

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED                                         (Y/N)  
ADOPTED AS AMENDED                         (Y/N)  
ADOPTED W/O OBJECTION                     (Y/N)  
FAILED TO ADOPT                             (Y/N)  
WITHDRAWN                                    (Y/N)  
OTHER                                         

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1 Committee/Subcommittee hearing bill: Judiciary Committee  
2 Representative Byrd offered the following:

3  
4            **Amendment (with directory amendment)**

5            Remove lines 5766-6862 and insert:

6            (4)

7            (c) The interested shareholder has been the beneficial  
8 owner of at least 80 percent of the corporation's outstanding  
9 voting shares for at least 3 ~~5~~ years preceding the announcement  
10 date.

11           (5) The provisions of this section do not apply:

12           (a) To any corporation the original articles of  
13 incorporation of which contain a provision expressly electing  
14 not to be governed by this section;

15           (b) To any corporation which adopted an amendment to its  
16 articles of incorporation prior to July 1, 2018 ~~January 1, 1989,~~

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17 expressly electing not to be governed by this section, provided  
18 that such amendment does not apply to any affiliated transaction  
19 of the corporation with an interested shareholder whose  
20 determination date is on or prior to the effective date of such  
21 amendment;

22 (c) To any corporation which adopts an amendment to its  
23 articles of incorporation or bylaws, approved by the affirmative  
24 vote of the holders, other than interested shareholders and  
25 their affiliates and associates, of a majority of the  
26 outstanding voting shares of the corporation, excluding the  
27 voting shares of interested shareholders and their affiliates  
28 and associates, expressly electing not to be governed by this  
29 section, provided that such amendment to the articles of  
30 incorporation or bylaws shall not be effective until 18 months  
31 after such vote of the corporation's shareholders and shall not  
32 apply to any affiliated transaction of the corporation with an  
33 interested shareholder whose determination date is on or prior  
34 to the effective date of such amendment; or

35 (d) To any affiliated transaction of the corporation with  
36 an interested shareholder of the corporation which became an  
37 interested shareholder inadvertently, if such interested  
38 shareholder, as soon as practicable, divests itself of a  
39 sufficient amount of the voting shares of the corporation so  
40 that it no longer is the beneficial owner, directly or  
41 indirectly, of 20 ~~10~~ percent or more of the outstanding voting

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42 shares of the corporation, and would not at any time within the  
43 3-year ~~5-year~~ period preceding the announcement date with  
44 respect to such affiliated transaction have been an interested  
45 shareholder but for such inadvertent acquisition.

46 (6) Any corporation that elected not to be governed by  
47 this section, either through a provision in its original  
48 articles of incorporation or through an amendment to its  
49 articles of incorporation or bylaws may elect to be bound by the  
50 provisions of this section by adopting an amendment to its  
51 articles of incorporation or bylaws that repeals the original  
52 article or the amendment. In addition to any requirements of  
53 this chapter ~~act~~, or the articles of incorporation or bylaws of  
54 the corporation, any such amendment shall be approved by the  
55 affirmative vote of the holders of two-thirds of the voting  
56 shares other than shares beneficially owned by any interested  
57 shareholder.

58 Section 116. Paragraph (d) of subsection (2) of section  
59 607.0902, Florida Statutes, is amended to read:

60 607.0902 Control-share acquisitions.—

61 (2) "CONTROL-SHARE ACQUISITION."—

62 (d) The acquisition of any shares of an issuing public  
63 corporation does not constitute a control-share acquisition if  
64 the acquisition is consummated in any of the following  
65 circumstances:

66 1. Before July 2, 1987.

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67 2. Pursuant to a contract existing before July 2, 1987.

68 3. Pursuant to the laws of intestate succession or  
69 pursuant to a gift or testamentary transfer.

70 4. Pursuant to the satisfaction of a pledge or other  
71 security interest created in good faith and not for the purpose  
72 of circumventing this section.

73 5. Pursuant to a merger or share exchange effected in  
74 compliance with s. 607.1101, s. 607.1102, s. 607.1103, s.  
75 607.1104, or s. 607.1105 ~~s. 607.1107~~, if the issuing public  
76 corporation is a party to the agreement of merger or plan of  
77 share exchange.

78 6. Pursuant to any savings, employee stock ownership, or  
79 other employee benefit plan of the issuing public corporation or  
80 any of its subsidiaries or any fiduciary with respect to any  
81 such plan when acting in such fiduciary capacity.

82 7. Pursuant to an acquisition of shares of an issuing  
83 public corporation if the acquisition has been approved by the  
84 board of directors of such issuing public corporation before  
85 acquisition.

86 Section 117. Subsection (1) of section 607.1001, Florida  
87 Statutes, is amended to read:

88 607.1001 Authority to amend the articles of  
89 incorporation.—

90 (1) A corporation may amend its articles of incorporation  
91 at any time to add or change a provision that is required or

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92 | permitted in the articles of incorporation or to delete a  
93 | provision not required to be contained in the articles of  
94 | incorporation. Whether a provision is required or permitted in  
95 | the articles of incorporation is determined as of the effective  
96 | date of the amendment.

97 | Section 118. Section 607.1002, Florida Statutes, is  
98 | amended to read:

99 | 607.1002 Amendment by board of directors.—Unless the  
100 | articles of incorporation provide otherwise, a corporation's  
101 | board of directors may adopt one or more amendments to the  
102 | corporation's articles of incorporation without shareholder  
103 | approval ~~action~~:

104 | (1) To extend the duration of the corporation if it was  
105 | incorporated at a time when limited duration was required by  
106 | law;

107 | (2) To delete the names and addresses of the initial  
108 | directors;

109 | (3) To delete the name and address of the initial  
110 | registered agent or registered office, if a statement of change  
111 | is on file with the department ~~of State~~;

112 | (4) To delete any other information contained in the  
113 | articles of incorporation that is solely of historical interest;

114 | (5) To delete the authorization for a class or series of  
115 | shares authorized pursuant to s. 607.0602, if no shares of such  
116 | class or series are issued;

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117 (6) To change the corporate name by substituting the word  
118 "corporation," "incorporated," or "company," or the abbreviation  
119 "corp.," "Inc.," or "Co.," for a similar word or abbreviation in  
120 the name, or by adding, deleting, or changing a geographical  
121 attribution for the name;

122 (7) To change the par value for a class or series of  
123 shares;

124 (8) To provide that if the corporation acquires its own  
125 shares, such shares belong to the corporation and constitute  
126 treasury shares until disposed of or canceled by the  
127 corporation; ~~or~~

128 (9) To reflect a reduction in authorized shares, as a  
129 result of the operation of s. 607.0631(2), when the corporation  
130 has acquired its own shares and the articles of incorporation  
131 prohibit the reissue of the acquired shares;

132 (10) To delete a class of shares from the articles of  
133 incorporation, as a result of the operation of s. 607.0631(2),  
134 when there are no remaining shares of the class because the  
135 corporation has acquired all shares of the class and the  
136 articles of incorporation prohibit the reissue of the acquired  
137 shares; or

138 ~~(11)-(9)~~ To make any other change expressly permitted by  
139 this act to be made without shareholder approval ~~action~~.

140 Section 119. Subsections (4), (6), and (8) of section  
141 607.10025, Florida Statutes, are amended to read:

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142 607.10025 Shares; combination or division.—

143 (4) If a division or combination is effected by a board  
144 action without shareholder approval and includes an amendment to  
145 the articles of incorporation, there shall be signed ~~executed~~ in  
146 accordance with s. 607.0120 on behalf of the corporation and  
147 filed in the office of the department ~~of State~~ articles of  
148 amendment which shall set forth:

149 (a) The name of the corporation.

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

152 (c) That the amendment to the articles of incorporation  
153 does not adversely affect the rights or preferences of the  
154 holders of outstanding shares of any class or series and does  
155 not result in the percentage of authorized shares that remain  
156 unissued after the division or combination exceeding the  
157 percentage of authorized shares that were unissued before the  
158 division or combination.

159 (d) The class or series and number of shares subject to  
160 the division or combination and the number of shares into which  
161 the shares are to be divided or combined.

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

164 (f) If the division or combination is to become effective  
165 at a time subsequent to the time of filing, the date, which may

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166 not exceed 90 days after the date of filing, when the division  
167 or combination becomes effective.

168 (6) If a division or combination is effected by action of  
169 the board and of the shareholders, there shall be signed  
170 ~~executed~~ on behalf of the corporation and filed with the  
171 department ~~of State~~ articles of amendment as provided in s.  
172 607.1006 ~~s. 607.1003~~, which articles shall set forth, in  
173 addition to the information required by s. 607.1006 ~~s. 607.1003~~,  
174 the information required in subsection (4).

175 ~~(8) This section applies only to corporations with more~~  
176 ~~than 35 shareholders of record.~~

177 Section 120. Section 607.1003, Florida Statutes, is  
178 amended to read:

179 607.1003 Amendment by board of directors and  
180 shareholders.—If a corporation has issued shares, an amendment  
181 to the articles of incorporation shall be adopted in the  
182 following manner:

183 (1) The proposed amendment shall first be adopted by the  
184 board of directors. ~~A corporation's board of directors may~~  
185 ~~propose one or more amendments to the articles of incorporation~~  
186 ~~for submission to the shareholders.~~

187 (2) (a) Except as provided in ss. 607.1002, 607.10025, and  
188 607.1008, and, with respect to restatements that do not require  
189 shareholder approval, s. 607.1007, the amendment shall then be  
190 approved by the shareholders.



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191           (b) In submitting the proposed amendment to the  
192 shareholders for approval, the board of directors shall  
193 recommend that the shareholders approve the amendment unless:  
194           1. The board of directors makes a determination that  
195 because of a conflict of interest or other special circumstances  
196 it should not make such a recommendation; or  
197           2. Section 607.0826 applies.  
198           (c) If either subparagraph (b)1. or subparagraph (b)2.  
199 applies, the board must inform the shareholders of the basis for  
200 its so proceeding without such recommendation ~~For the amendment~~  
201 ~~to be adopted:~~  
202           ~~(a) The board of directors must recommend the amendment to~~  
203 ~~the shareholders, unless the board of directors determines that~~  
204 ~~because of conflict of interest or other special circumstances~~  
205 ~~it should make no recommendation and communicates the basis for~~  
206 ~~its determination to the shareholders with the amendment; and~~  
207           ~~(b) The shareholders entitled to vote on the amendment~~  
208 ~~must approve the amendment as provided in subsection (5).~~  
209           (3) The board of directors may set conditions for the  
210 approval of the amendment by the shareholders or the  
211 effectiveness of the amendment ~~condition its submission of the~~  
212 ~~proposed amendment on any basis.~~  
213           (4) If the amendment is required to be approved by the  
214 shareholders, and the approval is to be given at a meeting, the  
215 corporation must notify each shareholder, whether or not

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216 entitled to vote, of the meeting of shareholders at which the  
217 amendment is to be submitted for approval. The notice must be  
218 given in accordance with s. 607.0705, state that the purpose, or  
219 one of the purposes, of the meeting is to consider the  
220 amendment, and must contain or be accompanied by a copy of the  
221 amendment ~~The corporation shall notify each shareholder, whether~~  
222 ~~or not entitled to vote, of the proposed shareholders' meeting~~  
223 ~~in accordance with s. 607.0705. The notice of meeting must also~~  
224 ~~state that the purpose, or one of the purposes, of the meeting~~  
225 ~~is to consider the proposed amendment and contain or be~~  
226 ~~accompanied by a copy or summary of the amendment.~~

227 (5) Unless this chapter act, the articles of  
228 incorporation, or the board of directors, ~~(acting pursuant to~~  
229 ~~subsection (3),)~~ requires a greater vote or a greater quorum,  
230 the approval of the amendment requires the approval of the  
231 shareholders at a meeting at which a quorum consisting of at  
232 least a majority of the shares entitled to be cast on the  
233 amendment exists, and, if any class or series of shares is  
234 entitled to vote as a separate group on the amendment, except as  
235 provided in s. 607.1004(3), the approval of each such separate  
236 voting group at a meeting at which a quorum of the voting group  
237 exists consisting of at least a majority of the votes entitled  
238 to be cast on the amendment by that voting group.

239 (6) If the amendment by any voting group would create  
240 appraisal rights, approval of the amendment must also require

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241 the vote of a majority of the votes entitled to be cast by such  
242 voting group vote by voting groups, the amendment to be adopted  
243 must be approved by:

244 ~~(a) A majority of the votes entitled to be cast on the~~  
245 ~~amendment by any voting group with respect to which the~~  
246 ~~amendment would create dissenters' rights; and~~

247 ~~(b) The votes required by ss. 607.0725 and 607.0726 by~~  
248 ~~every other voting group entitled to vote on the amendment.~~

249 (7) (6) Unless otherwise provided in the articles of  
250 incorporation, the shareholders of a corporation having 35 or  
251 fewer shareholders may amend the articles of incorporation  
252 without an act of the directors at a meeting for which notice of  
253 the changes to be made is given. For purposes of this  
254 subsection, the term "shareholder" means a record shareholder, a  
255 beneficial shareholder, or an unrestricted voting trust  
256 beneficial owner.

257 (8) If as a result of an amendment of the articles of  
258 incorporation one or more shareholders of a domestic corporation  
259 would become subject to new interest holder liability, approval  
260 of the amendment shall require the signing in connection with  
261 the amendment, by each such shareholder, of a separate written  
262 consent to become subject to such new interest holder liability,  
263 unless in the case of a shareholder that already has interest  
264 holder liability the terms and conditions of the new interest  
265 holder liability are substantially identical to those of the

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266 existing interest holder liability (other than changes that  
267 eliminate or reduce such interest holder liability).

268 (9) For purposes of subsection (8) and s. 607.1009, the  
269 term "new interest holder liability" means interest holder  
270 liability of a person resulting from an amendment of the  
271 articles of incorporation if the person did not have interest  
272 holder liability before the amendment becomes effective, or the  
273 person had interest holder liability before the amendment  
274 becomes effective, the terms and conditions of which are changed  
275 when the amendment becomes effective.

276 Section 121. Section 607.1004, Florida Statutes, is  
277 amended to read:

278 607.1004 Voting on amendments by voting groups.-

279 (1) If the corporation has more than one class of shares  
280 outstanding, the holders of the outstanding shares of a class  
281 are entitled to vote as a separate voting group ~~class~~ (if  
282 shareholder voting is otherwise required by this chapter act)  
283 upon a proposed amendment to the articles of incorporation, if  
284 the amendment would:

285 (a) Effect an exchange or reclassification of all or part  
286 of the shares of the class into shares of another class.

287 (b) Effect an exchange or reclassification, or create a  
288 right of exchange, of all or part of the shares of another class  
289 into the shares of the class.

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290 (c) Change the designation, rights, preferences, or  
291 limitations of all or part of the shares of the class.

292 (d) Change the shares of all or part of the class into a  
293 different number of shares of the same class.

294 (e) Create a new class of shares having rights or  
295 preferences with respect to distributions or to dissolution that  
296 are prior or superior to the shares of the class.

297 (f) Increase the rights, preferences, or number of  
298 authorized shares of any class that, after giving effect to the  
299 amendment, have rights or preferences with respect to  
300 distributions or to dissolution that are prior or superior to  
301 the shares of the class.

302 (g) Limit or deny an existing preemptive right of all or  
303 part of the shares of the class.

304 (h) Cancel or otherwise affect rights to distributions or  
305 dividends that have accumulated but not yet been declared on all  
306 or part of the shares of the class.

307 (2) If a proposed amendment would affect a series of a  
308 class of shares in one or more of the ways described in  
309 subsection (1), the shares of that series are entitled to vote  
310 as a separate voting group ~~class~~ on the proposed amendment.

311 (3) If a proposed amendment that entitles the holders of  
312 two or more classes or series of shares to vote as separate  
313 voting groups under this section would affect those two or more  
314 classes or series in the same or substantially similar way, the

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315 holders of ~~the~~ shares of all the classes or series so affected  
316 must vote together as a single voting group on the proposed  
317 amendment, unless otherwise provided in the articles of  
318 incorporation or added as a condition by the board of directors  
319 pursuant to s. 607.1003(3).

320 (4) A class or series of shares is entitled to the voting  
321 rights granted by this section even if ~~although~~ the articles of  
322 incorporation provide that the shares are nonvoting shares.

323 Section 122. Section 607.1005, Florida Statutes, is  
324 amended to read:

325 607.1005 Amendment before issuance of shares.—If a  
326 corporation has not yet issued shares, its board of directors,  
327 or a majority of its incorporators if it has no ~~or~~ board of  
328 directors, may adopt one or more amendments to the corporation's  
329 articles of incorporation.

330 Section 123. Section 607.1006, Florida Statutes, is  
331 amended to read:

332 607.1006 Articles of amendment.—

333 (1) After an amendment to the ~~A corporation amending its~~  
334 articles of incorporation has been adopted and approved as  
335 required by this chapter, the corporation shall deliver to the  
336 department of State for filing articles of amendment which must  
337 ~~shall~~ be signed ~~executed~~ in accordance with s. 607.0120 and  
338 which must ~~shall~~ set forth:

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

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340 (b)-(2) The text of each amendment adopted, or the  
341 information required by s. 607.0120(11)(e), if applicable;

342 (c)-(3) If an amendment provides for an exchange,  
343 reclassification, or cancellation of issued shares, provisions  
344 for implementing the amendment if not contained in the amendment  
345 itself, which may be made dependent upon facts objectively  
346 ascertainable outside of the articles of amendment in accordance  
347 with s. 607.0120(11);

348 (d)-(4) The date of each amendment's adoption; and

349 (e)-(5) If an amendment:

350 1. Was adopted by the incorporators or board of directors  
351 without shareholder approval action, a statement that the  
352 amendment was duly adopted by the incorporators or by the board  
353 of directors, as the case may be, to that effect and that  
354 shareholder approval action was not required;

355 2.-(6) ~~If an amendment was approved~~ Required approval by  
356 the shareholders, a statement that the number of votes cast for  
357 the amendment by the shareholders in a manner required by this  
358 chapter and by the articles of incorporation was sufficient for  
359 approval and if more than one voting group was entitled to vote  
360 on the amendment, a statement designating each voting group  
361 entitled to vote separately on the amendment, and a statement  
362 that the number of votes cast for the amendment by the  
363 shareholders in each voting group was sufficient for approval by  
364 that voting group; or

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365 3. Is being filed pursuant to s. 607.0120(11)(e), a  
366 statement to that effect.

367 (2) Articles of amendment shall take effect at the  
368 effective date determined pursuant to s. 607.0123.

369 Section 124. Section 607.1007, Florida Statutes, is  
370 amended to read:

371 607.1007 Restated articles of incorporation.—

372 (1) A corporation's board of directors may restate its  
373 articles of incorporation at any time ~~with or~~ without  
374 shareholder approval, subject to subsection (2) ~~action~~.

375 (2) If the restated articles ~~The restatement may~~ include  
376 one or more new amendments that require ~~to the articles. If the~~  
377 ~~restatement includes an amendment requiring~~ shareholder  
378 approval, the amendments ~~it~~ must be adopted and approved as  
379 provided in s. 607.1003.

380 (3) Notwithstanding subsection (1), if the board of  
381 directors submits a restatement for shareholder approval, and  
382 the approval is to be given at a meeting ~~action~~, the corporation  
383 must ~~shall~~ notify each shareholder, whether or not entitled to  
384 vote, of the meeting of shareholders at which the restatement is  
385 to be submitted for approval. The notice must be given ~~of the~~  
386 ~~proposed shareholders' meeting~~ in accordance with s. 607.0705  
387 and must. ~~The notice must also~~ state that the purpose, or one of  
388 the purposes, of the meeting is to consider the ~~proposed~~  
389 restatement and must contain or be accompanied by a copy of the



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390 ~~restatement that identifies any amendment or other change it~~  
391 ~~would make in the articles.~~

392 (4) A corporation that restates ~~restating~~ its articles of  
393 incorporation shall execute and deliver to the department ~~of~~  
394 ~~State~~ for filing articles of restatement, that comply with the  
395 provisions of s. 607.0120, and to the extent applicable, s.  
396 607.0202, setting forth:

397 (a) The name of the corporation;

398 (b) ~~and~~ The text of the restated articles of  
399 incorporation;

400 (c) A statement that the restated articles consolidate all  
401 amendments into a single document; and

402 (d) If one or more new amendments are included in the  
403 restated articles, the statements required under s. 607.1006  
404 with respect to each new amendment ~~Together with a certificate~~  
405 ~~setting forth:~~

406 ~~(a) Whether the restatement contains an amendment to the~~  
407 ~~articles requiring shareholder approval and, if it does not,~~  
408 ~~that the board of directors adopted the restatement; or~~

409 ~~(b) If the restatement contains an amendment to the~~  
410 ~~articles requiring shareholder approval, the information~~  
411 ~~required by s. 607.1006.~~

412 (5) Duly adopted restated articles of incorporation  
413 supersede the original articles of incorporation and all  
414 amendments to the articles of incorporation ~~them~~.

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415 (6) The department ~~of State~~ may certify restated articles  
416 of incorporation, as the articles of incorporation currently in  
417 effect, without including the statements ~~certificate information~~  
418 required by subsection (4).

419 Section 125. Subsections (1), (2), and (3) of section  
420 607.1008, Florida Statutes, are amended to read:

421 607.1008 Amendment pursuant to reorganization.—

422 (1) A corporation's articles of incorporation may be  
423 amended without action by the board of directors or shareholders  
424 to carry out a plan of reorganization ordered or decreed by a  
425 court of competent jurisdiction under the authority of a law of  
426 the United States or of this state ~~any federal or Florida~~  
427 ~~statute if the articles of incorporation after amendment contain~~  
428 ~~only provisions required or permitted by s. 607.0202.~~

429 (2) The individual or individuals designated by the court  
430 shall deliver to the department ~~of State~~ for filing articles of  
431 amendment setting forth:

432 (a) The name of the corporation;

433 (b) The text of each amendment approved by the court;

434 (c) The date of the court's order or decree approving the  
435 articles of amendment;

436 (d) The title of the reorganization proceeding in which  
437 the order or decree was entered; and

438 (e) A statement that the court had jurisdiction of the  
439 proceeding under a federal or Florida statute.

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440 (3) Shareholders of a corporation undergoing  
441 reorganization do not have appraisal ~~dissenters'~~ rights except  
442 as and to the extent provided in the reorganization plan.

443 Section 126. Section 607.1009, Florida Statutes, is  
444 amended to read:

445 607.1009 Effect of amendment.—

446 (1) An amendment to articles of incorporation does not  
447 affect a cause of action existing against or in favor of the  
448 corporation, a proceeding to which the corporation is a party,  
449 or the existing rights of persons other than shareholders of the  
450 corporation. An amendment changing a corporation's name does not  
451 affect ~~abate~~ a proceeding brought by or against the corporation  
452 in its former name.

453 (2) A shareholder who becomes subject to new interest  
454 holder liability in respect of the corporation as a result of an  
455 amendment to the articles of incorporation shall have that new  
456 interest holder liability only in respect of interest holder  
457 liabilities that arise after the amendment becomes effective.

458 (3) Except as otherwise provided in the articles of  
459 incorporation of the corporation, the interest holder liability  
460 of a shareholder who had interest holder liability in respect of  
461 the corporation before the amendment becomes effective and has  
462 new interest holder liability after the amendment becomes  
463 effective shall be as follows:

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464 (a) The amendment does not discharge that prior interest  
465 holder liability with respect to any interest holder liabilities  
466 that arose before the amendment becomes effective.

467 (b) The provisions of the articles of incorporation of the  
468 corporation relating to interest holder liability as in effect  
469 immediately prior to the amendment shall continue to apply to  
470 the collection or discharge of any interest holder liabilities  
471 preserved by paragraph (a), as if the amendment had not  
472 occurred.

473 (c) The shareholder shall have such rights of contribution  
474 from other persons as are provided by the articles of  
475 incorporation relating to interest holder liability as in effect  
476 immediately prior to the amendment with respect to any interest  
477 holder liabilities preserved by paragraph (3) (a), as if the  
478 amendment had not occurred.

479 (d) The shareholder shall not, by reason of such prior  
480 interest holder liability, have interest holder liability with  
481 respect to any interest holder liabilities that arise after the  
482 amendment becomes effective.

483 Section 127. Subsection (1) of section 607.1020, Florida  
484 Statutes, is amended, and subsection (3) is added to that  
485 section, to read:

486 607.1020 Amendment of bylaws by board of directors or  
487 shareholders.-

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488 (1) A corporation's board of directors may amend or repeal  
489 the corporation's bylaws unless:

490 (a) The articles of incorporation or this chapter ~~act~~  
491 reserves that power ~~the power to amend the bylaws generally or a~~  
492 ~~particular bylaw provision~~ exclusively to the shareholders in  
493 whole or in part; or

494 (b) Except as provided in s. 607.0206(5), the  
495 shareholders, in amending, ~~or~~ repealing, or adopting the bylaws  
496 generally or a particular bylaw provision, ~~provide~~ expressly  
497 provide that the board of directors may not amend, ~~or~~ repeal,  
498 adopt, or reinstate the bylaws generally or that particular  
499 bylaw provision.

500 (3) A shareholder does not have a vested property right  
501 resulting from any provision in the bylaws.

502 Section 128. Subsection (1) of section 607.1021, Florida  
503 Statutes, is amended to read:

504 607.1021 Bylaw increasing quorum or voting requirements  
505 for shareholders.-

506 (1) If authorized by the articles of incorporation, the  
507 shareholders may adopt or amend a bylaw that fixes a greater  
508 quorum or voting requirement for shareholders (or voting groups  
509 of shareholders) than is required by this chapter ~~act~~. The  
510 adoption or amendment of a bylaw that adds, changes, or deletes  
511 a greater quorum or voting requirement for shareholders must  
512 meet the same quorum requirement and be adopted by the same vote

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513 and voting groups required to take action under the quorum and  
514 voting requirement then in effect or proposed to be adopted,  
515 whichever is greater.

516 Section 129. Section 607.1022, Florida Statutes, is  
517 amended to read:

518 607.1022 Bylaw increasing quorum or voting requirements  
519 for directors.—

520 (1) A bylaw that increases a ~~fixes a greater~~ quorum or  
521 voting requirement for the board of directors may be amended or  
522 repealed:

523 (a) If originally adopted by the shareholders, only by the  
524 shareholders, unless the bylaw otherwise provides; or

525 (b) If originally adopted by the board of directors,  
526 either by the shareholders or by the board of directors.

527 (2) A bylaw adopted or amended by the shareholders that  
528 increases a ~~fixes a greater~~ quorum or voting requirement for the  
529 board of directors may provide that it may be amended or  
530 repealed only by a specified vote of either the shareholders or  
531 the board of directors.

532 (3) Action by the board of directors under subsection (1)  
533 to amend or repeal ~~paragraph (1)(b) to adopt or amend~~ a bylaw  
534 that changes the quorum or voting requirement for the board of  
535 directors must meet the same quorum requirement and be adopted  
536 by the same vote required to take action under the quorum and

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537 voting requirement then in effect or proposed to be adopted,  
538 whichever is greater.

539 Section 130. Section 607.1023, Florida Statutes, is  
540 created to read:

541 607.1023 Bylaw provisions relating to the election of  
542 directors.-

543 (1) Unless the articles of incorporation specifically  
544 prohibit the adoption of a bylaw pursuant to this section, alter  
545 the vote specified in s. 607.0728(1), or provide for cumulative  
546 voting, a corporation may elect in its bylaws to be governed in  
547 the election of directors as follows:

548 (a) Each vote entitled to be cast may be voted for or  
549 against up to the number of candidates that is equal to the  
550 number of directors to be elected, or a shareholder may indicate  
551 an abstention, but without cumulating the votes;

552 (b) To be elected, a nominee must have received a  
553 plurality of the votes cast by holders of shares entitled to  
554 vote in the election at a meeting at which a quorum is present,  
555 provided that a nominee who is elected but receives more votes  
556 against than for election shall serve as a director for a term  
557 that shall terminate on the date that is the earlier of 90 days  
558 from the date on which the voting results are determined  
559 pursuant to s. 607.0729(2)(e) or the date on which an individual  
560 is selected by the board of directors to fill the office held by  
561 such director, which selection shall be deemed to constitute the

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562 filling of a vacancy by the board to which s. 607.0809 applies.  
563 Subject to paragraph (c), a nominee who is elected but receives  
564 more votes against than for election shall not serve as a  
565 director beyond the 90-day period referenced above; and

566 (c) The board of directors may select any qualified  
567 individual to fill the office held by a director who received  
568 more votes against than for election.

569 (2) Subsection (1) does not apply to an election of  
570 directors by a voting group if:

571 (a) At the expiration of the time fixed under a provision  
572 requiring advance notification of director candidates; or

573 (b) Absent such a provision, at a time fixed by the board  
574 of directors which is not more than 14 days before notice is  
575 given of the meeting at which the election is to occur,

576  
577 there are more candidates for election by the voting group than  
578 the number of directors to be elected, one or more of whom are  
579 properly proposed by shareholders. An individual shall not be  
580 considered a candidate for purposes of this subsection if the  
581 board of directors determines before the notice of meeting is  
582 given that such individual's candidacy does not create a bona  
583 fide election contest.

584 (3) A bylaw electing to be governed by this section may be  
585 repealed:



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586 (a) If originally adopted by the shareholders, only by the  
587 shareholders, unless the bylaw otherwise provides; or

588 (b) If adopted by the board of directors, by the board of  
589 directors or the shareholders.

590 Section 131. Section 607.1101, Florida Statutes, is  
591 amended to read:

592 607.1101 Merger.—

593 (1) By complying with this chapter, including adopting a  
594 plan of merger in accordance with subsection (3) and complying  
595 with s. 607.1103:

596 (a) One or more domestic corporations may merge with one  
597 or more domestic or foreign eligible entities pursuant to a plan  
598 of merger, resulting in a survivor; and

599 (b) Any two or more entities, each of which is either a  
600 domestic eligible entity or a foreign eligible entity, may  
601 merge, resulting in a survivor that is a domestic corporation  
602 created in the merger ~~into another corporation if the board of~~  
603 ~~directors of each corporation adopts and its shareholders (if~~  
604 ~~required by s. 607.1103) approve a plan of merger.~~

605 (2) A domestic eligible entity that is not a corporation  
606 may be a party to a merger with a domestic corporation, or may  
607 be created as the survivor in a merger in which a domestic  
608 corporation is a party, but only if the parties to the merger  
609 comply with the applicable provisions of this chapter and the  
610 merger is permitted by the organic law of the domestic eligible

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611 entity that is not a corporation. A foreign eligible entity may  
612 be a party to a merger with a domestic corporation, or may be  
613 created as the survivor in a merger in which a domestic  
614 corporation is a party, but only if the parties to the merger  
615 comply with the applicable provisions of this chapter and the  
616 merger is permitted by the organic law of the foreign eligible  
617 entity.

618 (3) The plan of merger must ~~shall~~ set forth:

619 (a) As to each party to the merger, its name, jurisdiction  
620 of formation, and type of entity;

621 (b) The survivor's name, jurisdiction of formation, and  
622 type of entity, and, if the survivor is to be created in the  
623 merger, a statement to that effect ~~The name of each corporation~~  
624 ~~planning to merge and the name of the surviving corporation into~~  
625 ~~which each other corporation plans to merge, which is~~  
626 ~~hereinafter designated as the surviving corporation;~~

627 (c) ~~(b)~~ The terms and conditions of the ~~proposed~~ merger;  
628 and

629 (d) ~~(e)~~ The manner and basis of converting:

630 1. The shares of each domestic or foreign corporation and  
631 the eligible interests of each merging domestic or foreign  
632 eligible entity into:

633 a. Shares or other securities.

634 b. Eligible interests.

635 c. Obligations.

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636 d. Rights to acquire shares, other securities, or eligible  
637 interests.

638 e. Cash.

639 f. Other property.

640 g. Any combination of the foregoing; and

641 2. Rights to acquire shares of each merging domestic or  
642 foreign corporation and rights to acquire eligible interests of  
643 each merging domestic or foreign eligible entity into:

644 a. Shares or other securities.

645 b. Eligible interests.

646 c. Obligations.

647 d. Rights to acquire shares, other securities, or eligible  
648 interests.

649 e. Cash.

650 f. Other property.

651 g. Any combination of the foregoing;

652 (e) The articles of incorporation of any domestic or  
653 foreign corporation, or the public organic record of any other  
654 domestic or foreign eligible entity to be created by the merger,  
655 or if a new domestic or foreign corporation or other eligible  
656 entity is not to be created by the merger, any amendments to, or  
657 restatements of, the survivor's articles of incorporation or  
658 other public organic record;

659 (f) The effective date and time of the merger, which may  
660 be on or after the filing date of the articles of merger; and

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661 (g) Any other provisions required by the laws under which  
662 any party to the merger is organized or by which it is governed,  
663 or by the articles of incorporation or organic rules of any such  
664 party corporation into shares, obligations, or other securities  
665 of the surviving corporation or any other corporation or, in  
666 whole or in part, into cash or other property and the manner and  
667 basis of converting rights to acquire shares of each corporation  
668 into rights to acquire shares, obligations, or other securities  
669 of the surviving or any other corporation or, in whole or in  
670 part, into cash or other property.

671 (4)(3) In addition to the requirements of subsection (3),  
672 a The plan of merger may contain any other provision that is not  
673 prohibited by law set forth:

674 (a) Amendments to, or a restatement of, the articles of  
675 incorporation of the surviving corporation;

676 (b) The effective date of the merger, which may be on or  
677 after the date of filing the certificate; and

678 (c) Other provisions relating to the merger.

679 (5) Terms of a plan of merger may be made dependent on  
680 facts objectively ascertainable outside the plan in accordance  
681 with s. 607.0120(11).

682 (6) A plan of merger may be amended only with the consent  
683 of each party to the merger, except as provided in the plan. A  
684 domestic party to a merger may approve an amendment to a plan:

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685 (a) In the same manner as the plan was approved, if the  
686 plan does not provide for the manner in which it may be amended;  
687 or

688 (b) In the manner provided in the plan, except that  
689 shareholders, members, or interest holders that were entitled to  
690 vote on or consent to the approval of the plan are entitled to  
691 vote on or consent to any amendment to the plan that will  
692 change:

693 1. The amount or kind of shares or other securities,  
694 eligible interests, obligations, rights to acquire shares, other  
695 securities, or eligible interests, cash, other property, or any  
696 combination of the foregoing, to be received under the plan by  
697 the shareholders, holders of rights to acquire shares, other  
698 securities, or eligible interests, members, or interest holders  
699 of any party to the merger;

700 2. The articles of incorporation of any domestic  
701 corporation, or the organic rules of any other type of entity,  
702 that will be the survivor of the merger, except for changes  
703 permitted by s. 607.1002 or by comparable provisions of the  
704 organic law of any other type of entity; or

705 3. Any of the other terms or conditions of the plan if the  
706 change would adversely affect such shareholders, members, or  
707 interest holders in any material respect.

708 (7) The redomestication of a foreign insurer to this state  
709 under s. 628.520 shall be deemed a merger of a foreign

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710 corporation and a domestic corporation, and the surviving  
711 corporation shall be deemed to be a domestic corporation  
712 incorporated under the laws of this state. The redomestication  
713 of a Florida corporation to a foreign jurisdiction under s.  
714 628.525 shall be deemed a merger of a domestic corporation and a  
715 foreign corporation, and the surviving corporation shall be  
716 deemed to be a foreign corporation.

717 Section 132. Section 607.1102, Florida Statutes, is  
718 amended to read:

719 607.1102 Share exchange.—

720 (1) By complying with this chapter, including adopting a  
721 plan of share exchange in accordance with subsection (3) and  
722 complying with s. 607.1103:

723 (a) A domestic corporation may acquire all of the shares  
724 or rights to acquire shares of one or more classes or series of  
725 shares or rights to acquire shares of another domestic or  
726 foreign corporation, or all of the eligible interests of one or  
727 more classes or series of interests of a domestic or foreign  
728 eligible entity, or any combination of the foregoing, pursuant  
729 to a plan of share exchange, in exchange for:

730 1. Shares or other securities.

731 2. Eligible interests.

732 3. Obligations.

733 4. Rights to acquire shares, other securities, or eligible  
734 interests.

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- 735           5. Cash.
- 736           6. Other property.
- 737           7. Any combination of the foregoing; or
- 738           (b) All of the shares of one or more classes or series of  
739 shares or rights to acquire shares of a domestic corporation may  
740 be acquired by another domestic or foreign eligible entity,  
741 pursuant to a plan of share exchange, in exchange for:
- 742           1. Shares or other securities.
- 743           2. Eligible interests.
- 744           3. Obligations.
- 745           4. Rights to acquire shares, other securities, or eligible  
746 interests.
- 747           5. Cash.
- 748           6. Other property.
- 749           7. Any combination of the foregoing.
- 750           (2) A foreign eligible entity may be the acquired eligible  
751 entity in a share exchange only if the share exchange is  
752 permitted by the organic law of that eligible entity A  
753 ~~corporation may acquire all of the outstanding shares of one or~~  
754 ~~more classes or series of another corporation if the board of~~  
755 ~~directors of each corporation adopts and its shareholders (if~~  
756 ~~required by s. 607.1103) approve a plan of share exchange.~~
- 757           (3)-(2) The plan of share exchange must ~~shall~~ set forth:
- 758           (a) The name of each domestic or foreign eligible entity  
759 ~~the corporation~~ the shares or eligible interests of which will

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760 be acquired and the name of the domestic or foreign corporation  
761 or eligible entity that will acquire those shares or eligible  
762 interests ~~acquiring corporation;~~  
763 (b) The terms and conditions of the share exchange;  
764 (c) The manner and basis of exchanging:  
765 1. The shares of each domestic or foreign corporation, and  
766 the eligible interests of each domestic or foreign eligible  
767 entity, the shares or eligible interests that are to be acquired  
768 in the share exchange, into shares or other securities, eligible  
769 interests, obligations, rights to acquire shares, other  
770 securities, or eligible interests, cash, other property, or any  
771 combination of the foregoing; and  
772 2. Rights to acquire shares of each domestic or foreign  
773 corporation and rights to acquire eligible interests of each  
774 domestic or foreign eligible entity, that are to be acquired in  
775 the share exchange, into shares or other securities, eligible  
776 interests, obligations, rights to acquire shares, other  
777 securities, or eligible interests, cash, other property, or any  
778 combination of the foregoing; and  
779 (d) Any other provisions required by the organic law  
780 governing the acquired eligible entity or its articles of  
781 incorporation or organic rules ~~the shares to be acquired for~~  
782 ~~shares, obligations, or other securities of the acquiring or any~~  
783 ~~other corporation or, in whole or in part, for cash or other~~  
784 ~~property, and the manner and basis of exchanging rights to~~

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785 ~~acquire shares of the corporation to be acquired for rights to~~  
786 ~~acquire shares, obligations, or, in whole or in part, other~~  
787 ~~securities of the acquiring or any other corporation or, in~~  
788 ~~whole or in part, for cash or other property.~~

789 (4)(3) In addition to the requirements of subsection (3),  
790 the plan of share exchange may contain any other provisions that  
791 are not prohibited by law set forth other provisions relating to  
792 the exchange.

793 (5) Terms of a plan of share exchange may be made  
794 dependent on facts objectively ascertainable outside the plan in  
795 accordance with s. 607.0120(11).

796 (6) A plan of share exchange may be amended only with the  
797 consent of each party to the share exchange, except as provided  
798 in the plan. A domestic eligible entity may approve an amendment  
799 to a plan:

800 (a) In the same manner as the plan was approved, if the  
801 plan does not provide for the manner in which it may be amended;  
802 or

803 (b) In the manner provided in the plan, except that  
804 shareholders, members, or interest holders that were entitled to  
805 vote on or consent to approval of the plan are entitled to vote  
806 on or consent to any amendment of the plan that will change:

807 1. The amount or kind of shares or other securities,  
808 eligible interests, obligations, rights to acquire shares, other  
809 securities, or eligible interests, cash, or other property to be

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810 received under the plan by the shareholders, members, or  
811 interest holders of the acquired eligible entity; or

812 2. Any of the other terms or conditions of the plan if the  
813 change would adversely affect such shareholders, members, or  
814 interest holders in any material respect.

815 (7)-(4) This section does not limit the power of a  
816 corporation to acquire all or part of the shares, or rights to  
817 acquire shares, of one or more classes or series of another  
818 corporation or eligible interests, or rights to acquire eligible  
819 interests, of any other eligible entity through a voluntary  
820 exchange or otherwise.

821 Section 133. Section 607.1103, Florida Statutes, is  
822 amended to read:

823 607.1103 Action on a plan of merger or share exchange.-In  
824 the case of a domestic corporation that is a party to a merger  
825 or the acquired eligible entity in a share exchange, the plan of  
826 merger or the plan of share exchange must be adopted in the  
827 following manner:

828 (1) The ~~After adopting a plan of merger or the plan of~~  
829 share exchange shall first be adopted by, the board of directors  
830 of such domestic corporation each corporation party to the  
831 merger, and the board of directors of the corporation the shares  
832 of which will be acquired in the share exchange, shall submit  
833 the plan of merger (except as provided in subsection (7)) or the  
834 plan of share exchange for approval by its shareholders.

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835 (2) (a) Except as provided in subsections (8), (10), and  
836 (11), and in ss. 607.11035 and 607.1104, the plan of merger or  
837 the plan of share exchange shall then be adopted by the  
838 shareholders.

839 (b) In submitting the plan of merger or the plan of share  
840 exchange to the shareholders for approval, the board of  
841 directors shall recommend that the shareholders approve the  
842 plan, or in the case of an offer referred to in s.  
843 607.11035(1) (b), that the shareholders tender their shares to  
844 the offeror in response to the offer, unless:

845 1. The board of directors makes a determination that  
846 because of conflicts of interest or other special circumstances,  
847 it should not make such a recommendation; or

848 2. Section 607.0826 applies.

849 (c) If either subparagraph (b)1. or subparagraph (b)2.  
850 applies, the board shall inform the shareholders of the basis  
851 for its so proceeding without such recommendation ~~For a plan of~~  
852 ~~merger or share exchange to be approved:~~

853 ~~(a) The board of directors must recommend the plan of~~  
854 ~~merger or share exchange to the shareholders, unless the board~~  
855 ~~of directors determines that it should make no recommendation~~  
856 ~~because of conflict of interest or other special circumstances~~  
857 ~~and communicates the basis for its determination to the~~  
858 ~~shareholders with the plan; and~~

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859 ~~(b) The shareholders entitled to vote must approve the~~  
860 ~~plan as provided in subsection (5).~~

861 (3) The board of directors may set conditions for the  
862 approval condition its submission of the proposed merger or  
863 share exchange by the shareholders or the effectiveness of the  
864 plan of merger or the plan of share exchange on any basis.

865 (4) If the plan of merger or the plan of share exchange is  
866 required to be approved by the shareholders, and if the approval  
867 is to be given at a meeting, the corporation shall notify each  
868 shareholder, regardless of whether entitled to vote, of the  
869 meeting of shareholders at which the plan is submitted for  
870 approval ~~The corporation the shareholders of which are entitled~~  
871 ~~to vote on the matter shall notify each shareholder, whether or~~  
872 ~~not entitled to vote, of the proposed shareholders' meeting in~~  
873 accordance with s. 607.0705. The notice shall also state that  
874 the purpose, or one of the purposes, of the meeting is to  
875 consider the plan of merger or the plan of share exchange,  
876 regardless of whether or not the meeting is an annual or a  
877 special meeting, and contain or be accompanied by a copy ~~or~~  
878 ~~summary~~ of the plan. If the corporation is to be merged into an  
879 existing foreign or domestic eligible entity, the notice must  
880 also include or be accompanied by a copy of the articles of  
881 incorporation and bylaws or the organic rules of that eligible  
882 entity into which the corporation is to be merged. If the  
883 corporation is to be merged with a domestic or foreign eligible

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884 entity and a new domestic or foreign eligible entity is to be  
885 created pursuant to the merger, the notice must include or be  
886 accompanied by a copy of the articles of incorporation and  
887 bylaws or the organic rules of the new eligible entity.  
888 Furthermore, if applicable, the notice shall contain a clear and  
889 concise statement that, if the plan of merger or share exchange  
890 is effected, shareholders dissenting therefrom may be entitled,  
891 if they comply with the provisions of this chapter act regarding  
892 appraisal rights, to be paid the fair value of their shares, and  
893 shall be accompanied by a copy of ss. 607.1301-607.1340 ~~ss.~~  
894 ~~607.1301-607.1333.~~

895 (5) Unless this chapter act, the articles of  
896 incorporation, or the board of directors (acting pursuant to  
897 subsection (3)) requires a greater vote or a greater quorum in  
898 the respective case, approval of ~~vote by classes,~~ the plan of  
899 merger or the plan of share exchange shall require the approval  
900 of the shareholders at a meeting at which a quorum exists by a  
901 majority of the votes entitled to be cast on the plan, and, if  
902 any class or series of shares is entitled to vote as a separate  
903 group on the plan of merger or the plan of share exchange, the  
904 approval of each such separate voting group at a meeting at  
905 which a quorum of the voting group is present by a majority of  
906 the votes entitled to be cast on the merger or share exchange by  
907 that voting group ~~to be authorized shall be approved by each~~

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908 ~~class entitled to vote on the plan by a majority of all the~~  
909 ~~votes entitled to be cast on the plan by that class.~~

910 (6) (a) Subject to subsection (7), voting by a class or  
911 series as a separate voting group is required:

912 1. (a) By each class or series of shares of the corporation  
913 that would be entitled to vote as a separate group on any  
914 provision in the plan which, if such provision had been ~~On a~~  
915 ~~plan of merger if the plan contains a provision which, if~~  
916 contained in a proposed amendment to the articles of  
917 incorporation of a surviving corporation, would have entitled,  
918 ~~would entitle~~ the class or series to vote as a separate voting  
919 group on the proposed amendment under s. 607.1004; or

920 2. If the plan contains a provision that would allow the  
921 plan to be amended to include the type of amendment to the  
922 articles of incorporation referenced in subparagraph 1., by each  
923 class or series of shares of the corporation that would have  
924 been entitled to vote as a separate group on any such amendment  
925 to the articles of incorporation; or

926 3. By each class or series of shares of the corporation  
927 that is to be converted under the plan of merger into shares,  
928 other securities, eligible interests, obligations, rights to  
929 acquire shares, other securities, or eligible interests, cash,  
930 property, or any combination of the foregoing; or

931 4. If the plan contains a provision that would allow the  
932 plan to be amended to convert other classes or series of shares

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933 of the corporation, by each class or series of shares of the  
934 corporation that would have been entitled to vote as a separate  
935 group if the plan were to be so amended.

936 (b) Subject to subsection (7), voting by a class or series  
937 as a separate voting group is required on a plan of share  
938 exchange:

939 1. By each class or series that is to be exchanged in the  
940 exchange, with each class or series constituting a separate  
941 voting group; or

942 2. If the plan contains a provision that would allow the  
943 plan to be amended to include the type of amendment to the  
944 articles of incorporation referenced in subparagraph (a)1., by  
945 each class or series of shares of the corporation that would  
946 have been entitled to vote as a separate group on any such  
947 amendment to the articles of incorporation.

948 (c) Subject to subsection (7), voting by a class or series  
949 as a separate voting group is required on a plan of merger or a  
950 plan of share exchange if the group is entitled under the  
951 articles of incorporation to vote as a voting group to approve  
952 the plan of merger or the plan of share exchange, respectively.

953 (7) The articles of incorporation may expressly limit or  
954 eliminate the separate voting rights provided in subparagraphs  
955 (6) (a)3. or 4. or subparagraph (6) (b)1. as to any class or  
956 series of shares, except when the plan of merger or the plan for  
957 share exchange:

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958 (a) Includes what is or would be, in effect, an amendment  
959 subject to any one or more of subparagraphs (6) (a)1. and 2. and  
960 subparagraph (6) (b)2.; and

961 (b) Will not affect a substantive business combination ~~if~~  
962 ~~the shares of such class or series of shares are to be converted~~  
963 ~~or exchanged under such plan or if the plan contains any~~  
964 ~~provisions which, if contained in a proposed amendment to~~  
965 ~~articles of incorporation, would entitle the class or series to~~  
966 ~~vote as a separate voting group on the proposed amendment under~~  
967 ~~s. 607.1004.~~

968 (8)(7) Unless the corporation's articles of incorporation  
969 provide otherwise, approval by the corporation's shareholders of  
970 ~~Notwithstanding the requirements of this section, unless~~  
971 ~~required by its articles of incorporation, action by the~~  
972 ~~shareholders of the surviving corporation on a plan of merger is~~  
973 ~~not required if:~~

974 (a) The corporation will survive the merger;

975 (b)(a) The articles of incorporation of the surviving  
976 corporation will not differ (except for amendments enumerated in  
977 s. 607.1002) from its articles of incorporation before the  
978 merger; and

979 (c)(b) Each shareholder of the surviving corporation whose  
980 shares were outstanding immediately prior to the effective date  
981 of the merger will hold the same number of shares, with  
982 identical designations, preferences, rights, and limitations,



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983 ~~and relative rights,~~ immediately after the effective date of the  
984 merger.

985 ~~(8) Any plan of merger or share exchange may authorize the~~  
986 ~~board of directors of each corporation party to the merger or~~  
987 ~~share exchange to amend the plan at any time prior to the filing~~  
988 ~~of the articles of merger or share exchange. An amendment made~~  
989 ~~subsequent to the approval of the plan by the shareholders of~~  
990 ~~any corporation party to the merger or share exchange may not:~~

991 ~~(a) Change the amount or kind of shares, securities, cash,~~  
992 ~~property, or rights to be received in exchange for or on~~  
993 ~~conversion of any or all of the shares of any class or series of~~  
994 ~~such corporation;~~

995 ~~(b) Change any other terms and conditions of the plan if~~  
996 ~~such change would materially and adversely affect such~~  
997 ~~corporation or the holders of the shares of any class or series~~  
998 ~~of such corporation; or~~

999 ~~(c) Except as specified in s. 607.1002 or without the vote~~  
1000 ~~of shareholders entitled to vote on the matter, change any term~~  
1001 ~~of the articles of incorporation of any corporation the~~  
1002 ~~shareholders of which must approve the plan of merger or share~~  
1003 ~~exchange.~~

1004  
1005 ~~If articles of merger or share exchange already have been filed~~  
1006 ~~with the Department of State, amended articles of merger or~~

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1007 ~~share exchange shall be filed with the Department of State prior~~  
1008 ~~to the effective date of the merger or share exchange.~~

1009 (9) If as a result of a merger or share exchange one or  
1010 more shareholders of a domestic corporation would become subject  
1011 to new interest holder liability, approval of the plan of merger  
1012 or the plan of share exchange shall require, in connection with  
1013 the transaction, the signing by each such shareholder of a  
1014 separate written consent to become subject to such new interest  
1015 holder liability, unless in the case of a shareholder that  
1016 already has interest holder liability with respect to such  
1017 domestic corporation:

1018 (a) The new interest holder liability is with respect to a  
1019 domestic or foreign corporation (which may be a different or the  
1020 same domestic corporation in which the person is a shareholder);  
1021 and

1022 (b) The terms and conditions of the new interest holder  
1023 liability are substantially identical to those of the existing  
1024 interest holder liability (other than for changes that reduce or  
1025 eliminate such interest holder liability).

1026 (10) Unless the articles of incorporation otherwise  
1027 provide, approval of a plan of share exchange by the  
1028 shareholders of a domestic corporation is not required if the  
1029 corporation is the acquiring eligible entity in the share  
1030 exchange.

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1031 (11) Unless the articles of incorporation otherwise  
1032 provide, shares in the acquired eligible entity not to be  
1033 exchanged under the plan of share exchange are not entitled to  
1034 vote on the plan ~~Unless a plan of merger or share exchange~~  
1035 ~~prohibits abandonment of the merger or share exchange without~~  
1036 ~~shareholder approval after a merger or share exchange has been~~  
1037 ~~authorized, the planned merger or share exchange may be~~  
1038 ~~abandoned (subject to any contractual rights) at any time prior~~  
1039 ~~to the filing of articles of merger or share exchange by any~~  
1040 ~~corporation party to the merger or share exchange, without~~  
1041 ~~further shareholder action, in accordance with the procedure set~~  
1042 ~~forth in the plan of merger or share exchange or, if none is set~~  
1043 ~~forth, in the manner determined by the board of directors of~~  
1044 ~~such corporation.~~

1045 Section 134. Section 607.11035, Florida Statutes, is  
1046 created to read:

1047 607.11035 Shareholder approval of a merger or share  
1048 exchange in connection with a tender offer.-

1049 (1) Unless the articles of incorporation otherwise  
1050 provide, shareholder approval of a plan of merger or a plan of  
1051 share exchange under s. 607.1103(1)(b) is not required if:

1052 (a) The plan of merger or share exchange expressly:

1053 1. Permits or requires the merger or share exchange to be  
1054 effected under this section; and

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1055 2. Provides that, if the merger or share exchange is to be  
1056 effected under this section, the merger or share exchange will  
1057 be effected as soon as practicable following the satisfaction of  
1058 the requirement in paragraph (f);

1059 (b) Another party to the merger, the acquiring eligible  
1060 entity in the share exchange, or a parent of another party to  
1061 the merger or the parent of the acquiring eligible entity in the  
1062 share exchange, makes an offer to purchase, on the terms  
1063 provided in the plan of merger or the plan of share exchange,  
1064 any and all of the outstanding shares of the corporation that,  
1065 absent this section, would be entitled to vote on the plan of  
1066 merger or the plan of share exchange, except that the offer may  
1067 exclude shares of the corporation that are owned at the  
1068 commencement of the offer by the corporation, the offeror, or  
1069 any parent of the offeror, or by any wholly owned subsidiary of  
1070 any of the foregoing;

1071 (c) The offer discloses that the plan of merger or the  
1072 plan of share exchange provides that the merger or share  
1073 exchange will be effected as soon as practicable following the  
1074 satisfaction of the requirement in paragraph (f) and that the  
1075 shares of the corporation that are not tendered in response to  
1076 the offer will be treated pursuant to paragraph (h);

1077 (d) The offer remains open for at least 10 days;

1078 (e) The offeror purchases all shares properly tendered in  
1079 response to the offer and not properly withdrawn;

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1080 (f) The shares listed below are collectively entitled to  
1081 cast at least the minimum number of votes on the merger or share  
1082 exchange that, absent this section, would be required by this  
1083 chapter and by the articles of incorporation for the approval of  
1084 the merger or share exchange by the shareholders and by each  
1085 other voting group entitled to vote on the merger or share  
1086 exchange at a meeting at which all shares entitled to vote on  
1087 the approval were present and voted:

1088 1. Shares purchased by the offeror in accordance with the  
1089 offer;

1090 2. Shares otherwise owned by the offeror or by any parent  
1091 of the offeror or any wholly owned subsidiary of any of the  
1092 foregoing; and

1093 3. Shares subject to an agreement that they are to be  
1094 transferred, contributed, or delivered to the offeror, any  
1095 parent of the offeror, or any wholly owned subsidiary of any of  
1096 the foregoing in exchange for shares or eligible interests in  
1097 such offeror, parent, or subsidiary;

1098 (g) The offeror or a wholly owned subsidiary of the  
1099 offeror merges with or into, or effects a share exchange in  
1100 which it acquires shares of, the corporation; and

1101 (h) Each outstanding share of each class or series of  
1102 shares of the corporation that the offeror is offering to  
1103 purchase in accordance with the offer, and that is not purchased  
1104 in accordance with the offer, is to be converted in the merger

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1105 into, or into the right to receive, or is to be exchanged in the  
1106 share exchange for, or for the right to receive, the same amount  
1107 and kind of securities, eligible interests, obligations, rights,  
1108 cash, other property, or any combination of the foregoing, to be  
1109 paid or exchanged in accordance

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1112 **D I R E C T O R Y A M E N D M E N T**

1113 Remove line 5552 and insert:

1114 of subsection (1) and subsections (2), (4), (5), and (6) of  
1115 section