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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/19/2019	.	
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The Committee on Appropriations (Simmons) recommended the following:

Senate Amendment

Delete lines 9784 - 9907

and insert:

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

(c)~~(4)~~ In a proceeding by a creditor if it is established that:

1.~~(a)~~ The creditor's claim has been reduced to judgment,



11 the execution on the judgment returned unsatisfied, and the
12 corporation is insolvent; or

13 2.(b) The corporation has admitted in writing that the
14 creditor's claim is due and owing and the corporation is
15 insolvent; ~~or~~

16 (d)(5) In a proceeding by the corporation to have its
17 voluntary dissolution continued under court supervision; or

18 (e) In a proceeding by a shareholder if the corporation has
19 abandoned its business and has failed within a reasonable period
20 of time to liquidate and distribute its assets and dissolve.

21 (2) Paragraph (1)(b) does not apply in the case of a
22 corporation that, on the date of the filing of the proceeding,
23 has shares that are:

24 (a) A covered security under s. 18(b)(1)(A) or (B) of the
25 Securities Act of 1933; or

26 (b) Not a covered security, but are held by at least 300
27 shareholders and the shares outstanding have a market value of
28 at least \$20 million, exclusive of the value of outstanding
29 shares of the corporation held by the corporation's
30 subsidiaries, by the corporation's senior executives, by the
31 corporation's directors, and by the corporation's beneficial
32 shareholders and voting trust beneficial owners owning more than
33 10 percent of the outstanding shares of the corporation.

34 (3)(a) In the event of a deadlock situation that satisfies
35 subparagraph (1)(b)1. or subparagraph (1)(b)2., if the
36 shareholders are subject to a shareholder agreement that
37 complies with s. 607.0732 and contains a deadlock sale
38 provision, then such deadlock sale provision shall apply to the
39 resolution of such deadlock in lieu of the court entering an



40 order of judicial dissolution or an order directing the purchase
41 of petitioner's shares under s. 607.1436, so long as the
42 provisions of such deadlock sale provision are initiated and
43 effectuated within the time periods specified for the
44 corporation to act under s. 607.1436 and in accordance with the
45 terms of such deadlock sale provision.

46 (b) As used in this section, the term "deadlock sale
47 provision" means a provision in a shareholder agreement that
48 complies with s. 607.0732, which is or may be applicable in the
49 event of a deadlock among the directors or shareholders of the
50 corporation, which neither the directors nor the shareholders,
51 as applicable, of the corporation are able to break; and which
52 provides for a deadlock breaking mechanism, including, but not
53 limited to:

54 1. A redemption or a purchase and sale of shares or other
55 equity securities;

56 2. A governance change;

57 3. A sale of the corporation or all or substantially all of
58 the assets of the corporation; or

59 4. A similar provision that, if initiated and effectuated,
60 breaks the deadlock by causing the transfer of the shares or
61 other equity securities, a governance change, or a sale of the
62 corporation or all or substantially all of the corporation's
63 assets.

64 (4) A deadlock sale provision in a shareholder agreement
65 which complies with s. 607.0732 which is not initiated and
66 effectuated before the court enters an order of judicial
67 dissolution under subparagraph (1)(b)1. or subparagraph
68 (1)(b)2., as the case may be, or an order directing the purchase



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69 of petitioner's interest under s. 607.1436, does not adversely
70 affect the rights of shareholders to seek judicial dissolution
71 under subparagraph (1)(b)1. or subparagraph (1)(b)2., as the
72 case may be, or the rights of the corporation or one or more
73 shareholders to purchase the petitioner's interest under s.
74 607.1436. The filing of an action for judicial dissolution on
75 the grounds described in subparagraph (1)(b)1. or subparagraph
76 (1)(b)2., as the case may be, or an election to purchase the
77 petitioner's interest under s. 607.1436, does not adversely
78 affect the right of a shareholder to initiate an available
79 deadlock sale provision under the shareholder agreement that
80 complies with s. 607.0732 or to enforce a shareholder-initiated
81 or an automatically-initiated deadlock sale provision if the
82 deadlock sale provision is initiated and effectuated before the
83 court enters an order of judicial dissolution under subparagraph
84 (1)(b)1. or subparagraph (1)(b)2., as the case may be, or an
85 order directing the purchase of petitioner's interest under s.
86 607.1436.

87 (5) For purposes of subsections (1) and (2), the term