

By Senator Aronberg

27-336A-07

1 A bill to be entitled
2 An act relating to corporations not for profit;
3 amending s. 617.01201, F.S.; requiring a
4 document that is electronically transmitted to
5 be in a format that can be retrieved in
6 typewritten or printed form; requiring that a
7 document be executed by a director of the
8 domestic or foreign corporation; authorizing
9 the delivery of a document by electronic
10 transmission to the extent permitted by the
11 Department of State; amending s. 617.0122,
12 F.S.; requiring the Department of State to
13 collect a fee for filing an agent's statement
14 of resignation from an inactive corporation;
15 amending s. 617.0124, F.S.; authorizing a
16 domestic or foreign corporation to correct a
17 document filed by the Department of State
18 within 30 days after filing under certain
19 circumstances; amending s. 617.01401, F.S.;
20 defining the terms "distribution," "mutual
21 benefit corporation," and "voting power";
22 amending s. 617.0205, F.S.; requiring the
23 incorporators to hold an organizational meeting
24 after incorporation if the initial directors
25 are not named in the articles of incorporation;
26 amending s. 617.0302, F.S.; authorizing a
27 corporation not for profit to make contracts
28 and guaranties; amending s. 617.0503, F.S.;
29 providing that an alien business organization
30 may withdraw its registered agent designation
31 by delivering an application for certificate of

1 withdrawal to the Department of State; amending
2 s. 617.0505, F.S.; prohibiting a corporation
3 from making distributions to its members;
4 providing an exception; deleting provisions
5 related to the issuance of certificates;
6 amending s. 617.0601, F.S.; correcting a
7 reference to the Solicitation of Contributions
8 Act; providing that certain stock certificates
9 constitute certificates of membership;
10 requiring a resignation, expulsion, or
11 termination of membership to be recorded in the
12 membership book; creating s. 617.0605, F.S.;
13 prohibiting a member of a corporation from
14 transferring a membership under certain
15 circumstances; creating s. 617.0606, F.S.;
16 providing that the resignation of a member does
17 not relieve the member from obligations
18 incurred and commitments made prior to
19 resignation; creating s. 617.0607, F.S.;
20 requiring that a member of a corporation be
21 terminated or suspended pursuant to a procedure
22 that is fair and reasonable; providing that a
23 procedure is fair and reasonable under certain
24 circumstances; requiring that written notice
25 given by mail be delivered by certified mail or
26 first-class mail; requiring that a proceeding
27 challenging an expulsion, suspension, or
28 termination be commenced within 1 year after
29 the effective date; providing that a member who
30 has been expelled or suspended may be liable to
31 the corporation for dues, assessments, or fees;

1 creating s. 617.0608, F.S.; prohibiting a
2 corporation from purchasing any of its
3 memberships; authorizing a mutual benefit
4 corporation to purchase the membership of a
5 member who resigns or whose membership is
6 terminated; amending s. 617.0701, F.S.;
7 authorizing the holders of at least 5 percent
8 of the voting power of a corporation to call a
9 special meeting of the members under certain
10 circumstances; authorizing a person who signs a
11 demand for a special meeting to call a special
12 meeting of the members under certain
13 circumstances; amending s. 617.0721, F.S.;
14 providing that members and proxy holders who
15 are not physically present at a meeting may
16 participate by means of remote communication
17 and be deemed to be present under certain
18 circumstances; amending s. 617.0725, F.S.;
19 requiring an amendment to the articles of
20 incorporation or the bylaws which adds a
21 greater or lesser quorum or voting requirement
22 to meet certain requirements then in effect or
23 proposed to be adopted; creating s. 617.07401,
24 F.S.; prohibiting a person from commencing a
25 proceeding in the right of a domestic or
26 foreign corporation unless the person was a
27 member of the corporation or became a member
28 through transfer by operation of law; requiring
29 that a complaint in a proceeding brought in the
30 right of a domestic or foreign corporation be
31 verified and allege with particularity the

1 demand; authorizing the court to dismiss a
2 derivative proceeding if the court finds that a
3 determination was made in good faith after a
4 reasonable investigation; prohibiting certain
5 proceedings from being discontinued or settled
6 without the approval of the court; authorizing
7 the court to require a plaintiff to pay a
8 defendant's reasonable expenses upon
9 termination of a proceeding, including
10 attorney's fees; amending s. 617.0801, F.S.;
11 providing the duties of the board of directors;
12 amending s. 617.0806, F.S.; providing that
13 directors may be divided into classes; amending
14 s. 617.0808, F.S.; providing that any member of
15 the board of directors may be removed from
16 office with or without cause by a certain vote;
17 providing that a director who is elected by a
18 class, chapter, or other organizational unit
19 may be removed only by members of that class,
20 chapter, or organizational unit; providing that
21 a director elected or appointed by the board
22 may be removed without cause by a vote of
23 two-thirds of the directors then in office;
24 providing that a director of a corporation
25 described in s. 501(c) of the Internal Revenue
26 Code may be removed from office pursuant to
27 procedures provided in the articles of
28 incorporation or the bylaws; amending s.
29 617.0809, F.S.; providing that a vacancy on the
30 board of directors for a director elected by a
31 class, chapter, unit, or group may be filled

1 only by members of that class, chapter, unit,
2 or group; providing that the term of a director
3 elected or appointed to fill a vacancy expires
4 at the next annual meeting at which directors
5 are elected; amending s. 617.0830, F.S.;
6 authorizing a director to consider such factors
7 as he or she deems relevant in discharging his
8 or her duties; amending s. 617.0832, F.S.;
9 deleting a provision that authorizes common or
10 interested directors to be counted in
11 determining the presence of a quorum at a
12 meeting that ratifies a contract between a
13 corporation and one of its directors and any
14 other corporation in which one of its directors
15 is financially interested; providing
16 circumstances under which a
17 conflict-of-interest transaction is authorized;
18 amending s. 617.0833, F.S.; providing an
19 exception to the requirement that a loan may
20 not be made by a corporation to its directors;
21 amending s. 617.0834, F.S.; providing that an
22 officer or director of a certain nonprofit
23 organization or agricultural or horticultural
24 organization is immune from civil liability;
25 amending s. 617.1007, F.S.; providing that a
26 restatement of the articles of incorporation of
27 a corporation may include one or more
28 amendments; amending s. 617.1101, F.S.;
29 providing certain requirements for a plan of
30 merger; creating s. 617.1102, F.S.; providing a
31 limitation on the merger of a corporation not

1 for profit; creating s. 617.1301, F.S.;

2 prohibiting a corporation from making

3 distributions to its members under certain

4 circumstances; creating s. 617.1302, F.S.;

5 providing that a mutual benefit corporation may

6 purchase its memberships only under certain

7 circumstances; authorizing a corporation to

8 make distributions upon dissolution; amending

9 s. 617.1405, F.S.; providing that the name of a

10 dissolved corporation may be available for

11 immediate assumption by another corporation if

12 the dissolved corporation provides the

13 Department of State with an affidavit

14 permitting such use; creating s. 617.1407,

15 F.S.; authorizing a dissolved corporation or

16 successor entity to execute certain procedures

17 to resolve payment of unknown claims against

18 it; providing that certain claims against a

19 dissolved corporation are barred; providing

20 that a claim may be entered against a dissolved

21 corporation under certain circumstances;

22 creating s. 617.1408, F.S.; authorizing a

23 dissolved corporation or successor entity to

24 execute certain procedures to dispose of known

25 claims against it; requiring a dissolved

26 corporation to deliver written notice of the

27 dissolution to each of its known claimants;

28 providing a procedure under which a dissolved

29 corporation may reject a claim made against it;

30 requiring a dissolved corporation to give

31 notice of the dissolution to persons having

1 known claims that are contingent, conditional,
2 or unmatured; requiring a dissolved corporation
3 to follow certain procedures in offering
4 compensation to a claimant if the claim
5 matures; requiring a dissolved corporation to
6 petition the circuit court to determine the
7 amount and form of security that will be
8 sufficient to provide compensation to certain
9 claimants; providing that the giving of notice
10 or making of an offer does not revive a claim
11 that has been barred; providing that directors
12 of a dissolved corporation or governing persons
13 of a successor entity that has complied with
14 certain procedures are not personally liable to
15 the claimants of a dissolved corporation;
16 providing that certain members of a dissolved
17 corporation are not liable for any claim
18 against the corporation; providing a limit on
19 the aggregate liability of any member of a
20 dissolved corporation; defining the term
21 "successor entity"; repealing s. 617.1421(6),
22 F.S., relating to the assumption and use of the
23 name of a dissolved corporation; amending s.
24 617.1422, F.S.; deleting certain requirements
25 for an application to reinstate a corporation
26 that has been dissolved; requiring a
27 corporation to submit a reinstatement form
28 prescribed and furnished by the Department of
29 State; providing that the name of a dissolved
30 corporation is not available for assumption or
31 use by another corporation until 1 year after

1 the effective date of dissolution; providing an
2 exception; amending s. 617.1430, F.S.; revising
3 the requirements for members to dissolve a
4 corporation in circuit court; amending s.
5 617.1503, F.S.; requiring a foreign corporation
6 to deliver a certificate of existence
7 authenticated by the Secretary of State;
8 amending s. 617.1504, F.S.; requiring a foreign
9 corporation to make application to the
10 Department of State to obtain an amended
11 certificate of authority within 90 days after
12 the occurrence of a change; amending s.
13 617.1506, F.S.; requiring an alternate
14 corporate name adopted for use in the state to
15 be cross-referenced to the real corporate name
16 in the records of the Division of Corporations;
17 requiring the corporate name of a foreign
18 corporation to be distinguishable from the
19 corporate name of a corporation for profit
20 incorporated or authorized to transact business
21 in the state; amending s. 617.1530, F.S.;
22 requiring the Department of State to receive an
23 authenticated certificate from the Secretary of
24 State before commencing a proceeding to revoke
25 the certificate of authority of a foreign
26 corporation; amending s. 617.1601, F.S.;
27 requiring a corporation to keep a copy of its
28 articles of incorporation; amending s.
29 617.1602, F.S.; providing that a member of a
30 corporation is entitled to inspect and copy
31 certain records of the corporation at a

1 reasonable location specified by the
2 corporation; requiring a member to give the
3 corporation written notice 10 days before the
4 date on which he or she wishes to inspect and
5 copy records; amending s. 617.1605, F.S.;
6 revising the circumstances under which a
7 corporation is required to furnish a member
8 with its latest annual financial statement;
9 creating s. 617.1703, F.S.; providing for the
10 applicability of certain provisions to
11 corporations regulated under the act; amending
12 s. 617.1803, F.S.; providing for certain
13 changes when a foreign not-for-profit
14 corporation becomes domesticated; amending s.
15 617.1806, F.S.; revising the provisions for
16 conversion to a corporation not for profit;
17 amending s. 617.1807, F.S.; correcting a
18 reference to the articles of incorporation in
19 the process of conversion to a corporation not
20 for profit; amending s. 617.1907, F.S.;
21 providing that the repeal or amendment of a
22 statute does not affect certain operations and
23 proceedings; repealing s. 617.2103, F.S.,
24 relating to exemptions for certain
25 corporations; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsections (4), (6), and (9) of section
30 617.01201, Florida Statutes, are amended to read:
31 617.01201 Filing requirements.--

1 (4) The document must be typewritten or printed and
2 must be legible. If electronically transmitted, the document
3 must be in a format that can be retrieved or reproduced in
4 typewritten or printed form.

5 (6) The document must be executed:

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

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

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

14 (9) The document must be delivered to the office of
15 the Department of State for filing. Delivery may be made by
16 electronic transmission if and to the extent permitted by the
17 Department of State. If the document is filed in typewritten
18 or printed form and not transmitted electronically, the
19 Department of State may require that and may be accompanied by
20 one exact or conformed copy be delivered with the document,
21 ~~(except as provided in s. 617.1508. The document), and~~ must be
22 accompanied by the correct filing fee and any other tax or
23 penalty required by this act or other law.

24 Section 2. Subsection (7) of section 617.0122, Florida
25 Statutes, is amended to read:

26 617.0122 Fees for filing documents and issuing
27 certificates.--The Department of State shall collect the
28 following fees on documents delivered to the department for
29 filing:

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

1
2 Any citizen support organization that is required by rule of
3 the Department of Environmental Protection to be formed as a
4 nonprofit organization and is under contract with the
5 department is exempt from any fees required for incorporation
6 as a nonprofit organization, and the Secretary of State may
7 not assess any such fees if the citizen support organization
8 is certified by the Department of Environmental Protection to
9 the Secretary of State as being under contract with the
10 Department of Environmental Protection.

11 Section 3. Subsections (1) and (2) of section
12 617.0124, Florida Statutes, are amended to read:

13 617.0124 Correcting filed document.--

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

17 (a) The document contains an incorrect statement; ~~or~~

18 (b) The document was defectively executed, attested,
19 sealed, verified, or acknowledged; ~~or-~~

20 (c) The electronic transmission of the document was
21 defective.

22 (2) A document is corrected:

23 (a) By preparing articles of correction that:

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

26 2. Specify the incorrect statement and the reason it
27 is incorrect or the manner in which the execution was
28 defective; and

29 3. Correct the incorrect statement or defective
30 execution; and

31

1 (b) By delivering the executed articles of correction
2 to the Department of State for filing.

3 Section 4. Section 617.01401, Florida Statutes, is
4 amended to read:

5 617.01401 Definitions.--As used in this act, unless
6 the context otherwise requires, the term:

7 (1) "Articles of incorporation" includes original,
8 amended, and restated articles of incorporation, articles of
9 consolidation, and articles of merger, and all amendments
10 thereto, including documents designated by the laws of this
11 state as charters, and, in the case of a foreign corporation,
12 documents equivalent to articles of incorporation in the
13 jurisdiction of incorporation.

14 (2) "Board of directors" means the group of persons
15 vested with the management of the affairs of the corporation
16 irrespective of the name by which such group is designated,
17 including, but not limited to, managers or trustees.

18 (3) "Bylaws" means the code or codes of rules adopted
19 for the regulation or management of the affairs of the
20 corporation irrespective of the name or names by which such
21 rules are designated.

22 (4) "Corporation" or "domestic corporation" means a
23 corporation not for profit, subject to the provisions of this
24 act, except a foreign corporation.

25 (5) "Corporation not for profit" means a corporation
26 no part of the income or profit of which is distributable to
27 its members, directors, or officers, except as provided in
28 this act.

29 (6) "Distribution" means the payment of a dividend or
30 any part of the income or profit of a corporation to its
31 members, directors, or officers.

1 ~~(7)(6)~~ "Electronic transmission" means any form of
2 communication, not directly involving the physical
3 transmission or transfer of paper, which creates a record that
4 may be retained, retrieved, and reviewed by a recipient
5 thereof and which may be directly reproduced in a
6 comprehensible and legible paper form by such recipient
7 through an automated process. Examples of electronic
8 transmission include, but are not limited to, telegrams,
9 facsimile transmissions of images, and text that is sent via
10 electronic mail between computers.

11 ~~(8)(7)~~ "Foreign corporation" means a corporation not
12 for profit organized under laws other than the laws of this
13 state.

14 ~~(9)(8)~~ "Insolvent" means the inability of a
15 corporation to pay its debts as they become due in the usual
16 course of its affairs.

17 ~~(10)(9)~~ "Mail" means the United States mail, facsimile
18 transmissions, and private mail carriers handling nationwide
19 mail services.

20 ~~(11)(10)~~ "Member" means one having membership rights
21 in a corporation in accordance with the provisions of its
22 articles of incorporation or bylaws or the provisions of this
23 act.

24 (12) "Mutual benefit corporation" means a domestic
25 corporation that is not organized primarily or exclusively for
26 religious purposes; is not recognized as exempt under s.
27 501(c)(3) of the Internal Revenue Code of 1986, as amended, or
28 of the corresponding section of a subsequently enacted federal
29 revenue act; and is not organized for a public or charitable
30 purpose that is required upon its dissolution to distribute
31 its assets to the United States, a state, a local subdivision

1 thereof, or a person that is recognized as exempt under s.
2 501(c)(3) of the Internal Revenue Code of 1986, as amended, or
3 of the corresponding section of a subsequently enacted federal
4 revenue act.

5 ~~(13)(11)~~ "Person" includes individual and entity.

6 (14) "Voting power" means the total number of votes
7 entitled to be cast for the election of directors at the time
8 the determination of voting power is made, excluding a vote
9 that is contingent upon the happening of a condition or event
10 that has not occurred at the time. If the holders of the
11 shares of a class are entitled to vote as a class to elect
12 directors, the determination of voting power of the class
13 shall be based on the percentage of the number of directors
14 the class is entitled to elect out of the total number of
15 authorized directors.

16 Section 5. Subsection (1) of section 617.0205, Florida
17 Statutes, is amended to read:

18 617.0205 Organizational meeting of directors.--

19 (1) After incorporation:

20 (a) If initial directors are named in the articles of
21 incorporation, the initial directors shall hold an
22 organizational meeting, at the call of a majority of the
23 directors, to complete the organization of the corporation by
24 appointing officers, adopting bylaws, and carrying on any
25 other business brought before the meeting;

26 (b) If initial directors are not named in the articles
27 of incorporation, the incorporators shall hold an
28 organizational meeting at the call of a majority of the
29 incorporators:

30 1. To elect directors and complete the organization of
31 the corporation; or

1 2. To elect a board of directors who shall complete
2 the organization of the corporation.

3 Section 6. Subsections (7) and (16) of section
4 617.0302, Florida Statutes, are amended to read:

5 617.0302 Corporate powers.--Every corporation not for
6 profit organized under this act, unless otherwise provided in
7 its articles of incorporation or bylaws, shall have power to:

8 (7) Make contracts and guaranties, incur liabilities,
9 borrow money at such rates of interest as the corporation may
10 determine, issue its notes, bonds, and other obligations, and
11 secure any of its obligations by mortgage and pledge of all or
12 any of its property, franchises, or income.

13 (16) Merge with other corporations or other business
14 entities as identified in s. 607.1108(1), both for profit and
15 not for profit, domestic and foreign, if the surviving
16 corporation or other surviving business entity is a
17 corporation not for profit or other business entity that has
18 been organized as a not-for-profit entity under a governing
19 statute or other applicable law that permits such a merger.

20 Section 7. Subsection (12) is added to section
21 617.0503, Florida Statutes, to read:

22 617.0503 Registered agent; duties; confidentiality of
23 investigation records.--

24 (12) Any alien business organization may withdraw its
25 registered agent designation by delivering an application for
26 certificate of withdrawal to the Department of State for
27 filing. The application shall set forth:

28 (a) The name of the alien business organization and
29 the jurisdiction under the law of which it is incorporated or
30 organized; and

31

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

3 Section 8. Section 617.0505, Florida Statutes, is
4 amended to read:

5 617.0505 Distributions ~~Payment of dividends and~~
6 ~~distribution of income to members prohibited; issuance of~~
7 ~~certificates of membership; effect of stock issued under prior~~
8 ~~law.--~~

9 ~~(1)~~ Except as authorized in s. 617.1302, A dividend
10 ~~may not be paid, and any part of the income or profit of a~~
11 ~~corporation may not~~ make distributions be distributed, to its
12 members, directors, or officers. A mutual benefit corporation,
13 such as a private club that is established for social,
14 pleasure, or recreational purposes and that organized as a
15 corporation of which the equity interests are held by the
16 members, may, subject to s. 617.1302, purchase the equity
17 membership interest of any member, and the payment for such
18 interest is not a distribution for purposes of this section. A
19 corporation may pay compensation in a reasonable amount to its
20 members, directors, or officers for services rendered, may
21 confer benefits upon its members in conformity with its
22 purposes, and, upon dissolution or final liquidation, may make
23 distributions to its members as permitted by this act. If
24 expressly permitted by its articles of incorporation, a
25 corporation may make distributions upon partial liquidation to
26 its members, as permitted by this section. Any such payment,
27 benefit, or distribution does not constitute a dividend or a
28 distribution of income or profit for purposes of this section.
29 Any corporation that ~~which~~ is a utility exempt from regulation
30 under s. 367.022(7), whose articles of incorporation state
31 that it is exempt from taxation under s. 501(c)(12) of the

1 Internal Revenue Code or of the corresponding section of a
2 subsequently enacted federal revenue act, may make such
3 refunds to its members, prior to a dissolution or liquidation,
4 as its managing board deems necessary to establish or preserve
5 its tax-exempt status. Any such refund does not constitute a
6 dividend or a distribution of income or profit for purposes of
7 this section.

8 ~~(2) Subject to subsection (1), a corporation may issue~~
9 ~~certificates in any form evidencing membership in the~~
10 ~~corporation.~~

11 ~~(3) Stock certificates issued under former s.~~
12 ~~617.011(2), Florida Statutes (1989), constitute membership~~
13 ~~certificates for purposes of this act.~~

14 Section 9. Subsections (1), (2), and (5) of section
15 617.0601, Florida Statutes, are amended to read:

16 617.0601 Members, generally.--

17 (1)(a) A corporation may have one or more classes of
18 members or may have no members. If the corporation has one or
19 more classes of members, the designation of such class or
20 classes, the qualifications and rights of the members of each
21 class, any quorum and voting requirements for meetings and
22 activities of the members, and notice requirements sufficient
23 to provide notice of meetings and activities of the members
24 must be set forth in the articles of incorporation or in the
25 bylaws.

26 (b) The articles of incorporation or bylaws of any
27 corporation not for profit that maintains chapters or
28 affiliates may grant representatives of such chapters or
29 affiliates the right to vote in conjunction with the board of
30 directors of the corporation notwithstanding applicable quorum
31 or voting requirements of this act if the corporation is

1 registered with the Department of State pursuant to ss.
2 ~~496.401-496.424 ss. 496.001-496.011~~, the Solicitation of
3 Contributions Funds Act.

4 (c) This subsection does not apply to any condominium
5 association organized under chapter 718.

6 (2) A corporation may issue certificates of
7 membership. Stock certificates issued under former s.
8 617.011(2), Florida Statutes (1989), constitute certificates
9 of membership for purposes of this act.

10 (5) ~~Membership in the corporation may be terminated in~~
11 ~~the manner provided by law, by the articles of incorporation,~~
12 ~~or by the bylaws, and~~ A resignation, expulsion, or termination
13 of membership pursuant to s. 617.0606 or s. 617.0607 shall be
14 recorded in the membership book. Unless otherwise provided in
15 the articles of incorporation or the bylaws, all the rights
16 and privileges of a member cease on termination of membership.

17 Section 10. Section 617.0605, Florida Statutes, is
18 created to read:

19 617.0605 Transfer of membership interests.--

20 (1) A member of a corporation may not transfer a
21 membership or any right arising therefrom other than pursuant
22 to subsection (2).

23 (2) Except as set forth in the articles of
24 incorporation or bylaws of a mutual benefit corporation, a
25 member of a mutual benefit corporation may not transfer a
26 membership or any right arising therefrom.

27 (3) Where transfer rights have been provided for one
28 or more members of a mutual benefit corporation, a restriction
29 on such rights is not binding with respect to a member holding
30 a membership issued prior to the adoption of the restriction
31

1 unless the restriction is approved by the members and the
2 affected member.

3 Section 11. Section 617.0606, Florida Statutes, is
4 created to read:

5 617.0606 Resignation of members.--

6 (1) Except as may be provided in the articles of
7 incorporation or bylaws of a corporation, a member of a mutual
8 benefit corporation may not transfer a membership or any right
9 arising therefrom.

10 (2) The resignation of a member does not relieve the
11 member from any obligations that the member may have to the
12 corporation as a result of obligations incurred or commitments
13 made prior to resignation.

14 Section 12. Section 617.0607, Florida Statutes, is
15 created to read:

16 617.0607 Termination, expulsion, and suspension.--

17 (1) A member of a corporation may not be expelled or
18 suspended, and a membership in the corporation may not be
19 terminated or suspended, except pursuant to a procedure that
20 is fair and reasonable and is carried out in good faith.

21 (2) A procedure is fair and reasonable if:

22 (a) The articles of incorporation or bylaws set forth
23 a procedure that provides:

24 1. Written notice not less than 15 days before the
25 expulsion, suspension, or termination and the reasons
26 therefore; and

27 2. An opportunity for the member to be heard, orally
28 or in writing, not less than 5 days before the effective date
29 of the expulsion, suspension, or termination by a person or
30 persons authorized to decide that the proposed expulsion,
31 termination, or suspension should not take place; and

1 (b) All of the relevant facts and circumstances are
2 taken into consideration.

3 (3) Any written notice given by mail must be delivered
4 by certified mail or first-class mail to the last address of
5 the member shown on the records of the corporation.

6 (4) Any proceeding challenging an expulsion,
7 suspension, or termination, including a proceeding in which
8 the defective notice is alleged, must be commenced within 1
9 year after the effective date of the expulsion, suspension, or
10 termination.

11 (5) A member who has been expelled or suspended may be
12 liable to the corporation for dues, assessments, or fees as a
13 result of obligations incurred or commitments made prior to
14 expulsion or suspension.

15 Section 13. Section 617.0608, Florida Statutes, is
16 created to read:

17 617.0608 Purchase of memberships.--

18 (1) A corporation may not purchase any of its
19 memberships or any right arising therefrom except as provided
20 in s. 617.0505 or subsection (2).

21 (2) Subject to s. 617.1302, a mutual benefit
22 corporation shall have the power to purchase the membership of
23 a member who resigns or whose membership is terminated for the
24 amount and pursuant to the conditions set forth in its
25 articles of incorporation or bylaws.

26 Section 14. Subsections (3) and (4) of section
27 617.0701, Florida Statutes, are amended to read:

28 617.0701 Meetings of members, generally; failure to
29 hold annual meeting; special meeting; consent to corporate
30 actions without meetings; waiver of notice of meetings.--

31 (3) Special meetings of the members may be called by:

- 1 (a) The president;~~i-~~
- 2 (b) The chair of the board of directors;~~i-~~
- 3 (c) The board of directors;~~i-, or such~~
- 4 (d) Other officers or persons as are provided for in
5 the articles of incorporation or the bylaws;~~i-~~
- 6 (e) The holders of at least 5 percent of the voting
7 power of a corporation when one or more written demands for
8 the meeting, which describe the purpose for which the meeting
9 is to be held, are signed, dated, and delivered to a corporate
10 officer, except as provided in the articles of incorporation
11 or bylaws; or
- 12 (f) A person who signs a demand for a special meeting
13 pursuant to paragraph (e) if notice for a special meeting is
14 not given within 30 days after receipt of the demand. The
15 person signing the demand may set the time and place of the
16 meeting and give notice under this subsection.
- 17 (4)(a) Unless otherwise provided in the articles of
18 incorporation, action required or permitted by this act to be
19 taken at an annual or special meeting of members may be taken
20 without a meeting, without prior notice, and without a vote if
21 the action is taken by the members entitled to vote on such
22 action and having not less than the minimum number of votes
23 necessary to authorize such action at a meeting at which all
24 members entitled to vote on such action were present and
25 voted. In order to be effective, the action must be evidenced
26 by one or more written consents describing the action taken,
27 dated and signed by approving members having the requisite
28 number of votes and entitled to vote on such action, and
29 delivered to the corporation by delivery to its principal
30 office in this state, its principal place of business, the
31 corporate secretary, or another officer or agent of the

1 corporation having custody of the book in which proceedings of
2 meetings of members are recorded. Written consent shall not be
3 effective to take the corporate action referred to in the
4 consent unless the consent is signed by members having the
5 requisite number of votes necessary to authorize the action
6 within 60 days of the date of the earliest dated consent and
7 is delivered in the manner required by this section.

8 (b) Any written consent may be revoked prior to the
9 date that the corporation receives the required number of
10 consents to authorize the proposed action. A revocation is
11 not effective unless in writing and until received by the
12 corporation at its principal office in this state or its
13 principal place of business, or received by the corporate
14 secretary or other officer or agent of the corporation having
15 custody of the book in which proceedings of meetings of
16 members are recorded.

17 (c) Within 10 days after obtaining such authorization
18 by written consent, notice must be given to those members who
19 are entitled to vote on the action but who have not consented
20 in writing. The notice must fairly summarize the material
21 features of the authorized action.

22 (d) A consent signed under this section has the effect
23 of a meeting vote and may be described as such in any
24 document.

25 (e) If the action to which the members consent is such
26 as would have required the filing of articles or a certificate
27 under any other section of this act if such action had been
28 voted on by members at a meeting thereof, the articles or
29 certificate filed under such other section must state that
30 written consent has been given in accordance with the
31 provisions of this section.

1 (f) Whenever action is taken pursuant to this section,
2 the written consent of the members consenting to such action
3 or the written reports of inspectors appointed to tabulate
4 such consents must be filed with the minutes of proceedings of
5 members.

6 Section 15. Subsections (3), (4), (5), and (6) of
7 section 617.0721, Florida Statutes, are amended to read:

8 617.0721 Voting by members.--

9 (3) If authorized by the board of directors, and
10 subject to such guidelines and procedures as the board of
11 directors may adopt, members and proxy holders who are not
12 physically present at a meeting may, by means of remote
13 communication:

14 (a) Participate in the meeting.

15 (b) Be deemed to be present in person and vote at the
16 meeting if:

17 1. The corporation implements reasonable means to
18 verify that each person deemed present and permitted to vote
19 by means of remote communication is a member or proxy holder;
20 and

21 2. The corporation implements reasonable measures to
22 provide such members or proxy holders with a reasonable
23 opportunity to participate in the meeting and to vote on
24 matters submitted to the members including, without
25 limitation, an opportunity to communicate and to read or hear
26 the proceedings of the meeting substantially concurrent with
27 such proceedings.

28
29 If any member or proxy holder votes or takes other action by
30 means of remote communication, a record of such vote or other
31 action shall be maintained by the corporation.

1 ~~(4)~~(3) If any corporation, whether for profit or not
2 for profit, is a member of a corporation organized under this
3 act, the chair of the board, president, any vice president,
4 the secretary, or the treasurer of the member corporation, and
5 any such officer or cashier or trust officer of a banking or
6 trust corporation holding such membership, and any like
7 officer of a foreign corporation whether for profit or not for
8 profit, holding membership in a domestic corporation, shall be
9 deemed by the corporation in which membership is held to have
10 the authority to vote on behalf of the member corporation and
11 to execute proxies and written waivers and consents in
12 relation thereto, unless, before a vote is taken or a waiver
13 or consent is acted upon, it is made to appear by a certified
14 copy of the bylaws or resolution of the board of directors or
15 executive committee of the member corporation that such
16 authority does not exist or is vested in some other officer or
17 person. In the absence of such certification, a person
18 executing any such proxies, waivers, or consents or presenting
19 himself or herself at a meeting as one of such officers of a
20 corporate member shall be, for the purposes of this section,
21 conclusively deemed to be duly elected, qualified, and acting
22 as such officer and to be fully authorized. In the case of
23 conflicting representation, the corporate member shall be
24 deemed to be represented by its senior officer, in the order
25 first stated in this subsection.

26 ~~(5)~~(4) The articles of incorporation or the bylaws may
27 provide that, in all elections for directors, every member
28 entitled to vote has the right to cumulate his or her votes
29 and to give one candidate a number of votes equal to the
30 number of votes he or she could give if one director were
31 being elected multiplied by the number of directors to be

1 | elected or to distribute such votes on the same principles
2 | among any number of such candidates. A corporation may not
3 | have cumulative voting unless such voting is expressly
4 | authorized in the articles of incorporation.

5 | ~~(6)(5)~~ If a corporation has no members or its members
6 | do not have the right to vote, the directors shall have the
7 | sole voting power.

8 | ~~(7)(6)~~ Subsections (1), (2), ~~(5)(4)~~, and ~~(6)(5)~~ do
9 | not apply to a corporation that is an association as defined
10 | in s. 720.301.

11 | Section 16. Section 617.0725, Florida Statutes, is
12 | amended to read:

13 | 617.0725 Quorum.--An amendment to the articles of
14 | incorporation or the bylaws which adds, that changes, or
15 | deletes a greater or lesser quorum or voting requirement must
16 | meet the same quorum or voting requirement and be adopted by
17 | the same vote and voting groups required to take action under
18 | the quorum and voting requirements then in effect or proposed
19 | to be adopted, whichever is greater ~~prescribed in the~~
20 | ~~provision being amended.~~

21 | Section 17. Section 617.07401, Florida Statutes, is
22 | created to read:

23 | 617.07401 Members' derivative actions.--

24 | (1) A person may not commence a proceeding in the
25 | right of a domestic or foreign corporation unless the person
26 | was a member of the corporation when the transaction
27 | complained of occurred or unless the person became a member
28 | through transfer by operation of law from one who was a member
29 | at that time.

30 | (2) A complaint in a proceeding brought in the right
31 | of a domestic or foreign corporation must be verified and

1 allege with particularity the demand made to obtain action by
2 the board of directors and that the demand was refused or
3 ignored by the board of directors for a period of at least 90
4 days following the date of the first demand unless, prior to
5 the expiration of the 90 days, the person was notified in
6 writing that the corporation rejected the demand, or unless
7 irreparable injury to the corporation would result by waiting
8 for the expiration of the 90-day period. If the corporation
9 commences an investigation of the charges made in the demand
10 or complaint, the court may stay any proceeding until the
11 investigation is completed.

12 (3) The court may dismiss a derivative proceeding if,
13 on motion by the corporation, the court finds that one of the
14 groups specified below has made a determination in good faith
15 after conducting a reasonable investigation upon which its
16 conclusions are based that the maintenance of the derivative
17 suit is not in the best interests of the corporation. The
18 corporation has the burden of proving the independence and
19 good faith of the group making the determination and the
20 reasonableness of the investigation. The determination shall
21 be made by:

22 (a) A majority vote of independent directors present
23 at a meeting of the board of directors, if the independent
24 directors constitute a quorum;

25 (b) A majority vote of a committee consisting of two
26 or more independent directors appointed by a majority vote of
27 independent directors present at a meeting of the board of
28 directors, whether or not such independent directors
29 constitute a quorum; or

30 (c) A panel of one or more independent persons
31 appointed by the court upon motion by the corporation.

1 (4) A proceeding commenced under this section may not
2 be discontinued or settled without the approval of the court.
3 If the court determines that a proposed discontinuance or
4 settlement will substantially affect the interest of the
5 members of the corporation, or a class, series, or voting
6 group of members, the court shall direct that notice be given
7 to the members affected. The court may determine which party
8 or parties to the proceeding shall bear the expense of giving
9 the notice.

10 (5) On termination of the proceeding, the court may
11 require the plaintiff to pay any defendant's reasonable
12 expenses, including reasonable attorney's fees, incurred in
13 defending the proceeding if it finds that the proceeding was
14 commenced without reasonable cause.

15 (6) The court may award reasonable expenses for
16 maintaining the proceeding, including reasonable attorney's
17 fees, to a successful plaintiff or to the person commencing
18 the proceeding who receives any relief, whether by judgment,
19 compromise, or settlement, and may require that the person
20 account for the remainder of any proceeds to the corporation;
21 however, this subsection does not apply to any relief rendered
22 for the benefit of injured members only and limited to a
23 recovery of the loss or damage of the injured members.

24 Section 18. Section 617.0801, Florida Statutes, is
25 amended to read:

26 617.0801 ~~Requirement for and~~ Duties of board of
27 directors.--All corporate powers must be exercised by or under
28 the authority of, and the affairs of the corporation managed
29 under the direction of, its board of directors, subject to any
30 limitation set forth in the articles of incorporation.
31

1 Section 19. Section 617.0806, Florida Statutes, is
2 amended to read:

3 617.0806 Staggered terms for directors.--The articles
4 of incorporation or bylaws may provide that directors may be
5 divided into classes ~~and the terms of office of the several~~
6 ~~classes need not be uniform.~~ Each director shall hold office
7 for the term to which he or she is elected or appointed and
8 until his or her successor has been elected or appointed and
9 qualified or until his or her earlier resignation, removal
10 from office, or death.

11 Section 20. Section 617.0808, Florida Statutes, is
12 amended to read:

13 617.0808 Removal of directors.--

14 (1) Subject to subsection (2), a director may be
15 removed from office pursuant to procedures provided in the
16 articles of incorporation or the bylaws, which shall provide
17 the following, and if they do not do so, shall be deemed to
18 include the following:

19 ~~(a)(1)~~ Any member of the board of directors may be
20 removed from office with or without cause by:

21 1. A majority of all votes of the directors, if the
22 director was elected or appointed by the directors; or

23 2. A majority of all votes of the members, if the
24 director was elected or appointed by the members.

25 (b) If a director is elected by a class, chapter, or
26 other organizational unit, or by region or other geographic
27 grouping, the director may be removed only by the members of
28 that class, chapter, unit, or grouping; however:

29 1. A director may be removed only if the number of
30 votes cast to remove the director would be sufficient to elect
31

1 the director at a meeting to elect directors, except as
2 provided in subparagraphs 2. and 3.

3 2. If cumulative voting is authorized, a director may
4 not be removed if the number of votes sufficient to elect the
5 director under cumulative voting is voted against the removal
6 of the director.

7 3. If at the beginning of the term of a director the
8 articles of incorporation or bylaws provide that the director
9 may be removed for missing a specified number of board
10 meetings, the board may remove the director for failing to
11 attend the specified number of meetings. The director may be
12 removed only if a majority of the directors then in office
13 vote for the removal ~~the vote or agreement in writing by a~~
14 ~~majority of all votes of the membership.~~

15 ~~(c)(2)~~ The notice of a meeting of the members to
16 recall a member or members of the board of directors shall
17 state the specific directors sought to be removed.

18 ~~(d)(3)~~ A proposed removal of a director at a meeting
19 shall require a separate vote for each director whose removal
20 ~~is board member sought to be removed.~~ Where removal is sought
21 by written consent agreement, a separate consent agreement is
22 required for each director ~~board member~~ to be removed.

23 ~~(e)(4)~~ If removal is effected at a meeting, any
24 vacancies created thereby shall be filled by the members or
25 directors eligible to vote for the removal ~~at the same~~
26 ~~meeting.~~

27 ~~(f)(5)~~ Any director who is removed from the board is
28 ~~shall not be~~ eligible to stand for reelection until the next
29 annual meeting of the members.

30
31

1 ~~(g)(6)~~ Any director removed from office shall turn
2 over to the board of directors within 72 hours any and all
3 records of the corporation in his or her possession.

4 ~~(h)(7)~~ If a director who is removed does ~~shall~~ not
5 relinquish his or her office or turn over records as required
6 under this section, the circuit court in the county where the
7 corporation's principal office is located may summarily order
8 the director to relinquish his or her office and turn over
9 corporate records upon application of any member.

10 (i) A director elected or appointed by the board may
11 be removed without cause by a vote of two-thirds of the
12 directors then in office or such greater number as is set
13 forth in the articles of incorporation or bylaws.

14 (2) A director of a corporation described in s. 501(c)
15 of the Internal Revenue Code of 1986, as amended, may be
16 removed from office pursuant to procedures provided in the
17 articles of incorporation or the bylaws and the corporation
18 may provide in the articles of incorporation or the bylaws
19 that it is subject to the provisions of subsection (1).

20 Section 21. Section 617.0809, Florida Statutes, is
21 amended to read:

22 617.0809 Vacancy on board.--

23 (1) Except as provided in s. 617.0808(1)(f), any
24 vacancy occurring on the board of directors may be filled by
25 the affirmative vote of the majority of the remaining
26 directors, even though the remaining directors constitute less
27 than a quorum, or by the sole remaining director, as the case
28 may be, or, if the vacancy is not so filled or if no director
29 remains, by the members or, on the application of any person,
30 by the circuit court of the county where the registered office
31 of the corporation is located.

1 (2) Whenever a vacancy occurs with respect to a
2 director elected by a class, chapter, unit, or group, the
3 vacancy may be filled only by members of that class, chapter,
4 unit, or group, or by a majority of the directors then in
5 office elected by such class, chapter, unit, or group.

6 ~~(3)(2)~~ The term of a director elected or appointed to
7 fill a vacancy expires at the next annual meeting at which
8 directors are elected ~~shall be elected or appointed for the~~
9 ~~unexpired term of his or her predecessor in office.~~ Any
10 directorship to be filled by reason of an increase in the
11 number of directors may be filled by the board of directors,
12 but only for a term of office continuing until the next
13 election of directors by the members or, if the corporation
14 has no members or no members having the right to vote thereon,
15 for such term of office as is provided in the articles of
16 incorporation or the bylaws.

17 ~~(4)(3)~~ A vacancy that will occur at a specific later
18 date, by reason of a resignation effective at a later date
19 under s. 617.0807 or otherwise, may be filled before the
20 vacancy occurs. However, the new director may not take office
21 until the vacancy occurs.

22 Section 22. Present subsection (4) of section
23 617.0830, Florida Statutes, is redesignated as subsection (5),
24 and a new subsection (4) is added to that section, to read:

25 617.0830 General standards for directors.--

26 (4) In discharging his or her duties, a director may
27 consider such factors as the director deems relevant,
28 including the interests of the corporation and its members and
29 such other factors as may be deemed necessary or relevant to
30 exercise the director's reasonable business judgment.

31

1 Section 23. Subsection (2) of section 617.0832,
2 Florida Statutes, is amended, and subsection (3) is added to
3 that section, to read:

4 617.0832 Director conflicts of interest.--

5 (2) For purposes of paragraph (1)(a) only, a
6 conflict-of-interest transaction is authorized, approved, or
7 ratified if it receives the affirmative vote of a majority of
8 the directors on the board of directors, or on the committee,
9 who have no relationship or interest in the transaction
10 described in subsection (1), but a transaction may not be
11 authorized, approved, or ratified under this section by a
12 single director. If a majority of the directors who have no
13 such relationship or interest in the transaction vote to
14 authorize, approve, or ratify the transaction, a quorum is
15 deemed present for the purpose of taking action under this
16 section. The presence of, or a vote cast by, a director having
17 such relationship or interest in the transaction does not
18 affect the validity of any action taken under paragraph (1)(a)
19 if the transaction is otherwise authorized, approved, or
20 ratified as provided in that subsection, but such presence or
21 vote of such a director may be counted for purposes of
22 determining whether the transaction is approved under other
23 sections of this act.

24 (3) For purposes of paragraph (1)(b), a
25 conflict-of-interest transaction is authorized, approved, or
26 ratified if it receives the vote of a majority in interest of
27 the members entitled to vote under this subsection. A director
28 who has a relationship or interest in the transaction
29 described in subsection (1) may not vote to determine whether
30 to authorize, approve, or ratify a conflict-of-interest
31 transaction under paragraph (1)(b). The vote of that director,

1 however, is counted in determining whether the transaction is
2 approved under other sections of this act. A majority in
3 interest of the members entitled to vote on the transaction
4 under this subsection constitutes a quorum for the purpose of
5 taking action under this section. Common or interested
6 ~~directors may be counted in determining the presence of a~~
7 ~~quorum at a meeting of the board of directors or a committee~~
8 ~~thereof which authorizes, approves, or ratifies such contract~~
9 ~~or transaction.~~

10 Section 24. Section 617.0833, Florida Statutes, is
11 amended to read:

12 617.0833 Loans to directors or officers.--Loans, other
13 than through the purchase of bonds, debentures, or similar
14 obligations of the type customarily sold in public offerings,
15 or through ordinary deposit of funds in a bank, may not be
16 made by a corporation to its directors or officers, or to any
17 other corporation, firm, association, or other entity in which
18 one or more of its directors or officers is a director or
19 officer or holds a substantial financial interest, except a
20 loan by one corporation which is exempt from federal income
21 taxation under s. 501(c)(3) of the Internal Revenue Code of
22 1986, as amended, or of the corresponding section of a
23 subsequently enacted federal revenue act, to another
24 corporation which is exempt from federal income taxation under
25 s. 501(c)(3) of the Internal Revenue Code of 1986, as amended,
26 or of the corresponding section of a subsequently enacted
27 federal revenue act. A loan made in violation of this section
28 is a violation of the duty to the corporation of the directors
29 or officers authorizing it or participating in it, but the
30 obligation of the borrower with respect to the loan ~~is shall~~
31 not ~~be~~ affected thereby.

1 Section 25. Subsection (1) of section 617.0834,
2 Florida Statutes, is amended to read:

3 617.0834 Officers and directors of certain
4 corporations and associations not for profit; immunity from
5 civil liability.--

6 (1) An officer or director of a nonprofit organization
7 recognized under s. 501(c)(3) or s. 501(c)(4) or s. 501(c)(6)
8 of the Internal Revenue Code of 1986, as amended, or of the
9 corresponding section of a subsequently enacted federal
10 revenue act, or of an agricultural or a horticultural
11 organization recognized under s. 501(c)(5), of the Internal
12 Revenue Code of 1986, as amended, or of the corresponding
13 section of a subsequently enacted federal revenue act, is not
14 personally liable for monetary damages to any person for any
15 statement, vote, decision, or failure to take an action,
16 regarding organizational management or policy by an officer or
17 director, unless:

18 (a) The officer or director breached or failed to
19 perform his or her duties as an officer or director; and

20 (b) The officer's or director's breach of, or failure
21 to perform, his or her duties constitutes:

22 1. A violation of the criminal law, unless the officer
23 or director had reasonable cause to believe his or her conduct
24 was lawful or had no reasonable cause to believe his or her
25 conduct was unlawful. A judgment or other final adjudication
26 against an officer or director in any criminal proceeding for
27 violation of the criminal law estops that officer or director
28 from contesting the fact that his or her breach, or failure to
29 perform, constitutes a violation of the criminal law, but does
30 not estop the officer or director from establishing that he or
31 she had reasonable cause to believe that his or her conduct

1 was lawful or had no reasonable cause to believe that his or
2 her conduct was unlawful;

3 2. A transaction from which the officer or director
4 derived an improper personal benefit, either directly or
5 indirectly; or

6 3. Recklessness or an act or omission which was
7 committed in bad faith or with malicious purpose or in a
8 manner exhibiting wanton and willful disregard of human
9 rights, safety, or property.

10 Section 26. Subsections (2) and (3) of section
11 617.1007, Florida Statutes, are amended to read:

12 617.1007 Restated articles of incorporation.--

13 (2) The restatement may include one or more amendments
14 to the articles of incorporation. If the restatement includes
15 an amendment requiring member approval, it must be adopted as
16 provided in s. 617.1002.

17 (3) A corporation restating its articles of
18 incorporation shall deliver to the Department of State for
19 filing articles of restatement, executed in accordance with
20 the provisions of s. 617.01201, setting forth the name of the
21 corporation and the text of the restated articles of
22 incorporation together with a certificate setting forth:

23 (a) Whether the restatement contains an amendment to
24 the articles of incorporation requiring member approval and,
25 if it does not, that the board of directors adopted the
26 restatement; or

27 (b) If the restatement contains an amendment to the
28 articles of incorporation requiring member approval, the
29 information required by s. 617.1006.

30
31

1 Section 27. Subsection (2) of section 617.1101,
2 Florida Statutes, is amended, and subsection (3) is added to
3 that section, to read:

4 617.1101 Plan of merger.--

5 (2) Each corporation must adopt a plan of merger
6 setting forth:

7 (a) The names of the corporations proposing to merge
8 and the name of the surviving corporation into which each
9 other corporation plans to merge, which is hereinafter
10 designated as the surviving corporation;

11 (b) The terms and conditions of the proposed merger;

12 (c) A statement of any changes in the articles of
13 incorporation of the surviving corporation to be effected by
14 such merger; and

15 (d) The manner and basis, if any, of converting the
16 memberships of each merging corporation into memberships,
17 obligations, or securities of the surviving corporation or any
18 other corporation or, in whole or in part, into cash or other
19 property. Such other provisions with respect to the proposed
20 merger as are deemed necessary or desirable.

21 (3) The plan of merger may set forth:

22 (a) Amendments to, or a restatement of, the articles
23 of incorporation of the surviving corporation;

24 (b) The effective date of the merger, which may be on
25 or after the date of filing the articles of incorporation or
26 merger; or

27 (c) Other provisions relating to the merger.

28 Section 28. Section 617.1102, Florida Statutes, is
29 created to read:

30 617.1102 Limitation on merger.--A corporation not for
31 profit organized under this act may merge only with one or

1 more other business entities, as identified in s. 607.1108(1),
2 if the surviving entity of such merger is a corporation not
3 for profit or other business entity that has been organized as
4 a not-for-profit entity under a governing statute or other
5 applicable law that permits such a merger.

6 Section 29. Section 617.1301, Florida Statutes, is
7 created to read:

8 617.1301 Prohibited distributions.--Except as
9 authorized by ss. 617.0505 and 617.1302, a corporation may not
10 make any distributions to its members.

11 Section 30. Section 617.1302, Florida Statutes, is
12 created to read:

13 617.1302 Authorized distributions.--

14 (1) A mutual benefit corporation may purchase its
15 memberships pursuant to s. 617.0608 only if, after the
16 purchase is completed:

17 (a) The mutual benefit corporation would be able to
18 pay its debts as they become due in the usual course of its
19 activities; and

20 (b) The total assets of the mutual benefit corporation
21 would at least equal the sum of its total liabilities.

22 (2) A corporation may make distributions upon
23 dissolution in conformity with the dissolution provisions of
24 this act.

25 Section 31. Subsection (4) of section 617.1405,
26 Florida Statutes, is amended to read:

27 617.1405 Effect of dissolution.--

28 (4) The name of a dissolved corporation ~~is shall~~ not
29 be available for assumption or use by another corporation
30 until ~~after~~ 120 days after the effective date of dissolution
31 unless the dissolved corporation provides the Department of

1 State with an affidavit, executed pursuant to s. 617.01201,
2 permitting the immediate assumption or use of the name by
3 another corporation.

4 Section 32. Section 617.1407, Florida Statutes, is
5 created to read:

6 617.1407 Unknown claims against dissolved
7 corporation.--A dissolved corporation or successor entity, as
8 defined in s. 617.1408(15), may choose to execute one of the
9 following procedures to resolve payment of unknown claims.

10 (1) A dissolved corporation or successor entity may
11 file notice of its dissolution with the Department of State on
12 the form prescribed by the Department of State and request
13 that persons having claims against the corporation which are
14 not known to the corporation or successor entity present them
15 in accordance with the notice. The notice must:

16 (a) State the name of the corporation and the date of
17 dissolution;

18 (b) Describe the information that must be included in
19 a claim and provide a mailing address to which the claim may
20 be sent; and

21 (c) State that a claim against the corporation under
22 this subsection will be barred unless a proceeding to enforce
23 the claim is commenced within 4 years after the filing of the
24 notice.

25 (2) A dissolved corporation or successor entity may,
26 within 10 days after filing articles of dissolution with the
27 Department of State, publish a "Notice of Corporate
28 Dissolution." The notice must appear once a week for 2
29 consecutive weeks in a newspaper of general circulation in a
30 county in the state in which the corporation has its principal
31 office, if any, or, if none, in a county in the state in which

1 the corporation owns real or personal property. Such newspaper
2 shall meet the requirements as are prescribed by law for such
3 purposes. The notice must:

4 (a) State the name of the corporation and the date of
5 dissolution;

6 (b) Describe the information that must be included in
7 a claim and provide a mailing address to which the claim may
8 be sent; and

9 (c) State that a claim against the corporation under
10 this subsection will be barred unless a proceeding to enforce
11 the claim is commenced within 4 years after the date of the
12 second consecutive weekly publication of the notice authorized
13 by this section.

14 (3) If the dissolved corporation or successor entity
15 complies with subsection (1) or subsection (2), the claim of
16 each of the following claimants is barred unless the claimant
17 commences a proceeding to enforce the claim against the
18 dissolved corporation within 4 years after the date of filing
19 the notice with the Department of State or the date of the
20 second consecutive weekly publication, as applicable:

21 (a) A claimant who did not receive written notice
22 under s. 617.1408(9), or whose claim is not provided for under
23 s. 617.1408(10), whether such claim is based on an event
24 occurring before or after the effective date of dissolution.

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

27 (4) A claim may be entered under this section:

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

30 (b) If the assets have been distributed in
31 liquidation, against a member of the dissolved corporation to

1 the extent of such member's pro rata share of the claim or the
2 corporate assets distributed to such member in liquidation,
3 whichever is less; however, the aggregate liability of any
4 member of a dissolved corporation arising under this section,
5 or otherwise, may not exceed the amount distributed to the
6 member in dissolution.

7 Section 33. Section 617.1408, Florida Statutes, is
8 created to read:

9 617.1408 Known claims against dissolved corporation.--

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

14 (2) The dissolved corporation or successor entity
15 shall deliver to each of its known claimants written notice of
16 the dissolution at any time after its effective date. The
17 written notice must:

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

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

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

24 2. Any interest obligation if fixed by an instrument
25 of indebtedness;

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

28 (d) State the deadline, which may not be less than 120
29 days after the effective date of the written notice, by which
30 confirmation of the claim must be delivered to the dissolved
31 corporation or successor entity; and

1 (e) State that the corporation or successor entity may
2 make distributions thereafter to other claimants and the
3 members of the corporation or persons interested as having
4 been such without further notice.

5 (3) A dissolved corporation or successor entity may
6 reject, in whole or in part, any claim made by a claimant
7 pursuant to this subsection by mailing notice of such
8 rejection to the claimant within 90 days after receipt of such
9 claim and, in all events, at least 150 days before expiration
10 of 3 years following the effective date of dissolution. A
11 notice sent by the dissolved corporation or successor entity
12 pursuant to this subsection must be accompanied by a copy of
13 this section.

14 (4) A dissolved corporation or successor entity
15 electing to follow the procedures described in subsections (2)
16 and (3) must also give notice of the dissolution of the
17 corporation to persons having known claims that are contingent
18 upon the occurrence or nonoccurrence of future events or are
19 otherwise conditional or unmatured and request that such
20 persons present such claims in accordance with the terms of
21 such notice. Such notice must be in substantially the form,
22 and sent in the same manner, as described in subsection (2).

23 (5) A dissolved corporation or successor entity shall
24 offer any claimant whose known claim is contingent,
25 conditional, or unmatured such security as the corporation or
26 such entity determines is sufficient to provide compensation
27 to the claimant if the claim matures. The dissolved
28 corporation or successor entity shall deliver such offer to
29 the claimant within 90 days after receipt of such claim and,
30 in all events, at least 150 days before expiration of 3 years
31 following the effective date of dissolution. If the claimant

1 offered such security does not deliver in writing to the
2 dissolved corporation or successor entity a notice rejecting
3 the offer within 120 days after receipt of such offer for
4 security, the claimant is deemed to have accepted such
5 security as the sole source from which to satisfy his or her
6 claim against the corporation.

7 (6) A dissolved corporation or successor entity that
8 has given notice in accordance with subsections (2) and (4)
9 shall petition the circuit court in the county where the
10 corporation's principal office is located or was located at
11 the effective date of dissolution to determine the amount and
12 form of security which will be sufficient to provide
13 compensation to any claimant who has rejected the offer for
14 security made pursuant to subsection (5).

15 (7) A dissolved corporation or successor entity that
16 has given notice in accordance with subsection (2) shall
17 petition the circuit court in the county where the
18 corporation's principal office is located or was located at
19 the effective date of dissolution to determine the amount and
20 form of security which will be sufficient to provide
21 compensation to claimants whose claims are known to the
22 corporation or successor entity but whose identities are
23 unknown. The court shall appoint a guardian ad litem to
24 represent all claimants whose identities are unknown in any
25 proceeding brought under this subsection. The reasonable fees
26 and expenses of such guardian, including all reasonable expert
27 witness fees, shall be paid by the petitioner in such
28 proceeding.

29 (8) The giving of any notice or making of any offer
30 pursuant to the provisions of this section does not revive any
31 claim then barred, does not constitute acknowledgment by the

1 dissolved corporation or successor entity that any person to
2 whom such notice is sent is a proper claimant, and does not
3 operate as a waiver of any defense or counterclaim in respect
4 of any claim asserted by any person to whom such notice is
5 sent.

6 (9) A dissolved corporation or successor entity that
7 has followed the procedures described in subsections (2)-(7)
8 shall:

9 (a) Pay the claims admitted or made and not rejected
10 in accordance with subsection (3);

11 (b) Post the security offered and not rejected
12 pursuant to subsection (5);

13 (c) Post any security ordered by the circuit court in
14 any proceeding under subsections (6) and (7); and

15 (d) Pay or make provision for all other known
16 obligations of the corporation or the successor entity. Such
17 claims or obligations shall be paid in full, and any such
18 provision for payments shall be made in full if there are
19 sufficient funds. If there are insufficient funds, such claims
20 and obligations shall be paid or provided for according to
21 their priority and, among claims of equal priority, ratably to
22 the extent of funds legally available therefor. Any remaining
23 funds shall be distributed to the members of the dissolved
24 corporation; however, such distribution may not be made before
25 the expiration of 150 days following the date of the last
26 notice of rejections given pursuant to subsection (3). In the
27 absence of actual fraud, the judgment of the directors of the
28 dissolved corporation or the governing persons of the
29 successor entity as to the provisions made for the payment of
30 all obligations under this paragraph is conclusive.

1 (10) A dissolved corporation or successor entity that
2 has not followed the procedures described in subsections (2)
3 and (3) shall pay or make reasonable provision to pay all
4 known claims and obligations, including all contingent,
5 conditional, or unmatured claims known to the corporation or
6 the successor entity and all claims that are known to the
7 dissolved corporation or the successor entity but for which
8 the identity of the claimant is unknown. Such claims shall be
9 paid in full, and any such provision for payment made shall be
10 made in full if there are sufficient funds. If there are
11 insufficient funds, such claims and obligations shall be paid
12 or provided for according to their priority and, among claims
13 of equal priority, ratably to the extent of funds legally
14 available therefor. Any remaining funds shall be distributed
15 to the members of the dissolved corporation.

16 (11) Directors of a dissolved corporation or governing
17 persons of a successor entity that has complied with
18 subsection (9) or subsection (10) are not personally liable to
19 the claimants of the dissolved corporation.

20 (12) A member of a dissolved corporation the assets of
21 which were distributed pursuant to subsection (9) or
22 subsection (10) is not liable for any claim against the
23 corporation in an amount in excess of such member's pro rata
24 share of the claim or the amount distributed to the member,
25 whichever is less.

26 (13) A member of a dissolved corporation, the assets
27 of which were distributed pursuant to subsection (9), is not
28 liable for any claim against the corporation which claim is
29 known to the corporation or successor entity and on which a
30 proceeding is not begun prior to the expiration of 3 years
31 following the effective date of dissolution.

1 (14) The aggregate liability of any member of a
2 dissolved corporation for claims against the dissolved
3 corporation arising under this section, or otherwise, may not
4 exceed the amount distributed to the member in dissolution.

5 (15) As used in this section and s. 617.1407, the term
6 "successor entity" includes any trust, receivership, or other
7 legal entity that is governed by the laws of this state to
8 which the remaining assets and liabilities of a dissolved
9 corporation are transferred and that exists solely for the
10 purposes of prosecuting and defending suits by or against the
11 dissolved corporation and enabling the dissolved corporation
12 to settle and close the business of the dissolved corporation,
13 to dispose of and convey the property of the dissolved
14 corporation, to discharge the liabilities of the dissolved
15 corporation, and to distribute to the dissolved corporation's
16 members any remaining assets, but not for the purpose of
17 continuing the business for which the dissolved corporation
18 was organized.

19 Section 34. Subsection (6) of section 617.1421,
20 Florida Statutes, is repealed.

21 Section 35. Section 617.1422, Florida Statutes, is
22 amended to read:

23 617.1422 Reinstatement following administrative
24 dissolution.--

25 (1)(a) A corporation administratively dissolved under
26 s. 617.1421 may apply to the Department of State for
27 reinstatement at any time after the effective date of
28 dissolution. The corporation must submit a reinstatement form
29 prescribed and furnished by the Department of State or a
30 current uniform business report signed by a registered agent
31 and an officer or director and submit ~~application must~~

1 ~~1. Recite the name of the corporation and the~~
2 ~~effective date of its administrative dissolution;~~
3 ~~2. State that the ground or grounds for dissolution~~
4 ~~either did not exist or have been eliminated and that no~~
5 ~~further grounds currently exist for dissolution;~~
6 ~~3. State that the corporation's name satisfies the~~
7 ~~requirements of s. 617.0401; and~~
8 ~~4. State that all fees owed by the corporation and~~
9 ~~computed at the rate provided by law at the time the~~
10 ~~corporation applies for reinstatement, have been paid; or~~
11 ~~(b) Submit a current annual report, signed by the~~
12 ~~registered agent and an officer or director, which~~
13 ~~substantially complies with the requirements of paragraph (a).~~
14 (2) If the Department of State determines that the
15 application contains the information required by subsection
16 (1) and that the information is correct, it shall ~~file the~~
17 ~~document, cancel the certificate of dissolution, and~~ reinstate
18 the corporation ~~effective on the date which the reinstatement~~
19 ~~document is filed.~~
20 (3) When the reinstatement is effective, it relates
21 back to and takes effect as of the effective date of the
22 administrative dissolution and the corporation resumes
23 carrying on its business affairs as if the administrative
24 dissolution had never occurred.
25 (4) The name of the dissolved corporation is not
26 available for assumption or use by another corporation until 1
27 year after the effective date of dissolution unless the
28 dissolved corporation provides the Department of State with an
29 affidavit executed as required by s. 617.01201 permitting the
30 immediate assumption or use of the name by another
31 corporation.

1 ~~(5)(4)~~ If the name of the dissolved corporation has
2 been lawfully assumed in this state by another corporation,
3 the Department of State shall require the dissolved
4 corporation to amend its articles of incorporation to change
5 its name before accepting its application for reinstatement.

6 Section 36. Subsection (2) of section 617.1430,
7 Florida Statutes, is amended to read:

8 617.1430 Grounds for judicial dissolution.--A circuit
9 court may dissolve a corporation:

10 (2) Except as provided in the articles of
11 incorporation or bylaws of a corporation, in a proceeding by
12 at least 50 members or members holding at least 10 percent of
13 the voting power of any corporation, whichever is less, or by
14 a director or any person authorized in the articles of
15 incorporation, ~~In a proceeding by a member~~ if it is
16 established that:

17 (a) The directors are deadlocked in the management of
18 the corporate affairs, the members are unable to break the
19 deadlock, and irreparable injury to the corporation is
20 threatened or being suffered;

21 (b) The members are deadlocked in voting power and
22 have failed to elect successors to directors whose terms have
23 expired or would have expired upon qualification of their
24 successors; or

25 (c) The corporate assets are being misapplied or
26 wasted.

27 Section 37. Subsection (2) of section 617.1503,
28 Florida Statutes, is amended to read:

29 617.1503 Application for certificate of authority.--

30 (2) The foreign corporation shall deliver with the
31 completed application a certificate of existence, ~~or a~~

1 document of similar import~~er~~ duly authenticated, not more
2 than 90 days prior to delivery of the application to the
3 Department of State, by the Secretary of State or other
4 official having custody of corporate records in the
5 jurisdiction under the law of which it is incorporated. A
6 translation of the certificate, under oath of the translator,
7 must be attached to a certificate that ~~which~~ is in a language
8 other than the English language.

9 Section 38. Subsection (2) of section 617.1504,
10 Florida Statutes, is amended to read:

11 617.1504 Amended certificate of authority.--

12 (2) Such application shall be made within 90 ~~30~~ days
13 after the occurrence of any change mentioned in subsection
14 (1), shall be made on forms prescribed by the Department of
15 State, shall be executed and filed in the same manner as an
16 original application for authority, and shall set forth:

17 (a) The name of the foreign corporation as it appears
18 on the records of the Department of State;

19 (b) The jurisdiction of its incorporation;

20 (c) The date it was authorized to conduct its affairs
21 in this state;

22 (d) If the name of the foreign corporation has been
23 changed, the name relinquished, the new name, a statement that
24 the change of name has been effected under the laws of the
25 jurisdiction of its incorporation, and the date the change was
26 effected;

27 (e) If the period of duration has been changed, a
28 statement of such change and the date the change was effected;

29 (f) If the jurisdiction of incorporation has been
30 changed, a statement of such change and the date the change
31 was effected; and

1 (g) If the purpose or purposes ~~that~~ which the
2 corporation intends to pursue in this state have been changed,
3 a statement of such new purpose or purposes, and a further
4 statement that the corporation is authorized to pursue such
5 purpose or purposes in the jurisdiction of its incorporation.

6 Section 39. Section 617.1506, Florida Statutes, is
7 amended to read:

8 617.1506 Corporate name of foreign corporation.--

9 (1) A foreign corporation is not entitled to file an
10 application for a certificate of authority unless the
11 corporate name of such corporation satisfies the requirements
12 of s. 617.0401. To obtain or maintain a certificate of
13 authority to transact business in this state, the foreign
14 corporation:

15 (a) May add the word "corporation" or "incorporated"
16 or the abbreviation "corp." or "inc." or words of like import,
17 as will clearly indicate that it is a corporation instead of a
18 natural person or partnership or other business entity;
19 ~~however, to its corporate name for use in this state,~~
20 ~~provided,~~ the name of a foreign corporation may not contain
21 the word "company" or the abbreviation "co."; or

22 (b) May use an alternate name to transact business in
23 this state if its real name is unavailable. Any such alternate
24 corporate name adopted for use in this state shall be
25 cross-referenced to the real corporate name in the records of
26 the Division of Corporations. If the real corporate name of
27 the corporation becomes available in this state or if the
28 corporation chooses to change its alternate name, and it
29 ~~delivers to the Department of State, for filing,~~ a copy of the
30 resolution of its board of directors, changing or withdrawing
31

1 the alternate name, executed as required by s. 617.01201, must
2 be delivered for filing ~~adopting an alternate name.~~

3 (2) The corporate name, including the alternate name,
4 of a foreign corporation must be distinguishable, within the
5 records of the Division of Corporations, from:

6 (a) Any corporate name of a corporation for profit
7 incorporated or authorized to transact business in this state.

8 ~~(b)(a)~~ The alternate name of another foreign
9 corporation authorized to transact business in this state.

10 ~~(c)(b)~~ The corporate name of a not-for-profit
11 corporation incorporated or authorized to transact business in
12 this state.

13 ~~(d)(e)~~ The names of all other entities or filings,
14 except fictitious name registrations pursuant to s. 865.09,
15 organized, or registered under the laws of this state, that
16 are on file with the Division of Corporations.

17 (3) If a foreign corporation authorized to transact
18 business in this state changes its corporate name to one that
19 does not satisfy the requirements of s. 607.0401, such
20 corporation may not transact business in this state under the
21 changed name until the corporation adopts a name satisfying
22 the requirements of s. 607.0401.

23 ~~(4) The corporate name must be distinguishable from~~
24 ~~the names of all other entities or filings, organized,~~
25 ~~registered, or reserved under the laws of the state that are~~
26 ~~on file with the Division of Corporations, except fictitious~~
27 ~~name registrations pursuant to s. 865.09.~~

28 Section 40. Subsection (6) of section 617.1530,
29 Florida Statutes, is amended to read:

30 617.1530 Grounds for revocation of authority to
31 conduct affairs.--The Department of State may commence a

1 proceeding under s. 617.1531 to revoke the certificate of
2 authority of a foreign corporation authorized to conduct its
3 affairs in this state if:

4 (6) The Department of State receives a duly
5 authenticated certificate from the Secretary ~~secretary~~ of
6 State ~~state~~ or other official having custody of corporate
7 records in the jurisdiction under the law of which the foreign
8 corporation is incorporated stating that it has been dissolved
9 or disappeared as the result of a merger.

10 Section 41. Paragraph (a) of subsection (5) of section
11 617.1601, Florida Statutes, is amended to read:

12 617.1601 Corporate records.--

13 (5) A corporation shall keep a copy of the following
14 records:

15 (a) Its articles of incorporation or restated articles
16 of incorporation and all amendments to them currently in
17 effect.

18 Section 42. Subsections (1), (2), and (4) of section
19 617.1602, Florida Statutes, are amended to read:

20 617.1602 Inspection of records by members.--

21 (1) A member of a corporation is entitled to inspect
22 and copy, during regular business hours at the corporation's
23 principal office or at a reasonable location specified by the
24 corporation, any of the records of the corporation described
25 in s. 617.1601(5), if the member gives the corporation written
26 notice of his or her demand at least 10 ~~5~~ business days before
27 the date on which he or she wishes to inspect and copy.

28 (2) A member of a corporation is entitled to inspect
29 and copy, during regular business hours at a reasonable
30 location specified by the corporation, any of the following
31 records of the corporation if the member meets the

1 requirements of subsection (3) and gives the corporation
2 written notice of his or her demand at least 10 ~~5~~ business
3 days before the date on which he or she wishes to inspect and
4 copy:

5 (a) Excerpts from minutes of any meeting of the board
6 of directors, records of any action of a committee of the
7 board of directors while acting in place of the board of
8 directors on behalf of the corporation, minutes of any meeting
9 of the members, and records of action taken by the members or
10 board of directors without a meeting, to the extent not
11 subject to inspection under subsection (1).

12 (b) Accounting records of the corporation.

13 (c) The record of members.

14 (d) Any other books and records.

15 (4) This section does not affect:

16 (a) The right of a member ~~to inspect and copy records~~
17 ~~under s. 617.0730(6), or, if the member is~~ in litigation with
18 the corporation to inspect and copy records, to the same
19 extent as any other litigant.

20 (b) The power of a court, independently of this act,
21 to compel the production of corporate records for examination.

22 Section 43. Section 617.1605, Florida Statutes, is
23 amended to read:

24 617.1605 Financial reports for members.--A
25 corporation, upon written demand from a member, shall furnish
26 that member its latest annual financial statements, which may
27 be consolidated or combined statements of the corporation and
28 one or more of its subsidiaries or affiliates, as appropriate,
29 and which include a balance sheet as of the end of the fiscal
30 year and a statement of operations for that year. If financial
31 statements are prepared for the corporation on the basis of

1 generally accepted accounting principles, the annual financial
2 statements must also be prepared on that basis. Within 60 days
3 following the end of the fiscal or calendar year or annually
4 on such date as is otherwise provided in the bylaws of the
5 corporation, the board of directors of the corporation shall
6 mail or furnish by personal delivery to each member a complete
7 financial report of actual receipts and expenditures for the
8 previous 12 months. The report shall show the amounts of
9 receipts by accounts and receipt classifications and shall
10 show the amounts of expenses by accounts and expense
11 classifications.

12 Section 44. Section 617.1703, Florida Statutes, is
13 created to read:

14 617.1703 Application to condominiums, homeowners'
15 associations, cooperatives, and mobile home park lot
16 tenancies.--In the event of any conflict between the
17 provisions of this act and the provisions of chapter 718
18 regarding condominiums, chapter 719 regarding cooperatives,
19 chapter 720 regarding homeowners' associations, or chapter 723
20 regarding mobile home park lot tenancies, the provisions of
21 such other chapters shall apply. The provisions of ss.
22 617.0605-617.0608 do not apply to corporations regulated by
23 any of the foregoing chapters or to any other corporation in
24 which membership in the corporation is required pursuant to a
25 document recorded in the county property records.

26 Section 45. Subsection (8) is added to section
27 617.1803, Florida Statutes, to read:

28 617.1803 Domestication of foreign not-for-profit
29 corporations.--

30 (8) When a domestication becomes effective:
31

1 (a) The title to all real and personal property, both
2 tangible and intangible, of the foreign corporation remains in
3 the domesticated corporation without reversion or impairment;

4 (b) The liabilities of the foreign corporation remain
5 the liabilities of the domesticated corporation;

6 (c) An action or proceeding against the foreign
7 corporation continues against the domesticated corporation as
8 if the domestication had not occurred;

9 (d) The articles of incorporation attached to the
10 certificate of domestication constitute the articles of
11 incorporation of the domesticated corporation; and

12 (e) Membership interests in the foreign corporation
13 remain identical in the domesticated corporation.

14 Section 46. Section 617.1806, Florida Statutes, is
15 amended to read:

16 617.1806 Conversion to corporation not for profit;
17 petition and contents.--A petition for conversion to a
18 corporation not for profit pursuant to s. 617.1805 shall be
19 accompanied by the written consent of all the shareholders
20 authorizing the change in the corporate nature and directing
21 an authorized officer to file such petition before the court,
22 together with a statement agreeing to accept all the property
23 of the petitioning corporation and agreeing to assume and pay
24 all its indebtedness and liabilities and the proposed articles
25 of incorporation signed by the president and secretary of the
26 petitioning corporation which shall set forth the provisions
27 required in original articles of incorporation by s. 617.0202.

28 Section 47. Section 617.1807, Florida Statutes, is
29 amended to read:

30 617.1807 Conversion to corporation not for profit;
31 authority of circuit judge.--If the circuit judge to whom the

1 petition and proposed articles of incorporation are presented
2 finds that the petition and proposed articles of incorporation
3 are in proper form, he or she shall approve the articles of
4 incorporation and endorse his or her approval thereon; such
5 approval shall provide that all of the property of the
6 petitioning corporation shall become the property of the
7 successor corporation not for profit, subject to all
8 indebtedness and liabilities of the petitioning corporation.
9 The articles of incorporation with such endorsements thereupon
10 shall be sent to the Department of State, which shall, upon
11 receipt thereof and upon payment of all taxes due the state by
12 the petitioning corporation, if any, issue a certificate
13 showing the receipt of the articles of incorporation with the
14 endorsement of approval thereon and of the payment of all
15 taxes to the state. Upon payment of the filing fees specified
16 in s. 617.0122, the Department of State shall file the
17 articles of incorporation, and from thenceforth the
18 petitioning corporation shall become a corporation not for
19 profit under the name adopted in the articles of incorporation
20 and subject to all the rights, powers, immunities, duties, and
21 liabilities of corporations not for profit under state law,
22 and its rights, powers, immunities, duties, and liabilities as
23 a corporation for profit shall cease and determine.

24 Section 48. Section 617.1907, Florida Statutes, is
25 amended to read:

26 617.1907 Effect of repeal or amendment of prior
27 acts.--

28 (1) Except as provided in subsection (2), the repeal
29 or amendment of a statute by this act does not affect:

30 (a) The operation of the statute or any action taken
31 under it before its repeal or amendment;

1 (b) Any ratification, right, remedy, privilege,
2 obligation, or liability acquired, accrued, or incurred under
3 the statute before its repeal or amendment;

4 (c) Any violation of the statute, or any penalty,
5 forfeiture, or punishment incurred because of the violation,
6 before its repeal or amendment; or

7 (d) Any proceeding, reorganization, or dissolution
8 commenced under the statute before its repeal or amendment,
9 and the proceeding, reorganization, or dissolution may be
10 completed in accordance with the statute as if it had not been
11 repealed or amended.

12 (2) If a penalty or punishment imposed for violation
13 of a statute repealed or amended by this act is reduced by
14 this act, the penalty or punishment if not already imposed
15 shall be imposed in accordance with this act.

16 Section 49. Section 617.2103, Florida Statutes, is
17 repealed.

18 Section 50. This act shall take effect October 1,
19 2007.

SENATE SUMMARY

1
2
3 Requires a document that is electronically transmitted to
4 be in a format that can be retrieved in typewritten or
5 printed form. Requires that a document be executed by a
6 director of a domestic or foreign corporation. Authorizes
7 the delivery of a document by electronic transmission to
8 the extent permitted by the Department of State.
9 Authorizes the Department of State to collect a fee for
10 filing an agent's statement of resignation from an
11 inactive corporation. Authorizes a domestic or foreign
12 corporation to correct a document filed by the Department
13 of State within 30 days after filing under certain
14 circumstances. Defines the terms "distribution," "mutual
15 benefit corporation," and "voting power." Requires the
16 incorporators to hold an organizational meeting after
17 incorporation if the initial directors are not named in
18 the articles of incorporation. Authorizes a corporation
19 not for profit to make contracts and guaranties. Provides
20 that an alien business organization may withdraw its
21 registered agent designation by delivering an application
22 for certificate of withdrawal to the Department of State.
23 Prohibits a corporation from making distributions to its
24 members. Provides an exception. Deletes provisions
25 related to the issuance of certificates. Corrects a
26 reference to the Solicitation of Contributions Act.
27 Provides that certain stock certificates constitute
28 certificates of membership. Requires that a resignation,
29 expulsion, or termination of membership be recorded in
30 the membership book. Prohibits a member of a corporation
31 from transferring a membership under certain
circumstances. Provides that the resignation of a member
does not relieve the member from obligations incurred and
commitments made prior to resignation. Requires that
termination or suspension a member of a corporation be
conducted pursuant to a procedure that is fair and
reasonable. Provides that a procedure is fair and
reasonable under certain circumstances. Requires that
written notice given by mail be delivered by certified
mail or first-class mail. Requires that a proceeding
challenging an expulsion, suspension, or termination be
commenced within 1 year after the effective date.
Provides that a member who has been expelled or suspended
may be liable to a corporation for dues, assessments, or
fees. Prohibits a corporation from purchasing any of its
memberships. Authorizes a mutual benefit corporation to
purchase the membership of a member who resigns or whose
membership is terminated. Authorizes the holders of at
least 5 percent of the voting power of a corporation to
call a special meeting of the members under certain
circumstances. Authorizes a person who signs a demand for
a special meeting to call a special meeting of the
members under certain circumstances. Provides that
members and proxy holders who are not physically present
at a meeting may participate by means of remote
communication and be deemed to be present under certain
circumstances. Requires an amendment to the articles of
incorporation or the bylaws which adds a greater or
lesser quorum or voting requirement to meet certain
requirements in effect or proposed to be adopted.

1 Prohibits a person from commencing a proceeding in the
2 right of a domestic or foreign corporation unless the
3 person is a member of the corporation or became a member
4 through transfer by operation of law. Provides that a
5 complaint in a proceeding brought in the right of a
6 domestic or foreign corporation must be verified and must
7 allege the demand with particularity. Authorizes the
8 court to dismiss a derivative proceeding if the court
9 finds that a determination was made in good faith after a
10 reasonable investigation. Prohibits certain proceedings
11 from being discontinued or settled without the approval
12 of the court. Authorizes the court to require a plaintiff
13 to pay a defendant's reasonable expenses upon termination
14 of a proceeding. Provides the duties of the board of
15 directors. Provides that directors may be divided into
16 classes. Provides that any member of a board of directors
17 may be removed from office with or without cause by a
18 certain vote. Provides that a director who is elected by
19 a class, chapter, or other organizational unit may be
20 removed only by members of that class, chapter, or
21 organizational unit. Provides that a director elected or
22 appointed by a board may be removed without cause by a
23 vote of two-thirds of the directors then in office.
24 Provides that a director of a corporation described in s.
25 501(c) of the Internal Revenue Code may be removed from
26 office pursuant to procedures provided in the
27 corporation's articles of incorporation or bylaws.
28 Provides that a vacancy on the board of directors for a
29 director elected by a class, chapter, unit, or group may
30 be filled only by members of that class, chapter, unit,
31 or group. Provides that the term of a director elected or
appointed to fill a vacancy expires at the next annual
meeting at which directors are elected. Authorizes a
director to consider such factors as he or she deems
relevant in discharging his or her duties. Deletes a
provision that authorizes common or interested directors
to be counted in determining the presence of a quorum at
a meeting that ratifies a contract between a corporation
and one of its directors and any other corporation in
which one of its directors is financially interested.
Provides circumstances under which a conflict-of-interest
transaction is authorized. Provides an exception to the
requirement that a loan may not be made by a corporation
to its directors. Provides that an officer or director of
a certain nonprofit organization or agricultural or
horticultural organization is immune from civil
liability. Provides that a restatement of the articles of
incorporation of a corporation may include one or more
amendments. Provides certain requirements for a plan of
merger. Provides a limitation on the merger of a
corporation not for profit. Prohibits a corporation from
making distributions to its members under certain
circumstances. Provides that a mutual benefit corporation
may purchase its memberships under certain circumstances.
Authorizes a corporation to make distributions upon
dissolution. Provides that the name of a dissolved
corporation may be available for immediate assumption by
another corporation if the dissolved corporation provides
the Department of State with an affidavit permitting such
use. Authorizes a dissolved corporation or successor
entity to execute certain procedures to resolve payment
of unknown claims against it. Provides that certain

1 | claims against a dissolved corporation are barred.
2 | Provides that a claim may be entered against a dissolved
3 | corporation under certain circumstances. Authorizes a
4 | dissolved corporation or successor entity to execute
5 | certain procedures to dispose of known claims against it.
6 | Requires a dissolved corporation to deliver written
7 | notice of the dissolution to each of its known claimants.
8 | Provides a procedure under which a dissolved corporation
9 | may reject a claim made against it. Requires a dissolved
10 | corporation to give notice of the dissolution to persons
11 | with known claims that are contingent, conditional, or
12 | unmatured. Requires a dissolved corporation to follow
13 | certain procedures in offering compensation to a claimant
14 | if the claim matures. Requires a dissolved corporation to
15 | petition the circuit court to determine the amount and
16 | form of security that will be sufficient to provide
17 | compensation to certain claimants. Provides that the
18 | giving of notice or making of an offer does not revive a
19 | claim that has been barred. Provides that directors of a
20 | dissolved corporation or governing persons of a successor
21 | entity that has complied with certain procedures are not
22 | personally liable to the claimants of a dissolved
23 | corporation. Provides that certain members of a dissolved
24 | corporation are not liable for any claim against the
25 | corporation. Provides a limit on the aggregate liability
26 | of any member of a dissolved corporation. Defines the
27 | term "successor entity." Repeals provisions relating to
28 | the assumption and use of the name of a dissolved
29 | corporation. Deletes certain requirements for an
30 | application to reinstate a corporation that has been
31 | dissolved. Requires a corporation to submit a
reinstatement form prescribed and furnished by the
Department of State. Prohibits the name of a dissolved
corporation from being available for assumption or use by
another corporation until 1 year after the effective date
of dissolution. Provides an exception. Revises the
requirements for members in a circuit court proceeding to
dissolve a corporation. Requires a foreign corporation to
deliver a certificate of existence authenticated by the
Secretary of State. Requires a foreign corporation to
make application to the Department of State to obtain an
amended certificate of authority within 90 days after the
occurrence of a change. Requires that an alternate
corporate name adopted for use in the state be
cross-referenced to the real corporate name in the
records of the Division of Corporations. Requires the
corporate name of a foreign corporation to be
distinguishable from the corporate name of a corporation
for profit incorporated or authorized to transact
business in the state. Requires the Department of State
to receive an authenticated certificate from the
Secretary of State before commencing a proceeding to
revoke the certificate of authority of a foreign
corporation. Requires a corporation to keep a copy of its
articles of incorporation. Provides that a member of a
corporation is entitled to inspect and copy certain
records of the corporation at a reasonable location
specified by the corporation. Requires a member to give
the corporation written notice 10 days before the date on
which he or she wishes to inspect and copy documents.
Revises the circumstances under which a corporation
furnishes a member with its latest annual financial

1 | statement. Provides for the applicability of certain
2 | provisions to corporations regulated under this act.
3 | Provides for certain changes when a foreign
4 | not-for-profit corporation becomes domesticated. Revises
5 | the provisions for conversion to a corporation not for
6 | profit. Corrects a reference to the articles of
7 | incorporation in the process of conversion to a
8 | corporation not for profit. Provides that the repeal or
9 | amendment of a statute does not affect certain operations
10 | and proceedings. Repeals provisions related to exemptions
11 | for certain corporations.
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