellectual property generated by faculty research.

The university cannot support various types of economic development initiatives or associate with public groups through nonprofit corporations without the fear of liability under the "piercing the corporate veil" theory. As described above, the university could become liable for the tort obligations of a corporate entity it may start up, where the entity was not adequately capitalized or insured. In one such immediate example the university rejected a 501 (c)(3) nonprofit corporation to lead the business enterprise institute because of potential corporate veil liability. Likewise, the university has not been supportive of efforts by faculty members with intellectual property to start up corporations, recognizing that if liability were incurred by such a corporation, there would be substantial risk that such liability could pass on to the university.

Our intent with HB 92 is to specifically define a university/corporate liability structure intended to encourage new university investment in limited liability and nonprofit corporations resulting from research-generated intellectual property or companies created and managed on university lands.

The University of Alaska is a valuable component to Alaska's economic engine and this bill will go to great lengths to expand its ability to increase economic development in our state.

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<sup>1</sup> Nolan, J.R., & Nolan-Haley, J. M. (1990) Piercing the corporate veil In *Black's Law Dictionary*. (pp. 1147-1148). St. Paul, MN: West.