



HB 1623

2003
CS

CHAMBER ACTION

The Committee on Judiciary recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the Florida Business Corporations Act; amending s. 607.0120, F.S.; clarifying a document execution provision relating to filing requirement; amending s. 607.0122, F.S.; clarifying an agent statement of resignation fee provision; amending s. 607.0123, F.S.; clarifying an effective time and date of document provision; amending s. 607.0124, F.S.; clarifying a filed document correction provision; amending s. 607.0141, F.S.; revising certain required notice provisions; providing for nonapplication to certain provisions; amending s. 607.0401, F.S.; clarifying a corporate name provision; providing construction relating to a corporate name; amending s. 607.0505, F.S.; providing for agent designation withdrawals by alien business organizations; amending s. 607.0630, F.S.; clarifying shareholder's preemptive rights provisions relating to certain securities; amending s. 607.0701, F.S.; providing for



29 remote communications at annual shareholder meetings;
30 providing requirements; amending s. 607.0702, F.S.;
31 providing for remote communications at special shareholder
32 meetings; providing requirements; amending s. 607.07401,
33 F.S.; revising a complaint verification and allegation
34 requirement under a shareholder derivative action
35 provision; amending s. 607.0902, F.S.; revising a notice
36 of shareholder meeting requirement; providing construction
37 of control shares voting rights; deleting a rights of
38 dissenting shareholders provision; amending s. 607.10025,
39 F.S.; clarifying certain articles of incorporation
40 provisions; amending s. 607.1004, F.S.; clarifying certain
41 voting group amendment voting provisions; amending s.
42 607.1006, F.S.; clarifying certain execution of articles
43 of amendment provisions; amending s. 607.1103, F.S.;
44 clarifying a notification of certain plan actions
45 provision; amending s. 607.1104, F.S.; clarifying a merger
46 of subsidiary corporation plan of merger information
47 requirement; amending s. 607.1108, F.S.; correcting a
48 cross reference; amending s. 607.11101, F.S.; clarifying
49 certain effect of merger provisions; amending s. 607.1202,
50 F.S.; clarifying a notice requirement relating to certain
51 sales of assets; amending s. 607.1301, F.S.; providing
52 definitions relating to appraisal rights; amending s.
53 607.1302, F.S.; providing for shareholders' rights to
54 appraisals under certain circumstances; providing
55 limitations; providing for limiting or eliminating
56 appraisal rights under certain circumstances; prohibiting



57 | certain corporate action challenges under certain
58 | circumstances; creating s. 607.1303, F.S.; providing
59 | procedures, requirements, and limitations for assertion of
60 | rights by nominees and beneficial owners; amending s.
61 | 607.1320, F.S.; providing requirements for notice of
62 | appraisal rights; creating s. 607.1321, F.S.; providing
63 | requirements for notice of intent to demand payment;
64 | creating s. 607.1322, F.S.; providing appraisal notice and
65 | form requirements; creating s. 607.1323, F.S.; providing
66 | procedures, requirements, and limitations for perfection
67 | of appraisal rights; providing for right to withdraw under
68 | certain circumstances; creating s. 607.1324, F.S.;
69 | providing procedures and requirements for shareholders'
70 | acceptance of certain offers; creating s. 607.1326, F.S.;
71 | providing procedures for shareholder dissatisfaction with
72 | certain offers; providing for waiver of certain rights;
73 | creating s. 607.1330, F.S.; providing requirements,
74 | procedures, and limitations on court actions; providing
75 | for entitlement to certain judgments; requiring corporate
76 | payments under certain circumstances; creating s.
77 | 607.1331, F.S.; providing for assessment and award of
78 | court costs and attorney fees under certain circumstances;
79 | creating s. 607.1332, F.S.; providing for disposition of
80 | certain acquired shares; creating s. 607.1333, F.S.;
81 | providing limitations on corporate payouts; providing
82 | certain shareholder notice requirements; amending s.
83 | 607.1403, F.S.; providing for execution of articles of
84 | dissolution; clarifying requirements; amending s.



HB 1623

2003
CS

85 | 607.1406, F.S.; clarifying provisions relating to claims
86 | against dissolved corporations; creating s. 607.1407,
87 | F.S.; providing procedures and requirements for
88 | administration of unknown claims against dissolved
89 | corporations; amending s. 607.1422, F.S.; revising
90 | procedural requirements for reinstatement after
91 | administrative dissolution; amending s. 607.1430, F.S.;
92 | providing for restricting certain grounds for judicial
93 | dissolution; providing application; amending s. 607.1503,
94 | F.S.; clarifying certain foreign corporation name
95 | requirements; amending s. 607.1504, F.S.; revising certain
96 | execution procedures and requirements for amended
97 | certificates of authority; amending s. 607.1506, F.S.;
98 | clarifying name requirements for foreign corporations;
99 | creating s. 607.1605, F.S.; providing requirements,
100 | procedures, and limitations on inspection of corporate
101 | records by directors; amending s. 607.1622, F.S.; deleting
102 | an annual report information requirement relating to
103 | corporate liability for certain taxes; amending s.
104 | 607.1907, F.S.; clarifying an effect of repeal of prior
105 | acts provision; repealing s. 607.0903, F.S., relating to
106 | application of certain provisions to foreign corporations;
107 | providing effective dates.

108 |
109 | Be It Enacted by the Legislature of the State of Florida:

110 |
111 | Section 1. Subsection (6) of section 607.0120, Florida
112 | Statutes, is amended to read:



HB 1623

2003
CS

113 607.0120 Filing requirements.--

114 (6) The document must be executed:

115 (a) By a director ~~the chair or any vice chair of the board~~
116 ~~of directors~~ of a domestic or foreign corporation, or by its
117 president or by another of its officers;

118 (b) If directors or officers have not been selected or the
119 corporation has not been formed, by an incorporator; or

120 (c) If the corporation is in the hands of a receiver,
121 trustee, or other court-appointed fiduciary, by that fiduciary.

122 Section 2. Subsection (7) of section 607.0122, Florida
123 Statutes, is amended to read:

124 607.0122 Fees for filing documents and issuing
125 certificates.--The Department of State shall collect the
126 following fees when the documents described in this section are
127 delivered to the department for filing:

128 (7) Agent's statement of resignation from an inactive
129 ~~administratively dissolved~~ corporation: \$35.

130 Section 3. Subsections (1) and (2) of section 607.0123,
131 Florida Statutes, are amended to read:

132 607.0123 Effective time and date of document.--

133 (1) Except as provided in subsections ~~subsection~~ (2) and
134 (4) and in s. 607.0124(3), a document accepted for filing is
135 effective on÷

136 ~~(a) At the date~~ and at the time of filing, as evidenced by
137 such means as the Department of State may use for the purpose of
138 recording the date and time of filing; ~~or~~

139 ~~(b) At the date specified in the document as its effective~~
140 ~~date.~~



HB 1623

2003
CS

141 (2) A document may specify a delayed effective date and,
 142 if desired, a time on that date, and if it does the document
 143 shall become effective on the date and at the time, if any,
 144 specified. If a delayed effective date is specified without
 145 specifying a time on that date, the document shall become
 146 effective at the start of business on that date. Unless
 147 otherwise permitted by this act, a delayed effective date for a
 148 document may not be later than the 90th day after the date on
 149 which it is filed.

150 Section 4. Subsections (1) and (2) of section 607.0124,
 151 Florida Statutes, are amended to read:

152 607.0124 Correcting filed document.--

153 (1) A domestic or foreign corporation may correct a
 154 document filed by the Department of State within 30 ~~10~~ ~~business~~
 155 days after ~~of~~ filing if the document:

156 (a) Contains an inaccuracy;

157 (b) Was defectively executed, attested, sealed, verified,
 158 or acknowledged; or

159 (c) The electronic transmission was defective.

160 (2) A document is corrected:

161 (a) By preparing articles of correction that:

162 1. Describe the document (including its filing date) ~~or~~
 163 ~~attach a copy of it to the articles;~~

164 2. Specify the inaccuracy or defect to be corrected; and

165 3. Correct the inaccuracy or defect; and

166 (b) By delivering the ~~executed~~ articles of correction to
 167 the Department of State for filing, executed in accordance with
 168 s. 607.0120.



HB 1623

2003
CS

169 Section 5. Subsection (3) of section 607.0141, Florida
170 Statutes, is amended to read:

171 607.0141 Notice.--

172 (3)(a) Written notice by a domestic or foreign corporation
173 authorized to transact business in this state to its
174 shareholder, if in a comprehensible form, is effective:

175 1.(a) Upon deposit into the United States mail, if mailed
176 postpaid and correctly addressed to the shareholder's address
177 shown in the corporation's current record of shareholders; or

178 2.(b) When electronically transmitted to the shareholder
179 in a manner authorized by the shareholder.

180 (b) Unless otherwise provided in the articles of
181 incorporation or bylaws, and without limiting the manner by
182 which notice otherwise may be given effectively to shareholders,
183 any notice to shareholders given by the corporation under any
184 provision of this chapter, the articles of incorporation, or the
185 bylaws, shall be effective if given by a single written notice
186 to shareholders who share an address if consented to by the
187 shareholders at that address to whom such notice is given. Any
188 such consent shall be revocable by a shareholder by written
189 notice to the corporation.

190 (c) Any shareholder who fails to object in writing to the
191 corporation, within 60 days after having been given written
192 notice by the corporation of its intention to send the single
193 notice permitted under paragraph (b), shall be deemed to have
194 consented to receiving such single written notice.

195 (d) This subsection shall not apply to s. 607.0620, s.
196 607.1402, or s. 607.1404.



197 Section 6. Subsection (1) of section 607.0401, Florida
198 Statutes, is amended, and subsection (5) is added to said
199 section, to read:

200 607.0401 Corporate name.--A corporate name:

201 (1) Must contain the word "corporation," "company," or
202 "incorporated" or the abbreviation "Corp.," "Inc.," or "Co.," ~~or~~
203 ~~words or abbreviations of like import in language, or the~~
204 designation "Corp.," "Inc.," or "Co.," as will clearly indicate
205 that it is a corporation instead of a natural person, ~~or~~
206 partnership, or other business entity;

207 (5) The name of the corporation as filed with the
208 Department of State shall be for public notice only and shall
209 not alone create any presumption of ownership beyond that which
210 is created under the common law.

211 Section 7. Subsection (12) is added to section 607.0505,
212 Florida Statutes, to read:

213 607.0505 Registered agent; duties.--

214 (12) Any alien business organization may withdraw its
215 registered agent designation by delivering an application for
216 certificate of withdrawal to the Department of State for filing.
217 Such application shall set forth:

218 (a) The name of the alien business organization and the
219 jurisdiction under the law of which it is incorporated or
220 organized.

221 (b) That it is no longer required to maintain a registered
222 agent in this state.



HB 1623

2003
CS

223 Section 8. Subsection (1) and paragraphs (a), (c), (d),
224 and (e) of subsection (2) of section 607.0630, Florida Statutes,
225 are amended to read:

226 607.0630 Shareholders' preemptive rights.--

227 (1) The shareholders of a corporation do not have a
228 preemptive right to acquire the corporation's unissued shares or
229 the corporation's treasury shares, except in each case to the
230 extent the articles of incorporation so provide.

231 (2) A statement included in the articles of incorporation
232 that "the corporation elects to have preemptive rights" (or words
233 of similar import) means that the following principles apply
234 except to the extent the articles of incorporation expressly
235 provide otherwise:

236 (a) The shareholders of the corporation have a preemptive
237 right, granted on uniform terms and conditions prescribed by the
238 board of directors to provide a fair and reasonable opportunity
239 to exercise the right, to acquire proportional amounts of the
240 corporation's unissued shares and treasury shares upon the
241 decision of the board of directors to issue them.

242 (c) There is no preemptive right with respect to:

243 1. Shares issued as compensation to directors, officers,
244 agents, or employees of the corporation or its subsidiaries or
245 affiliates;

246 2. Shares issued to satisfy conversion or option rights
247 created to provide compensation to directors, officers, agents,
248 or employees of the corporation or its subsidiaries or
249 affiliates;



250 3. Shares authorized in articles of incorporation that are
251 issued within 6 months from the effective date of incorporation;

252 4. Shares issued pursuant to a plan of reorganization
253 approved by a court of competent jurisdiction pursuant to a law
254 of this state or of the United States; or

255 ~~5.4. Shares issued for consideration other sold otherwise~~
256 ~~than for~~ money.

257 (d) Holders of shares of any class or series without
258 general voting rights but with preferential rights to
259 distributions or net assets upon dissolution and liquidation
260 have no preemptive rights with respect to shares of any class.

261 (e) Holders of shares of any class or series with general
262 voting rights but without preferential rights to distributions
263 or net assets upon dissolution or liquidation have no preemptive
264 rights with respect to shares of any class with preferential
265 rights to distributions or assets unless the shares with
266 preferential rights are convertible into or carry a right to
267 subscribe for or acquire shares without preferential rights.

268 Section 9. Subsection (4) is added to section 607.0701,
269 Florida Statutes, to read:

270 607.0701 Annual meeting.--

271 (4) If authorized by the board of directors, and subject
272 to such guidelines and procedures as the board of directors may
273 adopt, shareholders and proxyholders not physically present at
274 an annual meeting of shareholders may, by means of remote
275 communication:

276 (a) Participate in an annual meeting of shareholders.



277 (b) Be deemed present in person and vote at an annual
 278 meeting of shareholders, whether such meeting is to be held at a
 279 designated place or solely by means of remote communication,
 280 provided that:

281 1. The corporation shall implement reasonable measures to
 282 verify that each person deemed present and permitted to vote at
 283 the annual meeting by means of remote communication is a
 284 shareholder or proxyholder;

285 2. The corporation shall implement reasonable measures to
 286 provide such shareholders or proxyholders a reasonable
 287 opportunity to participate in the annual meeting and to vote on
 288 matters submitted to the shareholders, including, without
 289 limitation, an opportunity to communicate and to read or hear
 290 the proceedings of the annual meeting substantially concurrently
 291 with such proceedings; and

292 3. If any shareholder or proxyholder votes or takes other
 293 action at the annual meeting by means of remote communication, a
 294 record of such vote or other action shall be maintained by the
 295 corporation.

296 Section 10. Subsection (4) is added to section 607.0702,
 297 Florida Statutes, to read:

298 607.0702 Special meeting.--

299 (4) If authorized by the board of directors, and subject
 300 to such guidelines and procedures as the board of directors may
 301 adopt, shareholders and proxyholders not physically present at a
 302 special meeting of shareholders may, by means of remote
 303 communication:

304 (a) Participate in a special meeting of shareholders.



HB 1623

2003
CS

305 (b) Be deemed present in person and vote at a special
306 meeting of shareholders, whether such meeting is to be held at a
307 designated place or solely by means of remote communication,
308 provided that:

309 1. The corporation shall implement reasonable measures to
310 verify that each person deemed present and permitted to vote at
311 the special meeting by means of remote communication is a
312 shareholder or proxyholder;

313 2. The corporation shall implement reasonable measures to
314 provide such shareholders or proxyholders a reasonable
315 opportunity to participate in the special meeting and to vote on
316 matters submitted to the shareholders, including, without
317 limitation, an opportunity to communicate and to read or hear
318 the proceedings of the special meeting substantially
319 concurrently with such proceedings; and

320 3. If any shareholder or proxyholder votes or takes other
321 action at the special meeting by means of remote communication,
322 a record of such vote or other action shall be maintained by the
323 corporation.

324 Section 11. Subsection (2) of section 607.07401, Florida
325 Statutes, is amended to read:

326 607.07401 Shareholders' derivative actions.--

327 (2) A complaint in a proceeding brought in the right of a
328 corporation must be verified and allege with particularity the
329 demand made to obtain action by the board of directors and that
330 the demand was refused or ignored by the board of directors for
331 a period of at least 90 days from the first demand unless, prior
332 to the expiration of the 90 days, the person was notified in



HB 1623

2003
CS

333 writing that the corporation rejected the demand, or unless
334 irreparable injury to the corporation would result by waiting
335 for the expiration of the 90-day period. If the corporation
336 commences an investigation of the charges made in the demand or
337 complaint, the court may stay any proceeding until the
338 investigation is completed.

339 Section 12. Subsections (8), (9), and (11) of section
340 607.0902, Florida Statutes, are amended to read:

341 607.0902 Control-share acquisitions.--

342 (8) NOTICE OF SHAREHOLDER MEETING.--

343 (a) If a special meeting is requested, notice of the
344 special meeting of shareholders shall be given as promptly as
345 reasonably practicable by the issuing public corporation to all
346 shareholders of record as of the record date set for the
347 meeting, whether or not entitled to vote at the meeting.

348 (b) Notice of the special or annual shareholder meeting at
349 which the voting rights are to be considered must include or be
350 accompanied by each of the following:

351 1. A copy of the acquiring person statement delivered to
352 the issuing public corporation pursuant to this section.

353 2. A statement by the board of directors of the
354 corporation, authorized by its directors, of its position or
355 recommendation, or that it is taking no position or making no
356 recommendation, with respect to the proposed control-share
357 acquisition.

358 ~~3. A statement that shareholders are or may be entitled to~~
359 ~~assert dissenters' rights, to be accompanied by a copy of ss.~~
360 ~~607.1301, 607.1302, and 607.1320.~~



HB 1623

2003
CS

361 (9) RESOLUTION GRANTING CONTROL-SHARE VOTING RIGHTS.--

362 (a) Control shares acquired in a control-share acquisition
363 have the same voting rights as were accorded the shares before
364 the control-share acquisition only to the extent granted by
365 resolution approved by the shareholders of the issuing public
366 corporation.

367 (b) To be approved under this subsection, the resolution
368 must be approved by:

369 1. Each class or series entitled to vote separately on the
370 proposal by a majority of all the votes entitled to be cast by
371 the class or series, with the holders of the outstanding shares
372 of a class or series being entitled to vote as a separate class
373 if the proposed control-share acquisition would, if fully
374 carried out, result in any of the changes described in s.
375 607.1004; and

376 2. Each class or series entitled to vote separately on the
377 proposal by a majority of all the votes entitled to be cast by
378 that group, excluding all interested shares.

379 (c) Any control shares that do not have voting rights
380 because such rights were not accorded to such shares by approval
381 of a resolution by the shareholders pursuant to paragraph (b)
382 shall regain voting rights and shall no longer be deemed control
383 shares upon a transfer to a person other than the acquiring
384 person or associate or affiliate, as defined in s. 607.0901, of
385 the acquiring person unless the acquisition of the shares by the
386 other person constitutes a control-share acquisition, in which
387 case the voting rights of the shares remain subject to the
388 provisions of this section.



389 ~~(11) RIGHTS OF DISSENTING SHAREHOLDERS.~~

390 ~~(a) Unless otherwise provided in a corporation's articles~~
 391 ~~of incorporation or bylaws before a control share acquisition~~
 392 ~~has occurred, in the event control shares acquired in a control-~~
 393 ~~share acquisition are accorded full voting rights and the~~
 394 ~~acquiring person has acquired control shares with a majority or~~
 395 ~~more of all voting power, all shareholders of the issuing public~~
 396 ~~corporation shall have dissenters' rights to receive the fair~~
 397 ~~value of their shares as provided in ss. 607.1301, 607.1302, and~~
 398 ~~607.1320 as provided in this section.~~

399 ~~(b) As used in this subsection, "fair value" means a value~~
 400 ~~not less than the highest price paid per share by the acquiring~~
 401 ~~person in the control share acquisition.~~

402 Section 13. Subsections (4) and (6) of section 607.10025,
 403 Florida Statutes, are amended to read:

404 607.10025 Shares; combination or division.--

405 (4) If a division or combination is effected by a board
 406 action without shareholder approval and includes an amendment to
 407 the articles of incorporation, there shall be executed in
 408 accordance with s. 607.0120 on behalf of the corporation and
 409 filed in the office of the Department of State articles a
 410 ertificate of amendment which shall set setting forth:

411 (a) The name of the corporation.

412 (b) The date of adoption by the board of directors of the
 413 resolution approving the division or combination.

414 (c) That the amendment to the articles of incorporation
 415 does not adversely affect the rights or preferences of the
 416 holders of outstanding shares of any class or series and does



417 not result in the percentage of authorized shares that remain
 418 unissued after the division or combination exceeding the
 419 percentage of authorized shares that were unissued before the
 420 division or combination.

421 (d) The class or series and number of shares subject to
 422 the division or combination and the number of shares into which
 423 the shares are to be divided or combined.

424 (e) The amendment of the articles of incorporation made in
 425 connection with the division or combination.

426 (f) If the division or combination is to become effective
 427 at a time subsequent to the time of filing, the date, which may
 428 not exceed 90 days after the date of filing, when the division
 429 or combination becomes effective.

430 (6) If a division or combination is effected by action of
 431 the board and of the shareholders, there shall be executed on
 432 behalf of the corporation and filed with the Department of State
 433 articles ~~a certificate~~ of amendment as provided in s. 607.1003,
 434 which articles ~~certificate~~ shall set forth, in addition to the
 435 information required by s. 607.1003, the information required in
 436 subsection(4).

437 Section 14. Subsections (1) and (3) of section 607.1004,
 438 Florida Statutes, are amended to read:

439 607.1004 Voting on amendments by voting groups.--

440 (1) The holders of the outstanding shares of a class are
 441 entitled to vote as a class (if shareholder voting is otherwise
 442 required by this act) upon a proposed amendment, if the
 443 amendment would:



444 ~~(a) Increase or decrease the aggregate number of~~
 445 ~~authorized shares of the class.~~

446 (a)~~(b)~~ Effect an exchange or reclassification of all or
 447 part of the shares of the class into shares of another class.

448 (b)~~(e)~~ Effect an exchange or reclassification, or create a
 449 right of exchange, of all or part of the shares of another class
 450 into the shares of the class.

451 (c)~~(d)~~ Change the designation, rights, preferences, or
 452 limitations of all or part of the shares of the class.

453 (d)~~(e)~~ Change the shares of all or part of the class into
 454 a different number of shares of the same class.

455 (e)~~(f)~~ Create a new class of shares having rights or
 456 preferences with respect to distributions or to dissolution that
 457 are prior or~~7~~ superior,~~or substantially equal~~ to the shares of
 458 the class.

459 (f)~~(g)~~ Increase the rights, preferences, or number of
 460 authorized shares of any class that, after giving effect to the
 461 amendment, have rights or preferences with respect to
 462 distributions or to dissolution that are prior or~~7~~ superior,~~or~~
 463 ~~substantially equal~~ to the shares of the class.

464 (g)~~(h)~~ Limit or deny an existing preemptive right of all
 465 or part of the shares of the class.

466 (h)~~(i)~~ Cancel or otherwise affect rights to distributions
 467 or dividends that have accumulated but not yet been declared on
 468 all or part of the shares of the class.

469 (3) If a proposed amendment that entitles the holders of
 470 two or more classes or series of shares to vote as separate
 471 voting groups ~~classes~~ under this section would affect those two



HB 1623

2003
CS

472 or more classes or series in the same or substantially similar
473 way, the holders of the shares of all the classes or series so
474 affected must vote together as a single voting group ~~class~~ on
475 the proposed amendment, unless otherwise provided in the
476 articles of incorporation.

477 Section 15. Section 607.1006, Florida Statutes, is amended
478 to read:

479 607.1006 Articles of amendment.--

480 ~~(1)~~ A corporation amending its articles of incorporation
481 shall deliver to the Department of State for filing articles of
482 amendment which shall be executed in accordance with s. 607.0120
483 and which shall set ~~setting~~ forth:

484 (1)~~(a)~~ The name of the corporation;

485 (2)~~(b)~~ The text of each amendment adopted;

486 (3)~~(c)~~ If an amendment provides for an exchange,
487 reclassification, or cancellation of issued shares, provisions
488 for implementing the amendment if not contained in the amendment
489 itself;

490 (4)~~(d)~~ The date of each amendment's adoption;

491 (5)~~(e)~~ If an amendment was adopted by the incorporators or
492 board of directors without shareholder action, a statement to
493 that effect and that shareholder action was not required;

494 (6)~~(f)~~ If an amendment was approved by the shareholders, a
495 statement that the number of votes cast for the amendment by the
496 shareholders was sufficient for approval and if more than one
497 voting group was entitled to vote on the amendment, a statement
498 designating each voting group entitled to vote separately on the
499 amendment, and a statement that the number of votes cast for the



HB 1623

2003
CS

500 amendment by the shareholders in each voting group was
501 sufficient for approval by that voting group.

502 ~~(2) If the amendment is made by the incorporators or board~~
503 ~~of directors without shareholder action, the articles of~~
504 ~~amendment shall be executed by an incorporator or director, as~~
505 ~~the case may be, approving the amendment.~~

506 Section 16. Subsection (4) of section 607.1103, Florida
507 Statutes, is amended to read:

508 607.1103 Action on plan.--

509 (4) The corporation the shareholders of which are entitled
510 to vote on the matter shall notify each shareholder, whether or
511 not entitled to vote, of the proposed shareholders' meeting in
512 accordance with s. 607.0705. The notice shall also state that
513 the purpose, or one of the purposes, of the meeting is to
514 consider the plan of merger or share exchange, regardless of
515 whether or not the meeting is an annual or a special meeting,
516 and contain or be accompanied by a copy or summary of the plan.
517 Furthermore, the notice shall contain a clear and concise
518 statement that, if the plan of merger or share exchange is
519 effected, shareholders dissenting therefrom may be entitled, if
520 they comply with the provisions of this act regarding appraisal
521 ~~the rights of dissenting shareholders~~, to be paid the fair value
522 of their shares, and shall be accompanied by a copy of ss.
523 607.1301-607.1333, ~~607.1302~~, and ~~607.1320~~.

524 Section 17. Paragraph (b) of subsection (1) of section
525 607.1104, Florida Statutes, is amended to read:

526 607.1104 Merger of subsidiary corporation.--

527 (1)



HB 1623

2003
CS

528 (b) The board of directors of the parent shall adopt a
529 plan of merger that sets forth:

530 1. The names of the parent and subsidiary corporations;

531 2. The manner and basis of converting the shares of the
532 subsidiary or parent into shares, obligations, or other
533 securities of the parent or any other corporation or, in whole
534 or in part, into cash or other property, and the manner and
535 basis of converting rights to acquire shares of each corporation
536 into rights to acquire shares, obligations, and other securities
537 of the surviving or any other corporation or, in whole or in
538 part, into cash or other property;

539 3. If the merger is between the parent and a subsidiary
540 corporation and the parent is not the surviving corporation, a
541 provision for the pro rata issuance of shares of the subsidiary
542 to the holders of the shares of the parent corporation upon
543 surrender of any certificates therefor; and

544 4. A clear and concise statement that shareholders of the
545 subsidiary who, except for the applicability of this section,
546 would be entitled to vote and who dissent from the merger
547 pursuant to s. 607.1321 ~~607.1320~~, may be entitled, if they
548 comply with the provisions of this act regarding appraisal ~~the~~
549 ~~rights of dissenting shareholders~~, to be paid the fair value of
550 their shares.

551 Section 18. Subsection (6) of section 607.1108, Florida
552 Statutes, is amended to read:

553 607.1108 Merger of domestic corporation and other business
554 entity.--



555 (6) Sections 607.1103 and 607.1301-607.1333 ~~607.1320~~
 556 shall, insofar as they are applicable, apply to mergers of one
 557 or more domestic corporations with or into one or more other
 558 business entities.

559 Section 19. Subsections (3) and (7) of section 607.11101,
 560 Florida Statutes, are amended to read:

561 607.11101 Effect of merger of domestic corporation and
 562 other business entity.--When a merger becomes effective:

563 (3) The surviving entity shall thereafter be responsible
 564 and liable for all the liabilities and obligations of each
 565 domestic corporation and other business entity that is a party
 566 to the merger, including liabilities arising out of appraisal
 567 ~~the rights of dissenters~~ with respect to such merger under
 568 applicable law.

569 (7) The shares, partnership interests, interests,
 570 obligations, or other securities, and the rights to acquire
 571 shares, partnership interests, interests, obligations, or other
 572 securities, of each domestic corporation and other business
 573 entity that is a party to the merger shall be converted into
 574 shares, partnership interests, interests, obligations, or other
 575 securities, or rights to such securities, of the surviving
 576 entity or any other domestic corporation or other business
 577 entity or, in whole or in part, into cash or other property as
 578 provided in the plan of merger, and the former holders of
 579 shares, partnership interests, interests, obligations, or other
 580 securities, or rights to such securities, shall be entitled only
 581 to the rights provided in the plan of merger and to their
 582 appraisal rights ~~as dissenters~~, if any, under ss. 607.1301-



HB 1623

2003
CS

583 | 607.1333 ~~607.1301-607.1320~~, s. 608.4384, s. 620.205, or other
584 | applicable law.

585 | Section 20. Subsection (4) of section 607.1202, Florida
586 | Statutes, is amended to read:

587 | 607.1202 Sale of assets other than in regular course of
588 | business.--

589 | (4) The corporation shall notify each shareholder of
590 | record, whether or not entitled to vote, of the proposed
591 | shareholders' meeting in accordance with s. 607.0705. The notice
592 | shall also state that the purpose, or one of the purposes, of
593 | the meeting is to consider the sale, lease, exchange, or other
594 | disposition of all, or substantially all, the property of the
595 | corporation, regardless of whether or not the meeting is an
596 | annual or a special meeting, and shall contain or be accompanied
597 | by a description of the transaction. Furthermore, the notice
598 | shall contain a clear and concise statement that, if the
599 | transaction is effected, shareholders dissenting therefrom are
600 | or may be entitled, if they comply with the provisions of this
601 | act regarding appraisal ~~the rights of dissenting shareholders~~,
602 | to be paid the fair value of their shares and such notice shall
603 | be accompanied by a copy of ss. 607.1301-607.1333 ~~607.1301,~~
604 | ~~607.1302,~~ and ~~607.1320~~.

605 | Section 21. Section 607.1301, Florida Statutes, is amended
606 | to read:

607 | (Substantial rewording of section. See s.
608 | 607.1301, Florida Statutes, for present text.)
609 | 607.1301 Appraisal rights; definitions.--The following
610 | definitions apply to ss. 607.1302-607.1333:



HB 1623

2003
CS

611 (1) "Affiliate" means a person that directly or indirectly
612 through one or more intermediaries controls, is controlled by,
613 or is under common control with another person or is a senior
614 executive thereof. For purposes of s. 607.1302(2)(d), a person
615 is deemed to be an affiliate of its senior executives.

616 (2) "Beneficial shareholder" means a person who is the
617 beneficial owner of shares held in a voting trust or by a
618 nominee on the beneficial owner's behalf.

619 (3) "Corporation" means the issuer of the shares held by a
620 shareholder demanding appraisal and, for matters covered in ss.
621 607.1322-607.1333, includes the surviving entity in a merger.

622 (4) "Fair value" means the value of the corporation's
623 shares determined:

624 (a) Immediately before the effectuation of the corporate
625 action to which the shareholder objects.

626 (b) Using customary and current valuation concepts and
627 techniques generally employed for similar businesses in the
628 context of the transaction requiring appraisal, excluding any
629 appreciation or depreciation in anticipation of the corporate
630 action unless exclusion would be inequitable to the corporation
631 and its remaining shareholders.

632 (c) Without discounting for lack of marketability or
633 minority status except, if appropriate, for amendments to the
634 articles of incorporation pursuant to s. 607.1302(1)(e) or
635 circumstances in which not discounting for marketability would
636 be inequitable to the corporation and its remaining
637 shareholders.



HB 1623

2003
CS

638 (5) "Interest" means interest from the effective date of
639 the corporate action until the date of payment, at the rate of
640 interest on judgments in this state on the effective date of the
641 corporate action.

642 (6) "Preferred shares" means a class or series of shares
643 the holders of which have preference over any other class or
644 series with respect to distributions.

645 (7) "Record shareholder" means the person in whose name
646 shares are registered in the records of the corporation or the
647 beneficial owner of shares to the extent of the rights granted
648 by a nominee certificate on file with the corporation.

649 (8) "Senior executive" means the chief executive officer,
650 chief operating officer, chief financial officer, or anyone in
651 charge of a principal business unit or function.

652 (9) "Shareholder" means both a record shareholder and a
653 beneficial shareholder.

654 Section 22. Section 607.1302, Florida Statutes, is amended
655 to read:

656 (Substantial rewording of section. See s.
657 607.1302, Florida Statutes, for present text.)
658 607.1302 Right of shareholders to appraisal.--

659 (1) A shareholder is entitled to appraisal rights, and to
660 obtain payment of the fair value of that shareholder's shares,
661 in the event of any of the following corporate actions:

662 (a) Consummation of a merger to which the corporation is a
663 party if shareholder approval is required for the merger by s.
664 607.1103 and the shareholder is entitled to vote on the merger



HB 1623

2003
CS

665 or if the corporation is a subsidiary and the merger is governed
666 by s. 607.1104;

667 (b) Consummation of a share exchange to which the
668 corporation is a party as the corporation whose shares will be
669 acquired if the shareholder is entitled to vote on the exchange,
670 except that appraisal rights shall not be available to any
671 shareholder of the corporation with respect to any class or
672 series of shares of the corporation that is not exchanged;

673 (c) Consummation of a disposition of assets pursuant to s.
674 607.1202 if the shareholder is entitled to vote on the
675 disposition, including a sale in dissolution but not including a
676 sale pursuant to court order or a sale for cash pursuant to a
677 plan by which all or substantially all of the net proceeds of
678 the sale will be distributed to the shareholders within 1 year
679 after the date of sale;

680 (d) An amendment of the articles of incorporation with
681 respect to a class or series of shares that reduces the number
682 of shares of a class or series owned by the shareholder to a
683 fraction of a share if the corporation has the obligation or
684 right to repurchase the fractional share so created;

685 (e) Any other amendment to the articles of incorporation,
686 merger, share exchange, or disposition of assets to the extent
687 provided by the articles of incorporation, bylaws, or a
688 resolution of the board of directors, except that no bylaw or
689 board resolution providing for appraisal rights may be amended
690 or otherwise altered except by shareholder approval; or

691 (f) With regard to shares issued prior to October 1, 2003,
692 any amendment of the articles of incorporation if the



HB 1623

2003
CS

693 shareholder is entitled to vote on the amendment and if such
694 amendment would adversely affect such shareholder by:

695 1. Altering or abolishing any preemptive rights attached
696 to any of his or her shares;

697 2. Altering or abolishing the voting rights pertaining to
698 any of his or her shares, except as such rights may be affected
699 by the voting rights of new shares then being authorized of any
700 existing or new class or series of shares;

701 3. Effecting an exchange, cancellation, or
702 reclassification of any of his or her shares, when such
703 exchange, cancellation, or reclassification would alter or
704 abolish the shareholder's voting rights or alter his or her
705 percentage of equity in the corporation, or effecting a
706 reduction or cancellation of accrued dividends or other
707 arrearages in respect to such shares;

708 4. Reducing the stated redemption price of any of the
709 shareholder's redeemable shares, altering or abolishing any
710 provision relating to any sinking fund for the redemption or
711 purchase of any of his or her shares, or making any of his or
712 her shares subject to redemption when they are not otherwise
713 redeemable;

714 5. Making noncumulative, in whole or in part, dividends of
715 any of the shareholder's preferred shares which had theretofore
716 been cumulative;

717 6. Reducing the stated dividend preference of any of the
718 shareholder's preferred shares; or



HB 1623

2003
CS

719 7. Reducing any stated preferential amount payable on any
720 of the shareholder's preferred shares upon voluntary or
721 involuntary liquidation.

722 (2) Notwithstanding subsection (1), the availability of
723 appraisal rights under paragraphs(1)(a), (b), (c), and (d) shall
724 be limited in accordance with the following provisions:

725 (a) Appraisal rights shall not be available for the
726 holders of shares of any class or series of shares which is:

727 1. Listed on the New York Stock Exchange or the American
728 Stock Exchange or designated as a national market system
729 security on an interdealer quotation system by the National
730 Association of Securities Dealers, Inc.; or

731 2. Not so listed or designated, but has at least 2,000
732 shareholders and the outstanding shares of such class or series
733 has a market value of at least \$10 million, exclusive of the
734 value of such shares held by its subsidiaries, senior
735 executives, directors, and beneficial shareholders owning more
736 than 10 percent of such shares.

737 (b) The applicability of paragraph (2)(a) shall be
738 determined as of:

739 1. The record date fixed to determine the shareholders
740 entitled to receive notice of, and to vote at, the meeting of
741 shareholders to act upon the corporate action requiring
742 appraisal rights; or

743 2. If there will be no meeting of shareholders, the close
744 of business on the day on which the board of directors adopts
745 the resolution recommending such corporate action.



HB 1623

2003
CS

746 (c) Paragraph (2)(a) shall not be applicable and appraisal
747 rights shall be available pursuant to subsection (1) for the
748 holders of any class or series of shares who are required by the
749 terms of the corporate action requiring appraisal rights to
750 accept for such shares anything other than cash or shares of any
751 class or any series of shares of any corporation, or any other
752 proprietary interest of any other entity, that satisfies the
753 standards set forth in paragraph (2)(a) at the time the
754 corporate action becomes effective.

755 (d) Paragraph (2)(a) shall not be applicable and appraisal
756 rights shall be available pursuant to subsection (1) for the
757 holders of any class or series of shares if:

758 1. Any of the shares or assets of the corporation are
759 being acquired or converted, whether by merger, share exchange,
760 or otherwise, pursuant to the corporate action by a person, or
761 by an affiliate of a person, who:

762 a. Is, or at any time in the 1-year period immediately
763 preceding approval by the board of directors of the corporate
764 action requiring appraisal rights was, the beneficial owner of
765 20 percent or more of the voting power of the corporation,
766 excluding any shares acquired pursuant to an offer for all
767 shares having voting power if such offer was made within 1 year
768 prior to the corporate action requiring appraisal rights for
769 consideration of the same kind and of a value equal to or less
770 than that paid in connection with the corporate action; or

771 b. Directly or indirectly has, or at any time in the 1-
772 year period immediately preceding approval by the board of
773 directors of the corporation of the corporate action requiring



HB 1623

2003
CS

774 appraisal rights had, the power, contractually or otherwise, to
775 cause the appointment or election of 25 percent or more of the
776 directors to the board of directors of the corporation; or
777 2. Any of the shares or assets of the corporation are
778 being acquired or converted, whether by merger, share exchange,
779 or otherwise, pursuant to such corporate action by a person, or
780 by an affiliate of a person, who is, or at any time in the 1-
781 year period immediately preceding approval by the board of
782 directors of the corporate action requiring appraisal rights
783 was, a senior executive or director of the corporation or a
784 senior executive of any affiliate thereof, and that senior
785 executive or director will receive, as a result of the corporate
786 action, a financial benefit not generally available to other
787 shareholders as such, other than:
788 a. Employment, consulting, retirement, or similar benefits
789 established separately and not as part of or in contemplation of
790 the corporate action;
791 b. Employment, consulting, retirement, or similar benefits
792 established in contemplation of, or as part of, the corporate
793 action that are not more favorable than those existing before
794 the corporate action or, if more favorable, that have been
795 approved on behalf of the corporation in the same manner as is
796 provided in s. 607.0832; or
797 c. In the case of a director of the corporation who will,
798 in the corporate action, become a director of the acquiring
799 entity in the corporate action or one of its affiliates, rights
800 and benefits as a director that are provided on the same basis



HB 1623

2003
CS

801 as those afforded by the acquiring entity generally to other
802 directors of such entity or such affiliate.

803 (e) For the purposes of paragraph (2)(d) only, the term
804 "beneficial owner" means any person who, directly or indirectly,
805 through any contract, arrangement, or understanding, other than
806 a revocable proxy, has or shares the power to vote, or to direct
807 the voting of, shares, provided that a member of a national
808 securities exchange shall not be deemed to be a beneficial owner
809 of securities held directly or indirectly by it on behalf of
810 another person solely because such member is the record holder
811 of such securities if the member is precluded by the rules of
812 such exchange from voting without instruction on contested
813 matters or matters that may affect substantially the rights or
814 privileges of the holders of the securities to be voted. When
815 two or more persons agree to act together for the purpose of
816 voting their shares of the corporation, each member of the group
817 formed thereby shall be deemed to have acquired beneficial
818 ownership, as of the date of such agreement, of all voting
819 shares of the corporation beneficially owned by any member of
820 the group.

821 (3) Notwithstanding any other provision of this section,
822 the articles of incorporation as originally filed or any
823 amendment thereto may limit or eliminate appraisal rights for
824 any class or series of preferred shares, but any such limitation
825 or elimination contained in an amendment to the articles of
826 incorporation that limits or eliminates appraisal rights for any
827 of such shares that are outstanding immediately prior to the
828 effective date of such amendment or that the corporation is or



HB 1623

2003
CS

829 may be required to issue or sell thereafter pursuant to any
830 conversion, exchange, or other right existing immediately before
831 the effective date of such amendment shall not apply to any
832 corporate action that becomes effective within 1 year of that
833 date if such action would otherwise afford appraisal rights.

834 (4) A shareholder entitled to appraisal rights under this
835 chapter may not challenge a completed corporate action for which
836 appraisal rights are available unless such corporate action:

837 (a) Was not effectuated in accordance with the applicable
838 provisions of this section or the corporation's articles of
839 incorporation, bylaws, or board of directors' resolution
840 authorizing the corporate action; or

841 (b) Was procured as a result of fraud or material
842 misrepresentation.

843 Section 23. Section 607.1303, Florida Statutes, is created
844 to read:

845 607.1303 Assertion of rights by nominees and beneficial
846 owners.--

847 (1) A record shareholder may assert appraisal rights as to
848 fewer than all the shares registered in the record shareholder's
849 name but owned by a beneficial shareholder only if the record
850 shareholder objects with respect to all shares of the class or
851 series owned by the beneficial shareholder and notifies the
852 corporation in writing of the name and address of each
853 beneficial shareholder on whose behalf appraisal rights are
854 being asserted. The rights of a record shareholder who asserts
855 appraisal rights for only part of the shares held of record in
856 the record shareholder's name under this subsection shall be



HB 1623

2003
CS

857 determined as if the shares as to which the record shareholder
858 objects and the record shareholder's other shares were
859 registered in the names of different record shareholders.

860 (2) A beneficial shareholder may assert appraisal rights
861 as to shares of any class or series held on behalf of the
862 shareholder only if such shareholder:

863 (a) Submits to the corporation the record shareholder's
864 written consent to the assertion of such rights no later than
865 the date referred to in s. 607.1322(2)(b)2.

866 (b) Does so with respect to all shares of the class or
867 series that are beneficially owned by the beneficial
868 shareholder.

869 Section 24. Section 607.1320, Florida Statutes, is amended
870 to read:

871 (Substantial rewording of section. See s.
872 607.1320, Florida Statutes, for present text.)
873 607.1320 Notice of appraisal rights.--

874 (1) If proposed corporate action described in s.
875 607.1302(1) is to be submitted to a vote at a shareholders'
876 meeting, the meeting notice must state that the corporation has
877 concluded that shareholders are, are not, or may be entitled to
878 assert appraisal rights under this chapter. If the corporation
879 concludes that appraisal rights are or may be available, a copy
880 of ss. 607.1301-607.1333 must accompany the meeting notice sent
881 to those record shareholders entitled to exercise appraisal
882 rights.

883 (2) In a merger pursuant to s. 607.1104, the parent
884 corporation must notify in writing all record shareholders of



HB 1623

2003
CS

885 the subsidiary who are entitled to assert appraisal rights that
886 the corporate action became effective. Such notice must be sent
887 within 10 days after the corporate action became effective and
888 include the materials described in s. 607.1322.

889 (3) If the proposed corporate action described in s.
890 607.1302(1) is to be approved other than by a shareholders'
891 meeting, the notice referred to in s. 607.1320(1) must be sent
892 to all shareholders at the time that consents are first
893 solicited pursuant to s. 607.0704, whether or not consents are
894 solicited from all shareholders, and include the materials
895 described in s. 607.1322.

896 Section 25. Section 607.1321, Florida Statutes, is created
897 to read:

898 607.1321 Notice of intent to demand payment.--

899 (1) If proposed corporate action requiring appraisal
900 rights under s. 607.1302 is submitted to a vote at a
901 shareholders' meeting, or is submitted to a shareholder pursuant
902 to a consent vote under s. 607.0704, a shareholder who wishes to
903 assert appraisal rights with respect to any class or series of
904 shares:

905 (a) Must deliver to the corporation before the vote is
906 taken, or within 20 days after receiving the notice pursuant to
907 s. 607.1320(3) if action is to be taken without a shareholder
908 meeting, written notice of the shareholder's intent to demand
909 payment if the proposed action is effectuated.

910 (b) Must not vote, or cause or permit to be voted, any
911 shares of such class or series in favor of the proposed action.



HB 1623

2003
CS

912 (2) A shareholder who does not satisfy the requirements of
913 subsection (1) is not entitled to payment under this chapter.

914 Section 26. Section 607.1322, Florida Statutes, is created
915 to read:

916 607.1322 Appraisal notice and form.--

917 (1) If proposed corporate action requiring appraisal
918 rights under s. 607.1302(1) becomes effective, the corporation
919 must deliver a written appraisal notice and form required by
920 paragraph (2)(a) to all shareholders who satisfied the
921 requirements of s. 607.1321. In the case of a merger under s.
922 607.1104, the parent must deliver a written appraisal notice and
923 form to all record shareholders who may be entitled to assert
924 appraisal rights.

925 (2) The appraisal notice must be sent no earlier than the
926 date the corporate action became effective and no later than 10
927 days after such date and must:

928 (a) Supply a form that specifies the date that the
929 corporate action became effective and that provides for the
930 shareholder to state:

931 1. The shareholder's name and address.

932 2. The number, classes, and series of shares as to which
933 the shareholder asserts appraisal rights.

934 3. That the shareholder did not vote for the transaction.

935 4. Whether the shareholder accepts the corporation's offer
936 as stated in subparagraph (2)(b)4.

937 5. If the offer is not accepted, the shareholder's
938 estimated fair value of the shares and a demand for payment of
939 the shareholder's estimated value plus interest.



HB 1623

2003
CS

940 (b) State:

941 1. Where the form must be sent and where certificates for
942 certificated shares must be deposited and the date by which
943 those certificates must be deposited, which date may not be
944 earlier than the date for receiving the required form under
945 subparagraph (2)(b)2.

946 2. A date by which the corporation must receive the form,
947 which date may not be fewer than 40 nor more than 60 days after
948 the date the subsection(1) appraisal notice and form are sent,
949 and state that the shareholder shall have waived the right to
950 demand appraisal with respect to the shares unless the form is
951 received by the corporation by such specified date.

952 3. The corporation's estimate of the fair value of the
953 shares.

954 4. An offer to each shareholder who is entitled to
955 appraisal rights to pay the corporation's estimate of fair value
956 set forth in subparagraph (2)(b)3.

957 5. That, if requested in writing, the corporation will
958 provide to the shareholder so requesting, within 10 days after
959 the date specified in subparagraph(2)(b)2., the number of
960 shareholders who return the forms by the specified date and the
961 total number of shares owned by them.

962 6. The date by which the notice to withdraw under s.
963 607.1323 must be received, which date must be within 20 days
964 after the date specified in subparagraph(2)(b)2.

965 (c) Be accompanied by:

966 1. Financial statements of the corporation that issued the
967 shares to be appraised, consisting of a balance sheet as of the



HB 1623

2003
CS

968 end of the fiscal year ending not more than 15 months prior to
969 the date of the corporation's appraisal notice, an income
970 statement for that year, a cash flow statement for that year,
971 and the latest available interim financial statements, if any.

972 2. A copy of ss. 607.1301-607.1333.

973 Section 27. Section 607.1323, Florida Statutes, is created
974 to read:

975 607.1323 Perfection of rights; right to withdraw.--

976 (1) A shareholder who wishes to exercise appraisal rights
977 must execute and return the form received pursuant to s.
978 607.1322(1) and, in the case of certificated shares, deposit the
979 shareholder's certificates in accordance with the terms of the
980 notice by the date referred to in the notice pursuant to s.
981 607.1322(2)(b)2. Once a shareholder deposits that shareholder's
982 certificates or, in the case of uncertificated shares, returns
983 the executed forms, that shareholder loses all rights as a
984 shareholder, unless the shareholder withdraws pursuant to
985 subsection (2).

986 (2) A shareholder who has complied with subsection (1) may
987 nevertheless decline to exercise appraisal rights and withdraw
988 from the appraisal process by so notifying the corporation in
989 writing by the date set forth in the appraisal notice pursuant
990 to s. 607.1322(2)(b)6. A shareholder who fails to so withdraw
991 from the appraisal process may not thereafter withdraw without
992 the corporation's written consent.

993 (3) A shareholder who does not execute and return the form
994 and, in the case of certificated shares, deposit that
995 shareholder's share certificates if required, each by the date



HB 1623

2003
CS

996 set forth in the notice described in subsection (2), shall not
997 be entitled to payment under this chapter.

998 Section 28. Section 607.1324, Florida Statutes, is created
999 to read:

1000 607.1324 Shareholder's acceptance of corporation's
1001 offer.--

1002 (1) If the shareholder states on the form provided in s.
1003 607.1322(1) that the shareholder accepts the offer of the
1004 corporation to pay the corporation's estimated fair value for
1005 the shares, the corporation shall make such payment to the
1006 shareholder within 90 days after the corporation's receipt of
1007 the form from the shareholder.

1008 (2) Upon payment of the agreed value, the shareholder
1009 shall cease to have any interest in the shares.

1010 Section 29. Section 607.1326, Florida Statutes, is created
1011 to read:

1012 607.1326 Procedure if shareholder is dissatisfied with
1013 offer.--

1014 (1) A shareholder who is dissatisfied with the
1015 corporation's offer as set forth pursuant to s. 607.1322(2)(b)4.
1016 must notify the corporation on the form provided pursuant to s.
1017 607.1322(1) of that shareholder's estimate of the fair value of
1018 the shares and demand payment of that estimate plus interest.

1019 (2) A shareholder who fails to notify the corporation in
1020 writing of that shareholder's demand to be paid the
1021 shareholder's stated estimate of the fair value plus interest
1022 under subsection (1) within the timeframe set forth in s.
1023 607.1322(2)(b)2. waives the right to demand payment under this



HB 1623

2003
CS

1024 section and shall be entitled only to the payment offered by the
1025 corporation pursuant to s. 607.1322(2)(b)4.

1026 Section 30. Section 607.1330, Florida Statutes, is created
1027 to read:

1028 607.1330 Court action.--

1029 (1) If a shareholder makes demand for payment under s.
1030 607.1326 which remains unsettled, the corporation shall commence
1031 a proceeding within 60 days after receiving the payment demand
1032 and petition the court to determine the fair value of the shares
1033 and accrued interest. If the corporation does not commence the
1034 proceeding within the 60-day period, it shall pay in cash to
1035 each shareholder the amount the shareholder demanded pursuant to
1036 s. 607.1326 plus interest.

1037 (2) The corporation shall commence the proceeding in the
1038 appropriate court of the county in which the corporation's
1039 principal office, or, if none, its registered office, in this
1040 state is located. If the corporation is a foreign corporation
1041 without a registered office in this state, it shall commence the
1042 proceeding in the county in this state in which the principal
1043 office or registered office of the domestic corporation merged
1044 with the foreign corporation was located at the time of the
1045 transaction.

1046 (3) The corporation shall make all shareholders, whether
1047 or not residents of this state, whose demands remain unsettled
1048 parties to the proceeding as in an action against their shares,
1049 and all parties must be served with a copy of the petition.
1050 Nonresidents may be served by registered or certified mail or by
1051 publication as provided by law.



1052 (4) The jurisdiction of the court in which the proceeding
 1053 is commenced under subsection (2) is plenary and exclusive. The
 1054 court may appoint one or more persons as appraisers to receive
 1055 evidence and recommend a decision on the question of fair value.
 1056 The appraisers shall have the powers described in the order
 1057 appointing them, or in any amendment to the order. The
 1058 shareholders demanding appraisal rights are entitled to the same
 1059 discovery rights as parties in other civil proceedings. There
 1060 shall be no right to a jury trial.

1061 (5) Each shareholder made a party to the proceeding is
 1062 entitled to judgment for the amount of the fair value of such
 1063 shareholder's shares, plus interest, as found by the court.

1064 (6) The corporation shall pay each such shareholder the
 1065 amount found to be due within 10 days after final determination
 1066 of the proceedings. Upon payment of the judgment, the
 1067 shareholder shall cease to have any interest in the shares.

1068 Section 31. Section 607.1331, Florida Statutes, is created
 1069 to read:

1070 607.1331 Court costs and counsel fees.--

1071 (1) The court in an appraisal proceeding commenced under
 1072 s. 607.1330 shall determine all costs of the proceeding,
 1073 including the reasonable compensation and expenses of appraisers
 1074 appointed by the court. The court shall assess the costs against
 1075 the corporation, except that the court may assess costs against
 1076 all or some of the shareholders demanding appraisal, in amounts
 1077 the court finds equitable, to the extent the court finds such
 1078 shareholders acted arbitrarily, vexatiously, or not in good
 1079 faith with respect to the rights provided by this chapter.



HB 1623

2003
CS

1080 (2) The court in an appraisal proceeding may also assess
1081 the fees and expenses of counsel and experts for the respective
1082 parties, in amounts the court finds equitable:

1083 (a) Against the corporation and in favor of any or all
1084 shareholders demanding appraisal if the court finds the
1085 corporation did not substantially comply with ss. 607.1320 and
1086 607.1322; or

1087 (b) Against either the corporation or a shareholder
1088 demanding appraisal, in favor of any other party, if the court
1089 finds that the party against whom the fees and expenses are
1090 assessed acted arbitrarily, vexatiously, or not in good faith
1091 with respect to the rights provided by this chapter.

1092 (3) If the court in an appraisal proceeding finds that the
1093 services of counsel for any shareholder were of substantial
1094 benefit to other shareholders similarly situated, and that the
1095 fees for those services should not be assessed against the
1096 corporation, the court may award to such counsel reasonable fees
1097 to be paid out of the amounts awarded the shareholders who were
1098 benefited.

1099 (4) To the extent the corporation fails to make a required
1100 payment pursuant to s. 607.1324, the shareholder may sue
1101 directly for the amount owed and, to the extent successful,
1102 shall be entitled to recover from the corporation all costs and
1103 expenses of the suit, including counsel fees.

1104 Section 32. Section 607.1332, Florida Statutes, is created
1105 to read:

1106 607.1332 Disposition of acquired shares.--Shares acquired
1107 by a corporation pursuant to payment of the agreed value thereof



HB 1623

2003
CS

1108 or pursuant to payment of the judgment entered therefor, as
1109 provided in this chapter, may be held and disposed of by such
1110 corporation as authorized but unissued shares of the
1111 corporation, except that, in the case of a merger or share
1112 exchange, they may be held and disposed of as the plan of merger
1113 or share exchange otherwise provides. The shares of the
1114 surviving corporation into which the shares of such shareholders
1115 demanding appraisal rights would have been converted had they
1116 assented to the merger shall have the status of authorized but
1117 unissued shares of the surviving corporation.

1118 Section 33. Section 607.1333, Florida Statutes, is created
1119 to read:

1120 607.1333. Limitation on corporate payment.--

1121 (1) No payment shall be made to a shareholder seeking
1122 appraisal rights if, at the time of payment, the corporation is
1123 unable to meet the distribution standards of s. 607.06401. In
1124 such event, the shareholder shall, at the shareholder's option:

1125 (a) Withdraw his or her notice of intent to assert
1126 appraisal rights, which shall in such event be deemed withdrawn
1127 with the consent of the corporation; or

1128 (b) Retain his or her status as a claimant against the
1129 corporation and, if it is liquidated, be subordinated to the
1130 rights of creditors of the corporation, but have rights superior
1131 to the shareholders not asserting appraisal rights, and if it is
1132 not liquidated, retain his or her right to be paid for the
1133 shares, which right the corporation shall be obliged to satisfy
1134 when the restrictions of this section do not apply.



HB 1623

2003
CS

1135 (2) The shareholder shall exercise the option under
1136 paragraph (1)(a) or (b) by written notice filed with the
1137 corporation within 30 days after the corporation has given
1138 written notice that the payment for shares cannot be made
1139 because of the restrictions of this section. If the shareholder
1140 fails to exercise the option, the shareholder shall be deemed to
1141 have withdrawn his or her notice of intent to assert appraisal
1142 rights.

1143 Section 34. Subsection (1) of section 607.1403, Florida
1144 Statutes, is amended to read:

1145 607.1403 Articles of dissolution.--

1146 (1) At any time after dissolution is authorized, the
1147 corporation may dissolve by delivering to the Department of
1148 State for filing articles of dissolution which shall be executed
1149 in accordance with s. 607.0120 and which shall set ~~setting~~
1150 forth:

1151 (a) The name of the corporation;

1152 (b) The date dissolution was authorized;

1153 (c) If dissolution was approved by the shareholders, a
1154 statement that the number cast for dissolution by the
1155 shareholders was sufficient for approval.

1156 (d) If dissolution was approved by the shareholders and if
1157 voting by voting groups was required, a statement that the
1158 number cast for dissolution by the shareholders was sufficient
1159 for approval must be separately provided for each voting group
1160 entitled to vote separately on the plan to dissolve.

1161 Section 35. Section 607.1406, Florida Statutes, is amended
1162 to read:



HB 1623

2003
CS

1163 607.1406 Known claims against dissolved corporation.--

1164 (1) A dissolved corporation or successor entity, as
1165 defined in subsection (15), may dispose of the known claims
1166 against it by following the procedures described in subsections
1167 (2), (3), and(4).

1168 (2) The dissolved corporation or successor entity shall
1169 deliver to each of its known claimants written notice of the
1170 dissolution at any time after its effective date. The written
1171 notice shall:

1172 (a) Provide a reasonable description of the claim that the
1173 claimant may be entitled to assert;

1174 (b) State whether the claim is admitted or not admitted,
1175 in whole or in part, and, if admitted:

1176 1. The amount that is admitted, which may be as of a given
1177 date; and

1178 2. Any interest obligation if fixed by an instrument of
1179 indebtedness;

1180 (c) Provide a mailing address where a claim may be sent;

1181 (d) State the deadline, which may not be fewer than 120
1182 days after the effective date of the written notice, by which
1183 confirmation of the claim must be delivered to the dissolved
1184 corporation or successor entity; and

1185 (e) State that the corporation or successor entity may
1186 make distributions thereafter to other claimants and the
1187 corporation's shareholders or persons interested as having been
1188 such without further notice.

1189 (3) A dissolved corporation or successor entity may
1190 reject, in whole or in part, any claim made by a claimant



HB 1623

2003
CS

1191 pursuant to this subsection by mailing notice of such rejection
1192 to the claimant within 90 days after receipt of such claim and,
1193 in all events, at least 150 days before expiration of 3 years
1194 following the effective date of dissolution. A notice sent by
1195 the dissolved corporation or successor entity pursuant to this
1196 subsection shall be accompanied by a copy of this section.

1197 (4) A dissolved corporation or successor entity electing
1198 to follow the procedures described in subsections(2) and (3)
1199 shall also give notice of the dissolution of the corporation to
1200 persons with known claims, that are contingent upon the
1201 occurrence or nonoccurrence of future events or otherwise
1202 conditional or unmatured, and request that such persons present
1203 such claims in accordance with the terms of such notice. Such
1204 notice shall be in substantially the form, and sent in the same
1205 manner, as described in subsection(2).

1206 (5) A dissolved corporation or successor entity shall
1207 offer any claimant whose known claim is contingent, conditional,
1208 or unmatured such security as the corporation or such entity
1209 determines is sufficient to provide compensation to the claimant
1210 if the claim matures. The dissolved corporation or successor
1211 entity shall deliver such offer to the claimant within 90 days
1212 after receipt of such claim and, in all events, at least 150
1213 days before expiration of 3 years following the effective date
1214 of dissolution. If the claimant offered such security does not
1215 deliver in writing to the dissolved corporation or successor
1216 entity a notice rejecting the offer within 120 days after
1217 receipt of such offer for security, the claimant is deemed to



HB 1623

2003
CS

1218 have accepted such security as the sole source from which to
1219 satisfy his or her claim against the corporation.

1220 (6) A dissolved corporation or successor entity which has
1221 given notice in accordance with subsections (2) and (4) shall
1222 petition the circuit court in the county where the corporation's
1223 principal office is located or was located at the effective date
1224 of dissolution to determine the amount and form of security that
1225 will be sufficient to provide compensation to any claimant who
1226 has rejected the offer for security made pursuant to subsection
1227 (5).

1228 (7) A dissolved corporation or successor entity which has
1229 given notice in accordance with subsection (2) shall petition
1230 the circuit court in the county where the corporation's
1231 principal office is located or was located at the effective date
1232 of dissolution to determine the amount and form of security
1233 which will be sufficient to provide compensation to claimants
1234 whose claims are known to the corporation or successor entity
1235 but whose identities are unknown. The court shall appoint a
1236 guardian ad litem to represent all claimants whose identities
1237 are unknown in any proceeding brought under this subsection. The
1238 reasonable fees and expenses of such guardian, including all
1239 reasonable expert witness fees, shall be paid by the petitioner
1240 in such proceeding.

1241 (8) The giving of any notice or making of any offer
1242 pursuant to the provisions of this section shall not revive any
1243 claim then barred or constitute acknowledgment by the dissolved
1244 corporation or successor entity that any person to whom such
1245 notice is sent is a proper claimant and shall not operate as a



1246 waiver of any defense or counterclaim in respect of any claim
1247 asserted by any person to whom such notice is sent.

1248 (9) A dissolved corporation or successor entity which has
1249 followed the procedures described in subsections(2)-(7):

1250 (a) Shall pay the claims admitted or made and not rejected
1251 in accordance with subsection (3);

1252 (b) Shall post the security offered and not rejected
1253 pursuant to subsection (5);

1254 (c) Shall post any security ordered by the circuit court
1255 in any proceeding under subsections (6) and (7); and

1256 (d) Shall pay or make provision for all other known
1257 obligations of the corporation or such successor entity.

1258
1259 Such claims or obligations shall be paid in full, and any such
1260 provision for payments shall be made in full if there are
1261 sufficient funds. If there are insufficient funds, such claims
1262 and obligations shall be paid or provided for according to their
1263 priority and, among claims of equal priority, ratably to the
1264 extent of funds legally available therefor. Any remaining funds
1265 shall be distributed to the shareholders of the dissolved
1266 corporation; however, such distribution may not be made before
1267 the expiration of 150 days from the date of the last notice of
1268 rejections given pursuant to subsection (3). In the absence of
1269 actual fraud, the judgment of the directors of the dissolved
1270 corporation or the governing persons of such successor entity as
1271 to the provisions made for the payment of all obligations under
1272 paragraph (d) is conclusive.



1273 (10) A dissolved corporation or successor entity which has
 1274 not followed the procedures described in subsections (2) and (3)
 1275 shall pay or make reasonable provision to pay all known claims
 1276 and obligations, including all contingent, conditional, or
 1277 unmatured claims known to the corporation or such successor
 1278 entity and all claims which are known to the dissolved
 1279 corporation or such successor entity but for which the identity
 1280 of the claimant is unknown. Such claims shall be paid in full,
 1281 and any such provision for payment made shall be made in full if
 1282 there are sufficient funds. If there are insufficient funds,
 1283 such claims and obligations shall be paid or provided for
 1284 according to their priority and, among claims of equal priority,
 1285 ratably to the extent of funds legally available therefor. Any
 1286 remaining funds shall be distributed to the shareholders of the
 1287 dissolved corporation.

1288 (11) Directors of a dissolved corporation or governing
 1289 persons of a successor entity which has complied with subsection
 1290 (9) or subsection (10) are not personally liable to the
 1291 claimants of the dissolved corporation.

1292 (12) A shareholder of a dissolved corporation the assets
 1293 of which were distributed pursuant to subsection (9) or
 1294 subsection (10) is not liable for any claim against the
 1295 corporation in an amount in excess of such shareholder's pro
 1296 rata share of the claim or the amount distributed to the
 1297 shareholder, whichever is less.

1298 (13) A shareholder of a dissolved corporation, the assets
 1299 of which were distributed pursuant to subsection (9), is not
 1300 liable for any claim against the corporation, which claim is



1301 known to the corporation or successor entity, on which a
 1302 proceeding is not begun prior to the expiration of 3 years
 1303 following the effective date of dissolution.

1304 (14) The aggregate liability of any shareholder of a
 1305 dissolved corporation for claims against the dissolved
 1306 corporation arising under this section, s. 607.1407, or
 1307 otherwise, may not exceed the amount distributed to the
 1308 shareholder in dissolution.

1309 (15) As used in this section or s. 607.1407, the term
 1310 "successor entity" includes any trust, receivership, or other
 1311 legal entity governed by the laws of this state to which the
 1312 remaining assets and liabilities of a dissolved corporation are
 1313 transferred and which exists solely for the purposes of
 1314 prosecuting and defending suits by or against the dissolved
 1315 corporation, enabling the dissolved corporation to settle and
 1316 close the business of the dissolved corporation, to dispose of
 1317 and convey the property of the dissolved corporation, to
 1318 discharge the liabilities of the dissolved corporation, and to
 1319 distribute to the dissolved corporation's shareholders any
 1320 remaining assets, but not for the purpose of continuing the
 1321 business for which the dissolved corporation was organized.

1322 Section 36. Section 607.1407, Florida Statutes, is created
 1323 to read:

1324 607.1407 Unknown claims against dissolved corporation.--

1325 (1) A dissolved corporation or successor entity, as
 1326 defined in s. 607.1406(15), may also file notice of its
 1327 dissolution with the Department of State on the form prescribed
 1328 by the Department of State and request that persons with claims



1329 against the corporation which are not known to the corporation
 1330 or successor entity present them in accordance with the notice.

1331 (2) The notice must:

1332 (a) describe the information that must be included in a
 1333 claim and provide a mailing address to which the claim may be
 1334 sent; and

1335 (b) State that a claim against the corporation will be
 1336 barred unless a proceeding to enforce the claim is commenced
 1337 within 4 years after the filing of the notice.

1338 (3) If the dissolved corporation or successor entity files
 1339 the notice in accordance with subsections (1) and (2), the claim
 1340 of each of the following claimants is barred unless the claimant
 1341 commences a proceeding to enforce the claim against the
 1342 dissolved corporation within 4 years after the filing date:

1343 (a) A claimant who did not receive written notice under s.
 1344 607.1406(9), or whose claim was not provided for under s.
 1345 607.1406(10), whether such claim is based on an event occurring
 1346 before or after the effective date of dissolution.

1347 (b) A claimant whose claim was timely sent to the
 1348 dissolved corporation but not acted on.

1349 (4) A claim may be enforced under this section:

1350 (a) Against the dissolved corporation, to the extent of
 1351 its undistributed assets; or

1352 (b) If the assets have been distributed in liquidation,
 1353 against a shareholder of the dissolved corporation to the extent
 1354 of such shareholder's pro rata share of the claim or the
 1355 corporate assets distributed to such shareholder in liquidation,
 1356 whichever is less, provided that the aggregate liability of any



HB 1623

2003
CS

1357 shareholder of a dissolved corporation for claims against the
1358 dissolved corporation arising under this section, s. 607.1406,
1359 or otherwise, may not exceed the amount distributed to the
1360 shareholder in dissolution.

1361 Section 37. Subsections (1) and (2) of section 607.1422,
1362 Florida Statutes, are amended to read:

1363 607.1422 Reinstatement following administrative
1364 dissolution.--

1365 (1)~~(a)~~ A corporation administratively dissolved under s.
1366 607.1421 may apply to the Department of State for reinstatement
1367 at any time after the effective date of dissolution. The
1368 corporation application must submit a reinstatement form
1369 prescribed and furnished by the Department of State or a current
1370 uniform business report signed by the registered agent and an
1371 officer or director and all fees then owed by the corporation,
1372 computed at the rate provided by law at the time the corporation
1373 applies for reinstatement;

1374 ~~1. Recite the name of the corporation and the effective~~
1375 ~~date of its administrative dissolution;~~

1376 ~~2. State that the ground or grounds for dissolution either~~
1377 ~~did not exist or have been eliminated and that no further~~
1378 ~~grounds currently exist for dissolution;~~

1379 ~~3. State that the corporation's name satisfies the~~
1380 ~~requirements of s. 607.0401; and~~

1381 ~~4. State that all fees owed by the corporation and~~
1382 ~~computed at the rate provided by law at the time the corporation~~
1383 ~~applies for reinstatement have been paid; or~~



HB 1623

2003
CS

1384 ~~(b) As an alternative, the corporation may submit a~~
1385 ~~current annual report, signed by the registered agent and an~~
1386 ~~officer or director, which substantially complies with the~~
1387 ~~requirements of paragraph (a).~~

1388 (2) If the Department of State determines that the
1389 application contains the information required by subsection (1)
1390 and that the information is correct, it shall reinstate the
1391 corporation ~~cancel the certificate of dissolution and prepare a~~
1392 ~~certificate of reinstatement that recites its determination and~~
1393 ~~the effective date of reinstatement, file the original of the~~
1394 ~~certificate, and serve a copy on the corporation under s.~~
1395 ~~607.0504(2).~~

1396 Section 38. Paragraph (b) of subsection(3) of section
1397 607.1430, Florida Statutes, is amended, and subsections (6) and
1398 (7) are added to said section, to read:

1399 607.1430 Grounds for judicial dissolution.--A circuit
1400 court may dissolve a corporation or order such other remedy as
1401 provided in s. 607.1434:

1402 (3) In a proceeding by a shareholder or group of
1403 shareholders in a corporation having 35 or fewer shareholders if
1404 it is established that:

1405 (b) The directors or those in control of the corporation
1406 have acted, are acting, or are reasonably expected to act in a
1407 manner that is illegal, oppressive, or fraudulent;

1408 (6) In connection with paragraph (3)(b), the incorporators
1409 or shareholders of the corporation may omit oppressive conduct
1410 as a ground for judicial dissolution with respect to such
1411 corporation if set forth in:



HB 1623

2003
CS

1412 (a) The articles of incorporation or bylaws and approved
1413 by all incorporators, or, if the corporation has issued shares,
1414 by all persons who are shareholders at the time of the approval;
1415 or

1416 (b) A written agreement that is signed by all persons who
1417 are shareholders at the time of the agreement and such written
1418 agreement is made known to the corporation.

1419 (7) The addition of oppressive conduct as a ground for
1420 judicial dissolution shall apply to all corporations organized
1421 after October 1, 2003. All corporations organized prior to
1422 October 1, 2003, shall be subject to such addition on and after
1423 October 1, 2004, provided that such addition shall also apply to
1424 corporations organized prior to October 1, 2003, to the extent
1425 such corporations expressly elect in their articles of
1426 incorporation or bylaws to become subject to such addition prior
1427 to October 1, 2003.

1428 Section 39. Paragraph (a) of subsection (1) of section
1429 607.1503, Florida Statutes, is amended to read:

1430 607.1503 Application for certificate of authority.--

1431 (1) A foreign corporation may apply for a certificate of
1432 authority to transact business in this state by delivering an
1433 application to the Department of State for filing. Such
1434 application shall be made on forms prescribed and furnished by
1435 the Department of State and shall set forth:

1436 (a) The name of the foreign corporation as long as its
1437 name satisfies the requirements of s. 607.0401, but if its name
1438 does not satisfy such requirements ~~or, if its name is~~



HB 1623

2003
CS

1439 ~~unavailable for use in this state~~, a corporate name that
1440 otherwise satisfies the requirements of s. 607.1506;

1441 Section 40. Subsection (2) of section 607.1504, Florida
1442 Statutes, is amended to read:

1443 607.1504 Amended certificate of authority.--

1444 (2) Such application shall be made within 90 ~~30~~ days after
1445 the occurrence of any change mentioned in subsection (1), shall
1446 be made on forms prescribed by the Department of State and~~7~~
1447 shall be executed in accordance with s. 607.0120. The foreign
1448 corporation shall deliver with the completed application, a
1449 certificate, or a document of similar import, authenticated as
1450 of a date not more than 90 days prior to delivery of the
1451 application to the Department of State by the Secretary of State
1452 or other official having custody of corporate records in the
1453 jurisdiction under the laws of which it is incorporated,
1454 evidencing the amendment. A translation of the certificate,
1455 under oath or affirmation of the translator, must be attached to
1456 a certificate that is in a language other than English. The
1457 application ~~and filed in the same manner as an original~~
1458 ~~application for authority, and~~ shall set forth:

1459 (a) The name of the foreign corporation as it appears on
1460 the records of the Department of State.

1461 (b) The jurisdiction of its incorporation.

1462 (c) The date it was authorized to do business in this
1463 state.

1464 (d) If the name of the foreign corporation has been
1465 changed, the name relinquished, the new name, a statement that
1466 the change of name has been effected under the laws of the



HB 1623

2003
CS

1467 jurisdiction of its incorporation, and the date the change was
1468 effected.

1469 (e) If the amendment changes its period of duration, a
1470 statement of such change.

1471 (f) If the amendment changes the jurisdiction of
1472 incorporation, a statement of such change.

1473 Section 41. Subsection (1) of section 607.1506, Florida
1474 Statutes, is amended to read:

1475 607.1506 Corporate name of foreign corporation.--

1476 (1) A foreign corporation is not entitled to file an
1477 application for a certificate of authority unless the corporate
1478 name of such corporation satisfies the requirements of s.
1479 607.0401. If the corporate name of a foreign corporation does
1480 not satisfy the requirements of s. 607.0401, the foreign
1481 corporation, to obtain or maintain a certificate of authority to
1482 transact business in this state:

1483 (a) May add the word "corporation," "company," or
1484 "incorporated" or the abbreviation "Corp.," "Inc.," "Co.," or
1485 the designation "Corp.," "Inc.," or "Co.," ~~or words or~~
1486 ~~abbreviations of like import in language,~~ as will clearly
1487 indicate that it is a corporation instead of a natural person,
1488 ~~or partnership, or other business entity to its corporate name~~
1489 ~~for use in this state;~~ or

1490 (b) May use an alternate name to transact business in this
1491 state if its real name is unavailable ~~and it delivers to the~~
1492 ~~Department of State for filing a copy of the resolution of its~~
1493 ~~board of directors, executed as required by s. 607.0120,~~
1494 ~~adopting an alternate name.~~ Any such alternate corporate name,



HB 1623

2003
CS

1495 adopted for use in this state, shall be cross-referenced to the
1496 real corporate name in the records of the Division of
1497 Corporations. If the corporation's real corporate name becomes
1498 available in this state or the corporation chooses to change its
1499 alternate name, a copy of the resolution of its board of
1500 directors changing or withdrawing the alternate name, executed
1501 as required by s. 607.0120, shall be delivered for filing.

1502 Section 42. Section 607.1605, Florida Statutes, is created
1503 to read:

1504 607.1605 Inspection of records by directors.--

1505 (1) A director of a corporation is entitled to inspect and
1506 copy the books, records, and documents of the corporation at any
1507 reasonable time to the extent reasonably related to the
1508 performance of the director's duties as a director, including
1509 duties as a member of a committee, but not for any other purpose
1510 or in any manner that would violate any duty to the corporation.

1511 (2) The circuit court of the county in which the
1512 corporation's principal office or, if none in this state, its
1513 registered office is located may order inspection and copying of
1514 the books, records, and documents at the corporation's expense,
1515 upon application of a director who has been refused such
1516 inspection rights, unless the corporation establishes that the
1517 director is not entitled to such inspection rights. The court
1518 shall dispose of an application under this subsection on an
1519 expedited basis.

1520 (3) If an order is issued, the court may include
1521 provisions protecting the corporation from undue burden or
1522 expense and prohibiting the director from using information



HB 1623

2003
CS

1523 obtained upon exercise of the inspection rights in a manner that
1524 would violate a duty to the corporation, and may also order the
1525 corporation to reimburse the director for the director's costs,
1526 including reasonable counsel fees, incurred in connection with
1527 the application.

1528 Section 43. Paragraphs (g), (h), and (i) of subsection (1)
1529 of section 607.1622, Florida Statutes, are amended to read:

1530 607.1622 Annual report for Department of State.--

1531 (1) Each domestic corporation and each foreign corporation
1532 authorized to transact business in this state shall deliver to
1533 the Department of State for filing a sworn annual report on such
1534 forms as the Department of State prescribes that sets forth:

1535 ~~(g) Whether the corporation has liability for intangible~~
1536 ~~taxes under s. 199.032. The Department of State shall annually~~
1537 ~~prepare a list of those corporations that have indicated no~~
1538 ~~intangible tax liability, and provide such list to the~~
1539 ~~Department of Revenue;~~

1540 (g)(h) Language permitting a voluntary contribution of \$5
1541 per taxpayer, which contribution shall be transferred into the
1542 Election Campaign Financing Trust Fund. A statement providing an
1543 explanation of the purpose of the trust fund shall also be
1544 included; and

1545 (h)(i) Such additional information as may be necessary or
1546 appropriate to enable the Department of State to carry out the
1547 provisions of this act.

1548 Section 44. Paragraph (b) of subsection (1) of section
1549 607.1907, Florida Statutes, is amended to read:

1550 607.1907 Effect of repeal of prior acts.--



HB 1623

2003
CS

1551 (1) Except as provided in subsection (2), the repeal of a
1552 statute by this act does not affect:

1553 (b) Any ratification, right, remedy, privilege,
1554 obligation, or liability acquired, accrued, or incurred under
1555 the statute before its repeal;

1556 Section 45. Section 607.0903, Florida Statutes, is
1557 repealed.

1558 Section 46. This act shall take effect October 1, 2003.