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1 A bill to be entitled
 2 An act relating to the Florida Business Corporation Act;
 3 amending s. 607.1302, F.S.; clarifying a corporate action
 4 entitling a shareholder to certain appraisal rights and
 5 payments for shares; creating s. 607.1330, F.S.; providing
 6 requirements, procedures, and limitations on court
 7 actions; providing for entitlement to certain judgments;
 8 requiring corporate payments under certain circumstances;
 9 amending s. 607.1407, F.S.; revising certain notice
 10 requirements for dissolved corporations; revising a
 11 procedure to clarify an exemption for certain claims
 12 against dissolved corporations being barred; correcting a
 13 cross reference; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Paragraph (e) of subsection (1) of section
 18 607.1302, Florida Statutes, is amended to read:

19 607.1302 Right of shareholders to appraisal.--

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

23 (e) With regard to a class of shares prescribed in the
 24 articles of incorporation ~~issued~~ prior to October 1, 2003,
 25 including any class of shares within that class subsequently
 26 authorized by amendment, any amendment of the articles of
 27 incorporation if the shareholder is entitled to vote on the
 28 amendment and if such amendment would adversely affect such
 29 shareholder by:

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30 1. Altering or abolishing any preemptive rights attached
 31 to any of his or her shares;

32 2. Altering or abolishing the voting rights pertaining to
 33 any of his or her shares, except as such rights may be affected
 34 by the voting rights of new shares then being authorized of any
 35 existing or new class or series of shares;

36 3. Effecting an exchange, cancellation, or
 37 reclassification of any of his or her shares, when such
 38 exchange, cancellation, or reclassification would alter or
 39 abolish the shareholder's voting rights or alter his or her
 40 percentage of equity in the corporation, or effecting a
 41 reduction or cancellation of accrued dividends or other
 42 arrearages in respect to such shares;

43 4. Reducing the stated redemption price of any of the
 44 shareholder's redeemable shares, altering or abolishing any
 45 provision relating to any sinking fund for the redemption or
 46 purchase of any of his or her shares, or making any of his or
 47 her shares subject to redemption when they are not otherwise
 48 redeemable;

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

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

54 7. Reducing any stated preferential amount payable on any
 55 of the shareholder's preferred shares upon voluntary or
 56 involuntary liquidation.

57 Section 2. Section 607.1330, Florida Statutes, is created
 58 to read:

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59 607.1330 Court action.--

60 (1) If a shareholder makes demand for payment under s.
 61 607.1326 which remains unsettled, the corporation shall commence
 62 a proceeding within 60 days after receiving the payment demand
 63 and petition the court to determine the fair value of the shares
 64 and accrued interest. If the corporation does not commence the
 65 proceeding within the 60-day period, any shareholder who has
 66 made a demand pursuant to s. 607.1326 may commence the
 67 proceeding in the name of the corporation.

68 (2) The proceeding shall be commenced in the appropriate
 69 court of the county in which the corporation's principal office,
 70 or, if none, its registered office, in this state is located. If
 71 the corporation is a foreign corporation without a registered
 72 office in this state, the proceeding shall be commenced in the
 73 county in this state in which the principal office or registered
 74 office of the domestic corporation merged with the foreign
 75 corporation was located at the time of the transaction.

76 (3) All shareholders, whether or not residents of this
 77 state, whose demands remain unsettled shall be made parties to
 78 the proceeding as in an action against their shares. The
 79 corporation shall serve a copy of the initial pleading in such
 80 proceeding upon each shareholder party who is a resident of this
 81 state in the manner provided by law for the service of a summons
 82 and complaint and upon each nonresident shareholder party by
 83 registered or certified mail or by publication as provided by
 84 law.

85 (4) The jurisdiction of the court in which the proceeding
 86 is commenced under subsection (2) is plenary and exclusive. If
 87 it so elects, the court may appoint one or more persons as

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88 appraisers to receive evidence and recommend a decision on the
 89 question of fair value. The appraisers shall have the powers
 90 described in the order appointing them or in any amendment to
 91 the order. The shareholders demanding appraisal rights are
 92 entitled to the same discovery rights as parties in other civil
 93 proceedings. There shall be no right to a jury trial.

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

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

101 Section 3. Subsections (2) and (3) of section 607.1407,
 102 Florida Statutes, are amended to read:

103 607.1407 Unknown claims against dissolved corporation.--A
 104 dissolved corporation or successor entity, as defined in s.
 105 607.1406(15), may choose to execute one of the following
 106 procedures to resolve payment of unknown claims.

107 (2) A dissolved corporation or successor entity may,
 108 within 10 days after filing ~~of adopting~~ the articles of
 109 dissolution with the Department of State, publish a "Notice of
 110 Corporate Dissolution." The notice shall appear once a week for
 111 2 consecutive weeks in a newspaper of general circulation in a
 112 county in the state in which ~~wherein~~ the corporation has its
 113 principal office, if any, or, if none, in a county in the state
 114 in which the corporation owns real or personal property. Such
 115 newspaper shall meet the requirements as are prescribed by law
 116 for such purposes. The notice shall:

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117 (a) State the name of the corporation and the date of
 118 dissolution;

119 (b) Describe the information that must be included in a
 120 claim and provide a mailing address to which the claim may be
 121 sent; and

122 (c) State that a claim against the corporation under this
 123 subsection will be barred unless a proceeding to enforce the
 124 claim is commenced within 4 years after the date of the second
 125 consecutive weekly publication ~~filing~~ of the notice authorized
 126 by this section.

127 (3) If the dissolved corporation or successor entity
 128 complies with subsection (1) or subsection (2), the claim of
 129 each of the following claimants is barred unless the claimant
 130 commences a proceeding to enforce the claim against the
 131 dissolved corporation within 4 years after the ~~filing~~ date of
 132 filing the notice with the Department of State or the date of
 133 the second consecutive weekly publication, as applicable:

134 (a) A claimant who did not receive written notice under s.
 135 607.1406(9), or whose claim was not provided for under s.
 136 607.1406(10) ~~607.1456(10)~~, whether such claim is based on an
 137 event occurring before or after the effective date of
 138 dissolution.

139 (b) A claimant whose claim was timely sent to the
 140 dissolved corporation but on which no action was taken.

141 Section 4. This act shall take effect upon becoming a law.