

By the Committees on Judiciary; and Commerce and Tourism; and
Senator Passidomo

590-03467A-19

2019892c2

1 A bill to be entitled
2 An act relating to business organizations; amending s.
3 607.0101, F.S.; providing applicability; amending s.
4 607.0102, F.S.; making technical changes; amending s.
5 607.0120, F.S.; making technical changes; providing
6 requirements, authorizations, and prohibitions
7 relating to when the terms of a plan or a filed
8 document may be dependent on facts objectively
9 ascertainable outside of the plan or filed document;
10 defining the terms "filed document" and "plan";
11 amending s. 607.0121, F.S.; making technical changes;
12 conforming provisions to changes made by the act;
13 amending s. 607.0122, F.S.; conforming provisions to
14 changes made by the act; amending s. 607.0123, F.S.;
15 revising provisions, requirements, and authorizations
16 relating to the effective time and date of a document;
17 amending s. 607.0124, F.S.; revising the process
18 authorizing a domestic or foreign corporation to
19 correct a document filed by the Department of State;
20 authorizing a filing to be withdrawn before it takes
21 effect if certain requirements are met; amending s.
22 607.0125, F.S.; revising the filing duties of the
23 department; amending s. 607.0126, F.S.; revising the
24 appeals process relating to the department's refusal
25 to file a document; amending s. 607.0127, F.S.;
26 requiring certain certificates to be taken by certain
27 entities as prima facie evidence of the facts stated;
28 revising when a certificate and a copy of a document
29 are conclusive evidence that the original document is

590-03467A-19

2019892c2

30 on file with the department; amending s. 607.0128,
31 F.S.; revising provisions relating to department-
32 issued certificates of status; amending s. 607.0130,
33 F.S.; deleting provisions relating to the powers of
34 the department; amending s. 607.01401, F.S.; defining
35 and redefining terms; amending s. 607.0141, F.S.;
36 revising provisions relating to written and oral
37 notice under ch. 607, F.S.; providing construction;
38 creating s. 607.0143, F.S.; defining the terms
39 "qualified director," "material relationship," and
40 "material interest"; providing for circumstances under
41 which a director is not automatically prevented from
42 being a qualified director; amending s. 607.0201,
43 F.S.; conforming provisions to changes made by the
44 act; amending s. 607.0202, F.S.; revising requirements
45 and authorizations for the contents of articles of
46 incorporation; authorizing provisions of the articles
47 of incorporation to be made dependent upon facts
48 objectively ascertainable outside of the articles of
49 incorporation; prohibiting the articles of
50 incorporation from containing certain provisions;
51 amending s. 607.0203, F.S.; conforming provisions to
52 changes made by the act; amending s. 607.0204, F.S.;
53 deleting an exemption from liability related to
54 persons who have actual knowledge that there is no
55 incorporation when purporting to act as or on behalf
56 of a corporation; making a technical change; amending
57 s. 607.0205, F.S.; making technical changes; requiring
58 directors or incorporators calling an organizational

590-03467A-19

2019892c2

59 meeting to give at least 2, rather than 3, days'
60 notice; amending s. 607.0206, F.S.; revising
61 provisions relating to the contents of the bylaws of a
62 corporation; amending s. 607.0207, F.S.; making
63 technical changes; creating s. 607.0208, F.S.;
64 authorizing provisions of the articles of
65 incorporation or the bylaws to create exclusive
66 jurisdiction for certain claims; providing
67 applicability for such provisions; prohibiting the
68 articles or bylaws from prohibiting certain actions;
69 defining the term "internal corporate claim"; amending
70 s. 607.0301, F.S.; revising purposes and
71 applicability; amending s. 607.0302, F.S.; making
72 technical changes; amending s. 607.0303, F.S.;
73 revising the requirements relating to the liability of
74 certain persons acting in accordance with emergency
75 bylaws; making technical changes; amending s.
76 607.0304, F.S.; revising when a corporation's power to
77 act may be challenged; amending s. 607.0401, F.S.;
78 authorizing a corporation to register under a name
79 that is not otherwise distinguishable on the records
80 of the department under certain circumstances;
81 providing applicability; creating s. 607.04021, F.S.;
82 authorizing a person to reserve the exclusive use of a
83 corporate name and to transfer the reservation;
84 authorizing the department to revoke a reservation
85 under certain circumstances; amending s. 607.0403,
86 F.S.; making technical changes; conforming a cross-
87 reference; amending s. 607.0501, F.S.; revising

590-03467A-19

2019892c2

88 requirements for registered offices and registered
89 agents; providing for the duties of a registered
90 agent; authorizing a court to stay a proceeding until
91 a corporation is compliant with requirements relating
92 to registered agents and registered offices; making
93 technical changes; amending s. 607.0502, F.S.;
94 revising the procedures relating to a corporation
95 changing its registered agent or its registered
96 office; creating s. 607.0503, F.S.; revising
97 procedures and requirements relating to the
98 resignation of a registered agent; creating s.
99 607.05031, F.S.; revising procedures and requirements
100 relating to the change of name or address by a
101 registered agent; creating s. 607.05032, F.S.;
102 providing for the delivery of notice or other
103 communication; amending s. 607.0504, F.S.; revising
104 the procedures for service of process, notice, or
105 demand on a corporation; amending s. 607.0505, F.S.;
106 conforming provisions to changes made by the act;
107 amending s. 607.0601, F.S.; revising provisions
108 relating to shares authorized by articles of
109 incorporation; amending s. 607.0602, F.S.; revising
110 provisions relating to the determination of the board
111 of directors to classify or reclassify certain shares;
112 amending s. 607.0604, F.S.; deleting a provision
113 relating to the good faith judgment of the board of
114 directors as to the fair value of fractions of a
115 share; making technical changes; amending s. 607.0620,
116 F.S.; revising provisions relating to subscriptions

590-03467A-19

2019892c2

117 for shares; amending s. 607.0621, F.S.; expanding the
118 circumstances in which shares that are escrowed or
119 restricted and distributions that are credited may be
120 canceled; amending s. 607.0622, F.S.; making a
121 technical change; amending s. 607.0623, F.S.;
122 authorizing the board to fix a record date for
123 determining shareholders entitled to a share dividend;
124 amending s. 607.0624, F.S.; revising provisions
125 relating to rights, options, warrants, and awards for
126 the purchase of shares of the corporation; defining
127 the term "shares"; amending ss. 607.0625, 607.0626,
128 and 607.0627, F.S.; making technical changes; amending
129 s. 607.0630, F.S.; revising provisions relating to
130 shareholders' preemptive rights; amending s. 607.0631,
131 F.S.; revising provisions relating to a corporation's
132 acquisition of its own shares; amending s. 607.06401,
133 F.S.; revising provisions relating to distributions to
134 shareholders; providing applicability; making
135 technical changes; amending s. 607.0701, F.S.;
136 revising provisions relating to a corporation's annual
137 meeting; amending s. 607.0702, F.S.; revising
138 provisions relating to a corporation's special meeting
139 of the shareholders; amending s. 607.0703, F.S.;
140 revising provisions relating to court-ordered
141 meetings; amending s. 607.0704, F.S.; revising
142 provisions relating to actions by shareholders without
143 a meeting; making technical changes; amending s.
144 607.0705, F.S.; revising provisions relating to
145 notices of meetings; amending s. 607.0706, F.S.;

590-03467A-19

2019892c2

146 relocating and revising requirements for a shareholder
147 to waive certain required notice; amending s.
148 607.0707, F.S.; revising provisions relating to record
149 dates; creating s. 607.0709, F.S.; relocating and
150 revising provisions relating to remote participation
151 in the annual and special meetings of shareholders;
152 amending s. 607.0720, F.S.; revising provisions
153 relating to shareholders' lists for meetings; amending
154 s. 607.0721, F.S.; revising provisions relating to
155 when certain shares are entitled to vote; defining the
156 term "voting power"; amending s. 607.0722, F.S.;
157 revising provisions relating to the appointment of a
158 proxy; amending s. 607.0723, F.S.; revising provisions
159 relating to shares held by intermediaries and nominees
160 being treated as the record shareholder; amending s.
161 607.0724, F.S.; revising provisions relating to the
162 acceptance of votes and other instruments; requiring
163 that ballots and shareholder demands be accepted under
164 certain circumstances; amending s. 607.0725, F.S.;
165 making technical changes; providing applicability for
166 provisions that provide for voting of classes or
167 series as separate voting groups; amending s.
168 607.0726, F.S.; making clarifying changes; amending s.
169 607.0728, F.S.; requiring that certain corporations
170 have shares registered pursuant to s. 12 of the
171 Securities Exchange Act of 1934 rather than pursuant
172 to a list on a national securities exchange, for the
173 purposes of certain voting requirements; creating s.
174 607.0729, F.S.; requiring certain corporations to

590-03467A-19

2019892c2

175 appoint one or more inspectors to determine voting
176 results; authorizing the inspectors to appoint or
177 retain certain persons for specific reasons; providing
178 requirements for inspectors; authorizing the
179 inspectors to take certain actions; providing for
180 review of determinations of law by the inspectors;
181 providing for the closing of polls for elections;
182 amending s. 607.0730, F.S.; making technical changes;
183 amending s. 607.0731, F.S.; making clarifying changes;
184 expanding the circumstances under which a transferee
185 is deemed to have notice of a voting agreement;
186 amending s. 607.0732, F.S.; revising provisions
187 relating to shareholder agreements; providing
188 construction; repealing s. 607.07401, F.S., relating
189 to Shareholders' derivative actions; creating s.
190 607.0741, F.S.; providing standing requirements for a
191 shareholder commencing a derivative proceeding;
192 defining the term "shareholder"; creating s. 607.0742,
193 F.S.; relocating and revising provisions relating to a
194 complaint brought in a proceeding in the right of a
195 corporation; creating s. 607.0743, F.S.; authorizing a
196 court to stay a derivative proceeding under certain
197 circumstances; creating s. 607.0744, F.S.; relocating
198 and revising provisions relating to the dismissal of a
199 derivative proceeding; creating s. 607.0745, F.S.;
200 relocating a provision relating to the discontinuance
201 or settlement of a derivative action; creating s.
202 607.0746, F.S.; relocating and revising provisions
203 relating to proceeds and expenses after the

590-03467A-19

2019892c2

204 termination of a derivative proceeding; creating s.
205 607.0747, F.S.; providing applicability relating to
206 foreign corporations; creating s. 607.0748, F.S.;
207 authorizing a circuit court to appoint one or more
208 persons to be custodians or receivers of and for a
209 corporation for certain proceedings; providing
210 guidance to the court for appointing such custodians
211 and receivers; creating s. 607.0749, F.S.; authorizing
212 a provisional director to be appointed at the
213 discretion of the court in a proceeding by a
214 shareholder and under certain circumstances; providing
215 requirements for the provisional director; requiring
216 the court to allow reasonable compensation paid by the
217 corporation to the provisional director for certain
218 services; amending s. 607.0801, F.S.; making technical
219 changes; amending s. 607.0802, F.S.; revising
220 provisions relating to the qualifications of
221 directors; amending s. 607.0803, F.S.; making
222 clarifying changes; amending s. 607.0804, F.S.;
223 providing applicability; amending s. 607.0805, F.S.;
224 revising provisions relating to terms of directors;
225 amending s. 607.0806, F.S.; revising provisions
226 relating to staggered terms for directors; amending s.
227 607.0807, F.S.; revising provisions relating to the
228 resignation of directors; amending s. 607.0808, F.S.;
229 revising provisions relating to the removal of
230 directors by shareholders; creating s. 607.08081,
231 F.S.; authorizing circuit courts to remove a director
232 from office and order certain relief under certain

590-03467A-19

2019892c2

233 circumstances; amending s. 607.0809, F.S.; revising
234 provisions relating to vacancies on a board of
235 directors; amending s. 607.0820, F.S.; making
236 technical changes; amending s. 607.0821, F.S.;
237 revising provisions relating to action by directors
238 without a meeting; amending s. 607.0823, F.S.;
239 revising provisions relating to the waiver of notice
240 of a meeting of a board of directors; amending s.
241 607.0824, F.S.; revising provisions relating to what
242 constitutes a quorum of the board of directors;
243 amending s. 607.0825, F.S.; revising provisions
244 relating to the establishment and the powers of
245 executive and board committees; creating s. 607.0826,
246 F.S.; authorizing a corporation to agree to submit a
247 matter that the board of directors determines it no
248 longer recommends to a vote of the corporation's
249 shareholders; amending s. 607.0830, F.S.; revising the
250 general standards for directors; amending s. 607.0831,
251 F.S.; revising provisions relating to the liability of
252 directors; amending s. 607.0832, F.S.; defining terms;
253 revising provisions relating to directors' conflicts
254 of interest; amending s. 607.0833, F.S.; making a
255 technical change; amending s. 607.0834, F.S.; revising
256 provisions relating to liability for unlawful
257 distributions; amending s. 607.08401, F.S.;
258 authorizing the board of directors to appoint one or
259 more individuals to act as officers of the
260 corporation; specifying which records must be
261 authenticated by an officer; creating s. 607.08411,

590-03467A-19

2019892c2

262 F.S.; providing general standards for officers of the
263 corporation; amending s. 607.0842, F.S.; revising
264 provisions relating to the resignation and removal of
265 officers; amending s. 607.0850, F.S.; defining terms;
266 deleting provisions relating to the indemnification of
267 officers, directors, employees, and agents; creating
268 s. 607.0851, F.S.; relocating and revising provisions
269 relating to the permissible indemnification of certain
270 persons by a corporation; creating s. 607.0852, F.S.;
271 relocating and revising provisions relating to the
272 mandatory indemnification of certain persons by a
273 corporation; creating s. 607.0853, F.S.; authorizing a
274 corporation to advance funds to pay for or reimburse
275 certain expenses; providing requirements for the
276 authorization of advanced funds; creating s. 607.0854,
277 F.S.; relocating and revising provisions related to
278 court-ordered indemnification and advance for
279 expenses; creating s. 607.0855, F.S.; relocating and
280 revising provisions relating to the determination and
281 authorization of indemnification; creating s.
282 607.0857, F.S.; relocating and revising provisions
283 relating to a corporation purchasing and maintaining
284 certain insurance; creating s. 607.0858, F.S.;
285 relocating and revising provisions relating to
286 indemnification by a corporation which is not
287 specifically provided for by law; providing
288 applicability; creating s. 607.0859, F.S.; relocating
289 and revising provisions relating to overriding
290 restrictions on indemnification; amending s. 607.0901,

590-03467A-19

2019892c2

291 F.S.; revising defined terms; revising provisions
292 related to affiliated transactions; revising
293 applicability; amending s. 607.0902, F.S.; conforming
294 a cross-reference; amending s. 607.1001, F.S.; making
295 a technical change; amending s. 607.1002, F.S.;
296 expanding the list of types of amendments a
297 corporation's board of directors may adopt without
298 shareholder approval; making technical changes;
299 amending s. 607.10025, F.S.; making technical changes;
300 conforming a cross-reference; deleting a provision
301 exempting corporations with less than a specified
302 number of shareholders of record from applicability;
303 amending s. 607.1003, F.S.; revising provisions
304 relating to amendments to the articles of
305 incorporation; amending s. 607.1004, F.S.; revising
306 provisions relating to voting on amendments by voting
307 groups; amending s. 607.1005, F.S.; requiring that a
308 corporation have no board of directors for a majority
309 of its incorporators to be authorized to adopt
310 amendments to the corporation's articles of
311 incorporation; amending s. 607.1006, F.S.; revising
312 provisions relating to articles of amendment; amending
313 s. 607.1007, F.S.; revising provisions relating to
314 restated articles of incorporation; amending s.
315 607.1008, F.S.; revising provisions relating to an
316 amendment pursuant to reorganization; amending s.
317 607.1009, F.S.; specifying when new interest holder
318 liability as a result of an amendment takes effect;
319 amending s. 607.1020, F.S.; revising provisions

590-03467A-19

2019892c2

320 relating to amendments of the bylaws by boards of
321 directors or shareholders; amending s. 607.1021, F.S.;
322 making a technical change; amending s. 607.1022, F.S.;
323 revising provisions relating to bylaws that increase a
324 quorum or voting requirement for directors; creating
325 s. 607.1023, F.S.; authorizing a corporation to elect
326 in its bylaws to be governed in the election of
327 directors under certain circumstances; providing
328 applicability; authorizing certain bylaws to be
329 repealed by the board of directors or shareholders
330 under certain circumstances; amending s. 607.1101,
331 F.S.; revising provisions relating to the merger of
332 certain corporations and eligible entities; amending
333 s. 607.1102, F.S.; revising provisions relating to
334 plans of share exchange; amending s. 607.1103, F.S.;
335 revising provisions relating to actions on a plan of
336 merger or a plan of share exchange; creating s.
337 607.11035, F.S.; specifying when shareholder approval
338 of a plan of merger or a plan of share exchange is not
339 required; defining terms; amending s. 607.1104, F.S.;
340 revising provisions relating to the mergers involving
341 subsidiary corporations; amending s. 607.11045, F.S.;
342 revising applicability; amending s. 607.1105, F.S.;
343 revising provisions relating to articles of merger or
344 share exchange; amending s. 607.1106, F.S.; revising
345 provisions relating to the effectiveness of a merger
346 or share exchange; amending s. 607.1107, F.S.;
347 revising provisions relating to the abandonment of a
348 merger or share exchange; deleting provisions relating

590-03467A-19

2019892c2

349 to mergers or share exchanges with foreign
350 corporations; repealing s. 607.1108, F.S., relating to
351 merger of domestic corporation and other business
352 entity; repealing s. 607.1109, F.S., relating to
353 articles of merger; repealing s. 607.11101, F.S.,
354 relating to the effect of a merger of domestic
355 corporation and other business entity; repealing s.
356 607.1112, F.S., relating to the conversion of a
357 domestic corporation into another business entity;
358 repealing s. 607.1113, F.S., relating to certificates
359 of conversion; repealing s. 607.1114, F.S., relating
360 to the effect of the conversion of a domestic
361 corporation into another business entity; repealing s.
362 607.1115, F.S., relating to the conversion of another
363 business entity into a domestic corporation; creating
364 s. 607.11920, F.S.; authorizing a foreign corporation
365 to become a domestic corporation under certain
366 circumstances; authorizing a domestic corporation to
367 become a foreign corporation under certain
368 circumstances; requiring that a plan of domestication
369 include certain information; authorizing a
370 domestication to include certain provisions;
371 authorizing a plan of domestication to be made
372 dependent upon facts objectively ascertainable outside
373 of the plan; providing applicability; creating s.
374 607.11921, F.S.; requiring a plan of domestication to
375 be adopted in a certain manner; creating s. 607.11922,
376 F.S.; requiring a domesticating corporation to sign
377 articles of domestication under certain circumstances;

590-03467A-19

2019892c2

378 requiring that the articles of domestication contain
379 certain information; providing procedures and
380 requirements relating to the filing of the articles of
381 domestication and the effectiveness of the
382 domestication; providing that certain domesticating
383 corporations' certificates of authority are
384 automatically canceled upon the domestication becoming
385 effective; providing that a copy of the articles of
386 domestication may be filed in certain official
387 records; creating s. 607.11923, F.S.; providing for
388 the amendment of a plan of domestication; providing
389 for the abandonment of a plan of domestication;
390 creating s. 607.11924, F.S.; specifying the effects of
391 a domestication; specifying that a domestication does
392 not constitute or cause the dissolution of the
393 domesticating corporation; prohibiting certain
394 property from being diverted as a result of a
395 domestication unless certain requirements are met;
396 providing applicability; creating ss. 607.11930 and
397 607.11931, F.S.; relocating and revising provisions
398 relating to the conversion of corporations; creating
399 s. 607.11932, F.S.; relocating and revising provisions
400 relating to actions on plans of conversion; providing
401 applicability; creating s. 607.11933, F.S.; relocating
402 and revising provisions relating to articles of
403 conversion and the effectiveness of such articles;
404 creating s. 607.11934, F.S.; relocating and revising
405 provisions relating to amendments to plans of
406 conversion; creating s. 607.11935, F.S.; relocating

590-03467A-19

2019892c2

407 and revising provisions relating to the effectiveness
408 of a conversion; amending s. 607.1201, F.S.; revising
409 provisions relating to the disposition of assets not
410 requiring shareholder approval; amending s. 607.1202,
411 F.S.; revising provisions relating to shareholder
412 approval of certain dispositions; amending s.
413 607.1301, F.S.; defining, deleting, and revising
414 terms; amending s. 607.1302, F.S.; revising provisions
415 relating to appraisal rights of shareholders; amending
416 s. 607.1303, F.S.; making technical changes; amending
417 s. 607.1320, F.S.; revising provisions relating to
418 notice of appraisal rights; amending s. 607.1321,
419 F.S.; revising provisions relating to notice of intent
420 to demand payment; amending s. 607.1322, F.S.;
421 revising provisions relating to appraisal notice and
422 form; amending s. 607.1323, F.S.; making technical
423 changes; amending s. 607.1324, F.S.; specifying that a
424 shareholder ceases to have certain rights upon payment
425 of an agreed value; amending s. 607.1326, F.S.; making
426 technical changes; amending s. 607.1330, F.S.;
427 revising provisions relating to court action to
428 determine the fair value of shares and accrued
429 interest; amending ss. 607.1331, 607.1332, and
430 607.1333, F.S.; making technical changes; creating s.
431 607.1340, F.S.; relocating provisions relating to
432 certain shareholders challenging certain actions;
433 making technical changes; amending s. 607.1401, F.S.;
434 revising provisions relating to incorporators or
435 directors dissolving a corporation; amending s.

590-03467A-19

2019892c2

436 607.1402, F.S.; revising provisions relating to the
437 dissolution of a corporation by the board of directors
438 and the shareholders; amending s. 607.1403, F.S.;
439 revising provisions relating to articles of
440 dissolution; defining the terms "dissolved
441 corporation" and "successor entity"; amending s.
442 607.1404, F.S.; revising provisions relating to
443 revocation of dissolution; amending s. 607.1405, F.S.;
444 revising provisions relating to the effect of
445 dissolution; amending s. 607.1406, F.S.; revising
446 provisions relating to known claims against a
447 dissolved corporation; defining the term "known
448 claims"; deleting the term "successor entity";
449 amending s. 607.1407, F.S.; revising provisions
450 relating to unknown claims against a dissolved
451 corporation; creating s. 607.1408, F.S.; relocating
452 provisions relating to claims against dissolved
453 corporations; creating s. 607.1409, F.S.; authorizing
454 certain dissolved corporations to file an application
455 with the circuit court for a certain determination;
456 providing guidelines for the proceedings; creating s.
457 607.1410, F.S.; providing duties for directors of
458 dissolved corporations; amending s. 607.1420, F.S.;
459 revising provisions relating to the administrative
460 dissolution of a corporation; repealing s. 607.1421,
461 F.S., relating to the procedure for and effect of
462 administrative dissolution; amending s. 607.1422,
463 F.S.; revising provisions relating to reinstatement
464 following administrative dissolution; amending s.

590-03467A-19

2019892c2

465 607.1423, F.S.; revising provisions relating to
466 judicial review of denials of reinstatement; amending
467 s. 607.1430, F.S.; revising provisions relating to
468 grounds for judicial dissolution; defining the term
469 "shareholder"; amending s. 607.1431, F.S.; revising
470 provisions relating to procedures for judicial
471 dissolution; amending s. 607.1432, F.S.; revising
472 provisions relating to receivership and custodianship;
473 amending s. 607.1433, F.S.; revising provisions
474 relating to judgment of dissolution; amending s.
475 607.1434, F.S.; revising provisions relating to
476 alternative remedies to judicial dissolution; amending
477 s. 607.1435, F.S.; revising provisions relating to
478 court-appointed provisional directors; amending s.
479 607.1436, F.S.; revising provisions relating to
480 elections to purchase instead of dissolution; amending
481 s. 607.14401, F.S.; revising provisions relating to
482 deposits associated with a dissolved corporation;
483 amending s. 607.1501, F.S.; revising provisions
484 relating to the authority of a foreign corporation to
485 transact business in this state; creating s.
486 607.15015, F.S.; providing for applicability of
487 certain laws for a foreign corporation; providing that
488 a foreign corporation may not be denied a certificate
489 of authority for certain reasons; specifying that a
490 certificate of authority does not authorize a foreign
491 corporation to take certain actions; amending s.
492 607.1502, F.S.; revising provisions relating to
493 transacting business in this state without a

590-03467A-19

2019892c2

494 certificate of authority; providing applicability;
495 amending s. 607.1503, F.S.; revising provisions
496 relating to applications for a certificate of
497 authority; amending s. 607.1504, F.S.; revising
498 provisions relating to amendments to certificates of
499 authority; amending s. 607.1505, F.S.; revising
500 provisions relating to the effect of a certificate of
501 authority; amending s. 607.1506, F.S.; revising
502 provisions relating to the corporate name of a foreign
503 corporation; amending s. 607.1507, F.S.; revising
504 provisions relating to the registered offices and
505 registered agents of foreign corporations; providing a
506 civil penalty; amending s. 607.1508, F.S.; revising
507 provisions relating to changing the names of
508 registered offices and registered agents of foreign
509 corporations; amending s. 607.1509, F.S.; revising
510 provisions relating to resignations of registered
511 agents of foreign corporations; creating s. 607.15091,
512 F.S.; revising provisions relating to name and address
513 changes for registered agents of foreign corporations;
514 creating s. 607.15092, F.S.; providing requirements
515 for delivery of notice or other communication;
516 amending s. 607.15101, F.S.; revising provisions
517 relating to service of process, notice, or demand on a
518 foreign corporation; amending s. 607.1520, F.S.;
519 revising provisions relating to the withdrawal of a
520 certificate of authority for a foreign corporation;
521 requiring a foreign corporation to take certain
522 actions to cancel its certificate of authority;

590-03467A-19

2019892c2

523 creating s. 607.1521, F.S.; specifying that certain
524 foreign corporations are deemed to have withdrawn
525 their certificate of authority under certain
526 circumstances; creating s. 607.1522, F.S.; requiring a
527 foreign corporation to deliver a notice of withdrawal
528 of a certificate of authority under certain
529 circumstances; providing for effective service of
530 process on such foreign corporations; creating s.
531 607.1523, F.S.; authorizing the Department of Legal
532 Affairs to maintain certain actions and to enjoin a
533 foreign corporation under certain circumstances;
534 amending s. 607.1530, F.S.; revising provisions
535 relating to revocation of a foreign corporation's
536 certificate of authority; repealing s. 607.1531, F.S.,
537 relating to the procedure for and effect of
538 revocation; amending s. 607.15315, F.S.; revising
539 provisions relating to reinstatement of a foreign
540 corporation's certificate of authority; amending s.
541 607.1532, F.S.; revising provisions relating to
542 judicial review of a denial of reinstatement; amending
543 s. 607.1601, F.S.; revising provisions relating to the
544 maintenance of corporate records; amending s.
545 607.1602, F.S.; revising provisions relating to
546 inspection of records by shareholders; revising the
547 definition of the term "shareholder"; amending s.
548 607.1603, F.S.; revising provisions relating to the
549 scope of shareholders' inspection rights; amending s.
550 607.1604, F.S.; revising provisions relating to court-
551 ordered inspections; amending s. 607.1605, F.S.;

590-03467A-19

2019892c2

552 revising provisions relating to directors' inspection
553 rights; amending s. 607.1620, F.S.; revising
554 provisions relating to financial statements for
555 shareholders; repealing s. 607.1621, F.S., relating to
556 other reports to shareholders; amending s. 607.1622,
557 F.S.; revising provisions relating to annual reports
558 that are required to be filed with the Department of
559 State; amending s. 607.1701, F.S.; making a technical
560 change; revising applicability; amending s. 607.1702,
561 F.S.; revising applicability; amending s. 607.1711,
562 F.S.; making a technical change; repealing s.
563 607.1801, F.S., relating to domestication of foreign
564 corporations; amending s. 607.1907, F.S.; revising
565 provisions relating to savings provisions; creating s.
566 607.1908, F.S.; providing for severability; amending
567 s. 607.504, F.S.; revising provisions relating to an
568 election of social purpose corporation status;
569 amending s. 607.604, F.S.; revising provisions
570 relating to an election of benefit corporation status;
571 conforming a cross-reference; amending s. 605.0102,
572 F.S.; conforming a cross-reference; revising the
573 definitions of the terms "private organic rules" and
574 "public organic record"; amending s. 605.0105, F.S.;
575 revising provisions relating to operating agreements;
576 amending s. 605.0112, F.S.; revising provisions
577 relating to names of limited liability companies;
578 creating s. 605.01125, F.S.; authorizing a person to
579 reserve the exclusive use of the name of a limited
580 liability company; providing requirements for

590-03467A-19

2019892c2

581 reserving the name; authorizing the department to
582 revoke reservations under certain circumstances;
583 amending s. 605.0113, F.S.; revising provisions
584 relating to registered agents of limited liability
585 companies; defining the term "authorized entity";
586 amending s. 605.0114, F.S.; revising provisions
587 relating to changes of a registered agent or
588 registered office; amending s. 605.0115, F.S.;
589 requiring a registered agent to promptly mail a copy
590 of a statement of resignation to a limited liability
591 company's or foreign limited liability company's
592 current mailing address; amending s. 605.0116, F.S.;
593 making clarifying changes; amending s. 605.0117, F.S.;
594 revising provisions relating to service of process,
595 notice, and demand on limited liability companies and
596 registered foreign limited liability companies;
597 amending s. 605.0118, F.S.; conforming a provision to
598 changes made by the act; amending s. 605.0207, F.S.;
599 revising provisions relating to effective dates and
600 times for records filed with the Department of State;
601 amending s. 605.0209, F.S.; revising what a statement
602 of correction must contain; amending s. 605.0210,
603 F.S.; revising provisions relating to the department's
604 refusal to file a record; amending s. 605.0211, F.S.;
605 revising provisions relating to certificates of status
606 for foreign limited liability companies; amending s.
607 605.0215, F.S.; specifying that a copy of a document
608 filed by the department must bear the signature of the
609 Secretary of State and the seal of this state in order

590-03467A-19

2019892c2

610 to be conclusive evidence that the original document
611 is on file with the department; amending s. 605.04092,
612 F.S.; defining terms; revising provisions relating to
613 conflict of interest transactions; amending s.
614 605.0410, F.S.; conforming a cross-reference; amending
615 s. 605.0702, F.S.; revising provisions relating to
616 grounds for judicial dissolution of a limited
617 liability company; amending s. 605.0706, F.S.;
618 revising provisions relating to an election to
619 purchase the entire interest of a petitioner instead
620 of dissolving the limited liability company; amending
621 s. 605.0715, F.S.; conforming a provision to changes
622 made by the act; requiring a dissolved limited
623 liability company to amend its articles of
624 organization to change its name under certain
625 circumstances; amending s. 605.0716, F.S.; revising
626 provisions relating to judicial review of denial of
627 reinstatement; amending ss. 605.0803 and 605.0903,
628 F.S.; making clarifying changes; amending s. 605.0904,
629 F.S.; revising provisions relating to a foreign
630 limited liability company's failure to have a
631 certificate of authority; amending s. 605.0906, F.S.;
632 requiring, rather than authorizing, certain foreign
633 limited liability companies to use an alternate name
634 to transact business in this state; amending s.
635 605.0907, F.S.; revising provisions relating to
636 foreign limited liability companies' amendments to
637 certificates of authority; amending s. 605.0908, F.S.;
638 making technical changes; creating s. 605.09091, F.S.;

590-03467A-19

2019892c2

639 providing requirements relating to the judicial review
640 of denial of reinstatement for foreign limited
641 liability companies; amending ss. 605.0910 and
642 605.0911, F.S.; revising provisions relating to the
643 withdrawal or cancellation of a foreign limited
644 liability company's certificate of authority; amending
645 s. 605.0912, F.S.; revising provisions relating to a
646 foreign limited liability company's withdrawal on the
647 dissolution, merger, or conversion to a nonfiling
648 entity; amending ss. 605.1025 and 605.1035, F.S.;
649 conforming cross-references; amending s. 605.1061,
650 F.S.; making a technical change; amending s. 605.1063,
651 F.S.; providing requirements for when an appraisal
652 event is required to be approved by written consent of
653 members; amending s. 605.1072, F.S.; revising
654 provisions relating to other remedies for a member to
655 challenge certain completed appraisal events;
656 providing construction; amending s. 617.0302, F.S.;
657 conforming provisions to changes made by the act;
658 conforming a cross-reference; amending s. 617.0501,
659 F.S.; revising provisions relating to registered
660 offices and registered agents of corporations not for
661 profit; defining the term "authorized entity";
662 creating s. 617.05015, F.S.; authorizing a person to
663 reserve the exclusive use of the name of a corporation
664 not for profit; providing requirements for such
665 reservation; amending s. 617.0831, F.S.; conforming
666 cross-references; amending ss. 617.1102 and 617.1108,
667 F.S.; conforming provisions to changes made by the

590-03467A-19

2019892c2

668 act; conforming cross-references; amending s.
669 617.1507, F.S.; revising provisions relating to
670 registered offices and registered agents of foreign
671 corporations not for profit; defining the term
672 "authorized entity"; amending s. 620.1108, F.S.;
673 revising provisions relating to the names of certain
674 limited partnerships; creating s. 620.11085, F.S.;
675 authorizing a person to reserve the exclusive use of
676 the name of a limited partnership; providing
677 requirements for such reservation; amending ss.
678 620.2104, 620.2108, and 620.8918, F.S.; conforming
679 cross-references; amending s. 621.12, F.S.; revising
680 provisions relating to the names of certain
681 corporations and limited liability companies; amending
682 s. 865.09, F.S.; prohibiting certain fictitious names
683 from containing "PA"; amending s. 662.150, F.S.;
684 conforming a provision to changes made by the act;
685 conforming cross-references; amending ss. 331.355,
686 339.12, 628.530, 631.0515, 658.44, 663.03, 663.403,
687 and 694.16, F.S.; conforming cross-references;
688 providing an effective date.

689

690 Be It Enacted by the Legislature of the State of Florida:

691

692 Section 1. Section 607.0101, Florida Statutes, is amended
693 to read:

694 607.0101 Short title; applicability.-

695 (1) This chapter may be cited as the "Florida Business
696 Corporation Act."

590-03467A-19

2019892c2

697 (2) Part I of this chapter contains provisions of general
698 applicability to corporations.

699 (3) Part II of this chapter applies to social purpose
700 corporations.

701 (4) Part III of this chapter applies to benefit
702 corporations.

703 Section 2. Section 607.0102, Florida Statutes, is amended
704 to read:

705 607.0102 Reservation of power to amend or repeal.—The
706 Legislature has power to amend or repeal all or part of this
707 chapter ~~act~~ at any time, and all domestic and foreign
708 corporations subject to this chapter ~~act~~ shall be governed by
709 the amendment or repeal.

710 Section 3. Subsections (1), (2), (3), (6), (8), (9), and
711 (10) of section 607.0120, Florida Statutes, are amended, and
712 subsection (11) is added to that section, to read:

713 607.0120 Filing requirements.—

714 (1) A document must satisfy the requirements of this
715 section and of any other section that adds to or varies these
716 requirements to be entitled to filing by the department ~~of~~
717 State.

718 (2) This chapter ~~act~~ must require or permit filing the
719 document in the office of the department ~~of State~~.

720 (3) The document must contain the information required by
721 this chapter and ~~act~~. It may contain other information as well.

722 (6) The document must be signed ~~executed~~:

723 (a) By a director of a domestic or foreign corporation, or
724 by its president or by another of its officers;

725 (b) If directors or officers have not been selected or the

590-03467A-19

2019892c2

726 corporation has not been formed, by an incorporator; or

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

729 (8) If the department ~~of State~~ has prescribed a mandatory
730 form for the document under s. 607.0121, the document must be in
731 or on the prescribed form.

732 (9) The document must be delivered to the office of the
733 department ~~of State~~ for filing. Delivery may be made by
734 electronic transmission if and to the extent permitted by the
735 department ~~of State~~. If it is filed in typewritten or printed
736 form and not transmitted electronically, the department ~~of State~~
737 may require one exact or conformed copy, to be delivered with
738 the document, ~~(except as provided in s. 607.1509).~~

739 (10) When the document is delivered to the department ~~of~~
740 ~~State~~ for filing, the correct filing fee, and any other tax,
741 license fee, or penalty required to be paid by this act or other
742 law shall be paid or provision for payment made in a manner
743 permitted by the department ~~of State~~.

744 (11) Whenever this chapter allows any of the terms of a
745 plan or a filed document to be dependent on facts objectively
746 ascertainable outside the plan or filed document, the following
747 provisions apply:

748 (a) The plan or filed document must set forth the manner in
749 which the facts will operate upon the terms of the plan or filed
750 document.

751 (b) The facts may include, but are not limited to:

752 1. Any of the following that are available in a nationally
753 recognized news or information medium either in print or
754 electronically:

590-03467A-19

2019892c2

755 a. Statistical or market indices;

756 b. Market prices of any security or group of securities;

757 c. Interest rates;

758 d. Currency exchange rates; and

759 e. Similar economic or financial data;

760 2. A determination or action by any person or body,
761 including the corporation or any other party to a plan or filed
762 document; or

763 3. The terms of, or actions taken under, an agreement to
764 which the corporation is a party, or any other agreement or
765 document.

766 (c) The following provisions of a plan or filed document
767 may not be made dependent on facts outside the plan or filed
768 document:

769 1. The name and address of any person required in a filed
770 document;

771 2. The registered office of any entity required in a filed
772 document;

773 3. The registered agent of any entity required in a filed
774 document;

775 4. The number of authorized shares and designation of each
776 class or series of shares;

777 5. The effective date of a filed document; and

778 6. Any required statement in a filed document of the date
779 on which the underlying transaction was approved or the manner
780 in which that approval was given.

781 (d) If a provision of a filed document is made dependent on
782 a fact ascertainable outside of the filed document, and that
783 fact is not ascertainable by reference to a source described in

590-03467A-19

2019892c2

784 subparagraph (b)1. or a document that is a matter of public
785 record, and the affected shareholders have not received notice
786 of the fact from the corporation, then the corporation must file
787 with the department articles of amendment to the filed document
788 setting forth the fact promptly after the time when the fact
789 referred to is first ascertainable or thereafter changes.
790 Articles of amendment under this paragraph are deemed to be
791 authorized by the authorization of the original filed document
792 to which they relate and may be filed by the corporation without
793 further action by the board of directors or the shareholders.

794 (e) As used in this subsection, the term "filed document"
795 means a document filed with the department pursuant to this
796 chapter, except for a document filed pursuant to ss. 607.1501-
797 607.1532; and the term "plan" means a plan of merger, a plan of
798 share exchange, a plan of conversion, or a plan of
799 domestication.

800 Section 4. Section 607.0121, Florida Statutes, is amended
801 to read:

802 607.0121 Forms.—

803 (1) The department ~~of State~~ may prescribe and furnish on
804 request forms for:

805 (a) An application for certificate of status,

806 (b) A foreign corporation's application for certificate of
807 authority to transact business in the state,

808 (c) A foreign corporation's notice of withdrawal of
809 certificate of authority ~~application for certificate of~~
810 ~~withdrawal~~, and

811 (d) The annual report, for which the department may
812 prescribe the use of the uniform business report, pursuant to s.

590-03467A-19

2019892c2

813 606.06.

814 (2) If the department ~~of State~~ so requires, the use of
815 these forms shall be mandatory.

816 (3)~~(2)~~ The department ~~of State~~ may prescribe and furnish on
817 request forms for other documents required or permitted to be
818 filed by this chapter act, but their use is not ~~shall not be~~
819 mandatory.

820 Section 5. Section 607.0122, Florida Statutes, is amended
821 to read:

822 607.0122 Fees for filing documents and issuing
823 certificates.—The department ~~of State~~ shall collect the
824 following fees when the documents described in this section are
825 delivered to the department for filing:

826 (1) Articles of incorporation: \$35.

827 (2) Application for registered name: \$87.50.

828 (3) Application for renewal of registered name: \$87.50.

829 (4) Corporation's statement of change of registered agent
830 or registered office or both if not included on the annual
831 report: \$35.

832 (5) Designation of and acceptance by registered agent: \$35.

833 (6) Agent's statement of resignation from active
834 corporation: \$87.50.

835 (7) Agent's statement of resignation from an inactive
836 corporation: \$35.

837 (8) Amendment of articles of incorporation: \$35.

838 (9) Restatement of articles of incorporation with amendment
839 of articles: \$35.

840 (10) Articles of merger or share exchange for each party
841 thereto: \$35.

590-03467A-19

2019892c2

- 842 (11) Articles of dissolution: \$35.
- 843 (12) Articles of revocation of dissolution: \$35.
- 844 (13) Application for reinstatement following administrative
845 dissolution: \$600.
- 846 (14) Application for certificate of authority to transact
847 business in this state by a foreign corporation: \$35.
- 848 (15) Application for amended certificate of authority: \$35.
- 849 (16) Application for certificate of withdrawal by a foreign
850 corporation: \$35.
- 851 (17) Annual report: \$61.25.
- 852 (18) Articles of correction: \$35.
- 853 (19) Application for certificate of status: \$8.75.
- 854 (20) Certificate of domestication of a foreign corporation:
855 \$50.
- 856 (21) Certified copy of document: \$52.50.
- 857 (22) Serving as agent for substitute service of process:
858 \$87.50.
- 859 (23) Supplemental corporate fee: \$88.75.
- 860 (24) Any other document required or permitted to be filed
861 by this chapter act: \$35.

862 Section 6. Section 607.0123, Florida Statutes, is amended
863 to read:

864 607.0123 Effective time and date of document.—Except as
865 otherwise provided in s. 607.0124(5), and subject to s.
866 607.0124(4), any document delivered to the department for filing
867 under this chapter may specify an effective time and a delayed
868 effective date. In the case of initial articles of
869 incorporation, a prior effective date may be specified in the
870 articles of incorporation if such date is within 5 business days

590-03467A-19

2019892c2

871 before the date of filing.

872 (1) Subject to s. 607.0124, a document accepted for filing
873 is effective:

874 (a) If the filing does not specify an effective time and
875 does not specify a prior or a delayed effective date, on the
876 date and at the time the filing is accepted, as evidenced by the
877 department's endorsement of the date and time on the filing;

878 (b) If the filing specifies an effective time, but not a
879 prior or delayed effective date, on the date the filing is filed
880 at the time specified in the filing;

881 (c) If the filing specifies a delayed effective date, but
882 not an effective time, at 12:01 a.m. on the earlier of:

883 1. The specified date; or

884 2. The 90th day after the date of the filing.

885 (d) If the filing specifies a delayed effective date and an
886 effective time, at the specified time on the earlier of:

887 1. The specified date; or

888 2. The 90th day after the date of the filing.

889 (e) If the filing is of initial articles of incorporation
890 and specifies an effective date before the date of the filing,
891 but no effective time, at 12:01 a.m. on the later of:

892 1. The specified date; or

893 2. The 5th business day before the date of the filing.

894 (f) If the filing is of initial articles of incorporation
895 and specifies an effective time and an effective date before the
896 date of the filing, at the specified time on the later of:

897 1. The specified date; or

898 2. The 5th business day before the date of the filing.

899 (2) If a filed document does not specify the time zone or

590-03467A-19

2019892c2

900 place at which the date or time, or both, is to be determined,
901 the date or time, or both, at which it becomes effective shall
902 be those prevailing at the place of filing in this state.

903 ~~(1) Except as provided in subsections (2) and (4) and in s.~~
904 ~~607.0124(3), a document accepted for filing is effective on the~~
905 ~~date and at the time of filing, as evidenced by such means as~~
906 ~~the Department of State may use for the purpose of recording the~~
907 ~~date and time of filing.~~

908 ~~(2) A document may specify a delayed effective date and, if~~
909 ~~desired, a time on that date, and if it does the document shall~~
910 ~~become effective on the date and at the time, if any, specified.~~
911 ~~If a delayed effective date is specified without specifying a~~
912 ~~time on that date, the document shall become effective at the~~
913 ~~start of business on that date. Unless otherwise permitted by~~
914 ~~this act, a delayed effective date for a document may not be~~
915 ~~later than the 90th day after the date on which it is filed.~~

916 (3) If a document is determined by the department of State
917 to be incomplete and inappropriate for filing, the department of
918 State may return the document to the person or corporation
919 filing it, together with a brief written explanation of the
920 reason for the refusal to file, in accordance with s.
921 607.0125(3). If the applicant returns the document with
922 corrections in accordance with the rules of the department
923 within 60 days after it was mailed to the applicant by the
924 department and if at the time of return the applicant so
925 requests in writing, the filing date of the document will be the
926 filing date that would have been applied had the original
927 document not been deficient, except as to persons who relied on
928 the record before correction and were adversely affected

590-03467A-19

2019892c2

929 thereby.

930 ~~(4) Corporate existence may predate the filing date,~~
931 ~~pursuant to s. 607.0203(1).~~

932 Section 7. Section 607.0124, Florida Statutes, is amended
933 to read:

934 607.0124 Correcting filed document; withdrawal of filed
935 record before effectiveness.-

936 (1) A domestic or foreign corporation may correct a
937 document filed by the department ~~of State within 30 days after~~
938 ~~filing~~ if:

939 (a) The document contains an inaccuracy;

940 (b) The document contains false, misleading, or fraudulent
941 information;

942 (c) The document was defectively signed ~~executed~~, attested,
943 sealed, verified, or acknowledged; or

944 (d) The electronic transmission of the document to the
945 department was defective.

946 (2) A document is corrected:

947 (a) By preparing articles of correction that:

948 1. Describe the document (including its filing date) or
949 attach a copy of the document to the articles of correction;

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

951 3. Correct the inaccuracy or defect; and

952 (b) By delivering the articles of correction to the
953 department ~~of State~~ for filing, signed ~~executed~~ in accordance
954 with s. 607.0120.

955 (3) Articles of correction are effective on the effective
956 date of the document they correct except as to persons relying
957 on the uncorrected document and adversely affected by the

590-03467A-19

2019892c2

958 correction. As to those persons, articles of correction are
959 effective when filed.

960 (4) Articles of correction may not contain a delayed
961 effective date for the correction.

962 (5) Unless otherwise provided for in s. 607.1107(2), s.
963 607.11923(3), or s. 607.11934(3), a filing delivered to the
964 department may be withdrawn before it takes effect by delivering
965 a withdrawal statement to the department for filing.

966 (a) A withdrawal statement must:

967 1. Be signed by each person who signed the filing being
968 withdrawn, except as otherwise agreed to by such persons;

969 2. Identify the filing to be withdrawn; and

970 3. If not signed by all persons who signed the filing being
971 withdrawn, state that the filing is withdrawn in accordance with
972 the agreement of all persons who signed the filing.

973 (b) On the filing by the department of a withdrawal
974 statement, the action or transaction evidenced by the original
975 filing does not take effect.

976 (6) ~~(4)~~ Articles of correction that are filed to correct
977 false, misleading, or fraudulent information are not subject to
978 a fee of the department ~~of State~~ if the articles of correction
979 are delivered to the department ~~of State~~ within 15 days after
980 the notification of filing sent pursuant to s. 607.0125(2).

981 Section 8. Section 607.0125, Florida Statutes, is amended
982 to read:

983 607.0125 Filing duties of the department ~~of State~~.—

984 (1) If a document delivered to the department ~~of State~~ for
985 filing satisfies the requirements of s. 607.0120, the department
986 ~~of State~~ shall file it.

590-03467A-19

2019892c2

987 (2) The department ~~of State~~ files a document by stamping or
988 otherwise endorsing the document as filed, together with the
989 department's official title and ~~recording it as filed on the~~
990 date and time of receipt. After filing a document, the
991 department ~~of State~~ shall send a notice of the filing or a copy
992 of the filing to the electronic mail address on file for the
993 domestic or foreign corporation or its authorized representative
994 or a copy of the filed document to the mailing address of such
995 corporation or its authorized representative. If the record
996 changes the electronic mail address of the corporation, the
997 department ~~of State~~ must send such notice to the new electronic
998 mail address and to the most recent prior electronic mail
999 address. If the record changes the mailing address of the
1000 corporation, the department ~~of State~~ must send such notice to
1001 the new mailing address and to the most recent prior mailing
1002 address.

1003 (3) If the department ~~of State~~ refuses to file a document,
1004 the department ~~it~~ shall return the document ~~it~~ to the domestic
1005 or foreign corporation or its representative within 15 days
1006 after the document was received for filing, together with a
1007 brief, written explanation of the reason for refusal.

1008 (4) The department's ~~Department of State's~~ duty to file
1009 documents under this section is ministerial. The filing or
1010 refusing to file a document does not:

1011 (a) Affect the validity or invalidity of the document in
1012 whole or part;

1013 (b) Relate to the correctness or incorrectness of
1014 information contained in the document;

1015 (c) Create a presumption that the document does or does not

590-03467A-19

2019892c2

1016 conform to the requirements of this chapter or that the ~~is valid~~
1017 ~~or invalid or that~~ information contained in the document is
1018 correct or incorrect.

1019 (5) If not otherwise provided by law and the provisions of
1020 this chapter ~~act~~, the department ~~of State~~ shall determine, by
1021 rule, the appropriate format for, number of copies of, manner of
1022 execution of, method of electronic transmission of, and amount
1023 of and method of payment of fees for, any document placed under
1024 its jurisdiction.

1025 Section 9. Section 607.0126, Florida Statutes, is amended
1026 to read:

1027 607.0126 Appeal from department's ~~Department of State's~~
1028 refusal to file document.—If the department ~~of State~~ refuses to
1029 file a document delivered to its office for filing, the person
1030 who submitted the document for filing may petition the Circuit
1031 Court of Leon County to compel filing of the document. The
1032 document and the explanation from the department of the refusal
1033 to file must be attached to the petition. The court may decide
1034 the matter in a summary proceeding and ~~within 30 days after~~
1035 ~~return of the document by the department by mail, as evidenced~~
1036 ~~by the postmark, the domestic or foreign corporation may:~~

1037 ~~(1) Appeal the refusal pursuant to s. 120.68; or~~

1038 ~~(2) Appeal the refusal to the circuit court of the county~~
1039 ~~where the corporation's principal office (or, if none in this~~
1040 ~~state, its registered office) is or will be located. The appeal~~
1041 ~~is commenced by petitioning the court to compel filing the~~
1042 ~~document and by attaching to the petition the document and the~~
1043 ~~Department of State's explanation of its refusal to file. The~~
1044 ~~matter shall promptly be tried de novo by the court without a~~

590-03467A-19

2019892c2

1045 ~~jury.~~ the court may summarily order the department ~~of State~~ to
1046 file the document or take other action the court considers
1047 appropriate. The court's final decision may be appealed as in
1048 other civil proceedings.

1049 Section 10. Section 607.0127, Florida Statutes, is amended
1050 to read:

1051 607.0127 Certificates to be received in evidence;
1052 evidentiary effect of certified copy of filed document.~~All~~
1053 certificates issued by the department pursuant to this chapter
1054 must be taken and received in all courts, public offices, and
1055 official bodies as prima facie evidence of the facts stated. A
1056 certificate the department ~~from the Department of State~~
1057 delivered with a copy of a document filed by the department,
1058 bearing the signature of the secretary of state, which may be in
1059 facsimile, and the seal of the state, ~~Department of State~~ is
1060 conclusive evidence that the original document is on file with
1061 the department.

1062 Section 11. Section 607.0128, Florida Statutes, is amended
1063 to read:

1064 607.0128 Certificate of status.—

1065 (1) The department, upon request and payment of the
1066 requisite fee, shall issue a certificate of status for a
1067 corporation if the records filed in the department show that the
1068 department has accepted and filed the corporation's articles of
1069 incorporation. A certificate of status must state the following:

1070 (a) The corporation's name.

1071 (b) That the corporation was organized under the laws of
1072 this state and the date of organization.

1073 (c) Whether all fees due to the department under this

590-03467A-19

2019892c2

1074 chapter have been paid.

1075 (d) Whether the corporation's most recent annual report
1076 required under s. 607.1622 has been filed by the department.

1077 (e) Whether the department has administratively dissolved
1078 the corporation or received a record notifying the department
1079 that the corporation has been dissolved by judicial action
1080 pursuant to s. 607.1433.

1081 (f) Whether the department has filed articles of
1082 dissolution for the corporation.

1083 (2) The department, upon request and payment of the
1084 requisite fee, shall furnish a certificate of status for a
1085 foreign corporation if the records filed show that the
1086 department has filed a certificate of authority. A certificate
1087 of status for a foreign corporation must state the following:

1088 (a) The foreign corporation's name and any current
1089 alternate name adopted pursuant to s. 607.1506 for use in this
1090 state.

1091 (b) That the foreign corporation is authorized to transact
1092 business in this state.

1093 (c) Whether all fees and penalties due to the department
1094 under this chapter or other law have been paid.

1095 (d) Whether the foreign corporation's most recent annual
1096 report required under s. 607.1622 has been filed by the
1097 department.

1098 (e) Whether the department has:

1099 1. Revoked the foreign corporation's certificate of
1100 authority; or

1101 2. Filed a notice of withdrawal of certificate of authority

1102 ~~(1) Anyone may apply to the Department of State to furnish~~

590-03467A-19

2019892c2

1103 ~~a certificate of status for a domestic corporation or a~~
1104 ~~certificate of authorization for a foreign corporation.~~

1105 ~~(2) A certificate of status or authorization sets forth:~~

1106 ~~(a) The domestic corporation's corporate name or the~~
1107 ~~foreign corporation's corporate name used in this state;~~

1108 ~~(b)1. That the domestic corporation is duly incorporated~~
1109 ~~under the law of this state and the date of its incorporation,~~
1110 ~~or~~

1111 ~~2. That the foreign corporation is authorized to transact~~
1112 ~~business in this state;~~

1113 ~~(c) That all fees and penalties owed to the department have~~
1114 ~~been paid, if:~~

1115 ~~1. Payment is reflected in the records of the department,~~
1116 ~~and~~

1117 ~~2. Nonpayment affects the existence or authorization of the~~
1118 ~~domestic or foreign corporation;~~

1119 ~~(d) That its most recent annual report required by s.~~
1120 ~~607.1622 has been delivered to the department; and~~

1121 ~~(e) That articles of dissolution have not been filed.~~

1122 (3) Subject to any qualification stated in the certificate,
1123 a certificate of status ~~or authorization~~ issued by the
1124 department is ~~may be relied upon as~~ conclusive evidence that the
1125 domestic ~~or foreign~~ corporation is in existence and is of active
1126 status in this state or that the foreign corporation is
1127 authorized to transact business in this state and is of active
1128 status in this state.

1129 Section 12. Section 607.0130, Florida Statutes, is amended
1130 to read:

1131 607.0130 Powers of department ~~of State.~~

590-03467A-19

2019892c2

1132 ~~(1) The Department of State may propound to any corporation~~
1133 ~~subject to the provisions of this act, and to any officer or~~
1134 ~~director thereof, such interrogatories as may be reasonably~~
1135 ~~necessary and proper to enable it to ascertain whether the~~
1136 ~~corporation has complied with all applicable provisions of this~~
1137 ~~act. Such interrogatories must be answered within 30 days after~~
1138 ~~mailing or within such additional time as fixed by the~~
1139 ~~department. Answers to interrogatories must be full and~~
1140 ~~complete, in writing, and under oath. Interrogatories directed~~
1141 ~~to an individual must be answered by the individual, and~~
1142 ~~interrogatories directed to a corporation must be answered by~~
1143 ~~the president, vice president, secretary, or assistant~~
1144 ~~secretary.~~

1145 ~~(2) The Department of State is not required to file any~~
1146 ~~document.~~

1147 ~~(a) To which interrogatories, as propounded pursuant to~~
1148 ~~subsection (1), relate, until the interrogatories are answered~~
1149 ~~in full;~~

1150 ~~(b) When interrogatories or other relevant evidence~~
1151 ~~discloses that such document is not in conformity with the~~
1152 ~~provisions of this act; or~~

1153 ~~(c) When the department has determined that the parties to~~
1154 ~~such document have not paid all fees, taxes, and penalties due~~
1155 ~~and owing this state.~~

1156 ~~(3) The Department of State may, based upon its findings~~
1157 ~~hereunder or as provided in s. 213.053(15), bring an action in~~
1158 ~~circuit court to collect any penalties, fees, or taxes~~
1159 ~~determined to be due and owing the state and to compel any~~
1160 ~~filing, qualification, or registration required by law. In~~

590-03467A-19

2019892c2

1161 ~~connection with such proceeding the department may, without~~
1162 ~~prior approval by the court, file a lis pendens against any~~
1163 ~~property owned by the corporation and may further certify any~~
1164 ~~findings to the Department of Legal Affairs for the initiation~~
1165 ~~of any action permitted pursuant to s. 607.0505 which the~~
1166 ~~Department of Legal Affairs may deem appropriate.~~

1167 ~~(4) The department~~ has the ~~of State shall have the power~~
1168 ~~and~~ authority reasonably necessary to enable it to administer
1169 this chapter act efficiently, to perform the duties herein
1170 imposed upon it, and to adopt ~~promulgate~~ reasonable rules
1171 necessary to carry out its duties and functions under this
1172 chapter act.

1173 Section 13. Section 607.01401, Florida Statutes, is amended
1174 to read:

1175 607.01401 Definitions.—As used in this chapter act, unless
1176 the context otherwise requires, the term:

1177 (1) "Acquired eligible entity" means a domestic or foreign
1178 eligible entity that will have all of one or more classes or
1179 series of its shares or eligible interests acquired in a share
1180 exchange.

1181 (2) "Acquiring eligible entity" means a domestic or foreign
1182 eligible entity that will acquire all of one or more classes or
1183 series of shares or eligible interests of the acquired eligible
1184 entity in a share exchange.

1185 (3) "Applicable county" means: the county in this state in
1186 which a corporation's principal office is located or was located
1187 when an action is or was commenced; if the corporation has, and
1188 at the time of such action had, no principal office in this
1189 state, then in the county in which the corporation has, or at

590-03467A-19

2019892c2

1190 the time of such action had, an office in this state; or if the
1191 corporation does not have an office in this state, then in the
1192 county in which the corporation's registered office is or was
1193 last located.

1194 (4) "Articles of incorporation" includes original, amended,
1195 and restated articles of incorporation, articles of share
1196 exchange, and articles of merger, and all amendments thereto.
1197 When used with respect to a foreign corporation, the term means
1198 the document of the foreign corporation that is equivalent to
1199 the articles of incorporation of a domestic corporation.

1200 (5) "Authorized entity" means:

1201 (a) A corporation for profit;

1202 (b) A limited liability company;

1203 (c) A limited liability partnership; or

1204 (d) A limited partnership, including a limited liability
1205 limited partnership.

1206 (6)-~~2~~ "Authorized shares" means the shares of all classes
1207 a domestic or foreign corporation is authorized to issue.

1208 (7) "Beneficial shareholder" means a person who owns the
1209 beneficial interest in shares. Such person may be a record
1210 shareholder or a person on whose behalf shares are registered in
1211 the name of an intermediary or nominee.

1212 (8)-~~3~~ "Business day" means Monday through Friday,
1213 excluding any day a national banking association is not open for
1214 normal business transactions.

1215 (9)-~~4~~ "Conspicuous" means so written, displayed, or
1216 presented that a reasonable person against whom the writing is
1217 to operate should have noticed it. For example, text printing in
1218 italics, boldface, or a contrasting color, or typing in

590-03467A-19

2019892c2

1219 capitals, or underlined text, is conspicuous.

1220 (10) "Conversion" means a transaction pursuant to ss.
1221 607.11930-607.11935.

1222 (11) "Converted eligible entity" means the converting
1223 eligible entity as it continues in existence after a conversion.

1224 (12) "Converting eligible entity" means the domestic
1225 corporation that approves a plan of conversion pursuant to s.
1226 607.11932, or a foreign eligible entity that approves a
1227 conversion pursuant to the organic law of the foreign eligible
1228 entity.

1229 (13)~~(5)~~ "Corporation" or "domestic corporation" means a
1230 corporation for profit, which is not a foreign corporation,
1231 incorporated under this chapter ~~or subject to the provisions of~~
1232 ~~this act.~~

1233 (14)~~(6)~~ "Day" means a calendar day.

1234 (15)~~(7)~~ "Deliver" or "delivery" means any method of
1235 delivery used in conventional commercial practice, including
1236 delivery by hand, mail, commercial delivery, and, if authorized
1237 under s. 607.0141, electronic transmission.

1238 (16) "Department" means the Florida Department of State.

1239 (17) "Derivative proceeding" means a civil suit in the
1240 right of a domestic corporation or, to the extent provided in s.
1241 607.0747, in the right of a foreign corporation.

1242 (18)~~(8)~~ "Distribution" means a direct or indirect transfer
1243 of money or other property (except its own shares) or incurrence
1244 of indebtedness by a corporation to or for the benefit of its
1245 shareholders in respect of any of its shares. A distribution may
1246 be in the form of: a declaration or payment of a dividend; a
1247 purchase, redemption, or other acquisition of shares; a

590-03467A-19

2019892c2

1248 distribution of indebtedness; a distribution in liquidation; or
1249 otherwise.

1250 (19) "Document" means:

1251 (a) Any tangible medium on which information is inscribed,
1252 and includes any writing or written instrument; or

1253 (b) An electronic record.

1254 (20) "Domestic" means, with respect to an entity, an entity
1255 governed as to its internal affairs by the laws of this state.

1256 (21) "Domesticated corporation" means the domesticating
1257 corporation as it continues in existence after a domestication.

1258 (22) "Domesticating corporation" means a domestic
1259 corporation that approves a plan of domestication pursuant to s.
1260 607.11921, or a foreign corporation that approves a
1261 domestication pursuant to the organic law of the foreign
1262 corporation.

1263 (23) "Domestication" means a transaction pursuant to ss.
1264 607.11920-607.11924.

1265 (24) "Effective date" means, when referring to a document
1266 accepted for filing by the department, the date and time
1267 determined in accordance with s. 607.0123.

1268 (25) "Electronic" means relating to technology having
1269 electrical, digital, magnetic, wireless, optical,
1270 electromagnetic, or similar capabilities.

1271 (26) "Electronic record" means information that is stored
1272 in an electronic or other medium and is retrievable in paper
1273 form through an automated process used in conventional
1274 commercial practice, unless otherwise authorized under s.
1275 607.0141.

1276 (27) ~~(9)~~ "Electronic transmission" or "electronically

590-03467A-19

2019892c2

1277 transmitted" means any form or process of communication not
 1278 directly involving the physical transfer of paper or another
 1279 tangible medium, which:

1280 (a) ~~that~~ Is suitable for the retention, retrieval, and
 1281 reproduction of information by the recipient; and

1282 (b) Is retrievable in paper form by the recipient through
 1283 an automated process used in conventional commercial practice,
 1284 unless otherwise authorized under s. 607.0141.

1285
 1286 For purposes of proxy voting in accordance with ss. 607.0721,
 1287 607.0722, and 607.0724, the term includes, but is not limited
 1288 to, telegrams, cablegrams, telephone transmissions, and
 1289 transmissions through the Internet.

1290 (28) (a) "Eligible entity" means:

1291 1. A domestic corporation;

1292 2. A foreign corporation;

1293 3. A non-profit corporation;

1294 4. A general partnership, including a limited liability
 1295 partnership;

1296 5. A limited partnership, including a limited liability
 1297 limited partnership;

1298 6. A limited liability company;

1299 7. A real estate investment trust; or

1300 8. Any other foreign or domestic entity that is organized
 1301 under an organic law.

1302 (b) The term does not include:

1303 1. An individual;

1304 2. A trust with a predominantly donative purpose or a
 1305 charitable trust;

590-03467A-19

2019892c2

1306 3. An association or relationship that is not a partnership
1307 solely by reason of s. 620.8202(2) or a similar provision of the
1308 law of another jurisdiction;

1309 4. A decedent's estate; or

1310 5. A government or a governmental subdivision, agency or
1311 instrumentality.

1312 (29) "Eligible interests" means interests or memberships.

1313 (30)-(10) "Employee" includes an officer but not a director.

1314 A director may accept duties that make him or her also an
1315 employee.

1316 (31)-(11) "Entity" includes corporation and foreign
1317 corporation; unincorporated association; business trust, estate,
1318 limited liability company, partnership, trust, and two or more
1319 persons having a joint or common economic interest; and state,
1320 United States, and foreign governments.

1321 (32) "Expenses" means reasonable expenses of any kind that
1322 are incurred in connection with a matter.

1323 (33) The phrase "facts objectively ascertainable outside
1324 the plan or filed document" shall be interpreted as set forth in
1325 s. 607.0120(11).

1326 (34) "Filing entity" means an entity, other than a limited
1327 liability partnership, that is of a type that is created by
1328 filing a public organic record or is required to file a public
1329 organic record that evidences its creation.

1330 (35) "Foreign" means, with respect to an entity, an entity
1331 governed as to its internal affairs by the organic law of a
1332 jurisdiction other than this state.

1333 (36)-(12) "Foreign corporation" means an entity incorporated
1334 or organized under laws other than the laws of this state which

590-03467A-19

2019892c2

1335 would be a corporation for profit if incorporated under ~~laws~~
1336 ~~other than~~ the laws of this state.

1337 (37) "Foreign nonprofit corporation" means an entity
1338 incorporated or organized under laws other than the laws of this
1339 state which would be a nonprofit corporation if incorporated
1340 under the laws of this state.

1341 (38)~~(13)~~ "Governmental subdivision" includes authority,
1342 county, district, and municipality.

1343 (39) "Governor" means:

1344 (a) A director of a corporation for profit;

1345 (b) A director or trustee of a nonprofit corporation;

1346 (c) A general partner of a general partnership;

1347 (d) A general partner of a limited partnership;

1348 (e) A manager of a manager-managed limited liability
1349 company;

1350 (f) A member of a member-managed limited liability company;

1351 (g) A director or a trustee of a real estate investment
1352 trust; or

1353 (h) Any other person under whose authority the powers of an
1354 entity are exercised and under whose direction the activities
1355 and affairs of the entity are managed pursuant to the organic
1356 law and organic rules of the entity.

1357 (40)~~(14)~~ "Includes" "or including" denotes a partial
1358 definition or a non-exclusive list.

1359 (41)~~(15)~~ "Individual" includes the estate of an incompetent
1360 or deceased individual.

1361 (42)~~(16)~~ "Insolvent" means either:

1362 (a) The inability of a corporation to pay its debts as they
1363 become due in the usual course of its business; or

590-03467A-19

2019892c2

- 1364 (b) The value of the corporation's total assets are less
1365 than the sum of its total liabilities, at fair valuation.
- 1366 (43) "Interest" means:
- 1367 (a) A share in a corporation for profit;
1368 (b) A membership in a nonprofit corporation;
1369 (c) A partnership interest in a general partnership,
1370 including a limited liability partnership;
1371 (d) A partnership interest in a limited partnership,
1372 including a limited liability limited partnership;
1373 (e) A membership interest in a limited liability company;
1374 (f) A share or beneficial interest in a real estate
1375 investment trust;
1376 (g) A member's interest in a limited cooperative
1377 association;
1378 (h) A beneficial interest in a statutory trust, business
1379 trust, or common law business trust; or
1380 (i) A governance interest or distributional interest in
1381 another entity.
- 1382 (44) "Interest holder" means:
- 1383 (a) A shareholder of a corporation for profit;
1384 (b) A member of a nonprofit corporation;
1385 (c) A general partner of a general partnership;
1386 (d) A general partner of a limited partnership;
1387 (e) A limited partner of a limited partnership;
1388 (f) A member of a limited liability company;
1389 (g) A shareholder or beneficial owner of a real estate
1390 investment trust;
1391 (h) A beneficiary or beneficial owner of a statutory trust,
1392 business trust, or common law business trust; or

590-03467A-19

2019892c2

1393 (i) Another direct holder of an interest.

1394 (45) "Interest holder liability" means:

1395 (a) Personal liability for a liability of an entity which
1396 is imposed on a person:

1397 1. Solely by reason of the status of the person as an
1398 interest holder; or

1399 2. By the organic rules of the entity which make one or
1400 more specified interest holders or categories of interest
1401 holders liable in their capacity as interest holders for all or
1402 specified liabilities of the entity.

1403 (b) An obligation of an interest holder under the organic
1404 rules of an entity to contribute to the entity.

1405

1406 For purposes of this subsection, except as otherwise provided in
1407 the articles of incorporation of a domestic corporation or the
1408 organic law or organic rules of an entity, interest holder
1409 liability arises under paragraph (a) when the corporation or
1410 entity, as applicable, incurs the liability.

1411 (46) "Jurisdiction of formation" means, with respect to an
1412 entity:

1413 (a) The jurisdiction under whose organic law the entity is
1414 formed, incorporated, or created or otherwise comes into being;
1415 however, for these purposes, if an entity exists under the law
1416 of a jurisdiction different from the jurisdiction under which
1417 the entity originally was formed, incorporated, or created or
1418 otherwise came into being, then the jurisdiction under which the
1419 entity then exists is treated as the jurisdiction of formation;
1420 or

1421 (b) In the case of a limited liability partnership or

590-03467A-19

2019892c2

1422 foreign limited liability partnership, the jurisdiction in which
1423 the partnership's statement of qualification or equivalent
1424 document is filed.

1425 (47)-(17) "Mail" means the United States mail, facsimile
1426 transmissions, and private mail carriers handling nationwide
1427 mail services.

1428 (48)-(18) "Means" denotes an exhaustive definition.

1429 (49) "Membership" means the rights of a member in a
1430 domestic or foreign nonprofit corporation.

1431 (50) "Merger" means a transaction pursuant to s. 607.1101.

1432 (51) "New interest holder liability," in the context of a
1433 merger or share exchange, means interest holder liability of a
1434 person resulting from a merger or share exchange that is:

1435 (a) In respect of an eligible entity which is different
1436 from the eligible entity and not the same eligible entity in
1437 which the person held shares or eligible interests, immediately
1438 before the merger or share exchange became effective; or

1439 (b) In respect of the same eligible entity as the one in
1440 which the person held shares or eligible interests, immediately
1441 before the merger or share exchange became effective if:

1442 1. The person did not have interest holder liability
1443 immediately before the merger or share exchange became
1444 effective; or

1445 2. The person had interest holder liability immediately
1446 before the merger or share exchange became effective, the terms
1447 and conditions of which were changed when the merger or share
1448 exchange became effective.

1449 (52) "Nonprofit corporation" or "domestic nonprofit
1450 corporation" means a corporation incorporated under the laws of

590-03467A-19

2019892c2

1451 this state and subject to the provisions of chapter 617.

1452 (53) "Organic law" means the laws of the jurisdiction in
1453 which the entity was formed.

1454 (54) "Organic rules" means the public organic record and
1455 private organic rules of an entity.

1456 (55) "Party to a merger" means any domestic or foreign
1457 entity that will merge under a plan of merger. The term does not
1458 include a survivor created by the merger.

1459 (56)~~(19)~~ "Person" includes an individual and an entity.

1460 (57)~~(20)~~ "Principal office" means the office (in or out of
1461 this state) where the principal executive offices of a domestic
1462 or foreign corporation are located as designated in the articles
1463 of incorporation or other initial filing until an annual report
1464 has been filed, and thereafter as designated in the annual
1465 report.

1466 (58) "Private organic rules" means the rules, whether or
1467 not in a record, which govern the internal affairs of an entity,
1468 are binding on all its interest holders, and are not part of its
1469 public organic record, if any. If the private organic rules are
1470 amended or restated, the term means the private organic rules as
1471 last amended or restated. The term includes:

1472 (a) The bylaws of a corporation for profit;

1473 (b) The bylaws of a nonprofit corporation;

1474 (c) The partnership agreement of a general partnership;

1475 (d) The partnership agreement of a limited partnership;

1476 (e) The operating agreement, limited liability company
1477 agreement, or similar agreement of a limited liability company;

1478 (f) The bylaws, trust instrument, or similar rules of a
1479 real estate investment trust; and

590-03467A-19

2019892c2

1480 (g) The trust instrument of a statutory trust or similar
1481 rules of a business trust or common law business trust.

1482 (59)-(21) "Proceeding" includes a civil suit, a criminal
1483 action, an administrative action, and an ~~and criminal,~~
1484 ~~administrative, and~~ investigatory action.

1485 (60) "Protected agreement" means:

1486 (a) A record evidencing indebtedness and any related
1487 agreement in effect on January 1, 2020;

1488 (b) An agreement that is binding on an entity on January 1,
1489 2020;

1490 (c) The organic rules of an entity in effect on January 1,
1491 2020; or

1492 (d) An agreement that is binding on any of the governors or
1493 interest holders of an entity on January 1, 2020.

1494 (61) "Public organic record" means a record, the filing of
1495 which by a governmental body is required to form an entity, or
1496 an amendment to or restatement of such record. Where a public
1497 organic record has been amended or restated, the term means the
1498 public organic record as last amended or restated. The term
1499 includes the following:

1500 (a) The articles of incorporation of a corporation for
1501 profit;

1502 (b) The articles of incorporation of a nonprofit
1503 corporation;

1504 (c) The certificate of limited partnership of a limited
1505 partnership;

1506 (d) The articles of organization, certificate of
1507 organization, or certificate of formation of a limited liability
1508 company;

590-03467A-19

2019892c2

1509 (e) The articles of incorporation of a general cooperative
1510 association or a limited cooperative association;

1511 (f) The certificate of trust of a statutory trust or
1512 similar record of a business trust; or

1513 (g) The articles of incorporation of a real estate
1514 investment trust.

1515 (62) "Record," if used as a noun, means information that is
1516 inscribed on a tangible medium or that is stored in an
1517 electronic or other medium and is retrievable in perceivable
1518 form.

1519 (63)-(22) "Record date" means the date fixed for determining
1520 on which a corporation determines the identity of the
1521 corporation's its shareholders and their share holdings for
1522 purposes of this chapter. Unless another time is specified when
1523 the record date is fixed, ~~act.~~ the determination shall be made
1524 as of the close of the business at the principal office of the
1525 corporation on the date so on the record date unless another
1526 time is fixed.

1527 (64) "Record shareholder" means:

1528 (a) The person in whose name shares are registered in the
1529 records of the corporation; or

1530 (b) The person identified as a beneficial owner of shares
1531 in the beneficial ownership certificate under s. 607.0723 on
1532 file with the corporation to the extent of the rights granted by
1533 such certificate.

1534 (65)-(23) "Secretary" means the corporate officer to whom
1535 the board of directors has delegated responsibility under s.
1536 607.08401 to maintain for custody of the minutes of the meetings
1537 of the board of directors and of the shareholders and for

590-03467A-19

2019892c2

1538 authenticating records of the corporation.

1539 (66) "Secretary of state" means the Secretary of State of
1540 the State of Florida.

1541 (67)-(24) "Shareholder" or "stockholder" means a record
1542 shareholder one who is a holder of record of shares in a
1543 corporation or the beneficial owner of shares to the extent of
1544 the rights granted by a nominee certificate on file with a
1545 corporation.

1546 (68)-(25) "Shares" means the units into which the
1547 proprietary interests in a corporation are divided.

1548 (69) "Share exchange" means a transaction pursuant to s.
1549 607.1102.

1550 (70)-(26) "Sign" or "signature" means, with present intent
1551 to authenticate or adopt a document:

1552 (a) To execute or adopt a tangible symbol on a document,
1553 which includes any manual facsimile or conformed signature; or

1554 (b) To attach or to logically associate with an electronic
1555 transmission an electronic sound, symbol, or process, which
1556 includes an electronic signature in an electronic transmission
1557 any symbol, manual, facsimile, conformed, or electronic
1558 signature adopted by a person with the intent to authenticate a
1559 document.

1560 (71)-(27) "State," when referring to a part of the United
1561 States, includes a state and commonwealth (and their agencies
1562 and governmental subdivisions) and a territory and insular
1563 possession (and their agencies and governmental subdivisions) of
1564 the United States.

1565 (72)-(28) "Subscriber" means a person who subscribes for
1566 shares in a corporation, whether before or after incorporation.

590-03467A-19

2019892c2

1567 (73) "Survivor," in a merger, means the domestic or foreign
1568 eligible entity into which one or more other eligible entities
1569 are merged.

1570 ~~(74)~~~~(29)~~ "Treasury shares" means shares of a corporation
1571 that belong to the issuing corporation, which shares are
1572 authorized and issued shares that are not outstanding, are not
1573 canceled, and have not been restored to the status of authorized
1574 but unissued shares.

1575 (75) "Type of entity" means a generic form of entity
1576 either:

1577 (a) Recognized at common law; or

1578 (b) Formed under an organic law, regardless of whether some
1579 entities formed under that organic law are subject to provisions
1580 of that law that create different categories of the form of
1581 entity.

1582 ~~(76)~~~~(30)~~ "United States" includes district, authority,
1583 bureau, commission, department, and any other agency of the
1584 United States.

1585 (77) "Unrestricted voting trust beneficial owner" means,
1586 with respect to any shareholder rights, a voting trust
1587 beneficial owner whose entitlement to exercise the shareholder
1588 right in question is not inconsistent with the voting trust
1589 agreement.

1590 ~~(78)~~~~(31)~~ "Voting group" means all shares of one or more
1591 classes or series that under the articles of incorporation or
1592 this chapter ~~act~~ are entitled to vote and be counted together
1593 collectively on a matter at a ~~the~~ meeting of shareholders. All
1594 shares entitled by the articles of incorporation or this chapter
1595 ~~act~~ to vote generally on the matter are for that purpose a

590-03467A-19

2019892c2

1596 single voting group.

1597 (79) "Voting trust beneficial owner" means an owner of a
1598 beneficial interest in shares of the corporation held in a
1599 voting trust established pursuant to s. 607.0730(1).

1600 (80) "Writing" means printing, typewriting, electronic
1601 communication, or other communication that is reducible to a
1602 tangible form. The term "written" has the corresponding meaning.

1603 Section 14. Section 607.0141, Florida Statutes, is amended
1604 to read:

1605 607.0141 Notice.—

1606 (1) (a) Notice under this chapter ~~act~~ must be in writing,
1607 unless oral notice is:

1608 1. (a) Expressly authorized by the articles of incorporation
1609 or the bylaws; ~~7~~ and

1610 2. (b) Reasonable under the circumstances.

1611 (b) Unless otherwise agreed upon between the sender and the
1612 recipient, words in a notice or other communication under this
1613 chapter must be in English.

1614 (c) Notice by electronic transmission is written notice.

1615 (2) A notice or other communication may be given by any
1616 method of delivery, including voice mail where oral notice is
1617 accordance with this section ~~Notice may be communicated in~~
1618 ~~person; by telephone, voice mail (where oral notice is~~
1619 ~~permitted), or other electronic means; or by mail or other~~
1620 ~~method of delivery.~~

1622 (3) (a) Written notice by a domestic or foreign corporation
1623 authorized to transact business in this state to its
1624 shareholder, if in a comprehensible form, is effective:

590-03467A-19

2019892c2

1625 1. Upon deposit into the United States mail, if mailed
1626 postpaid and correctly addressed to the shareholder's address
1627 shown in the corporation's current record of shareholders; or

1628 2. When electronically transmitted to the shareholder in a
1629 manner authorized by the shareholder.

1630 (b) Unless otherwise provided in the articles of
1631 incorporation or bylaws, and without limiting the manner by
1632 which notice otherwise may be given effectively to shareholders,
1633 any notice to shareholders given by the corporation under any
1634 provision of this chapter, the articles of incorporation, or the
1635 bylaws shall be effective if given by a single written notice to
1636 shareholders who share an address if consented to by the
1637 shareholders at that address to whom such notice is given. Any
1638 such consent shall be revocable by a shareholder by written
1639 notice to the corporation, and if a written notice of revocation
1640 is delivered to the corporation, the corporation must begin
1641 providing individual notices, reports, and other statements to
1642 the revoking shareholder no later than 30 days after delivery of
1643 the written notice of revocation.

1644 (c) Any shareholder who fails to object in writing to the
1645 corporation, within 60 days after having been given written
1646 notice by the corporation of its intention to send the single
1647 notice permitted under paragraph (b), shall be deemed to have
1648 consented to receiving such single written notice.

1649 ~~(d) This subsection shall not apply to s. 607.0620, s.~~
1650 ~~607.1402, or s. 607.1404.~~

1651 (4) Written notice to a domestic corporation or to a
1652 foreign corporation authorized to transact business in this
1653 state may be addressed:

590-03467A-19

2019892c2

1654 (a) To its registered agent at the corporation's ~~its~~
1655 registered office; or

1656 (b) To the corporation or the corporation's ~~its~~ secretary
1657 at the corporation's ~~its~~ principal office or electronic mail
1658 address as authorized and shown in its most recent annual report
1659 or, in the case of a corporation that has not yet delivered an
1660 annual report, in a domestic corporation's articles of
1661 incorporation or in a foreign corporation's application for
1662 certificate of authority.

1663 (5) (a) Except as provided in subsection (3) or elsewhere in
1664 this chapter ~~act~~, written notice, if in a comprehensible form,
1665 is effective at the earliest date of the following:

1666 1. ~~(a)~~ When received;

1667 2. ~~(b)~~ Five days after its deposit in the United States
1668 mail, if mailed postpaid and correctly addressed; ~~or~~

1669 3. ~~(c)~~ On the date shown on the return receipt, if sent by
1670 registered or certified mail, return receipt requested, and the
1671 receipt is signed by or on behalf of the addressee; or

1672 4. When it enters an information processing system that the
1673 recipient has designated or uses for the purposes of receiving
1674 electronic transmissions or information of the type sent, and
1675 from which the recipient is able to retrieve the electronic
1676 transmission, and it is in a form capable of being processed by
1677 that system.

1678 (b) Except as provided elsewhere in this chapter, oral
1679 notice is effective when communicated directly to the person to
1680 be notified in a comprehensible manner.

1681 (6) Except with respect to notice to directors by the
1682 corporation, notice or other communications may be delivered by

590-03467A-19

2019892c2

1683 electronic transmission if consented to by the recipient or if
1684 authorized by subsection (7). Notice or other communication to
1685 directors by the corporation may be delivered by electronic
1686 transmission if consented to by the recipient director; however,
1687 if the articles or bylaws require or authorize electronic
1688 transmission of notice or other communication to a director by
1689 the corporation, then no consent by the director recipient is
1690 required for the corporation to deliver notice or other
1691 communications to the director by electronic transmission.

1692 (7) A notice or other communication may be in the form of
1693 an electronic transmission that cannot be directly reproduced in
1694 paper form by the recipient through an automated process used in
1695 conventional commercial practice only if:

1696 (a) The electronic transmission is otherwise retrievable in
1697 perceivable form; and

1698 (b) The sender and the recipient have consented in writing
1699 to the use of such form of electronic transmission.

1700 (8) Any consent under subsection (7) may be revoked by the
1701 person who consented by written or electronic notice to the
1702 person to whom the consent was delivered. Any such consent shall
1703 be deemed revoked if:

1704 (a) The corporation is unable to deliver two consecutive
1705 electronic transmissions given by the corporation in accordance
1706 with such consent; and

1707 (b) Such inability becomes known to the secretary or
1708 assistant secretary of the corporation or to the transfer agent,
1709 or other person responsible for the giving of notice or other
1710 communications; provided, however, that the inadvertent failure
1711 to treat such inability as a revocation does not invalidate any

590-03467A-19

2019892c2

1712 meeting or other action.

1713 (9) Receipt of an electronic acknowledgment from an
1714 information processing system described in paragraph (5) (d)
1715 establishes that an electronic transmission was received, but,
1716 by itself, does not establish that the content sent corresponds
1717 to the content received.

1718 (10) An electronic transmission is received under this
1719 section even if no person is aware of its receipt ~~Oral notice is~~
1720 ~~effective when communicated if communicated directly to the~~
1721 ~~person to be notified in a comprehensible manner.~~

1722 (11) ~~(7)~~ If this act prescribes notice requirements for
1723 notices or other communications in particular circumstances,
1724 those requirements govern. If articles of incorporation or
1725 bylaws prescribe notice requirements for notices or other
1726 communications not less stringent than the requirements of this
1727 section or other provisions of this act, those requirements
1728 govern. The articles of incorporation or bylaws may authorize or
1729 require delivery of notices of meetings of directors by
1730 electronic transmission.

1731 (12) In the event that any provisions of this chapter are
1732 deemed to modify, limit, or supersede the federal Electronic
1733 Signatures in Global and National Commerce Act, 15 U.S.C. s.
1734 7001 et seq., the provisions of this chapter shall control to
1735 the maximum extent permitted by section 102(a) (2) of that
1736 federal act.

1737 Section 15. Section 607.0143, Florida Statutes, is created
1738 to read:

1739 607.0143 Qualified director.—

1740 (1) A "qualified director" is a director who, at the time

590-03467A-19

2019892c2

1741 action is to be taken under:

1742 (a) Section 607.0744, does not have a material interest in
1743 the outcome of the proceeding or a material relationship with a
1744 person who has such an interest;

1745 (b) Section 607.0832, is not a director as to whom the
1746 transaction is a director's conflict of interest transaction, or
1747 who has a material relationship with another director as to whom
1748 the transaction is a director's conflict of interest
1749 transaction; or

1750 (c) Section 607.0853 or s. 607.0855:

1751 1. Is not a party to the proceeding;

1752 2. Is not a director as to whom a transaction is a
1753 director's conflict of interest transaction, which transaction
1754 is challenged in the proceeding; and

1755 3. Does not have a material relationship with a director
1756 who is disqualified by virtue of not meeting the requirements of
1757 subparagraph 1. or subparagraph 2.

1758 (2) For purposes of this section:

1759 (a) "Material relationship" means a familial, financial,
1760 professional, employment, or other relationship that would
1761 reasonably be expected to impair the objectivity of the
1762 director's judgment when participating in the action to be
1763 taken.

1764 (b) "Material interest" means an actual or potential
1765 benefit or detriment, other than one which would devolve on the
1766 corporation or the shareholders generally, that would reasonably
1767 be expected to impair the objectivity of the director's judgment
1768 when participating in the action to be taken.

1769 (3) The presence of one or more of the following

590-03467A-19

2019892c2

1770 circumstances does not automatically prevent a director from
1771 being a qualified director:

1772 (a) Nomination or election of the director to the current
1773 board by any director who is not a qualified director with
1774 respect to the matter, or by any person that has a material
1775 relationship with that director, acting alone or participating
1776 with others;

1777 (b) Service as a director of another corporation of which a
1778 director who is not a qualified director with respect to the
1779 matter, or any individual who has a material relationship with
1780 that director, is or was also a director; or

1781 (c) With respect to action pursuant to s. 607.0744, status
1782 as a named defendant, as a director against whom action is
1783 demande, or as a director who approved the conduct being
1784 challenged.

1785 Section 16. Section 607.0201, Florida Statutes, is amended
1786 to read:

1787 607.0201 Incorporators.—One or more persons may act as the
1788 incorporator or incorporators of a corporation by delivering
1789 articles of incorporation to the department ~~of State~~ for filing.

1790 Section 17. Section 607.0202, Florida Statutes, is amended
1791 to read:

1792 607.0202 Articles of incorporation; content.—

1793 (1) The articles of incorporation must set forth:

1794 (a) A corporate name for the corporation that satisfies the
1795 requirements of s. 607.0401;

1796 (b) The street address of the initial principal office and,
1797 if different, the mailing address of the corporation;

1798 (c) The number of shares the corporation is authorized to

590-03467A-19

2019892c2

1799 issue;

1800 ~~(d) If any preemptive rights are to be granted to~~
1801 ~~shareholders, the provision therefor;~~

1802 (d)~~(e)~~ The street address of the corporation's initial
1803 registered office and the name of its initial registered agent
1804 at that office together with a written acceptance as required in
1805 s. 607.0501(3); and

1806 (e)~~(f)~~ The name and address of each incorporator.

1807 (2) The articles of incorporation may set forth:

1808 (a) The names and addresses of the individuals who are to
1809 serve as the initial directors;

1810 (b) Provisions not inconsistent with law regarding:

1811 1. The purpose or purposes for which the corporation is
1812 organized;

1813 2. Managing the business and regulating the affairs of the
1814 corporation;

1815 3. Defining, limiting, and regulating the powers of the
1816 corporation and its board of directors and shareholders;

1817 4. A par value for authorized shares or classes of shares;

1818 5. The imposition of personal liability on shareholders for
1819 the debts of the corporation to a specified extent and upon
1820 specified conditions; and

1821 6. Exclusive forum provisions to the extent allowed by s.
1822 607.0208;

1823 (c) Provisions for granting any preemptive rights to
1824 shareholders; and

1825 (d) Any provision that under this chapter ~~act~~ is required
1826 or permitted to be set forth in the bylaws.

1827 (3) The articles of incorporation need not set forth any of

590-03467A-19

2019892c2

1828 the corporate powers enumerated in this chapter ~~act~~.

1829 (4) Provisions of the articles of incorporation may be made
1830 dependent upon facts objectively ascertainable outside the
1831 articles of incorporation in accordance with s. 607.0120(11).

1832 (5) The articles of incorporation may not contain any
1833 provision that would impose liability on a shareholder for the
1834 attorney fees or expenses of the corporation or any other party
1835 in connection with an internal corporate claim, as defined in s.
1836 607.0208.

1837 Section 18. Subsection (2) of section 607.0203, Florida
1838 Statutes, is amended to read:

1839 607.0203 Incorporation.—

1840 (2) The department's ~~Department of State's~~ filing of the
1841 articles of incorporation is conclusive proof that the
1842 incorporators satisfied all conditions precedent to
1843 incorporation except in a proceeding by the state to cancel or
1844 revoke the incorporation or administratively ~~involuntarily~~
1845 dissolve the corporation.

1846 Section 19. Section 607.0204, Florida Statutes, is amended
1847 to read:

1848 607.0204 Liability for preincorporation transactions.—All
1849 persons purporting to act as or on behalf of a corporation,
1850 knowing ~~having actual knowledge~~ that there was no incorporation
1851 under this chapter, are jointly and severally liable for all
1852 liabilities created while so acting ~~except for any liability to~~
1853 ~~any person who also had actual knowledge that there was no~~
1854 ~~incorporation.~~

1855 Section 20. Subsections (1), (2), and (3) of section
1856 607.0205, Florida Statutes, are amended to read:

590-03467A-19

2019892c2

1857 607.0205 Organizational meeting of directors.—

1858 (1) After incorporation:

1859 (a) If initial directors are named in the articles of
1860 incorporation, the initial directors shall hold an
1861 organizational meeting, at the call of a majority of the
1862 directors, to complete the organization of the corporation by
1863 appointing officers, adopting bylaws, and carrying on any other
1864 business brought before the meeting;

1865 (b) If initial directors are not named in the articles of
1866 incorporation, the incorporators shall hold an organizational
1867 meeting at the call of a majority of the incorporators:

1868 1. To elect directors and complete the organization of the
1869 corporation; or

1870 2. To elect a board of directors who shall complete the
1871 organization of the corporation.

1872 (2) Action required or permitted by this chapter ~~act~~ to be
1873 taken by incorporators or directors at an organizational meeting
1874 may be taken without a meeting if the action taken is evidenced
1875 by one or more written consents describing the action taken and
1876 signed by each incorporator or director.

1877 (3) The directors or incorporators calling the
1878 organizational meeting shall give at least 2 ~~3~~ days' notice
1879 thereof to each director or incorporator so named, stating the
1880 time and place of the meeting.

1881 Section 21. Subsection (2) of section 607.0206, Florida
1882 Statutes, is amended, and subsections (3) through (6) are added
1883 to that section, to read:

1884 607.0206 Bylaws.—

1885 (2) The bylaws of a corporation may contain any provision

590-03467A-19

2019892c2

1886 that is not inconsistent with law or the articles of
1887 incorporation, including the provisions described in subsections
1888 (3) and (4) for managing the business and regulating the affairs
1889 of the corporation that is not inconsistent with law or the
1890 articles of incorporation.

1891 (3) The bylaws of a corporation may contain one or both of
1892 the following provisions:

1893 (a) A requirement that if the corporation solicits proxies
1894 or consents with respect to an election of directors, the
1895 corporation include in its proxy statement and any form of its
1896 proxy or consent, to the extent and subject to such procedures
1897 or conditions as are provided in the bylaws, one or more
1898 individuals nominated by a shareholder in addition to
1899 individuals nominated by the board of directors.

1900 (b) A requirement that the corporation reimburse the
1901 expenses incurred by a shareholder in soliciting proxies or
1902 consents in connection with an election of directors, to the
1903 extent and subject to such procedures and conditions as are
1904 provided in the bylaws, provided that no bylaw so adopted shall
1905 apply to elections for which any record date precedes its
1906 adoption.

1907 (4) The bylaws of a corporation may contain exclusive forum
1908 provisions to the extent allowed by s. 607.0208.

1909 (5) Notwithstanding s. 607.1020(1)(b), the shareholders in
1910 amending, repealing, or adopting a bylaw described in subsection
1911 (3) may not limit the authority of the board of directors to
1912 amend or repeal any condition or procedure set forth in, or to
1913 add any procedure or condition to, such a bylaw to provide for a
1914 reasonable, practical, and orderly process.

590-03467A-19

2019892c2

1915 (6) The bylaws may not contain any provision that would
1916 impose liability on a shareholder for the attorney fees or
1917 expenses of the corporation or any other party in connection
1918 with an internal corporate claim, as defined in s. 607.0208.

1919 Section 22. Subsections (1), (3), (4), and (5) of section
1920 607.0207, Florida Statutes, are amended to read:

1921 607.0207 Emergency bylaws.—

1922 (1) Unless the articles of incorporation provide otherwise,
1923 the board of directors ~~of a corporation~~ may adopt bylaws to be
1924 effective only in an emergency defined in subsection (5). The
1925 emergency bylaws, which are subject to amendment or repeal by
1926 the shareholders, may make all provisions necessary for managing
1927 the corporation during an emergency, including:

1928 (a) Procedures for calling a meeting of the board of
1929 directors;

1930 (b) Quorum requirements for the meeting; and

1931 (c) Designation of additional or substitute directors.

1932 (3) All provisions of the regular bylaws not inconsistent
1933 ~~consistent~~ with the emergency bylaws remain effective during the
1934 emergency. The emergency bylaws are not effective after the
1935 emergency ends.

1936 (4) Corporate action taken in good faith in accordance with
1937 the emergency bylaws:

1938 (a) Binds the corporation; and

1939 (b) May not be used to impose liability on a ~~corporate~~
1940 director, officer, employee, or agent of the corporation.

1941 (5) An emergency exists for purposes of this section if a
1942 quorum of the board of ~~corporation's~~ directors cannot readily be
1943 assembled because of some catastrophic event.

590-03467A-19

2019892c2

1944 Section 23. Section 607.0208, Florida Statutes, is created
1945 to read:

1946 607.0208 Forum selection.—

1947 (1) The articles of incorporation or the bylaws may require
1948 that any or all internal corporate claims be brought exclusively
1949 in any specified court or courts of this state and, if so
1950 specified, in any additional courts in this state or in any
1951 other jurisdictions with which the corporation has a reasonable
1952 relationship.

1953 (2) A provision of the articles of incorporation or bylaws
1954 adopted under subsection (1) does not have the effect of
1955 conferring jurisdiction on any court or over any person or
1956 claim, and does not apply if none of the courts specified by
1957 such provision has the requisite personal and subject matter
1958 jurisdiction. If the court or courts in this state specified in
1959 a provision adopted under subsection (1) do not have the
1960 requisite personal and subject matter jurisdiction and another
1961 court in this state does have such jurisdiction, then the
1962 internal corporate claim may be brought in such other court,
1963 notwithstanding that such other court is not specified in such
1964 provision, or in any other court outside the state specified in
1965 such provision that has the requisite jurisdiction.

1966 (3) No provision of the articles of incorporation or the
1967 bylaws may prohibit bringing an internal corporate claim in all
1968 courts in this state or require such claims to be determined by
1969 arbitration.

1970 (4) For the purposes of this section, "Internal corporate
1971 claim" means:

1972 (a) Any claim that is based upon a violation of a duty

590-03467A-19

2019892c2

1973 under the laws of this state by a current or former director,
1974 officer, or shareholder in such capacity;

1975 (b) Any derivative action or proceeding brought on behalf
1976 of the corporation;

1977 (c) Any action asserting a claim arising pursuant to this
1978 chapter or the articles of incorporation or bylaws; or

1979 (d) Any action asserting a claim governed by the internal
1980 affairs doctrine that is not included in paragraphs (a), (b), or
1981 (c).

1982 Section 24. Section 607.0301, Florida Statutes, is amended
1983 to read:

1984 607.0301 Purposes and application.—

1985 (1) Every corporation incorporated under this chapter has
1986 the purpose of engaging in any lawful business unless a more
1987 limited purpose is set forth in the articles of incorporation.

1988 (2) A corporation engaging in a business that is subject to
1989 regulation under another statute of this state may incorporate
1990 under this chapter only if permitted by, and subject to all
1991 limitations of, the other statute.

1992 ~~(3) Corporations may be organized under this act for any~~
1993 ~~lawful purpose or purposes, and~~ The provisions of this chapter
1994 ~~act~~ extend to all corporations, whether chartered by special
1995 acts or general laws, except that special statutes for the
1996 regulation and control of types of business and corporations
1997 shall control when in conflict herewith.

1998 Section 25. Section 607.0302, Florida Statutes, is amended
1999 to read:

2000 607.0302 General powers.—Unless its articles of
2001 incorporation provide otherwise, every corporation has perpetual

590-03467A-19

2019892c2

2002 duration and succession in its corporate name and has the same
2003 powers as an individual to do all things necessary or convenient
2004 to carry out its business and affairs, including ~~without~~
2005 ~~limitation~~ power:

2006 (1) To sue and be sued, complain, and defend in its
2007 corporate name;

2008 (2) To have a corporate seal, which may be altered at will
2009 and to use it or a facsimile of it, by impressing or affixing it
2010 or in any other manner reproducing it;

2011 (3) To purchase, receive, lease, or otherwise acquire, and
2012 own, hold, improve, use, and otherwise deal with real or
2013 personal property or any legal or equitable interest in property
2014 wherever located;

2015 (4) To sell, convey, mortgage, pledge, create a security
2016 interest in, lease, exchange, and otherwise dispose of all or
2017 any part of its property;

2018 (5) To lend money to, and use its credit to assist, its
2019 officers and employees in accordance with s. 607.0833;

2020 (6) To purchase, receive, subscribe for, or otherwise
2021 acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or
2022 otherwise dispose of; and deal in and with shares or other
2023 interests in, or obligations of, any other entity;

2024 (7) To make contracts and guarantees, incur liabilities,
2025 borrow money, issue its notes, bonds, and other securities and
2026 obligations (which may be convertible into or include the option
2027 to purchase other securities of the corporation), and secure any
2028 of its obligations by mortgage or pledge of any of its property,
2029 franchises, or ~~and~~ income and make contracts of guaranty and
2030 suretyship which are necessary or convenient to the conduct,

590-03467A-19

2019892c2

2031 promotion, or attainment of the business of a corporation the
2032 majority of the outstanding shares ~~stock~~ of which is owned,
2033 directly or indirectly, by the contracting corporation; a
2034 corporation which owns, directly or indirectly, a majority of
2035 the outstanding shares ~~stock~~ of the contracting corporation; or
2036 a corporation the majority of the outstanding shares ~~stock~~ of
2037 which is owned, directly or indirectly, by a corporation which
2038 owns, directly or indirectly, the majority of the outstanding
2039 shares ~~stock~~ of the contracting corporation, which contracts of
2040 guaranty and suretyship shall be deemed to be necessary or
2041 convenient to the conduct, promotion, or attainment of the
2042 business of the contracting corporation, and make other
2043 contracts of guaranty and suretyship which are necessary or
2044 convenient to the conduct, promotion, or attainment of the
2045 business of the contracting corporation;

2046 (8) To lend money, invest and reinvest its funds, and
2047 receive and hold real and personal property as security for
2048 repayment;

2049 (9) To conduct its business, locate offices, and exercise
2050 the powers granted by this chapter ~~act~~ within or without this
2051 state;

2052 (10) To elect directors and appoint officers, employees,
2053 and agents of the corporation and define their duties, fix their
2054 compensation, and lend them money and credit;

2055 (11) To make and amend bylaws, not inconsistent with its
2056 articles of incorporation or with the laws of this state, for
2057 managing the business and regulating the affairs of the
2058 corporation;

2059 (12) To make donations for the public welfare or for

590-03467A-19

2019892c2

2060 charitable, scientific, or educational purposes;

2061 (13) To transact any lawful business that will aid
2062 governmental policy;

2063 (14) To make payments or donations or do any other act not
2064 inconsistent with law that furthers the business and affairs of
2065 the corporation;

2066 (15) To pay pensions and establish pension plans, pension
2067 trusts, profit-sharing plans, share bonus plans, share option
2068 plans, and benefit or incentive plans for any or all of its
2069 current or former directors, officers, employees, and agents and
2070 for any or all of the current or former directors, officers,
2071 employees, and agents of its subsidiaries;

2072 (16) To provide insurance for its benefit on the life of
2073 any of its directors, officers, or employees, or on the life of
2074 any shareholder for the purpose of acquiring at his or her death
2075 shares of its stock owned by the shareholder or by the spouse or
2076 children of the shareholder; and

2077 (17) To be a promoter, incorporator, partner, member,
2078 associate, or manager of any corporation, partnership, joint
2079 venture, trust, or other entity.

2080 Section 26. Subsections (3), (4), and (5) of section
2081 607.0303, Florida Statutes, are amended to read:

2082 607.0303 Emergency powers.—

2083 (3) Corporate action taken in good faith during an
2084 emergency under this section to further the ordinary business
2085 affairs of the corporation:

2086 (a) Binds the corporation; and

2087 (b) May not be used to impose liability on a ~~corporate~~
2088 director, officer, employee, or agent of the corporation.

590-03467A-19

2019892c2

2089 (4) No officer, director, or employee acting in accordance
2090 with any emergency bylaws shall be liable except for willful or
2091 intentional misconduct.

2092 (5) An emergency exists for purposes of this section if a
2093 quorum of the board of ~~corporation's~~ directors cannot readily be
2094 assembled because of some catastrophic event.

2095 Section 27. Section 607.0304, Florida Statutes, is amended
2096 to read:

2097 607.0304 Lack of power to act Ultra vires.-

2098 (1) Except as provided in subsection (2), the validity of
2099 corporate action, including, but not limited to, any conveyance,
2100 transfer, or encumbrance of real or personal property to or by a
2101 corporation, may not be challenged on the ground that the
2102 corporation lacks or lacked power to act.

2103 (2) A corporation's power to act may be challenged:

2104 (a) In a proceeding by a shareholder against the
2105 corporation to enjoin the act;

2106 (b) In a proceeding by the corporation, directly,
2107 derivatively, or through a receiver, trustee, or other legal
2108 representative, or through shareholders in a representative
2109 suit, against an incumbent or former director, officer,
2110 employee, or agent of the corporation; or

2111 (c) In a proceeding by the Department of Legal Affairs
2112 pursuant to s. 607.1403 or Attorney General, ~~as provided in this~~
2113 ~~act, to dissolve the corporation or in a proceeding by the~~
2114 ~~Attorney General~~ to enjoin the corporation from the transaction
2115 of unauthorized business.

2116 (3) In a shareholder's proceeding under paragraph (2) (a) to
2117 enjoin an unauthorized corporate act, the court may enjoin or

590-03467A-19

2019892c2

2118 set aside the act, if equitable and if all affected persons are
2119 parties to the proceeding, and may award damages for loss (other
2120 than anticipated profits) suffered by the corporation or another
2121 party because of enjoining the unauthorized act.

2122 Section 28. Section 607.0401, Florida Statutes, is amended
2123 to read:

2124 607.0401 Corporate name.—

2125 (1) A corporate name:

2126 (a)~~(1)~~ Must contain the word "corporation," "company," or
2127 "incorporated" or the abbreviation "Corp.," or "Inc.," or "Co.,"
2128 or the designation "Corp," or "Inc," or "Co," as will clearly
2129 indicate that it is a corporation instead of a natural person,
2130 partnership, or other eligible ~~business~~ entity.

2131 (b)~~(2)~~ May not contain language stating or implying that
2132 the corporation is organized for a purpose other than that
2133 permitted in this chapter ~~act~~ and its articles of incorporation.

2134 (c)~~(3)~~ May not contain language stating or implying that
2135 the corporation is connected with a state or federal government
2136 agency or a corporation or other entity chartered under the laws
2137 of the United States.

2138 (d)~~(4)~~ Must be distinguishable from the names of all other
2139 entities or filings that are on file with the department
2140 ~~Division of Corporations~~, except fictitious name registrations
2141 pursuant to s. 865.09, general partnership registrations
2142 pursuant to s. 620.8105, and limited liability partnership
2143 statements pursuant to s. 620.9001 which are organized,
2144 registered, or reserved under the laws of this state. A name
2145 that is different from the name of another entity or filing due
2146 to any of the following is not considered distinguishable:

590-03467A-19

2019892c2

- 2147 1.~~(a)~~ A suffix.
- 2148 2.~~(b)~~ A definite or indefinite article.
- 2149 3.~~(c)~~ The word "and" and the symbol "&."
- 2150 4.~~(d)~~ The singular, plural, or possessive form of a word.
- 2151 ~~(e) A recognized abbreviation of a root word.~~
- 2152 5.~~(f)~~ A punctuation mark or a symbol.

2153 (2) Notwithstanding the foregoing, a corporation may
 2154 register under a name that is not otherwise distinguishable on
 2155 the records of the department with the written consent of the
 2156 other entity if the consent is filed with the department at the
 2157 time of registration of such name and if such name is not
 2158 identical to the name of the other entity.

2159 (3)~~(5)~~ A corporate name as filed with the department ~~of~~
 2160 ~~State~~, is for public notice only and does not alone create any
 2161 presumption of ownership beyond that which is created under the
 2162 common law.

2163 (4) This chapter does not control the use of fictitious
 2164 names.

2165 Section 29. Section 607.04021, Florida Statutes, is created
 2166 to read:

2167 607.04021 Reserved name.—

2168 (1) A person may reserve the exclusive use of a corporate
 2169 name, including an alternate name for a foreign corporation
 2170 whose corporate name is not available, by delivering an
 2171 application to the department for filing. The application must
 2172 set forth the name and address of the applicant and the name
 2173 proposed to be reserved. If the department finds that the
 2174 corporate name applied for is available, it shall reserve the
 2175 name for the exclusive use of the applicant for a nonrenewable

590-03467A-19

2019892c2

2176 120-day period.

2177 (2) The owner of a reserved corporate name may transfer the
2178 reservation to another person by delivering to the department a
2179 signed notice of the transfer that states the name and address
2180 of the transferee.

2181 (3) The department may revoke any reservation if, after a
2182 hearing, it finds that the application therefor or any transfer
2183 thereof was not made in good faith.

2184 Section 30. Subsections (1), (2), (5), and (6) of section
2185 607.0403, Florida Statutes, are amended to read:

2186 607.0403 Registered name; application; renewal;
2187 revocation.—

2188 (1) A foreign corporation may register its corporate name,
2189 or its corporate name with the any addition of any word or
2190 abbreviation required by s. 607.1506, if the name is
2191 distinguishable upon the records of the department ~~of State~~ from
2192 the corporate names that are not available under s.
2193 607.0401(1)(d) s. 607.0401(4).

2194 (2) A foreign corporation registers its corporate name, or
2195 its corporate name with any addition allowed ~~required~~ by s.
2196 607.1506, by delivering to the department ~~of State~~ for filing an
2197 application:

2198 (a) Setting forth such name ~~its corporate name, or its~~
2199 ~~corporate name with any addition required by s. 607.1506,~~ the
2200 state or country and date of its incorporation, and a brief
2201 description of the nature of the business that is to be
2202 conducted in this state ~~in which it is engaged;~~ and

2203 (b) Accompanied by a certificate of existence, or a
2204 certificate setting forth that such corporation is in good

590-03467A-19

2019892c2

2205 standing under the laws of the state or country wherein it is
2206 organized (or a document of similar import), from the state or
2207 country of incorporation.

2208 (5) A foreign corporation the registration of which is
2209 effective may thereafter qualify as a foreign corporation under
2210 the registered name or consent in writing to the use of that
2211 name by a corporation thereafter incorporated under this chapter
2212 ~~act~~ or by another foreign corporation thereafter authorized to
2213 transact business in this state. The registration terminates
2214 when the domestic corporation is incorporated or the foreign
2215 corporation qualifies or consents to the qualification of
2216 another foreign corporation under the registered name.

2217 (6) The department ~~of State~~ may revoke any registration if,
2218 after a hearing, it finds that the application therefor or any
2219 renewal thereof was not made in good faith.

2220 Section 31. Subsections (1), (3), (4), and (5) of section
2221 607.0501, Florida Statutes, are amended, and subsection (7) is
2222 added to that section, to read:

2223 607.0501 Registered office and registered agent.—

2224 (1) Each corporation shall designate ~~have~~ and continuously
2225 maintain in this state:

2226 (a) A registered office which may be the same as its place
2227 of business in this state; and

2228 (b) A registered agent, which must be ~~who may be either~~:

2229 1. An individual who resides in this state whose business
2230 address ~~office~~ is identical to the address of the ~~with such~~
2231 registered office;

2232 2. Another domestic entity that is an authorized entity and
2233 whose business address is identical to the address of the

590-03467A-19

2019892c2

2234 registered office; or

2235 3. A foreign entity authorized to transact business in this
2236 state which is an authorized entity and whose business address
2237 is identical to the address of the registered office ~~Another~~
2238 ~~corporation or not-for-profit corporation as defined in chapter~~
2239 ~~617, authorized to transact business or conduct its affairs in~~
2240 ~~this state, having a business office identical with the~~
2241 ~~registered office; or~~

2242 ~~3. A foreign corporation or not-for-profit foreign~~
2243 ~~corporation authorized pursuant to this chapter or chapter 617~~
2244 ~~to transact business or conduct its affairs in this state,~~
2245 ~~having a business office identical with the registered office.~~

2246 (3) Each initial A registered agent, and each appointed
2247 ~~pursuant to this section or a successor registered agent that is~~
2248 ~~appointed, shall pursuant to s. 607.0502 on whom process may be~~
2249 ~~served shall each~~ file a statement in writing with the
2250 department, in the form and manner of State, in such form and
2251 ~~manner as shall be prescribed by the department, accepting the~~
2252 ~~appointment as a registered agent while simultaneously with his~~
2253 ~~or her being designated as the registered agent. The. Such~~
2254 ~~statement of acceptance must provide shall state~~ that the
2255 registered agent is familiar with, and accepts, the obligations
2256 of that position.

2257 (4) The duties of a registered agent are:

2258 (a) To forward to the corporation at the address most
2259 recently supplied to the registered agent by the corporation, a
2260 process, notice, or demand pertaining to the corporation which
2261 is served on or received by the registered agent; and

2262 (b) If the registered agent resigns, to provide the notice

590-03467A-19

2019892c2

2263 required under s. 607.0503 to the corporation at the address
2264 most recently supplied to the registered agent by the
2265 corporation.

2266 (5) The department ~~of State~~ shall maintain an accurate
2267 record of the registered agents and registered office for
2268 ~~offices for the~~ service of process and shall promptly furnish
2269 any information disclosed thereby ~~promptly~~ upon request and
2270 payment of the required fee.

2271 (6)~~(5)~~ A corporation may not prosecute or maintain an any
2272 action in a court in this state until the corporation complies
2273 with this section, pays to the department any amounts required
2274 under this chapter, and, to the extent ordered by a court of
2275 competent jurisdiction, with the provisions of this section or
2276 s. 607.1507, as applicable, and pays to the department of State
2277 a penalty of \$5 for each day it has failed to so comply or \$500,
2278 whichever is less.

2279 (7) A court may stay a proceeding commenced by a
2280 corporation until the corporation complies with this section.

2281 Section 32. Section 607.0502, Florida Statutes, is amended
2282 to read:

2283 607.0502 Change of registered office or registered agent~~+~~
2284 ~~resignation of registered agent.-~~

2285 (1) In order to change its registered agent or registered
2286 office address, a corporation may deliver to the department for
2287 filing change its registered office or its registered agent upon
2288 filing with the Department of State a statement of change
2289 containing the following setting forth:

2290 (a) The name of the corporation.~~+~~

2291 (b) The name of its current registered agent. ~~The street~~

590-03467A-19

2019892c2

2292 ~~address of its current registered office;~~

2293 (c) If the current registered agent is to be changed, the
2294 name of the new registered agent. ~~If the current registered~~
2295 ~~office is to be changed, the street address of the new~~
2296 ~~registered office;~~

2297 (d) The street address of its current registered office for
2298 its current registered agent. ~~The name of its current registered~~
2299 ~~agent;~~

2300 (e) If the street address of the current registered office
2301 is to be changed, the new street address of the registered
2302 office in this state ~~If its current registered agent is to be~~
2303 ~~changed, the name of the new registered agent and the new~~
2304 ~~agent's written consent (either on the statement or attached to~~
2305 ~~it) to the appointment;~~

2306 ~~(f) That the street address of its registered office and~~
2307 ~~the street address of the business office of its registered~~
2308 ~~agent, as changed, will be identical;~~

2309 ~~(g) That such change was authorized by resolution duly~~
2310 ~~adopted by its board of directors or by an officer of the~~
2311 ~~corporation so authorized by the board of directors.~~

2312 (2) If the registered agent is changed, the written
2313 acceptance of the successor registered agent described in s.
2314 607.0501(3) must also be included in or attached to the
2315 statement of change.

2316 (3) A statement of change is effective when filed by the
2317 department.

2318 (4) The changes described in this section may also be made
2319 on the corporation's annual report, in an application for
2320 reinstatement filed with the department under s. 607.1622, or in

590-03467A-19

2019892c2

2321 an amendment to or restatement of a company's articles of
2322 incorporation in accordance with s. 607.1006 or s. 607.1007. ~~Any~~
2323 ~~registered agent may resign his or her agency appointment by~~
2324 ~~signing and delivering for filing with the Department of State a~~
2325 ~~statement of resignation and mailing a copy of such statement to~~
2326 ~~the corporation at its principal office address shown in its~~
2327 ~~most recent annual report or, if none, filed in the articles of~~
2328 ~~incorporation or other most recently filed document. The~~
2329 ~~statement of resignation shall state that a copy of such~~
2330 ~~statement has been mailed to the corporation at the address so~~
2331 ~~stated. The agency is terminated as of the 31st day after the~~
2332 ~~date on which the statement was filed and unless otherwise~~
2333 ~~provided in the statement, termination of the agency acts as a~~
2334 ~~termination of the registered office.~~

2335 ~~(3) If a registered agent changes his or her business name~~
2336 ~~or business address, he or she may change such name or address~~
2337 ~~and the address of the registered office of any corporation for~~
2338 ~~which he or she is the registered agent by:~~

2339 ~~(a) Notifying all such corporations in writing of the~~
2340 ~~change,~~

2341 ~~(b) Signing (either manually or in facsimile) and~~
2342 ~~delivering to the Department of State for filing a statement~~
2343 ~~that substantially complies with the requirements of paragraphs~~
2344 ~~(1)(a)-(f), setting forth the names of all such corporations~~
2345 ~~represented by the registered agent, and~~

2346 ~~(c) Reciting that each corporation has been notified of the~~
2347 ~~change.~~

2348 ~~(4) Changes of the registered office or registered agent~~
2349 ~~may be made by a change on the corporation's annual report form~~

590-03467A-19

2019892c2

2350 ~~filed with the Department of State.~~

2351 ~~(5) The Department of State shall collect a fee pursuant to~~
2352 ~~s. 15.09(2) for the filings authorized under this section.~~

2353 Section 33. Section 607.0503, Florida Statutes, is created
2354 to read:

2355 607.0503 Resignation of registered agent.—

2356 (1) A registered agent may resign as agent for a
2357 corporation by delivering to the department for filing a signed
2358 statement of resignation containing the name of the corporation.

2359 (2) After delivering the statement of resignation to the
2360 department for filing, the registered agent must promptly mail a
2361 copy to the corporation at its current mailing address.

2362 (3) A registered agent is terminated upon the earlier of:

2363 (a) The 31st day after the department files the statement
2364 of resignation; or

2365 (b) When a statement of change or other record designating
2366 a new registered agent is filed by the department.

2367 (4) When a statement of resignation takes effect, the
2368 registered agent ceases to have responsibility for a matter
2369 thereafter tendered to it as agent for the corporation. The
2370 resignation does not affect contractual rights that the
2371 corporation has against the agent or that the agent has against
2372 the corporation.

2373 (5) A registered agent may resign from a corporation
2374 regardless of whether the corporation has active status.

2375 Section 34. Section 607.05031, Florida Statutes, is created
2376 to read:

2377 607.05031 Change of name or address by registered agent.—

2378 (1) If a registered agent changes its name or address, the

590-03467A-19

2019892c2

2379 agent may deliver to the department for filing a statement of
2380 change that provides the following:

2381 (a) The name of the corporation represented by the
2382 registered agent.

2383 (b) The name of the registered agent as currently shown in
2384 the records of the department for the corporation.

2385 (c) If the name of the registered agent has changed, its
2386 new name.

2387 (d) If the address of the registered agent has changed, the
2388 new address.

2389 (e) A statement that the registered agent has given the
2390 notice required under subsection (2).

2391 (2) A registered agent shall promptly furnish notice of the
2392 statement of change and the changes made by the statement filed
2393 with the department to the represented corporation.

2394 Section 35. Section 607.05032, Florida Statutes, is created
2395 to read:

2396 607.05032 Delivery of notice or other communication.—

2397 (1) Except as otherwise provided in this chapter,
2398 permissible means of delivery of a notice or other communication
2399 includes delivery by hand, the United States Postal Service, a
2400 commercial delivery service, and electronic transmission, all as
2401 more particularly described in s. 607.0141.

2402 (2) Except as provided in subsection (3), delivery to the
2403 department is effective only when a notice or other
2404 communication is received by the department.

2405 (3) If a check is mailed to the department for payment of
2406 an annual report fee or the annual supplemental fee required
2407 under s. 607.193 and the check is received by the department,

590-03467A-19

2019892c2

2408 the check shall be deemed to have been received by the
2409 department as of the postmark date appearing on the envelope or
2410 package transmitting the check.

2411 Section 36. Section 607.0504, Florida Statutes, is amended
2412 to read:

2413 607.0504 Service of process, notice, or demand on a
2414 corporation.—

2415 (1) A corporation may be served with process required or
2416 authorized by law by serving on its registered agent.

2417 (2) If a corporation ceases to have a registered agent or
2418 if its registered agent cannot with reasonable diligence be
2419 served, the process required or permitted by law may instead be
2420 served on the chair of the board, the president, any vice
2421 president, the secretary, or the treasurer of the corporation at
2422 the principal office of the corporation in this state.

2423 (3) If the process cannot be served on a corporation
2424 pursuant to subsection (1) or subsection (2), the process may be
2425 served on the secretary of state as an agent of the corporation.

2426 (4) Service of process on the secretary of state shall be
2427 made by delivering to and leaving with the department duplicate
2428 copies of the process.

2429 (5) Service is effectuated under subsection (3) on the date
2430 shown as received by the department.

2431 (6) The department shall keep a record of each process
2432 served on the secretary of state pursuant to this subsection and
2433 record the time of and the action taken regarding the service.

2434 (7) Any notice or demand on a corporation under this
2435 chapter may be given or made to the chair of the board, the
2436 president, any vice president, the secretary, or the treasurer

590-03467A-19

2019892c2

2437 of the corporation; to the registered agent of the corporation
2438 at the registered office of the corporation in this state; or to
2439 any other address in this state that is in fact the principal
2440 office of the corporation in this state.

2441 (8) This section does not affect the right to serve
2442 process, give notice, or make a demand in any other manner
2443 provided by law ~~Process against any corporation may be served in~~
2444 ~~accordance with chapter 48 or chapter 49.~~

2445 ~~(2) Any notice to or demand on a corporation under this act~~
2446 ~~may be made to the chair of the board, the president, any vice~~
2447 ~~president, the secretary, or the treasurer; to the registered~~
2448 ~~agent of the corporation at the registered office of the~~
2449 ~~corporation in this state; or to any other address in this state~~
2450 ~~that is in fact the principal office of the corporation in this~~
2451 ~~state.~~

2452 ~~(3) This section does not prescribe the only means, or~~
2453 ~~necessarily the required means, of serving notice or demand on a~~
2454 ~~corporation.~~

2455 Section 37. Paragraph (a) of subsection (1) and subsections
2456 (5), (6), (10), and (12) of section 607.0505, Florida Statutes,
2457 are amended to read:

2458 607.0505 Registered agent; duties.—

2459 (1) (a) Each corporation, foreign corporation, or alien
2460 business organization that owns real property located in this
2461 state, that owns a mortgage on real property located in this
2462 state, or that transacts business in this state shall have and
2463 continuously maintain in this state a registered office and a
2464 registered agent and shall file with the department ~~of State~~
2465 notice of the registered office and registered agent as provided

590-03467A-19

2019892c2

2466 in ss. 607.0501 and 607.0502. The appointment of a registered
2467 agent in compliance with s. 607.0501 or s. 607.1507 is
2468 sufficient for purposes of this section provided the registered
2469 agent so appointed files, in such form and manner as prescribed
2470 by the department ~~of State~~, an acceptance of the obligations
2471 provided for in this section.

2472 (5) If a corporation, foreign corporation, or alien
2473 business organization fails without lawful excuse to comply
2474 timely or fully with a subpoena issued pursuant to subsection
2475 (2), the Department of Legal Affairs may file an action in the
2476 circuit court for the judicial circuit in which the corporation,
2477 foreign corporation, or alien business organization is found or
2478 transacts business or in which real property belonging to the
2479 corporation, foreign corporation, or alien business organization
2480 is located, for an order compelling compliance with the
2481 subpoena. The failure without a lawful excuse to comply timely
2482 or fully with an order compelling compliance with the subpoena
2483 will result in a civil penalty of not more than \$1,000 for each
2484 day of noncompliance with the order. In connection with such
2485 proceeding, the Department of Legal Affairs may, without prior
2486 approval by the court, file a lis pendens against real property
2487 owned by the corporation, foreign corporation, or alien business
2488 organization, which lis pendens shall set forth the legal
2489 description of the real property and shall be filed in the
2490 public records of the county where the real property is located.
2491 If the lis pendens is filed in any county other than the county
2492 in which the action is pending, the lis pendens which is filed
2493 must be a certified copy of the original lis pendens. A judgment
2494 or an order of payment entered pursuant to this subsection will

590-03467A-19

2019892c2

2495 become a judgment lien against any real property owned by the
2496 corporation, foreign corporation, or alien business organization
2497 when a certified copy of the judgment or order is recorded as
2498 required by s. 55.10. The Department of Legal Affairs will be
2499 able to avail itself of, and is entitled to use, any provision
2500 of law or of the Florida Rules of Civil Procedure to further the
2501 collecting or obtaining of payment pursuant to a judgment or
2502 order of payment. The state, through the Attorney General, may
2503 bid, at any judicial sale to enforce its judgment lien, an
2504 amount up to the amount of the judgment or lien obtained
2505 pursuant to this subsection. All moneys recovered under this
2506 subsection shall be treated as forfeitures under ss. 895.01-
2507 895.09 and used or distributed in accordance with the procedure
2508 set forth in s. 895.09.

2509 (6) Information provided to, and records and transcriptions
2510 of testimony obtained by, the Department of Legal Affairs
2511 pursuant to this section are confidential and exempt from the
2512 provisions of s. 119.07(1) while the investigation is active.
2513 For purposes of this section, an investigation shall be
2514 considered "active" while such investigation is being conducted
2515 with a reasonable, good faith belief that it may lead to the
2516 filing of an administrative, civil, or criminal proceeding. An
2517 investigation does not cease to be active so long as the
2518 Department of Legal Affairs is proceeding with reasonable
2519 dispatch and there is a good faith belief that action may be
2520 initiated by the Department of Legal Affairs or other
2521 administrative or law enforcement agency. Except for active
2522 criminal intelligence or criminal investigative information, as
2523 defined in s. 119.011, and information which, if disclosed,

590-03467A-19

2019892c2

2524 would reveal a trade secret, as defined in s. 688.002, or would
2525 jeopardize the safety of an individual, all information,
2526 records, and transcriptions become public record when the
2527 investigation is completed or ceases to be active. The
2528 Department of Legal Affairs shall not disclose confidential
2529 information, records, or transcriptions of testimony except
2530 pursuant to the authorization by the Attorney General in any of
2531 the following circumstances:

2532 (a) To a law enforcement agency participating in or
2533 conducting a civil investigation under chapter 895, or
2534 participating in or conducting a criminal investigation.

2535 (b) In the course of filing, participating in, or
2536 conducting a judicial proceeding instituted pursuant to this
2537 section or chapter 895.

2538 (c) In the course of filing, participating in, or
2539 conducting a judicial proceeding to enforce an order or judgment
2540 entered pursuant to this section or chapter 895.

2541 (d) In the course of a criminal or civil proceeding.

2542
2543 A person or law enforcement agency which receives any
2544 information, record, or transcription of testimony that has been
2545 made confidential by this subsection shall maintain the
2546 confidentiality of such material and shall not disclose such
2547 information, record, or transcription of testimony except as
2548 provided for herein. Any person who willfully discloses any
2549 information, record, or transcription of testimony that has been
2550 made confidential by this subsection, except as provided for
2551 herein, is guilty of a misdemeanor of the first degree,
2552 punishable as provided in s. 775.082 or s. 775.083. If any

590-03467A-19

2019892c2

2553 information, record, or testimony obtained pursuant to
2554 subsection (2) is offered in evidence in any judicial
2555 proceeding, the court may, in its discretion, seal that portion
2556 of the record to further the policies of confidentiality set
2557 forth herein.

2558 (10) The designation of a registered agent and a registered
2559 office as required by subsection (1) for a corporation, foreign
2560 corporation, or alien business organization which owns real
2561 property in this state or a mortgage on real property in this
2562 state is solely for the purposes of this chapter act; and,
2563 notwithstanding s. 48.181, s. 607.1502, s. 607.1503, or any
2564 other relevant section of the Florida Statutes, such designation
2565 shall not be used in determining whether the corporation,
2566 foreign corporation, or alien business organization is actually
2567 doing business in this state.

2568 (12) Any alien business organization may withdraw its
2569 registered agent designation by delivering an application for
2570 certificate of withdrawal to the department ~~of State~~ for filing.
2571 Such application shall set forth:

2572 (a) The name of the alien business organization and the
2573 jurisdiction under the law of which it is incorporated or
2574 organized.

2575 (b) That it is no longer required to maintain a registered
2576 agent in this state.

2577 Section 38. Section 607.0601, Florida Statutes, is amended
2578 to read:

2579 607.0601 Authorized shares.—

2580 (1) The articles of incorporation must set forth any
2581 ~~prescribe the~~ classes of shares and series of shares within a

590-03467A-19

2019892c2

2582 class, and the number of shares of each class and series, that
2583 the corporation is authorized to issue. If more than one class
2584 or series of shares is authorized, the articles of incorporation
2585 must prescribe a distinguishing designation for each class or
2586 series, and before ~~prior to~~ the issuance of shares of a class or
2587 series, describe the terms, including the preferences,
2588 limitations, and relative rights of that class or series ~~must be~~
2589 ~~described in the articles of incorporation~~. All shares of a
2590 class or series must have terms, including preferences,
2591 limitations, and relative rights, identical with those of other
2592 shares of the same class or series, except to the extent
2593 otherwise permitted by this section, s. 607.0602, or s.
2594 607.0624.

2595 (2) The articles of incorporation must authorize:

2596 (a) One or more classes or series of shares that together
2597 have unlimited voting rights, and

2598 (b) One or more classes or series of shares (which may be
2599 the same class or classes or series as those with voting rights)
2600 that together are entitled to receive the net assets of the
2601 corporation upon dissolution.

2602 (3) The articles of incorporation may authorize one or more
2603 classes or series of shares that:

2604 (a) Have special, conditional, or limited voting rights, or
2605 no right to vote, except to the extent otherwise provided
2606 ~~prohibited~~ by this chapter act;

2607 (b) Are redeemable or convertible as specified in the
2608 articles of incorporation:

2609 1. At the option of the corporation, the shareholder, or
2610 another person or upon the occurrence of a specified ~~designated~~

590-03467A-19

2019892c2

2611 event;

2612 2. For cash, indebtedness, securities, or other property;
2613 or

2614 3. At prices and in an amount specified, or determined, in
2615 accordance with a formula ~~In a designated amount or in an amount~~
2616 ~~determined in accordance with a designated formula or by~~
2617 ~~reference to extrinsic data or events;~~

2618 (c) Entitle the holders to distributions calculated in any
2619 manner, including dividends that may be cumulative,
2620 noncumulative, or partially cumulative;

2621 (d) Have preference over any other class or series of
2622 shares with respect to distributions, including ~~dividends and~~
2623 distributions upon the dissolution of the corporation.

2624 (4) The description of the designations, preferences,
2625 limitations, and relative rights of share classes or series in
2626 subsection (3) is not exhaustive.

2627 (5) The terms of shares may be made dependent on facts
2628 ascertainable outside the articles of incorporation in
2629 accordance with s. 607.0120(11).

2630 (6)~~(5)~~ Shares which are entitled to preference in the
2631 distribution of dividends or assets shall not be designated as
2632 common shares. Shares which are not entitled to preference in
2633 the distribution of dividends or assets shall be common shares
2634 and shall not be designated as preferred shares.

2635 Section 39. Section 607.0602, Florida Statutes, is amended
2636 to read:

2637 607.0602 Terms of class or series determined by board of
2638 directors.—

2639 (1) If the articles of incorporation so provide, the board

590-03467A-19

2019892c2

2640 of directors is authorized, without shareholder approval, to may
 2641 determine, in whole or part, the preferences, limitations, and
 2642 relative rights (within the limits set forth in s. 607.0601) of:

2643 (a) Classify any unissued class of shares into one or more
 2644 classes or into one or more series within a class; before the
 2645 issuance of any shares of that class, or

2646 (b) Reclassify any unissued shares of any class into one or
 2647 more classes or into one or more series within one or more
 2648 classes; or

2649 (c) Reclassify any unissued shares of any series of any
 2650 class into one or more classes or into one or more series within
 2651 a class before the issuance of any shares of that series.

2652 (2) If the board of directors acts pursuant to subsection
 2653 (1), it shall determine the terms, including the preferences,
 2654 limitations, and relative rights, to the extent allowed under s.
 2655 607.0601, of:

2656 (a) Any class of shares before the issuance of any shares
 2657 of that class; or

2658 (b) Any series within a class before the issuance of any
 2659 shares of that series.

2660 (3) Each class and each series of a class must be given a
 2661 distinguishing designation.

2662 (4) ~~(3)~~ All shares of a series must have preferences,
 2663 limitations, and relative rights identical with those of other
 2664 shares of the same series and, except to the extent otherwise
 2665 provided in the description of the series, of those of other
 2666 series of the same class.

2667 (5) ~~(4)~~ Before issuing any shares of a class or series
 2668 created under this section, the corporation shall ~~must~~ deliver

590-03467A-19

2019892c2

2669 to the department ~~of State~~ for filing articles of amendment,
2670 which are effective without shareholder action, that set forth:

2671 (a) The name of the corporation;

2672 (b) The text of the amendment determining the terms of the
2673 class or series of shares;

2674 (c) The date the amendment was adopted; and

2675 (d) A statement that the amendment was duly adopted by the
2676 board of directors.

2677 Section 40. Subsections (1), (2), (4), and (5) of section
2678 607.0604, Florida Statutes, are amended to read:

2679 607.0604 Fractional shares.—

2680 (1) A corporation may:

2681 (a) Issue fractions of a share or, in lieu of doing so, pay
2682 in money the fair value of fractions of a share;

2683 (b) Make arrangements, or provide reasonable opportunity,
2684 for any person entitled to or holding a fractional interest in a
2685 share to sell such fractional interest or to purchase such
2686 additional fractional interests as may be necessary to acquire a
2687 full share;

2688 (c) Issue scrip in registered or bearer form, over the
2689 manual or facsimile signature of an officer of the corporation
2690 or its agent, entitling the holder to receive a full share upon
2691 surrendering enough scrip to equal a full share.

2692 (2) The board of directors may authorize the issuance of
2693 scrip subject to any condition ~~considered desirable~~, including
2694 that:

2695 (a) ~~That~~ The scrip will become void if not exchanged for
2696 full shares before a specified date; and

2697 (b) ~~That~~ The shares for which the scrip is exchangeable may

590-03467A-19

2019892c2

2698 be sold and the proceeds paid to the scripholders.

2699 (4) The holder of a fractional share is entitled to
2700 exercise the rights of a shareholder, including the rights ~~right~~
2701 to vote, to receive dividends, and to receive distributions upon
2702 dissolution ~~participate in the assets of the corporation upon~~
2703 ~~liquidation~~. The holder of scrip is not entitled to any of these
2704 rights unless the scrip provides for them.

2705 ~~(5) When a corporation is to pay in money the value of~~
2706 ~~fractions of a share, the good faith judgment of the board of~~
2707 ~~directors as to the fair value shall be conclusive.~~

2708 Section 41. Subsections (2) and (5) of section 607.0620,
2709 Florida Statutes, are amended, and subsection (6) is added to
2710 that section, to read:

2711 607.0620 Subscriptions for shares.—

2712 (2) A subscription for shares, whether made before or after
2713 incorporation, is not enforceable against the subscriber unless
2714 in writing and signed by the subscriber.

2715 (5) If a subscriber defaults in payment of money or
2716 property under a subscription agreement entered into before
2717 incorporation, the corporation may collect the amount owed as
2718 any other debt. Alternatively, unless the subscription agreement
2719 provides otherwise, the corporation may rescind the agreement
2720 and may sell the shares if the debt remains unpaid more than 20
2721 days after the corporation delivers ~~sends~~ written demand for
2722 payment to the subscriber. If the subscription agreement is
2723 rescinded and the shares sold, then, notwithstanding the
2724 rescission, if mailed, such written demand shall be deemed to be
2725 ~~made when deposited in the United States mail in a sealed~~
2726 ~~envelope addressed to the subscriber at his or her last post~~

590-03467A-19

2019892c2

2727 ~~office address known to the corporation, with first class~~
2728 ~~postage thereon prepaid.~~ the defaulting subscriber or his or her
2729 legal representative shall be entitled to be paid the excess of
2730 the sale proceeds over the sum of the amount due and unpaid on
2731 the subscription and the reasonable expenses incurred in selling
2732 the shares, but in no event shall the defaulting subscriber or
2733 his or her legal representative be entitled to be paid an amount
2734 greater than the amount paid by the subscriber on the
2735 subscription.

2736 (6) A subscription agreement entered into after
2737 incorporation is also subject to s. 607.0621.

2738 Section 42. Subsection (5) of section 607.0621, Florida
2739 Statutes, is amended to read:

2740 607.0621 Issuance of shares.—

2741 (5) The corporation may place in escrow shares issued for a
2742 contract for future services or benefits or a promissory note,
2743 or make other arrangements to restrict the transfer of the
2744 shares, and may credit distributions in respect of the shares
2745 against their purchase price, until the services are performed,
2746 the note is paid, or the benefits received. If the services are
2747 not performed, the note is not paid, or the benefits are not
2748 received, the shares escrowed or restricted and the
2749 distributions credited may be canceled in whole or part.

2750 Section 43. Subsection (5) of section 607.0622, Florida
2751 Statutes, is amended to read:

2752 607.0622 Liability for shares issued before payment.—

2753 (5) No liability under this section may be asserted more
2754 than 5 years after the earlier of:

2755 (a) The issuance of the shares ~~stock~~, or

590-03467A-19

2019892c2

2756 (b) The date of the subscription upon which the assessment
2757 is sought.

2758 Section 44. Subsections (1) and (3) of section 607.0623,
2759 Florida Statutes, are amended to read:

2760 607.0623 Share dividends.—

2761 (1) Unless the articles of incorporation provide otherwise,
2762 shares may be issued pro rata and without consideration to the
2763 corporation's shareholders or to the shareholders of one or more
2764 classes or series or shares. An issuance of shares under this
2765 subsection is a share dividend.

2766 (3) The board of directors may fix the record date for
2767 determining shareholders entitled to a share dividend, but the
2768 date may not be retroactive. If the board of directors does not
2769 fix the record date for determining shareholders entitled to a
2770 share dividend, the record date ~~is~~ is the date the board of
2771 directors authorizes the share dividend.

2772 Section 45. Section 607.0624, Florida Statutes, is amended
2773 to read:

2774 607.0624 Share rights, options, warrants, and awards.—

2775 (1) Unless the articles of incorporation provide otherwise,
2776 a corporation may issue rights, options, or warrants for the
2777 purchase of shares of the corporation of any class or series,
2778 whether authorized but unissued shares of the corporation,
2779 treasury shares, or shares of the corporation to be purchased or
2780 acquired by the corporation. The board of directors shall
2781 determine the terms and conditions upon which the rights,
2782 options, or warrants are issued, including the consideration for
2783 which the shares are to be issued. The authorization by the
2784 board of directors for the corporation to issue such rights,

590-03467A-19

2019892c2

2785 options, or warrants constitutes authorization for the issuance
2786 of the shares for which the rights, options, or warrants are
2787 exercisable ~~their form and content, and the consideration for~~
2788 ~~which the shares are to be issued.~~

2789 (2) The terms and conditions of such ~~stock~~ rights, and
2790 options, or warrants, including those outstanding on January 1,
2791 2020, may include restrictions or conditions that:

2792 (a) Preclude or limit the exercise, transfer, or receipt of
2793 such rights, options, or warrants by any person or persons
2794 owning or offering to acquire a specified number or percentage
2795 of the outstanding shares of the corporation or by any
2796 transferee or transferees of any such person or persons; or

2797 (b) which are created and issued by a corporation formed
2798 under this chapter, or its successor, and which entitle the
2799 holders thereof to purchase from the corporation shares of any
2800 class or classes, whether authorized but unissued shares,
2801 treasury shares, or shares to be purchased or acquired by the
2802 corporation, may include, without limitation, restrictions, or
2803 conditions that preclude or limit the exercise, transfer,
2804 receipt, or holding of such rights or options by any person or
2805 persons, including any person or persons owning or offering to
2806 acquire a specified number or percentage of the outstanding
2807 common shares or other securities of the corporation, or any
2808 transferee or transferees of any such person or persons, or that
2809 Invalidate or void such rights, ~~or~~ options, or warrants held by
2810 any such person or persons or any such transferee or
2811 transferees.

2812 (3) The board of directors may authorize a board committee
2813 or the board of directors may authorize one or more officers, or

590-03467A-19

2019892c2

2814 a board committee so authorized by the board of directors may
2815 authorize one or more officers, to:

2816 (a) Designate the recipients of rights, options, warrants,
2817 or other equity compensation awards that involve the issuance of
2818 shares; and

2819 (b) Determine, within an amount and subject to any other
2820 limitations established by the board of directors, a board
2821 committee, and, if applicable, the shareholders, the number of
2822 such rights, options, warrants, or other equity compensation
2823 awards and the terms and conditions of such rights, options,
2824 warrants, or awards to be received by the recipients, provided
2825 that an officer may not use such authority to designate himself
2826 or herself or any other persons as the board of directors or a
2827 committee of the board may specify as a recipient of such
2828 rights, options, warrants, or other equity compensation awards.

2829 (4) For purposes of this section, the term "shares"
2830 includes a security convertible into or carrying a right to
2831 subscribe for or acquire shares.

2832 Section 46. Subsections (1), (2), and (3) of section
2833 607.0625, Florida Statutes, are amended to read:

2834 607.0625 Form and content of certificates.-

2835 (1) Shares may but need not be represented by certificates.
2836 Unless this chapter ~~act~~ or another statute expressly provides
2837 otherwise, the rights and obligations of shareholders are
2838 identical, regardless of whether ~~or not~~ their shares are
2839 represented by certificates.

2840 (2) At a minimum, each share certificate must state on its
2841 face:

2842 (a) The name of the ~~issuing~~ corporation and that the

590-03467A-19

2019892c2

2843 corporation is organized under the laws of this state;

2844 (b) The name of the person to whom issued; and

2845 (c) The number and class of shares and the designation of
2846 the series, if any, the certificate represents.

2847 (3) If the ~~issuing~~ corporation is authorized to issue
2848 different classes of shares or different series of shares within
2849 a class, the designations, relative rights, preferences, and
2850 limitations applicable to each class and the variations in
2851 rights, preferences, and limitations determined for each series
2852 (and the authority of the board of directors to determine
2853 variations for future series) must be summarized on the front or
2854 back of each certificate. Alternatively, each certificate may
2855 state conspicuously on its front or back that the corporation
2856 will furnish the shareholder a full statement of this
2857 information on request and without charge.

2858 Section 47. Section 607.0626, Florida Statutes, is amended
2859 to read:

2860 607.0626 Shares without certificates.—

2861 (1) Unless the articles of incorporation or bylaws provide
2862 otherwise, the board of directors of a corporation may authorize
2863 the issuance ~~issue~~ of some or all of the shares of any or all of
2864 its classes or series without certificates. The authorization
2865 does not affect shares already represented by certificates until
2866 they are surrendered to the corporation.

2867 (2) Within a reasonable time after the issuance ~~issue~~ or
2868 transfer of shares without certificates, the corporation shall
2869 deliver to ~~send~~ the shareholder a written statement of the
2870 information required on certificates by s. 607.0625(2) and (3),
2871 and, if applicable, s. 607.0627.

590-03467A-19

2019892c2

2872 Section 48. Subsection (4) of section 607.0627, Florida
2873 Statutes, is amended to read:

2874 607.0627 Restriction on transfer of shares and other
2875 securities.—

2876 (4) A restriction on the transfer or registration of
2877 transfer of shares may:

2878 (a) Obligate the shareholder first to offer the corporation
2879 or other persons (separately, consecutively, or simultaneously)
2880 an opportunity to acquire the restricted shares;

2881 (b) Obligate the corporation or other persons (separately,
2882 consecutively, or simultaneously) to acquire the restricted
2883 shares;

2884 (c) Require the corporation, the holders of any class or
2885 series of its shares, or other persons ~~another person~~ to approve
2886 the transfer of the restricted shares, if the requirement is not
2887 manifestly unreasonable; or

2888 (d) Prohibit the transfer of the restricted shares to
2889 designated persons or classes of persons, if the prohibition is
2890 not manifestly unreasonable.

2891 Section 49. Paragraphs (c), (d), and (e) of subsection (2)
2892 of section 607.0630, Florida Statutes, are amended to read:

2893 607.0630 Shareholders' preemptive rights.—

2894 (2) A statement included in the articles of incorporation
2895 that "the corporation elects to have preemptive rights" (or
2896 words of similar import) means that the following principles
2897 apply except to the extent the articles of incorporation
2898 expressly provide otherwise:

2899 (c) There is no preemptive right with respect to:

2900 1. Shares issued as compensation to directors, officers,

590-03467A-19

2019892c2

2901 agents, or employees of the corporation, or its subsidiaries, or
2902 affiliates;

2903 2. Shares issued to satisfy conversion or option rights
2904 created to provide compensation to directors, officers, agents,
2905 or employees of the corporation, or its subsidiaries, or
2906 affiliates;

2907 3. Shares authorized in the articles of incorporation that
2908 are issued within 6 months from the effective date of
2909 incorporation;

2910 4. Shares issued pursuant to a plan of reorganization
2911 approved by a court of competent jurisdiction pursuant to a law
2912 of this state or of the United States; or

2913 5. Shares issued for consideration other than money.

2914 (d) Holders of shares of any class or series without
2915 general voting rights but with preferential rights to
2916 distributions to receive the ~~or~~ net assets upon dissolution ~~and~~
2917 ~~liquidation~~ have no preemptive rights with respect to shares of
2918 any class or series.

2919 (e) Holders of shares of any class or series with general
2920 voting rights but without preferential rights to distributions
2921 ~~or net assets~~ upon dissolution ~~or liquidation~~ have no preemptive
2922 rights with respect to shares of any class or series with
2923 preferential rights to receive the net assets of the corporation
2924 upon dissolution ~~distributions or assets~~ unless the shares with
2925 preferential rights are convertible into or carry a right to
2926 subscribe for or acquire the shares without preferential rights.

2927 Section 50. Subsections (3) and (5) of section 607.0631,
2928 Florida Statutes, are amended, and subsection (6) is added to
2929 that section, to read:

590-03467A-19

2019892c2

2930 607.0631 Corporation's acquisition of its own shares.-

2931 (3) Articles of amendment to effectuate a reduction in the
 2932 authorized shares by the number of shares acquired by the
 2933 corporation may be adopted by the board of directors without
 2934 shareholder action, shall be delivered to the department ~~of~~
 2935 ~~State~~ for filing, and shall set forth:

2936 (a) The name of the corporation;

2937 (b) The reduction in the number of authorized shares,
 2938 itemized by class and series; and

2939 (c) The total number of authorized shares, itemized by
 2940 class and series, remaining after reduction of the shares.

2941 (5) A corporation that has shares of any class or series
 2942 which are ~~either~~ registered on a national securities exchange ~~or~~
 2943 ~~designated as a national market system security on an~~
 2944 ~~interdealer quotation system by the National Association of~~
 2945 ~~Securities Dealers, Inc.,~~ may acquire such shares and designate,
 2946 either in the bylaws or in the resolutions of its board, that
 2947 shares so acquired by the corporation shall constitute treasury
 2948 shares.

2949 (6) Shares that a corporation acquires in a fiduciary
 2950 capacity for the benefit of any person other than the
 2951 corporation directly or indirectly through an entity controlled
 2952 by the corporation may not be deemed to have been acquired by
 2953 the corporation for purposes of this section.

2954 Section 51. Subsections (2), (3), (4), (6), (7), and (8) of
 2955 section 607.06401, Florida Statutes, are amended, and subsection
 2956 (9) is added to that section, to read:

2957 607.06401 Distributions to shareholders.-

2958 (2) The board of directors may fix the record date for

590-03467A-19

2019892c2

2959 determining shareholders entitled to a distribution, but the
2960 date may not be retroactive. If the board of directors does not
2961 fix the record date for determining shareholders entitled to a
2962 distribution (other than one involving a purchase, redemption,
2963 or other acquisition of the corporation's shares), the record
2964 date ~~it~~ is the date the board of directors authorizes the
2965 distribution.

2966 (3) No distribution may be made if, after giving it effect:

2967 (a) The corporation would not be able to pay its debts as
2968 they become due in the usual course of the corporation's
2969 activities and affairs ~~business~~; or

2970 (b) The corporation's total assets would be less than the
2971 sum of its total liabilities plus (unless the articles of
2972 incorporation permit otherwise) the amount that would be needed,
2973 if the corporation were to be dissolved and wound up at the time
2974 of the distribution, to satisfy the preferential rights upon
2975 dissolution and winding up of shareholders whose preferential
2976 rights are superior to those receiving the distribution.

2977 (4) The board of directors may base a determination that a
2978 distribution is not prohibited under subsection (3) on:

2979 (a) ~~either on~~ Financial statements prepared on the basis of
2980 accounting practices and principles that are reasonable under ~~in~~
2981 the circumstances; or

2982 (b) ~~on~~ A fair valuation or other method that is reasonable
2983 under ~~in~~ the circumstances. In the case of any distribution
2984 based upon such a valuation, each such distribution shall be
2985 identified as a distribution based upon a current valuation of
2986 assets, and the amount per share paid on the basis of such
2987 valuation shall be disclosed to the shareholders concurrent with

590-03467A-19

2019892c2

2988 their receipt of the distribution.

2989 (6) Except as provided in subsection (8), the effect of a
2990 distribution under subsection (3) is measured:

2991 (a) In the case of a distribution by purchase, redemption,
2992 or other acquisition of the corporation's shares, as of the
2993 earlier of the date on which:

2994 1. ~~The date~~ Money or other property is transferred or the
2995 debt to a shareholder is incurred by the corporation, or

2996 2. ~~The date the~~ shareholder ceases to be a shareholder with
2997 respect to the acquired shares;

2998 (b) In the case of a ~~any other~~ distribution of
2999 indebtedness, as of the date on which the indebtedness is
3000 distributed;

3001 (c) In all other cases, as of the date on which:

3002 1. ~~The date the~~ distribution is authorized if the payment
3003 occurs within 120 days after that date; ~~the date of~~
3004 ~~authorization~~, or

3005 2. ~~The date the~~ payment is made if the payment ~~it~~ occurs
3006 more than 120 days after the date the distribution is authorized
3007 ~~of authorization~~.

3008 (7) A corporation's indebtedness to a shareholder incurred
3009 by reason of a distribution made in accordance with this section
3010 is at parity with the corporation's indebtedness to its general,
3011 unsecured creditors except to the extent provided otherwise
3012 ~~subordinated~~ by agreement. The obligation to pay such
3013 indebtedness may be secured by a lien on assets of the
3014 corporation if not prohibited by a law other than this chapter.

3015 (8) Indebtedness of a corporation, including indebtedness
3016 issued as a distribution, is not considered a liability for

590-03467A-19

2019892c2

3017 purposes of determinations under subsection (3) if the terms of
3018 the indebtedness ~~its terms~~ provide that payment of principal and
3019 interest ~~is are~~ made only if and to the extent that ~~payment of~~ a
3020 distribution to shareholders could then be made under this
3021 section. If such ~~the~~ indebtedness is issued as a distribution,
3022 and by its terms provides that the payments ~~each payment~~ of
3023 principal or interest are made only to the extent ~~is treated as~~
3024 a distribution could be made under this section, then each
3025 payment of principal and interest of that indebtedness is
3026 treated as a distribution, the effect of which is measured on
3027 the date the payment is actually made.

3028 (9) This section does not apply to distributions in
3029 liquidation under ss. 607.1401-607.14401.

3030 Section 52. Section 607.0701, Florida Statutes, is amended
3031 to read:

3032 607.0701 Annual meeting.—

3033 (1) Unless directors are elected by written consent in lieu
3034 of an annual meeting pursuant to s. 607.0704, a corporation
3035 shall hold a meeting of shareholders annually, for the election
3036 of directors and for the transaction of any proper business, at
3037 a time stated in or fixed in accordance with the bylaws.

3038 (2) Annual ~~shareholders'~~ meetings of shareholders may be
3039 held in or out of this state at a place stated in or fixed in
3040 accordance with the bylaws or, when not inconsistent with the
3041 bylaws, stated in the notice of the annual meeting. If no place
3042 is stated in or fixed in accordance with the bylaws, or stated
3043 in the notice of the annual meeting, annual meetings shall be
3044 held at the corporation's principal office.

3045 (3) The failure to hold the annual meeting at the time

590-03467A-19

2019892c2

3046 stated in or fixed in accordance with a corporation's bylaws or
3047 pursuant to this chapter ~~act~~ does not affect the validity of any
3048 corporate action and shall not work a forfeiture of or
3049 dissolution of the corporation.

3050 (4) Participation of shareholders and proxy holders at an
3051 annual meeting of shareholders by remote communication shall be
3052 governed by and subject to the provisions of s. 607.0709 ~~if~~
3053 ~~authorized by the board of directors, and subject to such~~
3054 ~~guidelines and procedures as the board of directors may adopt,~~
3055 ~~shareholders and proxy holders not physically present at an~~
3056 ~~annual meeting of shareholders may, by means of remote~~
3057 ~~communication:~~

3058 ~~(a) Participate in an annual meeting of shareholders.~~

3059 ~~(b) Be deemed present in person and vote at an annual~~
3060 ~~meeting of shareholders, whether such meeting is to be held at a~~
3061 ~~designated place or solely by means of remote communication,~~
3062 ~~provided that:~~

3063 ~~1. The corporation shall implement reasonable measures to~~
3064 ~~verify that each person deemed present and permitted to vote at~~
3065 ~~the annual meeting by means of remote communication is a~~
3066 ~~shareholder or proxy holder;~~

3067 ~~2. The corporation shall implement reasonable measures to~~
3068 ~~provide such shareholders or proxy holders a reasonable~~
3069 ~~opportunity to participate in the annual meeting and to vote on~~
3070 ~~matters submitted to the shareholders, including, without~~
3071 ~~limitation, an opportunity to communicate and to read or hear~~
3072 ~~the proceedings of the annual meeting substantially concurrently~~
3073 ~~with such proceedings; and~~

3074 ~~3. If any shareholder or proxy holder votes or takes other~~

590-03467A-19

2019892c2

3075 ~~action at the annual meeting by means of remote communication, a~~
3076 ~~record of such vote or other action shall be maintained by the~~
3077 ~~corporation.~~

3078 Section 53. Section 607.0702, Florida Statutes, is amended
3079 to read:

3080 607.0702 Special meeting.—

3081 (1) A corporation shall hold a special meeting of
3082 shareholders:

3083 (a) On call of its board of directors or the person or
3084 persons authorized to do so by the articles of incorporation or
3085 bylaws; or

3086 (b) If shareholders holding ~~the holders of~~ not less than 10
3087 percent, unless a greater percentage not to exceed 50 percent is
3088 required by the articles of incorporation, of all the votes
3089 entitled to be cast on any issue proposed to be considered at
3090 the proposed special meeting sign, date, and deliver to the
3091 corporation's secretary one or more written demands for the
3092 meeting describing the purpose or purposes for which it is to be
3093 held. Unless otherwise provided in the articles of
3094 incorporation, a written demand for a special meeting may be
3095 revoked by a writing to that effect received by the corporation
3096 prior to the receipt by the corporation of demands sufficient in
3097 number to require the holding of a special meeting.

3098 (2) Special meetings of shareholders ~~shareholders' meetings~~
3099 may be held in or out of the state at a place stated in or fixed
3100 in accordance with the bylaws or, when not inconsistent with the
3101 bylaws, in the notice of the special meeting. If no place is
3102 stated in or fixed in accordance with the bylaws or in the
3103 notice of the special meeting, special meetings shall be held at

590-03467A-19

2019892c2

3104 the corporation's principal office.

3105 (3) Only business within the purpose or purposes described
3106 in the special meeting notice required by s. 607.0705 may be
3107 conducted at a special meeting of shareholders ~~shareholders'~~
3108 ~~meeting~~.

3109 (4) Participation of shareholders and proxy holders at a
3110 special meeting of shareholders by remote communication shall be
3111 governed by and subject to the provisions of s. 607.0709 ~~if~~
3112 ~~authorized by the board of directors, and subject to such~~
3113 ~~guidelines and procedures as the board of directors may adopt,~~
3114 ~~shareholders and proxy holders not physically present at a~~
3115 ~~special meeting of shareholders may, by means of remote~~
3116 ~~communication:~~

3117 (a) ~~Participate in a special meeting of shareholders.~~

3118 (b) ~~Be deemed present in person and vote at a special~~
3119 ~~meeting of shareholders, whether such meeting is to be held at a~~
3120 ~~designated place or solely by means of remote communication,~~
3121 ~~provided that:~~

3122 1. ~~The corporation shall implement reasonable measures to~~
3123 ~~verify that each person deemed present and permitted to vote at~~
3124 ~~the special meeting by means of remote communication is a~~
3125 ~~shareholder or proxy holder;~~

3126 2. ~~The corporation shall implement reasonable measures to~~
3127 ~~provide such shareholders or proxy holders a reasonable~~
3128 ~~opportunity to participate in the special meeting and to vote on~~
3129 ~~matters submitted to the shareholders, including, without~~
3130 ~~limitation, an opportunity to communicate and to read or hear~~
3131 ~~the proceedings of the special meeting substantially~~
3132 ~~concurrently with such proceedings; and~~

590-03467A-19

2019892c2

3133 ~~3. If any shareholder or proxy holder votes or takes other~~
3134 ~~action at the special meeting by means of remote communication,~~
3135 ~~a record of such vote or other action shall be maintained by the~~
3136 ~~corporation.~~

3137 Section 54. Section 607.0703, Florida Statutes, is amended
3138 to read:

3139 607.0703 Court-ordered meeting.-

3140 (1) The circuit court in the applicable county may
3141 summarily ~~of the county where a corporation's principal office~~
3142 ~~is located, if located in this state, or where a corporation's~~
3143 ~~registered office is located if its principal office is not~~
3144 ~~located in this state, may, after notice to the corporation,~~
3145 order a meeting to be held:

3146 (a) On application of any shareholder ~~of the corporation~~
3147 entitled to vote at ~~in~~ an annual meeting if neither an annual
3148 meeting has ~~not~~ been held nor an action by written consent in
3149 lieu thereof has become effective within any 15-month ~~13-month~~
3150 period; or

3151 (b) On application of one or more shareholders ~~a~~
3152 ~~shareholder~~ who signed a demand for a special meeting valid
3153 under s. 607.0702, if:

3154 1. Notice of the special meeting was not given within 60
3155 days after the first day on which the requisite number of
3156 demands have been ~~date the demand was~~ delivered to the
3157 corporation's secretary; or

3158 2. The special meeting was not held in accordance with the
3159 notice.

3160 (2) The court may fix the time and place of the meeting,
3161 determine the shares entitled to participate in the meeting,

590-03467A-19

2019892c2

3162 specify a record date or dates for determining shareholders
3163 entitled to notice of and to vote at the meeting, prescribe the
3164 form and content of the meeting notice, fix the quorum by voting
3165 group required for matters to be considered at the meeting (or
3166 direct that the votes of a voting group represented at the
3167 meeting constitute a quorum of such voting group for action on
3168 those matters), and enter other orders necessary to accomplish
3169 the purpose or purposes of the meeting as may be appropriate.

3170 Section 55. Subsections (1), (3), (4), and (5) of section
3171 607.0704, Florida Statutes, are amended, and subsections (7) and
3172 (8) are added to that section, to read:

3173 607.0704 Action by shareholders without a meeting.—

3174 (1) Unless otherwise provided in the articles of
3175 incorporation or in subsection (8), action required or permitted
3176 by this chapter ~~act~~ to be taken at an annual or special meeting
3177 of shareholders may be taken without a meeting, without prior
3178 notice, and without a vote if the action is taken by the holders
3179 of outstanding shares ~~stock~~ of each voting group entitled to
3180 vote thereon having not less than the minimum number of votes
3181 with respect to each voting group that would be necessary to
3182 authorize or take such action at a meeting at which all voting
3183 groups and shares entitled to vote thereon were present and
3184 voted. In order to be effective the action must be evidenced by
3185 one or more written consents describing the action taken, dated
3186 and signed by approving shareholders having the requisite number
3187 of votes of each voting group entitled to vote thereon, and
3188 delivered to the corporation by delivery to its principal office
3189 in this state, its principal place of business, the corporate
3190 secretary, or another officer or agent of the corporation having

590-03467A-19

2019892c2

3191 custody of the book in which proceedings of meetings of
3192 shareholders are recorded. No written consent shall be effective
3193 to take the corporate action referred to therein unless, within
3194 60 days of the date of the earliest dated consent delivered in
3195 the manner required by this section, written consents signed by
3196 shareholders owning a sufficient number of shares ~~the number of~~
3197 ~~holders~~ required to authorize or take the action have been ~~are~~
3198 delivered to the corporation by delivery as set forth in this
3199 section.

3200 (3) Within 10 days after either written consents sufficient
3201 to authorize or take the action have been delivered to the
3202 corporation or such later date that tabulation of consents is
3203 completed pursuant to an authorization under subsection (4)
3204 ~~obtaining such authorization by written consent~~, notice must be
3205 given to those shareholders who have not consented in writing or
3206 who are not entitled to vote on the action. The notice shall
3207 fairly summarize the material features of the authorized action
3208 and, if the action be such for which appraisal dissenters'
3209 rights are provided under this chapter act, the notice shall
3210 contain a clear statement of the right of shareholders entitled
3211 to assert appraisal rights under this chapter with respect to
3212 the action dissenting therefrom to be paid the fair value of
3213 their shares upon compliance with further provisions of this
3214 chapter act regarding the rights of ~~dissenting~~ shareholders
3215 entitled to assert appraisal rights under this chapter with
3216 respect to the action.

3217 (4) A consent signed under this section has the effect of a
3218 meeting vote and may be described as such in any document.
3219 Unless the articles of incorporation, bylaws, or a resolution of

590-03467A-19

2019892c2

3220 the board of directors provides for a reasonable delay to permit
3221 tabulation of written consents, the action taken by written
3222 consent shall be effective when written consents signed by
3223 shareholders owning a sufficient number of shares required to
3224 authorize or take the action have been delivered to the
3225 corporation.

3226 (5) In the event that the action to which the shareholders
3227 consent is such as would have required the filing of a
3228 certificate under any other section of this chapter ~~act~~ if such
3229 action had been voted on by shareholders at a meeting thereof,
3230 the certificate filed under such other section shall state that
3231 written consent has been given in accordance with the provisions
3232 of this section.

3233 (7) The notice requirements in subsection (3) do not delay
3234 the effectiveness of actions taken by written consent, and a
3235 failure to comply with such notice requirement does not
3236 invalidate actions taken by written consent. This subsection may
3237 not be deemed to limit judicial power to fashion any appropriate
3238 remedy in favor of a shareholder adversely affected by a failure
3239 to give such notice within the required time period.

3240 (8) If a corporation's articles of incorporation authorize
3241 shareholders to cumulate their votes when electing directors
3242 pursuant to s. 607.0728, directors may not be elected by written
3243 consent of the shareholders unless the consent is unanimous.

3244 Section 56. Section 607.0705, Florida Statutes, is amended
3245 to read:

3246 607.0705 Notice of meeting.—

3247 (1) A corporation shall notify shareholders of the date,
3248 time, and place of each annual and special shareholders' meeting

590-03467A-19

2019892c2

3249 no fewer than 10 or more than 60 days before the meeting date.
3250 The notice must include the record date for determining the
3251 shareholders entitled to vote at the meeting if the record date
3252 for determining the shareholders entitled to vote at the meeting
3253 is different than the record date for determining shareholders
3254 entitled to notice of the meeting. If the board of directors has
3255 authorized participation by means of remote communication
3256 pursuant to s. 607.0709 for any class or series of shares, the
3257 notice to the holders of such class or series must describe the
3258 means of remote communication to be used. Unless this chapter
3259 ~~act~~ or the articles of incorporation require otherwise, the
3260 corporation is required to give notice only to shareholders
3261 entitled to vote at the meeting as of the record date for
3262 determining the shareholders entitled to notice of the meeting.
3263 Notice shall be given in the manner provided in s. 607.0141, by
3264 or at the direction of the president, the secretary, or the
3265 officer or persons calling the meeting. If the notice is mailed
3266 at least 30 days before the date of the meeting, it may be done
3267 by a class of United States mail other than first class.
3268 Notwithstanding s. 607.0141, if mailed, such notice shall be
3269 deemed to be delivered when deposited in the United States mail
3270 addressed to the shareholder at her or his address as it appears
3271 in the record of shareholders of the corporation, maintained in
3272 accordance with s. 607.1601(4) ~~on the stock transfer books of~~
3273 ~~the corporation~~, with postage thereon prepaid.

3274 (2) Unless this chapter ~~act~~ or the articles of
3275 incorporation require otherwise, notice of an annual meeting of
3276 shareholders need not include a description of the purpose or
3277 purposes for which the meeting is called.

590-03467A-19

2019892c2

3278 (3) Notice of a special meeting of shareholders must
3279 include a description of the purpose or purposes for which the
3280 meeting is called.

3281 (4) Unless the bylaws require otherwise, if an annual or
3282 special ~~shareholders'~~ meeting of shareholders is adjourned to a
3283 different date, time, or place, or to add or modify the terms of
3284 participation by remote communication, notice need not be given
3285 of the new date, time, ~~or~~ place, or terms of participation by
3286 remote communication if the new date, time, ~~or~~ place, or terms
3287 of participation by remote communication is announced at the
3288 meeting before an adjournment is taken, and any business may be
3289 transacted at the adjourned meeting that might have been
3290 transacted on the original date of the meeting. If a new record
3291 date for the adjourned meeting is or must be fixed under s.
3292 607.0707, however, notice of the adjourned meeting must be given
3293 under this section to persons who are shareholders as of the new
3294 record date who are entitled to notice of the meeting.

3295 (5) Notwithstanding the foregoing, whenever notice is
3296 required to be given to any shareholder under this chapter or
3297 the articles of incorporation or bylaws of any corporation to
3298 whom no notice of a shareholders' meeting need be given to a
3299 shareholder if:

3300 (a) Notice of two consecutive annual meetings, and all
3301 notices of meetings or the taking of action by written consent
3302 without a meeting to such person during the period between such
3303 two consecutive annual meetings; An annual report and proxy
3304 statements for two consecutive annual meetings of shareholders
3305 or

3306 (b) All, and at least two checks in payment of dividends or

590-03467A-19

2019892c2

3307 interest on securities during a 12-month period,
3308
3309 have been sent by first-class United States mail, addressed to
3310 the shareholder at such person's ~~her or his~~ address as it
3311 appears in the record of shareholders ~~on the share transfer~~
3312 ~~books~~ of the corporation, maintained in accordance with s.
3313 607.1601(4), and returned undeliverable, then the giving of such
3314 notice to such person shall not be required. Any action or
3315 meeting which is taken or held without notice to such person has
3316 the same force and effect as if such notice has been duly given.
3317 If any such person delivers to the corporation a written notice
3318 setting forth such person's then current address, the
3319 requirement that a notice be given to such person with respect
3320 to future notices shall be reinstated. ~~The obligation of the~~
3321 ~~corporation to give notice of a shareholders' meeting to any~~
3322 ~~such shareholder shall be reinstated once the corporation has~~
3323 ~~received a new address for such shareholder for entry on its~~
3324 ~~share transfer books.~~

3325 Section 57. Subsection (1) of section 607.0706, Florida
3326 Statutes, is amended to read:

3327 607.0706 Waiver of notice.—

3328 (1) A shareholder may waive any notice required by this
3329 chapter ~~act~~, the articles of incorporation, or bylaws before or
3330 after the date and time stated in the notice. The waiver must be
3331 in writing, be signed by the shareholder entitled to the notice,
3332 and be delivered to the corporation for filing by the
3333 corporation with ~~inclusion in~~ the minutes or ~~filing with the~~
3334 corporate records. Neither the business to be transacted at nor
3335 the purpose of any regular or special meeting of the

590-03467A-19

2019892c2

3336 shareholders need be specified in any written waiver of notice
3337 unless so required by the articles of incorporation or the
3338 bylaws.

3339 Section 58. Subsections (1), (3), (4), (6), and (7) of
3340 section 607.0707, Florida Statutes, are amended, and subsections
3341 (8), (9), and (10) are added to that section, to read:

3342 607.0707 Record date.—

3343 (1) The bylaws may fix or provide the manner of fixing the
3344 record date or dates for one or more voting groups ~~in order~~ to
3345 determine the shareholders entitled to notice of a shareholders'
3346 meeting, to demand a special meeting, to vote, or to take any
3347 other action. If the bylaws do not fix or provide for fixing
3348 such a record date, the board of directors ~~of the corporation~~
3349 may fix the record date. In no event may a record date fixed by
3350 the board of directors be a date preceding the date upon which
3351 the resolution fixing the record date is adopted.

3352 (3) The bylaws may fix or provide the manner of fixing the
3353 record date for determining shareholders entitled to take action
3354 by the written consent of shareholders. If not otherwise
3355 provided by or pursuant to the bylaws, the board of directors of
3356 the corporation may set a record date for determining
3357 shareholders entitled to take action by the written consent of
3358 shareholders. In no event may a record date fixed by the board
3359 of directors be a date preceding the date upon which the
3360 resolution fixing the record date is adopted. If the bylaws do
3361 not fix or provide for the manner of fixing such a record date
3362 and if no such record date is fixed by the board of directors,
3363 the record date for determining shareholders entitled to take
3364 such action shall be the date that the first signed written

590-03467A-19

2019892c2

3365 consent is delivered to the corporation pursuant to s. 607.0704
3366 ~~If not otherwise provided by or pursuant to the bylaws and no~~
3367 ~~prior action is required by the board of directors pursuant to~~
3368 ~~this act, the record date for determining shareholders entitled~~
3369 ~~to take action without a meeting is the date the first signed~~
3370 ~~written consent is delivered to the corporation under s.~~
3371 ~~607.0704. If not otherwise fixed, and prior action is required~~
3372 ~~by the board of directors pursuant to this chapter, the record~~
3373 ~~date for determining shareholders entitled to take action~~
3374 ~~without a meeting is at the close of business on the day on~~
3375 ~~which the board of directors adopts the resolution taking such~~
3376 ~~prior action.~~

3377 (4) If not otherwise provided by or pursuant to the bylaws,
3378 or by a court order pursuant to s. 607.0703, the record date for
3379 determining shareholders entitled to notice of and to vote at an
3380 annual or special shareholders' meeting is the close of business
3381 on the day before the first notice is delivered to shareholders.

3382 (6) A determination of shareholders entitled to notice of
3383 or to vote at a shareholders' meeting is effective for any
3384 adjournment of the meeting unless the board of directors fixes a
3385 new record date or dates, which it must do if the meeting is
3386 adjourned to a date more than 120 days after the date fixed for
3387 the original meeting.

3388 (7) If a court orders a meeting adjourned to a date more
3389 than 120 days after the date fixed for the original meeting, it
3390 may provide that the original record date or dates continues in
3391 effect or it may fix a new record date or dates.

3392 (8) The record date for a shareholders' meeting fixed by or
3393 in the manner provided in the bylaws or by the board of

590-03467A-19

2019892c2

3394 directors shall be the record date for determining shareholders
3395 entitled both to notice of and to vote at the shareholders'
3396 meeting, unless in the case of a record date fixed by the board
3397 of directors and to the extent not prohibited by the bylaws, the
3398 board of directors, at the time it fixes the record date for
3399 shareholders entitled to notice of the meeting, fixes a later
3400 record date on or before the date of the meeting to determine
3401 the shareholders entitled to vote at the meeting.

3402 (9) Shares of a corporation's own stock acquired by the
3403 corporation between the record date for determining shareholders
3404 entitled to notice of or to vote at a meeting of shareholders
3405 and the time of the meeting may be voted on at the meeting by
3406 the holder of record as of the record date and shall be counted
3407 in determining the total number of outstanding shares entitled
3408 to be voted at the meeting.

3409 (10) If not otherwise fixed under s. 607.0703, the record
3410 date for determining shareholders entitled to demand a special
3411 meeting is the earliest date on which a signed shareholder
3412 demand is delivered to the corporation. A written demand for a
3413 special meeting is not effective unless, within 60 days of the
3414 earliest date on which such a demand delivered to the
3415 corporation as required by s. 607.0702 was signed, written
3416 demands signed by shareholders holding at least the percentage
3417 of votes specified in or fixed in accordance with s.
3418 607.0702(1)(b) have been delivered to the corporation.

3419 Section 59. Section 607.0709, Florida Statutes, is created
3420 to read:

3421 607.0709 Remote participation in annual and special
3422 meetings of shareholders.-

590-03467A-19

2019892c2

3423 (1) Shareholders of any voting group, other persons
3424 entitled to vote on behalf of shareholders pursuant to s.
3425 607.0721, attorneys in fact for shareholders, and holders of
3426 proxies appointed pursuant to s. 607.0722 may participate in any
3427 annual or special meeting of shareholders by means of remote
3428 communication to the extent the board of directors authorizes
3429 such participation for such voting group. Participation by means
3430 of remote communication is subject to such guidelines and
3431 procedures as the board of directors adopts, and must be in
3432 conformity with subsection (2).

3433 (2) Shareholders, other persons entitled to vote on behalf
3434 of shareholders pursuant to s. 607.0721, attorneys in fact for
3435 shareholders, and holders of proxies appointed pursuant to s.
3436 607.0722 participating in a shareholders' meeting by means of
3437 remote communication authorized under subsection (1) shall be
3438 deemed present in person and may vote at such a meeting, whether
3439 such meeting is to be held at a designated place or solely by
3440 means of remote communication, if the corporation has
3441 implemented reasonable measures:

3442 (a) To verify that each person participating remotely as a
3443 shareholder is a shareholder, is another person entitled to vote
3444 on behalf of a shareholder pursuant to s. 607.0721, is an
3445 attorney in fact for a shareholder, or is a holder of a proxy
3446 appointed pursuant to s. 607.0722; and

3447 (b) To provide such shareholders, such other persons
3448 entitled to vote on behalf of shareholders pursuant to s.
3449 607.0721, such attorneys in fact for shareholders, and such
3450 holders of proxies appointed pursuant to s. 607.0722, a
3451 reasonable opportunity to participate in the meeting and to vote

590-03467A-19

2019892c2

3452 on matters submitted to the shareholders, including an
3453 opportunity to communicate, and to read or hear the proceedings
3454 of the meeting, substantially concurrently with such
3455 proceedings.

3456 (3) If any shareholder, any other person entitled to vote
3457 on behalf of a shareholder pursuant to s. 607.0721, any attorney
3458 in fact for a shareholder, or any holder of a proxy appointed
3459 pursuant to s. 607.0722, votes or takes action at a
3460 shareholder's meeting by means of remote communication
3461 authorized under this section, a record of such vote or other
3462 action shall be maintained by the corporation.

3463 (4) If the board of directors is authorized to determine
3464 the place of a shareholders' meeting, the board of directors
3465 may, in its sole discretion, determine that the meeting shall be
3466 held solely by means of remote communication.

3467 Section 60. Subsections (1), (2), (3), (5), and (7) of
3468 section 607.0720, Florida Statutes, are amended to read:

3469 607.0720 Shareholders' list for meeting.—

3470 (1) After fixing a record date for a meeting, a corporation
3471 shall prepare an alphabetical list of the names of all its
3472 shareholders who are entitled to notice of a shareholders'
3473 meeting. If the board of directors fixes a different record date
3474 under s. 607.0707(8) to determine the shareholders entitled to
3475 vote at the meeting, the corporation must also prepare an
3476 alphabetical list of the names of all its shareholders who are
3477 entitled to vote at the meeting. Each list must be arranged by
3478 voting group, and within each voting group by class or series of
3479 shares, and show the address of and number of shares held by
3480 each shareholder. This subsection does not require the

590-03467A-19

2019892c2

3481 corporation to include on such list the electronic mail address
3482 or other electronic contact information of a shareholder,
3483 ~~arranged by voting group with the address of, and the number and~~
3484 ~~class and series, if any, of shares held by, each.~~

3485 (2) The shareholders' list for notice must be available for
3486 inspection by any shareholder for a period of 10 days prior to
3487 the meeting or such shorter time as exists between the record
3488 date and the meeting and continuing through the meeting at the
3489 corporation's principal office, at a place identified in the
3490 meeting notice in the city where the meeting will be held, or at
3491 the office of the corporation's transfer agent or registrar. Any
3492 separate shareholders' list for voting, if different, must be
3493 similarly available for inspection promptly after the record
3494 date for voting. A shareholder or the shareholder's agent or
3495 attorney is entitled on written demand to inspect and, the list
3496 ~~(subject to the requirements of s. 607.1602(3)),~~ copy a list
3497 during regular business hours and at his or her expense, during
3498 the period it is available for inspection.

3499 (3) The corporation shall make the ~~shareholders'~~ list of
3500 shareholders entitled to vote available at the meeting, and any
3501 shareholder or the shareholder's agent or attorney is entitled
3502 to inspect the list at any time during the meeting or any
3503 adjournment.

3504 (5) If the requirements of this section have not been
3505 substantially complied with or if the corporation refuses to
3506 allow a shareholder or the shareholder's agent or attorney to
3507 inspect a the shareholders' list, or copy a list pursuant to
3508 subsection (2), before or at the meeting, the meeting shall be
3509 adjourned until such requirements are complied with on the

590-03467A-19

2019892c2

3510 demand of any shareholder in person or by proxy who failed to
3511 get such access, or, if not adjourned upon such demand and such
3512 requirements are not complied with, the circuit court in the
3513 applicable county ~~of the county where a corporation's principal~~
3514 ~~office (or, if none in this state, its registered office) is~~
3515 ~~located~~, on application of the shareholder, may summarily order
3516 the inspection or copying at the corporation's expense and may
3517 postpone the meeting for which the list was prepared until the
3518 inspection or copying is complete.

3519 (7) A shareholder may not sell or otherwise distribute any
3520 information or records inspected under this section, except to
3521 the extent that such use is for a proper purpose as defined in
3522 s. 607.1602(3). ~~Any person who violates this provision shall be~~
3523 ~~subject to a civil penalty of \$5,000.~~

3524 Section 61. Subsections (1), (2), (3), and (4) of section
3525 607.0721, Florida Statutes, are amended to read:

3526 607.0721 Voting entitlement of shares.-

3527 (1) Except as provided in subsections (2), (3), and (4) or
3528 unless the articles of incorporation or this chapter ~~act~~
3529 provides otherwise, each outstanding share, regardless of class
3530 or series, is entitled to one vote on each matter submitted to a
3531 vote at a meeting of shareholders. Only shares are entitled to
3532 vote. If the articles of incorporation provide for more or less
3533 than one vote for any share on any matter, every reference in
3534 this chapter ~~act~~ to a majority or other proportion of shares
3535 shall refer to such a majority or other proportion of votes
3536 entitled to be cast.

3537 (2) ~~The~~ Shares of a corporation are not entitled to vote if
3538 they are owned by or otherwise belong to the corporation

590-03467A-19

2019892c2

3539 directly, or indirectly through an entity of which a majority of
3540 the voting power is held directly or indirectly by the
3541 corporation or which is otherwise controlled by the, ~~directly or~~
3542 ~~indirectly, by a second corporation, domestic or foreign, and~~
3543 ~~the first corporation owns, directly or indirectly, a majority~~
3544 ~~of the shares entitled to vote for directors of the second~~
3545 ~~corporation.~~

3546 (3) Shares held by the corporation in a fiduciary capacity
3547 for the benefit of any person are entitled to vote unless they
3548 are held for the benefit of, or otherwise belong to, the
3549 corporation directly, or indirectly through an entity of which a
3550 majority of the voting power is held directly or indirectly by
3551 the corporation or which is otherwise controlled by the
3552 corporation. For the purposes of this subsection, "voting power"
3553 means the current power to vote in the election of directors of
3554 a corporation or to elect, select, or appoint those persons who
3555 will govern another entity ~~Subsection (2) does not limit the~~
3556 ~~power of a corporation to vote any shares, including its own~~
3557 ~~shares, held by it in a fiduciary capacity.~~

3558 (4) Redeemable shares are not entitled to vote on any
3559 matter, and shall not be deemed to be outstanding, after
3560 delivery of a written notice of redemption is effective ~~mailed~~
3561 ~~to the holders thereof~~ and a sum sufficient to redeem such
3562 shares has been deposited with a bank, trust company, or other
3563 financial institution upon an irrevocable obligation to pay the
3564 holders the redemption price upon surrender of the shares.

3565 Section 62. Subsections (3) and (7) of section 607.0722,
3566 Florida Statutes, are amended, and subsection (5) of that
3567 section is republished, to read:

590-03467A-19

2019892c2

3568 607.0722 Proxies.—

3569 (3) An appointment of a proxy is effective when a signed
3570 appointment form or an electronic transmission of the
3571 appointment is received by the inspector of election or by the
3572 secretary or other officer or agent authorized to count ~~tabulate~~
3573 votes. An appointment is valid for the term up to 11 months
3574 unless a longer period is expressly provided in the appointment
3575 form and, if no term is provided, is valid for 11 months unless
3576 the appointment is irrevocable under subsection (5).

3577 (5) An appointment of a proxy is revocable by the
3578 shareholder unless the appointment form or electronic
3579 transmission conspicuously states that it is irrevocable and the
3580 appointment is coupled with an interest. Appointments coupled
3581 with an interest include the appointment of:

3582 (a) A pledgee;

3583 (b) A person who purchased or agreed to purchase the
3584 shares;

3585 (c) A creditor of the corporation who extended credit to
3586 the corporation under terms requiring the appointment;

3587 (d) An employee of the corporation whose employment
3588 contract requires the appointment; or

3589 (e) A party to a voting agreement created under s.
3590 607.0731.

3591 (7) Unless the appointment otherwise provides, an
3592 appointment made irrevocable under subsection (5) continues in
3593 effect after a transfer of the shares and a transferee takes
3594 subject to the appointment, except that a transferee for value
3595 of shares subject to an irrevocable appointment may revoke the
3596 appointment if the transferee did not know of its existence when

590-03467A-19

2019892c2

3597 the transferee ~~he or she~~ acquired the shares and the existence
3598 of the irrevocable appointment was not noted conspicuously on
3599 the certificate representing the shares or on the information
3600 statement for shares without certificates.

3601 Section 63. Section 607.0723, Florida Statutes, is amended
3602 to read:

3603 607.0723 Shares held by intermediaries and nominees.—

3604 (1) A corporation's board of directors ~~corporation~~ may
3605 establish a procedure under ~~by~~ which a person on whose behalf
3606 ~~the beneficial owner of~~ shares that are registered in the name
3607 of an intermediary or a nominee may elect to be treated ~~is~~
3608 ~~recognized~~ by the corporation as the record shareholder by
3609 filing with the corporation a beneficial ownership certificate.
3610 The terms, conditions, and limitations of such treatment shall
3611 be specified in the procedure. To the extent such person is
3612 treated under such procedure as having rights or privileges that
3613 the record shareholder otherwise would have, the record
3614 shareholder may not have those rights or privileges. The extent
3615 of this recognition may be determined in the procedure.

3616 (2) The procedure must specify ~~may set forth~~:

3617 (a) The types of intermediaries or nominees to which it
3618 applies;

3619 (b) The rights or privileges that the corporation
3620 recognizes in a person with respect to whom a beneficial
3621 ownership certificate is filed ~~beneficial owner~~;

3622 (c) The manner in which the procedure is selected, which
3623 shall include that the beneficial ownership certificate be
3624 signed or assented to by or on behalf of the record shareholder
3625 and the person or persons on whose behalf the shares are held ~~by~~

590-03467A-19

2019892c2

3626 ~~the nominee;~~

3627 (d) The information that must be provided when the
3628 procedure is selected;

3629 (e) The period for which selection of the procedure is
3630 effective; ~~and~~

3631 (f) Requirements for notice to the corporation with respect
3632 to the arrangement; and

3633 (g) The form and contents of the beneficial ownership
3634 certificate.

3635 (3) The procedure may specify any other aspects of the
3636 rights and duties created by the filing of a beneficial
3637 ownership certificate.

3638 Section 64. Section 607.0724, Florida Statutes, is amended
3639 to read:

3640 607.0724 ~~Corporation's~~ Acceptance of votes and other
3641 instruments.-

3642 (1) If the name signed on a vote, ballot, consent, waiver,
3643 shareholder demand, or proxy appointment corresponds to the name
3644 of a shareholder, the corporation if acting in good faith is
3645 entitled to accept the vote, ballot, consent, waiver,
3646 shareholder demand, or proxy appointment and give it effect as
3647 the act of the shareholder.

3648 (2) If the name signed on a vote, ballot, consent, waiver,
3649 shareholder demand, or proxy appointment does not correspond to
3650 the name of its shareholder, the corporation if acting in good
3651 faith is nevertheless entitled to accept the vote, ballot,
3652 consent, waiver, shareholder demand, or proxy appointment and
3653 give it effect as the act of the shareholder if:

3654 (a) The shareholder is an entity and the name signed

590-03467A-19

2019892c2

3655 purports to be that of an officer or agent of the entity;

3656 (b) The name signed purports to be that of an
3657 administrator, executor, guardian, personal representative, or
3658 conservator representing the shareholder and, if the corporation
3659 requests, evidence of fiduciary status acceptable to the
3660 corporation has been presented with respect to the vote, ballot,
3661 consent, waiver, shareholder demand, or proxy appointment;

3662 (c) The name signed purports to be that of a receiver,
3663 trustee in bankruptcy, or assignee for the benefit of creditors
3664 of the shareholder and, if the corporation requests, evidence of
3665 this status acceptable to the corporation has been presented
3666 with respect to the vote, ballot, consent, waiver, shareholder
3667 demand, or proxy appointment;

3668 (d) The name signed purports to be that of a pledgee,
3669 beneficial owner, or attorney in fact of the shareholder and, if
3670 the corporation requests, evidence acceptable to the corporation
3671 of the signatory's authority to sign for the shareholder has
3672 been presented with respect to the vote, ballot, consent,
3673 waiver, shareholder demand, or proxy appointment; or

3674 (e) Two or more persons are the shareholder as cotenants or
3675 fiduciaries and the name signed purports to be the name of at
3676 least one of the co_owners and the person signing appears to be
3677 acting on behalf of all the co_owners.

3678 (3) The corporation is entitled to reject a vote, ballot,
3679 consent, waiver, shareholder demand, or proxy appointment if the
3680 person authorized to accept or reject such instrument ~~secretary~~
3681 ~~or other officer or agent authorized to tabulate votes~~, acting
3682 in good faith, has reasonable basis for doubt about the validity
3683 of the signature on it or about the signatory's authority to

590-03467A-19

2019892c2

3684 sign for the shareholder.

3685 (4) Neither the corporation or any person authorized by it,
3686 nor any inspector of election under s. 607.0729, that ~~The~~
3687 ~~corporation and its officer or agent who~~ accepts or rejects a
3688 vote, ballot, consent, waiver, shareholder demand, or proxy
3689 appointment in good faith and in accordance with the standards
3690 of this section is ~~are not~~ liable in damages to the shareholder
3691 for the consequences of the acceptance or rejection.

3692 (5) Corporate action based on the acceptance or rejection
3693 of a vote, ballot, consent, waiver, shareholder demand, or proxy
3694 appointment under this section is valid unless a court of
3695 competent jurisdiction determines otherwise.

3696 (6) If an inspector of election has been appointed under s.
3697 607.0729, the inspector of election may request information and
3698 make determinations under subsections (1), (2), and (3). Any
3699 determination made by the inspector of election under those
3700 subsections is controlling.

3701 Section 65. Subsections (1), (2), (3), and (5) of section
3702 607.0725, Florida Statutes, are amended, and subsection (8) is
3703 added to that section, to read:

3704 607.0725 Quorum and voting requirements for voting groups.-

3705 (1) Shares entitled to vote as a separate voting group may
3706 take action on a matter at a meeting only if a quorum of those
3707 shares exists with respect to that matter. Unless the articles
3708 of incorporation or this chapter ~~act~~ provides otherwise, a
3709 majority of the votes entitled to be cast on the matter by the
3710 voting group constitutes a quorum of that voting group for
3711 action on that matter.

3712 (2) Once a share is represented for any purpose at a

590-03467A-19

2019892c2

3713 meeting, it is deemed present for quorum purposes for the
3714 remainder of the meeting and for any adjournment of that meeting
3715 unless a new record date is or must be fixed ~~set~~ for that
3716 adjourned meeting.

3717 (3) If a quorum exists, action on a matter (other than the
3718 election of directors) by a voting group is approved if the
3719 votes cast within the voting group favoring the action exceed
3720 the votes cast opposing the action, unless the articles of
3721 incorporation or this chapter ~~act~~ requires a greater number of
3722 affirmative votes.

3723 (5) The articles of incorporation may provide for a greater
3724 voting requirement or a greater or lesser quorum requirement for
3725 shareholders, or voting groups of shareholders, than is provided
3726 by this chapter ~~act~~, but in no event shall a quorum consist of
3727 less than one-third of the shares entitled to vote.

3728 (8) Whenever a provision of this chapter provides for
3729 voting of classes or series as separate voting groups, the rules
3730 provided in s. 607.1004 for amendments of articles of
3731 incorporation apply to that provision.

3732 Section 66. Section 607.0726, Florida Statutes, is amended
3733 to read:

3734 607.0726 Action by single and multiple voting groups.—

3735 (1) If the articles of incorporation or this chapter ~~act~~
3736 provides for voting by a single voting group on a matter, action
3737 on that matter is taken when voted upon by that voting group as
3738 provided in s. 607.0725.

3739 (2) If the articles of incorporation or this chapter ~~act~~
3740 provides for voting by two or more voting groups on a matter,
3741 action on that matter is taken only when voted upon by each of

590-03467A-19

2019892c2

3742 those voting groups counted separately as provided in s.
3743 607.0725. Action may be taken by different voting groups ~~one~~
3744 ~~voting group~~ on a matter at different times ~~even though no~~
3745 ~~action is taken by another voting group entitled to vote on the~~
3746 ~~matter.~~

3747 Section 67. Subsection (1) of section 607.0728, Florida
3748 Statutes, is amended to read:

3749 607.0728 Voting for directors; cumulative voting.—

3750 (1) Unless otherwise provided in the articles of
3751 incorporation, or in a bylaw that fixes a greater voting
3752 requirement for the election of directors and that is adopted by
3753 the board of directors or shareholders of a corporation having
3754 shares registered pursuant to s. 12 of the Securities Exchange
3755 Act of 1934 ~~listed on a national securities exchange~~ at the time
3756 of adoption, directors are elected by a plurality of the votes
3757 cast by the shares entitled to vote in the election at a meeting
3758 at which a quorum is present. A bylaw provision or amendment
3759 adopted by shareholders which specifies the votes necessary for
3760 the election of directors may not be further amended or repealed
3761 by the board of directors.

3762 Section 68. Section 607.0729, Florida Statutes, is created
3763 to read:

3764 607.0729 Voting procedures; inspectors of election.—

3765 (1) A corporation that has a class of shares registered
3766 pursuant to s. 12 of the Securities Exchange Act of 1934 shall,
3767 and any other corporation may, appoint one or more inspectors to
3768 act at a meeting of shareholders in connection with determining
3769 voting results. Each inspector will faithfully execute the
3770 duties of inspector with strict impartiality and according to

590-03467A-19

2019892c2

3771 the best of the inspector's ability. An inspector may be an
3772 officer or employee of the corporation. The inspectors may
3773 appoint or retain other persons to assist the inspectors in the
3774 performance of the duties of inspector under subsection (2) and
3775 may rely on information provided by such persons and other
3776 persons, including those appointed to count votes, unless the
3777 inspectors believe reliance is unwarranted.

3778 (2) The inspectors shall:

3779 (a) Ascertain the number of shares outstanding and the
3780 voting power of each;

3781 (b) Determine the shares represented at a meeting;

3782 (c) Determine the validity of proxy appointments and
3783 ballots;

3784 (d) Count the votes; and

3785 (e) Make a written report of the results.

3786 (3) In performing their duties, the inspectors may examine:

3787 (a) The proxy appointment forms and any other information
3788 provided in accordance with s. 607.0722(2);

3789 (b) Any envelope or related writing submitted with those
3790 appointment forms;

3791 (c) Any ballots;

3792 (d) Any evidence or other information specified in s.
3793 607.0724; and

3794 (e) The relevant books and records of the corporation
3795 relating to its shareholders and their entitlement to vote,
3796 including any securities position list provided by a depository
3797 clearing agency.

3798 (4) The inspectors also may consider other information that
3799 they believe is relevant and reliable for the purpose of

590-03467A-19

2019892c2

3800 performing any of the duties assigned to them pursuant to
3801 subsection (2), including, for the purpose of evaluating
3802 inconsistent, incomplete, or erroneous information and
3803 reconciling information submitted on behalf of banks, brokers,
3804 their nominees, or similar persons that indicates more votes
3805 being cast than a proxy is authorized by the record shareholder
3806 to cast or more votes being cast than the record shareholder is
3807 entitled to cast. If the inspectors consider other information
3808 allowed by this subsection, they must, in their report under
3809 subsection (2), specify the information considered by them,
3810 including the purpose or purposes for which the information was
3811 considered, the person or persons from whom they obtained the
3812 information, when the information was obtained, the means by
3813 which the information was obtained, and the basis for the
3814 inspectors' belief that such information is relevant and
3815 reliable.

3816 (5) Determinations of law by the inspectors of election are
3817 subject to de novo review by a court in a judicial proceeding
3818 challenging the inspector's activities under this section.

3819 (6) The chair of the meeting shall announce at the meeting
3820 when the polls close for each matter voted upon. If no
3821 announcement is made, the polls shall be deemed to have closed
3822 upon the final adjournment of the meeting. After the polls
3823 close, no ballots, proxies, or votes, or any revocations or
3824 changes thereto, may be accepted.

3825 Section 69. Subsection (1) of section 607.0730, Florida
3826 Statutes, is amended to read:

3827 607.0730 Voting trusts.—

3828 (1) One or more shareholders may create a voting trust,

590-03467A-19

2019892c2

3829 conferring on a trustee the right to vote or otherwise act for
3830 him or her or for them, by signing an agreement setting out the
3831 provisions of the trust (which may include anything consistent
3832 with its purpose) and transferring their shares to the trustee.
3833 When a voting trust agreement is signed, the trustee shall
3834 prepare a list of the names and addresses of all voting trust
3835 beneficial owners ~~of beneficial interests in the trust~~, together
3836 with the number and class of shares each transferred to the
3837 trust, and deliver copies of the list and agreement to the
3838 corporation at its ~~corporation's~~ principal office. After filing
3839 a copy of the list and agreement in the corporation's principal
3840 office, such copy shall be open to inspection by any shareholder
3841 of the corporation (subject to the requirements of s.
3842 607.1602(3)) or by any beneficiary of the trust under the
3843 agreement during business hours.

3844 Section 70. Section 607.0731, Florida Statutes, is amended
3845 to read:

3846 607.0731 Voting Shareholders' agreements.—

3847 (1) Two or more shareholders may provide for the manner in
3848 which they will vote their shares by signing an agreement for
3849 that purpose. A voting shareholders' agreement created under
3850 this section is not subject to the provisions of s. 607.0730.

3851 (2) A voting shareholders' agreement created under this
3852 section is specifically enforceable.

3853 (3) A transferee of shares in a corporation the
3854 shareholders of which have entered into an agreement authorized
3855 by subsection (1) shall be bound by such agreement if the
3856 transferee takes shares subject to such agreement with notice
3857 thereof. A transferee shall be deemed to have notice of any such

590-03467A-19

2019892c2

3858 agreement or any ~~such~~ renewal thereof if the existence of such
3859 agreement ~~thereof~~ is noted on the face or back of the
3860 certificate or certificates representing such shares or on the
3861 information statement for uncertified shares required by s.
3862 607.0626(2).

3863 Section 71. Subsections (1) through (5) of section
3864 607.0732, Florida Statutes, are amended, and subsection (8) is
3865 added to that section, to read:

3866 607.0732 Shareholder agreements.—

3867 (1) An agreement among the shareholders of a corporation
3868 ~~with 100 or fewer shareholders at the time of the agreement,~~
3869 that complies with this section, ~~is~~ effective among the
3870 shareholders and the corporation, even though it is inconsistent
3871 with one or more other provisions of this chapter, if it:

3872 (a) Eliminates the board of directors or limits or
3873 restricts the discretion or powers of the board of directors;

3874 (b) Governs the authorization or making of distributions
3875 regardless of whether they are ~~or not~~ in proportion to ownership
3876 of shares, subject to the limitations in s. 607.06401;

3877 (c) Establishes who shall be directors or officers of the
3878 corporation, or their terms of office or manner of selection or
3879 removal;

3880 (d) Governs, in general or in regard to specific matters,
3881 the exercise or division of voting power by the shareholders and
3882 directors or among any of them, including use of weighted voting
3883 rights or director proxies;

3884 (e) Establishes the terms and conditions of any agreement
3885 for the transfer or use of property or the provision of services
3886 between the corporation and any shareholder, director, officer,

590-03467A-19

2019892c2

3887 or employee of the corporation or among any of them;

3888 (f) Transfers to any shareholder or other person any
3889 authority to exercise the corporate powers or to manage the
3890 business and affairs of the corporation, including the
3891 resolution of any issue about which there exists a deadlock
3892 among directors or shareholders; ~~or~~

3893 (g) Requires dissolution of the corporation at the request
3894 of one or more of the shareholders or upon the occurrence of a
3895 specified event or contingency; :-

3896 (h) Imposes a liability on a shareholder for the attorney
3897 fees or expenses of the corporation or any other party in
3898 connection with an internal corporate claim, as defined in s.
3899 607.0208;

3900 (i) Establishes, including in lieu of a judicial
3901 dissolution, a mechanism for breaking a deadlock among the
3902 directors or shareholders of the corporation or for addressing
3903 the occurrence or existence of a shareholder asserted oppressive
3904 action; or

3905 (j) ~~(h)~~ Otherwise governs the exercise of the corporate
3906 powers or the management of the business and affairs of the
3907 corporation or the relationship between the shareholders, the
3908 directors, and ~~or~~ the corporation, or among any of them, and is
3909 not contrary to public policy. ~~For purposes of this paragraph,~~
3910 ~~agreements contrary to public policy include, but are not~~
3911 ~~limited to, agreements that reduce the duties of care and~~
3912 ~~loyalty to the corporation as required by ss. 607.0830 and~~
3913 ~~607.0832, exculpate directors from liability that may be imposed~~
3914 ~~under s. 607.0831, adversely affect shareholders' rights to~~
3915 ~~bring derivative actions under s. 607.07401, or abrogate~~

590-03467A-19

2019892c2

3916 ~~dissenters' rights under ss. 607.1301-607.1320.~~

3917 (2) An agreement authorized by this section shall be:

3918 (a)1. Set forth or referenced in the articles of
3919 incorporation or bylaws and approved by all persons who are
3920 shareholders at the time the agreement; or

3921 2. Set forth in a written agreement that is signed by all
3922 persons who are shareholders at the time of the agreement and
3923 such written agreement is made known to the corporation; and.

3924 (b) Subject to termination or amendment only by all persons
3925 who are shareholders at the time of the termination or
3926 amendment, unless the agreement provides otherwise ~~with respect~~
3927 ~~to termination and with respect to amendments that do not change~~
3928 ~~the designation, rights, preferences, or limitations of any of~~
3929 ~~the shares of a class or series.~~

3930 (3) The existence of an agreement authorized by this
3931 section shall be noted conspicuously on the front or back of
3932 each certificate for outstanding shares or on the information
3933 statement required with respect to uncertified shares by s.
3934 607.0626(2). If at the time of the agreement the corporation has
3935 shares outstanding which are represented by certificates, the
3936 corporation shall recall such certificates and issue substitute
3937 certificates that comply with this subsection. The failure to
3938 note the existence of the agreement on the certificate or
3939 information statement shall not affect the validity of the
3940 agreement or any action taken pursuant to it. Any purchaser of
3941 shares who, at the time of purchase, did not have knowledge of
3942 the existence of the agreement shall be entitled to rescission
3943 of the purchase. A purchaser shall be deemed to have knowledge
3944 of the existence of the agreement if its existence is noted on

590-03467A-19

2019892c2

3945 the certificate or information statement for the shares in
3946 compliance with this subsection and, if the shares are not
3947 represented by a certificate, the information statement is
3948 delivered to the purchaser at or before ~~prior to~~ the time of the
3949 purchase of the shares. An action to enforce the right of
3950 rescission authorized by this subsection must be commenced
3951 within the earlier of 90 days after discovery of the existence
3952 of the agreement or 2 years after the time of purchase of the
3953 shares.

3954 (4) An agreement authorized by this section shall cease to
3955 be effective when shares of the corporation are registered
3956 pursuant to s. 12 of the Securities Exchange Act of 1934 ~~listed~~
3957 ~~on a national securities exchange or regularly quoted in a~~
3958 ~~market maintained by one or more members of a national or~~
3959 ~~affiliated securities association.~~ If the agreement ceases to be
3960 effective for any reason, the board of directors may, if the
3961 agreement is contained or referred to in the corporation's
3962 articles of incorporation or bylaws, adopt an amendment to the
3963 articles of incorporation or bylaws, without shareholder action,
3964 to delete the agreement and any references to it.

3965 (5) An agreement authorized by this section that limits or
3966 restricts the discretion or powers of the board of directors
3967 shall relieve the directors of, and impose upon the person or
3968 persons in whom such discretion or powers are vested, liability
3969 for acts or omissions imposed by law on directors to the extent
3970 that the discretion or powers of the directors are limited by
3971 the agreement.

3972 (8) This section does not limit or invalidate agreements
3973 that are otherwise valid or authorized without regard to this

590-03467A-19

2019892c2

3974 section, including shareholder agreements between or among some
3975 or all of the shareholders or agreements between or among the
3976 corporation and one or more shareholders.

3977 Section 72. Section 607.07401, Florida Statutes, is
3978 repealed.

3979 Section 73. Section 607.0741, Florida Statutes, is created
3980 to read:

3981 607.0741 Standing.—

3982 (1) A shareholder may not commence a derivative proceeding
3983 unless the shareholder is a shareholder at the time the action
3984 is commenced and:

3985 (a) Was a shareholder when the conduct giving rise to the
3986 action occurred; or

3987 (b) Whose status as a shareholder devolved on the person
3988 through transfer or by operation of law from one who was a
3989 shareholder when the conduct giving rise to the action occurred.

3990 (2) In ss. 607.0741-607.0747, the term "shareholder" means
3991 a record shareholder, a beneficial shareholder, or an
3992 unrestricted voting trust beneficial owner.

3993 Section 74. Section 607.0742, Florida Statutes, is created
3994 to read:

3995 607.0742 Complaint; demand and excuse.—A complaint in a
3996 proceeding brought in the right of a corporation must be
3997 verified and allege with particularity:

3998 (1) The demand, if any, made to obtain the action desired
3999 by the shareholder from the board of directors; and

4000 (2) Either:

4001 (a) If such a demand was made, that the demand was refused,
4002 rejected, or ignored by the board of directors prior to the

590-03467A-19

2019892c2

4003 expiration of 90 days from the date the demand was made;

4004 (b) If such a demand was made, why irreparable injury to
4005 the corporation or misapplication or waste of corporate assets
4006 causing material injury to the corporation would result by
4007 waiting for the expiration of a 90-day period from the date the
4008 demand was made; or

4009 (c) The reason or reasons the shareholder did not make the
4010 effort to obtain the desired action from the board of directors
4011 or comparable authority.

4012 Section 75. Section 607.0743, Florida Statutes, is created
4013 to read:

4014 607.0743 Stay of proceedings.—If the corporation commences
4015 an inquiry into the allegations made in the demand or complaint,
4016 the court may stay any derivative proceeding for such period as
4017 the court deems appropriate.

4018 Section 76. Section 607.0744, Florida Statutes, is created
4019 to read:

4020 607.0744 Dismissal.—

4021 (1) A derivative proceeding may be dismissed, in whole or
4022 in part, by the court on motion by the corporation if a group
4023 specified in subsection (2) or subsection (3) has determined in
4024 good faith, after conducting a reasonable inquiry upon which its
4025 conclusions are based, that the maintenance of the derivative
4026 proceeding is not in the best interests of the corporation. In
4027 all such cases, the corporation has the burden of proof
4028 regarding the qualifications, good faith, and reasonable inquiry
4029 of the group making the determination.

4030 (2) Unless a panel is appointed pursuant to subsection (3),
4031 the determination required in subsection (1) shall be made by:

590-03467A-19

2019892c2

4032 (a) A majority of qualified directors present at a meeting
4033 of the board of directors if the qualified directors constitute
4034 a quorum; or

4035 (b) A majority vote of a committee consisting of two or
4036 more qualified directors appointed by majority vote of qualified
4037 directors present at a meeting of the board of directors,
4038 regardless of whether such qualified directors constitute a
4039 quorum.

4040 (3) Upon motion by the corporation, the court may appoint a
4041 panel consisting of one or more disinterested and independent
4042 individuals to make a determination required in subsection (1).

4043 (4) This section does not prevent the court from:

4044 (a) Enforcing a person's rights under the corporation's
4045 articles of incorporation, bylaws or this chapter, including the
4046 person's rights to information under s. 607.1602; or

4047 (b) Exercising its equitable or other powers, including
4048 granting extraordinary relief in the form of a temporary
4049 restraining order or preliminary injunction.

4050 Section 77. Section 607.0745, Florida Statutes, is created
4051 to read:

4052 607.0745 Discontinuance or settlement; notice.-

4053 (1) A derivative action on behalf of a corporation may not
4054 be discontinued or settled without the court's approval.

4055 (2) If the court determines that a proposed discontinuance
4056 or settlement will substantially affect the interest of the
4057 corporation's shareholders or a class, series, or voting group
4058 of shareholders, the court shall direct that notice be given to
4059 the shareholders affected. The court may determine which party
4060 or parties to the derivative action shall bear the expense of

590-03467A-19

2019892c2

4061 giving the notice.

4062 Section 78. Section 607.0746, Florida Statutes, is created
4063 to read:

4064 607.0746 Proceeds and expenses.—On termination of the
4065 derivative proceeding the court may:

4066 (1) Order the corporation to pay from the amount recovered
4067 in the derivative proceeding by the corporation the plaintiff's
4068 reasonable expenses, including reasonable attorney fees and
4069 costs, incurred in the derivative proceeding if it finds that,
4070 in the derivative proceeding, the plaintiff was successful in
4071 whole or in part; or

4072 (2) Order the plaintiff to pay any of the defendant's
4073 reasonable expenses, including reasonable attorney fees and
4074 costs, incurred in defending the proceeding if it finds that the
4075 proceeding was commenced or maintained without reasonable cause
4076 or for an improper purpose.

4077 Section 79. Section 607.0747, Florida Statutes, is created
4078 to read:

4079 607.0747 Applicability to foreign corporations.—In any
4080 derivative proceeding in the right of a foreign corporation
4081 brought in the courts of this state, the matters covered by ss.
4082 607.0741-607.0747 shall be governed by the laws of the
4083 jurisdiction of incorporation of the foreign corporation except
4084 for ss. 607.0743, 607.0745, and 607.0746.

4085 Section 80. Section 607.0748, Florida Statutes, is created
4086 to read:

4087 607.0748 Shareholder action to appoint custodians or
4088 receivers.—

4089 (1) A circuit court may appoint one or more persons to be

590-03467A-19

2019892c2

4090 custodians or receivers of and for a corporation in a proceeding
4091 by a shareholder where it is established that:

4092 (a) The directors are deadlocked in the management of the
4093 corporate affairs, the shareholders are unable to break the
4094 deadlock, and irreparable injury to the corporation is
4095 threatened or being suffered; or

4096 (b) The directors or those in control of the corporation
4097 are acting fraudulently and irreparable injury to the
4098 corporation is threatened or being suffered.

4099 (2) The court:

4100 (a) May issue injunctions, appoint one or more temporary
4101 custodians or temporary receivers with all the powers and duties
4102 the court directs, take other action to preserve the corporate
4103 assets wherever located, and carry on the business of the
4104 corporation until a full hearing is held;

4105 (b) Shall hold a full hearing, after notifying all parties
4106 to the proceeding and any interested persons designated by the
4107 court, before appointing a custodian or receiver; and

4108 (c) Has jurisdiction over the corporation and all of its
4109 property, wherever located.

4110 (3) The court may appoint a natural person, a domestic
4111 eligible entity, or a foreign eligible entity authorized to
4112 transact business in this state as a custodian or receiver and
4113 may require the custodian or receiver to post bond, with or
4114 without sureties, in an amount the court directs.

4115 (4) The court shall describe the powers and duties of the
4116 custodian or receiver in its appointing order, which may be
4117 amended. Among other powers:

4118 (a) A custodian may exercise all of the powers of the

590-03467A-19

2019892c2

4119 corporation, through or in place of its board of directors, to
4120 the extent necessary to manage the business and affairs of the
4121 corporation; and

4122 (b) A receiver may dispose of all or any part of the assets
4123 of the corporation, wherever located, at a public or private
4124 sale, if authorized by the court, and may sue and defend in the
4125 receiver's own name as receiver in all courts of this state.

4126 (5) During a custodianship, the court may redesignate the
4127 custodian a receiver and, during a receivership, the court may
4128 redesignate the receiver a custodian, in each case if doing so
4129 is in the best interests of the corporation.

4130 (6) The court from time to time during the custodianship or
4131 receivership may order compensation paid and expense
4132 disbursements or reimbursements made to any custodian or
4133 receiver from the assets of the corporation or proceeds from the
4134 sale of its assets.

4135 Section 81. Section 607.0749, Florida Statutes, is created
4136 to read:

4137 607.0749 Provisional director.—

4138 (1) In a proceeding by a shareholder, a provisional
4139 director may be appointed in the discretion of the court if it
4140 appears that such action by the court will remedy a situation in
4141 which the directors are deadlocked in the management of the
4142 corporate affairs and the shareholders are unable to break the
4143 deadlock. A provisional director may be appointed
4144 notwithstanding the absence of a vacancy on the board of
4145 directors, and such director shall have all the rights and
4146 powers of a duly elected director, including the right to notice
4147 of and to vote at meetings of directors, until such time as the

590-03467A-19

2019892c2

4148 provisional director is removed by order of the court or, unless
4149 otherwise ordered by a court, removed by a vote of the
4150 shareholders sufficient either to elect a majority of the board
4151 of directors or, if greater than majority voting is required by
4152 the articles of incorporation or the bylaws, to elect the
4153 requisite number of directors needed to take action. A
4154 provisional director shall be an impartial person who is neither
4155 a shareholder nor a creditor of the corporation or of any
4156 subsidiary or affiliate of the corporation, and whose further
4157 qualifications, if any, may be determined by the court.

4158 (2) A provisional director shall report from time to time
4159 to the court concerning the matter complained of, or the status
4160 of the deadlock, if any, and of the status of the corporation's
4161 business, as the court shall direct. No provisional director
4162 shall be liable for any action taken or decision made, except as
4163 directors may be liable under s. 607.0831. In addition, the
4164 provisional director shall submit to the court, if so directed,
4165 recommendations as to the appropriate disposition of the action.
4166 Whenever a provisional director is appointed, any officer or
4167 director of the corporation may, from time to time, petition the
4168 court for instructions clarifying the duties and
4169 responsibilities of such officer or director.

4170 (3) In any proceeding under this section, the court shall
4171 allow reasonable compensation to the provisional director for
4172 services rendered and reimbursement or direct payment of
4173 reasonable costs and expenses, which amounts shall be paid by
4174 the corporation.

4175 Section 82. Section 607.0801, Florida Statutes, is amended
4176 to read:

590-03467A-19

2019892c2

4177 607.0801 Requirement for and duties of board of directors.-

4178 (1) Except as may be provided in an agreement authorized
4179 pursuant to s. 607.0732(1), each corporation must have a board
4180 of directors.

4181 (2) All corporate powers shall be exercised by or under the
4182 authority of the board of directors of the corporation, and the
4183 business and affairs of the corporation shall be managed by or
4184 under the direction of, and subject to the oversight of, its
4185 board of directors, subject to any limitation set forth in the
4186 articles of incorporation or in an agreement authorized under s.
4187 607.0732.

4188 Section 83. Section 607.0802, Florida Statutes, is amended
4189 to read:

4190 607.0802 Qualifications of directors.-

4191 (1) Directors must be natural persons who are 18 years of
4192 age or older but need not be residents of this state or
4193 shareholders of the corporation unless the articles of
4194 incorporation or bylaws so require. The articles of
4195 incorporation or bylaws may prescribe additional qualifications
4196 for directors or nominees for directors.

4197 (2) A qualification for nomination for director prescribed
4198 before a person's nomination shall apply to such person at the
4199 time of nomination. A qualification for nomination for director
4200 prescribed after a person's nomination does not apply to such
4201 person with respect to such nomination.

4202 (3) A qualification for director prescribed before a
4203 director has been elected or appointed may apply only at the
4204 time an individual becomes a director or may apply during a
4205 director's term. A qualification prescribed after a director has

590-03467A-19

2019892c2

4206 been elected or appointed does not apply to that director before
4207 the end of that director's term.

4208 (4)~~(2)~~ In the event that the eligibility to serve as a
4209 member of the board of directors of a condominium association,
4210 cooperative association, homeowners' association, or mobile home
4211 owners' association is restricted to membership in such
4212 association and membership is appurtenant to ownership of a
4213 unit, parcel, or mobile home, a grantor of a trust described in
4214 s. 733.707(3), or a qualified beneficiary as defined in s.
4215 736.0103 of a trust which owns a unit, parcel, or mobile home
4216 shall be deemed a member of the association and eligible to
4217 serve as a director of the condominium association, cooperative
4218 association, homeowners' association, or mobile home owners'
4219 association, provided that said beneficiary occupies the unit,
4220 parcel, or mobile home.

4221 Section 84. Subsection (3) of section 607.0803, Florida
4222 Statutes, is amended to read:

4223 607.0803 Number of directors.—

4224 (3) Directors are elected at the first annual shareholders'
4225 meeting and at each annual shareholders' meeting thereafter,
4226 unless elected by written consent in lieu of an annual
4227 shareholders' meeting pursuant to s. 607.0704 or unless their
4228 terms are staggered under s. 607.0806.

4229 Section 85. Section 607.0804, Florida Statutes, is amended
4230 to read:

4231 607.0804 Election of directors by certain voting groups;
4232 special voting rights of certain directors.—The articles of
4233 incorporation may confer upon holders of any voting group the
4234 right to elect one or more directors who shall serve for such

590-03467A-19

2019892c2

4235 term and have such voting powers as are stated in the articles
4236 of incorporation. The terms of office and voting powers of the
4237 directors elected in the manner provided in the articles of
4238 incorporation may be greater than or less than those of any
4239 other director or class of directors. If the articles of
4240 incorporation provide that directors elected by the holders of a
4241 voting group shall have more or less than one vote per director
4242 on any matter, every reference in this chapter ~~act~~ to a majority
4243 or other proportion of directors shall refer to a majority or
4244 other proportion of the votes of such directors. If a
4245 shareholders' agreement meeting the requirements of s. 607.0732,
4246 or articles of incorporation or bylaws meeting the requirements
4247 of s. 607.0732, provide that directors shall have more or less
4248 than one vote per director on any matter, every reference in
4249 this chapter to a majority or other proportion of directors
4250 shall refer to a majority or other proportion of the votes of
4251 such directors.

4252 Section 86. Subsections (2) and (5) of section 607.0805,
4253 Florida Statutes, are amended to read:

4254 607.0805 Terms of directors generally.—

4255 (2) The terms of all other directors expire at the next
4256 annual shareholders' meeting following their election, except to
4257 the extent:

4258 (a) Provided in s. 607.0806;

4259 (b) Provided in s. 607.1023 if a bylaw electing to be
4260 governed by that section is in effect; or

4261 (c) That a shorter term is specified in the articles of
4262 incorporation in the event of a director nominee failing to
4263 receive a specified vote for election ~~unless their terms are~~

590-03467A-19

2019892c2

4264 ~~staggered under s. 607.0806.~~

4265 (5) Except to the extent otherwise provided in the articles
4266 of incorporation or under s. 607.1023, if a bylaw electing to be
4267 governed by that section is in effect, despite the expiration of
4268 a director's term, the director continues to serve until his or
4269 her successor is elected and qualifies or until there is a
4270 decrease in the number of directors.

4271 Section 87. Section 607.0806, Florida Statutes, is amended
4272 to read:

4273 607.0806 Staggered terms for directors.—

4274 ~~(1) The directors of any corporation organized under this~~
4275 ~~act may, by the articles of incorporation, the initial bylaws or~~
4276 ~~by an initial bylaw, or by a bylaw adopted by a vote of the~~
4277 ~~shareholders, may provide for staggering the terms of directors~~
4278 ~~by dividing the total number of directors into two or three~~
4279 ~~groups, with each group containing half or one-third of the~~
4280 ~~total, as near as may be practicable. In that event, the terms~~
4281 ~~of the first group expire at the first annual shareholders'~~
4282 ~~meeting after their election, the terms of the second group~~
4283 ~~expire at the second annual shareholders' meeting after their~~
4284 ~~election, and the terms of the third group, if any, expire at~~
4285 ~~the third annual shareholders' meeting after their election. At~~
4286 ~~each annual shareholders' meeting held thereafter, directors~~
4287 ~~shall be elected for a term of two years or three years be~~
4288 ~~divided into one, two, or three classes with the number of~~
4289 ~~directors in each class being as nearly equal as possible; the~~
4290 ~~term of office of those of the first class to expire at the~~
4291 ~~annual meeting next ensuing; of the second class 1 year~~
4292 ~~thereafter; of the third class 2 years thereafter; and at each~~

590-03467A-19

2019892c2

4293 ~~annual election held after such classification and election,~~
4294 ~~directors shall be chosen for a full term,~~ as the case may be,
4295 to succeed those whose terms expire. If the directors have
4296 staggered terms, then any increase or decrease in the number of
4297 directors shall be so apportioned among the classes as to make
4298 all classes as nearly equal in number as possible.

4299 (2) In the case of any Florida corporation in existence
4300 prior to July 1, 1990, directors of such corporation divided
4301 into four classes may continue to serve staggered terms as the
4302 articles of incorporation or bylaws of such corporation provided
4303 immediately prior to July 1, 1990 ~~the effective date of this~~
4304 ~~act,~~ unless and until the articles of incorporation or bylaws
4305 are amended to alter or terminate such classes.

4306 Section 88. Section 607.0807, Florida Statutes, is amended
4307 to read:

4308 607.0807 Resignation of directors.—

4309 (1) A director may resign at any time by delivering written
4310 notice of resignation to the board of directors or its chair or
4311 to the secretary of the corporation.

4312 (2) A resignation is effective when the notice of
4313 resignation is delivered unless the notice of resignation
4314 specifies a later effective date or an effective date determined
4315 upon the subsequent happening of an event or events. If a
4316 resignation is made effective at a later date or upon the
4317 subsequent happening of an event or events, the board of
4318 directors may fill the pending vacancy before the effective date
4319 occurs if the board of directors provides that the successor
4320 does not take office until the effective date.

4321 (3) A resignation that specifies a later effective date or

590-03467A-19

2019892c2

4322 that is conditioned upon the subsequent happening of an event or
4323 events or upon failing to receive a specified vote for election
4324 as a director may provide that the resignation is irrevocable.

4325 Section 89. Subsections (3) and (4) of section 607.0808,
4326 Florida Statutes, are amended to read:

4327 607.0808 Removal of directors by shareholders.—

4328 (3) A director may be removed if the number of votes cast
4329 to remove the director exceeds the number of votes cast not to
4330 remove the director, except to the extent the articles of
4331 incorporation or bylaws require a greater number; provided that
4332 if cumulative voting is authorized, a director may not be
4333 removed if, in the case of a meeting, the number of votes
4334 sufficient to elect the director under cumulative voting is
4335 voted against his or her removal and, if action is taken by less
4336 than unanimous written consent, voting shareholders entitled to
4337 the number of votes sufficient to elect the director under
4338 cumulative voting do not consent to the removal. ~~If cumulate~~
4339 ~~voting is not authorized, a director may be removed only if the~~
4340 ~~number of votes cast to remove the director exceeds the number~~
4341 ~~of votes cast not to remove him or her.~~

4342 (4) A director may be removed by the shareholders only at a
4343 meeting of shareholders called for the purpose of removing the
4344 director and the meeting notice must state that the, ~~provided~~
4345 ~~the notice of the meeting states that the purpose, or one of the~~
4346 ~~purposes, of the meeting is removal of the director is the~~
4347 purpose of the meeting.

4348 Section 90. Section 607.08081, Florida Statutes, is created
4349 to read:

4350 607.08081 Removal of directors by judicial proceedings.—

590-03467A-19

2019892c2

4351 (1) The circuit court in the applicable county may remove a
4352 director from office, and may order other relief, including
4353 barring the director from reelection for a period prescribed by
4354 the court, in a proceeding commenced by or in the right of the
4355 corporation if the court finds that:

4356 (a) The director engaged in fraudulent conduct with respect
4357 to the corporation or its shareholders, grossly abused the
4358 position of director, or intentionally inflicted harm on the
4359 corporation; and

4360 (b) Considering the director's course of conduct and the
4361 inadequacy of other available remedies, removal or such other
4362 relief would be in the best interest of the corporation.

4363 (2) A shareholder proceeding on behalf of the corporation
4364 under paragraph (1) (a) shall comply with all of the requirements
4365 of ss. 607.0741-607.0747, except s. 607.0741(1).

4366 Section 91. Section 607.0809, Florida Statutes, is amended
4367 to read:

4368 607.0809 Vacancy on board.—

4369 (1) Unless the articles of incorporation provide otherwise,
4370 if ~~Whenever~~ a vacancy occurs on a board of directors, including
4371 a vacancy resulting from an increase in the number of
4372 directors; ~~it may be filled by the affirmative vote of a~~
4373 majority of the remaining directors, though less than a quorum
4374 of the board of directors, or by the shareholders, unless the
4375 articles of incorporation provide otherwise

4376 (a) The shareholders may fill the vacancy;

4377 (b) The board of directors may fill the vacancy; or

4378 (c) If the directors remaining in office are less than a
4379 quorum, the vacancy may be filled by the affirmative vote of a

590-03467A-19

2019892c2

4380 majority of all the directors then remaining in office.

4381 (2) If the vacant office was held by a director elected by
4382 a voting group of shareholders, only the holders of shares of
4383 that voting group are entitled to vote to fill the vacancy if it
4384 is filled by the shareholders, and only the remaining directors
4385 elected by that voting group, even if less than a quorum, are
4386 entitled to fill the vacancy if it is filled by the directors
4387 ~~Whenever the holders of shares of any voting group are entitled~~
4388 ~~to elect a class of one or more directors by the provisions of~~
4389 ~~the articles of incorporation, vacancies in such class may be~~
4390 ~~filled by holders of shares of that voting group or by a~~
4391 ~~majority of the directors then in office elected by such voting~~
4392 ~~group or by a sole remaining director so elected. If no director~~
4393 ~~elected by such voting group remains in office, unless the~~
4394 ~~articles of incorporation provide otherwise, directors not~~
4395 ~~elected by such voting group may fill vacancies as provided in~~
4396 ~~subsection (1).~~

4397 (3) A vacancy that will ~~may~~ occur at a specified later date
4398 ~~(under s. 607.0807(2) by reason of a resignation effective at a~~
4399 ~~later date~~ under s. 607.0807(2) or otherwise ~~or upon the~~
4400 ~~subsequent happening of an event)~~ may be filled before the
4401 vacancy occurs, but the new director may not take office until
4402 the vacancy occurs.

4403 Section 92. Subsection (4) of section 607.0820, Florida
4404 Statutes, is amended to read:

4405 607.0820 Meetings.—

4406 (4) Unless the articles of incorporation or bylaws provide
4407 otherwise, the board of directors may permit any or all
4408 directors to participate in any meeting of the board of

590-03467A-19

2019892c2

4409 ~~directors a regular or special meeting by, or conduct the~~
4410 ~~meeting~~ through the use of, any means of communication by which
4411 all directors participating may simultaneously hear each other
4412 during the meeting. A director participating in a meeting by
4413 this means is deemed to be present in person at the meeting.

4414 Section 93. Subsections (1) and (2) of section 607.0821,
4415 Florida Statutes, are amended to read:

4416 607.0821 Action by directors without a meeting.—

4417 (1) Unless the articles of incorporation or bylaws provide
4418 otherwise, action required or permitted by this chapter ~~act~~ to
4419 be taken at a board of directors' meeting or committee meeting
4420 may be taken without a meeting if the action is taken by all
4421 members of the board or of the committee. The action must be
4422 evidenced by one or more written consents describing the action
4423 taken and signed by each director or committee member and
4424 delivered to the corporation.

4425 (2) Action taken under this section is effective when the
4426 last director signs the consent and delivers the consent to the
4427 corporation, unless the consent specifies a different effective
4428 date. A director's consent may be withdrawn by a revocation
4429 signed by the director and delivered to the corporation prior to
4430 delivery to the corporation of unrevoked written consents signed
4431 by all the directors.

4432 Section 94. Section 607.0823, Florida Statutes, is amended
4433 to read:

4434 607.0823 Waiver of notice.—Notice of a meeting of the board
4435 of directors need not be given to any director who signs a
4436 waiver of notice either before or after the meeting. Attendance
4437 of a director at a meeting shall constitute a waiver of notice

590-03467A-19

2019892c2

4438 of such meeting and a waiver of any and all objections to the
4439 date, time, place, or purpose of the meeting, ~~the time of the~~
4440 ~~meeting,~~ or the manner in which it has been called or convened,
4441 except when a director states, at the beginning of the meeting
4442 or promptly upon arrival at the meeting, any objection to
4443 holding the meeting or to the transaction of business because
4444 the meeting is not lawfully called or convened and if the
4445 director, after objection, does not vote for or consent to
4446 action taken at the meeting.

4447 Section 95. Subsections (1), (2), and (3) of section
4448 607.0824, Florida Statutes, are amended, present subsection (4)
4449 of that section is redesignated as subsection (5), and a new
4450 subsection (4) is added to that section, to read:

4451 607.0824 Quorum and voting.—

4452 (1) Unless the articles of incorporation or bylaws provide
4453 for a greater or lesser number, or unless otherwise expressly
4454 provided in this chapter ~~require a different number,~~ a quorum of
4455 a board of directors consists of a majority of the number of
4456 directors specified in or fixed in accordance with ~~prescribed by~~
4457 the articles of incorporation or the bylaws.

4458 (2) The quorum of the board of directors specified in or
4459 fixed in accordance with the articles of incorporation or bylaws
4460 may not consist of less than ~~may authorize a quorum of a board~~
4461 ~~of directors to consist of less than a majority but no fewer~~
4462 ~~than~~ one-third of the specified or fixed ~~prescribed~~ number of
4463 directors ~~determined under the articles of incorporation or the~~
4464 ~~bylaws.~~

4465 (3) If a quorum is present when a vote is taken, the
4466 affirmative vote of a majority of directors present is the act

590-03467A-19

2019892c2

4467 of the board of directors unless the articles of incorporation
4468 or bylaws require the vote of a greater number of directors or
4469 unless otherwise expressly provided for in this chapter.

4470 (4) If any directors have special voting rights in
4471 compliance with the provisions of s. 607.0804, the quorum and
4472 voting requirements of this section shall be determined
4473 consistent with the provisions of s. 607.0804.

4474 Section 96. Section 607.0825, Florida Statutes, is amended
4475 to read:

4476 607.0825 Committees.—

4477 (1) Unless this chapter, the articles of incorporation, or
4478 the bylaws provide otherwise, the board of directors may
4479 establish ~~provide, the board of directors, by resolution adopted~~
4480 ~~by a majority of the full board of directors, may designate from~~
4481 ~~among its members an executive committee and one or more other~~
4482 board committees to perform functions of the board of directors.
4483 Such committees shall be composed exclusively of one or more
4484 directors ~~committees each of which, to the extent provided in~~
4485 ~~such resolution or in the articles of incorporation or the~~
4486 ~~bylaws of the corporation, shall have and may exercise all the~~
4487 ~~authority of the board of directors, except that no such~~
4488 ~~committee shall have the authority to:~~

4489 ~~(a) Approve or recommend to shareholders actions or~~
4490 ~~proposals required by this act to be approved by shareholders.~~

4491 ~~(b) Fill vacancies on the board of directors or any~~
4492 ~~committee thereof.~~

4493 ~~(c) Adopt, amend, or repeal the bylaws.~~

4494 ~~(d) Authorize or approve the reacquisition of shares unless~~
4495 ~~pursuant to a general formula or method specified by the board~~

590-03467A-19

2019892c2

4496 ~~of directors.~~

4497 ~~(c) Authorize or approve the issuance or sale or contract~~
4498 ~~for the sale of shares, or determine the designation and~~
4499 ~~relative rights, preferences, and limitations of a voting group~~
4500 ~~except that the board of directors may authorize a committee (or~~
4501 ~~a senior executive officer of the corporation) to do so within~~
4502 ~~limits specifically prescribed by the board of directors.~~

4503 (2) Unless this chapter, the articles of incorporation, or
4504 the bylaws provide otherwise, the establishment of a board
4505 committee, the appointment of members to such committee, the
4506 dissolution of a previously created board committee, and the
4507 removal of members from a previously created board committee
4508 must be approved by a majority of all the directors in office
4509 when the action is taken ~~Unless the articles of incorporation or~~
4510 ~~bylaws provide otherwise, ss. 607.0820, 607.0822, 607.0823, and~~
4511 ~~607.0824 which govern meetings, notice and waiver of notice, and~~
4512 ~~quorum and voting requirements of the board of directors apply~~
4513 ~~to committees and their members as well.~~

4514 (3) Sections 607.0820-607.0824, which govern meetings,
4515 notice and waiver of notice, and quorum and voting requirements
4516 of the board of directors, apply to board committees and their
4517 members as well.

4518 (4) A board committee may exercise the powers of the board
4519 of directors under s. 607.0801, except that a board committee
4520 may not:

4521 (a) Authorize or approve the reacquisition of shares unless
4522 pursuant to a formula or method, or within limits, prescribed by
4523 the board of directors.

4524 (b) Approve, recommend to shareholders, or propose to

590-03467A-19

2019892c2

4525 shareholders action that this chapter requires be approved by
4526 shareholders.

4527 (c) Fill vacancies on the board of directors or on any
4528 board committee.

4529 (d) Adopt, amend, or repeal bylaws.

4530 (5) The establishment of, delegation of authority to, or
4531 action by a committee does not alone constitute compliance by a
4532 director with the standards of conduct described in s. 607.0830.

4533 (6) The board of directors may appoint ~~Each committee must~~
4534 ~~have two or more members who serve at the pleasure of the board~~
4535 ~~of directors. The board, by resolution adopted in accordance~~
4536 ~~with subsection (1), may designate one or more directors as~~
4537 alternate members of any board such committee to fill a vacancy
4538 on the committee or to replace ~~who may act in the place and~~
4539 ~~stead of any absent or disqualified member of such committee~~
4540 during the member's absence or disqualification. If the articles
4541 of incorporation, the bylaws, or the resolution creating the
4542 board committee so provide, the member or members present at any
4543 board committee meeting and not disqualified from voting, by
4544 unanimous action, may appoint another director to act in place
4545 of an absent or disqualified member during that member's absence
4546 or disqualification ~~or members at any meeting of such committee.~~

4547 ~~(4) Neither the designation of any such committee, the~~
4548 ~~delegation thereto of authority, nor action by such committee~~
4549 ~~pursuant to such authority shall alone constitute compliance by~~
4550 ~~any member of the board of directors not a member of the~~
4551 ~~committee in question with his or her responsibility to act in~~
4552 ~~good faith, in a manner he or she reasonably believes to be in~~
4553 ~~the best interests of the corporation, and with such care as an~~

590-03467A-19

2019892c2

4554 ~~ordinarily prudent person in a like position would use under~~
4555 ~~similar circumstances.~~

4556 Section 97. Section 607.0826, Florida Statutes, is created
4557 to read:

4558 607.0826 Submission of matters for a shareholder vote.—A
4559 corporation may agree to submit a matter to a vote of its
4560 shareholders even if, after approving the matter, the board of
4561 directors determines it no longer recommends the matter.

4562 Section 98. Section 607.0830, Florida Statutes, is amended
4563 to read:

4564 607.0830 General standards for directors.—

4565 (1) Each member of the board of directors, when discharging
4566 the duties of a director, including in discharging his or her
4567 duties as a member of a board committee, must act ~~A director~~
4568 ~~shall discharge his or her duties as a director, including his~~
4569 ~~or her duties as a member of a committee:~~

4570 (a) In good faith; and

4571 (b) ~~With the care an ordinarily prudent person in a like~~
4572 ~~position would exercise under similar circumstances; and~~

4573 ~~(c)~~ In a manner he or she reasonably believes to be in the
4574 best interests of the corporation.

4575 (2) The members of the board of directors or a board
4576 committee, when becoming informed in connection with a
4577 decisionmaking function or devoting attention to an oversight
4578 function, shall discharge their duties with the care that an
4579 ordinary prudent person in a like position would reasonably
4580 believe appropriate under similar circumstances ~~In discharging~~
4581 ~~his or her duties, a director is entitled to rely on~~
4582 ~~information, opinions, reports, or statements, including~~

590-03467A-19

2019892c2

4583 ~~financial statements and other financial data, if prepared or~~
4584 ~~presented by:~~

4585 ~~(a) One or more officers or employees of the corporation~~
4586 ~~whom the director reasonably believes to be reliable and~~
4587 ~~competent in the matters presented;~~

4588 ~~(b) Legal counsel, public accountants, or other persons as~~
4589 ~~to matters the director reasonably believes are within the~~
4590 ~~persons' professional or expert competence; or~~

4591 ~~(c) A committee of the board of directors of which he or~~
4592 ~~she is not a member if the director reasonably believes the~~
4593 ~~committee merits confidence.~~

4594 (3) In discharging board or board committee duties, a
4595 director who does not have knowledge that makes reliance
4596 unwarranted is entitled to rely on the performance by any of the
4597 persons specified in paragraph (5) (a) or paragraph (5) (b) to
4598 whom the board may have delegated, formally or informally by
4599 course of conduct, the authority or duty to perform one or more
4600 of the board's functions that are delegable under applicable
4601 law.

4602 (4) In discharging board or board committee duties, a
4603 director who does not have knowledge that makes reliance
4604 unwarranted is entitled to rely on information, opinions,
4605 reports, or statements, including financial statements and other
4606 financial data, prepared or presented by any of the persons
4607 specified in subsection (5).

4608 (5) A director is entitled to rely, in accordance with
4609 subsection (3) or subsection (4), on:

4610 (a) One or more officers or employees of the corporation
4611 whom the director reasonably believes to be reliable and

590-03467A-19

2019892c2

4612 competent in the functions performed or the information,
4613 opinions, reports, or statements provided;

4614 (b) Legal counsel, public accountants, or other persons
4615 retained by the corporation or by a committee of the board of
4616 the corporation as to matters involving skills or expertise the
4617 director reasonably believes are matters:

4618 1. Within the particular person's professional or expert
4619 competence; or

4620 2. As to which the particular person merits confidence; or

4621 (c) A committee of the board of directors of which the
4622 director is not a member if the director reasonably believes the
4623 committee merits confidence.

4624 (6)-(3) In discharging board or board committee his or her
4625 duties, a director may consider such factors as the director
4626 deems relevant, including the long-term prospects and interests
4627 of the corporation and its shareholders, and the social,
4628 economic, legal, or other effects of any action on the
4629 employees, suppliers, customers of the corporation or its
4630 subsidiaries, the communities and society in which the
4631 corporation or its subsidiaries operate, and the economy of the
4632 state and the nation.

4633 ~~(4) A director is not acting in good faith if he or she has~~
4634 ~~knowledge concerning the matter in question that makes reliance~~
4635 ~~otherwise permitted by subsection (2) unwarranted.~~

4636 ~~(5) A director is not liable for any action taken as a~~
4637 ~~director, or any failure to take any action, if he or she~~
4638 ~~performed the duties of his or her office in compliance with~~
4639 ~~this section.~~

4640 Section 99. Subsections (1) and (3) of section 607.0831,

590-03467A-19

2019892c2

4641 Florida Statutes, are amended to read:

4642 607.0831 Liability of directors.—

4643 (1) A director is not personally liable for monetary
4644 damages to the corporation or any other person for any
4645 statement, vote, decision to take or not to take action, or any
4646 failure to take any action, as ~~or failure to act, regarding~~
4647 ~~corporate management or policy, by a director, unless:~~

4648 (a) The director breached or failed to perform his or her
4649 duties as a director; and

4650 (b) The director's breach of, or failure to perform, those
4651 duties constitutes any of the following:

4652 1. A violation of the criminal law, unless the director had
4653 reasonable cause to believe his or her conduct was lawful or had
4654 no reasonable cause to believe his or her conduct was unlawful.
4655 A judgment or other final adjudication against a director in any
4656 criminal proceeding for a violation of the criminal law estops
4657 that director from contesting the fact that his or her breach,
4658 or failure to perform, constitutes a violation of the criminal
4659 law; but does not estop the director from establishing that he
4660 or she had reasonable cause to believe that his or her conduct
4661 was lawful or had no reasonable cause to believe that his or her
4662 conduct was unlawful;

4663 2. A circumstance under which the ~~A~~ transaction at issue is
4664 one from which the director derived an improper personal
4665 benefit, either directly or indirectly;

4666 3. A circumstance under which the liability provisions of
4667 s. 607.0834 are applicable;

4668 4. In a proceeding by or in the right of the corporation to
4669 procure a judgment in its favor or by or in the right of a

590-03467A-19

2019892c2

4670 shareholder, conscious disregard for the best interest of the
4671 corporation, or willful or intentional misconduct; or

4672 5. In a proceeding by or in the right of someone other than
4673 the corporation or a shareholder, recklessness or an act or
4674 omission which was committed in bad faith or with malicious
4675 purpose or in a manner exhibiting wanton and willful disregard
4676 of human rights, safety, or property.

4677 (3) A director is deemed not to have derived an improper
4678 personal benefit from any transaction if the transaction and the
4679 nature of any personal benefit derived by the director are not
4680 prohibited by state or federal law or regulation and, without
4681 further limitation:

4682 (a) In an action other than a derivative suit regarding a
4683 decision by the director to approve, reject, or otherwise affect
4684 the outcome of an offer to purchase the shares ~~stock~~ of, or to
4685 effect a merger of, the corporation, the transaction and the
4686 nature of any personal benefits derived by a director are
4687 disclosed or known to all directors voting on the matter, and
4688 the transaction was authorized, approved, or ratified by at
4689 least two directors who comprise a majority of the disinterested
4690 directors (whether or not such disinterested directors
4691 constitute a quorum); or

4692 (b) The transaction is fair to the corporation at the time
4693 it is authorized, approved, or ratified as determined in
4694 accordance with s. 607.0832 ~~and the nature of any personal~~
4695 ~~benefits derived by a director are disclosed or known to the~~
4696 ~~shareholders entitled to vote, and the transaction was~~
4697 ~~authorized, approved, or ratified by the affirmative vote or~~
4698 ~~written consent of such shareholders who hold a majority of the~~

590-03467A-19

2019892c2

4699 ~~shares, the voting of which is not controlled by directors who~~
4700 ~~derived a personal benefit from or otherwise had a personal~~
4701 ~~interest in the transaction; or~~

4702 ~~(c) The transaction was fair and reasonable to the~~
4703 ~~corporation at the time it was authorized by the board, a~~
4704 ~~committee, or the shareholders, notwithstanding that a director~~
4705 ~~received a personal benefit.~~

4706 Section 100. Section 607.0832, Florida Statutes, is amended
4707 to read:

4708 607.0832 Director conflicts of interest.—

4709 (1) As used in this section, the following terms and
4710 definitions apply:

4711 (a) "Director's conflict of interest transaction" means a
4712 transaction between a corporation and one or more of its
4713 directors, or another entity in which one or more of the
4714 corporation's directors is directly or indirectly a party to the
4715 transaction, other than being an indirect party as a result of
4716 being a shareholder of the corporation, and has a direct or
4717 indirect material financial interest or other material interest.

4718 (b) "Fair to the corporation" means that the transaction,
4719 as a whole, is beneficial to the corporation and its
4720 shareholders, taking into appropriate account whether it is:

4721 1. Fair in terms of the director's dealings with the
4722 corporation in connection with that transaction; and

4723 2. Comparable to what might have been obtainable in an
4724 arm's length transaction.

4725 (c) "Family member" includes any of the following:

4726 1. The director's spouse.

4727 2. A child, stepchild, parent, stepparent, grandparent,

590-03467A-19

2019892c2

4728 sibling, step sibling, or half sibling of the director or the
4729 director's spouse.

4730 (d) A director is "indirectly" a party to a transaction if
4731 that director has a material financial interest in or is a
4732 director, officer, member, manager, or partner of a person,
4733 other than the corporation, who is a party to the transaction.

4734 (e) A director has an "indirect material financial
4735 interest" if a family member has a material financial interest
4736 in the transaction, other than having an indirect interest as a
4737 shareholder of the corporation, or if the transaction is with an
4738 entity, other than the corporation, which has a material
4739 financial interest in the transaction and controls, or is
4740 controlled by, the director or another person specified in this
4741 subsection.

4742 (f) "Material financial interest" or "other material
4743 interest" means a financial or other interest in the transaction
4744 that would reasonably be expected to impair the objectivity of
4745 the director's judgment when participating in the action on the
4746 authorization of the transaction.

4747 (2) If a director's conflict of interest transaction is
4748 fair to the corporation at the time it is authorized, approved,
4749 effectuated, or ratified:

4750 (a) Such transaction is not void or voidable; and

4751 (b) The fact that the transaction is a director's conflict
4752 of interest transaction is not grounds for any equitable relief,
4753 an award of damages, or other sanctions,

4754
4755 because of that relationship or interest, because such director
4756 or directors are present at the meeting of the board of

590-03467A-19

2019892c2

4757 directors or a committee thereof which authorizes, approves, or
4758 ratifies such transaction, or because his or her or their votes
4759 are counted for such purpose.

4760 (3) (a) In a proceeding challenging the validity of a
4761 director's conflict of interest transaction or in a proceeding
4762 seeking equitable relief, award of damages, or other sanctions
4763 with respect to a director's conflict of interest transaction,
4764 the person challenging the validity or seeking equitable relief,
4765 award of damages, or other sanctions has the burden of proving
4766 the lack of fairness of the transaction if:

4767 1. The material facts of the transaction and the director's
4768 interest in the transaction were disclosed or known to the board
4769 of directors or committee that authorizes, approves, or ratifies
4770 the transaction and the transaction was authorized, approved, or
4771 ratified by a vote of a majority of the qualified directors even
4772 if the qualified directors constitute less than a quorum of the
4773 board or the committee; however, the transaction cannot be
4774 authorized, approved, or ratified under this subsection solely
4775 by a single director; or

4776 2. The material facts of the transaction and the director's
4777 interest in the transaction were disclosed or known to the
4778 shareholders who voted upon such transaction and the transaction
4779 was authorized, approved, or ratified by a majority of the votes
4780 cast by disinterested shareholders or by the written consent of
4781 disinterested shareholders representing a majority of the votes
4782 that could be cast by all disinterested shareholders. Shares
4783 owned by or voted under the control of a director who has a
4784 relationship or interest in the director's conflict of interest
4785 transaction may not be considered shares owned by a

590-03467A-19

2019892c2

4786 disinterested shareholder and may not be counted in a vote of
4787 shareholders to determine whether to authorize, approve, or
4788 ratify a director's conflict of interest transaction under this
4789 subparagraph. The vote of those shares, however, is counted in
4790 determining whether the transaction is approved under other
4791 sections of this chapter. A majority of the shares, whether or
4792 not present, that are entitled to be counted in a vote on the
4793 transaction under this subparagraph constitutes a quorum for the
4794 purpose of taking action under this section.

4795 (b) If neither of the conditions provided in paragraph (a)
4796 has been satisfied, the person defending or asserting the
4797 validity of a director's conflict of interest transaction has
4798 the burden of proving its fairness in a proceeding challenging
4799 the validity of the transaction.

4800 (4) The presence of or a vote cast by a director with an
4801 interest in the transaction does not affect the validity of an
4802 action taken under paragraph (3)(a) if the transaction is
4803 otherwise authorized, approved, or ratified as provided in
4804 subsection (3), but the presence or vote of the director may be
4805 counted for purposes of determining whether the transaction is
4806 approved under other sections of this chapter.

4807 (5) In addition to other grounds for challenge, a party
4808 challenging the validity of the transaction is not precluded
4809 from asserting and proving that a particular director or
4810 shareholder was not disinterested on grounds of financial or
4811 other interest for purposes of the vote on, consent to, or
4812 approval of the transaction.

4813 (6) If directors' action under this section does not
4814 otherwise satisfy a quorum or voting requirement applicable to

590-03467A-19

2019892c2

4815 the authorization of the transaction by directors as required by
4816 the articles of incorporation, the bylaws, this chapter, or any
4817 other law, an action to satisfy those authorization
4818 requirements, whether as part of the same action or by way of
4819 another action, must be taken by the board of directors or a
4820 committee in order to authorize the transaction. In such action,
4821 the vote or consent of directors who are not disinterested may
4822 be counted.

4823 (7) Where shareholders' action under this section does not
4824 satisfy a quorum or voting requirement applicable to the
4825 authorization of the transaction by shareholders as required by
4826 the articles of incorporation, the bylaws, this chapter, or any
4827 other law, an action to satisfy those authorization
4828 requirements, whether as part of the same action or by way of
4829 another action, must be taken by the shareholders in order to
4830 authorize the transaction. In such action, the vote or consent
4831 of shareholders who are not disinterested shareholders may be
4832 counted ~~No contract or other transaction between a corporation~~
4833 ~~and one or more of its directors or any other corporation, firm,~~
4834 ~~association, or entity in which one or more of its directors are~~
4835 ~~directors or officers or are financially interested shall be~~
4836 ~~either void or voidable because of such relationship or~~
4837 ~~interest, because such director or directors are present at the~~
4838 ~~meeting of the board of directors or a committee thereof which~~
4839 ~~authorizes, approves, or ratifies such contract or transaction,~~
4840 ~~or because his or her or their votes are counted for such~~
4841 ~~purpose, if:~~

4842 ~~(a) The fact of such relationship or interest is disclosed~~
4843 ~~or known to the board of directors or committee which~~

590-03467A-19

2019892c2

4844 ~~authorizes, approves, or ratifies the contract or transaction by~~
4845 ~~a vote or consent sufficient for the purpose without counting~~
4846 ~~the votes or consents of such interested directors;~~

4847 ~~(b) The fact of such relationship or interest is disclosed~~
4848 ~~or known to the shareholders entitled to vote and they~~
4849 ~~authorize, approve, or ratify such contract or transaction by~~
4850 ~~vote or written consent; or~~

4851 ~~(c) The contract or transaction is fair and reasonable as~~
4852 ~~to the corporation at the time it is authorized by the board, a~~
4853 ~~committee, or the shareholders.~~

4854 ~~(2) For purposes of paragraph (1) (a) only, a conflict of~~
4855 ~~interest transaction is authorized, approved, or ratified if it~~
4856 ~~receives the affirmative vote of a majority of the directors on~~
4857 ~~the board of directors, or on the committee, who have no~~
4858 ~~relationship or interest in the transaction described in~~
4859 ~~subsection (1), but a transaction may not be authorized,~~
4860 ~~approved, or ratified under this section by a single director.~~
4861 ~~If a majority of the directors who have no such relationship or~~
4862 ~~interest in the transaction vote to authorize, approve, or~~
4863 ~~ratify the transaction, a quorum is present for the purpose of~~
4864 ~~taking action under this section. The presence of, or a vote~~
4865 ~~cast by, a director with such relationship or interest in the~~
4866 ~~transaction does not affect the validity of any action taken~~
4867 ~~under paragraph (1) (a) if the transaction is otherwise~~
4868 ~~authorized, approved, or ratified as provided in that~~
4869 ~~subsection, but such presence or vote of those directors may be~~
4870 ~~counted for purposes of determining whether the transaction is~~
4871 ~~approved under other sections of this act.~~

4872 ~~(3) For purposes of paragraph (1) (b), a conflict of~~

590-03467A-19

2019892c2

4873 ~~interest transaction is authorized, approved, or ratified if it~~
4874 ~~receives the vote of a majority of the shares entitled to be~~
4875 ~~counted under this subsection. Shares owned by or voted under~~
4876 ~~the control of a director who has a relationship or interest in~~
4877 ~~the transaction described in subsection (1) may not be counted~~
4878 ~~in a vote of shareholders to determine whether to authorize,~~
4879 ~~approve, or ratify a conflict of interest transaction under~~
4880 ~~paragraph (1)(b). The vote of those shares, however, is counted~~
4881 ~~in determining whether the transaction is approved under other~~
4882 ~~sections of this act. A majority of the shares, whether or not~~
4883 ~~present, that are entitled to be counted in a vote on the~~
4884 ~~transaction under this subsection constitutes a quorum for the~~
4885 ~~purpose of taking action under this section.~~

4886 Section 101. Section 607.0833, Florida Statutes, is amended
4887 to read:

4888 607.0833 Loans to officers, directors, and employees;
4889 guaranty of obligations.—Any corporation may lend money to,
4890 guarantee any obligation of, or otherwise assist any officer,
4891 director, or employee of the corporation or of a subsidiary,
4892 whenever, in the judgment of the board of directors, such loan,
4893 guaranty, or assistance may reasonably be expected to benefit
4894 the corporation. The loan, guaranty, or other assistance may be
4895 with or without interest and may be unsecured or secured in such
4896 manner as the board of directors shall approve, including,
4897 ~~without limitation,~~ a pledge of shares of stock of the
4898 corporation. Nothing in this section shall be deemed to deny,
4899 limit, or restrict the powers of guaranty or warranty of any
4900 corporation at common law or under any statute. Loans,
4901 guarantes, or other types of assistance are subject to s.

590-03467A-19

2019892c2

4902 607.0832.

4903 Section 102. Subsections (1) and (3) of section 607.0834,
4904 Florida Statutes, are amended to read:

4905 607.0834 Liability for unlawful distributions.—

4906 (1) A director who votes for or assents to a distribution
4907 made in violation of s. 607.06401, s. 607.1410(1), or the
4908 articles of incorporation is personally liable to the
4909 corporation for the amount of the distribution that exceeds what
4910 could have been distributed without violating s. 607.06401, s.
4911 607.1410(1), or the articles of incorporation if it is
4912 established that the director did not perform his or her duties
4913 in compliance with s. 607.0830. In any proceeding commenced
4914 under this section, a director has all of the defenses
4915 ordinarily available to a director.4916 (3) A proceeding under this section is barred unless it is
4917 commenced:4918 (a) Within 2 years after the date on which the effect of
4919 the distribution was measured under s. 607.06401(6) or (8);—4920 (b) Within 2 years after the date as of which the violation
4921 of s. 607.06401 occurred as the consequence of disregard of a
4922 restriction in the articles of incorporation;4923 (c) Within 2 years after the date on which the distribution
4924 of assets to shareholders under s. 607.1410(1) was made; or4925 (d) With regard to contribution or recoupment under
4926 subsection (2), within 1 year after the liability of the
4927 claimant has been finally adjudicated under subsection (1).4928 Section 103. Subsections (2) and (3) of section 607.08401,
4929 Florida Statutes, are amended to read:

4930 607.08401 Required officers.—

590-03467A-19

2019892c2

4931 (2) The board of directors may appoint one or more
4932 individuals to act as the officers of the corporation. A duly
4933 appointed officer may appoint one or more officers or assistant
4934 officers if authorized by the bylaws or the board of directors.

4935 (3) The bylaws or the board of directors shall assign
4936 ~~delegate~~ to one of the officers responsibility for preparing
4937 minutes of the directors' and shareholders' meetings and for
4938 authenticating records of the corporation required to be kept
4939 pursuant to s. 607.1601(1) and (5).

4940 Section 104. Section 607.08411, Florida Statutes, is
4941 created to read:

4942 607.08411 General standards for officers.—

4943 (1) An officer, when performing in such capacity, shall
4944 act:

4945 (a) In good faith; and

4946 (b) In a manner the officer reasonably believes to be in
4947 the best interests of the corporation.

4948 (2) An officer, when becoming informed in connection with a
4949 decisionmaking function, shall discharge his or her duties with
4950 the care that an ordinary prudent person in a like position
4951 would reasonably believe appropriate under similar
4952 circumstances.

4953 (3) The duty of an officer includes the obligation to:

4954 (a) Inform the superior officer to whom, or the board of
4955 directors or the committee to which, the officer reports of
4956 information about the affairs of the corporation known to the
4957 officer, within the scope of the officer's functions, and known
4958 or as should be known to the officer to be material to such
4959 superior officer, board, or committee; and

590-03467A-19

2019892c2

4960 (b) Inform his or her superior officer, or another
4961 appropriate person within the corporation, or the board of
4962 directors, or a committee thereof, of any actual or probable
4963 material violation of law involving the corporation or material
4964 breach of duty to the corporation by an officer, employee, or
4965 agent of the corporation the officer believes has occurred or is
4966 likely to occur.

4967 (4) In discharging his or her duties, an officer who does
4968 not have knowledge that makes reliance unwarranted is entitled
4969 to rely on the performance by any of the persons specified in
4970 subsection (6) to whom the responsibilities were properly
4971 delegated, formally or informally, by course of conduct.

4972 (5) In discharging his or her duties, an officer who does
4973 not have knowledge that makes reliance unwarranted is entitled
4974 to rely on information, opinions, reports, or statements,
4975 including financial statements and other financial data,
4976 prepared or presented by any of the persons specified in
4977 subsection (6).

4978 (6) An officer is entitled to rely, in accordance with
4979 subsection (4) or subsection (5), on:

4980 (a) One or more other officers of the corporation or one or
4981 more employees of the corporation whom the officer reasonably
4982 believes to be reliable and competent in the functions performed
4983 or the information, opinions, reports, or statements provided;

4984 (b) Legal counsel, public accountants, or other persons
4985 retained by the corporation as to matters involving skills or
4986 expertise the officer reasonably believes are matters within the
4987 particular person's professional or expert competence or as to
4988 which the particular person merits confidence.

590-03467A-19

2019892c2

4989 Section 105. Section 607.0842, Florida Statutes, is amended
4990 to read:

4991 607.0842 Resignation and removal of officers.—

4992 (1) An officer may resign at any time by delivering a
4993 written notice to the corporation. A resignation is effective as
4994 provided in s. 607.0141(5) when the notice is delivered unless
4995 the notice provides for a delayed effectiveness, including
4996 effectiveness determined upon a future event or events specifies
4997 a later effective date. If effectiveness of a resignation is
4998 stated to be delayed and the board of directors or appointing
4999 officer accepts the delay, the made effective at a later date
5000 and the corporation accepts the future effective date, its board
5001 of directors or the appointing officer may fill the pending
5002 vacancy before the delayed effectiveness effective date if the
5003 board of directors or appointing officer provides that the
5004 successor does not take office until the vacancy occurs
5005 effective date.

5006 (2) An officer may be removed at any time with or without
5007 cause by:

5008 (a) The board of directors;

5009 (b) The appointing officer, unless the bylaws or the board
5010 of directors provide otherwise; or

5011 (c) Any other officer, if authorized by the bylaws or the
5012 board of directors.

5013 (3) For the purposes of this section, the term "appointing
5014 officer" means the officer, including any successor to that
5015 officer, who appointed the officer resigning or being removed A
5016 board of directors may remove any officer at any time with or
5017 without cause. Any officer or assistant officer, if appointed by

590-03467A-19

2019892c2

5018 ~~another officer, may likewise be removed by such officer.~~

5019 Section 106. Section 607.0850, Florida Statutes, is amended
5020 to read:

5021 607.0850 Definitions ~~Indemnification of officers,~~
5022 ~~directors, employees, and agents.~~ -In ss. 607.0850-607.0859, the
5023 term:

5024 (1) "Agent" includes a volunteer.

5025 (2) "Corporation" includes, in addition to the resulting
5026 corporation, any constituent corporation (including any
5027 constituent of a constituent) absorbed in a merger, so that any
5028 person who is or was a director or officer of a constituent
5029 corporation, or is or was serving at the request of a
5030 constituent corporation as a director or officer, member,
5031 manager, partner, trustee, employee, or agent of another
5032 domestic or foreign corporation, limited liability company,
5033 partnership, joint venture, trust, employee benefit plan, or
5034 other enterprise or entity, is in the same position under this
5035 section with respect to the resulting or surviving corporation
5036 as he or she would have been with respect to such constituent
5037 corporation if its separate existence had continued.

5038 (3) "Director" or "officer" means an individual who is or
5039 was a director or officer, respectively, of a corporation or
5040 who, while a director or officer of the corporation, is or was
5041 serving at the corporation's request as a director or officer,
5042 manager, partner, trustee, employee, or agent of another
5043 domestic or foreign corporation, limited liability company,
5044 partnership, joint venture, trust, employee benefit plan, or
5045 another enterprise or entity. A director or officer is
5046 considered to be serving an employee benefit plan at the

590-03467A-19

2019892c2

5047 corporation's request if the individual's duties to the
5048 corporation or such plan also impose duties on, or otherwise
5049 involve services by, the individual to the plan or to
5050 participants in or beneficiaries of the plan. The term includes,
5051 unless the context otherwise requires, the estate, heirs,
5052 executors, administrators, and personal representatives of a
5053 director or officer.

5054 (4) "Expenses" includes reasonable attorney fees, including
5055 those incurred in connection with any appeal.

5056 (5) "Liability" means the obligation to pay a judgment,
5057 settlement, penalty, fine (including an excise tax assessed with
5058 respect to an employee benefit plan), or reasonable expenses
5059 incurred with respect to a proceeding.

5060 (6) "Party" means an individual who was, is, or is
5061 threatened to be made, a defendant or respondent in a
5062 proceeding.

5063 (7) "Proceeding" means any threatened, pending, or
5064 completed action, suit, or proceeding, whether civil, criminal,
5065 administrative, arbitrative, or investigative and whether formal
5066 or informal.

5067 (8) "Serving at the corporation's request" includes any
5068 service as a director, officer, employee, or agent of the
5069 corporation that imposes duties on such persons, including
5070 duties relating to an employee benefit plan and its participants
5071 or beneficiaries.

5072 ~~(1) A corporation shall have power to indemnify any person~~
5073 ~~who was or is a party to any proceeding (other than an action~~
5074 ~~by, or in the right of, the corporation), by reason of the fact~~
5075 ~~that he or she is or was a director, officer, employee, or agent~~

590-03467A-19

2019892c2

5076 ~~of the corporation or is or was serving at the request of the~~
5077 ~~corporation as a director, officer, employee, or agent of~~
5078 ~~another corporation, partnership, joint venture, trust, or other~~
5079 ~~enterprise against liability incurred in connection with such~~
5080 ~~proceeding, including any appeal thereof, if he or she acted in~~
5081 ~~good faith and in a manner he or she reasonably believed to be~~
5082 ~~in, or not opposed to, the best interests of the corporation~~
5083 ~~and, with respect to any criminal action or proceeding, had no~~
5084 ~~reasonable cause to believe his or her conduct was unlawful. The~~
5085 ~~termination of any proceeding by judgment, order, settlement, or~~
5086 ~~conviction or upon a plea of nolo contendere or its equivalent~~
5087 ~~shall not, of itself, create a presumption that the person did~~
5088 ~~not act in good faith and in a manner which he or she reasonably~~
5089 ~~believed to be in, or not opposed to, the best interests of the~~
5090 ~~corporation or, with respect to any criminal action or~~
5091 ~~proceeding, had reasonable cause to believe that his or her~~
5092 ~~conduct was unlawful.~~

5093 ~~(2) A corporation shall have power to indemnify any person,~~
5094 ~~who was or is a party to any proceeding by or in the right of~~
5095 ~~the corporation to procure a judgment in its favor by reason of~~
5096 ~~the fact that the person is or was a director, officer,~~
5097 ~~employee, or agent of the corporation or is or was serving at~~
5098 ~~the request of the corporation as a director, officer, employee,~~
5099 ~~or agent of another corporation, partnership, joint venture,~~
5100 ~~trust, or other enterprise, against expenses and amounts paid in~~
5101 ~~settlement not exceeding, in the judgment of the board of~~
5102 ~~directors, the estimated expense of litigating the proceeding to~~
5103 ~~conclusion, actually and reasonably incurred in connection with~~
5104 ~~the defense or settlement of such proceeding, including any~~

590-03467A-19

2019892c2

5105 ~~appeal thereof. Such indemnification shall be authorized if such~~
5106 ~~person acted in good faith and in a manner he or she reasonably~~
5107 ~~believed to be in, or not opposed to, the best interests of the~~
5108 ~~corporation, except that no indemnification shall be made under~~
5109 ~~this subsection in respect of any claim, issue, or matter as to~~
5110 ~~which such person shall have been adjudged to be liable unless,~~
5111 ~~and only to the extent that, the court in which such proceeding~~
5112 ~~was brought, or any other court of competent jurisdiction, shall~~
5113 ~~determine upon application that, despite the adjudication of~~
5114 ~~liability but in view of all circumstances of the case, such~~
5115 ~~person is fairly and reasonably entitled to indemnity for such~~
5116 ~~expenses which such court shall deem proper.~~

5117 ~~(3) To the extent that a director, officer, employee, or~~
5118 ~~agent of a corporation has been successful on the merits or~~
5119 ~~otherwise in defense of any proceeding referred to in subsection~~
5120 ~~(1) or subsection (2), or in defense of any claim, issue, or~~
5121 ~~matter therein, he or she shall be indemnified against expenses~~
5122 ~~actually and reasonably incurred by him or her in connection~~
5123 ~~therewith.~~

5124 ~~(4) Any indemnification under subsection (1) or subsection~~
5125 ~~(2), unless pursuant to a determination by a court, shall be~~
5126 ~~made by the corporation only as authorized in the specific case~~
5127 ~~upon a determination that indemnification of the director,~~
5128 ~~officer, employee, or agent is proper in the circumstances~~
5129 ~~because he or she has met the applicable standard of conduct set~~
5130 ~~forth in subsection (1) or subsection (2). Such determination~~
5131 ~~shall be made:~~

5132 ~~(a) By the board of directors by a majority vote of a~~
5133 ~~quorum consisting of directors who were not parties to such~~

590-03467A-19

2019892c2

5134 ~~proceeding;~~

5135 ~~(b) If such a quorum is not obtainable or, even if~~
5136 ~~obtainable, by majority vote of a committee duly designated by~~
5137 ~~the board of directors (in which directors who are parties may~~
5138 ~~participate) consisting solely of two or more directors not at~~
5139 ~~the time parties to the proceeding;~~

5140 ~~(c) By independent legal counsel:~~

5141 ~~1. Selected by the board of directors prescribed in~~
5142 ~~paragraph (a) or the committee prescribed in paragraph (b); or~~

5143 ~~2. If a quorum of the directors cannot be obtained for~~
5144 ~~paragraph (a) and the committee cannot be designated under~~
5145 ~~paragraph (b), selected by majority vote of the full board of~~
5146 ~~directors (in which directors who are parties may participate);~~
5147 ~~or~~

5148 ~~(d) By the shareholders by a majority vote of a quorum~~
5149 ~~consisting of shareholders who were not parties to such~~
5150 ~~proceeding or, if no such quorum is obtainable, by a majority~~
5151 ~~vote of shareholders who were not parties to such proceeding.~~

5152 ~~(5) Evaluation of the reasonableness of expenses and~~
5153 ~~authorization of indemnification shall be made in the same~~
5154 ~~manner as the determination that indemnification is permissible.~~
5155 ~~However, if the determination of permissibility is made by~~
5156 ~~independent legal counsel, persons specified by paragraph (4)(c)~~
5157 ~~shall evaluate the reasonableness of expenses and may authorize~~
5158 ~~indemnification.~~

5159 ~~(6) Expenses incurred by an officer or director in~~
5160 ~~defending a civil or criminal proceeding may be paid by the~~
5161 ~~corporation in advance of the final disposition of such~~
5162 ~~proceeding upon receipt of an undertaking by or on behalf of~~

590-03467A-19

2019892c2

5163 ~~such director or officer to repay such amount if he or she is~~
5164 ~~ultimately found not to be entitled to indemnification by the~~
5165 ~~corporation pursuant to this section. Expenses incurred by other~~
5166 ~~employees and agents may be paid in advance upon such terms or~~
5167 ~~conditions that the board of directors deems appropriate.~~

5168 ~~(7) The indemnification and advancement of expenses~~
5169 ~~provided pursuant to this section are not exclusive, and a~~
5170 ~~corporation may make any other or further indemnification or~~
5171 ~~advancement of expenses of any of its directors, officers,~~
5172 ~~employees, or agents, under any bylaw, agreement, vote of~~
5173 ~~shareholders or disinterested directors, or otherwise, both as~~
5174 ~~to action in his or her official capacity and as to action in~~
5175 ~~another capacity while holding such office. However,~~
5176 ~~indemnification or advancement of expenses shall not be made to~~
5177 ~~or on behalf of any director, officer, employee, or agent if a~~
5178 ~~judgment or other final adjudication establishes that his or her~~
5179 ~~actions, or omissions to act, were material to the cause of~~
5180 ~~action so adjudicated and constitute:~~

5181 ~~(a) A violation of the criminal law, unless the director,~~
5182 ~~officer, employee, or agent had reasonable cause to believe his~~
5183 ~~or her conduct was lawful or had no reasonable cause to believe~~
5184 ~~his or her conduct was unlawful;~~

5185 ~~(b) A transaction from which the director, officer,~~
5186 ~~employee, or agent derived an improper personal benefit;~~

5187 ~~(c) In the case of a director, a circumstance under which~~
5188 ~~the liability provisions of s. 607.0834 are applicable; or~~

5189 ~~(d) Willful misconduct or a conscious disregard for the~~
5190 ~~best interests of the corporation in a proceeding by or in the~~
5191 ~~right of the corporation to procure a judgment in its favor or~~

590-03467A-19

2019892c2

5192 ~~in a proceeding by or in the right of a shareholder.~~

5193 ~~(8) Indemnification and advancement of expenses as provided~~
5194 ~~in this section shall continue as, unless otherwise provided~~
5195 ~~when authorized or ratified, to a person who has ceased to be a~~
5196 ~~director, officer, employee, or agent and shall inure to the~~
5197 ~~benefit of the heirs, executors, and administrators of such a~~
5198 ~~person, unless otherwise provided when authorized or ratified.~~

5199 ~~(9) Unless the corporation's articles of incorporation~~
5200 ~~provide otherwise, notwithstanding the failure of a corporation~~
5201 ~~to provide indemnification, and despite any contrary~~
5202 ~~determination of the board or of the shareholders in the~~
5203 ~~specific case, a director, officer, employee, or agent of the~~
5204 ~~corporation who is or was a party to a proceeding may apply for~~
5205 ~~indemnification or advancement of expenses, or both, to the~~
5206 ~~court conducting the proceeding, to the circuit court, or to~~
5207 ~~another court of competent jurisdiction. On receipt of an~~
5208 ~~application, the court, after giving any notice that it~~
5209 ~~considers necessary, may order indemnification and advancement~~
5210 ~~of expenses, including expenses incurred in seeking court-~~
5211 ~~ordered indemnification or advancement of expenses, if it~~
5212 ~~determines that:~~

5213 ~~(a) The director, officer, employee, or agent is entitled~~
5214 ~~to mandatory indemnification under subsection (3), in which case~~
5215 ~~the court shall also order the corporation to pay the director~~
5216 ~~reasonable expenses incurred in obtaining court-ordered~~
5217 ~~indemnification or advancement of expenses;~~

5218 ~~(b) The director, officer, employee, or agent is entitled~~
5219 ~~to indemnification or advancement of expenses, or both, by~~
5220 ~~virtue of the exercise by the corporation of its power pursuant~~

590-03467A-19

2019892c2

5221 ~~to subsection (7); or~~

5222 ~~(c) The director, officer, employee, or agent is fairly and~~
5223 ~~reasonably entitled to indemnification or advancement of~~
5224 ~~expenses, or both, in view of all the relevant circumstances,~~
5225 ~~regardless of whether such person met the standard of conduct~~
5226 ~~set forth in subsection (1), subsection (2), or subsection (7).~~

5227 ~~(10) For purposes of this section, the term "corporation"~~
5228 ~~includes, in addition to the resulting corporation, any~~
5229 ~~constituent corporation (including any constituent of a~~
5230 ~~constituent) absorbed in a consolidation or merger, so that any~~
5231 ~~person who is or was a director, officer, employee, or agent of~~
5232 ~~a constituent corporation, or is or was serving at the request~~
5233 ~~of a constituent corporation as a director, officer, employee,~~
5234 ~~or agent of another corporation, partnership, joint venture,~~
5235 ~~trust, or other enterprise, is in the same position under this~~
5236 ~~section with respect to the resulting or surviving corporation~~
5237 ~~as he or she would have with respect to such constituent~~
5238 ~~corporation if its separate existence had continued.~~

5239 ~~(11) For purposes of this section:~~

5240 ~~(a) The term "other enterprises" includes employee benefit~~
5241 ~~plans;~~

5242 ~~(b) The term "expenses" includes counsel fees, including~~
5243 ~~those for appeal;~~

5244 ~~(c) The term "liability" includes obligations to pay a~~
5245 ~~judgment, settlement, penalty, fine (including an excise tax~~
5246 ~~assessed with respect to any employee benefit plan), and~~
5247 ~~expenses actually and reasonably incurred with respect to a~~
5248 ~~proceeding;~~

5249 ~~(d) The term "proceeding" includes any threatened, pending,~~

590-03467A-19

2019892c2

5250 ~~or completed action, suit, or other type of proceeding, whether~~
5251 ~~civil, criminal, administrative, or investigative and whether~~
5252 ~~formal or informal;~~

5253 ~~(e) The term "agent" includes a volunteer;~~

5254 ~~(f) The term "serving at the request of the corporation"~~
5255 ~~includes any service as a director, officer, employee, or agent~~
5256 ~~of the corporation that imposes duties on such persons,~~
5257 ~~including duties relating to an employee benefit plan and its~~
5258 ~~participants or beneficiaries; and~~

5259 ~~(g) The term "not opposed to the best interest of the~~
5260 ~~corporation" describes the actions of a person who acts in good~~
5261 ~~faith and in a manner he or she reasonably believes to be in the~~
5262 ~~best interests of the participants and beneficiaries of an~~
5263 ~~employee benefit plan.~~

5264 ~~(12) A corporation shall have power to purchase and~~
5265 ~~maintain insurance on behalf of any person who is or was a~~
5266 ~~director, officer, employee, or agent of the corporation or is~~
5267 ~~or was serving at the request of the corporation as a director,~~
5268 ~~officer, employee, or agent of another corporation, partnership,~~
5269 ~~joint venture, trust, or other enterprise against any liability~~
5270 ~~asserted against the person and incurred by him or her in any~~
5271 ~~such capacity or arising out of his or her status as such,~~
5272 ~~whether or not the corporation would have the power to indemnify~~
5273 ~~the person against such liability under the provisions of this~~
5274 ~~section.~~

5275 Section 107. Section 607.0851, Florida Statutes, is created
5276 to read:

5277 607.0851 Permissible indemnification.-

5278 (1) Except as otherwise provided in this section and in s.

590-03467A-19

2019892c2

5279 607.0859, and not in limitation of indemnification allowed under
5280 s. 607.0858(1), a corporation may indemnify an individual who is
5281 a party to a proceeding because the individual is or was a
5282 director or officer against liability incurred in the proceeding
5283 if:

5284 (a) The director or officer acted in good faith;

5285 (b) The director or officer acted in a manner he or she
5286 reasonably believed to be in, or not opposed to, the best
5287 interests of the corporation; and

5288 (c) In the case of any criminal proceeding, the director or
5289 officer had no reasonable cause to believe his or her conduct
5290 was unlawful.

5291 (2) The conduct of a director or officer with respect to an
5292 employee benefit plan for a purpose the director or officer
5293 reasonably believed to be in the best interests of the
5294 participants in, and the beneficiaries of, the plan is conduct
5295 that satisfies the requirement of paragraph (1) (b).

5296 (3) The termination of a proceeding by judgment, order,
5297 settlement, or conviction, or upon a plea of nolo contendere or
5298 its equivalent, does not, of itself, create a presumption that
5299 the director or officer did not meet the relevant standard of
5300 conduct described in this section.

5301 (4) Unless ordered by a court under s. 607.0854(1) (c), a
5302 corporation may not indemnify a director or an officer in
5303 connection with a proceeding by or in the right of the
5304 corporation except for expenses and amounts paid in settlement
5305 not exceeding, in the judgment of the board of directors, the
5306 estimated expense of litigating the proceeding to conclusion,
5307 actually and reasonably incurred in connection with the defense

590-03467A-19

2019892c2

5308 or settlement of such proceeding, including any appeal thereof,
5309 where such person acted in good faith and in a manner he or she
5310 reasonably believed to be in, or not opposed to, the best
5311 interests of the corporation.

5312 Section 108. Section 607.0852, Florida Statutes, is created
5313 to read:

5314 607.0852 Mandatory indemnification.—A corporation must
5315 indemnify an individual who is or was a director or officer who
5316 was wholly successful, on the merits or otherwise, in the
5317 defense of any proceeding to which the individual was a party
5318 because he or she is or was a director or officer of the
5319 corporation against expenses incurred by the individual in
5320 connection with the proceeding.

5321 Section 109. Section 607.0853, Florida Statutes, is created
5322 to read:

5323 607.0853 Advance for expenses.—

5324 (1) A corporation may, before final disposition of a
5325 proceeding, advance funds to pay for or reimburse expenses
5326 incurred in connection with the proceeding by an individual who
5327 is a party to the proceeding because that individual is or was a
5328 director or an officer if the director or officer delivers to
5329 the corporation a signed written undertaking of the director or
5330 officer to repay any funds advanced if:

5331 (a) The director or officer is not entitled to mandatory
5332 indemnification under s. 607.0852; and

5333 (b) It is ultimately determined under s. 607.0854 or s.
5334 607.0855 that the director or officer has not met the relevant
5335 standard of conduct described in s. 607.0851 or the director or
5336 officer is not entitled to indemnification under s. 607.0859.

590-03467A-19

2019892c2

5337 (2) The undertaking required by paragraph (1) (b) must be an
5338 unlimited general obligation of the director or officer but need
5339 not be secured and may be accepted without reference to the
5340 financial ability of the director or officer to make repayment.

5341 (3) Authorizations under this section must be made:

5342 (a) By the board of directors:

5343 1. If there are two or more qualified directors, by a
5344 majority vote of all of the qualified directors (a majority of
5345 whom shall for such purpose constitute a quorum) or by a
5346 majority of the members of a committee appointed by such vote
5347 and comprised of two or more qualified directors; or

5348 2. If there are fewer than two qualified directors, by the
5349 vote necessary for action by the board of directors under s.
5350 607.0824(3), in which authorization vote directors who are not
5351 qualified directors may participate; or

5352 (b) By the shareholders, but shares owned by or voted under
5353 the control of a director or officer who at the time of the
5354 authorization is not a qualified director or is an officer who
5355 is a party to the proceeding may not be counted as a vote in
5356 favor of the authorization.

5357 Section 110. Section 607.0854, Florida Statutes, is created
5358 to read:

5359 607.0854 Court-ordered indemnification and advance for
5360 expenses.—

5361 (1) Unless the corporation's articles of incorporation
5362 provide otherwise, notwithstanding the failure of a corporation
5363 to provide indemnification, and despite any contrary
5364 determination of the board of directors or of the shareholders
5365 in the specific case, a director or officer of the corporation

590-03467A-19

2019892c2

5366 who is a party to a proceeding because he or she is or was a
5367 director or officer may apply for indemnification or an advance
5368 for expenses, or both, to a court having jurisdiction over the
5369 corporation which is conducting the proceeding, or to a circuit
5370 court of competent jurisdiction. After receipt of an application
5371 and after giving any notice it considers necessary, the court
5372 may:

5373 (a) Order indemnification if the court determines that the
5374 director or officer is entitled to mandatory indemnification
5375 under s. 607.0852;

5376 (b) Order indemnification or advance for expenses if the
5377 court determines that the director or officer is entitled to
5378 indemnification or advance for expenses pursuant to a provision
5379 authorized by s. 607.0858(1); or

5380 (c) Order indemnification or advance for expenses if the
5381 court determines, in view of all the relevant circumstances,
5382 that it is fair and reasonable to indemnify the director or
5383 officer or to advance expenses to the director or officer, even
5384 if he or she has not met the relevant standard of conduct set
5385 forth in s. 607.0851(1), has failed to comply with s. 607.0853,
5386 or was adjudged liable in a proceeding referred to in s.
5387 607.0859. If the director or officer was adjudged liable,
5388 indemnification shall be limited to expenses incurred in
5389 connection with the proceeding.

5390 (2) If the court determines that the director or officer is
5391 entitled to indemnification under paragraph (1)(a) or to
5392 indemnification or advance for expenses under paragraph (1)(b),
5393 it shall also order the corporation to pay the director's or
5394 officer's expenses incurred in connection with obtaining court-

590-03467A-19

2019892c2

5395 ordered indemnification or advance for expenses. If the court
5396 determines that the director or officer is entitled to
5397 indemnification or advance for expenses under paragraph (1) (c),
5398 it may also order the corporation to pay the director's or
5399 officer's expenses to obtain court-ordered indemnification or
5400 advance for expenses.

5401 Section 111. Section 607.0855, Florida Statutes, is created
5402 to read:

5403 607.0855 Determination and authorization of
5404 indemnification.-

5405 (1) Unless ordered by a court under s. 607.0854(1) (c), a
5406 corporation may not indemnify a director or officer under s.
5407 607.0851 unless authorized for a specific proceeding after a
5408 determination has been made that indemnification is permissible
5409 because the director or officer has met the relevant standard of
5410 conduct set forth in s. 607.0851.

5411 (2) The determination shall be made:

5412 (a) If there are two or more qualified directors, by the
5413 board of directors by a majority vote of all of the qualified
5414 directors, a majority of whom shall for such purposes constitute
5415 a quorum, or by a majority of the members of a committee of two
5416 or more qualified directors appointed by such a vote; or

5417 (b) By independent special legal counsel:

5418 1. Selected in the manner prescribed by paragraph (a); or

5419 2. If there are fewer than two qualified directors,
5420 selected by the board of directors, in which selection directors
5421 who are not qualified directors may participate; or

5422 (c) By the shareholders, but shares owned by or voted under
5423 the control of a director or officer who, at the time of the

590-03467A-19

2019892c2

5424 determination, is not a qualified director or an officer who is
5425 a party to the proceeding may not be counted as votes in favor
5426 of the determination.

5427 (3) Authorization of indemnification shall be made in the
5428 same manner as the determination that indemnification is
5429 permissible, except that if the determination of permissibility
5430 has been made by independent special legal counsel under
5431 paragraph (2)(b), any authorization of indemnification
5432 associated with such determination shall be made by either such
5433 independent special legal counsel or by those who otherwise
5434 would be entitled to select independent special legal counsel
5435 under paragraph (2)(b).

5436 Section 112. Section 607.0857, Florida Statutes, is created
5437 to read:

5438 607.0857 Insurance.—A corporation shall have the power to
5439 purchase and maintain insurance on behalf of and for the benefit
5440 of an individual who is or was a director or officer of the
5441 corporation, or who, while a director or officer of the
5442 corporation, is or was serving at the corporation's request as a
5443 director, officer, manager, member, partner, trustee, employee,
5444 or agent of another domestic or foreign corporation, limited
5445 liability company, partnership, joint venture, trust, employee
5446 benefit plan, or other enterprise or entity, against liability
5447 asserted against or incurred by the individual in that capacity
5448 or arising from his or her status as a director or officer,
5449 whether or not the corporation would have power to indemnify or
5450 advance expenses to the individual against the same liability
5451 under this chapter.

5452 Section 113. Section 607.0858, Florida Statutes, is created

590-03467A-19

2019892c2

5453 to read:

5454 607.0858 Variation by corporate action; application of
5455 subchapter.-

5456 (1) The indemnification provided pursuant to ss. 607.0851
5457 and 607.0852 and the advancement of expenses provided pursuant
5458 to s. 607.0853 are not exclusive, and a corporation may, by a
5459 provision in its articles of incorporation, bylaws or any
5460 agreement, or by vote of shareholders or disinterested
5461 directors, or otherwise, obligate itself in advance of the act
5462 or omission giving rise to a proceeding to provide any other or
5463 further indemnification or advancement of expenses to any of its
5464 directors or officers. Any such obligatory provision shall be
5465 deemed to satisfy the requirements for authorization referred to
5466 in ss. 607.0853(3) and 607.0855(3). Any such provision that
5467 obligates the corporation to provide indemnification to the
5468 fullest extent permitted by law shall be deemed to obligate the
5469 corporation to advance funds to pay for or reimburse expenses in
5470 accordance with s. 607.0853 to the fullest extent permitted by
5471 law, unless the provision specifically provides otherwise.

5472 (2) A right of indemnification or to advance for expenses
5473 created by this chapter or under subsection (1) and in effect at
5474 the time of an act or omission may not be eliminated or impaired
5475 with respect to such act or omission by an amendment of the
5476 articles of incorporation or bylaws or a resolution of the
5477 directors or shareholders, adopted after the occurrence of such
5478 act or omission, unless, in the case of a right created under
5479 subsection (1), the provision creating such right and in effect
5480 at the time of such act or omission explicitly authorizes such
5481 elimination or impairment after such act or omission has

590-03467A-19

2019892c2

5482 occurred.

5483 (3) Any provision pursuant to subsection (1) shall not
5484 obligate the corporation to indemnify or advance for expenses to
5485 a director or officer of a predecessor of the corporation,
5486 pertaining to conduct with respect to the predecessor, unless
5487 otherwise specifically provided. Any provision for
5488 indemnification or advance for expenses in the articles of
5489 incorporation, bylaws, or a resolution of the board of directors
5490 or shareholders of a predecessor of the corporation in a merger
5491 or in a contract to which the predecessor is a party, existing
5492 at the time the merger takes effect, shall be governed by s.
5493 607.1106(1) (d).

5494 (4) Subject to subsection (2), a corporation may, by a
5495 provision in its articles of incorporation, limit any of the
5496 rights to indemnification or advance for expenses created by or
5497 pursuant to this chapter.

5498 (5) Sections 607.0850-607.0859 do not limit a corporation's
5499 power to pay or reimburse expenses incurred by a director, an
5500 officer, an employee, or an agent in connection with appearing
5501 as a witness in a proceeding at a time when he or she is not a
5502 party.

5503 (6) Sections 607.0850-607.0859 do not limit a corporation's
5504 power to indemnify, advance expenses to, or provide or maintain
5505 insurance on behalf of or for the benefit of an individual who
5506 is or was an employee or agent.

5507 Section 114. Section 607.0859, Florida Statutes, is created
5508 to read:

5509 607.0859 Overriding restrictions on indemnification.-

5510 (1) Unless ordered by a court under s. 607.0854(1) (c), a

590-03467A-19

2019892c2

5511 corporation may not indemnify a director or officer under s.
5512 607.0851 or s. 607.0858 or advance expenses to a director or
5513 officer under s. 607.0853 or s. 607.0858 if a judgment or other
5514 final adjudication establishes that his or her actions, or
5515 omissions to act, were material to the cause of action so
5516 adjudicated and constitute:

5517 (a) Willful or intentional misconduct or a conscious
5518 disregard for the best interests of the corporation in a
5519 proceeding by or in the right of the corporation to procure a
5520 judgment in its favor or in a proceeding by or in the right of a
5521 shareholder;

5522 (b) A transaction in which a director or officer derived an
5523 improper personal benefit;

5524 (c) A violation of the criminal law, unless the director or
5525 officer had reasonable cause to believe his or her conduct was
5526 lawful or had no reasonable cause to believe his or her conduct
5527 was unlawful; or

5528 (d) In the case of a director, a circumstance under which
5529 the liability provisions of s. 607.0834 are applicable.

5530 (2) A corporation may provide indemnification or advance
5531 expenses to a director or an officer only as allowed by ss.
5532 607.0850-607.0859.

5533 Section 115. Paragraphs (b), (d), (f), (h), (j), and (k) of
5534 subsection (1) and subsections (2), (4), (5), and (6) of section
5535 607.0901, Florida Statutes, are amended to read:

5536 607.0901 Affiliated transactions.—

5537 (1) For purposes of this section:

5538 (b) "Affiliated transaction," when used in reference to the
5539 corporation and any interested shareholder, means:

590-03467A-19

2019892c2

- 5540 1. Any merger or consolidation of the corporation or any
5541 subsidiary of the corporation with:
- 5542 a. The interested shareholder; or
- 5543 b. Any other corporation, partnership, limited liability
5544 company, or other entity, in each case, ~~(whether or not itself~~
5545 ~~an interested shareholder,)~~ which is, or after such merger or
5546 consolidation would be, an affiliate or associate of the
5547 interested shareholder;
- 5548 2. Any sale, lease, exchange, mortgage, pledge, transfer,
5549 or other disposition (in one transaction or a series of
5550 transactions), except proportionately as a shareholder of such
5551 corporation, to or with the interested shareholder or any
5552 affiliate or associate of the interested shareholder, whether as
5553 part of a dissolution or otherwise, of assets of the corporation
5554 or any subsidiary of the corporation:
- 5555 a. Having an aggregate fair market value equal to 10 ~~5~~
5556 percent or more of the aggregate fair market value of all the
5557 assets, determined on a consolidated basis, of the corporation;
- 5558 b. Having an aggregate fair market value equal to 10 ~~5~~
5559 percent or more of the aggregate fair market value of all the
5560 outstanding shares of the corporation; or
- 5561 c. Representing 10 ~~5~~ percent or more of the earning power
5562 or net income, determined on a consolidated basis, of the
5563 corporation;
- 5564 3. The issuance or transfer by the corporation or any
5565 subsidiary of the corporation (in one transaction or a series of
5566 transactions) of any shares of the corporation or any subsidiary
5567 of the corporation which have an aggregate fair market value
5568 equal to 10 ~~5~~ percent or more of the aggregate fair market value

590-03467A-19

2019892c2

5569 of all the outstanding shares of the corporation to the
5570 interested shareholder or any affiliate or associate of the
5571 interested shareholder except:

5572 a. Pursuant to the exercise, exchange, or conversion of
5573 securities exercisable for, exchangeable for, or convertible
5574 into shares of the corporation or any subsidiary of the
5575 corporation which were outstanding prior to the time that the
5576 interested shareholder became such;

5577 b. Pursuant to a merger under s. 607.11045;

5578 c. Provided that the interested shareholder's proportionate
5579 share of the shares of any class or series of the corporation or
5580 of the voting shares of the corporation has not increased as a
5581 result thereof:

5582 (I) Pursuant to a dividend or distribution paid or made, or
5583 the exercise, exchange, or conversion of securities exercisable
5584 for, exchangeable for, or convertible into, shares of the
5585 corporation which security is distributed, pro rata to all
5586 holders of a class or series of shares of such corporation
5587 subsequent to the time the interested shareholder became such;

5588 (II) Pursuant to an exchange offer by the corporation to
5589 purchase shares of such corporation made on the same terms to
5590 all holders of such shares; or

5591 (III) Any issuance or transfer of shares by the
5592 corporation; ~~of warrants or rights to purchase stock offered, or~~
5593 ~~a dividend or distribution paid or made, pro rata to all~~
5594 ~~shareholders of the corporation;~~

5595 4. The adoption of any plan or proposal for the liquidation
5596 or dissolution of the corporation proposed by, or pursuant to
5597 any agreement, arrangement, or understanding (whether or not in

590-03467A-19

2019892c2

5598 writing) with, the interested shareholder or any affiliate or
5599 associate of the interested shareholder;

5600 5. Any reclassification of securities (including, without
5601 limitation, any stock split, stock dividend, or other
5602 distribution of shares in respect of shares, or any reverse
5603 stock split) or recapitalization of the corporation, or any
5604 merger or consolidation of the corporation with any subsidiary
5605 of the corporation, or any other transaction (whether or not
5606 with or into or otherwise involving the interested shareholder),
5607 with the interested shareholder or any affiliate or associate of
5608 the interested shareholder, which has the effect, directly or
5609 indirectly (in one transaction or a series of transactions
5610 during any 12-month period), of increasing by more than 10 ~~5~~
5611 percent the percentage of the outstanding voting shares of the
5612 corporation or any subsidiary of the corporation beneficially
5613 owned by the interested shareholder; or

5614 6. Any receipt by the interested shareholder or any
5615 affiliate or associate of the interested shareholder of the
5616 benefit, directly or indirectly (except proportionately as a
5617 shareholder of the corporation), of any loans, advances,
5618 guaranties, pledges, or other financial assistance or any tax
5619 credits or other tax advantages, other than those expressly
5620 allowed in subparagraph 3., provided by or through the
5621 corporation or any subsidiary of the corporation.

5622 (d) "Associate," when used to indicate a relationship with
5623 any person, means any entity, other than the corporation or any
5624 of its subsidiaries, of which such person is an officer,
5625 director, or partner or is, directly or indirectly, the
5626 beneficial owner of 20 ~~10~~ percent or more of any class of voting

590-03467A-19

2019892c2

5627 shares; any trust or other estate in which such person has at
5628 least 20 percent ~~a substantial~~ beneficial interest or as to
5629 which such person serves as trustee or in a similar fiduciary
5630 capacity; and any relative or spouse of such person, or any
5631 relative of such spouse, who has the same residence ~~home~~ as such
5632 person or who is an officer or director of the corporation or
5633 any of its affiliates.

5634 (f) "Control," "controlling," "controlled by," and "under
5635 common control with" means the possession, directly or
5636 indirectly, through the ownership of voting shares, by contract,
5637 arrangement, understanding, relationship, or otherwise, of the
5638 power to direct or cause the direction of the management and
5639 policies of a person. A person who is the owner of 20 percent or
5640 more of the outstanding voting shares of any corporation,
5641 partnership, unincorporated association, or other entity is
5642 presumed to have control of such entity, in the absence of proof
5643 by a preponderance of the evidence to the contrary.

5644 Notwithstanding the foregoing, a person shall not be deemed to
5645 have control of an entity ~~a corporation~~ if such person holds
5646 voting shares, in good faith and not for the purpose of
5647 circumventing this section, as an agent, bank, broker, nominee,
5648 custodian, or trustee for one or more beneficial owners who do
5649 not individually or as a group have control of such entity
5650 ~~corporation~~.

5651 (h) Unless otherwise specified in the articles of
5652 incorporation initially filed with the department ~~of State~~, a
5653 "disinterested director" means as to any particular interested
5654 shareholder:

5655 1. Any member of the board of directors of the corporation

590-03467A-19

2019892c2

5656 who was a member of the board of directors before the later of
5657 January 1, 1987, or the determination date; and

5658 2. Any member of the board of directors of the corporation
5659 who was recommended for election by, or was elected to fill a
5660 vacancy and received the affirmative vote of, a majority of the
5661 disinterested directors then on the board.

5662 (j) "Fair market value" means:

5663 1. In the case of shares:~~;~~ the highest closing sale price
5664 of a share quoted during the 30-day period immediately preceding
5665 the date in question on the composite tape for shares listed on
5666 the New York Stock Exchange; or, if such shares are not quoted
5667 on the composite tape on the New York Stock Exchange, the
5668 highest closing sale price quoted during such period on the New
5669 York Stock Exchange; or, if such shares are not listed on such
5670 exchange, the highest closing sale price quoted during such
5671 period on the principal United States securities exchange
5672 registered under the Exchange Act on which such shares are
5673 listed; or, if such shares are not listed on any such exchange,
5674 the highest closing bid quotation with respect to a share during
5675 the 30-day period preceding the date in question on the National
5676 Association of Securities Dealers, Inc., automated quotations
5677 system or any other stock price quotation ~~similar~~ system then in
5678 general use; or, if no such quotations are available, the fair
5679 market value of a share on the date in question as determined
5680 by:

5681 a. A majority of disinterested directors; or

5682 b. If at such time there are no disinterested directors, by
5683 the board of directors of such corporation in good faith; and

5684 2. In the case of property other than cash or shares, the

590-03467A-19

2019892c2

5685 fair market value of such property on the date in question as
5686 determined by:

5687 a. A majority of the disinterested directors; or

5688 b. If at such time there are no disinterested directors, by
5689 the board of directors of such corporation in good faith.

5690 (k) "Interested shareholder" means any person who is the
5691 beneficial owner of more than 15 ~~10~~ percent of the outstanding
5692 voting shares of the corporation. However, the term "interested
5693 shareholder" shall not include:

5694 1. The corporation or any of its subsidiaries;

5695 2. Any savings, employee stock ownership, or other employee
5696 benefit plan of the corporation or any of its subsidiaries, ~~or~~ or
5697 any fiduciary with respect to any such plan when acting in such
5698 capacity; or

5699 3. Any person whose ownership of shares in excess of the 15
5700 percent limitation is the result of action taken solely by the
5701 corporation; provided that such person shall be an interested
5702 shareholder if thereafter such person acquires additional shares
5703 of voting shares of the corporation, except as a result of
5704 further corporate action not caused, directly or indirectly, by
5705 such person. For the purpose of determining whether a person is
5706 an interested shareholder, the number of voting shares deemed to
5707 be outstanding shall include shares deemed owned by the
5708 interested shareholder through application of subparagraph (e)3.
5709 but shall not include any other voting shares that may be
5710 issuable pursuant to any contract, arrangement, or
5711 understanding, upon the exercise of conversion rights, exchange
5712 rights, warrants, or options, or otherwise.

5713 (2) Except to the extent ~~as~~ provided in subsections

590-03467A-19

2019892c2

5714 ~~subsection~~ (4) and (5), and with respect to such exceptions, in
5715 compliance with other applicable provisions of this chapter, a
5716 corporation may not engage in any affiliated transaction with
5717 any interested shareholder for a period of 3 years following the
5718 time that such shareholder became an interested shareholder,
5719 unless:

5720 (a) Prior to the time that such shareholder became an
5721 interested shareholder, the board of directors of the
5722 corporation approved either the affiliated transaction or the
5723 transaction which resulted in the shareholder becoming an
5724 interested shareholder; or

5725 (b) Upon consummation of the transaction that resulted in
5726 the shareholder becoming an interested shareholder, the
5727 interested shareholder owned at least 85 percent of the voting
5728 shares of the corporation outstanding at the time the
5729 transaction commenced, excluding for purposes of determining the
5730 voting shares outstanding, but not the outstanding voting shares
5731 owned by the interested shareholder, those shares owned by
5732 persons who are directors and also officers and by employee
5733 stock plans in which employee participants do not have the right
5734 to determine confidentially whether shares held subject to the
5735 plan will be tendered in a tender or exchange offer; or

5736 (c) At or subsequent to the time that such shareholder
5737 became an interested shareholder, the affiliated transaction is
5738 approved by the board of directors and authorized at an annual
5739 or special meeting of shareholders, and not by written consent,
5740 by the affirmative vote of at least two-thirds of the
5741 outstanding voting shares which are not owned by the interested
5742 shareholder, ~~in addition to any affirmative vote required by any~~

590-03467A-19

2019892c2

5743 ~~other section of this act or by the articles of incorporation,~~
5744 ~~an affiliated transaction shall be approved by the affirmative~~
5745 ~~vote of the holders of two-thirds of the voting shares other~~
5746 ~~than the shares beneficially owned by the interested~~
5747 ~~shareholder.~~

5748 (4) The voting requirements set forth in subsection (2) do
5749 not apply to a particular affiliated transaction if all of the
5750 conditions specified in any one of the following paragraphs are
5751 met:

5752 (a) The affiliated transaction has been approved by a
5753 majority of the disinterested directors;

5754 (b) The corporation has not had more than 300 shareholders
5755 of record at any time during the 3 years preceding the
5756 announcement date;

5757 (c) The interested shareholder has been the beneficial
5758 owner of at least 80 percent of the corporation's outstanding
5759 voting shares for at least 3 ~~5~~ years preceding the announcement
5760 date;

5761 (d) The interested shareholder is the beneficial owner of
5762 at least 90 percent of the outstanding voting shares of the
5763 corporation, exclusive of shares acquired directly from the
5764 corporation in a transaction not approved by a majority of the
5765 disinterested directors;

5766 (e) The corporation is an investment company registered
5767 under the Investment Company Act of 1940; or

5768 (f) In the affiliated transaction, consideration shall be
5769 paid to the holders of each class or series of voting shares and
5770 all of the following conditions shall be met:

5771 1. The aggregate amount of the cash and the fair market

590-03467A-19

2019892c2

5772 value as of the valuation date of consideration other than cash
5773 to be received per share by holders of each class or series of
5774 voting shares in such affiliated transaction are at least equal
5775 to the highest of the following:

5776 a. If applicable, the highest per share price, including
5777 any brokerage commissions, transfer taxes, and soliciting
5778 dealers' fees, paid by the interested shareholder for any shares
5779 of such class or series acquired by it within the 2-year period
5780 immediately preceding the announcement date or in the
5781 transaction in which it became an interested shareholder,
5782 whichever is higher;

5783 b. The fair market value per share of such class or series
5784 on the announcement date or on the determination date, whichever
5785 is higher;

5786 c. If applicable, the price per share equal to the fair
5787 market value per share of such class or series determined
5788 pursuant to sub-subparagraph b., multiplied by the ratio of the
5789 highest per share price, including any brokerage commissions,
5790 transfer taxes, and soliciting dealers' fees, paid by the
5791 interested shareholder for any shares of such class or series
5792 acquired by it within the 2-year period immediately preceding
5793 the announcement date, to the fair market value per share of
5794 such class or series on the first day in such 2-year period on
5795 which the interested shareholder acquired any shares of such
5796 class or series; and

5797 d. If applicable, the highest preferential amount, if any,
5798 per share to which the holders of such class or series are
5799 entitled in the event of any voluntary or involuntary
5800 dissolution of the corporation;;

590-03467A-19

2019892c2

5801 2. The consideration to be received by holders of
5802 outstanding shares shall be in cash or in the same form as the
5803 interested shareholder has previously paid for shares of the
5804 same class or series, and if the interested shareholder has paid
5805 for shares with varying forms of consideration, the form of the
5806 consideration shall be either cash or the form used to acquire
5807 the largest number of shares of such class or series previously
5808 acquired by the interested shareholder;;

5809 3. During such portion of the 3-year period preceding the
5810 announcement date that such interested shareholder has been an
5811 interested shareholder, except as approved by a majority of the
5812 disinterested directors:

5813 a. There shall have been no failure to declare and pay at
5814 the regular date therefor any full periodic dividends, whether
5815 or not cumulative, on any outstanding shares of the corporation;

5816 b. There shall have been:

5817 (I) No reduction in the annual rate of dividends paid on
5818 any class or series of voting shares, except as necessary to
5819 reflect any subdivision of the class or series; and

5820 (II) An increase in such annual rate of dividends as
5821 necessary to reflect any reclassification, including any reverse
5822 stock split, recapitalization, reorganization, or similar
5823 transaction which has the effect of reducing the number of
5824 outstanding shares of the class or series; and

5825 c. Such interested shareholder shall not have become the
5826 beneficial owner of any additional voting shares except as part
5827 of the transaction which results in such interested shareholder
5828 becoming an interested shareholder;;

5829 4. During such portion of the 3-year period preceding the

590-03467A-19

2019892c2

5830 announcement date that such interested shareholder has been an
5831 interested shareholder, except as approved by a majority of the
5832 disinterested directors, such interested shareholder shall not
5833 have received the benefit, directly or indirectly (except
5834 proportionately as a shareholder), of any loans, advances,
5835 guaranties, pledges, or other financial assistance or any tax
5836 credits or other tax advantages provided by the corporation,
5837 whether in anticipation of or in connection with such affiliated
5838 transaction or otherwise; and-

5839 5. Except as otherwise approved by a majority of the
5840 disinterested directors, a proxy or information statement
5841 describing the affiliated transaction and complying with the
5842 requirements of the Exchange Act and the rules and regulations
5843 thereunder has been mailed to holders of voting shares of the
5844 corporation at least 25 days before the consummation of such
5845 affiliated transaction, whether or not such proxy or information
5846 statement is required to be mailed pursuant to the Exchange Act
5847 or such rules or regulations.

5848 (5) The provisions of this section do not apply:

5849 (a) To any corporation the original articles of
5850 incorporation of which contain a provision expressly electing
5851 not to be governed by this section;

5852 (b) To any corporation which adopted an amendment to its
5853 articles of incorporation prior to July 1, 2018 ~~January 1, 1989~~,
5854 expressly electing not to be governed by this section, provided
5855 that such amendment does not apply to any affiliated transaction
5856 of the corporation with an interested shareholder whose
5857 determination date is on or prior to the effective date of such
5858 amendment;

590-03467A-19

2019892c2

5859 (c) To any corporation which adopts an amendment to its
5860 articles of incorporation or bylaws, approved by the affirmative
5861 vote of the holders, other than interested shareholders and
5862 their affiliates and associates, of a majority of the
5863 outstanding voting shares of the corporation, excluding the
5864 voting shares of interested shareholders and their affiliates
5865 and associates, expressly electing not to be governed by this
5866 section, provided that such amendment to the articles of
5867 incorporation or bylaws shall not be effective until 18 months
5868 after such vote of the corporation's shareholders and shall not
5869 apply to any affiliated transaction of the corporation with an
5870 interested shareholder whose determination date is on or prior
5871 to the effective date of such amendment; or

5872 (d) To any affiliated transaction of the corporation with
5873 an interested shareholder of the corporation which became an
5874 interested shareholder inadvertently, if such interested
5875 shareholder, as soon as practicable, divests itself of a
5876 sufficient amount of the voting shares of the corporation so
5877 that it no longer is the beneficial owner, directly or
5878 indirectly, of 20 ~~10~~ percent or more of the outstanding voting
5879 shares of the corporation, and would not at any time within the
5880 3-year ~~5-year~~ period preceding the announcement date with
5881 respect to such affiliated transaction have been an interested
5882 shareholder but for such inadvertent acquisition.

5883 (6) Any corporation that elected not to be governed by this
5884 section, either through a provision in its original articles of
5885 incorporation or through an amendment to its articles of
5886 incorporation or bylaws may elect to be bound by the provisions
5887 of this section by adopting an amendment to its articles of

590-03467A-19

2019892c2

5888 incorporation or bylaws that repeals the original article or the
5889 amendment. In addition to any requirements of this chapter act,
5890 or the articles of incorporation or bylaws of the corporation,
5891 any such amendment shall be approved by the affirmative vote of
5892 the holders of two-thirds of the voting shares other than shares
5893 beneficially owned by any interested shareholder.

5894 Section 116. Paragraph (d) of subsection (2) of section
5895 607.0902, Florida Statutes, is amended to read:

5896 607.0902 Control-share acquisitions.—

5897 (2) "CONTROL-SHARE ACQUISITION."—

5898 (d) The acquisition of any shares of an issuing public
5899 corporation does not constitute a control-share acquisition if
5900 the acquisition is consummated in any of the following
5901 circumstances:

5902 1. Before July 2, 1987.

5903 2. Pursuant to a contract existing before July 2, 1987.

5904 3. Pursuant to the laws of intestate succession or pursuant
5905 to a gift or testamentary transfer.

5906 4. Pursuant to the satisfaction of a pledge or other
5907 security interest created in good faith and not for the purpose
5908 of circumventing this section.

5909 5. Pursuant to a merger or share exchange effected in
5910 compliance with s. 607.1101, s. 607.1102, s. 607.1103, s.
5911 607.1104, or s. 607.1105 ~~s. 607.1107~~, if the issuing public
5912 corporation is a party to the agreement of merger or plan of
5913 share exchange.

5914 6. Pursuant to any savings, employee stock ownership, or
5915 other employee benefit plan of the issuing public corporation or
5916 any of its subsidiaries or any fiduciary with respect to any

590-03467A-19

2019892c2

5917 such plan when acting in such fiduciary capacity.

5918 7. Pursuant to an acquisition of shares of an issuing
5919 public corporation if the acquisition has been approved by the
5920 board of directors of such issuing public corporation before
5921 acquisition.

5922 Section 117. Subsection (1) of section 607.1001, Florida
5923 Statutes, is amended to read:

5924 607.1001 Authority to amend the articles of incorporation.—

5925 (1) A corporation may amend its articles of incorporation
5926 at any time to add or change a provision that is required or
5927 permitted in the articles of incorporation or to delete a
5928 provision not required to be contained in the articles of
5929 incorporation. Whether a provision is required or permitted in
5930 the articles of incorporation is determined as of the effective
5931 date of the amendment.

5932 Section 118. Section 607.1002, Florida Statutes, is amended
5933 to read:

5934 607.1002 Amendment by board of directors.—Unless the
5935 articles of incorporation provide otherwise, a corporation's
5936 board of directors may adopt one or more amendments to the
5937 corporation's articles of incorporation without shareholder
5938 approval ~~action~~:

5939 (1) To extend the duration of the corporation if it was
5940 incorporated at a time when limited duration was required by
5941 law;

5942 (2) To delete the names and addresses of the initial
5943 directors;

5944 (3) To delete the name and address of the initial
5945 registered agent or registered office, if a statement of change

590-03467A-19

2019892c2

5946 is on file with the department ~~of State~~;

5947 (4) To delete any other information contained in the
5948 articles of incorporation that is solely of historical interest;

5949 (5) To delete the authorization for a class or series of
5950 shares authorized pursuant to s. 607.0602, if no shares of such
5951 class or series are issued;

5952 (6) To change the corporate name by substituting the word
5953 "corporation," "incorporated," or "company," or the abbreviation
5954 "corp.," "Inc.," or "Co.," for a similar word or abbreviation in
5955 the name, or by adding, deleting, or changing a geographical
5956 attribution for the name;

5957 (7) To change the par value for a class or series of
5958 shares;

5959 (8) To provide that if the corporation acquires its own
5960 shares, such shares belong to the corporation and constitute
5961 treasury shares until disposed of or canceled by the
5962 corporation; ~~or~~

5963 (9) To reflect a reduction in authorized shares, as a
5964 result of the operation of s. 607.0631(2), when the corporation
5965 has acquired its own shares and the articles of incorporation
5966 prohibit the reissue of the acquired shares;

5967 (10) To delete a class of shares from the articles of
5968 incorporation, as a result of the operation of s. 607.0631(2),
5969 when there are no remaining shares of the class because the
5970 corporation has acquired all shares of the class and the
5971 articles of incorporation prohibit the reissue of the acquired
5972 shares; or

5973 (11) ~~(9)~~ To make any other change expressly permitted by
5974 this act to be made without shareholder approval ~~action~~.

590-03467A-19

2019892c2

5975 Section 119. Subsections (4), (6), and (8) of section
5976 607.10025, Florida Statutes, are amended to read:

5977 607.10025 Shares; combination or division.-

5978 (4) If a division or combination is effected by a board
5979 action without shareholder approval and includes an amendment to
5980 the articles of incorporation, there shall be signed ~~executed~~ in
5981 accordance with s. 607.0120 on behalf of the corporation and
5982 filed in the office of the department ~~of State~~ articles of
5983 amendment which shall set forth:

5984 (a) The name of the corporation.

5985 (b) The date of adoption by the board of directors of the
5986 resolution approving the division or combination.

5987 (c) That the amendment to the articles of incorporation
5988 does not adversely affect the rights or preferences of the
5989 holders of outstanding shares of any class or series and does
5990 not result in the percentage of authorized shares that remain
5991 unissued after the division or combination exceeding the
5992 percentage of authorized shares that were unissued before the
5993 division or combination.

5994 (d) The class or series and number of shares subject to the
5995 division or combination and the number of shares into which the
5996 shares are to be divided or combined.

5997 (e) The amendment of the articles of incorporation made in
5998 connection with the division or combination.

5999 (f) If the division or combination is to become effective
6000 at a time subsequent to the time of filing, the date, which may
6001 not exceed 90 days after the date of filing, when the division
6002 or combination becomes effective.

6003 (6) If a division or combination is effected by action of

590-03467A-19

2019892c2

6004 the board and of the shareholders, there shall be signed
6005 ~~executed~~ on behalf of the corporation and filed with the
6006 department ~~of State~~ articles of amendment as provided in s.
6007 607.1006 ~~s. 607.1003~~, which articles shall set forth, in
6008 addition to the information required by s. 607.1006 ~~s. 607.1003~~,
6009 the information required in subsection (4).

6010 ~~(8) This section applies only to corporations with more~~
6011 ~~than 35 shareholders of record.~~

6012 Section 120. Section 607.1003, Florida Statutes, is amended
6013 to read:

6014 607.1003 Amendment by board of directors and shareholders.—
6015 If a corporation has issued shares, an amendment to the articles
6016 of incorporation shall be adopted in the following manner:

6017 (1) The proposed amendment shall first be adopted by the
6018 board of directors. A corporation's board of directors may
6019 ~~propose one or more amendments to the articles of incorporation~~
6020 ~~for submission to the shareholders.~~

6021 (2) (a) Except as provided in ss. 607.1002, 607.10025, and
6022 607.1008, and, with respect to restatements that do not require
6023 shareholder approval, s. 607.1007, the amendment shall then be
6024 approved by the shareholders.

6025 (b) In submitting the proposed amendment to the
6026 shareholders for approval, the board of directors shall
6027 recommend that the shareholders approve the amendment unless:

6028 1. The board of directors makes a determination that
6029 because of a conflict of interest or other special circumstances
6030 it should not make such a recommendation; or

6031 2. Section 607.0826 applies.

6032 (c) If either subparagraph (b)1. or subparagraph (b)2.

590-03467A-19

2019892c2

6033 applies, the board must inform the shareholders of the basis for
6034 its so proceeding without such recommendation ~~For the amendment~~
6035 ~~to be adopted:~~

6036 ~~(a) The board of directors must recommend the amendment to~~
6037 ~~the shareholders, unless the board of directors determines that~~
6038 ~~because of conflict of interest or other special circumstances~~
6039 ~~it should make no recommendation and communicates the basis for~~
6040 ~~its determination to the shareholders with the amendment; and~~

6041 ~~(b) The shareholders entitled to vote on the amendment must~~
6042 ~~approve the amendment as provided in subsection (5).~~

6043 (3) The board of directors may set conditions for the
6044 approval of the amendment by the shareholders or the
6045 effectiveness of the amendment ~~condition its submission of the~~
6046 ~~proposed amendment on any basis.~~

6047 (4) If the amendment is required to be approved by the
6048 shareholders, and the approval is to be given at a meeting, the
6049 corporation must notify each shareholder, whether or not
6050 entitled to vote, of the meeting of shareholders at which the
6051 amendment is to be submitted for approval. The notice must be
6052 given in accordance with s. 607.0705, state that the purpose, or
6053 one of the purposes, of the meeting is to consider the
6054 amendment ~~The corporation shall notify each shareholder, whether~~
6055 ~~or not entitled to vote, of the proposed shareholders' meeting~~
6056 ~~in accordance with s. 607.0705. The notice of meeting must also~~
6057 ~~state that the purpose, or one of the purposes, of the meeting~~
6058 ~~is to consider the proposed amendment and contain or be~~
6059 ~~accompanied by a copy or summary of the amendment.~~

6061 (5) Unless this chapter act, the articles of incorporation,

590-03467A-19

2019892c2

6062 or the board of directors, ~~acting pursuant to subsection (3),~~
6063 requires a greater vote or a greater quorum, the approval of the
6064 amendment requires the approval of the shareholders at a meeting
6065 at which a quorum consisting of at least a majority of the
6066 shares entitled to be cast on the amendment exists, and, if any
6067 class or series of shares is entitled to vote as a separate
6068 group on the amendment, except as provided in s. 607.1004(3),
6069 the approval of each such separate voting group at a meeting at
6070 which a quorum of the voting group exists consisting of at least
6071 a majority of the votes entitled to be cast on the amendment by
6072 that voting group.

6073 (6) If the amendment by any voting group would create
6074 appraisal rights, approval of the amendment must also require
6075 the vote of a majority of the votes entitled to be cast by such
6076 voting group ~~vote by voting groups, the amendment to be adopted~~
6077 ~~must be approved by:~~

6078 ~~(a) A majority of the votes entitled to be cast on the~~
6079 ~~amendment by any voting group with respect to which the~~
6080 ~~amendment would create dissenters' rights; and~~

6081 ~~(b) The votes required by ss. 607.0725 and 607.0726 by~~
6082 ~~every other voting group entitled to vote on the amendment.~~

6083 (7) ~~(6)~~ Unless otherwise provided in the articles of
6084 incorporation, the shareholders of a corporation having 35 or
6085 fewer shareholders may amend the articles of incorporation
6086 without an act of the directors at a meeting for which notice of
6087 the changes to be made is given. For purposes of this
6088 subsection, the term "shareholder" means a record shareholder, a
6089 beneficial shareholder, or an unrestricted voting trust
6090 beneficial owner.

590-03467A-19

2019892c2

6091 (8) If as a result of an amendment of the articles of
6092 incorporation one or more shareholders of a domestic corporation
6093 would become subject to new interest holder liability, approval
6094 of the amendment shall require the signing in connection with
6095 the amendment, by each such shareholder, of a separate written
6096 consent to become subject to such new interest holder liability,
6097 unless in the case of a shareholder that already has interest
6098 holder liability the terms and conditions of the new interest
6099 holder liability are substantially identical to those of the
6100 existing interest holder liability (other than changes that
6101 eliminate or reduce such interest holder liability).

6102 (9) For purposes of subsection (8) and s. 607.1009, the
6103 term "new interest holder liability" means interest holder
6104 liability of a person resulting from an amendment of the
6105 articles of incorporation if the person did not have interest
6106 holder liability before the amendment becomes effective, or the
6107 person had interest holder liability before the amendment
6108 becomes effective, the terms and conditions of which are changed
6109 when the amendment becomes effective.

6110 Section 121. Section 607.1004, Florida Statutes, is amended
6111 to read:

6112 607.1004 Voting on amendments by voting groups.-

6113 (1) If the corporation has more than one class of shares
6114 outstanding, the holders of the outstanding shares of a class
6115 are entitled to vote as a separate voting group class (if
6116 shareholder voting is otherwise required by this chapter ~~act~~)
6117 upon a proposed amendment to the articles of incorporation, if
6118 the amendment would:

6119 (a) Effect an exchange or reclassification of all or part

590-03467A-19

2019892c2

6120 of the shares of the class into shares of another class.

6121 (b) Effect an exchange or reclassification, or create a
6122 right of exchange, of all or part of the shares of another class
6123 into the shares of the class.

6124 (c) Change the designation, rights, preferences, or
6125 limitations of all or part of the shares of the class.

6126 (d) Change the shares of all or part of the class into a
6127 different number of shares of the same class.

6128 (e) Create a new class of shares having rights or
6129 preferences with respect to distributions or to dissolution that
6130 are prior or superior to the shares of the class.

6131 (f) Increase the rights, preferences, or number of
6132 authorized shares of any class that, after giving effect to the
6133 amendment, have rights or preferences with respect to
6134 distributions or to dissolution that are prior or superior to
6135 the shares of the class.

6136 (g) Limit or deny an existing preemptive right of all or
6137 part of the shares of the class.

6138 (h) Cancel or otherwise affect rights to distributions or
6139 dividends that have accumulated but not yet been declared on all
6140 or part of the shares of the class.

6141 (2) If a proposed amendment would affect a series of a
6142 class of shares in one or more of the ways described in
6143 subsection (1), the shares of that series are entitled to vote
6144 as a separate voting group ~~class~~ on the proposed amendment.

6145 (3) If a proposed amendment that entitles the holders of
6146 two or more classes or series of shares to vote as separate
6147 voting groups under this section would affect those two or more
6148 classes or series in the same or substantially similar way, the

590-03467A-19

2019892c2

6149 holders of ~~the~~ shares of all the classes or series so affected
 6150 must vote together as a single voting group on the proposed
 6151 amendment, unless otherwise provided in the articles of
 6152 incorporation or added as a condition by the board of directors
 6153 pursuant to s. 607.1003(3).

6154 (4) A class or series of shares is entitled to the voting
 6155 rights granted by this section even if ~~although~~ the articles of
 6156 incorporation provide that the shares are nonvoting shares.

6157 Section 122. Section 607.1005, Florida Statutes, is amended
 6158 to read:

6159 607.1005 Amendment before issuance of shares.—If a
 6160 corporation has not yet issued shares, its board of directors,
 6161 or a majority of its incorporators if it has no ~~or~~ board of
 6162 directors, may adopt one or more amendments to the corporation's
 6163 articles of incorporation.

6164 Section 123. Section 607.1006, Florida Statutes, is amended
 6165 to read:

6166 607.1006 Articles of amendment.—

6167 (1) After an amendment to the ~~A corporation amending its~~
 6168 articles of incorporation has been adopted and approved as
 6169 required by this chapter, the corporation shall deliver to the
 6170 department ~~of State~~ for filing articles of amendment which must
 6171 ~~shall~~ be signed ~~executed~~ in accordance with s. 607.0120 and
 6172 which must ~~shall~~ set forth:

6173 (a) ~~(1)~~ The name of the corporation;

6174 (b) ~~(2)~~ The text of each amendment adopted, or the
 6175 information required by s. 607.0120(11)(e), if applicable;

6176 (c) ~~(3)~~ If an amendment provides for an exchange,
 6177 reclassification, or cancellation of issued shares, provisions

590-03467A-19

2019892c2

6178 for implementing the amendment if not contained in the amendment
6179 itself, which may be made dependent upon facts objectively
6180 ascertainable outside of the articles of amendment in accordance
6181 with s. 607.0120(11);

6182 (d) ~~(4)~~ The date of each amendment's adoption; and

6183 (e) ~~(5)~~ If an amendment:

6184 1. Was adopted by the incorporators or board of directors
6185 without shareholder approval action, a statement that the
6186 amendment was duly adopted by the incorporators or by the board
6187 of directors, as the case may be, to that effect and that
6188 shareholder approval action was not required;

6189 2. ~~(6) If an amendment was approved~~ Required approval by the
6190 shareholders, a statement that the number of votes cast for the
6191 amendment by the shareholders in a manner required by this
6192 chapter and by the articles of incorporation was sufficient for
6193 approval and if more than one voting group was entitled to vote
6194 on the amendment, a statement designating each voting group
6195 entitled to vote separately on the amendment, and a statement
6196 that the number of votes cast for the amendment by the
6197 shareholders in each voting group was sufficient for approval by
6198 that voting group; or

6199 3. Is being filed pursuant to s. 607.0120(11)(e), a
6200 statement to that effect.

6201 (2) Articles of amendment shall take effect at the
6202 effective date determined pursuant to s. 607.0123.

6203 Section 124. Section 607.1007, Florida Statutes, is amended
6204 to read:

6205 607.1007 Restated articles of incorporation.—

6206 (1) A corporation's board of directors may restate its

590-03467A-19

2019892c2

6207 articles of incorporation at any time ~~with or~~ without
6208 shareholder approval, subject to subsection (2) ~~action~~.

6209 (2) If the restated articles ~~The restatement may~~ include
6210 one or more new amendments that require to the articles. ~~If the~~
6211 ~~restatement includes an amendment requiring~~ shareholder
6212 approval, the amendments ~~it~~ must be adopted and approved as
6213 provided in s. 607.1003.

6214 (3) Notwithstanding subsection (1), if the board of
6215 directors submits a restatement for shareholder approval, and
6216 the approval is to be given at a meeting ~~action~~, the corporation
6217 must ~~shall~~ notify each shareholder, whether or not entitled to
6218 vote, of the meeting of shareholders at which the restatement is
6219 to be submitted for approval. The notice must be given ~~of the~~
6220 ~~proposed shareholders' meeting~~ in accordance with s. 607.0705
6221 and must. ~~The notice must also state that the purpose, or one of~~
6222 the purposes, of the meeting is to consider the ~~proposed~~
6223 restatement and must contain or be accompanied by a copy of the
6224 restatement ~~that identifies any amendment or other change it~~
6225 ~~would make in the articles~~.

6226 (4) A corporation that restates ~~restating~~ its articles of
6227 incorporation shall execute and deliver to the department ~~of~~
6228 ~~State~~ for filing articles of restatement, that comply with the
6229 provisions of s. 607.0120, and to the extent applicable, s.
6230 607.0202, setting forth:

- 6231 (a) The name of the corporation;
6232 (b) ~~and~~ The text of the restated articles of incorporation;
6233 (c) A statement that the restated articles consolidate all
6234 amendments into a single document; and
6235 (d) If one or more new amendments are included in the

590-03467A-19

2019892c2

6236 restated articles, the statements required under s. 607.1006
6237 with respect to each new amendment ~~Together with a certificate~~
6238 ~~setting forth:~~

6239 ~~(a) Whether the restatement contains an amendment to the~~
6240 ~~articles requiring shareholder approval and, if it does not,~~
6241 ~~that the board of directors adopted the restatement; or~~

6242 ~~(b) If the restatement contains an amendment to the~~
6243 ~~articles requiring shareholder approval, the information~~
6244 ~~required by s. 607.1006.~~

6245 (5) Duly adopted restated articles of incorporation
6246 supersede the original articles of incorporation and all
6247 amendments to the articles of incorporation ~~them~~.

6248 (6) The department ~~of State~~ may certify restated articles
6249 of incorporation, as the articles of incorporation currently in
6250 effect, without including the statements ~~certificate information~~
6251 required by subsection (4).

6252 Section 125. Subsections (1), (2), and (3) of section
6253 607.1008, Florida Statutes, are amended to read:

6254 607.1008 Amendment pursuant to reorganization.—

6255 (1) A corporation's articles of incorporation may be
6256 amended without action by the board of directors or shareholders
6257 to carry out a plan of reorganization ordered or decreed by a
6258 court of competent jurisdiction under the authority of a law of
6259 the United States or of this state ~~any federal or Florida~~
6260 ~~statute if the articles of incorporation after amendment contain~~
6261 ~~only provisions required or permitted by s. 607.0202.~~

6262 (2) The individual or individuals designated by the court
6263 shall deliver to the department ~~of State~~ for filing articles of
6264 amendment setting forth:

590-03467A-19

2019892c2

- 6265 (a) The name of the corporation;
- 6266 (b) The text of each amendment approved by the court;
- 6267 (c) The date of the court's order or decree approving the
- 6268 articles of amendment;
- 6269 (d) The title of the reorganization proceeding in which the
- 6270 order or decree was entered; and
- 6271 (e) A statement that the court had jurisdiction of the
- 6272 proceeding under a federal or Florida statute.

6273 (3) Shareholders of a corporation undergoing reorganization

6274 do not have appraisal ~~dissenters'~~ rights except as and to the

6275 extent provided in the reorganization plan.

6276 Section 126. Section 607.1009, Florida Statutes, is amended

6277 to read:

6278 607.1009 Effect of amendment.—

6279 (1) An amendment to articles of incorporation does not

6280 affect a cause of action existing against or in favor of the

6281 corporation, a proceeding to which the corporation is a party,

6282 or the existing rights of persons other than shareholders of the

6283 corporation. An amendment changing a corporation's name does not

6284 affect ~~abate~~ a proceeding brought by or against the corporation

6285 in its former name.

6286 (2) A shareholder who becomes subject to new interest

6287 holder liability in respect of the corporation as a result of an

6288 amendment to the articles of incorporation shall have that new

6289 interest holder liability only in respect of interest holder

6290 liabilities that arise after the amendment becomes effective.

6291 (3) Except as otherwise provided in the articles of

6292 incorporation of the corporation, the interest holder liability

6293 of a shareholder who had interest holder liability in respect of

590-03467A-19

2019892c2

6294 the corporation before the amendment becomes effective and has
6295 new interest holder liability after the amendment becomes
6296 effective shall be as follows:

6297 (a) The amendment does not discharge that prior interest
6298 holder liability with respect to any interest holder liabilities
6299 that arose before the amendment becomes effective.

6300 (b) The provisions of the articles of incorporation of the
6301 corporation relating to interest holder liability as in effect
6302 immediately prior to the amendment shall continue to apply to
6303 the collection or discharge of any interest holder liabilities
6304 preserved by paragraph (a), as if the amendment had not
6305 occurred.

6306 (c) The shareholder shall have such rights of contribution
6307 from other persons as are provided by the articles of
6308 incorporation relating to interest holder liability as in effect
6309 immediately prior to the amendment with respect to any interest
6310 holder liabilities preserved by paragraph (3) (a), as if the
6311 amendment had not occurred.

6312 (d) The shareholder shall not, by reason of such prior
6313 interest holder liability, have interest holder liability with
6314 respect to any interest holder liabilities that arise after the
6315 amendment becomes effective.

6316 Section 127. Subsection (1) of section 607.1020, Florida
6317 Statutes, is amended, and subsection (3) is added to that
6318 section, to read:

6319 607.1020 Amendment of bylaws by board of directors or
6320 shareholders.—

6321 (1) A corporation's board of directors may amend or repeal
6322 the corporation's bylaws unless:

590-03467A-19

2019892c2

6323 (a) The articles of incorporation or this chapter ~~act~~
6324 reserves that power ~~the power to amend the bylaws generally or a~~
6325 ~~particular bylaw provision~~ exclusively to the shareholders in
6326 whole or in part; or

6327 (b) Except as provided in s. 607.0206(5), the shareholders,
6328 in amending, ~~or~~ repealing, or adopting the bylaws generally or a
6329 particular bylaw provision, ~~provide~~ expressly provide that the
6330 board of directors may not amend, ~~or~~ repeal, adopt, or reinstate
6331 the bylaws generally or that particular bylaw provision.

6332 (3) A shareholder does not have a vested property right
6333 resulting from any provision in the bylaws.

6334 Section 128. Subsection (1) of section 607.1021, Florida
6335 Statutes, is amended to read:

6336 607.1021 Bylaw increasing quorum or voting requirements for
6337 shareholders.—

6338 (1) If authorized by the articles of incorporation, the
6339 shareholders may adopt or amend a bylaw that fixes a greater
6340 quorum or voting requirement for shareholders (or voting groups
6341 of shareholders) than is required by this chapter ~~act~~. The
6342 adoption or amendment of a bylaw that adds, changes, or deletes
6343 a greater quorum or voting requirement for shareholders must
6344 meet the same quorum requirement and be adopted by the same vote
6345 and voting groups required to take action under the quorum and
6346 voting requirement then in effect or proposed to be adopted,
6347 whichever is greater.

6348 Section 129. Section 607.1022, Florida Statutes, is amended
6349 to read:

6350 607.1022 Bylaw increasing quorum or voting requirements for
6351 directors.—

590-03467A-19

2019892c2

6352 (1) A bylaw that increases a ~~fixes a greater~~ quorum or
6353 voting requirement for the board of directors may be amended or
6354 repealed:

6355 (a) If originally adopted by the shareholders, only by the
6356 shareholders, unless the bylaw otherwise provides; or

6357 (b) If originally adopted by the board of directors, either
6358 by the shareholders or by the board of directors.

6359 (2) A bylaw adopted or amended by the shareholders that
6360 increases a ~~fixes a greater~~ quorum or voting requirement for the
6361 board of directors may provide that it may be amended or
6362 repealed only by a specified vote of either the shareholders or
6363 the board of directors.

6364 (3) Action by the board of directors under subsection (1)
6365 to amend or repeal ~~paragraph (1)(b) to adopt or amend~~ a bylaw
6366 that changes the quorum or voting requirement for the board of
6367 directors must meet the same quorum requirement and be adopted
6368 by the same vote required to take action under the quorum and
6369 voting requirement then in effect or proposed to be adopted,
6370 whichever is greater.

6371 Section 130. Section 607.1023, Florida Statutes, is created
6372 to read:

6373 607.1023 Bylaw provisions relating to the election of
6374 directors.—

6375 (1) Unless the articles of incorporation specifically
6376 prohibit the adoption of a bylaw pursuant to this section, alter
6377 the vote specified in s. 607.0728(1), or provide for cumulative
6378 voting, a corporation may elect in its bylaws to be governed in
6379 the election of directors as follows:

6380 (a) Each vote entitled to be cast may be voted for or

590-03467A-19

2019892c2

6381 against up to the number of candidates that is equal to the
6382 number of directors to be elected, or a shareholder may indicate
6383 an abstention, but without cumulating the votes;

6384 (b) To be elected, a nominee must have received a plurality
6385 of the votes cast by holders of shares entitled to vote in the
6386 election at a meeting at which a quorum is present, provided
6387 that a nominee who is elected but receives more votes against
6388 than for election shall serve as a director for a term that
6389 shall terminate on the date that is the earlier of 90 days from
6390 the date on which the voting results are determined pursuant to
6391 s. 607.0729(2)(e) or the date on which an individual is selected
6392 by the board of directors to fill the office held by such
6393 director, which selection shall be deemed to constitute the
6394 filling of a vacancy by the board to which s. 607.0809 applies.
6395 Subject to paragraph (c), a nominee who is elected but receives
6396 more votes against than for election shall not serve as a
6397 director beyond the 90-day period referenced above; and

6398 (c) The board of directors may select any qualified
6399 individual to fill the office held by a director who received
6400 more votes against than for election.

6401 (2) Subsection (1) does not apply to an election of
6402 directors by a voting group if:

6403 (a) At the expiration of the time fixed under a provision
6404 requiring advance notification of director candidates; or

6405 (b) Absent such a provision, at a time fixed by the board
6406 of directors which is not more than 14 days before notice is
6407 given of the meeting at which the election is to occur,

6408
6409 there are more candidates for election by the voting group than

590-03467A-19

2019892c2

6410 the number of directors to be elected, one or more of whom are
6411 properly proposed by shareholders. An individual shall not be
6412 considered a candidate for purposes of this subsection if the
6413 board of directors determines before the notice of meeting is
6414 given that such individual's candidacy does not create a bona
6415 fide election contest.

6416 (3) A bylaw electing to be governed by this section may be
6417 repealed:

6418 (a) If originally adopted by the shareholders, only by the
6419 shareholders, unless the bylaw otherwise provides; or

6420 (b) If adopted by the board of directors, by the board of
6421 directors or the shareholders.

6422 Section 131. Section 607.1101, Florida Statutes, is amended
6423 to read:

6424 607.1101 Merger.—

6425 (1) By complying with this chapter, including adopting a
6426 plan of merger in accordance with subsection (3) and complying
6427 with s. 607.1103:

6428 (a) One or more domestic corporations may merge with one or
6429 more domestic or foreign eligible entities pursuant to a plan of
6430 merger, resulting in a survivor; and

6431 (b) Any two or more entities, each of which is either a
6432 domestic eligible entity or a foreign eligible entity, may
6433 merge, resulting in a survivor that is a domestic corporation
6434 created in the merger ~~into another corporation if the board of~~
6435 ~~directors of each corporation adopts and its shareholders (if~~
6436 ~~required by s. 607.1103) approve a plan of merger.~~

6437 (2) A domestic eligible entity that is not a corporation
6438 may be a party to a merger with a domestic corporation, or may

590-03467A-19

2019892c2

6439 be created as the survivor in a merger in which a domestic
6440 corporation is a party, but only if the parties to the merger
6441 comply with the applicable provisions of this chapter and the
6442 merger is permitted by the organic law of the domestic eligible
6443 entity that is not a corporation. A foreign eligible entity may
6444 be a party to a merger with a domestic corporation, or may be
6445 created as the survivor in a merger in which a domestic
6446 corporation is a party, but only if the parties to the merger
6447 comply with the applicable provisions of this chapter and the
6448 merger is permitted by the organic law of the foreign eligible
6449 entity.

6450 (3) The plan of merger must ~~shall~~ set forth:

6451 (a) As to each party to the merger, its name, jurisdiction
6452 of formation, and type of entity;

6453 (b) The survivor's name, jurisdiction of formation, and
6454 type of entity, and, if the survivor is to be created in the
6455 merger, a statement to that effect ~~The name of each corporation~~
6456 ~~planning to merge and the name of the surviving corporation into~~
6457 ~~which each other corporation plans to merge, which is~~
6458 ~~hereinafter designated as the surviving corporation;~~

6459 (c) ~~(b)~~ The terms and conditions of the proposed merger; and

6460 (d) ~~(c)~~ The manner and basis of converting:

6461 1. The shares of each domestic or foreign corporation and
6462 the eligible interests of each merging domestic or foreign
6463 eligible entity into:

6464 a. Shares or other securities.

6465 b. Eligible interests.

6466 c. Obligations.

6467 d. Rights to acquire shares, other securities, or eligible

590-03467A-19

2019892c2

6468 interests.

6469 e. Cash.

6470 f. Other property.

6471 g. Any combination of the foregoing; and

6472 2. Rights to acquire shares of each merging domestic or

6473 foreign corporation and rights to acquire eligible interests of

6474 each merging domestic or foreign eligible entity into:

6475 a. Shares or other securities.

6476 b. Eligible interests.

6477 c. Obligations.

6478 d. Rights to acquire shares, other securities, or eligible

6479 interests.

6480 e. Cash.

6481 f. Other property.

6482 g. Any combination of the foregoing;

6483 (e) The articles of incorporation of any domestic or

6484 foreign corporation, or the public organic record of any other

6485 domestic or foreign eligible entity to be created by the merger,

6486 or if a new domestic or foreign corporation or other eligible

6487 entity is not to be created by the merger, any amendments to, or

6488 restatements of, the survivor's articles of incorporation or

6489 other public organic record;

6490 (f) The effective date and time of the merger, which may be

6491 on or after the filing date of the articles of merger; and

6492 (g) Any other provisions required by the laws under which

6493 any party to the merger is organized or by which it is governed,

6494 or by the articles of incorporation or organic rules of any such

6495 party corporation into shares, obligations, or other securities

6496 of the surviving corporation or any other corporation or, in

590-03467A-19

2019892c2

6497 ~~whole or in part, into cash or other property and the manner and~~
6498 ~~basis of converting rights to acquire shares of each corporation~~
6499 ~~into rights to acquire shares, obligations, or other securities~~
6500 ~~of the surviving or any other corporation or, in whole or in~~
6501 ~~part, into cash or other property.~~

6502 (4) (3) In addition to the requirements of subsection (3), a
6503 The plan of merger may contain any other provision that is not
6504 prohibited by law set forth:

6505 ~~(a) Amendments to, or a restatement of, the articles of~~
6506 ~~incorporation of the surviving corporation;~~

6507 ~~(b) The effective date of the merger, which may be on or~~
6508 ~~after the date of filing the certificate; and~~

6509 ~~(c) Other provisions relating to the merger.~~

6510 (5) Terms of a plan of merger may be made dependent on
6511 facts objectively ascertainable outside the plan in accordance
6512 with s. 607.0120(11).

6513 (6) A plan of merger may be amended only with the consent
6514 of each party to the merger, except as provided in the plan. A
6515 domestic party to a merger may approve an amendment to a plan:

6516 (a) In the same manner as the plan was approved, if the
6517 plan does not provide for the manner in which it may be amended;
6518 or

6519 (b) In the manner provided in the plan, except that
6520 shareholders, members, or interest holders that were entitled to
6521 vote on or consent to the approval of the plan are entitled to
6522 vote on or consent to any amendment to the plan that will
6523 change:

6524 1. The amount or kind of shares or other securities,
6525 eligible interests, obligations, rights to acquire shares, other

590-03467A-19

2019892c2

6526 securities, or eligible interests, cash, other property, or any
6527 combination of the foregoing, to be received under the plan by
6528 the shareholders, holders of rights to acquire shares, other
6529 securities, or eligible interests, members, or interest holders
6530 of any party to the merger;

6531 2. The articles of incorporation of any domestic
6532 corporation, or the organic rules of any other type of entity,
6533 that will be the survivor of the merger, except for changes
6534 permitted by s. 607.1002 or by comparable provisions of the
6535 organic law of any other type of entity; or

6536 3. Any of the other terms or conditions of the plan if the
6537 change would adversely affect such shareholders, members, or
6538 interest holders in any material respect.

6539 (7) The redomestication of a foreign insurer to this state
6540 under s. 628.520 shall be deemed a merger of a foreign
6541 corporation and a domestic corporation, and the surviving
6542 corporation shall be deemed to be a domestic corporation
6543 incorporated under the laws of this state. The redomestication
6544 of a Florida corporation to a foreign jurisdiction under s.
6545 628.525 shall be deemed a merger of a domestic corporation and a
6546 foreign corporation, and the surviving corporation shall be
6547 deemed to be a foreign corporation.

6548 Section 132. Section 607.1102, Florida Statutes, is amended
6549 to read:

6550 607.1102 Share exchange.—

6551 (1) By complying with this chapter, including adopting a
6552 plan of share exchange in accordance with subsection (3) and
6553 complying with s. 607.1103:

6554 (a) A domestic corporation may acquire all of the shares or

590-03467A-19

2019892c2

6555 rights to acquire shares of one or more classes or series of
6556 shares or rights to acquire shares of another domestic or
6557 foreign corporation, or all of the eligible interests of one or
6558 more classes or series of interests of a domestic or foreign
6559 eligible entity, or any combination of the foregoing, pursuant
6560 to a plan of share exchange, in exchange for:

- 6561 1. Shares or other securities.
- 6562 2. Eligible interests.
- 6563 3. Obligations.
- 6564 4. Rights to acquire shares, other securities, or eligible
6565 interests.
- 6566 5. Cash.
- 6567 6. Other property.
- 6568 7. Any combination of the foregoing; or

6569 (b) All of the shares of one or more classes or series of
6570 shares or rights to acquire shares of a domestic corporation may
6571 be acquired by another domestic or foreign eligible entity,
6572 pursuant to a plan of share exchange, in exchange for:

- 6573 1. Shares or other securities.
- 6574 2. Eligible interests.
- 6575 3. Obligations.
- 6576 4. Rights to acquire shares, other securities, or eligible
6577 interests.
- 6578 5. Cash.
- 6579 6. Other property.
- 6580 7. Any combination of the foregoing.

6581 (2) A foreign eligible entity may be the acquired eligible
6582 entity in a share exchange only if the share exchange is
6583 permitted by the organic law of that eligible entity A

590-03467A-19

2019892c2

6584 ~~corporation may acquire all of the outstanding shares of one or~~
6585 ~~more classes or series of another corporation if the board of~~
6586 ~~directors of each corporation adopts and its shareholders (if~~
6587 ~~required by s. 607.1103) approve a plan of share exchange.~~

6588 (3) ~~(2)~~ The plan of share exchange must ~~shall~~ set forth:

6589 (a) The name of each domestic or foreign eligible entity
6590 ~~the corporation~~ the shares or eligible interests of which will
6591 be acquired and the name of the domestic or foreign corporation
6592 or eligible entity that will acquire those shares or eligible
6593 interests acquiring corporation;

6594 (b) The terms and conditions of the share exchange;

6595 (c) The manner and basis of exchanging:

6596 1. The shares of each domestic or foreign corporation, and
6597 the eligible interests of each domestic or foreign eligible
6598 entity, the shares or eligible interests that are to be acquired
6599 in the share exchange, into shares or other securities, eligible
6600 interests, obligations, rights to acquire shares, other
6601 securities, or eligible interests, cash, other property, or any
6602 combination of the foregoing; and

6603 2. Rights to acquire shares of each domestic or foreign
6604 corporation and rights to acquire eligible interests of each
6605 domestic or foreign eligible entity, that are to be acquired in
6606 the share exchange, into shares or other securities, eligible
6607 interests, obligations, rights to acquire shares, other
6608 securities, or eligible interests, cash, other property, or any
6609 combination of the foregoing; and

6610 (d) Any other provisions required by the organic law
6611 governing the acquired eligible entity or its articles of
6612 incorporation or organic rules ~~the shares to be acquired for~~

590-03467A-19

2019892c2

6613 ~~shares, obligations, or other securities of the acquiring or any~~
6614 ~~other corporation or, in whole or in part, for cash or other~~
6615 ~~property, and the manner and basis of exchanging rights to~~
6616 ~~acquire shares of the corporation to be acquired for rights to~~
6617 ~~acquire shares, obligations, or, in whole or in part, other~~
6618 ~~securities of the acquiring or any other corporation or, in~~
6619 ~~whole or in part, for cash or other property.~~

6620 (4)(3) In addition to the requirements of subsection (3),
6621 the plan of share exchange may contain any other provisions that
6622 are not prohibited by law set forth other provisions relating to
6623 the exchange.

6624 (5) Terms of a plan of share exchange may be made dependent
6625 on facts objectively ascertainable outside the plan in
6626 accordance with s. 607.0120(11).

6627 (6) A plan of share exchange may be amended only with the
6628 consent of each party to the share exchange, except as provided
6629 in the plan. A domestic eligible entity may approve an amendment
6630 to a plan:

6631 (a) In the same manner as the plan was approved, if the
6632 plan does not provide for the manner in which it may be amended;
6633 or

6634 (b) In the manner provided in the plan, except that
6635 shareholders, members, or interest holders that were entitled to
6636 vote on or consent to approval of the plan are entitled to vote
6637 on or consent to any amendment of the plan that will change:

6638 1. The amount or kind of shares or other securities,
6639 eligible interests, obligations, rights to acquire shares, other
6640 securities, or eligible interests, cash, or other property to be
6641 received under the plan by the shareholders, members, or

590-03467A-19

2019892c2

6642 interest holders of the acquired eligible entity; or

6643 2. Any of the other terms or conditions of the plan if the
6644 change would adversely affect such shareholders, members, or
6645 interest holders in any material respect.

6646 (7)(4) This section does not limit the power of a
6647 corporation to acquire all or part of the shares, or rights to
6648 acquire shares, of one or more classes or series of another
6649 corporation or eligible interests, or rights to acquire eligible
6650 interests, of any other eligible entity through a voluntary
6651 exchange or otherwise.

6652 Section 133. Section 607.1103, Florida Statutes, is amended
6653 to read:

6654 607.1103 Action on a plan of merger or share exchange.—In
6655 the case of a domestic corporation that is a party to a merger
6656 or the acquired eligible entity in a share exchange, the plan of
6657 merger or the plan of share exchange must be adopted in the
6658 following manner:

6659 (1) The ~~After adopting a plan of merger or the plan of~~
6660 ~~share exchange shall first be adopted by,~~ the board of directors
6661 of such domestic corporation ~~each corporation party to the~~
6662 ~~merger, and the board of directors of the corporation the shares~~
6663 ~~of which will be acquired in the share exchange, shall submit~~
6664 ~~the plan of merger (except as provided in subsection (7)) or the~~
6665 ~~plan of share exchange for approval by its shareholders.~~

6666 (2) (a) Except as provided in subsections (8), (10), and
6667 (11), and in ss. 607.11035 and 607.1104, the plan of merger or
6668 the plan of share exchange shall then be adopted by the
6669 shareholders.

6670 (b) In submitting the plan of merger or the plan of share

590-03467A-19

2019892c2

6671 exchange to the shareholders for approval, the board of
6672 directors shall recommend that the shareholders approve the
6673 plan, or in the case of an offer referred to in s.
6674 607.11035(1)(b), that the shareholders tender their shares to
6675 the offeror in response to the offer, unless:

6676 1. The board of directors makes a determination that
6677 because of conflicts of interest or other special circumstances,
6678 it should not make such a recommendation; or

6679 2. Section 607.0826 applies.

6680 (c) If either subparagraph (b)1. or subparagraph (b)2.
6681 applies, the board shall inform the shareholders of the basis
6682 for its so proceeding without such recommendation ~~For a plan of~~
6683 merger or share exchange to be approved:

6684 ~~(a) The board of directors must recommend the plan of~~
6685 ~~merger or share exchange to the shareholders, unless the board~~
6686 ~~of directors determines that it should make no recommendation~~
6687 ~~because of conflict of interest or other special circumstances~~
6688 ~~and communicates the basis for its determination to the~~
6689 ~~shareholders with the plan; and~~

6690 ~~(b) The shareholders entitled to vote must approve the plan~~
6691 ~~as provided in subsection (5).~~

6692 (3) The board of directors may set conditions for the
6693 approval condition its submission of the proposed merger or
6694 share exchange by the shareholders or the effectiveness of the
6695 plan of merger or the plan of share exchange on any basis.

6696 (4) If the plan of merger or the plan of share exchange is
6697 required to be approved by the shareholders, and if the approval
6698 is to be given at a meeting, the corporation shall notify each
6699 shareholder, regardless of whether entitled to vote, of the

590-03467A-19

2019892c2

6700 meeting of shareholders at which the plan is submitted for
6701 approval ~~The corporation the shareholders of which are entitled~~
6702 ~~to vote on the matter shall notify each shareholder, whether or~~
6703 ~~not entitled to vote, of the proposed shareholders' meeting in~~
6704 accordance with s. 607.0705. The notice shall also state that
6705 the purpose, or one of the purposes, of the meeting is to
6706 consider the plan of merger or the plan of share exchange,
6707 regardless of whether or not the meeting is an annual or a
6708 special meeting, and contain or be accompanied by a copy ~~or~~
6709 ~~summary~~ of the plan. If the corporation is to be merged into an
6710 existing foreign or domestic eligible entity, the notice must
6711 also include or be accompanied by a copy of the articles of
6712 incorporation and bylaws or the organic rules of that eligible
6713 entity into which the corporation is to be merged. If the
6714 corporation is to be merged with a domestic or foreign eligible
6715 entity and a new domestic or foreign eligible entity is to be
6716 created pursuant to the merger, the notice must include or be
6717 accompanied by a copy of the articles of incorporation and
6718 bylaws or the organic rules of the new eligible entity.
6719 Furthermore, if applicable, the notice shall contain a clear and
6720 concise statement that, if the plan of merger or share exchange
6721 is effected, shareholders dissenting therefrom may be entitled,
6722 if they comply with the provisions of this chapter act regarding
6723 appraisal rights, to be paid the fair value of their shares, and
6724 shall be accompanied by a copy of ss. 607.1301-607.1340 ~~ss.~~
6725 ~~607.1301-607.1333.~~

6726 (5) Unless this chapter act, the articles of incorporation,
6727 or the board of directors (acting pursuant to subsection (3))
6728 requires a greater vote or a greater quorum in the respective

590-03467A-19

2019892c2

6729 case, approval of vote by classes, the plan of merger or the
6730 plan of share exchange shall require the approval of the
6731 shareholders at a meeting at which a quorum exists by a majority
6732 of the votes entitled to be cast on the plan, and, if any class
6733 or series of shares is entitled to vote as a separate group on
6734 the plan of merger or the plan of share exchange, the approval
6735 of each such separate voting group at a meeting at which a
6736 quorum of the voting group is present by a majority of the votes
6737 entitled to be cast on the merger or share exchange by that
6738 voting group to be authorized shall be approved by each class
6739 entitled to vote on the plan by a majority of all the votes
6740 entitled to be cast on the plan by that class.

6741 (6) (a) Subject to subsection (7), voting by a class or
6742 series as a separate voting group is required:

6743 1.(a) By each class or series of shares of the corporation
6744 that would be entitled to vote as a separate group on any
6745 provision in the plan which, if such provision had been ~~On a~~
6746 plan of merger if the plan contains a provision which, if
6747 contained in a proposed amendment to the articles of
6748 incorporation of a surviving corporation, would have entitled,
6749 would entitle the class or series to vote as a separate voting
6750 group on the proposed amendment under s. 607.1004; or

6751 2. If the plan contains a provision that would allow the
6752 plan to be amended to include the type of amendment to the
6753 articles of incorporation referenced in subparagraph 1., by each
6754 class or series of shares of the corporation that would have
6755 been entitled to vote as a separate group on any such amendment
6756 to the articles of incorporation; or

6757 3. By each class or series of shares of the corporation

590-03467A-19

2019892c2

6758 that is to be converted under the plan of merger into shares,
6759 other securities, eligible interests, obligations, rights to
6760 acquire shares, other securities, or eligible interests, cash,
6761 property, or any combination of the foregoing; or

6762 4. If the plan contains a provision that would allow the
6763 plan to be amended to convert other classes or series of shares
6764 of the corporation, by each class or series of shares of the
6765 corporation that would have been entitled to vote as a separate
6766 group if the plan were to be so amended.

6767 (b) Subject to subsection (7), voting by a class or series
6768 as a separate voting group is required on a plan of share
6769 exchange;

6770 1. By each class or series that is to be exchanged in the
6771 exchange, with each class or series constituting a separate
6772 voting group; or

6773 2. If the plan contains a provision that would allow the
6774 plan to be amended to include the type of amendment to the
6775 articles of incorporation referenced in subparagraph (a)1., by
6776 each class or series of shares of the corporation that would
6777 have been entitled to vote as a separate group on any such
6778 amendment to the articles of incorporation.

6779 (c) Subject to subsection (7), voting by a class or series
6780 as a separate voting group is required on a plan of merger or a
6781 plan of share exchange if the group is entitled under the
6782 articles of incorporation to vote as a voting group to approve
6783 the plan of merger or the plan of share exchange, respectively.

6784 (7) The articles of incorporation may expressly limit or
6785 eliminate the separate voting rights provided in subparagraphs
6786 (6) (a)3. or 4. or subparagraph (6) (b)1. as to any class or

590-03467A-19

2019892c2

6787 series of shares, except when the plan of merger or the plan for
6788 share exchange:

6789 (a) Includes what is or would be, in effect, an amendment
6790 subject to any one or more of subparagraphs (6) (a)1. and 2. and
6791 subparagraph (6) (b)2.; and

6792 (b) Will not affect a substantive business combination ~~if~~
6793 ~~the shares of such class or series of shares are to be converted~~
6794 ~~or exchanged under such plan or if the plan contains any~~
6795 ~~provisions which, if contained in a proposed amendment to~~
6796 ~~articles of incorporation, would entitle the class or series to~~
6797 ~~vote as a separate voting group on the proposed amendment under~~
6798 ~~s. 607.1004.~~

6799 (8) ~~(7)~~ Unless the corporation's articles of incorporation
6800 provide otherwise, approval by the corporation's shareholders of
6801 ~~Notwithstanding the requirements of this section, unless~~
6802 ~~required by its articles of incorporation, action by the~~
6803 ~~shareholders of the surviving corporation on a plan of merger is~~
6804 ~~not required if:~~

6805 (a) The corporation will survive the merger;

6806 (b) ~~(a)~~ The articles of incorporation of the surviving
6807 corporation will not differ (except for amendments enumerated in
6808 s. 607.1002) from its articles of incorporation before the
6809 merger; and

6810 (c) ~~(b)~~ Each shareholder of the surviving corporation whose
6811 shares were outstanding immediately prior to the effective date
6812 of the merger will hold the same number of shares, with
6813 identical designations, preferences, rights, and limitations,
6814 ~~and relative rights,~~ immediately after the effective date of the
6815 merger.

590-03467A-19

2019892c2

6816 ~~(8) Any plan of merger or share exchange may authorize the~~
6817 ~~board of directors of each corporation party to the merger or~~
6818 ~~share exchange to amend the plan at any time prior to the filing~~
6819 ~~of the articles of merger or share exchange. An amendment made~~
6820 ~~subsequent to the approval of the plan by the shareholders of~~
6821 ~~any corporation party to the merger or share exchange may not:~~

6822 ~~(a) Change the amount or kind of shares, securities, cash,~~
6823 ~~property, or rights to be received in exchange for or on~~
6824 ~~conversion of any or all of the shares of any class or series of~~
6825 ~~such corporation;~~

6826 ~~(b) Change any other terms and conditions of the plan if~~
6827 ~~such change would materially and adversely affect such~~
6828 ~~corporation or the holders of the shares of any class or series~~
6829 ~~of such corporation; or~~

6830 ~~(c) Except as specified in s. 607.1002 or without the vote~~
6831 ~~of shareholders entitled to vote on the matter, change any term~~
6832 ~~of the articles of incorporation of any corporation the~~
6833 ~~shareholders of which must approve the plan of merger or share~~
6834 ~~exchange.~~

6835
6836 ~~If articles of merger or share exchange already have been filed~~
6837 ~~with the Department of State, amended articles of merger or~~
6838 ~~share exchange shall be filed with the Department of State prior~~
6839 ~~to the effective date of the merger or share exchange.~~

6840 (9) If as a result of a merger or share exchange one or
6841 more shareholders of a domestic corporation would become subject
6842 to new interest holder liability, approval of the plan of merger
6843 or the plan of share exchange shall require, in connection with
6844 the transaction, the signing by each such shareholder of a

590-03467A-19

2019892c2

6845 separate written consent to become subject to such new interest
6846 holder liability, unless in the case of a shareholder that
6847 already has interest holder liability with respect to such
6848 domestic corporation:

6849 (a) The new interest holder liability is with respect to a
6850 domestic or foreign corporation (which may be a different or the
6851 same domestic corporation in which the person is a shareholder);
6852 and

6853 (b) The terms and conditions of the new interest holder
6854 liability are substantially identical to those of the existing
6855 interest holder liability (other than for changes that reduce or
6856 eliminate such interest holder liability).

6857 (10) Unless the articles of incorporation otherwise
6858 provide, approval of a plan of share exchange by the
6859 shareholders of a domestic corporation is not required if the
6860 corporation is the acquiring eligible entity in the share
6861 exchange.

6862 (11) Unless the articles of incorporation otherwise
6863 provide, shares in the acquired eligible entity not to be
6864 exchanged under the plan of share exchange are not entitled to
6865 vote on the plan ~~Unless a plan of merger or share exchange~~
6866 ~~prohibits abandonment of the merger or share exchange without~~
6867 ~~shareholder approval after a merger or share exchange has been~~
6868 ~~authorized, the planned merger or share exchange may be~~
6869 ~~abandoned (subject to any contractual rights) at any time prior~~
6870 ~~to the filing of articles of merger or share exchange by any~~
6871 ~~corporation party to the merger or share exchange, without~~
6872 ~~further shareholder action, in accordance with the procedure set~~
6873 ~~forth in the plan of merger or share exchange or, if none is set~~

590-03467A-19

2019892c2

6874 ~~forth, in the manner determined by the board of directors of~~
6875 ~~such corporation.~~

6876 Section 134. Section 607.11035, Florida Statutes, is
6877 created to read:

6878 607.11035 Shareholder approval of a merger or share
6879 exchange in connection with a tender offer.—

6880 (1) Unless the articles of incorporation otherwise provide,
6881 shareholder approval of a plan of merger or a plan of share
6882 exchange under s. 607.1103(1)(b) is not required if:

6883 (a) The plan of merger or share exchange expressly:

6884 1. Permits or requires the merger or share exchange to be
6885 effected under this section; and

6886 2. Provides that, if the merger or share exchange is to be
6887 effected under this section, the merger or share exchange will
6888 be effected as soon as practicable following the satisfaction of
6889 the requirement in paragraph (f);

6890 (b) Another party to the merger, the acquiring eligible
6891 entity in the share exchange, or a parent of another party to
6892 the merger or the parent of the acquiring eligible entity in the
6893 share exchange, makes an offer to purchase, on the terms
6894 provided in the plan of merger or the plan of share exchange,
6895 any and all of the outstanding shares of the corporation that,
6896 absent this section, would be entitled to vote on the plan of
6897 merger or the plan of share exchange, except that the offer may
6898 exclude shares of the corporation that are owned at the
6899 commencement of the offer by the corporation, the offeror, or
6900 any parent of the offeror, or by any wholly owned subsidiary of
6901 any of the foregoing;

6902 (c) The offer discloses that the plan of merger or the plan

590-03467A-19

2019892c2

6903 of share exchange provides that the merger or share exchange
6904 will be effected as soon as practicable following the
6905 satisfaction of the requirement in paragraph (f) and that the
6906 shares of the corporation that are not tendered in response to
6907 the offer will be treated pursuant to paragraph (h);

6908 (d) The offer remains open for at least 10 days;

6909 (e) The offeror purchases all shares properly tendered in
6910 response to the offer and not properly withdrawn;

6911 (f) The shares listed below are collectively entitled to
6912 cast at least the minimum number of votes on the merger or share
6913 exchange that, absent this section, would be required by this
6914 chapter and by the articles of incorporation for the approval of
6915 the merger or share exchange by the shareholders and by each
6916 other voting group entitled to vote on the merger or share
6917 exchange at a meeting at which all shares entitled to vote on
6918 the approval were present and voted:

6919 1. Shares purchased by the offeror in accordance with the
6920 offer;

6921 2. Shares otherwise owned by the offeror or by any parent
6922 of the offeror or any wholly owned subsidiary of any of the
6923 foregoing; and

6924 3. Shares subject to an agreement that they are to be
6925 transferred, contributed, or delivered to the offeror, any
6926 parent of the offeror, or any wholly owned subsidiary of any of
6927 the foregoing in exchange for shares or eligible interests in
6928 such offeror, parent, or subsidiary;

6929 (g) The offeror or a wholly owned subsidiary of the offeror
6930 merges with or into, or effects a share exchange in which it
6931 acquires shares of, the corporation; and

590-03467A-19

2019892c2

6932 (h) Each outstanding share of each class or series of
6933 shares of the corporation that the offeror is offering to
6934 purchase in accordance with the offer, and that is not purchased
6935 in accordance with the offer, is to be converted in the merger
6936 into, or into the right to receive, or is to be exchanged in the
6937 share exchange for, or for the right to receive, the same amount
6938 and kind of securities, eligible interests, obligations, rights,
6939 cash, other property, or any combination of the foregoing, to be
6940 paid or exchanged in accordance with the offer for each share of
6941 that class or series of shares that is tendered in response to
6942 the offer, except that shares of the corporation that are owned
6943 by the corporation or that are described in subparagraphs (f)2.
6944 or 3. need not be converted into or exchanged for the
6945 consideration described in this paragraph.

6946 (2) As used in this section, the term:

6947 (a) "Offer" means the offer referred to in paragraph
6948 (1) (b).

6949 (b) "Offeror" means the person making the offer.

6950 (c) "Parent" of an eligible entity means a person that
6951 owns, directly or indirectly through one or more wholly owned
6952 subsidiaries, all of the outstanding shares of or eligible
6953 interests in that eligible entity.

6954 (d) Shares tendered in response to the offer shall be
6955 deemed to have been "purchased" in accordance with the terms of
6956 the offer at the earliest time as of which:

6957 1. The offeror has irrevocably accepted those shares for
6958 payment; and

6959 2. In the case of shares represented by certificates, the
6960 offeror, or the offeror's designated depository or other agent,

590-03467A-19

2019892c2

6961 has physically received the certificates representing those
6962 shares, or, in the case of shares without certificates, those
6963 shares have been transferred into the account of the offeror or
6964 its designated depository or other agent, or an agent's message
6965 relating to those shares has been received by the offeror or its
6966 designated depository or other agent.

6967 (e) "Wholly owned subsidiary" of a person means an eligible
6968 entity of or in which a person owns, directly or indirectly, all
6969 of the outstanding shares or eligible interests.

6970 Section 135. Section 607.1104, Florida Statutes, is amended
6971 to read:

6972 607.1104 Merger between parent and subsidiary or between
6973 subsidiaries of subsidiary corporation.-

6974 (1) (a) A domestic or foreign parent eligible entity that
6975 owns shares of a domestic corporation which carry corporation
6976 owning at least 80 percent of the voting power outstanding
6977 shares of each class and series of the outstanding shares of the
6978 a subsidiary corporation may:

6979 1. Merge the subsidiary into itself, if it is a domestic or
6980 foreign eligible entity, or into another domestic or foreign
6981 eligible entity in which the parent eligible entity owns at
6982 least 80 percent of the voting power of each class and series of
6983 the outstanding shares or eligible interests that have voting
6984 power; or

6985 2. may Merge itself, if it is a domestic or foreign
6986 eligible entity, into such the subsidiary.

6987 (b) Mergers under subparagraphs (a)1. and (a)2. do not
6988 require the approval of the board of directors or shareholders
6989 of the subsidiary unless the articles of incorporation or

590-03467A-19

2019892c2

6990 organic rules of the parent eligible entity or the articles of
6991 incorporation of the subsidiary otherwise provide. Section
6992 607.1103(9) applies to a merger under this section. The articles
6993 of merger relating to a merger under this section do not need to
6994 be signed by the subsidiary, or may merge the subsidiary into
6995 and with another subsidiary in which the parent corporation owns
6996 at least 80 percent of the outstanding shares of each class of
6997 the subsidiary without the approval of the shareholders of the
6998 parent or subsidiary. In a merger of a parent corporation into
6999 its subsidiary corporation, the approval of the shareholders of
7000 the parent corporation shall be required if the articles of
7001 incorporation of the surviving corporation will differ, except
7002 for amendments enumerated in s. 607.1002, from the articles of
7003 incorporation of the parent corporation before the merger, and
7004 the required vote shall be the greater of the vote required to
7005 approve the merger and the vote required to adopt each change to
7006 the articles of incorporation as if each change had been
7007 presented as an amendment to the articles of incorporation of
7008 the parent corporation.

7009 ~~(b) The board of directors of the parent shall adopt a plan~~
7010 ~~of merger that sets forth:~~

- 7011 ~~1. The names of the parent and subsidiary corporations;~~
7012 ~~2. The manner and basis of converting the shares of the~~
7013 ~~subsidiary or parent into shares, obligations, or other~~
7014 ~~securities of the parent or any other corporation or, in whole~~
7015 ~~or in part, into cash or other property, and the manner and~~
7016 ~~basis of converting rights to acquire shares of each corporation~~
7017 ~~into rights to acquire shares, obligations, and other securities~~
7018 ~~of the surviving or any other corporation or, in whole or in~~

590-03467A-19

2019892c2

7019 ~~part, into cash or other property;~~

7020 ~~3. If the merger is between the parent and a subsidiary~~
7021 ~~corporation and the parent is not the surviving corporation, a~~
7022 ~~provision for the pro rata issuance of shares of the subsidiary~~
7023 ~~to the holders of the shares of the parent corporation upon~~
7024 ~~surrender of any certificates therefor; and~~

7025 ~~4. A clear and concise statement that shareholders of the~~
7026 ~~subsidiary who, except for the applicability of this section,~~
7027 ~~would be entitled to vote and who dissent from the merger~~
7028 ~~pursuant to s. 607.1321, may be entitled, if they comply with~~
7029 ~~the provisions of this act regarding appraisal rights, to be~~
7030 ~~paid the fair value of their shares.~~

7031 ~~(2) The parent shall, within 10 days after the effective~~
7032 ~~date of a merger approved under subsection (1), notify each of~~
7033 ~~the subsidiary's shareholders that the merger has become~~
7034 ~~effective mail a copy or summary of the plan of merger to each~~
7035 ~~shareholder of the subsidiary who does not waive the mailing~~
7036 ~~requirement in writing.~~

7037 ~~(3) Except as provided for in subsections (1) and (2), a~~
7038 ~~merger between a parent eligible entity and a domestic~~
7039 ~~subsidiary corporation shall be governed by the provisions of~~
7040 ~~ss. 607.1101-607.1107 that are applicable to mergers generally~~
7041 ~~The parent may not deliver articles of merger to the Department~~
7042 ~~of State for filing until at least 30 days after the date it~~
7043 ~~mailed a copy of the plan of merger to each shareholder of the~~
7044 ~~subsidiary who did not waive the mailing requirement, or, if~~
7045 ~~earlier, upon the waiver thereof by the holders of all of the~~
7046 ~~outstanding shares of the subsidiary.~~

7047 ~~(4) Articles of merger under this section may not contain~~

590-03467A-19

2019892c2

7048 ~~amendments to the articles of incorporation of the parent~~
7049 ~~corporation (except for amendments enumerated in s. 607.1002).~~

7050 ~~(5) Two or more subsidiaries may be merged into the parent~~
7051 ~~pursuant to this section.~~

7052 Section 136. Subsections (1) and (3) of section 607.11045,
7053 Florida Statutes, are amended to read:

7054 607.11045 Holding company formation by merger by certain
7055 corporations.-

7056 (1) This section applies only to a corporation that has
7057 shares registered pursuant to s. 12 of the Securities Exchange
7058 Act of 1934 ~~of any class or series which are either registered~~
7059 ~~on a national securities exchange or designated as a national~~
7060 ~~market system security on an interdealer quotation system by the~~
7061 ~~National Association of Securities Dealers, Inc., or held of~~
7062 record by not fewer than 2,000 shareholders.

7063 (3) Notwithstanding the requirements of s. 607.1103, unless
7064 expressly required by its articles of incorporation, no vote of
7065 shareholders of a corporation is necessary to authorize a merger
7066 of the corporation with or into a wholly owned subsidiary of
7067 such corporation if:

7068 (a) Such corporation and wholly owned subsidiary are the
7069 only constituent corporations to the merger;

7070 (b) Each share or fraction of a share of the constituent
7071 corporation whose shares are being converted pursuant to the
7072 merger which are outstanding immediately prior to the effective
7073 date of the merger is converted in the merger into a share or
7074 equal fraction of share of a holding company having the same
7075 designations, rights, powers and preferences, and
7076 qualifications, limitations and restrictions thereof as the

590-03467A-19

2019892c2

7077 share of the constituent corporation being converted in the
7078 merger;

7079 (c) The holding company and each of the constituent
7080 corporations to the merger are domestic corporations;

7081 (d) The articles of incorporation and bylaws of the holding
7082 company immediately following the effective date of the merger
7083 contain provisions identical to the articles of incorporation
7084 and bylaws of the constituent corporation whose shares are being
7085 converted pursuant to the merger immediately prior to the
7086 effective date of the merger, except provisions regarding the
7087 incorporators, the corporate name, the registered office and
7088 agent, the initial board of directors, the initial subscribers
7089 for shares and matters solely of historical significance, and
7090 such provisions contained in any amendment to the articles of
7091 incorporation as were necessary to effect a change, exchange,
7092 reclassification, or cancellation of shares, if such change,
7093 exchange, reclassification, or cancellation has become
7094 effective;

7095 (e) As a result of the merger, the constituent corporation
7096 whose shares are being converted pursuant to the merger or its
7097 successor corporation becomes or remains a direct or indirect
7098 wholly owned subsidiary of the holding company;

7099 (f) The directors of the constituent corporation become or
7100 remain the directors of the holding company upon the effective
7101 date of the merger;

7102 (g) The articles of incorporation of the surviving
7103 corporation immediately following the effective date of the
7104 merger are identical to the articles of incorporation of the
7105 constituent corporation whose shares are being converted

590-03467A-19

2019892c2

7106 pursuant to the merger immediately prior to the effective date
7107 of the merger, except provisions regarding the incorporators,
7108 the corporate name, the registered office and agent, the initial
7109 board of directors, the initial subscribers for shares and
7110 matters solely of historical significance, and such provisions
7111 contained in any amendment to the articles of incorporation as
7112 were necessary to effect a change, exchange, reclassification,
7113 or cancellation of shares, if such change, exchange,
7114 reclassification, or cancellation has become effective. The
7115 articles of incorporation of the surviving corporation must be
7116 amended in the merger to contain a provision requiring, by
7117 specific reference to this section, that any act or transaction
7118 by or involving the surviving corporation, other than the
7119 election or removal of directors, which requires for its
7120 adoption under this chapter ~~act~~ or its articles of incorporation
7121 the approval of the shareholders of the surviving corporation
7122 also be approved by the shareholders of the holding company, or
7123 any successor by merger, by the same vote as is required by this
7124 chapter ~~act~~ or the articles of incorporation of the surviving
7125 corporation. The articles of incorporation of the surviving
7126 corporation may be amended in the merger to reduce the number of
7127 classes and shares which the surviving corporation is authorized
7128 to issue;

7129 (h) The board of directors of the constituent corporation
7130 determines that the shareholders of the constituent corporation
7131 will not recognize gain or loss for United States federal income
7132 tax purposes; and

7133 (i) The board of directors of such corporation adopts a
7134 plan of merger that sets forth:

590-03467A-19

2019892c2

7135 1. The names of the constituent corporations;

7136 2. The manner and basis of converting the shares of the
7137 corporation into shares of the holding company and the manner
7138 and basis of converting rights to acquire shares of such
7139 corporation into rights to acquire shares of the holding
7140 company; and

7141 3. A provision for the pro rata issuance of shares of the
7142 holding company to the holders of shares of the corporation upon
7143 surrender of any certificates therefor.

7144 Section 137. Section 607.1105, Florida Statutes, is amended
7145 to read:

7146 607.1105 Articles of merger or share exchange.—

7147 (1) After a plan of merger has been adopted and approved as
7148 required by this chapter or, if the merger is being effected
7149 under s. 607.1101(1)(b), the merger has been approved as
7150 required by the organic law governing the parties to the merger,
7151 the articles of merger must be signed by each party to the
7152 merger, except as provided in s. 607.1104(1). The articles must
7153 ~~or share exchange is approved by the shareholders, or adopted by~~
7154 ~~the board of directors if shareholder approval is not required,~~
7155 ~~the surviving or acquiring corporation shall deliver to the~~
7156 ~~Department of State for filing articles of merger or share~~
7157 ~~exchange which shall be executed by each corporation as required~~
7158 ~~by s. 607.0120 and which shall set forth:~~

7159 (a) The name, jurisdiction of formation, and type of entity
7160 of each party of the merger;

7161 (b) If not already identified as the survivor pursuant to
7162 paragraph (a), the name, jurisdiction of formation, and type of
7163 entity of the survivor;

590-03467A-19

2019892c2

7164 (c) If the survivor of the merger is a domestic corporation
7165 and its articles of incorporation are being amended, or if a new
7166 domestic corporation is being created as a result of the merger:

7167 1. The amendments to the survivor's articles of
7168 incorporation; or

7169 2. The articles of incorporation of the new corporation;

7170 (d) If the survivor of the merger is a domestic eligible
7171 entity, other than a domestic corporation, and its public
7172 organic record is being amended in connection with the merger,
7173 or if a new domestic eligible entity is being created as a
7174 result of the merger:

7175 1. The amendments to the public organic record of the
7176 survivor; or

7177 2. The public organic record of the new eligible entity;

7178 (e) If the plan of merger required approval by the
7179 shareholders of a domestic corporation that is a party to the
7180 merger, a statement that the plan was duly approved by the
7181 shareholders and, if voting by any separate voting group was
7182 required, by each such separate voting group, in the manner
7183 required by this chapter and the articles of incorporation of
7184 such domestic corporation;

7185 (f) If the plan of merger did not require approval by the
7186 shareholders of a domestic corporation that is a party to the
7187 merger, a statement to that effect;

7188 (g) As to each foreign corporation that is a party to the
7189 merger, a statement that the participation of the foreign
7190 corporation was duly authorized in accordance with such
7191 corporation's organic law;

7192 (h) As to each domestic or foreign eligible entity that is

590-03467A-19

2019892c2

7193 a party to the merger and that is not a domestic or foreign
7194 corporation, a statement that the participation of the eligible
7195 entity in the merger was duly authorized in accordance with such
7196 eligible entity's organic law; and

7197 (i) If the survivor is created by the merger and is a
7198 domestic limited liability partnership, the document required to
7199 elect that status, as an attachment.

7200 (2) After a plan of share exchange in which the acquired
7201 eligible entity is a domestic corporation or other eligible
7202 entity has been adopted and approved as required by this
7203 chapter, articles of share exchange must be signed by the
7204 acquired eligible entity and the acquiring eligible entity. The
7205 articles must set forth:

7206 (a) The name, jurisdiction of formation, and type of entity
7207 of the acquired eligible entity;

7208 (b) The name, jurisdiction of formation, and type of entity
7209 of the domestic or foreign eligible entity that is the acquiring
7210 eligible entity; and

7211 (c) A statement that the plan of share exchange was duly
7212 approved by the acquired eligible entity by:

7213 1. The required vote or consent of each class or series of
7214 shares or eligible interests included in the exchange; and

7215 2. The required vote or consent of each other class or
7216 series of shares or eligible interests entitled to vote on
7217 approval of the exchange by the articles of incorporation or the
7218 organic rules of the acquired eligible entity.

7219 (3) In addition to the requirements of subsections (1) and
7220 (2), articles of merger or articles of share exchange may
7221 contain any other provision not prohibited by law.

590-03467A-19

2019892c2

7222 (4) The articles of merger or the articles of share
7223 exchange shall be delivered to the department for filing, and,
7224 subject to subsection (5), the merger or share exchange shall
7225 take effect at the effective date determined in accordance with
7226 s. 607.0123.

7227 (5) With respect to a merger in which one or more foreign
7228 entities is a party or a foreign eligible entity created by the
7229 merger is the survivor, the merger itself shall become effective
7230 at the later of:

7231 (a) When all documents required to be filed in all foreign
7232 jurisdictions to effect the merger have become effective; or

7233 (b) When the articles of merger take effect.

7234 (6) Articles of merger required to be filed under this
7235 section may be combined with any filing required under the
7236 organic law governing any other domestic eligible entity
7237 involved in the transaction if the combined filing satisfies the
7238 requirements of both this section and the other organic law ~~plan~~
7239 of merger or share exchange;

7240 ~~(b) The effective date of the merger or share exchange,~~
7241 ~~which may be on or after the date of filing the articles of~~
7242 ~~merger or share exchange; if the articles of merger or share~~
7243 ~~exchange do not provide for an effective date of the merger or~~
7244 ~~share exchange, then the effective date shall be the date on~~
7245 ~~which the articles of merger or share exchange are filed;~~

7246 ~~(c) If shareholder approval was not required, a statement~~
7247 ~~to that effect; and~~

7248 ~~(d) As to each corporation, to the extent applicable, the~~
7249 ~~date of adoption of the plan of merger or share exchange by the~~
7250 ~~shareholders or by the board of directors when no vote of the~~

590-03467A-19

2019892c2

7251 ~~shareholders is required.~~

7252 (7)~~(2)~~ A copy of the articles of merger or share exchange,
7253 certified by the department ~~of State~~, may be filed in the office
7254 of the official who is the recording officer of each county in
7255 this state in which real property of a constituent corporation
7256 other than the surviving corporation is situated.

7257 Section 138. Section 607.1106, Florida Statutes, is amended
7258 to read:

7259 607.1106 Effect of merger or share exchange.—

7260 (1) When a merger becomes effective:

7261 (a) The domestic or foreign eligible entity that is
7262 designated in the plan of merger as the survivor continues or
7263 comes into existence, as the case may be;

7264 (b) The separate existence of every domestic or foreign
7265 eligible entity that is a party to the merger, other than the
7266 survivor, ceases ~~Every other corporation party to the merger~~
7267 ~~merges into the surviving corporation and the separate existence~~
7268 ~~of every corporation except the surviving corporation ceases;~~

7269 (c)~~(b)~~ All real property and other property, including any
7270 interest therein and all title thereto, owned by, and every
7271 contract right possessed by, each domestic or foreign eligible
7272 entity that is a party to the merger, other than the survivor,
7273 become the property and contract rights of and become vested in
7274 the survivor, ~~The title to all real estate and other property,~~
7275 ~~or any interest therein, owned by each corporation party to the~~
7276 ~~merger is vested in the surviving corporation without~~ transfer,
7277 reversion, or impairment;

7278 (d)~~(c)~~ All debts, obligations, and other liabilities of
7279 each domestic or foreign eligible entity that is a ~~The surviving~~

590-03467A-19

2019892c2

7280 ~~corporation shall thenceforth be responsible and liable for all~~
7281 ~~the liabilities and obligations of each corporation party to the~~
7282 ~~merger, other than the survivor, become debts, obligations, and~~
7283 ~~liabilities of the survivor;~~

7284 (e) ~~(d)~~ The name of the survivor may be, but need not be,
7285 substituted in any pending proceeding for the name of any party
7286 to the merger whose separate existence ceased in the merger ~~Any~~
7287 ~~claim existing or action or proceeding pending by or against any~~
7288 ~~corporation party to the merger may be continued as if the~~
7289 ~~merger did not occur or the surviving corporation may be~~
7290 ~~substituted in the proceeding for the corporation which ceased~~
7291 ~~existence;~~

7292 (f) ~~(e)~~ Neither the rights of creditors nor any liens upon
7293 the property of any corporation party to the merger shall be
7294 impaired by such merger;

7295 (g) ~~(f)~~ If the survivor is a domestic eligible entity, the
7296 articles of incorporation and bylaws or the organic rules of the
7297 survivor surviving corporation are amended to the extent
7298 provided in the plan of merger; and

7299 (h) The articles of incorporation and bylaws or the organic
7300 rules of a survivor that is a domestic eligible entity and is
7301 created by the merger become effective;

7302 (i) ~~(g)~~ The shares (and the rights to acquire shares,
7303 obligations, or other securities) of each domestic or foreign
7304 corporation party to the merger, and the eligible interests in
7305 any other eligible entity that is a party to the merger, that
7306 are to be converted in accordance with the terms of the merger
7307 into shares or other securities, eligible interests, rights,
7308 obligations, rights to acquire shares, other securities, or

590-03467A-19

2019892c2

7309 eligible interests, cash, other property, or any combination of
7310 the foregoing, or other securities of the surviving or any other
7311 corporation or into cash or other property are converted, and
7312 the former holders of such the shares, rights to acquire shares,
7313 or other eligible interests are entitled only to the rights
7314 provided to them by those terms of the merger or to any rights
7315 they may have in the articles of merger or to their rights under
7316 s. 607.1302 or under the organic law governing the eligible
7317 entity;

7318 (j) Except as provided by law or the plan of merger, all
7319 the rights, privileges, franchises, and immunities of each
7320 eligible entity that is a party to the merger, other than the
7321 survivor, become the rights, privileges, franchises, and
7322 immunities of the survivor; and

7323 (k) If the survivor exists before the merger:

7324 1. All the property and contract rights of the survivor
7325 remain its property and contract rights without transfer,
7326 reversion, or impairment;

7327 2. The survivor remains subject to all of its debts,
7328 obligations, and other liabilities; and

7329 3. Except as provided by law or the plan of merger, the
7330 survivor continues to hold all of its rights, privileges,
7331 franchises, and immunities.

7332 (2) When a share exchange becomes effective, the shares,
7333 eligible interests, and rights to acquire shares or eligible
7334 interests in the acquired eligible entity that of each acquired
7335 corporation are to be exchanged in accordance with the terms of
7336 the share exchange for:

7337 (a) Shares or other securities;

590-03467A-19

2019892c2

7338 (b) Eligible interests;
7339 (c) Obligations;
7340 (d) Rights to acquire shares, other securities, or eligible
7341 interests;
7342 (e) Cash;
7343 (f) Other property; or
7344 (g) Any combination of the foregoing
7345
7346 are entitled only to the rights provided to them by the terms of
7347 the share exchange, or to any as provided in the plan of
7348 exchange, and the former holders of the shares are entitled only
7349 to the exchange rights provided in the articles of share
7350 exchange or to their rights they may have under s. 607.1302 or
7351 the organic law governing the acquired eligible entity.
7352 (3) Except as otherwise provided in the articles of
7353 incorporation of a domestic corporation or the organic law
7354 governing or organic rules of a domestic or foreign eligible
7355 entity, the effect of a merger or share exchange on interest
7356 holder liability is as follows:
7357 (a) A person who becomes subject to new interest holder
7358 liability in respect of an eligible entity as a result of a
7359 merger or share exchange shall have that new interest holder
7360 liability only in respect of interest holder liabilities that
7361 arise after the merger or share exchange becomes effective.
7362 (b) If a person had interest holder liability with respect
7363 to a party to the merger or the acquired eligible entity before
7364 the merger or share exchange becomes effective with respect to
7365 shares or eligible interests of such party or acquired entity
7366 which were exchanged in the merger or share exchange, which were

590-03467A-19

2019892c2

7367 canceled in the merger, or the terms and conditions of which
7368 relating to interest holder liability were amended pursuant to
7369 the merger:

7370 1. The merger or share exchange does not discharge that
7371 prior interest holder liability with respect to any interest
7372 holder liabilities that arose before the merger or share
7373 exchange becomes effective.

7374 2. The provisions of the organic law governing any eligible
7375 entity for which the person had that prior interest holder
7376 liability shall continue to apply to the collection or discharge
7377 of any interest holder liabilities preserved by subparagraph 1.
7378 as if the merger or share exchange had not occurred.

7379 3. The person shall have such rights of contribution from
7380 other persons as are provided by the organic law governing the
7381 eligible entity for which the person had that prior interest
7382 holder liability with respect to any interest holder liabilities
7383 preserved by subparagraph 1. as if the merger or share exchange
7384 had not occurred.

7385 4. The person shall not, by reason of such prior interest
7386 holder liability, have interest holder liability with respect to
7387 any interest holder liabilities that arise after the merger or
7388 share exchange becomes effective.

7389 (c) If a person has interest holder liability both before
7390 and after a merger becomes effective with unchanged terms and
7391 conditions with respect to the eligible entity that is the
7392 survivor by reason of owning the same shares or eligible
7393 interests before and after the merger becomes effective, the
7394 merger has no effect on such interest holder liability.

7395 (d) A share exchange has no effect on interest holder

590-03467A-19

2019892c2

7396 liability related to shares or eligible interests of the
7397 acquired eligible entity that were not exchanged in the share
7398 exchange.

7399 (4) Upon a merger becoming effective, a foreign eligible
7400 entity that is the survivor of the merger is deemed to:

7401 (a) Appoint the secretary of state as its agent for service
7402 of process in a proceeding to enforce the rights of shareholders
7403 of each domestic corporation that is a party to the merger who
7404 exercise appraisal rights; and

7405 (b) Agree that it will promptly pay any amount that the
7406 shareholders are entitled to under ss. 607.1301-607.1340.

7407 (5) Except as provided in the organic law governing a party
7408 to a merger or in its articles of incorporation or organic
7409 rules, the merger does not give rise to any rights that an
7410 interest holder, governor, or third party would have upon a
7411 dissolution, liquidation, or winding up of that party. The
7412 merger does not require a party to the merger to wind up its
7413 affairs and does not constitute or cause its dissolution or
7414 termination.

7415 (6) Property held for a charitable purpose under the law of
7416 this state by a domestic or foreign eligible entity immediately
7417 before a merger becomes effective may not, as a result of the
7418 transaction, be diverted from the objects for which it was
7419 donated, granted, devised, or otherwise transferred except and
7420 only to the extent permitted by or pursuant to the laws of this
7421 state addressing cy pres or dealing with nondiversion of
7422 charitable assets.

7423 (7) A bequest, devise, gift, grant, or promise contained in
7424 a will or other instrument of donation, subscription, or

590-03467A-19

2019892c2

7425 conveyance which is made to an eligible entity that is a party
7426 to a merger that is not the survivor and which takes effect or
7427 remains payable after the merger inures to the survivor.

7428 (8) A trust obligation that would govern property if the
7429 property is directed to be transferred to a nonsurviving
7430 eligible entity will apply to property that is to be transferred
7431 instead to the survivor after a merger becomes effective.

7432 Section 139. Section 607.1107, Florida Statutes, is amended
7433 to read:

7434 607.1107 Abandonment of a merger or share exchange ~~Merger~~
7435 ~~or share exchange with foreign corporations.-~~

7436 (1) After a plan of merger or a plan of share exchange has
7437 been adopted and approved as required by this chapter, and
7438 before the articles of merger or the articles of share exchange
7439 have become effective, the plan may be abandoned by a domestic
7440 corporation that is a party to the plan without action by its
7441 shareholders in accordance with any procedures set forth in the
7442 plan of merger or the plan of share exchange or, if no such
7443 procedures are set forth in the plan, in the manner determined
7444 by the board of directors.

7445 (2) If a merger or share exchange is abandoned under
7446 subsection (1) after articles of merger or articles of share
7447 exchange have been delivered to the department for filing but
7448 before the articles of merger or articles of share exchange have
7449 become effective, a statement of abandonment signed by all the
7450 parties that signed the articles of merger or articles of share
7451 exchange must be delivered to the department for filing before
7452 the articles of merger or articles of share exchange become
7453 effective. The statement shall take effect on filing, whereupon

590-03467A-19

2019892c2

7454 the merger or share exchange shall be deemed abandoned and shall
7455 not become effective. The statement of abandonment must contain:

7456 (a) The name of each party to the merger or the names of
7457 the acquiring and acquired entities in a share exchange;

7458 (b) The date on which the articles of merger or articles of
7459 share exchange were filed by the department; and

7460 (c) A statement that the merger or share exchange has been
7461 abandoned in accordance with this section. ~~One or more foreign~~
7462 ~~corporations may merge or enter into a share exchange with one~~
7463 ~~or more domestic corporations if:~~

7464 ~~(a) In a merger, the merger is permitted by the law of the~~
7465 ~~state or country under the law of which each foreign corporation~~
7466 ~~is incorporated and each foreign corporation complies with that~~
7467 ~~law in effecting the merger;~~

7468 ~~(b) In a share exchange, the corporation the shares of~~
7469 ~~which will be acquired is a domestic corporation, whether or not~~
7470 ~~a share exchange is permitted by law of the state or country~~
7471 ~~under the law of which the acquiring corporation is~~
7472 ~~incorporated;~~

7473 ~~(c) The foreign corporation complies with s. 607.1105 if it~~
7474 ~~is the surviving corporation of the merger or acquiring~~
7475 ~~corporation of the share exchange; and~~

7476 ~~(d) Each domestic corporation complies with the applicable~~
7477 ~~provisions of ss. 607.1101-607.1104 and, if it is the surviving~~
7478 ~~corporation of the merger or acquiring corporation of the share~~
7479 ~~exchange, with s. 607.1105.~~

7480 ~~(2) Upon the merger becoming effective, the surviving~~
7481 ~~foreign corporation of a merger, and the acquiring foreign~~
7482 ~~corporation in a share exchange, is deemed:~~

590-03467A-19

2019892c2

7483 ~~(a) To appoint the Secretary of State as its agent for~~
7484 ~~service of process in a proceeding to enforce any obligation or~~
7485 ~~the rights of dissenting shareholders of each domestic~~
7486 ~~corporation party to the merger or share exchange; and~~

7487 ~~(b) To agree that it will promptly pay to the dissenting~~
7488 ~~shareholders of each domestic corporation party to the merger or~~
7489 ~~share exchange the amount, if any, to which they are entitled~~
7490 ~~under s. 607.1302.~~

7491 ~~(3) This section does not limit the power of a foreign~~
7492 ~~corporation to acquire all or part of the shares of one or more~~
7493 ~~classes or series of a domestic corporation through a voluntary~~
7494 ~~exchange or otherwise.~~

7495 ~~(4) The effect of such merger shall be the same as in the~~
7496 ~~case of the merger of domestic corporations if the surviving~~
7497 ~~corporation is to be governed by the laws of this state. If the~~
7498 ~~surviving corporation is to be governed by the laws of any state~~
7499 ~~other than this state, the effect of such merger shall be the~~
7500 ~~same as in the case of the merger of domestic corporations~~
7501 ~~except insofar as the laws of such other state provide~~
7502 ~~otherwise.~~

7503 ~~(5) The redomestication of a foreign insurer to this state~~
7504 ~~under s. 628.520 shall be deemed a merger of a foreign~~
7505 ~~corporation and a domestic corporation, and the surviving~~
7506 ~~corporation shall be deemed to be a domestic corporation~~
7507 ~~incorporated under the laws of this state. The redomestication~~
7508 ~~of a Florida corporation to a foreign jurisdiction under s.~~
7509 ~~628.525 shall be deemed a merger of a domestic corporation and a~~
7510 ~~foreign corporation, and the surviving corporation shall be~~
7511 ~~deemed to be a foreign corporation.~~

590-03467A-19

2019892c2

7512 Section 140. Section 607.1108, Florida Statutes, is
7513 repealed.

7514 Section 141. Section 607.1109, Florida Statutes, is
7515 repealed.

7516 Section 142. Section 607.11101, Florida Statutes, is
7517 repealed.

7518 Section 143. Section 607.1112, Florida Statutes, is
7519 repealed.

7520 Section 144. Section 607.1113, Florida Statutes, is
7521 repealed.

7522 Section 145. Section 607.1114, Florida Statutes, is
7523 repealed.

7524 Section 146. Section 607.1115, Florida Statutes, is
7525 repealed.

7526 Section 147. Section 607.11920, Florida Statutes, is
7527 created to read:

7528 607.11920 Domestication.—

7529 (1) By complying with this section and ss. 607.11921-
7530 607.11924, as applicable, a foreign corporation may become a
7531 domestic corporation if the domestication is permitted by the
7532 organic law of the foreign corporation.

7533 (2) By complying with this section and ss. 607.11921-
7534 607.11924, as applicable, a domestic corporation may become a
7535 foreign corporation pursuant to a plan of domestication if the
7536 domestication is permitted by the organic law of the foreign
7537 corporation.

7538 (3) In a domestication under subsection (2), the
7539 domesticating eligible entity must enter into a plan of
7540 domestication. The plan of domestication must include:

590-03467A-19

2019892c2

- 7541 (a) The name of the domesticating corporation;
7542 (b) The name and jurisdiction of formation of the
7543 domesticated corporation;
7544 (c) The manner and basis of reclassifying the shares of the
7545 domesticating corporation into shares or other securities,
7546 obligations, rights to acquire shares or other securities, cash,
7547 other property, or any combination of the foregoing;
7548 (d) The proposed organic rules of the domesticated
7549 corporation which must be in writing; and
7550 (e) The other terms and conditions of the domestication.
7551 (4) In addition to the requirements of subsection (3), a
7552 plan of domestication may contain any other provision not
7553 prohibited by law.
7554 (5) The terms of a plan of domestication may be made
7555 dependent upon facts objectively ascertainable outside the plan
7556 in accordance with s. 607.0120(11).
7557 (6) If a protected agreement of a domesticating corporation
7558 in effect immediately before the domestication becomes effective
7559 contains a provision applying to a merger of the corporation and
7560 the agreement does not refer to a domestication of the
7561 corporation, the provision applies to a domestication of the
7562 corporation as if the domestication were a merger until such
7563 time as the provision is first amended after January 1, 2020.
7564 Section 148. Section 607.11921, Florida Statutes, is
7565 created to read:
7566 607.11921 Action on a plan of domestication.—In the case of
7567 a domestication of a domestic corporation into a foreign
7568 jurisdiction, the plan of domestication shall be adopted in the
7569 following manner:

590-03467A-19

2019892c2

7570 (1) The plan of domestication must first be adopted by the
7571 board of directors of such domestic corporation.

7572 (2) (a) The plan of domestication must then be approved by
7573 the shareholders of such domestic corporation.

7574 (b) In submitting the plan of domestication to the
7575 shareholders for approval, the board of directors shall
7576 recommend that the shareholders approve the plan, unless:

7577 1. The board of directors makes a determination that
7578 because of conflicts of interest or other special circumstances
7579 it should not make such a recommendation; or

7580 2. Section 607.0826 applies.

7581 (c) If either subparagraph (b)1. or subparagraph (b)2.
7582 applies, the board shall inform the shareholders of the basis
7583 for its so proceeding without such recommendation.

7584 (3) The board of directors may set conditions for approval
7585 of the plan of domestication by the shareholders or the
7586 effectiveness of the plan of domestication.

7587 (4) If the plan of domestication is required to be approved
7588 by the shareholders, and if the approval of the shareholders is
7589 to be given at a meeting, the corporation must notify each
7590 shareholder, regardless of whether entitled to vote, of the
7591 meeting of shareholders at which the plan of domestication is to
7592 be submitted for approval. The notice must state that the
7593 purpose, or one of the purposes, of the meeting is to consider
7594 the plan of domestication and must contain or be accompanied by
7595 a copy of the plan. The notice must include or be accompanied by
7596 a written copy of the organic rules of the domesticated eligible
7597 entity as they will be in effect immediately after the
7598 domestication.

590-03467A-19

2019892c2

7599 (5) Unless the articles of incorporation, or the board of
7600 directors acting pursuant to subsection (3), require a greater
7601 vote or a greater quorum in the respective case, approval of the
7602 plan of domestication requires:

7603 (a) The approval of the shareholders at a meeting at which
7604 a quorum exists consisting of a majority of the votes entitled
7605 to be cast on the plan; and

7606 (b) Except as provided in subsection (6), the approval of
7607 each class or series of shares voting as a separate voting group
7608 at a meeting at which a quorum of the voting group exists
7609 consisting of a majority of the votes entitled to be cast on the
7610 plan by that voting group.

7611 (6) The articles of incorporation may expressly limit or
7612 eliminate the separate voting rights provided in paragraph
7613 (5) (b) as to any class or series of shares, except when the
7614 public organic rules of the foreign corporation resulting from
7615 the domestication include what would be in effect an amendment
7616 that would entitle the class or series to vote as a separate
7617 group under s. 607.1004 if it were a proposed amendment of the
7618 articles of incorporation of a domestic domesticating
7619 corporation.

7620 (7) If as a result of a domestication one or more
7621 shareholders of a domestic domesticating corporation would
7622 become subject to interest holder liability, approval of the
7623 plan of domestication shall require the signing in connection
7624 with the domestication, by each such shareholder, of a separate
7625 written consent to become subject to such interest holder
7626 liability, unless in the case of a shareholder that already has
7627 interest holder liability with respect to the domesticating

590-03467A-19

2019892c2

7628 corporation, the terms and conditions of the interest holder
7629 liability with respect to the domesticated corporation are
7630 substantially identical to those of the existing interest holder
7631 liability, other than for changes that eliminate or reduce such
7632 interest holder liability.

7633 Section 149. Section 607.11922, Florida Statutes, is
7634 created to read:

7635 607.11922 Articles of domestication; effectiveness.—

7636 (1) Articles of domestication must be signed by the
7637 domesticating corporation after:

7638 (a) A plan of domestication of a domestic corporation has
7639 been adopted and approved as required by this chapter; or

7640 (b) A foreign corporation that is the domesticating
7641 corporation has approved a domestication as required by the
7642 applicable provisions of this chapter and under the foreign
7643 corporation's organic law.

7644 (2) Articles of domestication must set forth:

7645 (a) The name of the domesticating corporation and its
7646 jurisdiction of formation;

7647 (b) The name and jurisdiction of formation of the
7648 domesticated corporation; and

7649 (c)1. If the domesticating corporation is a domestic
7650 corporation, a statement that the plan of domestication was
7651 approved in accordance with this chapter; or

7652 2. If the domesticating corporation is a foreign
7653 corporation, a statement that the domestication was approved in
7654 accordance with its organic law.

7655 (3) If the domesticated corporation is to be a domestic
7656 corporation, articles of incorporation of the domesticated

590-03467A-19

2019892c2

7657 corporation that satisfy the requirements of s. 607.0202 must be
7658 attached to the articles of domestication. Provisions that would
7659 not be required to be included in restated articles of
7660 incorporation may be omitted from the articles of incorporation
7661 attached to the articles of domestication.

7662 (4) The articles of domestication shall be delivered to the
7663 department for filing and shall take effect at the effective
7664 date determined in accordance with s. 607.0123.

7665 (5) (a) If the domesticated corporation is a domestic
7666 corporation, the domestication becomes effective when the
7667 articles of domestication are effective.

7668 (b) If the domesticated corporation is a foreign
7669 corporation, the domestication becomes effective on the later of
7670 the date and time provided by the organic law of the
7671 domesticated corporation or when the articles of domestication
7672 are effective.

7673 (6) If the domesticating corporation is a foreign
7674 corporation that is qualified to transact business in this state
7675 under ss. 607.1501-607.1532, its certificate of authority is
7676 automatically canceled when the domestication becomes effective.

7677 (7) A copy of the articles of domestication, certified by
7678 the department, may be filed in the official records of any
7679 county in this state in which the domesticating eligible entity
7680 holds an interest in real property.

7681 Section 150. Section 607.11923, Florida Statutes, is
7682 created to read:

7683 607.11923 Amendment of a plan of domestication;
7684 abandonment.-

7685 (1) A plan of domestication of a domestic corporation

590-03467A-19

2019892c2

7686 adopted under s. 607.11920(3) may be amended:

7687 (a) In the same manner as the plan of domestication was
7688 approved, if the plan does not provide for the manner in which
7689 it may be amended; or

7690 (b) In the manner provided in the plan of domestication,
7691 except that a shareholder that was entitled to vote on or
7692 consent to approval of the plan is entitled to vote on or
7693 consent to any amendment of the plan that will change:

7694 1. The amount or kind of shares or other securities,
7695 obligations, rights to acquire shares, other securities, or
7696 eligible interests, cash, other property, or any combination of
7697 the foregoing, to be received by any of the shareholders or
7698 holders of rights to acquire shares, other securities, or
7699 eligible interests of the domesticating corporation under the
7700 plan;

7701 2. The organic rules of the domesticated corporation that
7702 are to be in writing and that will be in effect immediately
7703 after the domestication becomes effective, except for changes
7704 that do not require approval of the shareholders of the
7705 domesticated corporation under its organic rules as set forth in
7706 the plan of domestication; or

7707 3. Any of the other terms or conditions of the plan, if the
7708 change would adversely affect the shareholder in any material
7709 respect.

7710 (2) After a plan of domestication has been adopted and
7711 approved by a domestic corporation as required by this chapter,
7712 and before the articles of domestication have become effective,
7713 the plan may be abandoned by the corporation without action by
7714 its shareholders in accordance with any procedures set forth in

590-03467A-19

2019892c2

7715 the plan or, if no such procedures are set forth in the plan, in
7716 the manner determined by the board of directors of the domestic
7717 corporation.

7718 (3) If a domestication is abandoned after the articles of
7719 domestication have been delivered to the department for filing
7720 but before the articles of domestication have become effective,
7721 a statement of abandonment signed by the domesticating
7722 corporation must be delivered to the department for filing
7723 before the articles of domestication become effective. The
7724 statement shall take effect upon filing, and the domestication
7725 shall be deemed abandoned and shall not become effective. The
7726 statement of abandonment must contain:

7727 (a) The name of the domesticating corporation;

7728 (b) The date on which the articles of domestication were
7729 filed by the department; and

7730 (c) A statement that the domestication has been abandoned
7731 in accordance with this section.

7732 Section 151. Section 607.11924, Florida Statutes, is
7733 created to read:

7734 607.11924 Effect of domestication.—

7735 (1) When a domestication becomes effective:

7736 (a) All real property and other property owned by the
7737 domesticating corporation, including any interests therein and
7738 all title thereto, and every contract right possessed by the
7739 domesticating corporation, are the property and contract rights
7740 of the domesticated corporation without transfer, reversion, or
7741 impairment;

7742 (b) All debts, obligations, and other liabilities of the
7743 domesticating corporation are the debts, obligations, and other

590-03467A-19

2019892c2

7744 liabilities of the domesticated corporation;

7745 (c) The name of the domesticated corporation may be, but
7746 need not be, substituted for the name of the domesticating
7747 corporation in any pending proceeding;

7748 (d) The organic rules of the domesticated corporation
7749 become effective;

7750 (e) The shares or equity interests of the domesticating
7751 corporation are reclassified into shares or other securities,
7752 obligations, rights to acquire shares or other securities, cash,
7753 or other property in accordance with the terms of the
7754 domestication, and the shareholders or equity owners of the
7755 domesticating corporation are entitled only to the rights
7756 provided to them by those terms and to any appraisal rights they
7757 may have under the organic law of the domesticating corporation;
7758 and

7759 (f) The domesticated corporation is:

7760 1. Incorporated under and subject to the organic law of the
7761 domesticated corporation;

7762 2. The same corporation, without interruption, as the
7763 domesticating corporation; and

7764 3. Deemed to have been incorporated or formed on the date
7765 the domesticating corporation was originally incorporated.

7766 (2) In addition, when a domestication of a domestic
7767 corporation into a foreign jurisdiction becomes effective, the
7768 domesticated corporation is deemed to:

7769 (a) Appoint the secretary of state as its agent for service
7770 of process in a proceeding to enforce the rights of shareholders
7771 who exercise appraisal rights in connection with the
7772 domestication; and

590-03467A-19

2019892c2

7773 (b) Agree that it will promptly pay any amount that the
7774 shareholders are entitled to under ss. 607.1301-607.1340.

7775 (3) Except as otherwise provided in the organic law or
7776 organic rules of a domesticating foreign corporation, the
7777 interest holder liability of a shareholder or equity holder in a
7778 foreign corporation that is domesticated into this state who had
7779 interest holder liability in respect of such domesticating
7780 corporation before the domestication becomes effective shall be
7781 as follows:

7782 (a) The domestication does not discharge that prior
7783 interest holder liability with respect to any interest holder
7784 liabilities that arose before the domestication becomes
7785 effective.

7786 (b) The provisions of the organic law of the domesticating
7787 corporation shall continue to apply to the collection or
7788 discharge of any interest holder liabilities preserved by
7789 paragraph (a), as if the domestication had not occurred.

7790 (c) The shareholder or equity holder shall have such rights
7791 of contribution from other persons as are provided by the
7792 organic law of the domesticating corporation with respect to any
7793 interest holder liabilities preserved by paragraph (a), as if
7794 the domestication had not occurred.

7795 (d) The shareholder or equity holder may not, by reason of
7796 such prior interest holder liability, have interest holder
7797 liability with respect to any interest holder liabilities that
7798 are incurred after the domestication becomes effective.

7799 (4) A shareholder or equity holder who becomes subject to
7800 interest holder liability in respect of the domesticated
7801 corporation as a result of the domestication shall have such

590-03467A-19

2019892c2

7802 interest holder liability only in respect of interest holder
7803 liabilities that arise after the domestication becomes
7804 effective.

7805 (5) A domestication does not constitute or cause the
7806 dissolution of the domesticating corporation.

7807 (6) Property held for charitable purposes under the laws of
7808 this state by a domestic or foreign corporation immediately
7809 before a domestication becomes effective may not, as a result of
7810 the transaction, be diverted from the objects for which it was
7811 donated, granted, devised, or otherwise transferred except and
7812 to the extent permitted by or pursuant to the laws of this state
7813 addressing cy pres or dealing with nondiversion of charitable
7814 assets.

7815 (7) A bequest, devise, gift, grant, or promise contained in
7816 a will or other instrument of donation, subscription, or
7817 conveyance which is made to the domesticating corporation and
7818 which takes effect or remains payable after the domestication
7819 inures to the domesticated corporation.

7820 (8) A trust obligation that would govern property if
7821 transferred to the domesticating corporation applies to property
7822 that is transferred to the domesticated corporation after the
7823 domestication takes effect.

7824 Section 152. Section 607.11930, Florida Statutes, is
7825 created to read:

7826 607.11930 Conversion.—

7827 (1) By complying with this chapter, including adopting a
7828 plan of conversion in accordance with s. 607.11931 and complying
7829 with s. 607.11932, a domestic corporation may become:

7830 (a) A domestic eligible entity, other than a domestic

590-03467A-19

2019892c2

7831 corporation;

7832 (b) If the conversion is permitted by the organic law of
7833 the foreign eligible entity, a foreign eligible entity.

7834 (2) By complying with this section and ss. 607.11931-
7835 607.11935, as applicable, and applicable provisions of its
7836 organic law, a domestic eligible entity other than a domestic
7837 corporation may become a domestic corporation.

7838 (3) By complying with this section and ss. 607.11931-
7839 607.11935, as applicable, and by complying with the applicable
7840 provisions of its organic law, a foreign eligible entity may
7841 become a domestic corporation, but only if the organic law of
7842 the foreign eligible entity permits it to become a corporation
7843 in another jurisdiction.

7844 (4) If a protected agreement of a domestic converting
7845 eligible entity in effect immediately before the conversion
7846 becomes effective contains a provision applying to a merger of
7847 the corporation that is a converting eligible entity and the
7848 agreement does not refer to a conversion of the corporation, the
7849 provision applies to a conversion of the corporation as if the
7850 conversion were a merger, until such time as the provision is
7851 first amended after January 1, 2020.

7852 Section 153. Section 607.11931, Florida Statutes, is
7853 created to read:

7854 607.11931 Plan of conversion.—

7855 (1) A domestic corporation may convert to a domestic or
7856 foreign eligible entity under this chapter by approving a plan
7857 of conversion. The plan of conversion must include:

7858 (a) The name of the domestic converting corporation;

7859 (b) The name, jurisdiction of formation, and type of entity

590-03467A-19

2019892c2

7860 of the converted eligible entity;

7861 (c) The manner and basis of converting the shares of the
7862 domestic corporation, or the rights to acquire shares,
7863 obligations or other securities, of the domestic corporation
7864 into:

7865 1. Shares.

7866 2. Other securities.

7867 3. Eligible interests.

7868 4. Obligations.

7869 5. Rights to acquire shares, other securities, or eligible
7870 interests.

7871 6. Cash.

7872 7. Other property.

7873 8. Any combination of the foregoing;

7874 (d) The other terms and conditions of the conversion; and

7875 (e) The full text, as it will be in effect immediately
7876 after the conversion becomes effective, of the organic rules of
7877 the converted eligible entity which are to be in writing.

7878 (2) In addition to the requirements of subsection (1), a
7879 plan of conversion may contain any other provision not
7880 prohibited by law.

7881 (3) The terms of a plan of conversion may be made dependent
7882 upon facts objectively ascertainable outside the plan in
7883 accordance with section 607.0120(11).

7884 Section 154. Section 607.11932, Florida Statutes, is
7885 created to read:

7886 607.11932 Action on a plan of conversion.—In the case of a
7887 conversion of a domestic corporation to a domestic or foreign
7888 eligible entity other than a domestic corporation, the plan of

590-03467A-19

2019892c2

7889 conversion must be adopted in the following manner:

7890 (1) The plan of conversion must first be adopted by the
7891 board of directors of such domestic corporation.

7892 (2) (a) The plan of conversion shall then be approved by the
7893 shareholders of such domestic corporation.

7894 (b) In submitting the plan of conversion to the
7895 shareholders for their approval, the board of directors shall
7896 recommend that the shareholders approve the plan of conversion
7897 unless:

7898 1. The board of directors makes a determination that
7899 because of conflicts of interest or other special circumstances
7900 it should not make such a recommendation; or

7901 2. Section 607.0826 applies.

7902 (c) If either subparagraph (b)1. or subparagraph (b)2.
7903 applies, the board of directors shall inform the shareholders of
7904 the basis for its so proceeding without such recommendation.

7905 (3) The board of directors may set conditions for approval
7906 of the plan of conversion by the shareholders or the
7907 effectiveness of the plan of conversion.

7908 (4) If a plan of conversion is required to be approved by
7909 the shareholders, and if the approval is to be given at a
7910 meeting, the corporation shall notify each shareholder,
7911 regardless of whether entitled to vote, of the meeting of
7912 shareholders at which the plan is to be submitted for approval,
7913 in accordance with s. 607.0705. The notice must state that the
7914 purpose, or one of the purposes, of the meeting is to consider
7915 the plan of conversion and must contain or be accompanied by a
7916 copy of the plan. The notice must include or be accompanied by a
7917 written copy of the organic rules of the converted eligible

590-03467A-19

2019892c2

7918 entity as they will be in effect immediately after the
7919 conversion.

7920 (5) Unless the articles of incorporation, or the board of
7921 directors acting pursuant to subsection (3), require a greater
7922 vote or a greater quorum in the respective case, approval of the
7923 plan of conversion requires:

7924 (a) The approval of the shareholders at a meeting at which
7925 a quorum exists consisting of a majority of the votes entitled
7926 to be cast on the plan; and

7927 (b) The approval of each class or series of shares voting
7928 as a separate voting group at a meeting at which a quorum of the
7929 voting group exists consisting of a majority of the votes
7930 entitled to be cast on the plan by that voting group.

7931 (6) If as a result of the conversion one or more
7932 shareholders of the converting domestic corporation would become
7933 subject to interest holder liability, approval of the plan of
7934 conversion shall require the signing in connection with the
7935 transaction, by each such shareholder, of a separate written
7936 consent to become subject to such interest holder liability.

7937 (7) If the converted eligible entity is a partnership or
7938 limited partnership, no shareholder of the converting domestic
7939 corporation shall, as a result of the conversion, become a
7940 general partner of the partnership or limited partnership,
7941 unless such shareholder specifically consents in writing to
7942 becoming a general partner of such partnership or limited
7943 partnership and, unless such written consent is obtained from
7944 each such shareholder, such conversion may not become effective
7945 under s. 607.11933. Any shareholder providing such consent in
7946 writing shall be deemed to have voted in favor of the plan of

590-03467A-19

2019892c2

7947 conversion pursuant to which the shareholder became a general
7948 partner.

7949 (8) Sections 607.1301-607.1340 shall, insofar as they are
7950 applicable, apply to a conversion in accordance with this
7951 chapter of a domestic corporation into a domestic or foreign
7952 eligible entity that is not a domestic corporation.

7953 Section 155. Section 607.11933, Florida Statutes, is
7954 created to read:

7955 607.11933 Articles of conversion; effectiveness.-

7956 (1) After a plan of conversion of a domestic corporation
7957 has been adopted and approved as required by this chapter, or a
7958 domestic or foreign eligible entity, other than a domestic
7959 corporation, that is the converting eligible entity has approved
7960 a conversion as required by its organic law, articles of
7961 conversion must be signed by the converting eligible entity as
7962 required by s. 607.0120 and must:

7963 (a) State the name, jurisdiction of formation, and type of
7964 entity of the converting eligible entity;

7965 (b) State the name, jurisdiction of formation, and type of
7966 entity of the converted eligible entity;

7967 (c) If the converting eligible entity is:

7968 1. A domestic corporation, state that the plan of
7969 conversion was approved in accordance with this chapter; or

7970 2. A domestic or foreign eligible entity other than a
7971 domestic corporation, state that the conversion was approved by
7972 the eligible entity in accordance with its organic law; and

7973 (d) If the converted eligible entity is:

7974 1. A domestic corporation or a domestic or foreign eligible
7975 entity that is not a domestic corporation, attach the public

590-03467A-19

2019892c2

7976 organic record of the converted eligible entity, except that
7977 provisions that would not be required to be included in a
7978 restated public organic record may be omitted; or

7979 2. A domestic limited liability partnership, attach the
7980 filing or filings required to become a domestic limited
7981 liability partnership.

7982 (2) If the converted eligible entity is a domestic
7983 corporation, its articles of incorporation must satisfy the
7984 requirements of section 607.0202, except that provisions that
7985 would not be required to be included in restated articles of
7986 incorporation may be omitted from the articles of incorporation.

7987 If the converted eligible entity is a domestic eligible entity
7988 that is not a domestic corporation, its public organic record,
7989 if any, must satisfy the applicable requirements of the organic
7990 law of this state, except that the public organic record does
7991 not need to be signed.

7992 (3) The articles of conversion shall be delivered to the
7993 department for filing, and shall take effect at the effective
7994 date determined in accordance with s. 607.0123.

7995 (4) (a) If a converted eligible entity is a domestic
7996 eligible entity, the conversion becomes effective when the
7997 articles of conversion are effective.

7998 (b) If the converted eligible entity is a foreign eligible
7999 entity, the conversion becomes effective at the later of:

8000 1. The date and time provided by the organic law of that
8001 eligible entity; or

8002 2. When the articles of conversion take effect.

8003 (5) Articles of conversion required to be filed under this
8004 section may be combined with any filing required under the

590-03467A-19

2019892c2

8005 organic law of a domestic eligible entity that is the converting
8006 eligible entity or the converted eligible entity if the combined
8007 filing satisfies the requirements of both this section and the
8008 other organic law.

8009 (6) If the converting eligible entity is a foreign eligible
8010 entity that is authorized to transact business in this state
8011 under a provision of law similar to ss. 607.1501-607.1532, its
8012 foreign qualification shall be canceled automatically on the
8013 effective date of its conversion.

8014 (7) A copy of the articles of conversion, certified by the
8015 department, may be filed in the official records of any county
8016 in this state in which the converting eligible entity holds an
8017 interest in real property.

8018 Section 156. Section 607.11934, Florida Statutes, is
8019 created to read:

8020 607.11934 Amendment to a plan of conversion; abandonment.-

8021 (1) A plan of conversion of a converting eligible entity
8022 that is a domestic corporation may be amended:

8023 (a) In the same manner as the plan of conversion was
8024 approved, if the plan does not provide for the manner in which
8025 it may be amended; or

8026 (b) In the manner provided in the plan of conversion,
8027 except that shareholders that were entitled to vote on or
8028 consent to approval of the plan are entitled to vote on or
8029 consent to any amendment of the plan that will change:

8030 1. The amount or kind of shares or other securities,
8031 eligible interests, obligations, rights to acquire shares, other
8032 securities, or eligible interests, cash, other property, or any
8033 combination of the foregoing, to be received by any of the

590-03467A-19

2019892c2

8034 shareholders of the converting corporation under the plan;

8035 2. The organic rules of the converted eligible entity that
8036 will be in effect immediately after the conversion becomes
8037 effective, except for changes that do not require approval of
8038 the eligible interest holders of the converted eligible entity
8039 under its organic law or organic rules; or

8040 3. Any other terms or conditions of the plan, if the change
8041 would adversely affect such shareholders in any material
8042 respect.

8043 (2) After a plan of conversion has been adopted and
8044 approved by a converting eligible entity that is a domestic
8045 corporation in the manner required by this chapter and before
8046 the articles of conversion become effective, the plan may be
8047 abandoned by the domestic corporation without action by its
8048 shareholders in accordance with any procedures set forth in the
8049 plan or, if no such procedures are set forth in the plan, in the
8050 manner determined by the board of directors of the domestic
8051 corporation.

8052 (3) If a conversion is abandoned after the articles of
8053 conversion have been delivered to the department for filing but
8054 before the articles of conversion have become effective, a
8055 statement of abandonment signed by the converting eligible
8056 entity must be delivered to the department for filing before the
8057 articles of conversion become effective. The statement shall
8058 take effect on filing, and the conversion shall be deemed
8059 abandoned and shall not become effective. The statement of
8060 abandonment must contain:

8061 (a) The name of the converting eligible entity;

8062 (b) The date on which the articles of conversion were filed

590-03467A-19

2019892c2

8063 by the department; and

8064 (c) A statement that the conversion has been abandoned in
8065 accordance with this section.

8066 Section 157. Section 607.11935, Florida Statutes, is
8067 created to read:

8068 607.11935 Effect of conversion.—

8069 (1) When a conversion becomes effective:

8070 (a) All real property and other property owned by,
8071 including any interest therein and all title thereto, and every
8072 contract right possessed by, the converting eligible entity
8073 remain the property and contract rights of the converted
8074 eligible entity without transfer, reversion, or impairment;

8075 (b) All debts, obligations, and other liabilities of the
8076 converting eligible entity remain the debts, obligations, and
8077 other liabilities of the converted eligible entity;

8078 (c) The name of the converted eligible entity may be, but
8079 need not be, substituted for the name of the converting eligible
8080 entity in any pending action or proceeding;

8081 (d) If the converted eligible entity is a filing entity, a
8082 domestic corporation, or a domestic or foreign nonprofit
8083 corporation, its public organic record and its private organic
8084 rules become effective;

8085 (e) If the converted eligible entity is a nonfiling entity,
8086 its private organic rules become effective;

8087 (f) If the converted eligible entity is a limited liability
8088 partnership, the filing required to become a limited liability
8089 partnership and its private organic rules become effective;

8090 (g) The shares, rights to acquire shares, eligible
8091 interests, other securities and obligations of the converting

590-03467A-19

2019892c2

8092 eligible entity are reclassified into shares, other securities,
8093 rights to acquire shares or other securities, eligible
8094 interests, obligations, cash, other property, or any combination
8095 thereof, in accordance with the terms of the conversion, and the
8096 shareholders or interest holders of the converting eligible
8097 entity are entitled only to the rights provided to them by those
8098 terms and to any rights they may have under s. 607.1302 or under
8099 the organic law of the converting eligible entity; and

8100 (h) The converted eligible entity is:

8101 1. Deemed to be incorporated or organized under and subject
8102 to the organic law of the converted eligible entity;

8103 2. Deemed to be the same entity without interruption as the
8104 converting eligible entity; and

8105 3. Deemed to have been incorporated or otherwise organized
8106 on the date that the converting eligible entity was originally
8107 incorporated or organized.

8108 (2) When a conversion of a domestic corporation to a
8109 domestic or foreign eligible entity other than a domestic
8110 corporation becomes effective, the converted eligible entity is
8111 deemed to:

8112 (a) Appoint the secretary of state as its agent for service
8113 of process in a proceeding to enforce the rights of shareholders
8114 who exercise appraisal rights in connection with the conversion;
8115 and

8116 (b) Agree that it will promptly pay any amount that
8117 shareholders are entitled to under ss. 607.1301-607.1340.

8118 (3) Except as otherwise provided in the articles of
8119 incorporation of a domestic corporation or the organic law or
8120 organic rules of a domestic or foreign eligible entity other

590-03467A-19

2019892c2

8121 than a domestic corporation, a shareholder or eligible interest
8122 holder who becomes subject to interest holder liability in
8123 respect of a domestic corporation or domestic or foreign
8124 eligible entity other than a domestic corporation as a result of
8125 the conversion shall have such interest holder liability only in
8126 respect of interest holder liabilities that arise after the
8127 conversion becomes effective.

8128 (4) Except as otherwise provided in the organic law or the
8129 organic rules of the domestic or foreign eligible entity, the
8130 interest holder liability of an interest holder in a converting
8131 eligible entity that converts to a domestic corporation who had
8132 interest holder liability in respect of such converting eligible
8133 entity before the conversion becomes effective shall be as
8134 follows:

8135 (a) The conversion does not discharge that prior interest
8136 holder liability with respect to any interest holder liabilities
8137 that arose before the conversion became effective.

8138 (b) The provisions of the organic law of the eligible
8139 entity shall continue to apply to the collection or discharge of
8140 any interest holder liabilities preserved by paragraph (a), as
8141 if the conversion had not occurred.

8142 (c) The eligible interest holder shall have such rights of
8143 contribution from other persons as are provided by the organic
8144 law of the eligible entity with respect to any interest holder
8145 liabilities preserved by paragraph (a), as if the conversion had
8146 not occurred.

8147 (d) The eligible interest holder may not, by reason of such
8148 prior interest holder liability, have interest holder liability
8149 with respect to any interest holder liabilities that arise after

590-03467A-19

2019892c2

8150 the conversion becomes effective.

8151 (5) A conversion does not require the converting eligible
8152 entity to wind up its affairs and does not constitute or cause
8153 the dissolution or termination of the entity.

8154 (6) Property held for charitable purposes under the laws of
8155 this state by a domestic or foreign eligible entity immediately
8156 before a conversion becomes effective may not, as a result of
8157 the transaction, be diverted from the objects for which it was
8158 donated, granted, devised, or otherwise transferred except and
8159 to the extent permitted by or pursuant to the laws of this state
8160 addressing cy pres or dealing with nondiversion of charitable
8161 assets.

8162 (7) A bequest, devise, gift, grant, or promise contained in
8163 a will or other instrument of donation, subscription, or
8164 conveyance which is made to the converting eligible entity and
8165 which takes effect or remains payable after the conversion
8166 inures to the converted eligible entity.

8167 (8) A trust obligation that would govern property if
8168 transferred to the converting eligible entity applies to
8169 property that is to be transferred to the converted eligible
8170 entity after the conversion becomes effective.

8171 Section 158. Section 607.1201, Florida Statutes, is amended
8172 to read:

8173 607.1201 Disposition of assets not requiring shareholder
8174 approval ~~Sale of assets in regular course of business and~~
8175 ~~mortgage of assets.~~ Unless the articles of incorporation
8176 otherwise provide, no approval by shareholders is required to:

8177 ~~(1) A corporation may, on the terms and conditions and for~~
8178 ~~the consideration determined by the board of directors:~~

590-03467A-19

2019892c2

8179 ~~(a)~~ Sell, lease, exchange, or otherwise dispose of any or
 8180 all of the corporation's assets ~~all, or substantially all, of~~
 8181 ~~its property~~ in the usual and regular course of business;

8182 (2) ~~(b)~~ Mortgage, pledge, dedicate to the repayment of
 8183 indebtedness (whether with or without recourse), create a
 8184 security interest in, or otherwise encumber any or all of the
 8185 corporation's assets, regardless of whether its property ~~whether~~
 8186 ~~or not~~ in the usual and regular course of business; ~~or~~

8187 (3) ~~(c)~~ Transfer any or all of the corporation's assets to
 8188 one or more domestic or foreign corporations or other entities
 8189 all of the shares or interests ~~its property to a corporation~~ ~~all~~
 8190 ~~the shares~~ of which are owned by the corporation; or

8191 (4) Distribute assets pro rata to the holders of one or
 8192 more classes or series of the corporation's shares, except to
 8193 the extent that the distribution is part of a dissolution of the
 8194 corporation under ss. 607.1401-607.14401.

8195 ~~(2) Unless the articles of incorporation require it,~~
 8196 ~~approval by the shareholders of a transaction described in~~
 8197 ~~subsection (1) is not required.~~

8198 Section 159. Section 607.1202, Florida Statutes, is amended
 8199 to read:

8200 607.1202 Shareholder approval of certain dispositions ~~Sale~~
 8201 ~~of assets other than in regular course of business.-~~

8202 (1) A corporation may sell, lease, exchange, or otherwise
 8203 dispose of all, or substantially all, of its property (with or
 8204 without ~~the~~ good will), otherwise than in the usual and regular
 8205 course of business, on the terms and conditions and for the
 8206 consideration determined by the corporation's board of
 8207 directors, but only if the board of directors proposes and its

590-03467A-19

2019892c2

8208 shareholders ~~of record~~ approve the proposed transaction.

8209 (2) (a) To obtain the approval of the shareholders under
8210 subsection (1), the board of directors must first adopt a
8211 resolution approving the disposition, and thereafter, the
8212 disposition must also be approved by the corporation's
8213 shareholders.

8214 (b) In submitting the disposition to the shareholders for
8215 approval, For a transaction to be authorized:

8216 ~~(a)~~ the board of directors must recommend the proposed
8217 transaction to the shareholders of record unless:

8218 1. The board of directors makes a determination that
8219 ~~determines that it should make no recommendation~~ because of
8220 conflict of interest or other special circumstances it should
8221 not make such a recommendation; or

8222 2. Section 607.0826 applies.

8223 (c) If either subparagraph (b)1. or subparagraph (b)2.
8224 applies, the board of directors shall inform the shareholders of
8225 the basis for its so proceeding without such recommendation and
8226 ~~communicates the basis for its determination to the shareholders~~
8227 ~~of record with the submission of the proposed transaction; and~~

8228 ~~(b) The shareholders entitled to vote must approve the~~
8229 ~~transaction as provided in subsection (5).~~

8230 (3) The board of directors may set conditions for approval
8231 of the disposition or the effectiveness of the disposition
8232 ~~condition its submission of the proposed transaction on any~~
8233 ~~basis.~~

8234 (4) If the disposition is required to be approved by the
8235 shareholders under subsection (1) and if the approval is to be
8236 given at the meeting, the corporation shall notify each

590-03467A-19

2019892c2

8237 shareholder ~~of record~~, regardless of whether ~~or not~~ entitled to
8238 vote, of the ~~proposed shareholders'~~ meeting of shareholders at
8239 which the disposition is to be submitted for approval in
8240 ~~accordance with s. 607.0705~~. The notice must ~~shall also~~ state
8241 that the purpose, or one of the purposes, of the meeting is to
8242 consider the disposition and shall contain a description of the
8243 disposition and the consideration to be received by the
8244 corporation sale, lease, exchange, or other disposition of all,
8245 ~~or substantially all, the property of the corporation,~~
8246 ~~regardless of whether or not the meeting is an annual or a~~
8247 ~~special meeting, and shall contain or be accompanied by a~~
8248 ~~description of the transaction~~. Furthermore, the notice shall
8249 contain a clear and concise statement that, if the transaction
8250 is effected, shareholders dissenting therefrom are or may be
8251 entitled, if they comply with the provisions of this act
8252 regarding appraisal rights, to be paid the fair value of their
8253 shares and such notice must ~~shall~~ be accompanied by a copy of
8254 ss. 607.1301-607.1340 ~~ss. 607.1301-607.1333~~.

8255 (5) Unless this chapter act, the articles of incorporation,
8256 or the board of directors (acting pursuant to subsection (3))
8257 requires a greater vote or a greater quorum ~~vote by voting~~
8258 ~~groups~~, the approval of the disposition shall require the
8259 approval of the shareholders at a meeting at which a quorum
8260 exists consisting of ~~transaction to be authorized shall be~~
8261 ~~approved by~~ a majority of all the votes entitled to be cast on
8262 the disposition ~~transaction~~.

8263 (6) After a disposition has been approved by the
8264 shareholders under this chapter, and at any time before the
8265 disposition has been consummated, it may be abandoned by the

590-03467A-19

2019892c2

8266 ~~corporation without action by the shareholders, subject to any~~
8267 ~~contractual rights of other parties to the disposition~~ Any plan
8268 ~~or agreement providing for a sale, lease, exchange, or other~~
8269 ~~disposition of property, or any resolution of the board of~~
8270 ~~directors or shareholders approving such transaction, may~~
8271 ~~authorize the board of directors of the corporation to amend the~~
8272 ~~terms thereof at any time prior to the consummation of such~~
8273 ~~transaction. An amendment made subsequent to the approval of the~~
8274 ~~transaction by the shareholders of the corporation may not:~~

8275 ~~(a) Change the amount or kind of shares, securities, cash,~~
8276 ~~property, or rights to be received in exchange for the~~
8277 ~~corporation's property; or~~

8278 ~~(b) Change any other terms and conditions of the~~
8279 ~~transaction if such change would materially and adversely affect~~
8280 ~~the shareholders or the corporation.~~

8281 ~~(7) Unless a plan or agreement providing for a sale, lease,~~
8282 ~~exchange, or other disposition of property, or any resolution of~~
8283 ~~the board of directors or shareholders approving such~~
8284 ~~transaction, prohibits abandonment of the transaction without~~
8285 ~~shareholder approval after a transaction has been authorized,~~
8286 ~~the planned transaction may be abandoned (subject to any~~
8287 ~~contractual rights) at any time prior to consummation thereof,~~
8288 ~~without further shareholder action, in accordance with the~~
8289 ~~procedure set forth in the plan, agreement, or resolutions~~
8290 ~~providing for or approving such transaction or, if none is set~~
8291 ~~forth, in the manner determined by the board of directors.~~

8292 ~~(7)(8)~~ A disposition of assets in the course of dissolution
8293 is governed by ss. 607.1401-607.14401 ~~transaction that~~
8294 ~~constitutes a distribution is governed by s. 607.06401 and not~~

590-03467A-19

2019892c2

8295 by this section.

8296 (8) For purposes of this section, the assets of a direct or
8297 indirect consolidated subsidiary shall be deemed to be the
8298 assets of the parent corporation.

8299 (9) For purposes of this section, the term "shareholder"
8300 includes a beneficial shareholder and a voting trust beneficial
8301 owner.

8302 Section 160. Section 607.1301, Florida Statutes, is amended
8303 to read:

8304 607.1301 Appraisal rights; definitions.—The following
8305 definitions apply to ss. 607.1301-607.1340 ~~ss. 607.1302-~~
8306 ~~607.1333~~:

8307 (1) "Accrued interest" means interest from the date the
8308 corporate action becomes effective until the date of payment, at
8309 the rate of interest determined for judgments pursuant to s.
8310 55.03, determined as of the effective date of the corporate
8311 action.

8312 (2) "Affiliate" means a person that directly or indirectly
8313 through one or more intermediaries controls, is controlled by,
8314 or is under common control with another person or is a senior
8315 executive of such person thereof. For purposes of paragraph
8316 (6) (a) s. 607.1302(2) (d), a person is deemed to be an affiliate
8317 of its senior executives.

8318 (3) "Corporate action" means an event described in s.
8319 607.1302(1)

8320 ~~(2) "Beneficial shareholder" means a person who is the~~
8321 ~~beneficial owner of shares held in a voting trust or by a~~
8322 ~~nominee on the beneficial owner's behalf.~~

8323 ~~(4) (3)~~ "Corporation" means the domestic corporation that is

590-03467A-19

2019892c2

8324 the issuer of the shares held by a shareholder demanding
8325 appraisal and, for matters covered in ss. 607.1322-607.1340 ~~ss.~~
8326 ~~607.1322-607.1333~~, includes the domesticated eligible entity in
8327 a domestication, the covered eligible entity in a conversion,
8328 and the survivor of ~~surviving entity in~~ a merger.

8329 (5) ~~(4)~~ "Fair value" means the value of the corporation's
8330 shares determined:

8331 (a) Immediately before the effectiveness ~~effectuation~~ of
8332 the corporate action to which the shareholder objects.

8333 (b) Using customary and current valuation concepts and
8334 techniques generally employed for similar businesses in the
8335 context of the transaction requiring appraisal, excluding any
8336 appreciation or depreciation in anticipation of the corporate
8337 action unless exclusion would be inequitable to the corporation
8338 and its remaining shareholders.

8339 ~~(c) For a corporation with 10 or fewer shareholders,~~
8340 Without discounting for lack of marketability or minority
8341 status.

8342 ~~(5) "Interest" means interest from the effective date of~~
8343 ~~the corporate action until the date of payment, at the rate of~~
8344 ~~interest on judgments in this state on the effective date of the~~
8345 ~~corporate action.~~

8346 (6) "Interested transaction" means a corporate action
8347 described in s. 607.1302(1), other than a merger pursuant to s.
8348 607.1104, involving an interested person in which any of the
8349 shares or assets of the corporation are being acquired or
8350 converted. As used in this definition:

8351 (a) "Interested person" means a person, or an affiliate of
8352 a person, who at any time during the 1-year period immediately

590-03467A-19

2019892c2

8353 preceding approval by the board of directors of the corporate
8354 action:

8355 1. Was the beneficial owner of 20 percent or more of the
8356 voting power of the corporation, other than as owner of excluded
8357 shares;

8358 2. Had the power, contractually or otherwise, other than as
8359 owner of excluded shares, to cause the appointment or election
8360 of 25 percent or more of the directors to the board of directors
8361 of the corporation; or

8362 3. Was a senior executive or director of the corporation or
8363 a senior executive of any affiliate of the corporation, and will
8364 receive, as a result of the corporate action, a financial
8365 benefit not generally available to other shareholders as such,
8366 other than:

8367 a. Employment, consulting, retirement, or similar benefits
8368 established separately and not as part of or in contemplation of
8369 the corporate action;

8370 b. Employment, consulting, retirement, or similar benefits
8371 established in contemplation of, or as part of, the corporate
8372 action that are not more favorable than those existing before
8373 the corporate action or, if more favorable, that have been
8374 approved on behalf of the corporation in the same manner as is
8375 provided in s. 607.0832; or

8376 c. In the case of a director of the corporation who, in the
8377 corporate action, will become a director or governor of the
8378 acquirer or any of its affiliates in the corporate action,
8379 rights and benefits as a director or governor that are provided
8380 on the same basis as those afforded by the acquirer generally to
8381 other directors or governors of such entity or such affiliate.

590-03467A-19

2019892c2

8382 (b) "Beneficial owner" means any person who, directly or
8383 indirectly, through any contract, arrangement, or understanding,
8384 other than a revocable proxy, has or shares the power to vote,
8385 or to direct the voting of, shares; except that a member of a
8386 national securities exchange is not deemed to be a beneficial
8387 owner of securities held directly or indirectly by it on behalf
8388 of another person if the member is precluded by the rules of the
8389 exchange from voting without instruction on contested matters or
8390 matters that may affect substantially the rights or privileges
8391 of the holders of the securities to be voted. When two or more
8392 persons agree to act together for the purpose of voting their
8393 shares of the corporation, each member of the group formed
8394 thereby is deemed to have acquired beneficial ownership, as of
8395 the date of the agreement, of all shares having voting power of
8396 the corporation beneficially owned by any member of the group.

8397 (c) "Excluded shares" means shares acquired pursuant to an
8398 offer for all shares having voting power if the offer was made
8399 within 1 year before the corporate action for consideration of
8400 the same kind and of a value equal to or less than that paid in
8401 connection with the corporate action.

8402 (7)+(6) "Preferred shares" means a class or series of shares
8403 the holders of which have preference over any other class or
8404 series of shares with respect to distributions.

8405 ~~(7) "Record shareholder" means the person in whose name~~
8406 ~~shares are registered in the records of the corporation or the~~
8407 ~~beneficial owner of shares to the extent of the rights granted~~
8408 ~~by a nominee certificate on file with the corporation.~~

8409 (8) "Senior executive" means the chief executive officer,
8410 chief operating officer, chief financial officer, or any

590-03467A-19

2019892c2

8411 individual ~~anyone~~ in charge of a principal business unit or
8412 function.

8413 (9) Notwithstanding s. 607.01401(67), "shareholder" means
8414 ~~both~~ a record shareholder, ~~and~~ a beneficial shareholder, and a
8415 voting trust beneficial owner.

8416 Section 161. Section 607.1302, Florida Statutes, is amended
8417 to read:

8418 607.1302 Right of shareholders to appraisal.—

8419 (1) A shareholder of a domestic corporation is entitled to
8420 appraisal rights, and to obtain payment of the fair value of
8421 that shareholder's shares, in the event of any of the following
8422 corporate actions:

8423 (a) Consummation of a domestication or a conversion of such
8424 corporation pursuant to s. 607.11921 or s. 607.11932, as
8425 applicable, s. ~~607.1112~~ if shareholder approval is required for
8426 the domestication or the conversion; ~~and the shareholder is~~
8427 ~~entitled to vote on the conversion under ss. 607.1103 and~~
8428 ~~607.1112(6), or the~~

8429 (b) Consummation of a merger to which such corporation is a
8430 party:

8431 1. If shareholder approval is required for the merger under
8432 s. 607.1103 or would be required but for s. 607.11035, except
8433 that appraisal rights shall not be available to any shareholder
8434 of the corporation with respect to shares of any class or series
8435 that remains outstanding after consummation of the merger where
8436 the terms of such class or series have not been materially
8437 altered; ~~and the shareholder is entitled to vote on the merger~~
8438 or

8439 2. If such corporation is a subsidiary and the merger is

590-03467A-19

2019892c2

8440 governed by s. 607.1104;

8441 (c)~~(b)~~ Consummation of a share exchange to which the
8442 corporation is a party as the corporation whose shares will be
8443 acquired ~~if the shareholder is entitled to vote on the exchange,~~
8444 except that appraisal rights are not available to any
8445 shareholder of the corporation with respect to any class or
8446 series of shares of the corporation that is not acquired in the
8447 share exchange exchanged;

8448 (d)~~(e)~~ Consummation of a disposition of assets pursuant to
8449 s. 607.1202 if the shareholder is entitled to vote on the
8450 disposition, including a sale in dissolution, except that
8451 appraisal rights shall not be available to any shareholder of
8452 the corporation with respect to shares or any class or series
8453 if:

8454 1. Under the terms of the corporate action approved by the
8455 shareholders there is to be distributed to shareholders in cash
8456 the corporation's net assets, in excess of a reasonable amount
8457 reserved to meet claims of the type described in ss. 607.1406
8458 and 607.1407, within 1 year after the shareholders' approval of
8459 the action and in accordance with their respective interests
8460 determined at the time of distribution; and

8461 2. The disposition of assets is not an interested
8462 transaction ~~but not including a sale pursuant to court order or~~
8463 ~~a sale for cash pursuant to a plan by which all or substantially~~
8464 ~~all of the net proceeds of the sale will be distributed to the~~
8465 ~~shareholders within 1 year after the date of sale;~~

8466 (e)~~(d)~~ An amendment of the articles of incorporation with
8467 respect to a ~~the~~ class or series of shares which reduces the
8468 number of shares of a class or series owned by the shareholder

590-03467A-19

2019892c2

8469 to a fraction of a share if the corporation has the obligation
8470 or the right to repurchase the fractional share so created;

8471 (f)~~(e)~~ Any other ~~amendment to the articles of~~
8472 ~~incorporation,~~ merger, share exchange, ~~or~~ disposition of assets,
8473 or amendment to the articles of incorporation, in each case to
8474 the extent provided by the articles of incorporation, bylaws, or
8475 a resolution of the board of directors, except that no bylaw or
8476 board resolution providing for appraisal rights may be amended
8477 or otherwise altered except by shareholder approval;

8478 (g) An amendment to the articles of incorporation or bylaws
8479 of the corporation, the effect of which is to alter or abolish
8480 voting or other rights with respect to such interest in a manner
8481 that is adverse to the interest of such shareholder, except as
8482 the right may be affected by the voting or other rights of new
8483 shares then being authorized of a new class or series of shares;

8484 (h) An amendment to the articles of incorporation or bylaws
8485 of a corporation the effect of which is to adversely affect the
8486 interest of the shareholder by altering or abolishing appraisal
8487 rights under this section;

8488 (i)~~(f)~~ With regard to a class of shares prescribed in the
8489 articles of incorporation prior to October 1, 2003, including
8490 any shares within that class subsequently authorized by
8491 amendment, any amendment of the articles of incorporation if the
8492 shareholder is entitled to vote on the amendment and if such
8493 amendment would adversely affect such shareholder by:

8494 1. Altering or abolishing any preemptive rights attached to
8495 any of his or her shares;

8496 2. Altering or abolishing the voting rights pertaining to
8497 any of his or her shares, except as such rights may be affected

590-03467A-19

2019892c2

8498 by the voting rights of new shares then being authorized of any
8499 existing or new class or series of shares;

8500 3. Effecting an exchange, cancellation, or reclassification
8501 of any of his or her shares, when such exchange, cancellation,
8502 or reclassification would alter or abolish the shareholder's
8503 voting rights or alter his or her percentage of equity in the
8504 corporation, or effecting a reduction or cancellation of accrued
8505 dividends or other arrearages in respect to such shares;

8506 4. Reducing the stated redemption price of any of the
8507 shareholder's redeemable shares, altering or abolishing any
8508 provision relating to any sinking fund for the redemption or
8509 purchase of any of his or her shares, or making any of his or
8510 her shares subject to redemption when they are not otherwise
8511 redeemable;

8512 5. Making noncumulative, in whole or in part, dividends of
8513 any of the shareholder's preferred shares which had theretofore
8514 been cumulative;

8515 6. Reducing the stated dividend preference of any of the
8516 shareholder's preferred shares; or

8517 7. Reducing any stated preferential amount payable on any
8518 of the shareholder's preferred shares upon voluntary or
8519 involuntary liquidation;

8520 (j)~~(g)~~ An amendment of the articles of incorporation of a
8521 social purpose corporation to which s. 607.504 or s. 607.505
8522 applies;

8523 (k)~~(h)~~ An amendment of the articles of incorporation of a
8524 benefit corporation to which s. 607.604 or s. 607.605 applies;

8525 (l)~~(i)~~ A merger, domestication, conversion, or share
8526 exchange of a social purpose corporation to which s. 607.504

590-03467A-19

2019892c2

8527 applies; or

8528 (m)~~(j)~~ A merger, domestication, conversion, or share
8529 exchange of a benefit corporation to which s. 607.604 applies.

8530 (2) Notwithstanding subsection (1), the availability of
8531 appraisal rights under paragraphs (1) (a), (b), (c), ~~and~~ (d), and
8532 (e) shall be limited in accordance with the following
8533 provisions:

8534 (a) Appraisal rights shall not be available for the holders
8535 of shares of any class or series of shares which is:

8536 1. A covered security under s. 18(b)(1)(A) or (B) of the
8537 Securities Act of 1933 ~~Listed on the New York Stock Exchange or~~
8538 ~~the American Stock Exchange or designated as a national market~~
8539 ~~system security on an interdealer quotation system by the~~
8540 ~~National Association of Securities Dealers, Inc.; or~~

8541 2. Not a covered security, but traded in an organized
8542 market and ~~Not so listed or designated,~~ but has at least 2,000
8543 shareholders and the outstanding shares of such class or series
8544 have a market value of at least \$20 ~~\$10~~ million, exclusive of
8545 the value of outstanding ~~such~~ shares held by the corporation's
8546 ~~its~~ subsidiaries, by the corporation's senior executives, by the
8547 corporation's directors, and by the corporation's beneficial
8548 shareholders and voting trust beneficial owners ~~shareholders~~
8549 owning more than 10 percent of the outstanding ~~such~~ shares; or

8550 3. Issued by an open end management investment company
8551 registered with the Securities and Exchange Commission under the
8552 Investment Company Act of 1940 and which may be redeemed at the
8553 option of the holder at net asset value.

8554 (b) The applicability of paragraph (a) shall be determined
8555 as of:

590-03467A-19

2019892c2

8556 1. The record date fixed to determine the shareholders
8557 entitled to receive notice of, ~~and to vote at,~~ the meeting of
8558 shareholders to act upon the corporate action requiring
8559 appraisal rights, or, in the case of an offer made pursuant to
8560 s. 607.11035, the date of such offer; or

8561 2. If there will be no meeting of shareholders and no offer
8562 is made pursuant to s. 607.11035, the close of business on the
8563 day before the consummation of the corporate action or the
8564 effective date of the amendment of the articles, as applicable
8565 ~~on which the board of directors adopts the resolution~~
8566 ~~recommending such corporate action.~~

8567 (c) Paragraph (a) is not ~~shall not be~~ applicable and
8568 appraisal rights shall be available pursuant to subsection (1)
8569 for the holders of any class or series of shares where the
8570 corporate action is an interested transaction ~~who are required~~
8571 ~~by the terms of the corporate action requiring appraisal rights~~
8572 ~~to accept for such shares anything other than cash or shares of~~
8573 ~~any class or any series of shares of any corporation, or any~~
8574 ~~other proprietary interest of any other entity, that satisfies~~
8575 ~~the standards set forth in paragraph (a) at the time the~~
8576 ~~corporate action becomes effective.~~

8577 (d) ~~Paragraph (a) shall not be applicable and appraisal~~
8578 ~~rights shall be available pursuant to subsection (1) for the~~
8579 ~~holders of any class or series of shares if:~~

8580 1. ~~Any of the shares or assets of the corporation are being~~
8581 ~~acquired or converted, whether by merger, share exchange, or~~
8582 ~~otherwise, pursuant to the corporate action by a person, or by~~
8583 ~~an affiliate of a person, who:~~

8584 a. ~~Is, or at any time in the 1-year period immediately~~

590-03467A-19

2019892c2

8585 ~~preceding approval by the board of directors of the corporate~~
8586 ~~action requiring appraisal rights was, the beneficial owner of~~
8587 ~~20 percent or more of the voting power of the corporation,~~
8588 ~~excluding any shares acquired pursuant to an offer for all~~
8589 ~~shares having voting power if such offer was made within 1 year~~
8590 ~~prior to the corporate action requiring appraisal rights for~~
8591 ~~consideration of the same kind and of a value equal to or less~~
8592 ~~than that paid in connection with the corporate action; or~~

8593 ~~b. Directly or indirectly has, or at any time in the 1-year~~
8594 ~~period immediately preceding approval by the board of directors~~
8595 ~~of the corporation of the corporate action requiring appraisal~~
8596 ~~rights had, the power, contractually or otherwise, to cause the~~
8597 ~~appointment or election of 25 percent or more of the directors~~
8598 ~~to the board of directors of the corporation; or~~

8599 ~~2. Any of the shares or assets of the corporation are being~~
8600 ~~acquired or converted, whether by merger, share exchange, or~~
8601 ~~otherwise, pursuant to such corporate action by a person, or by~~
8602 ~~an affiliate of a person, who is, or at any time in the 1-year~~
8603 ~~period immediately preceding approval by the board of directors~~
8604 ~~of the corporate action requiring appraisal rights was, a senior~~
8605 ~~executive or director of the corporation or a senior executive~~
8606 ~~of any affiliate thereof, and that senior executive or director~~
8607 ~~will receive, as a result of the corporate action, a financial~~
8608 ~~benefit not generally available to other shareholders as such,~~
8609 ~~other than:~~

8610 ~~a. Employment, consulting, retirement, or similar benefits~~
8611 ~~established separately and not as part of or in contemplation of~~
8612 ~~the corporate action;~~

8613 ~~b. Employment, consulting, retirement, or similar benefits~~

590-03467A-19

2019892c2

8614 ~~established in contemplation of, or as part of, the corporate~~
8615 ~~action that are not more favorable than those existing before~~
8616 ~~the corporate action or, if more favorable, that have been~~
8617 ~~approved on behalf of the corporation in the same manner as is~~
8618 ~~provided in s. 607.0832; or~~

8619 ~~e. In the case of a director of the corporation who will,~~
8620 ~~in the corporate action, become a director of the acquiring~~
8621 ~~entity in the corporate action or one of its affiliates, rights~~
8622 ~~and benefits as a director that are provided on the same basis~~
8623 ~~as those afforded by the acquiring entity generally to other~~
8624 ~~directors of such entity or such affiliate.~~

8625 ~~(e) For the purposes of paragraph (d) only, the term~~
8626 ~~"beneficial owner" means any person who, directly or indirectly,~~
8627 ~~through any contract, arrangement, or understanding, other than~~
8628 ~~a revocable proxy, has or shares the power to vote, or to direct~~
8629 ~~the voting of, shares, provided that a member of a national~~
8630 ~~securities exchange shall not be deemed to be a beneficial owner~~
8631 ~~of securities held directly or indirectly by it on behalf of~~
8632 ~~another person solely because such member is the recordholder of~~
8633 ~~such securities if the member is precluded by the rules of such~~
8634 ~~exchange from voting without instruction on contested matters or~~
8635 ~~matters that may affect substantially the rights or privileges~~
8636 ~~of the holders of the securities to be voted. When two or more~~
8637 ~~persons agree to act together for the purpose of voting their~~
8638 ~~shares of the corporation, each member of the group formed~~
8639 ~~thereby shall be deemed to have acquired beneficial ownership,~~
8640 ~~as of the date of such agreement, of all voting shares of the~~
8641 ~~corporation beneficially owned by any member of the group.~~

8642 (3) Notwithstanding any other provision of this section,

590-03467A-19

2019892c2

8643 the articles of incorporation as originally filed or any
8644 amendment to the articles of incorporation ~~thereto~~ may limit or
8645 eliminate appraisal rights for any class or series of preferred
8646 shares, except that:

8647 (a) No such limitation or elimination shall be effective if
8648 the class or series does not have the right to vote separately
8649 as a voting group, alone or as part of a group, on the action or
8650 if the action is a domestication under s. 607.11920 or a
8651 conversion under s. 607.11930, or a merger having a similar
8652 effect as a domestication or conversion in which the
8653 domesticated eligible entity or the converted eligible entity is
8654 an eligible entity; and

8655 (b) ~~but~~ Any such limitation or elimination contained in an
8656 amendment to the articles of incorporation that limits or
8657 eliminates appraisal rights for any of such shares that are
8658 outstanding immediately before ~~prior to~~ the effective date of
8659 such amendment or that the corporation is or may be required to
8660 issue or sell thereafter pursuant to any conversion, exchange,
8661 or other right existing immediately before the effective date of
8662 such amendment shall not apply to any corporate action that
8663 becomes effective within 1 year after the effective date of such
8664 amendment ~~of that date~~ if such action would otherwise afford
8665 appraisal rights.

8666 ~~(4) A shareholder entitled to appraisal rights under this~~
8667 ~~chapter may not challenge a completed corporate action for which~~
8668 ~~appraisal rights are available unless such corporate action:~~

8669 ~~(a) Was not effectuated in accordance with the applicable~~
8670 ~~provisions of this section or the corporation's articles of~~
8671 ~~incorporation, bylaws, or board of directors' resolution~~

590-03467A-19

2019892c2

8672 ~~authorizing the corporate action; or~~

8673 ~~(b) Was procured as a result of fraud or material~~
8674 ~~misrepresentation.~~

8675 Section 162. Section 607.1303, Florida Statutes, is amended
8676 to read:

8677 607.1303 Assertion of rights by nominees and beneficial
8678 owners.—

8679 (1) A record shareholder may assert appraisal rights as to
8680 fewer than all the shares registered in the record shareholder's
8681 name but owned by a beneficial shareholder or a voting trust
8682 beneficial owner only if the record shareholder objects with
8683 respect to all shares of the class or series owned by the
8684 beneficial shareholder or a voting trust beneficial owner and
8685 notifies the corporation in writing of the name and address of
8686 each beneficial shareholder or voting trust beneficial owner on
8687 whose behalf appraisal rights are being asserted. The rights of
8688 a record shareholder who asserts appraisal rights for only part
8689 of the shares held of record in the record shareholder's name
8690 under this subsection shall be determined as if the shares as to
8691 which the record shareholder objects and the record
8692 shareholder's other shares were registered in the names of
8693 different record shareholders.

8694 (2) A beneficial shareholder and a voting trust beneficial
8695 owner may assert appraisal rights as to shares of any class or
8696 series held on behalf of the shareholder only if such
8697 shareholder:

8698 (a) Submits to the corporation the record shareholder's
8699 written consent to the assertion of such rights no later than
8700 the date referred to in s. 607.1322(2)(b)2.

590-03467A-19

2019892c2

8701 (b) Does so with respect to all shares of the class or
8702 series that are beneficially owned by the beneficial shareholder
8703 or the voting trust beneficial owner.

8704 Section 163. Subsections (1) and (3) of section 607.1320,
8705 Florida Statutes, are amended, and subsections (4) and (5) are
8706 added to that section, to read:

8707 607.1320 Notice of appraisal rights.-

8708 (1) If a proposed corporate action described in s.
8709 607.1302(1) is to be submitted to a vote at a shareholders'
8710 meeting, the meeting notice (or, where no approval of such
8711 action is required pursuant to s. 607.11035, the offer made
8712 pursuant to s. 607.11035), must state that the corporation has
8713 concluded that shareholders are, are not, or may be entitled to
8714 assert appraisal rights under this chapter. If the corporation
8715 concludes that appraisal rights are or may be available, a copy
8716 of ss. 607.1301-607.1340 ~~ss. 607.1301-607.1333~~ must accompany
8717 the meeting notice or offer sent to those record shareholders
8718 entitled to exercise appraisal rights.

8719 (3) If a ~~the~~ proposed corporate action described in s.
8720 607.1302(1) is to be approved by written consent of the
8721 shareholders pursuant to s. 607.0704:

8722 (a) Written notice that appraisal rights are, are not, or
8723 may be available must be sent to each shareholder from whom a
8724 consent is solicited at the time consent of such shareholder is
8725 first solicited, and, if the corporation has concluded that
8726 appraisal rights are or may be available, a copy of ss.
8727 607.1301-607.1340 must accompany such written notice; and

8728 (b) Written notice that appraisal rights are, are not, or
8729 may be available must be delivered, at least 10 days before the

590-03467A-19

2019892c2

8730 corporate action becomes effective, to all nonconsenting and
8731 nonvoting shareholders, and, if the corporation has concluded
8732 that appraisal rights are or may be available, a copy of ss.
8733 607.1301-607.1340 must accompany such written notice.

8734 (4) Where a corporate action described in s. 607.1302(1) is
8735 proposed or a merger pursuant to s. 607.1104 is effected, and
8736 the corporation concludes that appraisal rights are or may be
8737 available, the notice referred to in subsection (1), paragraph
8738 (3) (a), or paragraph (3) (b) must be accompanied by:

8739 (a) Financial statements of the corporation that issued the
8740 shares that may be or are subject to appraisal rights,
8741 consisting of a balance sheet as of the end of the fiscal year
8742 ending not more than 16 months before the date of the notice, an
8743 income statement for that fiscal year, and a cash flow statement
8744 for that fiscal year; however, if such financial statements are
8745 not reasonably available, the corporation must provide
8746 reasonably equivalent financial information; and

8747 (b) The latest available interim financial statements,
8748 including year-to-date through the end of the interim period, of
8749 such corporation, if any.

8750 (5) The right to receive the information described in
8751 subsection (4) may be waived in writing by a shareholder before
8752 or after the corporate action is effected ~~other than by a~~
8753 shareholders' meeting, the notice referred to in subsection (1)
8754 must be sent to all shareholders at the time that consents are
8755 first solicited pursuant to s. 607.0704, whether or not consents
8756 are solicited from all shareholders, and include the materials
8757 described in s. 607.1322.

8758 Section 164. Section 607.1321, Florida Statutes, is amended

590-03467A-19

2019892c2

8759 to read:

8760 607.1321 Notice of intent to demand payment.—

8761 (1) If a proposed corporate action requiring appraisal
8762 rights under s. 607.1302 is submitted to a vote at a
8763 shareholders' meeting, ~~or is submitted to a shareholder pursuant~~
8764 ~~to a consent vote under s. 607.0704,~~ a shareholder who wishes to
8765 assert appraisal rights with respect to any class or series of
8766 shares:

8767 (a) Must deliver to the corporation before the vote is
8768 taken, ~~or within 20 days after receiving the notice pursuant to~~
8769 ~~s. 607.1320(3) if action is to be taken without a shareholder~~
8770 ~~meeting,~~ written notice of the shareholder's intent to demand
8771 payment if the proposed corporate action is effectuated; ~~and.~~

8772 (b) Must not vote, or cause or permit to be voted, any
8773 shares of such class or series in favor of the proposed
8774 corporate action.

8775 (2) If a proposed corporate action requiring appraisal
8776 rights under s. 607.1302 is to be approved by written consent, a
8777 shareholder who wishes to assert appraisal rights with respect
8778 to any class or series of shares must not sign a consent in
8779 favor of the proposed corporate action with respect to that
8780 class or series of shares.

8781 (3) If a proposed corporate action specified in s.
8782 607.1302(1) does not require shareholder approval pursuant to s.
8783 607.11035, a shareholder who wishes to assert appraisal rights
8784 with respect to any class or series of shares:

8785 (a) Must deliver to the corporation before the shares are
8786 purchased pursuant to the offer a written notice of the
8787 shareholder's intent to demand payment if the proposed action is

590-03467A-19

2019892c2

8788 effected; and

8789 (b) Must not tender, or cause or permit to be tendered, any
8790 shares of such class or series in response to such offer.

8791 (4)-(2) A shareholder who may otherwise be entitled to
8792 appraisal rights but does not satisfy the requirements of
8793 subsections (1), (2), or (3) subsection (1) is not entitled to
8794 payment under this chapter.

8795 Section 165. Section 607.1322, Florida Statutes, is amended
8796 to read:

8797 607.1322 Appraisal notice and form.—

8798 (1) If a proposed corporate action requiring appraisal
8799 rights under s. 607.1302(1) becomes effective, the corporation
8800 must deliver a written appraisal notice and form required by
8801 paragraph (2)(a) to all shareholders who satisfied the
8802 requirements of s. 607.1321(1), (2), or (3) ~~s. 607.1321~~. In the
8803 case of a merger under s. 607.1104, the parent must deliver a
8804 written appraisal notice and form to all record shareholders who
8805 may be entitled to assert appraisal rights.

8806 (2) The appraisal notice must be delivered ~~sent~~ no earlier
8807 than the date the corporate action became effective, and no
8808 later than 10 days after such date, and must:

8809 (a) Supply a form that specifies the date that the
8810 corporate action became effective and that provides for the
8811 shareholder to state:

8812 1. The shareholder's name and address.

8813 2. The number, classes, and series of shares as to which
8814 the shareholder asserts appraisal rights.

8815 3. That the shareholder did not vote for or consent to the
8816 transaction.

590-03467A-19

2019892c2

8817 4. Whether the shareholder accepts the corporation's offer
8818 as stated in subparagraph (b)4.

8819 5. If the offer is not accepted, the shareholder's
8820 estimated fair value of the shares and a demand for payment of
8821 the shareholder's estimated value plus accrued interest.

8822 (b) State:

8823 1. Where the form must be sent and where certificates for
8824 certificated shares must be deposited and the date by which
8825 those certificates must be deposited, which date may not be
8826 earlier than the date by which the corporation must receive ~~for~~
8827 ~~receiving~~ the required form under subparagraph 2.

8828 2. A date by which the corporation must receive the form,
8829 which date may not be fewer than 40 nor more than 60 days after
8830 the date the subsection (1) appraisal notice and form are sent,
8831 and state that the shareholder shall have waived the right to
8832 demand appraisal with respect to the shares unless the form is
8833 received by the corporation by such specified date.

8834 3. The corporation's estimate of the fair value of the
8835 shares.

8836 4. An offer to each shareholder who is entitled to
8837 appraisal rights to pay the corporation's estimate of fair value
8838 set forth in subparagraph 3.

8839 5. That, if requested in writing, the corporation will
8840 provide to the shareholder so requesting, within 10 days after
8841 the date specified in subparagraph 2., the number of
8842 shareholders who return the forms by the specified date and the
8843 total number of shares owned by them.

8844 6. The date by which the notice to withdraw under s.
8845 607.1323 must be received, which date must be within 20 days

590-03467A-19

2019892c2

8846 after the date specified in subparagraph 2.

8847 (c) If not previously provided, be accompanied by a copy of
8848 ss. 607.1301-607.1340

8849 ~~(c) Be accompanied by:~~

8850 ~~1. Financial statements of the corporation that issued the~~
8851 ~~shares to be appraised, consisting of a balance sheet as of the~~
8852 ~~end of the fiscal year ending not more than 15 months prior to~~
8853 ~~the date of the corporation's appraisal notice, an income~~
8854 ~~statement for that year, a cash flow statement for that year,~~
8855 ~~and the latest available interim financial statements, if any.~~

8856 ~~2. A copy of ss. 607.1301-607.1333.~~

8857 Section 166. Subsections (1) and (3) of section 607.1323,
8858 Florida Statutes, are amended to read:

8859 607.1323 Perfection of rights; right to withdraw.—

8860 (1) A shareholder who receives notice pursuant to s.
8861 607.1322 and who wishes to exercise appraisal rights must sign
8862 ~~execute~~ and return the form received pursuant to s. 607.1322(1)
8863 and, in the case of certificated shares, deposit the
8864 shareholder's certificates in accordance with the terms of the
8865 notice by the date referred to in the notice pursuant to s.
8866 607.1322(2)(b)2. Once a shareholder deposits that shareholder's
8867 certificates or, in the case of uncertificated shares, returns
8868 the signed ~~executed~~ forms, that shareholder loses all rights as
8869 a shareholder, unless the shareholder withdraws pursuant to
8870 subsection (2).

8871 (3) A shareholder who does not sign ~~execute~~ and return the
8872 form and, in the case of certificated shares, deposit that
8873 shareholder's share certificates if required, each by the date
8874 set forth in the notice described in s. 607.1322(2) ~~subsection~~

590-03467A-19

2019892c2

8875 ~~(2)~~, shall not be entitled to payment under ss. 607.1301-
8876 607.1340 ~~this chapter.~~

8877 Section 167. Subsection (2) of section 607.1324, Florida
8878 Statutes, is amended to read:

8879 607.1324 Shareholder's acceptance of corporation's offer.-

8880 (2) Upon payment of the agreed value, the shareholder shall
8881 cease to have any right to receive any further consideration
8882 with respect to such interest in the shares.

8883 Section 168. Section 607.1326, Florida Statutes, is amended
8884 to read:

8885 607.1326 Procedure if shareholder is dissatisfied with
8886 offer.-

8887 (1) A shareholder who is dissatisfied with the
8888 corporation's offer as set forth pursuant to s. 607.1322(2)(b)4.
8889 must notify the corporation on the form provided pursuant to s.
8890 607.1322(1) of that shareholder's estimate of the fair value of
8891 the shares and demand payment of that estimate plus accrued
8892 interest.

8893 (2) A shareholder who fails to notify the corporation in
8894 writing of that shareholder's demand to be paid the
8895 shareholder's stated estimate of the fair value plus accrued
8896 interest under subsection (1) within the timeframe set forth in
8897 s. 607.1322(2)(b)2. waives the right to demand payment under
8898 this section and shall be entitled only to the payment offered
8899 by the corporation pursuant to s. 607.1322(2)(b)4.

8900 Section 169. Subsections (1), (2), (5), and (6) of section
8901 607.1330, Florida Statutes, are amended to read:

8902 607.1330 Court action.-

8903 (1) If a shareholder makes demand for payment under s.

590-03467A-19

2019892c2

8904 607.1326 which remains unsettled, the corporation shall commence
8905 a proceeding within 60 days after receiving the payment demand
8906 and petition the court to determine the fair value of the shares
8907 and accrued interest from the date of the corporate action. If
8908 the corporation does not commence the proceeding within the 60-
8909 day period, any shareholder who has made a demand pursuant to s.
8910 607.1326 may commence the proceeding in the name of the
8911 corporation.

8912 (2) The proceeding shall be commenced in the circuit court
8913 in the applicable county. If by virtue of the corporate action
8914 becoming effective the entity has become a foreign eligible
8915 entity appropriate court of the county in which the
8916 corporation's principal office, or, if none, its registered
8917 office, in this state is located. If the corporation is a
8918 foreign corporation without a registered office in this state,
8919 the proceeding shall be commenced in the county in this state in
8920 which the principal office or registered office of the domestic
8921 corporation merged with the foreign eligible entity corporation
8922 was located immediately before the time the corporate action
8923 became effective. If such entity has, and immediately before the
8924 corporate action became effective had, no principal or
8925 registered office in this state, then the proceeding shall be
8926 commenced in the county in this state in which the corporation
8927 has, or immediately before the time the corporate action became
8928 effective had, an office in this state. If such entity has, or
8929 immediately before the time the corporate action became
8930 effective had, no office in this state, the proceeding shall be
8931 commenced in the county in which the corporation's registered
8932 office is or was last located at the time of the transaction.

590-03467A-19

2019892c2

8933 (5) Each shareholder made a party to the proceeding is
8934 entitled to judgment for the amount of the fair value of such
8935 shareholder's shares, plus accrued interest, as found by the
8936 court.

8937 (6) The corporation shall pay each such shareholder the
8938 amount found to be due within 10 days after final determination
8939 of the proceedings. Upon payment of the judgment, the
8940 shareholder shall cease to have any rights to receive any
8941 further consideration with respect to such shares other than any
8942 amounts ordered to be paid for court costs and attorney fees
8943 under s. 607.1331 ~~interest in the shares.~~

8944 Section 170. Subsection (4) of section 607.1331, Florida
8945 Statutes, is amended to read:

8946 607.1331 Court costs and counsel fees.-

8947 (4) To the extent the corporation fails to make a required
8948 payment pursuant to s. 607.1324, the shareholder may sue
8949 directly for the amount owed and, to the extent successful,
8950 shall be entitled to recover from the corporation all costs and
8951 expenses of the suit, including attorney ~~counsel~~ fees.

8952 Section 171. Section 607.1332, Florida Statutes, is amended
8953 to read:

8954 607.1332 Disposition of acquired shares.-Shares acquired by
8955 a corporation pursuant to payment of the agreed value thereof or
8956 pursuant to payment of the judgment entered therefor, as
8957 provided in this chapter, may be held and disposed of by such
8958 corporation as authorized but unissued shares of the
8959 corporation, except that, in the case of a merger or share
8960 exchange, they may be held and disposed of as the plan of merger
8961 or share exchange otherwise provides. The shares of the survivor

590-03467A-19

2019892c2

8962 ~~surviving corporation~~ into which the shares of such shareholders
8963 demanding appraisal rights would have been converted had they
8964 assented to the merger shall have the status of authorized but
8965 unissued shares of the survivor ~~surviving corporation~~.

8966 Section 172. Subsection (1) of section 607.1333, Florida
8967 Statutes, is amended to read:

8968 607.1333 Limitation on corporate payment.—

8969 (1) No payment shall be made to a shareholder seeking
8970 appraisal rights if, at the time of payment, the corporation is
8971 unable to meet the distribution standards of s. 607.06401. In
8972 such event, the shareholder shall, at the shareholder's option:

8973 (a) Withdraw his or her notice of intent to assert
8974 appraisal rights, which shall in such event be deemed withdrawn
8975 with the consent of the corporation; or

8976 (b) Retain his or her status as a claimant against the
8977 corporation and, if it is liquidated, be subordinated to the
8978 rights of creditors of the corporation, but have rights superior
8979 to the shareholders not asserting appraisal rights, and if the
8980 corporation ~~is~~ is not liquidated, retain his or her right to be
8981 paid for the shares, which right the corporation shall be
8982 obliged to satisfy when the restrictions of this section do not
8983 apply.

8984 Section 173. Section 607.1340, Florida Statutes, is created
8985 to read:

8986 607.1340 Other remedies limited.—

8987 (1) A shareholder entitled to appraisal rights under this
8988 chapter may not challenge a completed corporate action for which
8989 appraisal rights are available unless such corporate action was
8990 either:

590-03467A-19

2019892c2

8991 (a) Not authorized and approved in accordance with the
 8992 applicable provisions of this chapter;

8993 (b) Procured as a result of fraud, a material
 8994 misrepresentation, or an omission of a material fact necessary
 8995 to make statements made, in light of the circumstances in which
 8996 they were made, not misleading.

8997 (2) Nothing in this section operates to override or
 8998 supersede the provisions of s. 607.0832.

8999 Section 174. Section 607.1401, Florida Statutes, is amended
 9000 to read:

9001 607.1401 Dissolution by incorporators or directors.—If a
 9002 corporation has not yet issued shares, its board of directors,
 9003 or a majority of incorporators if it has no board of directors,
 9004 ~~A majority of the incorporators or directors of a corporation~~
 9005 ~~that has not issued shares or has not commenced business may~~
 9006 dissolve the corporation by delivering to the department ~~of~~
 9007 ~~State~~ for filing articles of dissolution that must set forth:

9008 (1) The name of the corporation;

9009 (2) The date of its incorporation ~~filing of its articles of~~
 9010 ~~incorporation;~~

9011 (3) ~~Either:~~

9012 ~~(a) That none of the corporation's shares have been issued,~~
 9013 ~~or~~

9014 ~~(b) That the corporation has not commenced business;~~

9015 (4) That no debt of the corporation remains unpaid;

9016 (5) That the net assets of the corporation remaining after
 9017 winding up, if any, have been distributed ~~to the shareholders,~~
 9018 ~~if shares were issued;~~ and

9019 (6) That a majority of the incorporators or directors

590-03467A-19

2019892c2

9020 authorized the dissolution.

9021 Section 175. Subsections (1) through (5) of section
9022 607.1402, Florida Statutes, are amended to read:

9023 607.1402 Dissolution by board of directors and
9024 shareholders; dissolution by written consent of shareholders.—

9025 (1) A corporation's board of directors may propose
9026 dissolution for submission to the shareholders by first adopting
9027 a resolution authorizing the dissolution.

9028 (2) (a) For a proposal to dissolve to be adopted, it must be
9029 approved by the shareholders pursuant to subsection (5).

9030 (b) In submitting the proposal to dissolve to the
9031 shareholders for approval, ÷

9032 ~~(a) the board of directors must recommend that dissolution~~
9033 ~~to the shareholders approve the dissolution, unless:~~

9034 1. The board of directors determines that because of
9035 conflict of interest or other special circumstances it should
9036 make no recommendation; or

9037 2. Section 607.0826 applies.

9038 (c) If either subparagraph (b)1. or subparagraph (b)2.
9039 applies, the board must inform the shareholders of the basis for
9040 its so proceeding without such recommendation and communicates
9041 ~~the basis for its determination to the shareholders; and~~

9042 ~~(b) The shareholders entitled to vote must approve the~~
9043 ~~proposal to dissolve as provided in subsection (5).~~

9044 (3) The board of directors may set conditions for the
9045 approval condition its submission of the proposal for
9046 dissolution by shareholders or for the effectiveness of the
9047 dissolution on any basis.

9048 (4) If the approval of the shareholders is to be given at a

590-03467A-19

2019892c2

9049 meeting, the corporation shall notify, in accordance with s.
9050 607.0705, each shareholder ~~of record~~, regardless of whether or
9051 ~~not~~ entitled to vote, of the meeting of shareholders at which
9052 the dissolution is to be submitted for approval ~~proposed~~
9053 ~~shareholders' meeting in accordance with s. 607.0705~~. The notice
9054 must also state that the purpose, or one of the purposes, of the
9055 meeting is to consider dissolving the corporation.

9056 (5) Unless the articles of incorporation or the board of
9057 directors (acting pursuant to subsection (3)) require a greater
9058 vote or a vote by voting groups, the proposal to dissolve to be
9059 adopted must be approved by a majority of all the votes entitled
9060 to be cast on the proposal to dissolve ~~that proposal~~.

9061 Section 176. Section 607.1403, Florida Statutes, is amended
9062 to read:

9063 607.1403 Articles of dissolution.—

9064 (1) At any time after dissolution is authorized, the
9065 corporation may dissolve by delivering to the department ~~of~~
9066 ~~State~~ for filing articles of dissolution which must ~~shall~~ be
9067 signed ~~executed~~ in accordance with s. 607.0120 and which must
9068 ~~shall~~ set forth:

9069 (a) The name of the corporation;

9070 (b) The date dissolution was authorized;

9071 (c) If dissolution was approved by the shareholders, a
9072 statement that the proposal to dissolve was duly approved by the
9073 shareholders in the manner required by this chapter and by the
9074 articles of incorporation ~~number cast for dissolution by the~~
9075 ~~shareholders was sufficient for approval~~.

9076 ~~(d) If dissolution was approved by the shareholders and if~~
9077 ~~voting by voting groups was required, a statement that the~~

590-03467A-19

2019892c2

9078 ~~number cast for dissolution by the shareholders was sufficient~~
9079 ~~for approval must be separately provided for each voting group~~
9080 ~~entitled to vote separately on the plan to dissolve.~~

9081 (2) The articles of dissolution shall take effect at the
9082 effective date determined pursuant to s. 607.0123. A corporation
9083 is dissolved upon the effective date of its articles of
9084 dissolution.

9085 (3) For purposes of ss. 607.1401-607.1410, "dissolved
9086 corporation" means a corporation whose articles of dissolution
9087 have become effective and includes a successor entity. Further,
9088 for the purposes of this subsection, the term "successor entity"
9089 includes a trust, receivership, or other legal entity governed
9090 by the laws of this state to which the remaining assets and
9091 liabilities of a dissolved corporation are transferred and which
9092 exists solely for the purposes of prosecuting and defending
9093 suits by or against the dissolved corporation, thereby enabling
9094 the dissolved corporation to settle and close the business of
9095 the dissolved corporation, to dispose of and convey the property
9096 of the dissolved corporation, to discharge the liabilities of
9097 the dissolved corporation, and to distribute to the dissolved
9098 corporation's shareholders any remaining assets, but not for the
9099 purpose of continuing the activities and affairs for which the
9100 dissolved corporation was organized.

9101 Section 177. Subsection (3) of section 607.1404, Florida
9102 Statutes, is amended to read:

9103 607.1404 Revocation of dissolution.—

9104 (3) After the revocation of dissolution is authorized, the
9105 corporation may revoke the dissolution by delivering to the
9106 department, within the 120-day period following the effective

590-03467A-19

2019892c2

9107 date of the articles of dissolution, ~~of State~~ for filing
9108 articles of revocation of dissolution, together with a copy of
9109 its articles of dissolution, that set forth:

9110 (a) The name of the corporation;

9111 (b) The effective date of the dissolution that was revoked;

9112 (c) The date that the revocation of dissolution was
9113 authorized;

9114 (d) If the corporation's board of directors or
9115 incorporators revoked the dissolution, a statement to that
9116 effect;

9117 (e) If the corporation's board of directors revoked a
9118 dissolution authorized by the shareholders, a statement that
9119 revocation was permitted by action by the board of directors
9120 alone pursuant to that authorization; and

9121 (f) If shareholder action was required to revoke the
9122 dissolution, a statement that the revocation was authorized by
9123 the shareholders in the manner required by this chapter and by
9124 the articles of incorporation ~~the information required by s.~~
9125 ~~607.1403(1)(c) or (d).~~

9126 Section 178. Section 607.1405, Florida Statutes, is amended
9127 to read:

9128 607.1405 Effect of dissolution.—

9129 (1) A ~~dissolved~~ corporation that has dissolved continues
9130 its corporate existence but the dissolved corporation may not
9131 carry on any business except that appropriate to wind up and
9132 liquidate its business and affairs, including:

9133 (a) Collecting its assets;

9134 (b) Disposing of its properties that will not be
9135 distributed in kind to its shareholders;

590-03467A-19

2019892c2

9136 (c) Discharging or making provision for discharging its
9137 liabilities;

9138 (d) Making distributions of its remaining assets
9139 ~~Distributing its remaining property~~ among its shareholders
9140 according to their interests; and

9141 (e) Doing every other act necessary to wind up and
9142 liquidate its business and affairs.

9143 (2) Dissolution of a corporation does not:

9144 (a) Transfer title to the corporation's property;

9145 (b) Prevent transfer of its shares or securities, ~~although~~
9146 ~~the authorization to dissolve may provide for closing the~~
9147 ~~corporation's share transfer records;~~

9148 (c) Subject its directors or officers to standards of
9149 conduct different from those prescribed in ss. 607.0801-607.0859
9150 ~~ss. 607.0801-607.0850 except as provided in s. 607.1421(4);~~

9151 (d) Change quorum or voting requirements for its board of
9152 directors or shareholders; change provisions for selection,
9153 resignation, or removal of its directors or officers or both; or
9154 change provisions for amending its bylaws;

9155 (e) Prevent commencement of a proceeding by or against the
9156 corporation in its corporate name;

9157 (f) Abate or suspend a proceeding pending by or against the
9158 corporation on the effective date of dissolution; or

9159 (g) Terminate the authority of the registered agent of the
9160 corporation.

9161 (3) A distribution in liquidation under this section may
9162 only be made by a dissolved corporation. For purposes of
9163 determining the shareholders entitled to receive a distribution
9164 in liquidation, the board of directors may fix a record date for

590-03467A-19

2019892c2

9165 determining shareholders entitled to a distribution in
9166 liquidation, which date may not be retroactive. If the board of
9167 directors does not fix a record date for determining
9168 shareholders entitled to a distribution in liquidation, the
9169 record date is the date the board of directors authorizes the
9170 distribution in liquidation.

9171 (4) The directors, officers, and agents of a corporation
9172 dissolved pursuant to s. 607.1403 shall not incur any personal
9173 liability thereby by reason of their status as directors,
9174 officers, and agents of a dissolved corporation, as
9175 distinguished from a corporation which is not dissolved.

9176 (5)~~(4)~~ The name of a dissolved corporation is not ~~shall not~~
9177 ~~be~~ available for assumption or use by another eligible entity
9178 until 1 year ~~corporation until 120 days~~ after the effective date
9179 of dissolution unless the dissolved corporation provides the
9180 department ~~of State~~ with a record ~~an affidavit~~, signed as
9181 required by ~~executed pursuant to~~ s. 607.0120, permitting the
9182 immediate assumption or use of the name by another eligible
9183 entity ~~corporation~~.

9184 (6)~~(5)~~ For purposes of this section, the circuit court may
9185 appoint a trustee, custodian, or receiver for any property owned
9186 or acquired by the corporation who may engage in any act
9187 permitted under subsection (1) if any director or officer of the
9188 dissolved corporation is unwilling or unable to serve or cannot
9189 be located.

9190 Section 179. Section 607.1406, Florida Statutes, is amended
9191 to read:

9192 607.1406 Known claims against dissolved corporation.—

9193 (1) A dissolved corporation may dispose of the known claims

590-03467A-19

2019892c2

9194 against it by giving written notice that satisfies the
9195 requirements of subsection (2) to its known claimants at any
9196 time after the effective date of the dissolution, but no later
9197 than the date that is 270 days before the date which is 3 years
9198 after the effective date of the dissolution.

9199 (2) The written notice must:

9200 (a) State the name of the corporation that is the subject
9201 of the dissolution;

9202 (b) State that the corporation is the subject of a
9203 dissolution and the effective date of the dissolution;

9204 (c) Specify the information that must be included in a
9205 claim;

9206 (d) State that a claim must be in writing and provide a
9207 mailing address where a claim may be sent;

9208 (e) State the deadline, which may not be fewer than 120
9209 days after the date the written notice is received by the
9210 claimant, by which the dissolved corporation must receive the
9211 claim;

9212 (f) State that the claim will be barred if not received by
9213 the deadline;

9214 (g) State that the dissolved corporation may make
9215 distributions thereafter to other claimants and to the dissolved
9216 corporation's shareholders or persons interested without further
9217 notice; and

9218 (h) Be accompanied by a copy of ss. 607.1405-607.1410.

9219 (3) A dissolved corporation may reject, in whole or in
9220 part, a claim submitted by a claimant and received prior to the
9221 deadline specified in the written notice given pursuant to
9222 subsections (1) and (2) by mailing notice of the rejection to

590-03467A-19

2019892c2

9223 the claimant on or before the date that is the earlier of 90
9224 days after the dissolved corporation receives the claim or the
9225 date that is 150 days before the date which is 3 years after the
9226 effective date of the dissolution. A rejection notice sent by
9227 the dissolved corporation pursuant to this subsection must state
9228 that the claim will be barred unless the claimant, not later
9229 than 120 days after the claimant receives the rejection notice,
9230 commences an action in the circuit court in the applicable
9231 county against the dissolved corporation to enforce the claim.

9232 (4) A claim against the dissolved corporation is barred:

9233 (a) If a claimant who was given written notice pursuant to
9234 subsections (1) and (2) does not deliver the claim to the
9235 dissolved corporation by the specified deadline; or

9236 (b) If the claim was timely received by the dissolved
9237 corporation but was timely rejected by the dissolved corporation
9238 under subsection (3) and the claimant does not commence the
9239 required action in the applicable county within 120 days after
9240 the claimant receives the rejection notice.

9241 (5) (a) For purposes of this section, "known claims" means
9242 any claim or liability that, as of the date of the giving of the
9243 written notice contemplated by subsections (1) and (2):

9244 1. Has matured sufficiently on or prior to the effective
9245 date of the dissolution to be legally capable of assertion
9246 against the dissolved corporation; or

9247 2. Is unmatured as of the effective date of the dissolution
9248 but will mature in the future solely based on the passage of
9249 time.

9250 (b) The term "known claims" does not include a claim based
9251 on an event occurring after the effective date of the

590-03467A-19

2019892c2

9252 dissolution or a claim that is a contingent claim.

9253 (6) The giving of any notice pursuant to this section does
9254 not revive any claim then barred or constitute acknowledgment by
9255 the dissolved corporation that any person to whom such notice is
9256 sent is a proper claimant and does not operate as a waiver of
9257 any defense or counterclaim in respect of any claim asserted by
9258 any person to whom such notice is sent.

9259 ~~(1) A dissolved corporation or successor entity, as defined~~
9260 ~~in subsection (15), may dispose of the known claims against it~~
9261 ~~by following the procedures described in subsections (2), (3),~~
9262 ~~and (4).~~

9263 ~~(2) The dissolved corporation or successor entity shall~~
9264 ~~deliver to each of its known claimants written notice of the~~
9265 ~~dissolution at any time after its effective date. The written~~
9266 ~~notice shall:~~

9267 ~~(a) Provide a reasonable description of the claim that the~~
9268 ~~claimant may be entitled to assert;~~

9269 ~~(b) State whether the claim is admitted or not admitted, in~~
9270 ~~whole or in part, and, if admitted:~~

9271 ~~1. The amount that is admitted, which may be as of a given~~
9272 ~~date; and~~

9273 ~~2. Any interest obligation if fixed by an instrument of~~
9274 ~~indebtedness;~~

9275 ~~(c) Provide a mailing address where a claim may be sent;~~

9276 ~~(d) State the deadline, which may not be fewer than 120~~
9277 ~~days after the effective date of the written notice, by which~~
9278 ~~confirmation of the claim must be delivered to the dissolved~~
9279 ~~corporation or successor entity; and~~

9280 ~~(e) State that the corporation or successor entity may make~~

590-03467A-19

2019892c2

9281 ~~distributions thereafter to other claimants and the~~
9282 ~~corporation's shareholders or persons interested as having been~~
9283 ~~such without further notice.~~

9284 ~~(3) A dissolved corporation or successor entity may reject,~~
9285 ~~in whole or in part, any claim made by a claimant pursuant to~~
9286 ~~this subsection by mailing notice of such rejection to the~~
9287 ~~claimant within 90 days after receipt of such claim and, in all~~
9288 ~~events, at least 150 days before expiration of 3 years following~~
9289 ~~the effective date of dissolution. A notice sent by the~~
9290 ~~dissolved corporation or successor entity pursuant to this~~
9291 ~~subsection shall be accompanied by a copy of this section.~~

9292 ~~(4) A dissolved corporation or successor entity electing to~~
9293 ~~follow the procedures described in subsections (2) and (3) shall~~
9294 ~~also give notice of the dissolution of the corporation to~~
9295 ~~persons with known claims, that are contingent upon the~~
9296 ~~occurrence or nonoccurrence of future events or otherwise~~
9297 ~~conditional or unmatured, and request that such persons present~~
9298 ~~such claims in accordance with the terms of such notice. Such~~
9299 ~~notice shall be in substantially the same form, and sent in the~~
9300 ~~same manner, as described in subsection (2).~~

9301 ~~(5) A dissolved corporation or successor entity shall offer~~
9302 ~~any claimant whose known claim is contingent, conditional, or~~
9303 ~~unmatured such security as the corporation or such entity~~
9304 ~~determines is sufficient to provide compensation to the claimant~~
9305 ~~if the claim matures. The dissolved corporation or successor~~
9306 ~~entity shall deliver such offer to the claimant within 90 days~~
9307 ~~after receipt of such claim and, in all events, at least 150~~
9308 ~~days before expiration of 3 years following the effective date~~
9309 ~~of dissolution. If the claimant offered such security does not~~

590-03467A-19

2019892c2

9310 ~~deliver in writing to the dissolved corporation or successor~~
9311 ~~entity a notice rejecting the offer within 120 days after~~
9312 ~~receipt of such offer for security, the claimant is deemed to~~
9313 ~~have accepted such security as the sole source from which to~~
9314 ~~satisfy his or her claim against the corporation.~~

9315 ~~(6) A dissolved corporation or successor entity which has~~
9316 ~~given notice in accordance with subsections (2) and (4) shall~~
9317 ~~petition the circuit court in the county where the corporation's~~
9318 ~~principal office is located or was located at the effective date~~
9319 ~~of dissolution to determine the amount and form of security that~~
9320 ~~will be sufficient to provide compensation to any claimant who~~
9321 ~~has rejected the offer for security made pursuant to subsection~~
9322 ~~(5).~~

9323 ~~(7) A dissolved corporation or successor entity which has~~
9324 ~~given notice in accordance with subsection (2) shall petition~~
9325 ~~the circuit court in the county where the corporation's~~
9326 ~~principal office is located or was located at the effective date~~
9327 ~~of dissolution to determine the amount and form of security~~
9328 ~~which will be sufficient to provide compensation to claimants~~
9329 ~~whose claims are known to the corporation or successor entity~~
9330 ~~but whose identities are unknown. The court shall appoint a~~
9331 ~~guardian ad litem to represent all claimants whose identities~~
9332 ~~are unknown in any proceeding brought under this subsection. The~~
9333 ~~reasonable fees and expenses of such guardian, including all~~
9334 ~~reasonable expert witness fees, shall be paid by the petitioner~~
9335 ~~in such proceeding.~~

9336 ~~(8) The giving of any notice or making of any offer~~
9337 ~~pursuant to the provisions of this section shall not revive any~~
9338 ~~claim then barred or constitute acknowledgment by the dissolved~~

590-03467A-19

2019892c2

9339 ~~corporation or successor entity that any person to whom such~~
9340 ~~notice is sent is a proper claimant and shall not operate as a~~
9341 ~~waiver of any defense or counterclaim in respect of any claim~~
9342 ~~asserted by any person to whom such notice is sent.~~

9343 ~~(9) A dissolved corporation or successor entity which has~~
9344 ~~followed the procedures described in subsections (2) - (7):~~

9345 ~~(a) Shall pay the claims admitted or made and not rejected~~
9346 ~~in accordance with subsection (3);~~

9347 ~~(b) Shall post the security offered and not rejected~~
9348 ~~pursuant to subsection (5);~~

9349 ~~(c) Shall post any security ordered by the circuit court in~~
9350 ~~any proceeding under subsections (6) and (7); and~~

9351 ~~(d) Shall pay or make provision for all other known~~
9352 ~~obligations of the corporation or such successor entity.~~

9353

9354 ~~Such claims or obligations shall be paid in full, and any such~~
9355 ~~provision for payments shall be made in full if there are~~
9356 ~~sufficient funds. If there are insufficient funds, such claims~~
9357 ~~and obligations shall be paid or provided for according to their~~
9358 ~~priority and, among claims of equal priority, ratably to the~~
9359 ~~extent of funds legally available therefor. Any remaining funds~~
9360 ~~shall be distributed to the shareholders of the dissolved~~
9361 ~~corporation; however, such distribution may not be made before~~
9362 ~~the expiration of 150 days from the date of the last notice of~~
9363 ~~rejections given pursuant to subsection (3). In the absence of~~
9364 ~~actual fraud, the judgment of the directors of the dissolved~~
9365 ~~corporation or the governing persons of such successor entity as~~
9366 ~~to the provisions made for the payment of all obligations under~~
9367 ~~paragraph (d) is conclusive.~~

590-03467A-19

2019892c2

9368 ~~(10) A dissolved corporation or successor entity which has~~
9369 ~~not followed the procedures described in subsections (2) and (3)~~
9370 ~~shall pay or make reasonable provision to pay all known claims~~
9371 ~~and obligations, including all contingent, conditional, or~~
9372 ~~unmatured claims known to the corporation or such successor~~
9373 ~~entity and all claims which are known to the dissolved~~
9374 ~~corporation or such successor entity but for which the identity~~
9375 ~~of the claimant is unknown. Such claims shall be paid in full,~~
9376 ~~and any such provision for payment made shall be made in full if~~
9377 ~~there are sufficient funds. If there are insufficient funds,~~
9378 ~~such claims and obligations shall be paid or provided for~~
9379 ~~according to their priority and, among claims of equal priority,~~
9380 ~~ratably to the extent of funds legally available therefor. Any~~
9381 ~~remaining funds shall be distributed to the shareholders of the~~
9382 ~~dissolved corporation.~~

9383 ~~(11) Directors of a dissolved corporation or governing~~
9384 ~~persons of a successor entity which has complied with subsection~~
9385 ~~(9) or subsection (10) are not personally liable to the~~
9386 ~~claimants of the dissolved corporation.~~

9387 ~~(12) A shareholder of a dissolved corporation the assets of~~
9388 ~~which were distributed pursuant to subsection (9) or subsection~~
9389 ~~(10) is not liable for any claim against the corporation in an~~
9390 ~~amount in excess of such shareholder's pro rata share of the~~
9391 ~~claim or the amount distributed to the shareholder, whichever is~~
9392 ~~less.~~

9393 ~~(13) A shareholder of a dissolved corporation, the assets~~
9394 ~~of which were distributed pursuant to subsection (9), is not~~
9395 ~~liable for any claim against the corporation, which claim is~~
9396 ~~known to the corporation or successor entity, on which a~~

590-03467A-19

2019892c2

9397 ~~proceeding is not begun prior to the expiration of 3 years~~
9398 ~~following the effective date of dissolution.~~

9399 ~~(14) The aggregate liability of any shareholder of a~~
9400 ~~dissolved corporation for claims against the dissolved~~
9401 ~~corporation arising under this section, s. 607.1407, or~~
9402 ~~otherwise, may not exceed the amount distributed to the~~
9403 ~~shareholder in dissolution.~~

9404 ~~(15) As used in this section or s. 607.1407, the term~~
9405 ~~"successor entity" includes any trust, receivership, or other~~
9406 ~~legal entity governed by the laws of this state to which the~~
9407 ~~remaining assets and liabilities of a dissolved corporation are~~
9408 ~~transferred and which exists solely for the purposes of~~
9409 ~~prosecuting and defending suits by or against the dissolved~~
9410 ~~corporation, enabling the dissolved corporation to settle and~~
9411 ~~close the business of the dissolved corporation, to dispose of~~
9412 ~~and convey the property of the dissolved corporation, to~~
9413 ~~discharge the liabilities of the dissolved corporation, and to~~
9414 ~~distribute to the dissolved corporation's shareholders any~~
9415 ~~remaining assets, but not for the purpose of continuing the~~
9416 ~~business for which the dissolved corporation was organized.~~

9417 Section 180. Section 607.1407, Florida Statutes, is amended
9418 to read:

9419 607.1407 Other ~~Unknown~~ claims against dissolved
9420 corporation.-

9421 (1) A dissolved corporation ~~or successor entity, as defined~~
9422 ~~in s. 607.1406(15),~~ may choose to execute one of the following
9423 procedures to resolve any claims other than known ~~payment of~~
9424 ~~unknown~~ claims:—

9425 (a) ~~(1)~~ A dissolved corporation ~~or successor entity~~ may file

590-03467A-19

2019892c2

9426 notice of its dissolution with the department ~~of State~~ on the
9427 form prescribed by the department ~~of State~~ and request that
9428 persons with claims against the corporation which are not known
9429 to the dissolved corporation ~~or successor entity~~ present them in
9430 accordance with the notice. The notice must ~~shall~~:

9431 1. (a) State the name of the corporation that is the subject
9432 of the and the date of dissolution;

9433 2. (b) State that the corporation is the subject of a
9434 dissolution and the effective date of the dissolution Describe
9435 ~~the information that must be included in a claim and provide a~~
9436 ~~mailing address to which the claim may be sent; and~~

9437 3. Specify the information that must be included in a
9438 claim;

9439 4. State that a claim must be in writing and provide a
9440 mailing address where a claim may be sent; and

9441 5. (e) State that a claim against the corporation under this
9442 subsection will be barred unless a proceeding to enforce the
9443 claim is commenced within 4 years after the filing of the
9444 notice.

9445 (b) (2) A dissolved corporation or successor entity may,
9446 within 10 days after filing articles of dissolution with the
9447 department of State, publish a "Notice of Corporate
9448 Dissolution." The notice shall appear once a week for 2
9449 consecutive weeks in a newspaper of general circulation in a
9450 county in the state in which the corporation has its principal
9451 office, if any, or, if none, in a county in the state in which
9452 the corporation owns real or personal property. Such newspaper
9453 shall meet the requirements as are prescribed by law for such
9454 purposes. The notice must ~~shall~~:

590-03467A-19

2019892c2

9455 1. State the name of the corporation that is the subject of
9456 the dissolution;

9457 2. State that the corporation is the subject of a
9458 dissolution and the effective date of the dissolution;

9459 3. Specify the information that must be included in the
9460 claim;

9461 4. State that a claim must be in writing and provide a
9462 mailing address where a claim may be sent; and

9463 5. State that a claim against the corporation under this
9464 subsection will be barred unless a proceeding to enforce the
9465 claim is commenced within 4 years after the date of the second
9466 consecutive weekly publication of the notice authorized by this
9467 section.

9468 ~~(a) State the name of the corporation and the date of~~
9469 ~~dissolution;~~

9470 ~~(b) Describe the information that must be included in a~~
9471 ~~claim and provide a mailing address to which the claim may be~~
9472 ~~sent; and~~

9473 ~~(c) State that a claim against the corporation under this~~
9474 ~~subsection will be barred unless a proceeding to enforce the~~
9475 ~~claim is commenced within 4 years after the date of the second~~
9476 ~~consecutive weekly publication of the notice authorized by this~~
9477 ~~section.~~

9478 (2)(3) If the dissolved corporation or successor entity
9479 complies with paragraph (1) (a) or paragraph (1) (b) subsection
9480 (1) or subsection (2), unless sooner barred by another statute
9481 limiting actions, the claim of each of the following claimants
9482 with known or other claims is barred unless the claimant
9483 commences a proceeding to enforce the claim against the

590-03467A-19

2019892c2

9484 dissolved corporation within 4 years after the date of filing
9485 the notice with the department ~~of State~~ or the date of the
9486 second consecutive weekly publication, as applicable:

9487 (a) A claimant who did not receive written notice under s.
9488 607.1406 ~~s. 607.1406(9), or whose claim was not provided for~~
9489 ~~under s. 607.1406(10), whether such claim is based on an event~~
9490 ~~occurring before or after the effective date of dissolution.~~

9491 (b) A claimant whose claim was timely sent to the dissolved
9492 corporation but on which no action was taken by the dissolved
9493 corporation.

9494 (c) A claimant whose claim is not a known claim under s.
9495 607.1406(5)

9496 ~~(4) A claim may be entered under this section:~~

9497 ~~(a) Against the dissolved corporation, to the extent of its~~
9498 ~~undistributed assets; or~~

9499 ~~(b) If the assets have been distributed in liquidation,~~
9500 ~~against a shareholder of the dissolved corporation to the extent~~
9501 ~~of such shareholder's pro rata share of the claim or the~~
9502 ~~corporate assets distributed to such shareholder in liquidation,~~
9503 ~~whichever is less, provided that the aggregate liability of any~~
9504 ~~shareholder of a dissolved corporation arising under this~~
9505 ~~section, s. 607.1406, or otherwise may not exceed the amount~~
9506 ~~distributed to the shareholder in dissolution.~~

9507 (3) Nothing in this section shall preclude or relieve the
9508 corporation from its notification to claimants otherwise set
9509 forth in this chapter.

9510 Section 181. Section 607.1408, Florida Statutes, is created
9511 to read:

9512 607.1408 Claims against dissolved corporations;

590-03467A-19

2019892c2

9513 enforcement.—A claim that is not barred by s. 607.1406(4), by s.
9514 607.1407(2), or by another statute limiting actions may be
9515 enforced:

9516 (1) Against the dissolved corporation, to the extent of its
9517 undistributed assets; or

9518 (2) Except as provided in s. 607.1409(4), if the assets
9519 have been distributed in liquidation, against a shareholder of
9520 the dissolved corporation to the extent of the shareholder's pro
9521 rata share of the claim or the corporate assets distributed to
9522 the shareholder in liquidation, whichever is less, provided that
9523 the aggregate liability of any shareholder of a dissolved
9524 corporation arising under s. 607.1406, under s. 607.1407, or
9525 otherwise may not exceed the total amount of assets distributed
9526 to the shareholder in dissolution.

9527 Section 182. Section 607.1409, Florida Statutes, is created
9528 to read:

9529 607.1409 Court proceedings.—

9530 (1) A dissolved corporation that has filed a notice under
9531 s. 607.1407(1)(a) or published a notice under s. 607.1407(1)(b)
9532 may file an application with the circuit court in the applicable
9533 county for a determination of the amount and form of security to
9534 be provided for payment of claims that are contingent or have
9535 not been made known to the dissolved corporation or that are
9536 based on an event occurring after the effective date of
9537 dissolution but that, based on the facts known to the dissolved
9538 corporation, are reasonably estimated to arise after the
9539 effective date of dissolution. Provision need not be made for
9540 any claim that is or is reasonably anticipated to be barred
9541 under s. 607.1407(2).

590-03467A-19

2019892c2

9542 (2) Within 10 days after the filing of the application
9543 under subsection (1), notice of the proceeding shall be given by
9544 the dissolved corporation to each claimant holding a contingent
9545 claim whose identity and contingent claim is known to the
9546 dissolved corporation. Such notice shall be accompanied by a
9547 copy of ss. 607.1405-607.1410.

9548 (3) In any proceeding under this section, the court may
9549 appoint a guardian ad litem to represent all claimants whose
9550 identities are unknown. The reasonable fees and expenses of such
9551 guardian, including all reasonable expert witness fees, shall be
9552 paid by the dissolved corporation.

9553 (4) Provision by the dissolved corporation for security in
9554 the amount and the form ordered by the court under subsection
9555 (1) shall satisfy the dissolved corporation's obligations with
9556 respect to claims that are contingent, have not been made known
9557 to the dissolved corporation or are based on an event occurring
9558 after the effective date of dissolution, and such claims may not
9559 be enforced against a shareholder who received assets in
9560 liquidation.

9561 Section 183. Section 607.1410, Florida Statutes, is created
9562 to read:

9563 607.1410 Director duties.—

9564 (1) Directors shall cause the dissolved corporation to
9565 discharge or make reasonable provision for the payment of claims
9566 and make distributions in liquidation of assets to shareholders
9567 after payment or provision for claims.

9568 (2) Directors of a dissolved corporation that has disposed
9569 of claims under s. 607.1406, s. 607.1407, or s. 607.1409 are not
9570 liable to any claimant or shareholder for a breach of subsection

590-03467A-19

2019892c2

9571 (1) with respect to claims against the dissolved corporation
9572 that are barred or satisfied in accordance with s. 607.1406, s.
9573 607.1407, or s. 607.1409.

9574 Section 184. Section 607.1420, Florida Statutes, is amended
9575 to read:

9576 607.1420 ~~Grounds for~~ Administrative dissolution.—

9577 (1) The department ~~may of State~~ may commence a proceeding
9578 ~~under s. 607.1421 to administratively~~ dissolve a corporation
9579 administratively if the corporation does not:

9580 (a) Deliver its annual report to the department ~~The~~
9581 ~~corporation has failed to file its annual report and pay the~~
9582 ~~annual report filing fee by 5 p.m. Eastern Time on the third~~
9583 ~~Friday in September~~ of each year;

9584 (b) Pay a fee or penalty due to the department under this
9585 chapter;

9586 (c) Appoint and maintain a registered agent and registered
9587 office as required by s. 607.0501 ~~The corporation is without a~~
9588 ~~registered agent or registered office in this state for 30 days~~
9589 ~~or more;~~

9590 (d) ~~(e)~~ Deliver for filing a statement of change under s.
9591 607.0502 within 30 days after a change has occurred in the name
9592 or address of the agent unless, within 30 days after the change
9593 occurred:

9594 1. The agent filed a statement of change pursuant to s.
9595 607.05031; or

9596 2. The change was made in accordance with s. 607.0502(4)
9597 ~~The corporation does not notify the Department of State within~~
9598 ~~30 days that its registered agent or registered office has been~~
9599 ~~changed, that its registered agent has resigned, or that its~~

590-03467A-19

2019892c2

9600 ~~registered office has been discontinued;~~

9601 (e)~~(d)~~ The corporation has failed to answer truthfully and
9602 fully, within the time prescribed by this chapter act,
9603 interrogatories propounded by the department ~~of State~~; or

9604 (f)~~(e)~~ The corporation's period of duration stated in its
9605 articles of incorporation expires ~~has expired~~.

9606 (2) Administrative dissolution of a corporation for failure
9607 to file an annual report must occur on the fourth Friday in
9608 September of each year. The department shall issue a notice in a
9609 record of administrative dissolution to the corporation
9610 dissolved for failure to file an annual report. Issuance of the
9611 notice may be by electronic transmission to a corporation that
9612 has provided the department with an e-mail address.

9613 (3) If the department determines that one or more grounds
9614 exist for administratively dissolving a corporation under
9615 paragraph (1) (b), paragraph (1) (c), or paragraph (1) (d), the
9616 department shall serve notice in a record to the corporation of
9617 its intent to administratively dissolve the corporation.
9618 Issuance of the notice may be by electronic transmission to a
9619 corporation that has provided the department with an e-mail
9620 address.

9621 (4) If, within 60 days after sending the notice of intent
9622 to administratively dissolve pursuant to subsection (3), a
9623 corporation does not correct each ground for dissolution under
9624 paragraph (1) (b), paragraph (1) (c), or paragraph (1) (d) or
9625 demonstrate to the reasonable satisfaction of the department
9626 that each ground determined by the department does not exist,
9627 the department shall dissolve the corporation administratively
9628 and issue to the corporation a notice in a record of

590-03467A-19

2019892c2

9629 administrative dissolution that states the grounds for
9630 dissolution. Issuance of the notice of administrative
9631 dissolution may be by electronic transmission to a corporation
9632 that has provided the department with an e-mail address.

9633 (5) A corporation that has been administratively dissolved
9634 continues in existence but may only carry on activities
9635 necessary to wind up its activities and affairs, liquidate and
9636 distribute its assets, and notify claimants under ss. 607.1405,
9637 607.1406, and 607.1407.

9638 (6) The administrative dissolution of a corporation does
9639 not terminate the authority of its registered agent for service
9640 of process ~~The foregoing enumeration in subsection (1) of~~
9641 ~~grounds for administrative dissolution shall not exclude actions~~
9642 ~~or special proceedings by the Department of Legal Affairs or any~~
9643 ~~state officials for the annulment or dissolution of a~~
9644 ~~corporation for other causes as provided in any other statute of~~
9645 ~~this state.~~

9646 Section 185. Section 607.1421, Florida Statutes, is
9647 repealed.

9648 Section 186. Section 607.1422, Florida Statutes, is amended
9649 to read:

9650 607.1422 Reinstatement following administrative
9651 dissolution.—

9652 (1) A corporation that is administratively dissolved under
9653 s. 607.1420 or that was dissolved under s. 607.1421 before
9654 January 1, 2020, s. 607.1421 ~~may apply to the department of~~
9655 ~~State for reinstatement at any time after the effective date of~~
9656 ~~dissolution. The corporation must submit~~ all fees and penalties
9657 then owed by the corporation at the rates provided by laws at

590-03467A-19

2019892c2

9658 the time the corporation applies for reinstatement, together
9659 with an application for reinstatement prescribed and furnished
9660 by the department, which is ~~a reinstatement form prescribed and~~
9661 ~~furnished by the Department of State or a current uniform~~
9662 ~~business report~~ signed by both the registered agent and an
9663 officer or director of the corporation and states:

9664 (a) The name of the corporation;
9665 (b) The street address of the corporations' principal
9666 office and mailing address;
9667 (c) The date of the corporation's organization;
9668 (d) The corporation's federal employer identification
9669 number or, if none, whether one has been applied for;
9670 (e) The name, title or capacity, and address of at least
9671 one officer or director of the corporation; and
9672 (f) Additional information that is necessary or appropriate
9673 to enable the department to carry out this chapter.

9674 (2) In lieu of the requirement to file an application for
9675 reinstatement as described in subsection (1), an
9676 administratively dissolved corporation may submit all fees and
9677 penalties owed by the corporation at the rates provided by law
9678 at the time the corporation applies for reinstatement, together
9679 with a current annual report, signed by both the registered
9680 agent and an officer or director of the corporation, which
9681 contains the information described in subsection (1).

9682 (3) If the department determines that an application for
9683 reinstatement contains the information required under subsection
9684 (1) or subsection (2) and that the information is correct, upon
9685 payment of all required fees and penalties, the department shall
9686 reinstate the corporation.

590-03467A-19

2019892c2

9687 (4) When reinstatement under this section becomes
9688 effective:

9689 (a) The reinstatement relates back to and takes effect as
9690 of the effective date of the administrative dissolution.

9691 (b) The corporation may operate as if the administrative
9692 dissolution had never occurred.

9693 (c) The rights of a person arising out of an act or
9694 omission in reliance on the dissolution before the person knew
9695 or had notice of the reinstatement are not affected and all fees
9696 then owed by the corporation, computed at the rate provided by
9697 law at the time the corporation applies for reinstatement.

9698 ~~(2) If the Department of State determines that the~~
9699 ~~application contains the information required by subsection (1)~~
9700 ~~and that the information is correct, it shall reinstate the~~
9701 ~~corporation.~~

9702 ~~(3) When the reinstatement is effective, it relates back to~~
9703 ~~and takes effect as of the effective date of the administrative~~
9704 ~~dissolution and the corporation resumes carrying on its business~~
9705 ~~as if the administrative dissolution had never occurred.~~

9706 (5)~~(4)~~ The name of the dissolved corporation is not ~~shall~~
9707 ~~not be~~ available for assumption or use by another eligible
9708 entity corporation until 1 year after the effective date of
9709 dissolution unless the dissolved corporation provides the
9710 department ~~of State~~ with a record signed as required by an
9711 ~~affidavit executed as required by s. 607.0120~~ permitting the
9712 immediate assumption or use of the name by another eligible
9713 entity corporation.

9714 (6)~~(5)~~ If the name of the dissolved corporation has been
9715 lawfully assumed in this state by another business entity, the

590-03467A-19

2019892c2

9716 ~~department corporation, the Department of State~~ shall require
9717 the dissolved corporation to amend its articles of incorporation
9718 to change its name before accepting its application for
9719 reinstatement.

9720 Section 187. Section 607.1423, Florida Statutes, is amended
9721 to read:

9722 607.1423 Judicial review of Appeal from denial of
9723 reinstatement.—

9724 (1) If the department ~~of State~~ denies a corporation's
9725 application for reinstatement after following administrative
9726 dissolution, the department ~~it~~ shall serve the corporation under
9727 either s. 607.0504(1) or s. 607.0504(2) with a written notice
9728 that explains the reason or reasons for denial.

9729 (2) Within 30 days after service of a notice of denial of
9730 reinstatement, a corporation may appeal the denial by
9731 petitioning the Circuit Court of Leon County to set aside the
9732 dissolution. The petition must be served on the department and
9733 contain a copy of the department's notice of administrative
9734 ~~After exhaustion of administrative remedies, the corporation may~~
9735 ~~appeal the denial of reinstatement to the appropriate court as~~
9736 ~~provided in s. 120.68 within 30 days after service of the notice~~
9737 ~~of denial is perfected. The corporation appeals by petitioning~~
9738 ~~the court to set aside the dissolution and attaching to the~~
9739 ~~petition copies of the Department of State's certificate of~~
9740 ~~dissolution, the corporation's application for reinstatement,~~
9741 ~~and the department's notice of denial.~~

9742 (3) The court may ~~summarily~~ order the department ~~of State~~
9743 to reinstate the dissolved corporation or ~~may~~ take other action
9744 the court considers appropriate.

590-03467A-19

2019892c2

9745 (4) The court's final decision may be appealed as in other
9746 civil proceedings.

9747 Section 188. Section 607.1430, Florida Statutes, is amended
9748 to read:

9749 607.1430 Grounds for judicial dissolution.—

9750 (1) A circuit court may dissolve a corporation or order
9751 such other remedy as provided in s. 607.1434:

9752 ~~(1)~~(a) In a proceeding by the Department of Legal Affairs
9753 to dissolve a corporation if it is established that:

9754 1. The corporation obtained its articles of incorporation
9755 through fraud; or

9756 2. The corporation has continued to exceed or abuse the
9757 authority conferred upon it by law.

9758
9759 ~~(b)~~ The enumeration in subparagraphs 1. and 2. ~~paragraph (a)~~ of
9760 grounds for involuntary dissolution does not exclude actions or
9761 special proceedings by the Department of Legal Affairs or any
9762 state official for the annulment or dissolution of a corporation
9763 for other causes as provided in any other statute of this state;

9764 (b) ~~(2)~~ In a proceeding by a shareholder to dissolve a
9765 corporation if it is established that:

9766 1. ~~(a)~~ The directors are deadlocked in the management of the
9767 corporate affairs, the shareholders are unable to break the
9768 deadlock, and:

9769 a. Irreparable injury to the corporation is threatened or
9770 being suffered;

9771 b. The business and affairs of the corporation can no
9772 longer be conducted to the advantage of the shareholders
9773 generally because of the deadlock; or

590-03467A-19

2019892c2

9774 c. Both; or

9775 2.~~(b)~~ The shareholders are deadlocked in voting power and

9776 have failed to elect successors to directors whose terms have

9777 expired or would have expired upon qualification of their

9778 successors;

9779 ~~(3) In a proceeding by a shareholder or group of~~

9780 ~~shareholders in a corporation having 35 or fewer shareholders if~~

9781 ~~it is established that:~~

9782 3.~~(a)~~ The corporate assets are being misapplied or wasted,

9783 causing material injury to the corporation; or

9784 4.~~(b)~~ The directors or those in control of the corporation

9785 have acted, are acting, or will ~~are reasonably expected to act~~

9786 in a manner that is illegal, oppressive, or fraudulent;

9787 (c)~~(4)~~ In a proceeding by a creditor if it is established

9788 that:

9789 1.~~(a)~~ The creditor's claim has been reduced to judgment,

9790 the execution on the judgment returned unsatisfied, and the

9791 corporation is insolvent; or

9792 2.~~(b)~~ The corporation has admitted in writing that the

9793 creditor's claim is due and owing and the corporation is

9794 insolvent; ~~or~~

9795 (d)~~(5)~~ In a proceeding by the corporation to have its

9796 voluntary dissolution continued under court supervision; or

9797 (e) In a proceeding by a shareholder if the corporation has

9798 abandoned its business and has failed within a reasonable period

9799 of time to liquidate and distribute its assets and dissolve.

9800 (2) Paragraph (1) (b) does not apply in the case of a

9801 corporation that, on the date of the filing of the proceeding,

9802 has shares that are:

590-03467A-19

2019892c2

9803 (a) A covered security under s. 18(b)(1)(A) or (B) of the
9804 Securities Act of 1933; or

9805 (b) Not a covered security, but are held by at least 300
9806 shareholders and the shares outstanding have a market value of
9807 at least \$20 million, exclusive of the value of outstanding
9808 shares of the corporation held by the corporation's
9809 subsidiaries, by the corporation's senior executives, by the
9810 corporation's directors, and by the corporation's beneficial
9811 shareholders and voting trust beneficial owners owning more than
9812 10 percent of the outstanding shares of the corporation.

9813 (3) A proceeding by a shareholder under subparagraph
9814 (1)(b)4. asserting that the directors or those in control of the
9815 corporation have acted, are acting, or will act in a manner that
9816 is oppressive may only be brought by a shareholder who at the
9817 time that such proceeding is commenced under subparagraph
9818 (1)(b)4. owns at least 10 percent of the outstanding shares of
9819 the corporation.

9820 (4)(a) In the event of a deadlock situation that satisfies
9821 subparagraph (1)(b)1. or subparagraph (1)(b)2., if the
9822 shareholders are subject to a shareholder agreement that
9823 complies with s. 607.0732 and contains a deadlock sale
9824 provision, then such deadlock sale provision shall apply to the
9825 resolution of such deadlock in lieu of the court entering an
9826 order of judicial dissolution or an order directing the purchase
9827 of petitioner's shares under s. 607.1436, so long as the
9828 provisions of such deadlock sale provision are initiated and
9829 effectuated within the time periods specified for the
9830 corporation to act under s. 607.1436 and in accordance with the
9831 terms of such deadlock sale provision.

590-03467A-19

2019892c2

9832 (b) As used in this section, the term "deadlock sale
9833 provision" means a provision in a shareholder agreement that
9834 complies with s. 607.0732, which is or may be applicable in the
9835 event of a deadlock among the directors or shareholders of the
9836 corporation, which neither the directors nor the shareholders,
9837 as applicable, of the corporation are able to break; and which
9838 provides for a deadlock breaking mechanism, including, but not
9839 limited to:

9840 1. A redemption or a purchase and sale of shares or other
9841 equity securities;

9842 2. A governance change;

9843 3. A sale of the corporation or all or substantially all of
9844 the assets of the corporation; or

9845 4. A similar provision that, if initiated and effectuated,
9846 breaks the deadlock by causing the transfer of the shares or
9847 other equity securities, a governance change, or a sale of the
9848 corporation or all or substantially all of the corporation's
9849 assets.

9850 (5) (a) In the event of oppressive action that satisfies
9851 subparagraph (1) (b) 4., if the shareholders are subject to a
9852 shareholder agreement that complies with s. 607.0732 and
9853 contains an oppressive action sale provision, then such
9854 oppressive action sale provision shall address such shareholder
9855 asserted oppressive action in lieu of the court entering an
9856 order of judicial dissolution or an order directing the purchase
9857 of petitioner's shares under s. 607.1436, so long as the
9858 provisions of such oppressive action sale provision are
9859 initiated and effectuated within the time periods specified for
9860 the corporation to act under s. 607.1436 and in accordance with

590-03467A-19

2019892c2

9861 the terms of such oppressive action sale provision.

9862 (b) For purposes of this section, the term "oppressive
9863 action sale provision" means a provision in a shareholder
9864 agreement that complies with s. 607.0732, which is or may be
9865 applicable in the event of a shareholder's assertion of the
9866 occurrence or existence of oppressive action; which neither the
9867 directors nor the shareholders, as applicable, of the
9868 corporation are able to address; and which provides for a
9869 mechanism for addressing the occurrence or existence of such
9870 shareholder asserted oppressive action including, but not
9871 limited to:

9872 1. A redemption or purchase and sale of shares or other
9873 equity securities;

9874 2. The sale of the corporation or of all or substantially
9875 all of the assets of the corporation; or

9876 3. A similar provision that, if initiated and effectuated,
9877 causes the transfer of shares or other equity securities to be
9878 redeemed or purchased and sold or the sale of the corporation or
9879 of all or substantially all of the corporation's assets.

9880 (6) A deadlock sale provision or an oppressive action sale
9881 provision in a shareholder agreement which complies with s.
9882 607.0732 which is not initiated and effectuated before the court
9883 enters an order of judicial dissolution under subparagraph
9884 (1) (b)1., subparagraph (1) (b)2., or subparagraph (1) (b)4., as
9885 the case may be, or an order directing the purchase of
9886 petitioner's interest under s. 607.1436, does not adversely
9887 affect the rights of shareholders to seek judicial dissolution
9888 under subparagraph (1) (b)1., subparagraph (1) (b)2., or
9889 subparagraph (1) (b)4., as the case may be, or the rights of the

590-03467A-19

2019892c2

9890 corporation or one or more shareholders to purchase the
9891 petitioner's interest under s. 607.1436. The filing of an action
9892 for judicial dissolution on the grounds described in
9893 subparagraph (1)(b)1., subparagraph (1)(b)2., or subparagraph
9894 (1)(b)4., as the case may be, or an election to purchase the
9895 petitioner's interest under s. 607.1436, does not adversely
9896 affect the right of a shareholder to initiate an available
9897 deadlock sale provision or an oppressive action sale provision
9898 under the shareholder agreement that complies with s. 607.0732
9899 or to enforce a shareholder-initiated or an automatically-
9900 initiated deadlock sale provision or oppressive action sale
9901 provision if the deadlock sale provision or the oppressive sale
9902 provision, as the case may be, is initiated and effectuated
9903 before the court enters an order of judicial dissolution under
9904 subparagraph (1)(b)1., subparagraph (1)(b)2., or subparagraph
9905 (1)(b)4., as the case may be, or an order directing the purchase
9906 of petitioner's interest under s. 607.1436.

9907 (7) For purposes of subsections (1), (2), and (3), the term
9908 "shareholder" means a record shareholder, a beneficial
9909 shareholder, or an unrestricted voting trust beneficial owner.

9910 Section 189. Subsections (1), (3), and (4) of section
9911 607.1431, Florida Statutes, are amended to read:

9912 607.1431 Procedure for judicial dissolution.—

9913 (1) Venue for a proceeding brought under s. 607.1430 lies
9914 in the circuit court in the applicable county ~~of the county~~
9915 ~~where the corporation's principal office is or was last located,~~
9916 ~~as shown by the records of the Department of State, or, if none~~
9917 ~~in this state, where its registered office is or was last~~
9918 ~~located.~~

590-03467A-19

2019892c2

9919 (3) A court in a proceeding brought under s. 607.1430 ~~to~~
9920 ~~dissolve a corporation~~ may issue injunctions, appoint a receiver
9921 or custodian during the proceeding ~~pendente lite~~ with all powers
9922 and duties the court directs, take other action required to
9923 preserve the corporate assets wherever located, and carry on the
9924 business of the corporation until a full hearing can be held.

9925 (4) Within 30 days of the commencement of a proceeding
9926 under s. 607.1430(1)(b), the corporation shall deliver to all
9927 shareholders, other than the petitioner, a notice stating that
9928 the shareholders are entitled to avoid the dissolution of the
9929 corporation by electing to purchase the petitioner's shares
9930 under s. 607.1436 and accompanied by a copy of s. 607.1436.

9931 (5) If the court determines that any party has commenced,
9932 continued, or participated in a proceeding ~~an action~~ under s.
9933 607.1430 and has acted arbitrarily, frivolously, vexatiously, or
9934 not in good faith, the court may, in its discretion, award
9935 attorney ~~attorney's~~ fees and other reasonable expenses to the
9936 other parties to the action who have been affected adversely by
9937 such actions.

9938 Section 190. Subsections (1) and (2), paragraph (a) of
9939 subsection (3), and subsections (4) and (5) of section 607.1432,
9940 Florida Statutes, are amended to read:

9941 607.1432 Receivership or custodianship.—

9942 (1) A court in a judicial proceeding brought under s.
9943 607.1430 ~~to dissolve a corporation~~ may appoint one or more
9944 receivers to wind up and liquidate, or one or more custodians to
9945 manage, the business and affairs of the corporation. The court
9946 shall hold a hearing, after notifying all parties to the
9947 proceeding and any interested persons designated by the court,

590-03467A-19

2019892c2

9948 before appointing a receiver or custodian. The court appointing
9949 a receiver or custodian has exclusive jurisdiction over the
9950 corporation and all of its property wherever located.

9951 (2) The court may appoint a natural person or an eligible
9952 entity ~~a corporation~~ authorized to act as a receiver or
9953 custodian. The eligible entity ~~corporation~~ may be a domestic
9954 eligible entity ~~corporation~~ or a foreign eligible entity
9955 ~~corporation~~ authorized to transact business in this state. The
9956 court may require the receiver or custodian to post bond, with
9957 or without sureties, in an amount the court directs.

9958 (3) The court shall describe the powers and duties of the
9959 receiver or custodian in its appointing order, which may be
9960 amended from time to time. Among other powers:

9961 (a) The receiver:

9962 1. May dispose of all or any part of the assets of the
9963 corporation wherever located, at a public or private sale, if
9964 authorized by the court; and

9965 2. May sue and defend in his, her, or its ~~or her~~ own name
9966 as receiver of the corporation in all courts of this state.

9967 (4) The court during a receivership may redesignate the
9968 receiver a custodian, and during a custodianship may redesignate
9969 the custodian a receiver, if doing so is determined by the court
9970 to be in the best interests of the corporation and its
9971 shareholders and creditors.

9972 (5) The court from time to time during the receivership or
9973 custodianship may order compensation paid and expense
9974 disbursements or reimbursements made to the receiver or
9975 custodian and his, her, or its ~~or her~~ counsel from the assets of
9976 the corporation or proceeds from the sale of the assets.

590-03467A-19

2019892c2

9977 Section 191. Section 607.1433, Florida Statutes, is amended
9978 to read:

9979 607.1433 Judgment of dissolution.—

9980 (1) If after a hearing in a proceeding under s. 607.1430
9981 the court determines that one or more grounds for judicial
9982 dissolution described in s. 607.1430 exist, it may enter a
9983 judgment dissolving the corporation and specifying the effective
9984 date of the dissolution, and the clerk of the court shall
9985 deliver a certified copy of the judgment to the department of
9986 ~~State~~, which shall file it.

9987 (2) After entering the judgment of dissolution, the court
9988 shall direct the winding up and liquidation of the corporation's
9989 business and affairs in accordance with s. 607.1405 and the
9990 notification of claimants in accordance with ss. 607.1406 and
9991 607.1407 ~~s. 607.1406~~, subject to the provisions of subsection
9992 (3).

9993 (3) In a proceeding for judicial dissolution, the court may
9994 require all creditors of the corporation to file with the clerk
9995 of the court or with the receiver, in such form as the court may
9996 prescribe, proofs under oath of their respective claims. If the
9997 court requires the filing of claims, it shall fix a date, which
9998 shall be not less than 4 months from the date of the order, as
9999 the last day for filing of claims. The court shall prescribe the
10000 method by which such notice of the deadline for filing claims
10001 shall be given to creditors and claimants. Prior to the date so
10002 fixed, the court may extend the time for the filing of claims by
10003 court order. Creditors and claimants failing to file proofs of
10004 claim on or before the date so fixed shall be barred ~~may be~~
10005 ~~barred, by order of court,~~ from participating in the

590-03467A-19

2019892c2

10006 distribution of the assets of the corporation. Nothing in this
 10007 section affects the enforceability of any recorded mortgage or
 10008 lien or the perfected security interest or rights of a person in
 10009 possession of real or personal property.

10010 Section 192. Section 607.1434, Florida Statutes, is amended
 10011 to read:

10012 607.1434 Alternative remedies to judicial dissolution.—

10013 (1) In a proceeding under an action for dissolution
 10014 pursuant to s. 607.1430, the court may, as an alternative to
 10015 directing the dissolution of the corporation and upon a showing
 10016 of sufficient merit to warrant such remedy:

10017 (a) ~~(1)~~ Appoint a receiver or custodian during the
 10018 proceeding ~~pendente lite~~ as provided in s. 607.1432;

10019 (b) ~~(2)~~ Appoint a provisional director as provided in s.
 10020 607.1435;

10021 (c) ~~(3)~~ Order a purchase of the petitioning ~~complain~~
 10022 shareholder's shares pursuant to s. 607.1436; or

10023 (d) ~~(4)~~ Upon proof of good cause, Make any order or grant
 10024 any equitable relief other than dissolution or liquidation as in
 10025 its discretion it may deem appropriate.

10026 (2) Alternative remedies, such as the appointment of a
 10027 receiver or custodian, may also be ordered in the discretion of
 10028 the court, upon a showing of sufficient merit to warrant such
 10029 remedy, in advance of directing the dissolution of the
 10030 corporation or, after a judgment of dissolution is entered, to
 10031 assist in facilitating the winding up of the corporation.

10032 Section 193. Subsections (1) and (3) of section 607.1435,
 10033 Florida Statutes, are amended to read:

10034 607.1435 Provisional director.—

590-03467A-19

2019892c2

10035 (1) In a proceeding under s. 607.1430, a provisional
10036 director may be appointed in the discretion of the court if it
10037 appears that such action by the court will remedy the grounds
10038 alleged by the complaining shareholder to support the
10039 jurisdiction of the court under s. 607.1430. A provisional
10040 director may be appointed notwithstanding the absence of a
10041 vacancy on the board of directors, and such director shall have
10042 all the rights and powers of a duly elected director, including
10043 the right to notice of and to vote at meetings of directors,
10044 until such time as the provisional director is removed by order
10045 of the court or, unless otherwise ordered by a court, removed by
10046 a vote of the shareholders sufficient either to elect a majority
10047 of the board of directors or, if greater than majority voting is
10048 required by the articles of incorporation or the bylaws, to
10049 elect the requisite number of directors needed to take action. A
10050 provisional director shall be an impartial person who is neither
10051 a shareholder nor a creditor of the corporation or of any
10052 subsidiary or affiliate of the corporation, and whose further
10053 qualifications, if any, may be determined by the court.

10054 (3) In any proceeding under which a provisional director is
10055 appointed pursuant to this section, the court shall allow
10056 reasonable compensation to the provisional director for services
10057 rendered and reimbursement or direct payment of reasonable costs
10058 and expenses, which amounts shall be paid by the corporation.

10059 Section 194. Section 607.1436, Florida Statutes, is amended
10060 to read:

10061 607.1436 Election to purchase instead of dissolution.—

10062 (1) In a proceeding under s. 607.1430(1)(b) ~~s. 607.1430(2)~~
10063 ~~or (3) to dissolve a corporation,~~ the corporation may elect or,

590-03467A-19

2019892c2

10064 if it fails to elect, one or more shareholders may elect to
10065 purchase all shares owned by the petitioning shareholder at the
10066 fair value of the shares. An election pursuant to this section
10067 shall be irrevocable unless the court determines that it is
10068 equitable to set aside or modify the election.

10069 (2) An election to purchase pursuant to this section may be
10070 filed with the court at any time within 90 days after the filing
10071 of the petition under s. 607.1430(1)(b) ~~s. 607.1430(2) or (3)~~ or
10072 at such later time as the court in its discretion may allow. If
10073 the election to purchase is filed by one or more shareholders,
10074 the corporation shall, within 10 days thereafter, give written
10075 notice to all shareholders, other than the petitioner. The
10076 notice must state the name and number of shares owned by the
10077 petitioner and the name and number of shares owned by each
10078 electing shareholder and must advise the recipients of their
10079 right to join in the election to purchase shares in accordance
10080 with this section. Shareholders who wish to participate must
10081 file notice of their intention to join in the purchase no later
10082 than 30 days after the effective date of the notice to them. All
10083 shareholders who have filed an election or notice of their
10084 intention to participate in the election to purchase thereby
10085 become parties to the proceeding and shall participate in the
10086 purchase in proportion to their ownership of shares as of the
10087 date the first election was filed, unless they otherwise agree
10088 or the court otherwise directs. After an election has been filed
10089 by the corporation or one or more shareholders, the proceeding
10090 under s. 607.1430(1)(b) ~~s. 607.1430(2) or (3)~~ may not be
10091 discontinued or settled, nor may the petitioning shareholder
10092 sell or otherwise dispose of his or her shares, unless the court

590-03467A-19

2019892c2

10093 determines that it would be equitable to the corporation and the
10094 shareholders, other than the petitioner, to permit such
10095 discontinuance, settlement, sale, or other disposition.

10096 (3) If, within 60 days after the filing of the first
10097 election, the parties reach agreement as to the fair value and
10098 terms of the purchase of the petitioner's shares, the court
10099 shall enter an order directing the purchase of the petitioner's
10100 shares upon the terms and conditions agreed to by the parties.

10101 (4) If the parties are unable to reach an agreement as
10102 provided for in subsection (3), the court, upon application of
10103 any party, may stay the proceeding to dissolve under s.
10104 607.1430(1)(b) and shall, whether or not the proceeding is
10105 stayed, shall stay the s. 607.1430 proceedings and determine the
10106 fair value of the petitioner's shares as of the day before the
10107 date on which the petition under s. 607.1430 was filed or as of
10108 such other date as the court deems appropriate under the
10109 circumstances.

10110 (5) Upon determining the fair value of the shares, the
10111 court shall enter an order directing the purchase upon such
10112 terms and conditions as the court deems appropriate, which may
10113 include payment of the purchase price in installments, when
10114 necessary in the interests of equity, provision for security to
10115 assure payment of the purchase price and any additional costs,
10116 fees, and expenses as may have been awarded, and, if the shares
10117 are to be purchased by shareholders, the allocation of shares
10118 among such shareholders. In allocating the petitioner's shares
10119 among holders of different classes of shares, the court shall
10120 attempt to preserve any ~~the~~ existing distribution of voting
10121 rights among holders of different classes and series insofar as

590-03467A-19

2019892c2

10122 practicable and may direct that holders of any a specific class
10123 or classes or series shall not participate in the purchase.
10124 Interest may be allowed at the rate and from the date determined
10125 by the court to be equitable; however, if the court finds that
10126 the refusal of the petitioning shareholder to accept an offer of
10127 payment was arbitrary or otherwise not in good faith, no
10128 interest shall be allowed. If the court finds that the
10129 petitioning shareholder had probable grounds for relief under s.
10130 607.1430(1)(b) ~~s. 607.1430(3)~~, it may award expenses to the
10131 petitioning shareholder, including reasonable fees and expenses
10132 of counsel and of any experts employed by petitioner.

10133 (6) The ~~Upon~~ entry of an order under subsection (3) or
10134 subsection (5) shall be subject to the provisions of subsection
10135 (8), and the order shall not be entered unless and until the
10136 award is determined by the court to be permitted under the
10137 provisions of subsection (8). In determining compliance with s.
10138 607.06401, the court may rely on an affidavit from the
10139 corporation as to compliance with that section as of the
10140 measurement date. Upon entry of an order under subsection (3) or
10141 subsection (5), the court shall dismiss the petition to dissolve
10142 the corporation under s. 607.1430(1)(b) ~~s. 607.1430~~ and the
10143 petitioning shareholder shall no longer have any rights or
10144 status as a shareholder of the corporation, except the right to
10145 receive the amounts awarded by the order of the court, which
10146 shall be enforceable in the same manner as any other judgment.

10147 (7) The purchase ordered pursuant to subsection (5) shall
10148 be made within 10 days after the date the order becomes final
10149 ~~unless, before that time, the corporation files with the court a~~
10150 ~~notice of its intention to adopt articles of dissolution~~

590-03467A-19

2019892c2

10151 ~~pursuant to ss. 607.1402 and 607.1403, which articles shall then~~
10152 ~~be adopted and filed within 50 days thereafter. Upon filing of~~
10153 ~~such articles of dissolution, the corporation shall be dissolved~~
10154 ~~in accordance with the provisions of ss. 607.1405 and 607.1406,~~
10155 ~~and the order entered pursuant to subsection (5) shall no longer~~
10156 ~~be of any force or effect, except that the court may award the~~
10157 ~~petitioning shareholder reasonable fees and expenses of counsel~~
10158 ~~and any experts in accordance with the provisions of subsection~~
10159 ~~(5) and the petitioner may continue to pursue any claims~~
10160 ~~previously asserted on behalf of the corporation.~~

10161 (8) Any payment by the corporation pursuant to an order
10162 under subsection (3) or subsection (5), other than an award of
10163 fees and expenses pursuant to subsection (5), is subject to the
10164 provisions of s. 607.06401. Unless otherwise provided in the
10165 court's order, the effect of the distribution under s. 607.06401
10166 shall be measured as of the date of the court's order under
10167 subsection (3) or subsection (5).

10168 Section 195. Section 607.14401, Florida Statutes, is
10169 amended to read:

10170 607.14401 Deposit with Department of Financial Services.—
10171 Assets of a dissolved corporation that should be transferred to
10172 a creditor, claimant, or shareholder of the corporation who
10173 cannot be found or who is not competent to receive them shall be
10174 reduced to cash and deposited, within 6 months from the date
10175 fixed for the payment of the final liquidating distribution,
10176 with the Department of Financial Services for safekeeping, where
10177 such assets shall be held as abandoned property. When the
10178 creditor, claimant, or shareholder furnishes satisfactory proof
10179 of entitlement to the amount or assets deposited, the Department

590-03467A-19

2019892c2

10180 of Financial Services shall pay such person ~~the creditor,~~
10181 ~~claimant, or shareholder~~ or his or her representative that
10182 amount ~~or those assets~~.

10183 Section 196. Section 607.1501, Florida Statutes, is amended
10184 to read:

10185 607.1501 Authority of foreign corporation to transact
10186 business required; activities not constituting transacting
10187 business.—

10188 (1) A foreign corporation may not transact business in this
10189 state until it obtains a certificate of authority from the
10190 department ~~of State~~.

10191 (2) The following activities, among others, do not
10192 constitute transacting business within the meaning of subsection
10193 (1):

10194 (a) Maintaining, defending, mediating, arbitrating, or
10195 settling any proceeding.

10196 (b) Carrying on any activity concerning the internal
10197 affairs of the foreign corporation, including holding meetings
10198 of its shareholders or board of directors ~~the board of directors~~
10199 ~~or shareholders or carrying on other activities concerning~~
10200 ~~internal corporate affairs~~.

10201 (c) Maintaining bank accounts in financial institutions.

10202 (d) Maintaining offices ~~officers~~ or agencies for the
10203 transfer, exchange, and registration of ~~the corporation's own~~
10204 securities of the foreign corporation or maintaining trustees or
10205 depositaries with respect to those securities.

10206 (e) Selling through independent contractors.

10207 (f) Soliciting or obtaining orders, whether by mail or
10208 through employees, agents, or otherwise, if the orders require

590-03467A-19

2019892c2

10209 acceptance outside this state before they become contracts.

10210 (g) Creating or acquiring indebtedness, mortgages, or ~~and~~
10211 security interests in real or personal property.

10212 (h) Securing or collecting debts or enforcing mortgages or
10213 ~~and~~ security interests in property securing the debts, and
10214 holding, protecting, or maintaining property so acquired.

10215 (i) Transacting business in interstate commerce.

10216 (j) Conducting an isolated transaction that is completed
10217 within 30 days and that is not one in the course of repeated
10218 transactions of a like nature.

10219 (k) Owning and controlling a subsidiary corporation
10220 incorporated in or limited liability company formed in, or
10221 transacting business within, this state; ~~or~~ voting the shares
10222 ~~stock~~ of any such subsidiary corporation; or voting the
10223 membership interests of any such limited liability company,
10224 which it has lawfully acquired.

10225 (l) Owning a limited partnership interest in a limited
10226 partnership that is transacting ~~doing~~ business within this
10227 state, unless the ~~such~~ limited partner manages or controls the
10228 partnership or exercises the powers and duties of a general
10229 partner.

10230 (m) Owning, protecting, and maintaining, without more, real
10231 or personal property.

10232 (3) The list of activities in subsection (2) is not an
10233 exhaustive list of activities that do not constitute transacting
10234 business within the meaning of subsection (1).

10235 (4) This section does not apply in determining the contacts
10236 or activities that may subject a foreign corporation ~~has no~~
10237 ~~application to the question of whether any foreign corporation~~

590-03467A-19

2019892c2

10238 ~~is subject to service of process, taxation, or regulation under~~
10239 ~~the and suit in this state under any law of this state other~~
10240 ~~than this chapter.~~

10241 Section 197. Section 607.15015, Florida Statutes, is
10242 created to read:

10243 607.15015 Governing law.—

10244 (1) The law of the state or other jurisdiction under which
10245 a foreign corporation exists governs:

10246 (a) The organization and internal affairs of the foreign
10247 corporation; and

10248 (b) The interest holder liability of its shareholders.

10249 (2) A foreign corporation may not be denied a certificate
10250 of authority by reason of a difference between the laws of its
10251 jurisdiction of formation and the laws of this state.

10252 (3) A certificate of authority does not authorize a foreign
10253 corporation to engage in any business or exercise any power that
10254 a corporation may not engage in or exercise in this state.

10255 Section 198. Section 607.1502, Florida Statutes, is amended
10256 to read:

10257 607.1502 Effect of failure to have a certificate of
10258 ~~Consequences of transacting business without~~ authority.—

10259 (1) A foreign corporation transacting business in this
10260 state or its successors may not prosecute or maintain an action
10261 or proceeding without a certificate of authority may not
10262 ~~maintain a proceeding in any court in this state until it has~~
10263 obtained ~~obtains~~ a certificate of authority to transact business
10264 in this state.

10265 (2) The successor to a foreign corporation that transacted
10266 business in this state without a certificate of authority and

590-03467A-19

2019892c2

10267 the assignee of a cause of action arising out of that business
10268 may not prosecute or maintain a proceeding based on that cause
10269 of action in a ~~any~~ court in this state until the foreign
10270 corporation or its successor has obtained ~~obtains~~ a certificate
10271 of authority to transact business in this state.

10272 (3) A court may stay a proceeding commenced by a foreign
10273 corporation or its successor or assignee until it determines
10274 whether the foreign corporation or its successor requires a
10275 certificate of authority. If it so determines, the court may
10276 further stay the proceeding until the foreign corporation or its
10277 successor has obtained a ~~obtains the~~ certificate of authority to
10278 transact business in this state.

10279 (4) A foreign corporation which transacts business in this
10280 state without obtaining a certificate of authority ~~is to do so~~
10281 ~~shall be~~ liable to this state for the years or parts thereof
10282 during which it transacted business in this state without
10283 obtaining a certificate of authority in an amount equal to all
10284 fees and penalties that ~~taxes which~~ would have been imposed by
10285 this chapter ~~act~~ upon the foreign ~~such~~ corporation had it duly
10286 applied for and received a certificate of authority to transact
10287 business in this state as required under this chapter ~~by this~~
10288 ~~act~~. In addition to the payments thus prescribed, the foreign
10289 corporation may, to the extent ordered by a court of competent
10290 jurisdiction, such corporation shall be liable for a civil
10291 penalty of not less than \$500 but not ~~or~~ more than \$1,000 for
10292 each year or part thereof during which it transacts business in
10293 this state without a certificate of authority. The department ~~of~~
10294 ~~State~~ may collect all penalties due under this subsection ~~and~~
10295 ~~may bring an action in circuit court to recover all penalties~~

590-03467A-19

2019892c2

10296 ~~and fees due and owing the state.~~

10297 (5) ~~Notwithstanding subsections (1) and (2),~~ The failure of
10298 a foreign corporation to have obtain a certificate of authority
10299 to transact business in this state does not impair the validity
10300 of any of its contracts, deeds, mortgages, security interests,
10301 or corporate acts or prevent the foreign corporation ~~it~~ from
10302 defending an action or any proceeding in this state.

10303 (6) A shareholder, officer, or director of a foreign
10304 corporation is not liable for the debts, obligations, or other
10305 liabilities of the foreign corporation solely because the
10306 foreign corporation transacted business in this state without a
10307 certificate of authority.

10308 (7) Section 607.15015(1) applies even if a foreign
10309 corporation fails to have a certificate of authority to transact
10310 business in this state.

10311 (8) If a foreign corporation transacts business in this
10312 state without a certificate of authority or cancels its
10313 certificate of authority, it appoints the secretary of state as
10314 its agent for service of process for rights of action arising
10315 out of the transaction of business in this state.

10316 Section 199. Section 607.1503, Florida Statutes, is amended
10317 to read:

10318 607.1503 Application for certificate of authority.—

10319 (1) A foreign corporation may apply for a certificate of
10320 authority to transact business in this state by delivering an
10321 application to the department ~~of State~~ for filing. Such
10322 application shall be made on forms prescribed ~~and furnished~~ by
10323 the department. The application must contain the following
10324 ~~Department of State and shall set forth:~~

590-03467A-19

2019892c2

10325 (a) The name of the foreign corporation and, if the name
10326 does not comply with s. 607.0401, an alternate name adopted
10327 pursuant to as long as its name satisfies the requirements of s.
10328 607.0401, but if its name does not satisfy such requirements, a
10329 corporate name that otherwise satisfies the requirements of s.
10330 607.1506.

10331 (b) The name of the foreign corporation's jurisdiction of
10332 incorporation. ~~jurisdiction under the law of which it is~~
10333 ~~incorporated.~~

10334 (c) Its date of incorporation and period of duration.

10335 (d) The principal office and mailing address of the foreign
10336 corporation. ~~street address of its principal office;~~

10337 (e) The name and street address in this state of, and the
10338 written acceptance by, the foreign corporation's initial
10339 registered agent in this state. ~~of its registered office in this~~
10340 ~~state and the name of its registered agent at that office;~~

10341 (f) The names and usual business addresses of its current
10342 directors and officers.

10343 (g) ~~Such~~ Additional information as may be necessary or
10344 appropriate in order to enable the department ~~of State~~ to
10345 determine whether the foreign ~~such~~ corporation is entitled to
10346 file an application for certificate of authority to transact
10347 business in this state and to determine and assess the fees ~~and~~
10348 ~~taxes~~ payable as prescribed in this chapter act.

10349 (2) The foreign corporation shall deliver with a ~~the~~
10350 completed application under subsection (1) a certificate of
10351 existence or a record ~~(or a document of similar import,)~~ duly
10352 authenticated, not more than 90 days prior to delivery of the
10353 application to the department ~~of State,~~ signed by the ~~Secretary~~

590-03467A-19

2019892c2

10354 ~~of State or other~~ official having custody of the foreign
10355 corporation's publicly filed records in its jurisdiction of
10356 incorporation ~~corporate records in the jurisdiction under the~~
10357 ~~law of which it is incorporated.~~ A translation of the
10358 certificate, under oath of the translator, must be attached to a
10359 certificate which is in a language other than the English
10360 language.

10361 ~~(3) A foreign corporation shall not be denied authority to~~
10362 ~~transact business in this state by reason of the fact that the~~
10363 ~~laws of the jurisdiction under which such corporation is~~
10364 ~~organized governing its organization and internal affairs differ~~
10365 ~~from the laws of this state.~~

10366 Section 200. Section 607.1504, Florida Statutes, is amended
10367 to read:

10368 607.1504 Amended certificate of authority.-

10369 (1) A foreign corporation authorized to transact business
10370 in this state shall deliver for filing an amendment to its ~~make~~
10371 ~~application to the Department of State to obtain an amended~~
10372 certificate of authority to reflect a change in any of the
10373 following if it changes:

10374 (a) Its name on the records of the department. ~~corporate~~
10375 ~~name;~~

10376 (b) ~~The period of its duration; or~~

10377 ~~(c) The jurisdiction of its incorporation.~~

10378 (c) The name and street address in this state of the
10379 foreign corporation's registered agent in this state, unless the
10380 change was timely made in accordance with s. 607.0502 or s.
10381 607.05031.

10382 (2) The amendment must be filed within 90 days after the

590-03467A-19

2019892c2

10383 occurrence of a change described in subsection (1), must be
10384 signed by an officer of the foreign corporation, and must state
10385 the following ~~Such application shall be made within 90 days~~
10386 ~~after the occurrence of any change mentioned in subsection (1),~~
10387 ~~shall be made on forms prescribed by the Department of State,~~
10388 ~~and shall be executed in accordance with s. 607.0120. The~~
10389 ~~foreign corporation shall deliver with the completed~~
10390 ~~application, a certificate, or a document of similar import,~~
10391 ~~authenticated as of a date not more than 90 days prior to~~
10392 ~~delivery of the application to the Department of State by the~~
10393 ~~Secretary of State or other official having custody of corporate~~
10394 ~~records in the jurisdiction under the laws of which it is~~
10395 ~~incorporated, evidencing the amendment. A translation of the~~
10396 ~~certificate, under oath or affirmation of the translator, must~~
10397 ~~be attached to a certificate that is in a language other than~~
10398 ~~English. The application shall set forth:~~

10399 (a) The name of the foreign corporation as it appears on
10400 the records of the department ~~of State.~~

10401 (b) The jurisdiction of its incorporation.

10402 (c) The date the foreign corporation ~~it~~ was authorized to
10403 do business in this state.

10404 (d) If the name of the foreign corporation has been
10405 changed, the name relinquished and its new name, ~~the new name, a~~
10406 ~~statement that the change of name has been effected under the~~
10407 ~~laws of the jurisdiction of its incorporation, and the date the~~
10408 ~~change was effected.~~

10409 (e) If the amendment changes its period of duration, a
10410 statement of such change.

10411 (f) If the amendment changes the jurisdiction of

590-03467A-19

2019892c2

10412 incorporation of the foreign corporation, a statement of that
10413 ~~such~~ change.

10414 (3) The requirements of s. 607.1503 for obtaining an
10415 original certificate of authority apply to obtaining an amended
10416 certificate under this section unless the official having
10417 custody of the foreign corporation's publicly filed records in
10418 its jurisdiction of incorporation did not require an amendment
10419 to effectuate the change on its records.

10420 (4) Subject to subsection (3), a foreign corporation
10421 authorized to transact business in this state may make
10422 application to the department to obtain an amended certificate
10423 of authority to add, remove, or change the name, title,
10424 capacity, or address of an officer or director of the foreign
10425 corporation.

10426 Section 201. Section 607.1505, Florida Statutes, is amended
10427 to read:

10428 607.1505 Effect of a certificate of authority.—

10429 (1) Unless the department determines that an application
10430 for a certificate of authority of a foreign corporation
10431 ~~authorizes the foreign corporation to which it is issued to~~
10432 ~~transact business in this state~~ does not comply with the filing
10433 requirements of this chapter, the department shall, upon payment
10434 of all filing fees, authorize the foreign corporation to
10435 transact business in this state and file the application for
10436 certificate of authority subject, however, to the right of the
10437 ~~Department of State to suspend or revoke the certificate as~~
10438 ~~provided in this act.~~

10439 (2) The filing by the department of an application for a
10440 certificate of authority means that the foreign corporation that

590-03467A-19

2019892c2

10441 filed the application to transact business in this state has
10442 obtained a certificate of authority to transact business in this
10443 state and is authorized to transact business in this state,
10444 subject, however, to the right of the department to suspend or
10445 revoke the certificate of authority as provided in this chapter
10446 ~~A foreign corporation with a valid certificate of authority has~~
10447 ~~the same but no greater rights and has the same but no greater~~
10448 ~~privileges as, and except as otherwise provided by this act is~~
10449 ~~subject to the same duties, restrictions, penalties, and~~
10450 ~~liabilities now or later imposed on, a domestic corporation of~~
10451 ~~like character.~~

10452 ~~(3) This act does not authorize this state to regulate the~~
10453 ~~organization or internal affairs of a foreign corporation~~
10454 ~~authorized to transact business in this state.~~

10455 Section 202. Section 607.1506, Florida Statutes, is amended
10456 to read:

10457 607.1506 Corporate name of foreign corporation.-

10458 (1) A foreign corporation whose name is unavailable under
10459 or whose name does not otherwise comply with s. 607.0401 shall
10460 use an alternate name that complies with s. 607.0401 ~~is not~~
10461 ~~entitled to file an application for a certificate of authority~~
10462 ~~unless the corporate name of such corporation satisfies the~~
10463 ~~requirements of s. 607.0401. If the corporate name of a foreign~~
10464 ~~corporation does not satisfy the requirements of s. 607.0401,~~
10465 ~~the foreign corporation, to obtain or maintain a certificate of~~
10466 ~~authority to transact business in this state. An alternate name~~
10467 adopted for use in this state shall be cross-referenced to the
10468 actual name of the foreign corporation in the records of the
10469 department, provided that no cross-reference is required if the

590-03467A-19

2019892c2

10470 alternate name involves no more than adding the suffix
10471 "corporation," "company," or "incorporated" or the abbreviation
10472 "Corp.," or "Inc.," or "Co." or the designation "Corp.," or
10473 "Inc." or "Co." to the name. If the actual name of the foreign
10474 corporation subsequently becomes available in this state and the
10475 foreign corporation elects to operate in this state under its
10476 actual name, or the foreign corporation chooses to change its
10477 alternate name, a record approving the election or change, as
10478 the case may be, by its directors or shareholders, and signed as
10479 required pursuant to s. 607.0120, shall be delivered to the
10480 department for filing;

10481 ~~(a) May add the word "corporation," "company," or~~
10482 ~~"incorporated" or the abbreviation "Corp.," "Inc.," "Co.," or~~
10483 ~~the designation "Corp.," "Inc.," or "Co.," as will clearly indicate~~
10484 ~~that it is a corporation instead of a natural person,~~
10485 ~~partnership, or other business entity; or~~

10486 ~~(b) May use an alternate name to transact business in this~~
10487 ~~state if its real name is unavailable. Any such alternate~~
10488 ~~corporate name, adopted for use in this state, shall be cross-~~
10489 ~~referenced to the real corporate name in the records of the~~
10490 ~~Division of Corporations. If the corporation's real corporate~~
10491 ~~name becomes available in this state or the corporation chooses~~
10492 ~~to change its alternate name, a copy of the resolution of its~~
10493 ~~board of directors changing or withdrawing the alternate name,~~
10494 ~~executed as required by s. 607.0120, shall be delivered for~~
10495 ~~filing.~~

10496 (2) A foreign corporation that adopts an alternate name
10497 under subsection (1) and obtains a certificate of authority with
10498 the alternate name need not comply with s. 865.09 with respect

590-03467A-19

2019892c2

10499 to the alternate name ~~The corporate name (including the~~
10500 ~~alternate name) of a foreign corporation must be distinguishable~~
10501 ~~upon the records of the Division of Corporations from:~~

10502 ~~(a) Any corporate name of a corporation incorporated or~~
10503 ~~authorized to transact business in this state;~~

10504 ~~(b) The alternate name of another foreign corporation~~
10505 ~~authorized to transact business in this state;~~

10506 ~~(c) The corporate name of a not-for-profit corporation~~
10507 ~~incorporated or authorized to transact business in this state;~~
10508 ~~and~~

10509 ~~(d) The names of all other entities or filings, except~~
10510 ~~fictitious name registrations pursuant to s. 865.09, organized~~
10511 ~~or registered under the laws of this state that are on file with~~
10512 ~~the Division of Corporations.~~

10513 (3) So long as a foreign corporation maintains a
10514 certificate of authority with an alternate name, a foreign
10515 corporation shall transact business in this state under the
10516 alternate name unless the corporation is authorized under s.
10517 865.09 to transact business in this state under another name.

10518 (4)~~(3)~~ If a foreign corporation authorized to transact
10519 business in this state changes its corporate name to one that
10520 does not comply with satisfy the requirements of s. 607.0401, it
10521 may not thereafter transact business in this state ~~under the~~
10522 ~~changed name~~ until it complies with subsection (1) adopts a name
10523 ~~satisfying the requirements of s. 607.0401~~ and obtains an
10524 amended certificate of authority under s. 607.1504.

10525 (5) Notwithstanding the foregoing, a foreign corporation
10526 may register under a name that is not otherwise distinguishable
10527 on the records of the department with the written consent of the

590-03467A-19

2019892c2

10528 other entity if the consent is filed with the department at the
10529 time of registration of such name and if such name is not
10530 identical to the name of the other entity.

10531 Section 203. Section 607.1507, Florida Statutes, is amended
10532 to read:

10533 607.1507 Registered office and registered agent of foreign
10534 corporation.—

10535 (1) Each foreign corporation authorized to transact
10536 business in this state shall designate and ~~must~~ continuously
10537 maintain in this state:

10538 (a) A registered office, which may be the same as ~~that may~~
10539 ~~be the same as any of its~~ place ~~places~~ of business in this
10540 state; and

10541 (b) A registered agent, which must ~~who may~~ be:

10542 1. An individual who resides in this state and whose
10543 business address is identical to the address of ~~office is~~
10544 ~~identical with~~ the registered office;

10545 2. A domestic entity that is an authorized entity and whose
10546 business address is identical to the address of the registered
10547 office; or

10548 3. Another foreign entity authorized to transact business
10549 in this state which is an authorized entity and whose business
10550 address is identical to the address of ~~corporation or not for~~
10551 ~~profit corporation as defined in chapter 617, the business~~
10552 ~~office of which is identical with the registered office;~~ or

10553 3. ~~Another foreign corporation or foreign not for profit~~
10554 ~~corporation authorized pursuant to this chapter or chapter 617,~~
10555 ~~to transact business or conduct its affairs in this state the~~
10556 ~~business office of which is identical with the registered~~

590-03467A-19

2019892c2

10557 office.

10558 (2) This section does not apply to corporations that are
10559 required by law to designate the Chief Financial Officer as
10560 their attorney for service of process, associations subject to
10561 the provisions of chapter 665, and banks and trust companies
10562 subject to the financial institutions codes.

10563 (3) Each initial registered agent, and each successor
10564 registered agent that is appointed, shall ~~A registered agent~~
10565 ~~appointed pursuant to this section or a successor registered~~
10566 ~~agent appointed pursuant to s. 607.1508 on whom process may be~~
10567 ~~served shall each~~ file a statement in writing with the
10568 department, in the form and manner ~~Department of State, in such~~
10569 ~~form and manner as shall be prescribed by the department,~~
10570 accepting the appointment as a registered agent while
10571 simultaneously ~~with his or her~~ being designated as the
10572 registered agent. The ~~Such~~ statement of acceptance must provide
10573 ~~shall state~~ that the registered agent is familiar with, and
10574 accepts, the obligations of that position.

10575 (4) The duties of a registered agent are as follows:

10576 (a) To forward to the foreign corporation at the address
10577 most recently supplied to the registered agent by the foreign
10578 corporation, a process, notice, or demand pertaining to the
10579 foreign corporation which is served on or received by the
10580 registered agent; and

10581 (b) If the registered agent resigns, to provide the notice
10582 required under s. 607.1509 to the foreign corporation at the
10583 address most recently supplied to the registered agent by the
10584 foreign corporation.

10585 (5) The department shall maintain an accurate record of the

590-03467A-19

2019892c2

10586 registered agents and registered offices for service of process
10587 and shall promptly furnish any information disclosed thereby
10588 upon request and payment of the required fee.

10589 (6) A foreign corporation may not prosecute or maintain any
10590 action in a court in this state until the foreign corporation
10591 complies with the provisions of this section, pays to the
10592 department the amounts required by this chapter, and, to the
10593 extent ordered by a court of competent jurisdiction, pays to the
10594 department a penalty of \$5 for each day it has failed to so
10595 comply or \$500, whichever is less.

10596 (7) A court may stay a proceeding commenced by a foreign
10597 corporation until the corporation complies with this section.

10598 Section 204. Section 607.1508, Florida Statutes, is amended
10599 to read:

10600 607.1508 Change of registered office and registered agent
10601 of foreign corporation.—

10602 (1) In order to change its registered agent or registered
10603 office address, a foreign corporation authorized to transact
10604 business in this state may deliver to the department ~~change its~~
10605 ~~registered office or registered agent by delivering to the~~
10606 ~~Department of State~~ for filing a statement of change containing
10607 the following ~~that sets forth~~:

10608 (a) The name of the foreign corporation. ~~Its name;~~

10609 (b) The ~~name~~ street address of its current registered
10610 agent. ~~office;~~

10611 (c) If the current registered agent is to be changed, the
10612 name of the new registered agent.

10613 (d) The street address of its current registered office for
10614 its current registered agent.

590-03467A-19

2019892c2

10615 (e) If the street address of the current registered office
10616 is to be changed, the new street address of the registered
10617 office

10618 ~~(e) If the current registered office is to be changed, the~~
10619 ~~street address of its new registered office;~~

10620 ~~(d) The name of its current registered agent;~~

10621 ~~(e) If the current registered agent is to be changed, the~~
10622 ~~name of its new registered agent and the new agent's written~~
10623 ~~consent (either on the statement or attached to it) to the~~
10624 ~~appointment;~~

10625 ~~(f) That, after the change or changes are made, the street~~
10626 ~~address of its registered office and the business office of its~~
10627 ~~registered agent will be identical; and~~

10628 ~~(g) That such change was authorized by resolution duly~~
10629 ~~adopted by its board of directors or by an officer of the~~
10630 ~~corporation so authorized by the board of directors.~~

10631 (2) If the registered agent is changed, the written
10632 acceptance of the successor registered agent described in s.
10633 607.1507(3) must also be included in or attached to the
10634 statement of change.

10635 (3) A statement of change is effective when filed by the
10636 department.

10637 (4) The changes described in this section may also be made
10638 on the foreign corporation's annual report or in an application
10639 for reinstatement filed with the department under s. 607.1622 ~~if~~
10640 ~~a registered agent changes the street address of her or his~~
10641 ~~business office, she or he may change the street address of the~~
10642 ~~registered office of any foreign corporation for which she or he~~
10643 ~~is the registered agent by notifying the corporation in writing~~

590-03467A-19

2019892c2

10644 ~~of the change and signing (either manually or in facsimile) and~~
10645 ~~delivering to the Department of State for filing a statement of~~
10646 ~~change that complies with the requirements of paragraphs (1) (a)-~~
10647 ~~(f) and recites that the corporation has been notified of the~~
10648 ~~change.~~

10649 Section 205. Section 607.1509, Florida Statutes, is amended
10650 to read:

10651 607.1509 Resignation of registered agent of foreign
10652 corporation.-

10653 (1) A registered agent may resign as agent for a foreign
10654 corporation by delivering to the department for filing a signed
10655 statement of resignation containing the name of the foreign
10656 corporation ~~The registered agent of a foreign corporation may~~
10657 ~~resign his or her agency appointment by signing and delivering~~
10658 ~~to the Department of State for filing a statement of resignation~~
10659 ~~and mailing a copy of such statement to the corporation at the~~
10660 ~~corporation's principal office address shown in its most recent~~
10661 ~~annual report or, if none, shown in its application for a~~
10662 ~~certificate of authority or other most recently filed document.~~
10663 ~~The statement of resignation must state that a copy of such~~
10664 ~~statement has been mailed to the corporation at the address so~~
10665 ~~stated. The statement of resignation may include a statement~~
10666 ~~that the registered office is also discontinued.~~

10667 (2) After delivering the statement of resignation to the
10668 department for filing, the registered agent must promptly mail a
10669 copy to the foreign corporation at its current mailing address
10670 ~~The agency appointment is terminated as of the 31st day after~~
10671 ~~the date on which the statement was filed and, unless otherwise~~
10672 ~~provided in the statement, termination of the agency acts as a~~

590-03467A-19

2019892c2

10673 ~~termination of the registered office.~~

10674 (3) A registered agent is terminated upon the earlier of:

10675 (a) The 31st day after the department files the statement
10676 of resignation; or

10677 (b) When a statement of change or other record designating
10678 a new registered agent is filed by the department.

10679 (4) When a statement of resignation takes effect, the
10680 registered agent ceases to have responsibility for a matter
10681 thereafter tendered to it as agent for the foreign corporation.

10682 The resignation does not affect contractual rights that the
10683 foreign corporation has against the agent or that the agent has
10684 against the foreign corporation.

10685 (5) A registered agent may resign from a foreign
10686 corporation regardless of whether the foreign corporation has
10687 active status.

10688 Section 206. Section 607.15091, Florida Statutes, is
10689 created to read:

10690 607.15091 Change of name or address by registered agent.—

10691 (1) If a registered agent changes his or her name or
10692 address, the agent may deliver to the department for filing a
10693 statement of change containing the following:

10694 (a) The name of the foreign corporation represented by the
10695 registered agent.

10696 (b) The name of the registered agent as currently shown in
10697 the records of the department for the corporation.

10698 (c) If the name of the registered agent has changed, its
10699 new name.

10700 (d) If the address of the registered agent has changed, the
10701 new address.

590-03467A-19

2019892c2

10702 (e) A statement that the registered agent has given the
10703 notice required under subsection (2).

10704 (2) A registered agent shall promptly furnish notice of the
10705 statement of change and the changes made by the statement filed
10706 with the department to the represented foreign corporation.

10707 Section 207. Section 607.15092, Florida Statutes, is
10708 created to read:

10709 607.15092 Delivery of notice or other communication.-

10710 (1) Except as otherwise provided in this chapter,
10711 permissible means of delivery of a notice or other communication
10712 includes delivery by hand, the United States Postal Service, a
10713 commercial delivery service, and electronic transmission, all as
10714 more particularly described in s. 607.0141.

10715 (2) Except as provided in subsection (3), delivery to the
10716 department is effective only when a notice or other
10717 communication is received by the department.

10718 (3) If a check is mailed to the department for payment of
10719 an annual report fee or the annual supplemental fee required
10720 under s. 607.193, the check shall be deemed to have been
10721 received by the department as of the postmark date appearing on
10722 the envelope or package transmitting the check if the envelope
10723 or package is received by the department.

10724 Section 208. Section 607.15101, Florida Statutes, is
10725 amended to read:

10726 607.15101 Service of process, notice, or demand on a
10727 foreign corporation.-

10728 (1) A foreign corporation may be served with process
10729 required or authorized by law by serving on its registered
10730 agent.

590-03467A-19

2019892c2

10731 (2) If a foreign corporation ceases to have a registered
10732 agent or if its registered agent cannot with reasonable
10733 diligence be served, the process required or permitted by law
10734 may instead be served on the chair of the board, the president,
10735 any vice president, the secretary, or the treasurer of the
10736 foreign corporation at the principal office of the foreign
10737 corporation in this state.

10738 (3) If the process cannot be served on a foreign
10739 corporation pursuant to subsection (1) or subsection (2), the
10740 process may be served on the secretary of state as an agent of
10741 the foreign corporation.

10742 (4) Service of process on the secretary of state may be
10743 made by delivering to and leaving with the department duplicate
10744 copies of the process.

10745 (5) Service is effectuated under subsection (3) on the date
10746 shown as received by the department.

10747 (6) The department shall keep a record of each process
10748 served on the secretary of state pursuant to this section and
10749 record the time of and the action taken regarding the service.

10750 (7) Any notice or demand on a foreign corporation under
10751 this chapter may be given or made to the chair of the board, the
10752 president, any vice president, the secretary, or the treasurer
10753 of the foreign corporation; to the registered agent of the
10754 foreign corporation at the registered office of the foreign
10755 corporation in this state; or to any other address in this state
10756 that is in fact the principal office of the foreign corporation
10757 in this state.

10758 (8) This section does not affect the right to serve
10759 process, give notice, or make a demand in any other manner

590-03467A-19

2019892c2

10760 provided by law

10761 ~~(1) The registered agent of a foreign corporation~~
10762 ~~authorized to transact business in this state is the~~
10763 ~~corporation's agent for service of process, notice, or demand~~
10764 ~~required or permitted by law to be served on the foreign~~
10765 ~~corporation.~~

10766 ~~(2) A foreign corporation may be served by registered or~~
10767 ~~certified mail, return receipt requested, addressed to the~~
10768 ~~secretary of the foreign corporation at its principal office~~
10769 ~~shown in its application for a certificate of authority or in~~
10770 ~~its most recent annual report if the foreign corporation:~~

10771 ~~(a) Has no registered agent or its registered agent cannot~~
10772 ~~with reasonable diligence be served;~~

10773 ~~(b) Has withdrawn from transacting business in this state~~
10774 ~~under s. 607.1520; or~~

10775 ~~(c) Has had its certificate of authority revoked under s.~~
10776 ~~607.1531.~~

10777 ~~(3) Service is perfected under subsection (2) at the~~
10778 ~~earliest of:~~

10779 ~~(a) The date the foreign corporation receives the mail;~~

10780 ~~(b) The date shown on the return receipt, if signed on~~
10781 ~~behalf of the foreign corporation; or~~

10782 ~~(c) Five days after its deposit in the United States mail,~~
10783 ~~as evidenced by the postmark, if mailed postpaid and correctly~~
10784 ~~addressed.~~

10785 ~~(4) This section does not prescribe the only means, or~~
10786 ~~necessarily the required means, of serving a foreign~~
10787 ~~corporation. Process against any foreign corporation may also be~~
10788 ~~served in accordance with chapter 48 or chapter 49.~~

590-03467A-19

2019892c2

10789 ~~(5) Any notice to or demand on a foreign corporation made~~
10790 ~~pursuant to this act may be made in accordance with the~~
10791 ~~procedures for notice to or demand on domestic corporations~~
10792 ~~under s. 607.0504.~~

10793 Section 209. Section 607.1520, Florida Statutes, is amended
10794 to read:

10795 607.1520 Withdrawal and cancellation of certificate of
10796 authority for of foreign corporation.-

10797 (1) To cancel its certificate of authority to transact
10798 business in this state, a foreign corporation must deliver to
10799 the department for filing a notice of withdrawal of certificate
10800 of authority. The certificate of authority is canceled when the
10801 notice of withdrawal becomes effective pursuant to s. 607.0123.
10802 The notice of withdrawal of certificate of authority must be
10803 signed by an officer or director and state the following:

10804 (a) The name of the foreign corporation as it appears on
10805 the records of the department.

10806 (b) The name of the foreign corporation's jurisdiction of
10807 incorporation.

10808 (c) The date the foreign corporation was authorized to
10809 transact business in this state.

10810 (d) That the foreign corporation is withdrawing its
10811 certificate of authority in this state.

10812 (e) That it revokes the authority of its registered agent
10813 to accept service on its behalf and appoints the secretary of
10814 state as its agent for service of process based on a cause of
10815 action arising during the time it was authorized to transact
10816 business in this state.

10817 (f) A mailing address to which the secretary of state may

590-03467A-19

2019892c2

10818 mail a copy of any process served on the secretary of state
10819 under paragraph (e).

10820 (g) A commitment to notify the department in the future of
10821 any change in its mailing address ~~A foreign corporation~~
10822 ~~authorized to transact business in this state may not withdraw~~
10823 ~~from this state until it obtains a certificate of withdrawal~~
10824 ~~from the Department of State.~~

10825 ~~(2) A foreign corporation authorized to transact business~~
10826 ~~in this state may apply for a certificate of withdrawal by~~
10827 ~~delivering an application to the Department of State for filing.~~
10828 ~~The application shall be made on forms prescribed and furnished~~
10829 ~~by the Department of State and shall set forth:~~

10830 ~~(a) The name of the foreign corporation and the~~
10831 ~~jurisdiction under the law of which it is incorporated;~~

10832 ~~(b) That it is not transacting business in this state and~~
10833 ~~that it surrenders its authority to transact business in this~~
10834 ~~state;~~

10835 ~~(c) That it revokes the authority of its registered agent~~
10836 ~~to accept service on its behalf and appoints the Department of~~
10837 ~~State as its agent for service of process based on a cause of~~
10838 ~~action arising during the time it was authorized to transact~~
10839 ~~business in this state;~~

10840 ~~(d) A mailing address to which the Department of State may~~
10841 ~~mail a copy of any process served on it under paragraph (c); and~~

10842 ~~(e) A commitment to notify the Department of State in the~~
10843 ~~future of any change in its mailing address.~~

10844 (2)(3) After the withdrawal of the foreign corporation is
10845 effective, service of process on the secretary of state
10846 ~~Department of State~~ under this section is service on the foreign

590-03467A-19

2019892c2

10847 corporation. Upon receipt of the process, the secretary of state
10848 ~~Department of State~~ shall mail a copy of the process to the
10849 foreign corporation at the mailing address set forth under
10850 paragraph (1)(f) subsection (2).

10851 Section 210. Section 607.1521, Florida Statutes, is created
10852 to read:

10853 607.1521 Withdrawal deemed on conversion to domestic filing
10854 entity.—A foreign corporation authorized to transact business in
10855 this state that converts to a domestic corporation or another
10856 domestic eligible entity that is organized, incorporated,
10857 registered, or otherwise formed through the delivery of a record
10858 to the department for filing is deemed to have withdrawn its
10859 certificate of authority on the effective date of the
10860 conversion.

10861 Section 211. Section 607.1522, Florida Statutes, is created
10862 to read:

10863 607.1522 Withdrawal on dissolution, merger, or conversion
10864 to certain nonfiling entities.—

10865 (1) A foreign corporation that is authorized to transact
10866 business in this state that has dissolved and completed winding
10867 up, has merged into a foreign eligible entity that is not
10868 authorized to transact business in this state, or has converted
10869 to a domestic or foreign eligible entity that is not organized,
10870 incorporated, registered or otherwise formed through the public
10871 filing of a record, shall deliver a notice of withdrawal of
10872 certificate of authority to the department for filing in
10873 accordance with s. 607.1520.

10874 (2) After a withdrawal under this section of a foreign
10875 corporation that has converted to another type of entity is

590-03467A-19

2019892c2

10876 effective, service of process in any action or proceeding based
10877 on a cause of action arising during the time the foreign
10878 corporation was authorized to transact business in this state
10879 may be made pursuant to s. 607.15101.

10880 Section 212. Section 607.1523, Florida Statutes, is created
10881 to read:

10882 607.1523 Action by Department of Legal Affairs.—The
10883 Department of Legal Affairs may maintain an action to enjoin a
10884 foreign corporation from transacting business in this state in
10885 violation of this chapter.

10886 Section 213. Section 607.1530, Florida Statutes, is amended
10887 to read:

10888 607.1530 ~~Grounds for~~ Revocation of certificate of authority
10889 to transact business.—

10890 ~~(1) A The Department of State may commence a proceeding~~
10891 ~~under s. 607.1531 to revoke the~~ certificate of authority of a
10892 foreign corporation ~~authorized~~ to transact business in this
10893 state may be revoked by the department if:

10894 ~~(a)(1)~~ The foreign corporation does not deliver its annual
10895 report to the department ~~has failed to file its annual report~~
10896 ~~with the Department of State~~ by 5 p.m. Eastern Time on the third
10897 Friday in September of each year;

10898 ~~(b)(2)~~ The foreign corporation does not pay a fee or
10899 penalty due to the department under this chapter; ~~within the~~
10900 ~~time required by this act, any fees, taxes, or penalties imposed~~
10901 ~~by this act or other law.~~

10902 ~~(c)(3)~~ The foreign corporation does not appoint and
10903 maintain a registered agent as required by s. 607.1507; ~~is~~
10904 ~~without a registered agent or registered office in this state~~

590-03467A-19

2019892c2

10905 ~~for 30 days or more.~~

10906 (d) (4) The foreign corporation does not deliver for filing
10907 a statement of a change under s. 607.1508 within 30 days after
10908 the change in the name or address of the agent has occurred,
10909 unless, within 30 days after the change occurred, either:

10910 1. The registered agent files a statement of change under
10911 s. 607.15091; or

10912 2. The change was made in accordance with s. 607.1508(4) or
10913 s. 607.1504(1) (c);

10914 (e) The foreign corporation has failed to amend its
10915 certificate of authority to reflect a change in its name on the
10916 records of the department or its jurisdiction of incorporation;

10917 (f) The foreign corporation's period of duration stated in
10918 its articles of incorporation has expired; notify the Department
10919 of State under s. 607.1508 or s. 607.1509 that its registered
10920 agent has resigned or that its registered office has been
10921 discontinued within 30 days of the resignation or
10922 discontinuance.

10923 (g) (5) An incorporator, director, officer, or agent of the
10924 foreign corporation signs ~~signed~~ a document that she or he knew
10925 was false in a ~~any~~ material respect with the intent that the
10926 document be delivered to the department ~~of State~~ for filing;;

10927 (h) (6) The department ~~of State~~ receives a duly
10928 authenticated certificate from the ~~Secretary of State or other~~
10929 official having custody of corporate records in the jurisdiction
10930 under the law of which the foreign corporation is incorporated
10931 stating that it has been dissolved or is no longer active on the
10932 official's records; or disappeared as the result of a merger.

10933 (i) (7) The foreign corporation has failed to answer

590-03467A-19

2019892c2

10934 truthfully and fully, within the time prescribed by this chapter
10935 ~~act~~, interrogatories propounded by the department ~~of State~~.

10936 (2) Revocation of a foreign corporation's certificate of
10937 authority for failure to file an annual report shall occur on
10938 the fourth Friday in September of each year. The department
10939 shall issue a notice in a record of the revocation to the
10940 revoked foreign corporation. Issuance of the notice may be by
10941 electronic transmission to a foreign corporation that has
10942 provided the department with an e-mail address.

10943 (3) If the department determines that one or more grounds
10944 exist under paragraph (1) (b) for revoking a foreign
10945 corporation's certificate of authority, the department shall
10946 issue a notice in a record to the foreign corporation of the
10947 department's intent to revoke the certificate of authority.
10948 Issuance of the notice may be by electronic transmission to a
10949 foreign corporation that has provided the department with an e-
10950 mail address.

10951 (4) If, within 60 days after the department sends the
10952 notice of intent to revoke in accordance with subsection (3),
10953 the foreign corporation does not correct each ground for
10954 revocation or demonstrate to the reasonable satisfaction of the
10955 department that each ground determined by the department does
10956 not exist, the department shall revoke the foreign corporation's
10957 authority to transact business in this state and issue a notice
10958 in a record of revocation which states the grounds for
10959 revocation. Issuance of the notice may be by electronic
10960 transmission to a foreign corporation that has provided the
10961 department with an e-mail address.

10962 (5) Revocation of a foreign corporation's certificate of

590-03467A-19

2019892c2

10963 authority does not terminate the authority of the registered
10964 agent of the corporation.

10965 Section 214. Section 607.1531, Florida Statutes, is
10966 repealed.

10967 Section 215. Section 607.15315, Florida Statutes, is
10968 amended to read:

10969 607.15315 ~~Revocation; application for Reinstatement~~
10970 following revocation of certificate of authority.-

10971 (1)~~(a)~~ A foreign corporation the certificate of authority
10972 of which has been revoked pursuant to s. 607.1530 or former s.
10973 607.1531 may apply to the department of State for reinstatement
10974 at any time after the effective date of revocation of authority.
10975 The foreign corporation applying for reinstatement must submit
10976 all fees and penalties then owed by the foreign corporation at
10977 rates provided by law at the time the foreign corporation
10978 applies for reinstatement, together with an application for
10979 reinstatement prescribed and furnished by the department, which
10980 is signed by both the registered agent and an officer or
10981 director of the company and states application must:

10982 (a)1. Recite The name under which of the foreign
10983 corporation is authorized to transact business in this state.
10984 and the effective date of its revocation of authority;

10985 (b)2. The street address of the corporation's principal
10986 office and mailing address. State that the ground or grounds for
10987 revocation of authority either did not exist or have been
10988 eliminated and that no further grounds currently exist for
10989 revocation of authority;

10990 (c) The jurisdiction of the foreign corporation's formation
10991 and the date on which it became qualified to transact business

590-03467A-19

2019892c2

10992 in this state.

10993 (d) The foreign corporation's federal employer
10994 identification number or, if none, whether one has been applied
10995 for.

10996 (e) The name, title or capacity, and address of at least
10997 one officer or director of the corporation.

10998 (f) Additional information that is necessary or appropriate
10999 to enable the department to carry out this chapter.

11000 (2) In lieu of the requirement to file an application for
11001 reinstatement as described in subsection (1), a foreign
11002 corporation whose certificate of authority has been revoked may
11003 submit all fees and penalties owed by the corporation at the
11004 rates provided by law at the time the corporation applies for
11005 reinstatement, together with a current annual report, signed by
11006 both the registered agent and an officer or director of the
11007 corporation, which contains the information described in
11008 subsection (1).

11009 (3) If the department determines that an application for
11010 reinstatement contains the information required under subsection
11011 (1) or subsection (2) and that the information is correct, upon
11012 payment of all required fees and penalties, the department shall
11013 reinstate the foreign corporation's certificate of authority

11014 ~~3. State that the foreign corporation's name satisfies the~~
11015 ~~requirements of s. 607.1506; and~~

11016 ~~4. State that all fees owed by the corporation and computed~~
11017 ~~at the rate provided by law at the time the foreign corporation~~
11018 ~~applies for reinstatement have been paid; or~~

11019 ~~(b) As an alternative, the foreign corporation may submit a~~
11020 ~~current annual report, signed by the registered agent and an~~

590-03467A-19

2019892c2

11021 ~~officer or director, which substantially complies with the~~
11022 ~~requirements of paragraph (a).~~

11023 ~~(2) If the Department of State determines that the~~
11024 ~~application contains the information required by subsection (1)~~
11025 ~~and that the information is correct, it shall cancel the~~
11026 ~~certificate of revocation of authority and prepare a certificate~~
11027 ~~of reinstatement that recites its determination and prepare a~~
11028 ~~certificate of reinstatement, file the original of the~~
11029 ~~certificate, and serve a copy on the corporation under s.~~
11030 ~~607.0504(2).~~

11031 ~~(4)(3)~~ When a reinstatement becomes ~~the reinstatement is~~
11032 ~~effective, it relates back to and takes effect as of the~~
11033 ~~effective date of the revocation of authority and the foreign~~
11034 ~~corporation may operate in this state resumes carrying on its~~
11035 ~~business as if the revocation of authority had never occurred.~~

11036 ~~(5)(4)~~ The name of the foreign corporation whose ~~the~~
11037 ~~certificate of authority of which~~ has been revoked is not
11038 available for assumption or use by another eligible entity
11039 ~~corporation~~ until 1 year after the effective date of revocation
11040 of authority unless the corporation provides the department ~~of~~
11041 ~~State~~ with a record signed ~~an affidavit executed~~ as required by
11042 s. 607.0120 which authorizes ~~permitting~~ the immediate assumption
11043 or use of the name by another eligible entity ~~corporation~~.

11044 ~~(6)(5)~~ If the name of the foreign corporation applying for
11045 reinstatement has been lawfully assumed in this state by another
11046 eligible entity, the department ~~corporation, the Department of~~
11047 ~~State~~ shall require the foreign corporation to comply with s.
11048 607.1506 before accepting its application for reinstatement.

11049 Section 216. Section 607.1532, Florida Statutes, is amended

590-03467A-19

2019892c2

11050 to read:

11051 607.1532 Judicial review of denial of reinstatement ~~Appeal~~
11052 ~~from revocation.~~—

11053 (1) If the department denies a foreign corporation's
11054 application for reinstatement after revocation of its
11055 certificate of authority, the department shall serve the foreign
11056 corporation under s. 607.15101 with a written notice that
11057 explains the reason or reasons for the denial ~~Department of~~
11058 ~~State revokes the authority of any foreign corporation to~~
11059 ~~transact business in this state pursuant to the provisions of~~
11060 ~~this act, such foreign corporation may likewise appeal to the~~
11061 ~~circuit court of the county where the registered office of such~~
11062 ~~corporation in this state is situated by filing with the clerk~~
11063 ~~of such court a petition setting forth a copy of its application~~
11064 ~~for authority to transact business in this state and a copy of~~
11065 ~~the certificate of revocation given by the Department of State,~~
11066 ~~whereupon the matter shall be tried de novo by the court, and~~
11067 ~~the court shall either sustain the action of the Department of~~
11068 ~~State or direct the department to take such action as the court~~
11069 ~~deems proper.~~

11070 (2) Within 30 days after service of a notice of denial of
11071 reinstatement, a foreign corporation may appeal the denial by
11072 petitioning the Circuit Court of Leon County to set aside the
11073 revocation. The petition must be served on the department and
11074 contain a copy of the department's notice of revocation, the
11075 foreign corporation's application for reinstatement, and the
11076 department's notice of denial ~~Appeals from all final orders and~~
11077 ~~judgments entered by the circuit court under this section in~~
11078 ~~review of any ruling or decision of the Department of State may~~

590-03467A-19

2019892c2

11079 ~~be taken as in other civil actions.~~

11080 (3) The circuit court may order the department to reinstate
11081 the certificate of authority of the foreign corporation or take
11082 other action the court considers appropriate.

11083 (4) The circuit court's final decision may be appealed as
11084 in other civil proceedings.

11085 Section 217. Section 607.1601, Florida Statutes, is amended
11086 to read:

11087 607.1601 Corporate records.—

11088 (1) A corporation shall maintain the following records:
11089 ~~keep as permanent records minutes of all meetings of its~~
11090 ~~shareholders and board of directors, a record of all actions~~
11091 ~~taken by the shareholders or board of directors without a~~
11092 ~~meeting, and a record of all actions taken by a committee of the~~
11093 ~~board of directors in place of the board of directors on behalf~~
11094 ~~of the corporation.~~

11095 ~~(2) A corporation shall maintain accurate accounting~~
11096 ~~records.~~

11097 ~~(3) A corporation or its agent shall maintain a record of~~
11098 ~~its shareholders in a form that permits preparation of a list of~~
11099 ~~the names and addresses of all shareholders in alphabetical~~
11100 ~~order by class of shares showing the number and series of shares~~
11101 ~~held by each.~~

11102 ~~(4) A corporation shall maintain its records in written~~
11103 ~~form or in another form capable of conversion into written form~~
11104 ~~within a reasonable time.~~

11105 ~~(5) A corporation shall keep a copy of the following~~
11106 ~~records:~~

11107 (a) Its articles ~~or restated articles~~ of incorporation, as

590-03467A-19

2019892c2

11108 ~~and all amendments to them~~ currently in effect;

11109 (b) Any notices to shareholders referred to in s.

11110 607.0120(11)(d) specifying facts on which a filed document is

11111 dependent, if such facts are not included in the articles of

11112 incorporation or otherwise available as specified in s.

11113 607.0120(11)(d);

11114 ~~(c)(b) Its bylaws, as or restated bylaws and all amendments~~

11115 ~~to them~~ currently in effect;

11116 ~~(c) Resolutions adopted by its board of directors creating~~

11117 ~~one or more classes or series of shares and fixing their~~

11118 ~~relative rights, preferences, and limitations, if shares issued~~

11119 ~~pursuant to those resolutions are outstanding;~~

11120 ~~(d) The minutes of all shareholders' meetings and records~~

11121 ~~of all action taken by shareholders without a meeting for the~~

11122 ~~past 3 years;~~

11123 ~~(d)(e) All written communications within the past 3 years~~

11124 ~~to all shareholders generally or to all shareholders of a class~~

11125 ~~or series within the past 3 years, including the financial~~

11126 ~~statements furnished for the past 3 years under s. 607.1620;~~

11127 (e) Minutes of all meetings of, and records of all actions

11128 taken without a meeting by, its shareholders, its board of

11129 directors, and any board committees established under s.

11130 607.0825;

11131 (f) A list of the names and business street addresses of

11132 its current directors and officers; and

11133 (g) Its most recent annual report delivered to the

11134 department ~~of State~~ under s. 607.1622.

11135 (2) A corporation shall maintain all annual financial

11136 statements prepared for the corporation for its last 3 fiscal

590-03467A-19

2019892c2

11137 years, or such shorter period of existence, and any audit or
11138 other reports with respect to such financial statements.

11139 (3) A corporation shall maintain accounting records in a
11140 form that permits preparation of its financial statements.

11141 (4) A corporation shall maintain a record of its current
11142 shareholders in alphabetical order by class or series of shares
11143 showing the address of, and the number and class or series of
11144 shares held by, each shareholder. This subsection does not
11145 require the corporation to include the electronic mail address
11146 or other electronic contact information of a shareholder in such
11147 record.

11148 (5) A corporation shall maintain the records specified in
11149 this section in a manner so that they may be available for
11150 inspection within a reasonable time.

11151 Section 218. Section 607.1602, Florida Statutes, is amended
11152 to read:

11153 607.1602 Inspection of records by shareholders.-

11154 (1) A shareholder of a corporation is entitled to inspect
11155 and copy, during regular business hours at the corporation's
11156 principal office, any of the records of the corporation
11157 described in s. 607.1601(1), excluding minutes of meetings of,
11158 and records of actions taken without a meeting by, the
11159 corporation's board of directors and any board committees
11160 established under s. 607.0825, ~~s. 607.1601(5)~~ if the shareholder
11161 gives the corporation written notice of the shareholder's ~~his or~~
11162 ~~her~~ demand at least 5 business days before the date on which the
11163 shareholder ~~he or she~~ wishes to inspect and copy.

11164 (2) A shareholder of a corporation is entitled to inspect
11165 and copy, during regular business hours at a reasonable location

590-03467A-19

2019892c2

11166 specified by the corporation, any of the following records of
 11167 the corporation if the shareholder meets the requirements of
 11168 subsection (3) and gives the corporation written notice of the
 11169 shareholder's ~~his or her~~ demand at least 5 business days before
 11170 the date on which the shareholder ~~he or she~~ wishes to inspect
 11171 and copy:

11172 (a) Excerpts from minutes of any meeting of, or records of
 11173 any actions taken without a meeting by, the corporation's board
 11174 of directors and board committees maintained in accordance with
 11175 s. 607.1601(1), ~~records of any action of a committee of the~~
 11176 ~~board of directors while acting in place of the board of~~
 11177 ~~directors on behalf of the corporation, minutes of any meeting~~
 11178 ~~of the shareholders, and records of action taken by the~~
 11179 ~~shareholders or board of directors without a meeting, to the~~
 11180 ~~extent not subject to inspection under subsection (1);~~

11181 (b) The financial statements of the corporation maintained
 11182 in accordance with s. 607.1601(2);

11183 (c) ~~(b)~~ Accounting records of the corporation;

11184 (d) ~~(c)~~ The record of shareholders maintained in accordance
 11185 with s. 607.1601(4); and

11186 (e) ~~(d)~~ Any other books and records.

11187 (3) A shareholder may inspect and copy the records
 11188 described in subsection (2) only if:

11189 (a) The shareholder's demand is made in good faith and for
 11190 a proper purpose;

11191 (b) The shareholder's demand ~~shareholder~~ describes with
 11192 reasonable particularity the shareholder's ~~his or her~~ purpose
 11193 and the records the shareholder ~~he or she~~ desires to inspect;
 11194 and

590-03467A-19

2019892c2

11195 (c) The records are directly connected with the
11196 shareholder's purpose.

11197 (4) The corporation may impose reasonable restrictions on
11198 the disclosure, use, or distribution of, and reasonable
11199 obligations to maintain the confidentiality of, records
11200 described in subsection (2) ~~A shareholder of a Florida~~
11201 corporation, or a shareholder of a foreign corporation
11202 authorized to transact business in this state who resides in
11203 this state, is entitled to inspect and copy, during regular
11204 business hours at a reasonable location in this state specified
11205 by the corporation, a copy of the records of the corporation
11206 described in s. 607.1601(5)(b) and (f), if the shareholder gives
11207 the corporation written notice of his or her demand at least 15
11208 business days before the date on which he or she wishes to
11209 inspect and copy.

11210 (5) For any meeting of shareholders for which the record
11211 date for determining shareholders entitled to vote at the
11212 meeting is different than the record date for notice of the
11213 meeting, any person who becomes a shareholder subsequent to the
11214 record date for notice of the meeting and is entitled to vote at
11215 the meeting is entitled to obtain from the corporation upon
11216 request the notice and any other information provided by the
11217 corporation to shareholders in connection with the meeting,
11218 unless the corporation has made such information generally
11219 available to shareholders by posting it on its website or by
11220 other generally recognized means. Failure of a corporation to
11221 provide such information does not affect the validity of action
11222 taken at the meeting.

11223 (6) The right of inspection granted by this section may not

590-03467A-19

2019892c2

11224 be abolished or limited by a corporation's articles of
11225 incorporation or bylaws.

11226 (7)~~(5)~~ This section does not affect:

11227 (a) The right of a shareholder to inspect and copy records
11228 under s. 607.0720 or, if the shareholder is in litigation with
11229 the corporation, to the same extent as any other litigant; or

11230 (b) The power of a court, independently of this chapter
11231 ~~act~~, to compel the production of corporate records for
11232 examination and to impose reasonable restrictions as provided in
11233 s. 607.1604(3), provided that, in the case of production of
11234 records described in subsection (2) at the request of the
11235 shareholder, the shareholder has met the requirements of
11236 subsection (3).

11237 (8)~~(6)~~ A corporation may deny any demand for inspection
11238 made pursuant to subsection (2) if the demand was made for an
11239 improper purpose, or if the demanding shareholder has within 2
11240 years preceding his or her demand sold or offered for sale any
11241 list of shareholders of the corporation or any other
11242 corporation, has aided or abetted any person in procuring any
11243 list of shareholders for any such purpose, or has improperly
11244 used any information secured through any prior examination of
11245 the records of the corporation or any other corporation.

11246 (9)~~(7)~~ A shareholder may not sell or otherwise distribute
11247 any information or records inspected under this section, except
11248 to the extent that such use is for a proper purpose as defined
11249 in subsection (11) ~~(3)~~. ~~Any person who violates this provision~~
11250 ~~shall be subject to a civil penalty of \$5,000.~~

11251 (10)~~(8)~~ For purposes of this section, the term
11252 "shareholder" means a record shareholder, a beneficial

590-03467A-19

2019892c2

11253 shareholder, or an unrestricted voting trust beneficial owner
11254 ~~includes a beneficial owner whose shares are held in a voting~~
11255 ~~trust or by a nominee on his or her behalf.~~

11256 (11)~~(9)~~ For purposes of this section, a "proper purpose"
11257 means a purpose reasonably related to such person's interest as
11258 a shareholder.

11259 (12) The rights of a shareholder to obtain records under
11260 subsections (1) and (2) shall also apply to the records of
11261 subsidiaries of the corporation.

11262 Section 219. Section 607.1603, Florida Statutes, is amended
11263 to read:

11264 607.1603 Scope of inspection right.—

11265 (1) A shareholder may appoint an agent or attorney to
11266 exercise the shareholder's inspection and copying rights under
11267 s. 607.1602 ~~shareholder's agent or attorney has the same~~
11268 ~~inspection and copying rights as the shareholder he or she~~
11269 ~~represents.~~

11270 (2) The corporation may, if reasonable, satisfy the right
11271 of a shareholder to copy records under s. 607.1602 by furnishing
11272 to the shareholder copies made by photocopy or other means
11273 chosen by the corporation, including furnishing copies through
11274 an electronic transmission ~~includes, if reasonable, the right to~~
11275 ~~receive copies made by photographic, xerographic, or other~~
11276 ~~means.~~

11277 (3) The corporation may impose a reasonable charge to cover
11278 the costs of providing copies of any documents to the
11279 shareholder which may be based on an estimate of such costs,
11280 ~~covering the costs of labor and material, for copies of any~~
11281 ~~documents provided to the shareholder. The charge may not exceed~~

590-03467A-19

2019892c2

11282 ~~the estimated cost of production or reproduction of the records.~~
11283 ~~If the records are kept in other than written form, the~~
11284 ~~corporation shall convert such records into written form upon~~
11285 ~~the request of any person entitled to inspect the same. The~~
11286 ~~corporation shall bear the costs of converting any records~~
11287 ~~described in s. 607.1601(5). The requesting shareholder shall~~
11288 ~~bear the costs, including the cost of compiling the information~~
11289 ~~requested, incurred to convert any records described in s.~~
11290 ~~607.1602(2).~~

11291 ~~(4) If requested by a shareholder,~~ The corporation may
11292 comply at its expense ~~shall comply~~ with a shareholder's demand
11293 to inspect the records of shareholders under s. 607.1602(2)(d)
11294 ~~s. 607.1602(2)(e)~~ by providing the shareholder ~~him or her~~ with a
11295 list of ~~its~~ shareholders that was compiled no earlier than the
11296 date of the shareholder's demand ~~of the nature described in s.~~
11297 ~~607.1601(3). Such a list must be compiled as of the last record~~
11298 ~~date for which it has been compiled or as of a subsequent date~~
11299 ~~if specified by the shareholder.~~

11300 Section 220. Section 607.1604, Florida Statutes, is amended
11301 to read:

11302 607.1604 Court-ordered inspection.—

11303 (1) If a corporation does not allow a shareholder who
11304 complies with s. 607.1602(1) ~~or (4)~~ to inspect and copy any
11305 records required by that subsection to be available for
11306 inspection, the circuit court in the applicable county ~~where the~~
11307 ~~corporation's principal office (or, if none in this state, its~~
11308 ~~registered office) is located~~ may summarily order inspection and
11309 copying of the records demanded at the corporation's expense
11310 upon application of the shareholder. If the court orders

590-03467A-19

2019892c2

11311 inspection and copying of the records demanded under s.
11312 607.1601(1), it shall also order the corporation to pay the
11313 shareholder's expenses, including reasonable attorney fees,
11314 incurred to obtain the order and enforce its rights under this
11315 section.

11316 (2) If a corporation does not within a reasonable time
11317 allow a shareholder who complies with s. 607.1602(2) to inspect
11318 and copy the records required by that section ~~any other record,~~
11319 the shareholder who complies with s. 607.1602(3) ~~s. 607.1602(2)~~
11320 ~~and (3),~~ may apply to the circuit court in the applicable county
11321 ~~where the corporation's principal office (or, if none in this~~
11322 ~~state, its registered office) is located~~ for an order to permit
11323 inspection and copying of the records demanded. The court shall
11324 dispose of an application under this subsection on an expedited
11325 basis.

11326 (3) If the court orders inspection and ~~or~~ copying of the
11327 records demanded under s. 607.1602(2), it may impose reasonable
11328 restrictions on the disclosure, use, or distribution of, and
11329 reasonable obligations to maintain the confidentiality of, such
11330 records, and it shall also order the corporation to pay the
11331 shareholder's expenses incurred ~~costs,~~ including reasonable
11332 attorney ~~attorney's~~ fees, ~~reasonably~~ incurred to obtain the
11333 order and enforce its rights under this section unless the
11334 corporation establishes that the corporation, ~~or the officer,~~
11335 ~~director, or agent, as the case may be, proves that it or she or~~
11336 ~~he~~ refused inspection in good faith because the corporation ~~it~~
11337 ~~or she or he~~ had:

11338 (a) A reasonable basis for doubt about the right of the
11339 shareholder to inspect or copy the records demanded; or-

590-03467A-19

2019892c2

11340 ~~(b)(4) Required~~ If the court orders inspection or copying
11341 of the records demanded, it may impose reasonable restrictions
11342 on the disclosure, use, or distribution of, and reasonable
11343 obligations to maintain the confidentiality of, such ~~the~~ records
11344 demanded to which ~~by~~ the demanding shareholder had been
11345 unwilling to agree.

11346 Section 221. Section 607.1605, Florida Statutes, is amended
11347 to read:

11348 607.1605 Inspection rights of ~~records by~~ directors.—

11349 (1) A director of a corporation is entitled to inspect and
11350 copy the books, records, and documents of the corporation at any
11351 reasonable time to the extent reasonably related to the
11352 performance of the director's duties as a director, including
11353 duties as a member of a board committee, but not for any other
11354 purpose or in any manner that would violate any duty to the
11355 corporation.

11356 (2) The circuit court of the applicable county ~~in which the~~
11357 ~~corporation's principal office or, if none in this state, its~~
11358 ~~registered office is located~~ may order inspection and copying of
11359 the books, records, and documents at the corporation's expense,
11360 upon application of a director who has been refused such
11361 inspection rights, unless the corporation establishes that the
11362 director is not entitled to such inspection rights. The court
11363 shall dispose of an application under this subsection on an
11364 expedited basis.

11365 (3) If an order is issued, the court may include provisions
11366 protecting the corporation from undue burden or expense and
11367 prohibiting the director from using information obtained upon
11368 exercise of the inspection rights in a manner that would violate

590-03467A-19

2019892c2

11369 a duty to the corporation, and may also order the corporation to
11370 reimburse the director for the director's costs, including
11371 reasonable attorney ~~counsel~~ fees, incurred in connection with
11372 the application.

11373 Section 222. Section 607.1620, Florida Statutes, is amended
11374 to read:

11375 607.1620 Financial statements for shareholders.-

11376 (1) Upon the written request of any shareholder, a
11377 corporation shall deliver or make available to the requesting
11378 shareholder the corporation's annual financial statements for
11379 the most recent fiscal year of the corporation ~~Unless modified~~
11380 ~~by resolution of the shareholders within 120 days of the close~~
11381 ~~of each fiscal year, a corporation shall furnish its~~
11382 ~~shareholders annual financial statements which may be~~
11383 ~~consolidated or combined statements of the corporation and one~~
11384 ~~or more of its subsidiaries, as appropriate, that include a~~
11385 ~~balance sheet as of the end of the fiscal year, an income~~
11386 ~~statement for that year, and a statement of cash flows for that~~
11387 ~~year. If annual financial statements have been are prepared for~~
11388 ~~the corporation on the basis of generally accepted accounting~~
11389 ~~principles for such specified period, the corporation shall~~
11390 ~~deliver or make available such financial statements to the~~
11391 ~~requesting shareholder, the annual financial statements must~~
11392 ~~also be prepared on that basis.~~

11393 (2) ~~If the annual financial statements to be delivered or~~
11394 ~~made available to the requesting shareholder are audited or~~
11395 ~~otherwise are reported upon by a public accountant, the report~~
11396 ~~of the public accountant shall also be delivered or made~~
11397 ~~available to the requesting shareholder his or her report must~~

590-03467A-19

2019892c2

11398 accompany them. If not, the statements must be accompanied by a
11399 statement of the president or the person responsible for the
11400 corporation's accounting records:

11401 ~~(a) Stating his or her reasonable belief whether the~~
11402 ~~statements were prepared on the basis of generally accepted~~
11403 ~~accounting principles and, if not, describing the basis of~~
11404 ~~preparation; and~~

11405 ~~(b) Describing any respects in which the statements were~~
11406 ~~not prepared on a basis of accounting consistent with the~~
11407 ~~statements prepared for the preceding year.~~

11408 ~~(2)-(3) A~~ Any corporation required by subsection (1) to
11409 deliver or make available ~~furnish~~ annual financial statements to
11410 a requesting shareholder shall deliver or make available such
11411 annual financial statements to such shareholder within 5
11412 business days after the request if the annual financial
11413 statements have already been prepared and are available, or, if
11414 the annual financial statements have not been prepared, must
11415 notify the shareholder within 5 business days that the annual
11416 financial statements have not yet been prepared, and must
11417 deliver or make available such annual financial statements to
11418 the ~~its shareholders shall furnish such annual financial~~
11419 ~~statements to each shareholder within 120 days after the request~~
11420 ~~close of each fiscal year~~ or within such additional time
11421 thereafter as is reasonably necessary to enable the corporation
11422 to prepare its annual financial statements if, for reasons
11423 beyond the corporation's control, it is unable to prepare its
11424 annual financial statements within the prescribed period.
11425 ~~Thereafter, on written request from a shareholder who was not~~
11426 ~~furnished the statements, the corporation shall furnish him or~~

590-03467A-19

2019892c2

11427 ~~her the latest annual financial statements.~~

11428 (3) If requested by the requesting shareholder in its
11429 written request under subsection (1), the corporation shall
11430 promptly notify all other shareholders that the annual financial
11431 statements that have or are to be delivered or made available to
11432 the requesting shareholder have been or are being made available
11433 to the requesting shareholder and will also be delivered or made
11434 available to any other shareholder who makes its own written
11435 request to the corporation under subsection (1).

11436 (4) A corporation may fulfill its responsibilities under
11437 this section by delivering the specified annual financial
11438 statements, by posting the specified annual financial statements
11439 on its website, by any other generally recognized means, or in
11440 any other manner permitted by the applicable rules and
11441 regulations of the United States Securities and Exchange
11442 Commission.

11443 (5) Notwithstanding subsections (1), (2), and (3):

11444 (a) As a condition to delivering or making available annual
11445 financial statements to any requesting shareholder, the
11446 corporation may require the requesting shareholder to agree to
11447 reasonable restrictions on the confidentiality, use, and
11448 distribution of such annual financial statements; and

11449 (b) The corporation may, if it reasonably determines that
11450 the shareholder's request is not made in good faith or for a
11451 proper purpose, decline to deliver or make available such annual
11452 financial statements to that shareholder.

11453 (6) If a corporation does not respond to a shareholder's
11454 request for annual financial statements pursuant to this section
11455 in accordance with subsection (3) within the applicable period

590-03467A-19

2019892c2

11456 specified in subsection (2):

11457 (a) The requesting shareholder may apply to the circuit
11458 court in the applicable county for an order requiring delivery
11459 of or access to the requested annual financial statements. The
11460 court shall dispose of an application under this subsection on
11461 an expedited basis.

11462 (b) If the court orders delivery or access to the requested
11463 annual financial statements, it may impose reasonable
11464 restrictions on their confidentiality, use, or distribution.

11465 (c) In such proceeding, if the corporation has declined to
11466 deliver or make available such annual financial statements
11467 because the shareholder had been unwilling to agree to
11468 restrictions proposed by the corporation on the confidentiality,
11469 use, and distribution of such financials statements, the
11470 corporation shall have the burden of demonstrating that the
11471 restrictions proposed by the corporation were reasonable.

11472 (d) In such proceeding, if the corporation has declined to
11473 deliver or make available such annual financial statements
11474 pursuant to s. 607.1620(5)(b), the corporation shall have the
11475 burden of demonstrating that it had reasonably determined that
11476 the shareholder's request was not made in good faith or for a
11477 proper purpose.

11478 (7) If the court orders delivery or access to the requested
11479 annual financial statements it shall order the corporation to
11480 pay the shareholder's expenses, including reasonable attorney
11481 fees, incurred to obtain such order unless the corporation
11482 establishes that it had refused delivery or access to the
11483 requested annual financial statements because the shareholder
11484 had refused to agree to reasonable restrictions on the

590-03467A-19

2019892c2

11485 confidentiality, use, or distribution of the annual financial
11486 statements or that the corporation had reasonably determined
11487 that the shareholder's request was not made in good faith or for
11488 a proper purpose

11489 ~~(4) If a corporation does not comply with the shareholder's~~
11490 ~~request for annual financial statements pursuant to this section~~
11491 ~~within 30 days of delivery of such request to the corporation,~~
11492 ~~the circuit court in the county where the corporation's~~
11493 ~~principal office (or, if none in this state, its registered~~
11494 ~~office) is located may, upon application of the shareholder,~~
11495 ~~summarily order the corporation to furnish such financial~~
11496 ~~statements. If the court orders the corporation to furnish the~~
11497 ~~shareholder with the financial statements demanded, it shall~~
11498 ~~also order the corporation to pay the shareholder's costs,~~
11499 ~~including reasonable attorney's fees, reasonably incurred to~~
11500 ~~obtain the order and otherwise enforce its rights under this~~
11501 ~~section.~~

11502 ~~(5) The requirement to furnish annual financial statements~~
11503 ~~as described in this section shall be satisfied by sending such~~
11504 ~~annual financial statements by mail or electronic transmission.~~
11505 ~~If a corporation has an outstanding class of securities~~
11506 ~~registered under s. 12 of the Securities Exchange Act of 1934,~~
11507 ~~as amended, the requirement to furnish annual financial~~
11508 ~~statements may be satisfied by complying with 17 C.F.R. s.~~
11509 ~~240.14a-16, as amended, with respect to the obligation of a~~
11510 ~~corporation to furnish an annual financial report to~~
11511 ~~shareholders pursuant to 17 C.F.R. s. 240.14a-3(b), as amended.~~

11512 Section 223. Section 607.1621, Florida Statutes, is
11513 repealed.

590-03467A-19

2019892c2

11514 Section 224. Section 607.1622, Florida Statutes, is amended
11515 to read:

11516 607.1622 Annual report for department ~~of State.~~

11517 (1) Each domestic corporation and each foreign corporation
11518 authorized to transact business in this state shall deliver to
11519 the department for filing an annual report that states the
11520 following ~~of State for filing a sworn annual report on such~~
11521 ~~forms as the Department of State prescribes that sets forth:~~

11522 (a) The name of the corporation or, if a foreign
11523 corporation, the name under which the foreign corporation is
11524 authorized to transact business in this state ~~and the state or~~
11525 ~~country under the law of which it is incorporated;~~

11526 (b) The date of its incorporation and ~~or~~, if a foreign
11527 corporation, the jurisdiction of its incorporation and the date
11528 on which it became qualified to transact ~~date on which it was~~
11529 ~~admitted to do~~ business in this state;

11530 (c) The street address of its principal office and the
11531 mailing address of the corporation;

11532 (d) The corporation's federal employer identification
11533 number, if any, or, if none, whether one has been applied for;

11534 (e) The names and business street addresses of its
11535 directors and principal officers; and

11536 ~~(f) The street address of its registered office and the~~
11537 ~~name of its registered agent at that office in this state;~~

11538 ~~(g) Language permitting a voluntary contribution of \$5 per~~
11539 ~~taxpayer, which contribution shall be transferred into the~~
11540 ~~Election Campaign Financing Trust Fund. A statement providing an~~
11541 ~~explanation of the purpose of the trust fund shall also be~~
11542 ~~included; and~~

590-03467A-19

2019892c2

11543 ~~(f)(h)~~ Any additional information that the department has
11544 identified as ~~Such additional information as may be necessary or~~
11545 ~~appropriate to enable the department of State to carry out the~~
11546 ~~provisions of this chapter act.~~

11547 (2) If an annual report contains the name and address of a
11548 registered agent which differs from the information shown in the
11549 records of the department immediately before the annual report
11550 becomes effective, the differing information in the annual
11551 report is considered a statement of change under s. 607.0502
11552 ~~Proof to the satisfaction of the Department of State that on or~~
11553 ~~before May 1 such report was deposited in the United States mail~~
11554 ~~in a sealed envelope, properly addressed with postage prepaid,~~
11555 ~~shall be deemed compliance with this requirement.~~

11556 (3) If an annual report does not contain the information
11557 required in ~~by~~ this section, the department ~~of State~~ shall
11558 promptly notify the reporting domestic corporation or foreign
11559 corporation ~~in writing and return the report to it for~~
11560 ~~correction~~. If the report is corrected to contain the
11561 information required in subsection (1) ~~by this section~~ and
11562 delivered to the department ~~of State~~ within 30 days after the
11563 effective date of the notice, it will be considered timely
11564 delivered ~~is deemed to be timely filed~~.

11565 ~~(4)~~ Each report shall be executed by the corporation by an
11566 officer or director or, if the corporation is in the hands of a
11567 receiver or trustee, shall be executed on behalf of the
11568 corporation by such receiver or trustee, and the signing thereof
11569 shall have the same legal effect as if made under oath, without
11570 the necessity of appending such oath thereto.

11571 ~~(4)(5)~~ The first annual report must be delivered to the

590-03467A-19

2019892c2

11572 department ~~of State~~ between January 1 and May 1 of the year
11573 following the calendar year in which a domestic corporation's
11574 articles of incorporation became effective ~~corporation was~~
11575 ~~incorporated~~ or a foreign corporation obtained its certificate
11576 of authority ~~was authorized~~ to transact business in this state.
11577 Subsequent annual reports must be delivered to the department ~~of~~
11578 ~~State~~ between January 1 and May 1 of each calendar year
11579 thereafter. If one or more forms of annual report are submitted
11580 for a calendar year, the department shall file each of them and
11581 make the information contained in them part of the official
11582 record. The first form of annual report filed in a calendar year
11583 shall be considered the annual report for the calendar year, and
11584 each report filed after that one in the same calendar year shall
11585 be treated as an amended report for that calendar year ~~the~~
11586 ~~subsequent calendar years~~.

11587 (5) ~~(6)~~ Information in the annual report must be current as
11588 of the date the annual report is delivered to the department for
11589 filing ~~executed on behalf of the corporation~~.

11590 ~~(7) If an additional updated report is received, the~~
11591 ~~department shall file the document and make the information~~
11592 ~~contained therein part of the official record~~.

11593 (6) ~~(8)~~ A domestic corporation or foreign corporation that
11594 fails ~~Any corporation failing~~ to file an annual report that
11595 ~~which~~ complies with the requirements of this section may not
11596 prosecute or maintain ~~shall not be permitted to maintain or~~
11597 ~~defend~~ any action in any court of this state until the ~~such~~
11598 report is filed and all fees and penalties ~~taxes~~ due under this
11599 chapter ~~act~~ are paid, and shall be subject to dissolution or
11600 cancellation of its certificate of authority to transact ~~de~~

590-03467A-19

2019892c2

11601 business as provided in this chapter ~~act~~.

11602 ~~(7)~~⁽⁹⁾ The department shall prescribe the forms, which may
11603 be in an electronic format, on which to make the annual report
11604 called for in this section and may substitute the uniform
11605 business report, pursuant to s. 606.06, as a means of satisfying
11606 the requirement of this chapter ~~part~~.

11607 (8) As a condition of a merger under s. 607.1101, each
11608 party to a merger which exists under the laws of this state, and
11609 each party to the merger which exists under the laws of another
11610 jurisdiction and has a certificate of authority to transact
11611 business or conduct its affairs in this state, must be active
11612 and current in filing its annual reports in the records of the
11613 department through December 31 of the calendar year in which the
11614 articles of merger are submitted to the department for filing.

11615 (9) As a condition of a conversion of an entity to a
11616 corporation under s. 607.11930, the entity, if it exists under
11617 the laws of this state or if it exists under the laws of another
11618 jurisdiction and has a certificate of authority to transact
11619 business or conduct its affairs in this state, must be active
11620 and current in filing its annual reports in the records of the
11621 department through December 31 of the calendar year in which the
11622 articles of conversion are submitted to the department for
11623 filing.

11624 (10) As a condition of a conversion of a domestic
11625 corporation to another type of entity under s. 607.11930, the
11626 domestic corporation converting to the other type of entity must
11627 be active and current in filing its annual reports in the
11628 records of the department through December 31 of the calendar
11629 year in which the articles of conversion are submitted to the

590-03467A-19

2019892c2

11630 department for filing.

11631 (11) As a condition of a share exchange between a
11632 corporation and another entity under s. 607.1102, the
11633 corporation, and each other entity that is a party to the share
11634 exchange which exists under the laws of this state, and each
11635 party to the share exchange which exists under the laws of
11636 another jurisdiction and has a certificate of authority to
11637 transact business or conduct its affairs in this state, must be
11638 active and current in filing its annual reports in the records
11639 of the department through December 31 of the calendar year in
11640 which the articles of share exchange are submitted to the
11641 department for filing.

11642 (12) As a condition of domestication of a domestic
11643 corporation into a foreign jurisdiction under s. 607.11920, the
11644 domestic corporation domesticating into a foreign jurisdiction
11645 must be active and current in filing its annual reports in the
11646 records of the department through December 31 of the calendar
11647 year in which the articles of domestication are submitted to the
11648 department for filing.

11649 Section 225. Section 607.1701, Florida Statutes, is amended
11650 to read:

11651 607.1701 Application to existing domestic corporation.—This
11652 chapter ~~act~~ applies to all domestic corporations in existence on
11653 January 1, 2020 ~~July 1, 1990~~, that were incorporated under any
11654 general statute of this state providing for incorporation of
11655 corporations for profit if power to amend or repeal the statute
11656 under which the corporation was incorporated was reserved.

11657 Section 226. Section 607.1702, Florida Statutes, is amended
11658 to read:

590-03467A-19

2019892c2

11659 607.1702 Application to qualified foreign corporations.—A
11660 foreign corporation authorized to transact business in this
11661 state on January 1, 2020 ~~July 1, 1990~~, is subject to this
11662 chapter, is deemed to be authorized to transact business in this
11663 state, and ~~act but~~ is not required to obtain a new certificate
11664 of authority to transact business under this chapter ~~act~~.

11665 Section 227. Section 607.1711, Florida Statutes, is amended
11666 to read:

11667 607.1711 Application to foreign and interstate commerce.—
11668 The provisions of this chapter ~~act~~ apply to commerce with
11669 foreign nations and among the several states only insofar as the
11670 same may be permitted under the Constitution and laws of the
11671 United States.

11672 Section 228. Section 607.1801, Florida Statutes, is
11673 repealed.

11674 Section 229. Section 607.1907, Florida Statutes, is amended
11675 to read:

11676 607.1907 Saving provision ~~Effect of repeal of prior acts.~~—

11677 (1) Except as to procedural provisions, this act does not
11678 affect a pending action or proceeding or a right accrued before
11679 January 1, 2020, and a pending civil action or proceeding may be
11680 completed, and a right accrued may be enforced, as if this act
11681 had not become effective ~~provided in subsection (2), the repeal~~
11682 ~~of a statute by this act does not affect:~~

11683 ~~(a) The operation of the statute or any action taken under~~
11684 ~~it before its repeal, including, without limiting the generality~~
11685 ~~of the foregoing, the continuing validity of any provision of~~
11686 ~~the articles of incorporation or bylaws of a corporation~~
11687 ~~authorized by the statute at the time of its adoption;~~

590-03467A-19

2019892c2

11688 ~~(b) Any ratification, right, remedy, privilege, obligation,~~
11689 ~~or liability acquired, accrued, or incurred under the statute~~
11690 ~~before its repeal;~~

11691 ~~(c) Any violation of the statute, or any penalty,~~
11692 ~~forfeiture, or punishment incurred because of the violation,~~
11693 ~~before its repeal;~~

11694 ~~(d) Any proceeding, merger, consolidation, sale of assets,~~
11695 ~~reorganization, or dissolution commenced under the statute~~
11696 ~~before its repeal, and the proceeding, merger, consolidation,~~
11697 ~~sale of assets, reorganization, or dissolution may be completed~~
11698 ~~in accordance with the statute as if it had not been repealed.~~

11699 (2) If a penalty or punishment ~~imposed~~ for violation of a
11700 statute or rule repealed by this act is reduced by this act, the
11701 penalty or punishment, if not already imposed, shall be imposed
11702 in accordance with this act.

11703 Section 230. Section 607.1908, Florida Statutes, is created
11704 to read:

11705 607.1908 Severability clause.—If any provision of this
11706 chapter or its application to any person or circumstance is held
11707 invalid, the invalidity does not affect other provisions or
11708 applications of this chapter which can be given effect without
11709 the invalid provision or application, and to this end the
11710 provisions of this chapter are severable.

11711 Section 231. Subsections (2) and (3) of section 607.504,
11712 Florida Statutes, are amended to read:

11713 607.504 Election of social purpose corporation status.—

11714 (2) A plan of merger, domestication, conversion, or share
11715 exchange must be adopted by the minimum status vote if an entity
11716 that is not a social purpose corporation is a party to the

590-03467A-19

2019892c2

11717 merger, domestication, or conversion or if the exchanging entity
11718 in a share exchange and the surviving, new, or resulting entity
11719 is, or will be, a social purpose corporation.

11720 (3) If an entity elects to become a social purpose
11721 corporation by amendment of the articles of incorporation or by
11722 a merger, conversion, or share exchange, the shareholders of the
11723 entity are entitled to appraisal rights under and pursuant to
11724 ss. 607.1301-607.1340 ~~ss. 607.1301-607.1333~~.

11725 Section 232. Subsections (2) and (3) of section 607.604,
11726 Florida Statutes, are amended to read:

11727 607.604 Election of benefit corporation status.—

11728 (2) A plan of merger, domestication, conversion, or share
11729 exchange must be adopted by the minimum status vote if an entity
11730 that is not a benefit corporation is a party to a merger,
11731 domestication, or conversion or if the exchanging entity in a
11732 share exchange and the surviving, new, or resulting entity is,
11733 or will be, a benefit corporation.

11734 (3) If an entity elects to become a benefit corporation by
11735 amendment of the articles of incorporation or by a merger,
11736 domestication, conversion, or share exchange, the shareholders
11737 of the entity are entitled to appraisal rights under and
11738 pursuant to ss. 607.1301-607.1340 ~~ss. 607.1301-607.1333~~.

11739 Section 233. Paragraph (b) of subsection (23) and
11740 subsections (55) and (58) of section 605.0102, Florida Statutes,
11741 are amended to read:

11742 605.0102 Definitions.—As used in this chapter, the term:

11743 (23)

11744 (b) "Entity" does not include:

11745 1. An individual;

590-03467A-19

2019892c2

11746 2. A trust with a predominantly donative purpose or a
11747 charitable trust;

11748 3. An association or relationship that is not a partnership
11749 solely by reason of s. 620.8202(2) ~~s. 620.8202(3)~~ or a similar
11750 provision of the law of another jurisdiction;

11751 4. A decedent's estate; or

11752 5. A government or a governmental subdivision, agency, or
11753 instrumentality.

11754 (55) "Private organic rules" means the rules, whether or
11755 not in a record, which govern the internal affairs of an entity,
11756 are binding on all its interest holders, and are not part of its
11757 public organic record, if any. Where private organic rules have
11758 been amended or restated, the term means the private organic
11759 rules as last amended or restated. The term includes:

11760 (a) The bylaws of a business corporation.

11761 (b) The bylaws of a nonprofit corporation.

11762 (c) The partnership agreement of a general partnership.

11763 (d) The partnership agreement of a limited partnership.

11764 (e) The operating agreement, limited liability company
11765 agreement, or similar agreement of a limited liability company.

11766 (f) The bylaws, trust instrument, or similar rules of a
11767 real estate investment trust.

11768 (g) The trust instrument of a statutory trust or similar
11769 rules of a business trust or common law business trust.

11770 (58) "Public organic record" means a record, the filing of
11771 which by a governmental body is required to form an entity, and
11772 an amendment to or restatement of that record. Where a public
11773 organic record has been amended or restated, the term means the
11774 public organic record as last amended or restated. The term

590-03467A-19

2019892c2

11775 includes the following:

11776 (a) The articles of incorporation of a business
11777 corporation.

11778 (b) The articles of incorporation of a nonprofit
11779 corporation.

11780 (c) The certificate of limited partnership of a limited
11781 partnership.

11782 (d) The articles of organization of a limited liability
11783 company.

11784 (e) The articles of incorporation of a general cooperative
11785 association or a limited cooperative association.

11786 (f) The certificate of trust of a statutory trust or
11787 similar record of a business trust.

11788 (g) The articles of incorporation of a real estate
11789 investment trust.

11790 Section 234. Paragraph (i) of subsection (3) of section
11791 605.0105, Florida Statutes, is amended to read:

11792 605.0105 Operating agreement; scope, function, and
11793 limitations.—

11794 (3) An operating agreement may not do any of the following:

11795 (i) Vary the grounds for dissolution specified in s.
11796 605.0702. Neither a deadlock resolution mechanism nor an
11797 oppressive action sale varies the grounds for dissolution for
11798 the purposes of this paragraph.

11799 Section 235. Paragraphs (a) and (b) of subsection (1) of
11800 section 605.0112, Florida Statutes, are amended, and subsection

11801 (6) is added to that section, to read:

11802 605.0112 Name.—

11803 (1) The name of a limited liability company:

590-03467A-19

2019892c2

11804 (a) Must contain the words "limited liability company" or
11805 the abbreviation "L.L.C." or "LLC-" as will clearly indicate
11806 that it is a limited liability company instead of a natural
11807 person, partnership, corporation, or other business entity.

11808 (b) Must be distinguishable in the records of the ~~Division~~
11809 ~~of Corporations of the~~ department from the names of all other
11810 entities or filings that are on file with the department
11811 ~~division~~, except fictitious name registrations pursuant to s.
11812 865.09, general partnership registrations pursuant to s.
11813 620.8105, and limited liability partnership statements pursuant
11814 to s. 620.9001 which are organized, registered, or reserved
11815 under the laws of this state; however, a limited liability
11816 company may register under a name that is not otherwise
11817 distinguishable on the records of the department ~~division~~ with
11818 the written consent of the other ~~owner~~ entity if the consent is
11819 filed with the department ~~division~~ at the time of registration
11820 of such name and if such name is not identical to the name of
11821 the other entity. A name that is different from the name of
11822 another entity or filing due to any of the following is not
11823 considered distinguishable:

- 11824 1. A suffix.
- 11825 2. A definite or indefinite article.
- 11826 3. The word "and" and the symbol "&."
- 11827 4. The singular, plural, or possessive form of a word.
- 11828 5. ~~A recognized abbreviation of a root word.~~
- 11829 ~~6.~~ A punctuation mark or a symbol.

11830 (6) A limited liability company in existence before January
11831 1, 2020, that has a name that does not clearly indicate that it
11832 is a limited liability company instead of a natural person,

590-03467A-19

2019892c2

11833 partnership, corporation, or other business entity may continue
11834 using such name until the limited liability company dissolves or
11835 amends its name in the records of the department.

11836 Section 236. Section 605.01125, Florida Statutes, is
11837 created to read:

11838 605.01125 Reserved name.—

11839 (1) A person may reserve the exclusive use of the name of a
11840 limited liability company, including an alternate name for a
11841 foreign limited liability company whose name is not available,
11842 by delivering an application to the department for filing. The
11843 application must set forth the name and address of the applicant
11844 and the name proposed to be reserved. If the department finds
11845 that the name of the limited liability company applied for is
11846 available, it must reserve the name for the applicant's
11847 exclusive use for a nonrenewable 120-day period.

11848 (2) The owner of a reserved name of a limited liability
11849 company may transfer the reservation to another person by
11850 delivering to the department a signed notice of the transfer
11851 that states the name and address of the transferee.

11852 (3) The department may revoke any reservation if, after a
11853 hearing, it finds that the application therefor or any transfer
11854 thereof was not made in good faith.

11855 Section 237. Subsections (1) and (5) of section 605.0113,
11856 Florida Statutes, are amended, and subsection (6) is added to
11857 that section, to read:

11858 605.0113 Registered agent.—

11859 (1) Each limited liability company and each foreign limited
11860 liability company that has a certificate of authority under s.
11861 605.0902 shall designate and continuously maintain in this

590-03467A-19

2019892c2

11862 state:

11863 (a) A registered office, which may be the same as its place
11864 of business in this state; and

11865 (b) A registered agent, who must be:

11866 1. An individual who resides in this state and whose
11867 business address is identical to the address of the registered
11868 office; ~~or~~

11869 2. Another domestic entity that is an authorized entity and
11870 whose business address is identical to the address of the
11871 registered office; or

11872 3. A foreign entity authorized to transact business in this
11873 state that is an authorized entity and ~~A foreign or domestic~~
11874 ~~entity authorized to transact business in this state~~ whose
11875 business address is identical to the address of the registered
11876 office.

11877 (5) A limited liability company and each foreign limited
11878 liability company that has a certificate of authority under s.
11879 605.0902 may not prosecute or maintain, ~~maintain, or defend~~ an
11880 action in a court in this state until the limited liability
11881 company complies with this section, pays to the department any
11882 amounts required under this chapter, and, to the extent ordered
11883 by a court of competent jurisdiction, and pays to the department
11884 a penalty of \$5 for each day it has failed to comply or \$500,
11885 whichever is less, and pays any other amounts required under
11886 this chapter.

11887 (6) For the purposes of this section, "authorized entity"
11888 means:

11889 (a) A corporation for profit.

11890 (b) A limited liability company.

590-03467A-19

2019892c2

11891 (c) A limited liability partnership.

11892 (d) A limited partnership, including a limited liability
11893 limited partnership.

11894 Section 238. Paragraphs (c), (d), and (e) of subsection (1)
11895 of section 605.0114, Florida Statutes, are amended to read:

11896 605.0114 Change of registered agent or registered office.—

11897 (1) In order to change its registered agent or registered
11898 office address, a limited liability company or a foreign limited
11899 liability company may deliver to the department for filing a
11900 statement of change containing the following:

11901 (c) If the current registered agent is to be changed, the
11902 name of the new registered agent.

11903 (d) The street address of its current registered office for
11904 its current registered agent.

11905 (e) If the street address of the current registered office
11906 is to be changed, the new street address of the registered
11907 office in this state.

11908 Section 239. Subsection (2) of section 605.0115, Florida
11909 Statutes, is amended to read:

11910 605.0115 Resignation of registered agent.—

11911 (2) After delivering the statement of resignation to ~~with~~
11912 the department for filing, the registered agent must promptly
11913 ~~shall~~ mail a copy to the limited liability company's or foreign
11914 limited liability company's current mailing address.

11915 Section 240. Paragraphs (b) through (e) of subsection (1)
11916 of section 605.0116, Florida Statutes, are amended to read:

11917 605.0116 Change of name or address by registered agent.—

11918 (1) If a registered agent changes his or her name or
11919 address, the agent may deliver to the department for filing a

590-03467A-19

2019892c2

11920 statement of change that provides the following:

11921 (b) The name of the registered agent as currently shown in
11922 the records of the department for the limited liability company
11923 or foreign limited liability company.

11924 (c) If the name of the registered agent has changed, its
11925 new name.

11926 (d) If the address of the registered agent has changed, the
11927 new address.

11928 (e) A statement that the registered agent has given the
11929 notice required under subsection (2).

11930 Section 241. Present subsection (7) of section 605.0117,
11931 Florida Statutes, is redesignated as subsection (8), subsections
11932 (1), (2), (3), (4), and (6) of that section are amended, and a
11933 new subsection (7) is added to that section, to read:

11934 605.0117 Service of process, notice, or demand.—

11935 (1) A limited liability company or registered foreign
11936 limited liability company may be served with process, ~~notice, or~~
11937 ~~a demand~~ required or authorized by law by serving on its
11938 registered agent.

11939 (2) If a limited liability company or registered foreign
11940 limited liability company ceases to have a registered agent or
11941 if its registered agent cannot with reasonable diligence be
11942 served, the process, ~~notice, or demand~~ required or permitted by
11943 law may instead be served:

11944 (a) On a member of a member-managed limited liability
11945 company or registered foreign limited liability company; or

11946 (b) On a manager of a manager-managed limited liability
11947 company or registered foreign limited liability company.

11948 (3) If the process, ~~notice, or demand~~ cannot be served on a

590-03467A-19

2019892c2

11949 limited liability company or registered foreign limited
11950 liability company pursuant to subsection (1) or subsection (2),
11951 the process, ~~notice, or demand~~ may be served on the secretary of
11952 state department as an agent of the company.

11953 (4) Service of process on the secretary of state ~~with~~
11954 ~~process, notice, or a demand on the department~~ may be made by
11955 delivering to and leaving with the department duplicate copies
11956 of the process, ~~notice, or demand~~.

11957 (6) The department shall keep a record of each process,
11958 ~~notice, and demand~~ served pursuant to this section and record
11959 the time of and the action taken regarding the service.

11960 (7) Any notice or demand on a limited liability company or
11961 registered foreign limited liability company under this chapter
11962 may be given or made to any member of a member-managed limited
11963 liability company or registered foreign limited liability
11964 company or to any manager of a manager-managed limited liability
11965 company or registered foreign limited liability company; to the
11966 registered agent of the limited liability company or registered
11967 foreign limited liability company at the registered office of
11968 the limited liability company or registered foreign limited
11969 liability company in this state; or to any other address in this
11970 state that is in fact the principal office of the limited
11971 liability company or registered foreign limited liability
11972 company in this state.

11973 Section 242. Subsection (3) of section 605.0118, Florida
11974 Statutes, is amended to read:

11975 605.0118 Delivery of record.—

11976 (3) If a check is mailed to the department for payment of
11977 an annual report fee or the annual supplemental fee required

590-03467A-19

2019892c2

11978 under s. 607.193, the check shall be deemed to have been
11979 received by the department as of the postmark date appearing on
11980 the envelope or package transmitting the check if the envelope
11981 or package is received by the department.

11982 Section 243. Section 605.0207, Florida Statutes, is amended
11983 to read:

11984 605.0207 Effective date and time.—Except as otherwise
11985 provided in s. 605.0208, and subject to s. 605.0209(3), any
11986 document delivered to the department for filing under this
11987 chapter may specify an effective time and a delayed effective
11988 date. In the case of initial articles of organization, a prior
11989 effective date may be specified in the articles of organization
11990 if such date is within 5 business days before the date of
11991 filing. Subject to ss. 605.0114, 605.0115, 605.0208, and
11992 605.0209, a record filed by the department is effective:

11993 (1) If the record filed does not specify an effective time
11994 and does not specify a prior or a delayed effective date, on the
11995 date and at the time the record is accepted filed as evidenced
11996 by the department's endorsement of the date and time on the
11997 filing record.

11998 (2) If the record filed specifies an effective time, but
11999 not a prior or delayed effective date, on the date the record is
12000 filed at the time specified in the filing record.

12001 (3) If the record filed specifies a delayed effective date,
12002 but not an effective time, at 12:01 a.m. on the earlier of:

12003 (a) The specified date; or

12004 (b) The 90th day after the record is filed.

12005 (4) If the record filed specifies a delayed effective date
12006 and an effective time, at the specified time on or the earlier

590-03467A-19

2019892c2

- 12007 of:
- 12008 (a) The specified date; or
- 12009 (b) The 90th day after the record is filed.
- 12010 ~~(5)-(4)~~ If the record filed is the initial articles of
- 12011 organization and specifies an effective a date before the
- 12012 ~~effective~~ date of the filing, but no effective time, at 12:01
- 12013 a.m. on the later of:
- 12014 (a) The specified date; or
- 12015 (b) The 5th business day before the record is filed.
- 12016 ~~(6)-(5)~~ If the record filed is the initial articles of
- 12017 organization and specifies an effective time and an effective a
- 12018 ~~delayed effective date, at the specified time on the earlier of:~~
- 12019 ~~(a) The specified date; or~~
- 12020 ~~(b) The 90th day after the record is filed.~~
- 12021 ~~(6) If the record specifies an effective time and a prior~~
- 12022 ~~effective~~ date before the date of the filing, at the specified
- 12023 time on the later of:
- 12024 (a) The specified date; or
- 12025 (b) The 5th business day before the record is filed.
- 12026 (7) If a filed document does not specify the time zone or
- 12027 place at which the date or time, or both, is to be determined,
- 12028 the date or time, or both, at which it becomes effective shall
- 12029 be those prevailing at the place of filing in this state.
- 12030 Section 244. Subsection (3) of section 605.0209, Florida
- 12031 Statutes, is amended to read:
- 12032 605.0209 Correcting filed record.—
- 12033 (3) A statement of correction:
- 12034 (a) May not state a delayed effective date;
- 12035 (b) Must be signed by the person correcting the filed

590-03467A-19

2019892c2

12036 record;

12037 (c) Must identify the filed record to be corrected,
12038 including such record's filing date, or attach a copy of the
12039 record to the statement of correction;

12040 (d) Must specify the inaccuracy or defect to be corrected;
12041 and

12042 (e) Must correct the inaccuracy or defect.

12043 Section 245. Subsection (7) of section 605.0210, Florida
12044 Statutes, is amended to read:

12045 605.0210 Duty of department to file; review of refusal to
12046 file; transmission of information by department.—

12047 (7) If the department refuses to file a record delivered to
12048 its office for filing, the person who submitted the record for
12049 filing may petition the Circuit Court of Leon County to compel
12050 filing of the record. The record and the explanation from ~~of~~ the
12051 department of the refusal to file must be attached to the
12052 petition. The court may decide the matter in a summary
12053 proceeding and the court may summarily order the department to
12054 file the record or take other action the court considers
12055 appropriate. The court's final decision may be appealed as in
12056 other civil proceedings.

12057 Section 246. Paragraph (a) of subsection (2) and subsection
12058 (3) of section 605.0211, Florida Statutes, are amended to read:

12059 605.0211 Certificate of status.—

12060 (2) The department, upon request and payment of the
12061 requisite fee, shall furnish a certificate of status for a
12062 foreign limited liability company if the records filed show that
12063 the department has filed a certificate of authority. A
12064 certificate of status for a foreign limited liability company

590-03467A-19

2019892c2

12065 must state the following:

12066 (a) The foreign limited liability company's name and any a
12067 current alternate name adopted under s. 605.0906(1) for use in
12068 this state.

12069 (3) Subject to any qualification stated in the certificate
12070 of status, a certificate of status issued by the department is
12071 conclusive evidence that the domestic limited liability company
12072 is in existence and is of active status in this state or the
12073 foreign limited liability company is authorized to transact
12074 business in this state and is of active status in this state.

12075 Section 247. Section 605.0215, Florida Statutes, is amended
12076 to read:

12077 605.0215 Certificates to be received in evidence and
12078 evidentiary effect of copy of filed document.—All certificates
12079 issued by the department in accordance with this chapter shall
12080 be taken and received in all courts, public offices, and
12081 official bodies as prima facie evidence of the facts stated. A
12082 certificate from the department delivered with a copy of a
12083 document filed by the department bearing the signature of the
12084 secretary of state, which may be in facsimile, and the seal of
12085 this state is conclusive evidence that the original document is
12086 on file with the department.

12087 Section 248. Subsections (1) through (4) of section
12088 605.04092, Florida Statutes, are amended to read:

12089 605.04092 Conflict of interest transactions.—

12090 (1) As used in this section, the following terms and
12091 definitions apply:

12092 (a) A member or manager is "indirectly" a party to a
12093 transaction if that member or manager has a material financial

590-03467A-19

2019892c2

12094 interest in or is a director, officer, member, manager, or
12095 partner of a person, other than the limited liability company,
12096 who is a party to the transaction.

12097 (b) A member or manager has an "indirect material financial
12098 interest" if a ~~spouse or other~~ family member has a material
12099 financial interest in the transaction, other than having an
12100 indirect interest as a member or manager of the limited
12101 liability company, or if the transaction is with an entity,
12102 other than the limited liability company, which has a material
12103 financial interest in the transaction and controls, or is
12104 controlled by, the member or manager or another person specified
12105 in this subsection.

12106 (c) "Fair to the limited liability company" means that the
12107 transaction, as a whole, is beneficial to the limited liability
12108 company and its members, taking into appropriate account whether
12109 it is:

12110 1. Fair in terms of the member's or manager's dealings with
12111 the limited liability company in connection with that
12112 transaction; and

12113 2. Comparable to what might have been obtainable in an
12114 arm's length transaction.

12115 (d) "Family member" includes any of the following:

12116 1. The member's or manager's spouse.

12117 2. A child, stepchild, parent, stepparent, grandparent,
12118 sibling, step sibling, or half sibling of the member or manager
12119 or the member's or manager's spouse.

12120 (e) "Manager's conflict of interest transaction" means a
12121 transaction between a limited liability company and one or more
12122 of its managers, or another entity in which one or more of the

590-03467A-19

2019892c2

12123 limited liability company's managers is directly or indirectly a
12124 party to the transaction, other than being an indirect party as
12125 a result of being a member of the limited liability company, and
12126 has a direct or indirect material financial interest or other
12127 material interest.

12128 (f) "Material financial interest" or "other material
12129 interest" means a financial or other interest in the transaction
12130 that would reasonably be expected to impair the objectivity of
12131 the judgment of the member or manager when participating in the
12132 action on the authorization of the transaction.

12133 (g) "Member's conflict of interest transaction" means a
12134 transaction between a limited liability company and one or more
12135 of its members, or another entity in which one or more of the
12136 limited liability company's members is directly or indirectly a
12137 party to the transaction, other than being an indirect party as
12138 a result of being a member of the limited liability company, and
12139 has a direct or indirect material financial interest or other
12140 material interest.

12141 (2) If the requirements of this section have been
12142 satisfied, a member's conflict of interest transaction or a
12143 manager's conflict of interest transaction between a limited
12144 liability company and one or more of its members or managers, or
12145 another entity in which one or more of the limited liability
12146 company's members or managers have a financial or other
12147 interest, is not void or voidable because of that relationship
12148 or interest; because the members or managers are present at the
12149 meeting of the members or managers at which the transaction was
12150 authorized, approved, effectuated, or ratified; or because the
12151 votes of the members or managers are counted for such purpose.

590-03467A-19

2019892c2

12152 (3) If a member's conflict of interest transaction or a
12153 manager's conflict of interest transaction is fair to the
12154 limited liability company at the time it is authorized,
12155 approved, effectuated, or ratified, the fact that a member or
12156 manager of the limited liability company is directly or
12157 indirectly a party to the transaction, other than being an
12158 indirect party as a result of being a member or manager of the
12159 limited liability company, or has a direct or indirect material
12160 financial interest or other interest in the transaction, other
12161 than having an indirect interest as a result of being a member
12162 or manager of the limited liability company, is not grounds for
12163 equitable relief and does not give rise to an award of damages
12164 or other sanctions.

12165 (4) (a) In a proceeding challenging the validity of a
12166 member's conflict of interest transaction or a manager's
12167 conflict of interest transaction or in a proceeding seeking
12168 equitable relief, award of damages, or other sanctions with
12169 respect to a member's conflict of interest transaction or a
12170 manager's conflict of interest transaction, ~~described in~~
12171 ~~subsection (3),~~ the person challenging the validity or seeking
12172 equitable relief, award of damages, or other sanctions has the
12173 burden of proving the lack of fairness of the transaction if:

12174 1. In a manager-managed limited liability company, the
12175 material facts of the transaction and the member's or manager's
12176 interest in the transaction were disclosed or known to the
12177 managers or a committee of managers who voted upon the
12178 transaction and the transaction was authorized, approved, or
12179 ratified by a majority of the disinterested managers even if the
12180 disinterested managers constitute less than a quorum; however,

590-03467A-19

2019892c2

12181 the transaction cannot be authorized, approved, or ratified
12182 under this subsection solely by a single manager; and

12183 2. In a member-managed limited liability company, or a
12184 manager-managed limited liability company in which the managers
12185 have failed to or cannot act under subparagraph 1., the material
12186 facts of the transaction and the member's or manager's interest
12187 in the transaction were disclosed or known to the members who
12188 voted upon such transaction and the transaction was authorized,
12189 approved, or ratified by a majority-in-interest of the
12190 disinterested members even if the disinterested members
12191 constitute less than a quorum; however, the transaction cannot
12192 be authorized, approved, or ratified under this subsection
12193 solely by a single member; or

12194 (b) If neither of the conditions provided in paragraph (a)
12195 has been satisfied, the person defending or asserting the
12196 validity of a member's conflict of interest transaction or a
12197 manager's conflict of interest transaction ~~described in~~
12198 ~~subsection (3)~~ has the burden of proving its fairness in a
12199 proceeding challenging the validity of the transaction.

12200 Section 249. Paragraph (c) of subsection (3) of section
12201 605.0410, Florida Statutes, is amended to read:

12202 605.0410 Records to be kept; rights of member, manager, and
12203 person dissociated to information.—

12204 (3) In a manager-managed limited liability company, the
12205 following rules apply:

12206 (c) Within 10 days after receiving a demand pursuant to
12207 subparagraph (b)2. ~~(2)-(b)2.~~, the company shall, in a record,
12208 inform the member who made the demand of:

12209 1. The information that the company will provide in

590-03467A-19

2019892c2

12210 response to the demand and when and where the company will
12211 provide the information; and

12212 2. The company's reasons for declining, if the company
12213 declines to provide any demanded information.

12214 Section 250. Paragraph (b) of subsection (1) and subsection
12215 (2) of section 605.0702, Florida Statutes, are amended, and
12216 subsections (3), (4), and (5) are added to that section, to
12217 read:

12218 605.0702 Grounds for judicial dissolution.—

12219 (1) A circuit court may dissolve a limited liability
12220 company:

12221 (b) In a proceeding by a manager or member to dissolve the
12222 limited liability company if it is established that:

12223 1. The conduct of all or substantially all of the company's
12224 activities and affairs is unlawful;

12225 2. It is not reasonably practicable to carry on the
12226 company's activities and affairs in conformity with the articles
12227 of organization and the operating agreement;

12228 3. The managers or members in control of the company have
12229 acted, are acting, or will ~~are reasonably expected to~~ act in a
12230 manner that is illegal, oppressive, or fraudulent;

12231 4. The limited liability company's assets are being
12232 misappropriated or wasted, causing injury to the limited
12233 liability company, or in a proceeding by a member, causing
12234 injury to one or more of its members; or

12235 5. The managers or the members of the limited liability
12236 company are deadlocked in the management of the limited
12237 liability company's activities and affairs, the members are
12238 unable to break the deadlock, and irreparable injury to the

590-03467A-19

2019892c2

12239 limited liability company is threatened or being suffered.

12240 (2) (a) If the managers or the members of the limited
12241 liability company are deadlocked in the management of the
12242 limited liability company's activities and affairs, the members
12243 are unable to break the deadlock, and irreparable injury to the
12244 limited liability company is threatened or being suffered, if
12245 the operating agreement contains a deadlock sale provision that
12246 has been initiated before the time that the court determines
12247 that the grounds for judicial dissolution exist under
12248 subparagraph (1)(b)5., then such deadlock sale provision applies
12249 to the resolution of such deadlock instead of the court entering
12250 an order of judicial dissolution or an order directing the
12251 purchase of petitioner's interest under s. 605.0706, so long as
12252 the provisions of such deadlock sale provision are thereafter
12253 initiated and effectuated in accordance with the terms of such
12254 deadlock sale provision or otherwise pursuant to an agreement of
12255 the members of the company.

12256 (b) As used in this section, the term "deadlock sale
12257 provision" means a provision in an operating agreement which is
12258 or may be applicable in the event of a deadlock among the
12259 managers or the members of the limited liability company which
12260 the members of the company are unable to break and which
12261 provides for a deadlock breaking mechanism, including, but not
12262 limited to:

- 12263 1. A redemption or a purchase and sale of interests; ~~or~~
12264 2. A governance change, among or between members;
12265 3. The sale of the company or all or substantially all of
12266 the assets of the company; or
12267 4. A similar provision that, if initiated and effectuated,

590-03467A-19

2019892c2

12268 breaks the deadlock by causing the transfer of interests, a
12269 governance change, or the sale of all or substantially all of
12270 the company's assets. ~~A deadlock sale provision in an operating~~
12271 ~~agreement which is not initiated and effectuated before the~~
12272 ~~court enters an order of judicial dissolution under subparagraph~~
12273 ~~(1) (b)5. or an order directing the purchase of petitioner's~~
12274 ~~interest under s. 605.0706 does not adversely affect the rights~~
12275 ~~of members and managers to seek judicial dissolution under~~
12276 ~~subparagraph (1) (b)5. or the rights of the company or one or~~
12277 ~~more members to purchase the petitioner's interest under s.~~
12278 ~~605.0706. The filing of an action for judicial dissolution on~~
12279 ~~the grounds described in subparagraph (1) (b)5. or an election to~~
12280 ~~purchase the petitioner's interest under s. 605.0706 does not~~
12281 ~~adversely affect the right of a member to initiate an available~~
12282 ~~deadlock sale provision under the operating agreement or to~~
12283 ~~enforce a member-initiated or an automatically-initiated~~
12284 ~~deadlock sale provision if the deadlock sale provision is~~
12285 ~~initiated and effectuated before the court enters an order of~~
12286 ~~judicial dissolution under subparagraph (1) (b)5. or an order~~
12287 ~~directing the purchase of petitioner's interest under s.~~
12288 ~~605.0706.~~

12289 (3) A proceeding by a member under subparagraph (1) (b) 3.
12290 asserting that the members or managers in control of the limited
12291 liability company have acted, are acting, or will act in a
12292 manner that is oppressive may only be brought by a member who,
12293 at the time that such proceeding is commenced, owns at least 10
12294 percent of the outstanding membership interests of the limited
12295 liability company.

12296 (4) (a) In the event of oppressive action that satisfies

590-03467A-19

2019892c2

12297 subparagraph (1)(b)3., if the members are subject to an
12298 operating agreement that contains an oppressive action sale
12299 provision, then such oppressive action sale provision shall
12300 address such member asserted oppressive action in lieu of the
12301 court entering an order of judicial dissolution or an order
12302 directing the purchase of petitioner's interest under s.
12303 605.0706, so long as the provisions of such oppressive action
12304 sale provision are initiated and effectuated within the time
12305 periods specified for the company to act under s. 605.0706 and
12306 in accordance with the terms of such oppressive action sale
12307 provision.

12308 (b) For the purposes of this section, the term "oppressive
12309 action sale provision" means a provision in an operating
12310 agreement that is or may be applicable in the event of a
12311 member's assertion of the occurrence or existence of oppressive
12312 action which neither the members nor the managers, as
12313 applicable, of the company are able to address and which
12314 provides for a mechanism for addressing the occurrence or
12315 existence of such member asserted oppressive action including,
12316 but not limited to:

12317 1. A redemption or purchase and sale of interests;
12318 2. The sale of the company or of all or substantially all
12319 of the assets of the company; or
12320 3. A similar provision that, if initiated and effectuated,
12321 causes the transfer of interests to be redeemed or purchased and
12322 sold or the sale of the company or of all or substantially all
12323 of the company's assets.

12324 (5) A deadlock sale provision or an oppressive action sale
12325 provision in an operating agreement which is not initiated and

590-03467A-19

2019892c2

12326 effectuated before the court enters an order of judicial
12327 dissolution under subparagraph (1)(b)3. or subparagraph
12328 (1)(b)5., as the case may be, or an order directing the purchase
12329 of petitioner's interest under s. 605.0706, does not adversely
12330 affect the rights of members and managers to seek judicial
12331 dissolution under subparagraph (1)(b)3. or subparagraph
12332 (1)(b)5., as the case may be, or the rights of the company or
12333 one or more members to purchase the petitioner's interest under
12334 s. 605.0706. The filing of an action for judicial dissolution on
12335 the grounds described in subparagraph (1)(b)3. or subparagraph
12336 (1)(b)5., as the case may be, or an election to purchase the
12337 petitioner's interest under s. 605.0706, does not adversely
12338 affect the right of a member to initiate an available deadlock
12339 sale provision or an oppressive action sale provision under the
12340 operating agreement or to enforce a member-initiated or an
12341 automatically-initiated deadlock sale provision or oppressive
12342 action sale provision if the deadlock sale provision or the
12343 oppressive sale provision, as the case may be, is initiated and
12344 effectuated before the court enters an order of judicial
12345 dissolution under subparagraph (1)(b)3. or subparagraph
12346 (1)(b)5., as the case may be, or an order directing the purchase
12347 of petitioner's interest under s. 605.0706.

12348 Section 251. Subsections (1), (2), (4), (5), (6), (7), and
12349 (8) of section 605.0706, Florida Statutes, are amended to read:

12350 605.0706 Election to purchase instead of dissolution.—

12351 (1) In a proceeding initiated by a member of a limited
12352 liability company under s. 605.0702(1)(b) ~~to dissolve the~~
12353 ~~company~~, the company may elect, or, if it fails to elect, one or
12354 more other members may elect, to purchase the entire interest of

590-03467A-19

2019892c2

12355 the petitioner in the company at the fair value of the interest.
12356 An election pursuant to this section is irrevocable unless the
12357 court determines that it is equitable to set aside or modify the
12358 election.

12359 (2) An election to purchase pursuant to this section may be
12360 filed with the court within 90 days after the filing of the
12361 petition by the petitioning member under s. 605.0702(1)(b) ~~or~~
12362 ~~(2)~~ or at such later time as the court may allow. If the
12363 election to purchase is filed, the company shall within 10 days
12364 thereafter give written notice to all members, other than the
12365 petitioning member. The notice must describe the interest in the
12366 company owned by each petitioning member and must advise the
12367 recipients of their right to join in the election to purchase
12368 the petitioning member's interest in accordance with this
12369 section. Members who wish to participate must file notice of
12370 their intention to join in the purchase within 30 days after the
12371 effective date of the notice. A member who has filed an election
12372 or notice of the intent to participate in the election to
12373 purchase thereby becomes a party to the proceeding and shall
12374 participate in the purchase in proportion to the ownership
12375 interest as of the date the first election was filed unless the
12376 members otherwise agree or the court otherwise directs. After an
12377 election to purchase has been filed by the limited liability
12378 company or one or more members, the proceeding under s.
12379 605.0702(1)(b) ~~or (2)~~ may not be discontinued or settled, and
12380 the petitioning member may not sell or otherwise dispose of the
12381 interest of the petitioner in the company unless the court
12382 determines that it would be equitable to the company and the
12383 members, other than the petitioner, to authorize such

590-03467A-19

2019892c2

12384 discontinuance, settlement, sale, or other disposition or the
12385 sale is pursuant to a deadlock sale provision described in s.
12386 605.0702(1)(b).

12387 (4) If the parties are unable to reach an agreement as
12388 provided for in subsection (3), the court, upon application of a
12389 party, may ~~shall~~ stay the proceedings to dissolve under s.
12390 605.0702(1)(b) and shall, whether or not the proceeding is
12391 stayed, determine the fair value of the petitioner's interest as
12392 of the day before the date on which the petition was filed or as
12393 of such other date as the court deems appropriate under the
12394 circumstances.

12395 (5) Upon determining the fair value of the petitioner's
12396 interest in the company, unless the petitioner's interest has
12397 been acquired pursuant to a deadlock sale provision before the
12398 order, the court shall enter an order directing the purchase
12399 upon such terms and conditions as the court deems appropriate,
12400 which may include: payment of the purchase price in
12401 installments, when necessary in the interests of equity; a
12402 provision for security to ensure payment of the purchase price
12403 and additional costs, fees, and expenses as may have been
12404 awarded; and, if the interest is to be purchased by members, the
12405 allocation of the interest among those members. In allocating
12406 the petitioner's interest among holders of different classes or
12407 series of interests in the company, the court shall attempt to
12408 preserve any ~~the~~ existing distribution of voting rights among
12409 holders of different classes or series insofar as practicable
12410 and may direct that holders of any a specific class or classes
12411 or series may not participate in the purchase. Interest may be
12412 allowed at the rate and from the date determined by the court to

590-03467A-19

2019892c2

12413 be equitable; however, if the court finds that the refusal of
12414 the petitioning member to accept an offer of payment was
12415 arbitrary or otherwise not in good faith, payment of interest is
12416 not allowed. If the court finds that the petitioning member had
12417 probable grounds for relief under s. 605.0702(1)(b) ~~s.~~
12418 ~~605.0702(1)(b)3. or 4.~~, it may award expenses to the petitioning
12419 member, including reasonable fees and expenses of counsel and of
12420 experts employed by petitioner.

12421 (6) The ~~Upon~~ entry of an order under subsection (3) or
12422 subsection (5) shall be subject to subsection (8), and the order
12423 may not be entered unless the award is determined by the court
12424 to be allowed under subsection (8). In determining compliance
12425 with s. 605.0405, the court may rely on an affidavit from the
12426 limited liability company as to compliance with that section as
12427 of the measurement date. Upon entry of an order under subsection
12428 (3) or subsection (5), the court shall dismiss the petition to
12429 dissolve the limited liability company under s. 605.0702(1)(b),
12430 and the petitioning member shall no longer have rights or status
12431 as a member of the limited liability company except the right to
12432 receive the amounts awarded by the order of the court, which
12433 shall be enforceable in the same manner as any other judgment.

12434 (7) The purchase ordered pursuant to subsection (5) shall
12435 ~~must~~ be made within 10 days after the date the order becomes
12436 final ~~unless, before that time, the limited liability company~~
12437 ~~files with the court a notice of its intention to dissolve~~
12438 ~~pursuant to s. 605.0701(2), in which case articles of~~
12439 ~~dissolution for the company must be filed within 50 days~~
12440 ~~thereafter. Upon filing of such articles of dissolution, the~~
12441 ~~limited liability company shall be wound up in accordance with~~

590-03467A-19

2019892c2

12442 ~~ss. 605.0709-605.0713, and the order entered pursuant to~~
12443 ~~subsection (5) shall no longer be of force or effect except that~~
12444 ~~the court may award the petitioning member reasonable fees and~~
12445 ~~expenses of counsel and experts in accordance with subsection~~
12446 ~~(5), and the petitioner may continue to pursue any claims~~
12447 ~~previously asserted on behalf of the limited liability company.~~

12448 (8) Any award ~~A payment by the limited liability company~~
12449 ~~pursuant to an order under subsection (3) or subsection (5),~~
12450 ~~other than an award of fees and expenses pursuant to subsection~~
12451 ~~(5), is subject to s. 605.0405. Unless otherwise provided in the~~
12452 ~~court's order, the effect of a distribution under s. 605.0405~~
12453 ~~shall be measured as of the date of the court's order under~~
12454 ~~subsection (3) or subsection (5).~~

12455 Section 252. Subsection (5) of section 605.0715, Florida
12456 Statutes, is amended, and subsection (6) is added to that
12457 section, to read:

12458 605.0715 Reinstatement.—

12459 (5) The name of the dissolved limited liability company is
12460 not available for assumption or use by another business entity
12461 until 1 year after the effective date of dissolution unless the
12462 dissolved limited liability company provides the department with
12463 a record executed as required pursuant to s. 605.0203 permitting
12464 the immediate assumption or use of the name by another business
12465 entity ~~limited liability company~~.

12466 (6) If the name of the dissolved limited liability company
12467 has been lawfully assumed in this state by another business
12468 entity, the department shall require the dissolved limited
12469 liability company to amend its articles of organization to
12470 change its name before accepting the application for

590-03467A-19

2019892c2

12471 reinstatement.

12472 Section 253. Subsections (2) and (3) of section 605.0716,
12473 Florida Statutes, are amended, and subsection (4) is added to
12474 that section, to read:

12475 605.0716 Judicial review of denial of reinstatement.—

12476 (2) Within 30 days after service of a notice of denial of
12477 reinstatement, a limited liability company may appeal the denial
12478 by petitioning the Circuit Court of Leon County ~~in the~~
12479 ~~applicable county, as defined in s. 605.0711(15),~~ to set aside
12480 the dissolution. The petition must be served on the department
12481 and contain a copy of the department's notice of administrative
12482 dissolution, the company's application for reinstatement, and
12483 the department's notice of denial.

12484 (3) The circuit court may order the department to reinstate
12485 a dissolved limited liability company or take other action the
12486 court considers appropriate.

12487 (4) The circuit court's final decision may be appealed as
12488 in other civil proceedings.

12489 Section 254. Section 605.0803, Florida Statutes, is amended
12490 to read:

12491 605.0803 Proper plaintiff.—A derivative action to enforce a
12492 right of a limited liability company may be commenced ~~maintained~~
12493 only by a person who is a member at the time the action is
12494 commenced and:

12495 (1) Was a member when the conduct giving rise to the action
12496 occurred; or

12497 (2) Whose status as a member devolved on the person by
12498 operation of law or pursuant to the terms of the operating
12499 agreement from a person who was a member when ~~at the time of~~ the

590-03467A-19

2019892c2

12500 conduct giving rise to the action occurred.

12501 Section 255. Subsection (2) of section 605.0903, Florida
12502 Statutes, is amended to read:

12503 605.0903 Effect of a certificate of authority.—

12504 (2) The filing by the department of an application for a
12505 certificate of authority means ~~authorizes~~ the foreign limited
12506 liability company that filed ~~files~~ the application to transact
12507 business in this state has obtained a certificate of authority
12508 to transact business in this state and is authorized to transact
12509 business in this state, subject, however, to the right of the
12510 department to suspend or revoke the certificate of authority as
12511 provided in this chapter.

12512 Section 256. Subsections (3) and (4) of section 605.0904,
12513 Florida Statutes, are amended to read:

12514 605.0904 Effect of failure to have certificate of
12515 authority.—

12516 (3) A court may stay a proceeding commenced by a foreign
12517 limited liability company or its successor or assignee until it
12518 determines whether the foreign limited liability company or its
12519 successor requires a certificate of authority. If it so
12520 determines, the court may further stay the proceeding until the
12521 foreign limited liability company or its successor has obtained
12522 a ~~obtains the~~ certificate of authority to transact business in
12523 this state.

12524 (4) The failure of a foreign limited liability company to
12525 have a certificate of authority to transact business in this
12526 state does not impair the validity of any contract, deed,
12527 mortgage, security interest, ~~a contract~~ or act of the foreign
12528 limited liability company or prevent the foreign limited

590-03467A-19

2019892c2

12529 liability company from defending an action or proceeding in this
12530 state.

12531 Section 257. Subsections (1) and (4) of section 605.0906,
12532 Florida Statutes, are amended to read:

12533 605.0906 Noncomplying name of foreign limited liability
12534 company.—

12535 (1) A foreign limited liability company whose name is
12536 unavailable under or whose name does not otherwise comply with
12537 s. 605.0112 shall ~~may~~ use an alternate name that complies with
12538 s. 605.0112 to transact business in this state. An alternate
12539 name adopted for use in this state shall be cross-referenced to
12540 the actual name of the foreign limited liability company in the
12541 records of the department. If the actual name of the foreign
12542 limited liability company subsequently becomes available in this
12543 state or the foreign limited liability company chooses to change
12544 its alternate name, a copy of the record approving the change by
12545 its members, managers, or other persons having the authority to
12546 do so, and executed as required pursuant to s. 605.0203, shall
12547 be delivered to the department for filing.

12548 (4) If a foreign limited liability company authorized to
12549 transact business in this state changes its name to one that
12550 does not comply with s. 605.0112, it may not thereafter transact
12551 business in this state until it complies with subsection (1) and
12552 obtains an amended certificate of authority pursuant to s.
12553 605.0907.

12554 Section 258. Subsections (2) and (4) of section 605.0907,
12555 Florida Statutes, are amended to read:

12556 605.0907 Amendment to certificate of authority.—

12557 (2) The amendment must be filed within 90 ~~30~~ days after the

590-03467A-19

2019892c2

12558 occurrence of a change described in subsection (1), must be
 12559 signed by an authorized representative of the foreign limited
 12560 liability company, and must state the following:

12561 (a) The name of the foreign limited liability company as it
 12562 appears on the records of the department.

12563 (b) Its jurisdiction of formation.

12564 (c) The date the foreign limited liability company was
 12565 authorized to transact business in this state.

12566 (d) If the name of the foreign limited liability company
 12567 has been changed, the name relinquished and its new name.

12568 (e) If the amendment changes the jurisdiction of formation
 12569 of the foreign limited liability company, a statement of that
 12570 change.

12571 (4) The requirements of s. 605.0902 ~~s. 605.0902(2)~~ for
 12572 obtaining an original certificate of authority apply to
 12573 obtaining an amended certificate under this section unless the
 12574 ~~Secretary of State or other~~ official having custody of the
 12575 foreign limited liability company's publicly filed records in
 12576 its jurisdiction of formation did not require an amendment to
 12577 effectuate the change on its records.

12578 Section 259. Subsection (1) of section 605.0908, Florida
 12579 Statutes, is amended to read:

12580 605.0908 Revocation of certificate of authority.—

12581 (1) A certificate of authority of a foreign limited
 12582 liability company to transact business in this state may be
 12583 revoked by the department if:

12584 (a) The foreign limited liability company does not deliver
 12585 its annual report to the department by 5 p.m. Eastern Time on
 12586 the third Friday in September of each year.†

590-03467A-19

2019892c2

12587 (b) The foreign limited liability company does not pay a
12588 fee or penalty due to the department under this chapter.†

12589 (c) The foreign limited liability company does not appoint
12590 and maintain a registered agent as required under s. 605.0113.†

12591 (d) The foreign limited liability company does not deliver
12592 for filing a statement of a change under s. 605.0114 within 30
12593 days after a change in the name or address of the agent has
12594 occurred ~~in the name or address of the agent~~, unless, within 30
12595 days after the change occurred, either:

12596 1. The registered agent files a statement of change under
12597 s. 605.0116; or

12598 2. The change was made in accordance with s. 605.0114(4).†
12599 ~~or s. 605.0907(1)(d);~~

12600 (e) The foreign limited liability company has failed to
12601 amend its certificate of authority to reflect a change in its
12602 name on the records of the department or its jurisdiction of
12603 formation.†

12604 (f) The department receives a duly authenticated
12605 certificate from the official having custody of records in the
12606 company's jurisdiction of formation stating that it has been
12607 dissolved or is no longer active on the official's records.†

12608 (g) The foreign limited liability company's period of
12609 duration has expired.†

12610 (h) A member, manager, or agent of the foreign limited
12611 liability company signs a document that the member, manager, or
12612 agent knew was false in a material respect with the intent that
12613 the document be delivered to the department for filing.†~~or~~

12614 (i) The foreign limited liability company has failed to
12615 answer truthfully and fully, within the time prescribed in s.

590-03467A-19

2019892c2

12616 605.1104, interrogatories propounded by the department.

12617 Section 260. Section 605.09091, Florida Statutes, is
12618 created to read:

12619 605.09091 Judicial review of denial of reinstatement.—

12620 (1) If the department denies a foreign limited liability
12621 company's application for reinstatement after revocation of its
12622 certificate of authority, the department shall serve the foreign
12623 limited liability company, pursuant to s. 605.0117(7), with a
12624 written notice that explains the reason or reasons for the
12625 denial.

12626 (2) Within 30 days after service of a notice of denial of
12627 reinstatement, a foreign limited liability company may appeal
12628 the denial by petitioning the Circuit Court of Leon County to
12629 set aside the revocation. The petition must be served on the
12630 department and must contain a copy of the department's notice of
12631 revocation, the foreign limited liability company's application
12632 for reinstatement, and the department's notice of denial.

12633 (3) The circuit court may order the department to reinstate
12634 the certificate of authority of the foreign limited liability
12635 company or take other action the court considers appropriate.

12636 (4) The circuit court's final decision may be appealed as
12637 in other civil proceedings.

12638 Section 261. Section 605.0910, Florida Statutes, is amended
12639 to read:

12640 605.0910 Withdrawal and cancellation of certificate of
12641 authority.—

12642 (1) To cancel its certificate of authority to transact
12643 business in this state, a foreign limited liability company must
12644 deliver to the department for filing a notice of withdrawal of

590-03467A-19

2019892c2

12645 certificate of authority. The certificate of authority is
12646 canceled when the notice becomes effective pursuant to s.
12647 605.0207. The notice of withdrawal of certificate of authority
12648 must be signed by an authorized representative and state the
12649 following:

12650 (a)~~(1)~~ The name of the foreign limited liability company as
12651 it appears on the records of the department.

12652 (b)~~(2)~~ The name of the foreign limited liability company's
12653 jurisdiction of formation.

12654 (c)~~(3)~~ The date the foreign limited liability company was
12655 authorized to transact business in this state.

12656 (d)~~(4)~~ That the foreign limited liability company is
12657 withdrawing its certificate of authority in this state.

12658 (e) That the foreign limited liability company revokes the
12659 authority of its registered agent to accept service on its
12660 behalf and appoints the secretary of state as its agent for
12661 service of process based on a cause of action arising during the
12662 time the foreign limited liability company was authorized to
12663 transact business in this state.

12664 (f) A mailing address to which the department may mail a
12665 copy of any process served on the secretary of state under
12666 paragraph (e).

12667 (g) A commitment to notify the department in the future of
12668 any change in its mailing address.

12669 (2) After the withdrawal of the foreign limited liability
12670 company is effective, service of process on the secretary of
12671 state under this section is service on the foreign limited
12672 liability company. Upon receipt of the process, the department
12673 shall mail a copy of the process to the foreign limited

590-03467A-19

2019892c2

12674 liability company at the mailing address set forth under
12675 paragraph (1)(f).

12676 Section 262. Section 605.0911, Florida Statutes, is amended
12677 to read:

12678 605.0911 Withdrawal deemed on conversion to domestic filing
12679 entity.—A registered foreign limited liability company
12680 authorized to transact business in this state that converts to a
12681 domestic limited liability company or to another domestic entity
12682 that is organized, incorporated, registered or otherwise formed
12683 through the delivery of a record to the department for filing is
12684 deemed to have withdrawn its certificate of authority on the
12685 effective date of the conversion.

12686 Section 263. Section 605.0912, Florida Statutes, is amended
12687 to read:

12688 605.0912 Withdrawal on dissolution, merger, or conversion
12689 to nonfiling entity.—

12690 (1) A registered foreign limited liability company that has
12691 dissolved and completed winding up, has merged into a foreign
12692 entity that is not authorized to transact business ~~registered~~ in
12693 this state, or has converted to a domestic or foreign entity
12694 that is not organized, incorporated, registered or otherwise
12695 formed through the public filing of a record, shall deliver a
12696 notice of withdrawal of certificate of authority to the
12697 department for filing in accordance with s. 605.0910.

12698 (2) After a withdrawal under this section of a foreign
12699 limited liability company ~~entity~~ that has converted to another
12700 type of entity is effective, service of process in any action or
12701 proceeding based on a cause of action arising during the time
12702 the foreign limited liability company was authorized to transact

590-03467A-19

2019892c2

12703 ~~registered to do~~ business in this state may be made pursuant to
12704 s. 605.0117.

12705 Section 264. Subsection (6) of section 605.1025, Florida
12706 Statutes, is amended to read:

12707 605.1025 Articles of merger.—

12708 (6) A limited liability company is not required to deliver
12709 articles of merger for filing pursuant to subsection (1) if the
12710 limited liability company is named as a merging entity or
12711 surviving entity in articles of merger or a certificate of
12712 merger filed for the same merger in accordance with s. 607.1105
12713 ~~s. 607.1109~~, s. 617.1108, s. 620.2108(3), or s. 620.8918(3), and
12714 if such articles of merger or certificate of merger
12715 substantially comply with the requirements of this section. In
12716 such a case, the other articles of merger or certificate of
12717 merger may also be used for purposes of subsection (5).

12718 Section 265. Subsection (5) of section 605.1035, Florida
12719 Statutes, is amended to read:

12720 605.1035 Articles of interest exchange.—

12721 (5) A limited liability company is not required to deliver
12722 articles of interest exchange for filing pursuant to subsection
12723 (1) if the domestic limited liability company is named as an
12724 acquired entity or as an acquiring entity in the articles of
12725 share exchange filed for the same interest exchange in
12726 accordance with s. 607.1105 ~~s. 607.1105(1)~~ and if such articles
12727 of share exchange substantially comply with the requirements of
12728 this section.

12729 Section 266. Subsection (5) of section 605.1061, Florida
12730 Statutes, is amended to read:

12731 605.1061 Appraisal rights; definitions.—The following

590-03467A-19

2019892c2

12732 definitions apply to this section and to ss. 605.1006 and
12733 605.1062-605.1072:

12734 (5) "Fair value" means the value of the member's membership
12735 interest determined:

12736 (a) Immediately before the effectiveness ~~effectuation~~ of
12737 the appraisal event to which the member objects;

12738 (b) Using customary and current valuation concepts and
12739 techniques generally employed for similar businesses in the
12740 context of the transaction requiring appraisal, excluding any
12741 appreciation or depreciation in anticipation of the transaction
12742 to which the member objects, unless exclusion would be
12743 inequitable to the limited liability company and its remaining
12744 members; and

12745 (c) Without discounting for lack of marketability or
12746 minority status.

12747 Section 267. Subsection (3) of section 605.1063, Florida
12748 Statutes, is amended to read:

12749 605.1063 Notice of appraisal rights.—

12750 (3) If the appraisal event is to be approved by written
12751 consent of the members pursuant to s. 605.04073 ~~other than by a~~
12752 ~~members' meeting~~:

12753 (a) Written notice that appraisal rights are, are not, or
12754 may be available must be sent to each member from whom a consent
12755 is solicited at the time consent of such member is first
12756 solicited, and if the limited liability company has concluded
12757 that appraisal rights are or may be available, a copy of ss.
12758 605.1006 and 605.1061-605.1072 must accompany such written
12759 notice; or

12760 (b) Written notice that appraisal rights are, are not, or

590-03467A-19

2019892c2

12761 may be available must be delivered, at least 10 days before the
12762 appraisal event becomes effective, to all nonconsenting and
12763 nonvoting members, and, if the limited liability company has
12764 concluded that appraisal rights are or may be available, a copy
12765 of ss. 605.1006 and 605.1061-605.1072 must accompany such
12766 written notice.

12767 Section 268. Section 605.1072, Florida Statutes, is amended
12768 to read:

12769 605.1072 Other remedies limited.-

12770 (1) A member entitled to appraisal rights under this
12771 chapter may not challenge a The legality of a proposed or
12772 completed appraisal event for which appraisal rights are
12773 available unless such completed appraisal event was either: may
12774 not be contested, and the appraisal event may not be enjoined,
12775 set aside, or rescinded, in a legal or equitable proceeding by a
12776 member after the members have approved the appraisal event.

12777 ~~(2) Subsection (1) does not apply to an appraisal event~~
12778 ~~that:~~

12779 (a) ~~Was~~ Not authorized and approved in accordance with the
12780 applicable provisions of this chapter, the organic rules of the
12781 limited liability company, or the resolutions of the members
12782 authorizing the appraisal event. ~~;~~ ~~or~~

12783 (b) ~~Was~~ Procured as a result of fraud, a material
12784 misrepresentation, or an omission of a material fact that is
12785 necessary to make statements made, in light of the circumstances
12786 in which they were made, not misleading.

12787 (2) Nothing in this section operates to override or
12788 supersede s. 605.04092.

12789 Section 269. Subsection (16) of section 617.0302, Florida

590-03467A-19

2019892c2

12790 Statutes, is amended to read:

12791 617.0302 Corporate powers.—Every corporation not for profit
12792 organized under this chapter, unless otherwise provided in its
12793 articles of incorporation or bylaws, shall have power to:

12794 (16) Merge with other corporations or other eligible
12795 ~~business~~ entities identified in s. 607.1101 ~~s. 607.1108(1)~~, both
12796 for profit and not for profit, domestic and foreign, if the
12797 surviving corporation or other surviving eligible business
12798 entity is a corporation not for profit or other eligible
12799 ~~business~~ entity that has been organized as a not-for-profit
12800 entity under a governing statute or other applicable law that
12801 permits such a merger.

12802 Section 270. Subsections (1) and (5) of section 617.0501,
12803 Florida Statutes, are amended, and subsection (6) is added to
12804 that section, to read:

12805 617.0501 Registered office and registered agent.—

12806 (1) Each corporation shall have and continuously maintain
12807 in this state:

12808 (a) A registered office which may be the same as its
12809 principal office; and

12810 (b) A registered agent, who may be either:

12811 1. An individual who resides in this state whose business
12812 office is identical with such registered office; or

12813 2. Another domestic entity that is an authorized entity
12814 whose business address is identical to the address of the
12815 registered office, or a foreign entity authorized to transact
12816 business in this state that is an authorized entity and whose
12817 business address is identical to the address of ~~A corporation~~
12818 ~~for profit or not for profit, authorized to transact business or~~

590-03467A-19

2019892c2

12819 ~~conduct its affairs in this state, having a business office~~
12820 ~~identical with~~ the registered office.

12821 (5) A corporation may not prosecute or maintain any action
12822 in a court in this state until the corporation complies with
12823 this section or s. 617.1508, as applicable, ~~and~~ pays to the
12824 Department of State any amounts required under this chapter,
12825 and, to the extent ordered by a court of competent jurisdiction,
12826 pays to the Department of State a penalty of \$5 for each day it
12827 has failed to so comply or \$500, whichever is less.

12828 (6) For the purposes of this section, the term "authorized
12829 entity" means:

12830 (a) A corporation for profit;

12831 (b) A limited liability company;

12832 (c) A limited liability partnership; or

12833 (d) A limited partnership, including a limited liability
12834 limited partnership.

12835 Section 271. Section 617.05015, Florida Statutes, is
12836 created to read:

12837 617.05015 Reserved name.—

12838 (1) A person may reserve the exclusive use of the name of a
12839 corporation, including an alternate name for a foreign
12840 corporation whose name is not available, by delivering an
12841 application to the department for filing. The application must
12842 set forth the name and address of the applicant and the name
12843 proposed to be reserved. If the department finds that the name
12844 of the corporation applied for is available, it shall reserve
12845 the name for the applicant's exclusive use for a nonrenewable
12846 120-day period.

12847 (2) The owner of a reserved name of a corporation may

590-03467A-19

2019892c2

12848 transfer the reservation to another person by delivering to the
12849 department a signed notice of the transfer that states the name
12850 and address of the transferee.

12851 (3) The department may revoke any reservation if, after a
12852 hearing, it finds that the application therefor or any transfer
12853 thereof was not made in good faith.

12854 Section 272. Section 617.0831, Florida Statutes, is amended
12855 to read:

12856 617.0831 Indemnification and liability of officers,
12857 directors, employees, and agents.—Except as provided in s.
12858 617.0834, s. 607.0831 and ss. 607.0850-607.0859 ~~ss. 607.0831 and~~
12859 ~~607.0850~~ apply to a corporation organized under this act and a
12860 rural electric cooperative organized under chapter 425. Any
12861 reference to “directors” in those sections includes the
12862 directors, managers, or trustees of a corporation organized
12863 under this act or of a rural electric cooperative organized
12864 under chapter 425. However, the term “director” as used in s.
12865 607.0831 and ss. 607.0850-607.0859 ~~ss. 607.0831 and 607.0850~~
12866 does not include a director appointed by the developer to the
12867 board of directors of a condominium association under chapter
12868 718, a cooperative association under chapter 719, a homeowners’
12869 association defined in s. 720.301, or a timeshare managing
12870 entity under chapter 721. Any reference to “shareholders” in
12871 those sections includes members of a corporation organized under
12872 this act and members of a rural electric cooperative organized
12873 under chapter 425.

12874 Section 273. Section 617.1102, Florida Statutes, is amended
12875 to read:

12876 617.1102 Limitation on merger.—A corporation not for profit

590-03467A-19

2019892c2

12877 organized under this chapter may merge with one or more other
12878 eligible ~~business~~ entities, as identified in s. 607.1101(1) ~~s.~~
12879 ~~607.1108(1)~~, only if the surviving entity of such merger is a
12880 corporation not for profit or other eligible ~~business~~ entity
12881 that has been organized as a not-for-profit entity under a
12882 governing statute or other applicable law that allows such a
12883 merger.

12884 Section 274. Section 617.1108, Florida Statutes, is amended
12885 to read:

12886 617.1108 Merger of domestic corporation and other eligible
12887 ~~business~~ entities.—

12888 (1) Subject to s. 617.0302(16) and other applicable
12889 provisions of this chapter, ss. 607.1101, 607.1103, 607.1105,
12890 607.1106, and 607.1107 ~~ss. 607.1108, 607.1109, and 607.11101~~
12891 shall apply to a merger involving a corporation not for profit
12892 organized under this act and one or more other eligible ~~business~~
12893 entities identified in s. 607.1108(1).

12894 (2) A domestic corporation not for profit organized under
12895 this chapter is not required to file articles of merger pursuant
12896 ~~pur-suant~~ to this section if the corporation not for profit is
12897 named as a party or constituent organization in articles of
12898 merger or a certificate of merger filed for the same merger in
12899 accordance with s. 605.1025, s. 607.1105 ~~s. 607.1109~~, s.
12900 620.2108(3), or s. 620.8918(1) and (2). In such a case, the
12901 other articles of merger or certificate of merger may also be
12902 used for purposes of subsection (3).

12903 (3) A copy of the articles of merger or certificate of
12904 merger, certified by the Department of State, may be filed in
12905 the office of the official who is the recording officer of each

590-03467A-19

2019892c2

12906 county in this state in which real property of a party to the
12907 merger, other than the surviving entity, is situated.

12908 Section 275. Section 617.1507, Florida Statutes, is amended
12909 to read:

12910 617.1507 Registered office and registered agent of foreign
12911 corporation.—

12912 (1) Each foreign corporation authorized to conduct its
12913 affairs in this state must continuously maintain in this state:

12914 (a) A registered office that may be the same as any of the
12915 places it conducts its affairs; and

12916 (b) A registered agent, who may be:

12917 1. An individual who resides in this state and whose
12918 business office is identical with the registered office;

12919 2. Another domestic entity that is an authorized entity
12920 whose business address is identical to the address of the
12921 registered office; or

12922 3. A foreign entity authorized to transact business in this
12923 state that is an authorized entity and whose business address is
12924 identical to the address of ~~A domestic corporation for profit or~~
12925 ~~not for profit the business office of which is identical with~~
12926 ~~the registered office; or~~

12927 ~~3. A foreign corporation for profit or not for profit~~
12928 ~~authorized to transact business or conduct its affairs in this~~
12929 ~~state the business office of which is identical with the~~
12930 ~~registered office.~~

12931 (2) A registered agent appointed pursuant to this section
12932 or a successor registered agent appointed pursuant to s.
12933 617.1508 on whom process may be served shall each file a
12934 statement in writing with the Department of State, in such form

590-03467A-19

2019892c2

12935 and manner as shall be prescribed by the department, accepting
12936 the appointment as a registered agent simultaneously with his or
12937 her being designated. Such statement of acceptance shall state
12938 that the registered agent is familiar with, and accepts, the
12939 obligations of that position.

12940 (3) For purposes of this section, "authorized entity"
12941 means:

12942 (a) A corporation for profit;

12943 (b) A limited liability company;

12944 (c) A limited liability partnership; or

12945 (d) A limited partnership, including a limited liability
12946 limited partnership.

12947 Section 276. Subsections (2), (3), and (4) of section
12948 620.1108, Florida Statutes, are amended, and subsection (6) is
12949 added to that section, to read:

12950 620.1108 Name.—

12951 (2) The name of a limited partnership that is not a limited
12952 liability limited partnership must contain the phrase "limited
12953 partnership" or "limited" or the abbreviation "L.P." or "Ltd."
12954 or the designation "LP," and may not contain the phrase "limited
12955 liability limited partnership" or the abbreviation "L.L.L.P." or
12956 the designation "LLLP,~~-~~" as will clearly indicate that it is a
12957 limited partnership instead of a natural person, corporation,
12958 limited liability company, or other business entity.

12959 (3) The name of a limited liability limited partnership
12960 must contain the phrase "limited liability limited partnership"
12961 or the abbreviation "L.L.L.P." or designation "LLLP," as will
12962 clearly indicate that it is a limited liability limited
12963 partnership instead of a natural person or other business

590-03467A-19

2019892c2

12964 entity, except that a limited liability limited partnership
12965 organized prior to January 1, 2006, that was ~~the effective date~~
12966 ~~of this act that is~~ using an abbreviation or designation
12967 permitted under prior law shall be entitled to continue using
12968 such abbreviation or designation until its dissolution.

12969 (4) The name of a limited partnership must be
12970 distinguishable in the records of the Department of State from
12971 the names of all other entities or filings that are on file with
12972 the Department of State, except fictitious name registrations
12973 pursuant to s. 865.09, general partnership registrations
12974 pursuant to s. 620.8105, and limited liability partnership
12975 statements pursuant to s. 620.9001 which are organized,
12976 registered, or reserved under the laws of this state; however, a
12977 limited partnership or a limited liability limited partnership
12978 may register under a name that is not otherwise distinguishable
12979 on the records of the Department of State with the written
12980 consent of the other entity if the consent is filed with the
12981 Department of State at the time of registration of such name and
12982 if such name is not identical to the name of the other entity. A
12983 name that is different from the name of another entity or filing
12984 due to any of the following is not considered distinguishable:

- 12985 (a) A suffix.
12986 (b) A definite or indefinite article.
12987 (c) The word "and" and the symbol "&."
12988 (d) The singular, plural, or possessive form of a word.
12989 (e) ~~A recognized abbreviation of a root word.~~
12990 ~~(f)~~ A punctuation mark or a symbol.

12991 (6) A limited partnership or a limited liability limited
12992 partnership in existence before January 1, 2020, that has a name

590-03467A-19

2019892c2

12993 that does not clearly indicate that it is a limited partnership
12994 or a limited liability limited partnership instead of a natural
12995 person, corporation, limited liability company, or other
12996 business entity may continue using its name until it dissolves
12997 or amends its name in the records of the Department of State.

12998 Section 277. Section 620.11085, Florida Statutes, is
12999 created to read:

13000 620.11085 Reserved name.—

13001 (1) A person may reserve the exclusive use of the name of a
13002 limited partnership, including an alternate name for a foreign
13003 limited partnership whose name is not available, by delivering
13004 an application to the Department of State for filing. The
13005 application must set forth the name and address of the applicant
13006 and the name proposed to be reserved. If the department finds
13007 that the name of the limited partnership applied for is
13008 available, it must reserve the name for the applicant's
13009 exclusive use for a nonrenewable 120-day period.

13010 (2) The owner of a reserved name of a limited partnership
13011 may transfer the reservation to another person by delivering to
13012 the Department of State a signed notice of the transfer that
13013 states the name and address of the transferee.

13014 (3) The Department of State may revoke any reservation if,
13015 after a hearing, it finds that the application therefor or any
13016 transfer thereof was not made in good faith.

13017 Section 278. Paragraph (c) of subsection (1) of section
13018 620.2104, Florida Statutes, is amended to read:

13019 620.2104 Filings required for conversion; effective date.—

13020 (1) After a plan of conversion is approved:

13021 (c) A converting limited partnership is not required to

590-03467A-19

2019892c2

13022 file a certificate of conversion pursuant to paragraph (a) if
13023 the converting limited partnership files articles of conversion
13024 or a certificate of conversion that substantially complies with
13025 the requirements of this section pursuant to s. 605.1045, s.
13026 607.1105 ~~s. 607.1115~~, or s. 620.8914(1)(b) and contains the
13027 signatures required by this chapter. In such a case, the other
13028 certificate of conversion may also be used for purposes of s.
13029 620.2105(4).

13030 Section 279. Subsection (3) of section 620.2108, Florida
13031 Statutes, is amended to read:

13032 620.2108 Filings required for merger; effective date.—

13033 (3) Each constituent limited partnership shall deliver the
13034 certificate of merger for filing in the Department of State
13035 unless the constituent limited partnership is named as a party
13036 or constituent organization in articles of merger or a
13037 certificate of merger filed for the same merger in accordance
13038 with s. 605.1025, s. 607.1105 ~~s. 607.1109(1)~~, s. 617.1108, or s.
13039 620.8918(1) and (2) and such articles of merger or certificate
13040 of merger substantially complies with the requirements of this
13041 section. In such a case, the other articles of merger or
13042 certificate of merger may also be used for purposes of s.
13043 620.2109(3).

13044 Section 280. Subsection (3) of section 620.8918, Florida
13045 Statutes, is amended to read:

13046 620.8918 Filings required for merger; effective date.—

13047 (3) Each domestic constituent partnership shall deliver the
13048 certificate of merger for filing with the Department of State,
13049 unless the domestic constituent partnership is named as a party
13050 or constituent organization in articles of merger or a

590-03467A-19

2019892c2

13051 certificate of merger filed for the same merger in accordance
13052 with s. 605.1025, s. 607.1105 ~~s. 607.1109(1)~~, s. 617.1108, or s.
13053 620.2108(3). The articles of merger or certificate of merger
13054 must substantially comply with the requirements of this section.
13055 In such a case, the other articles of merger or certificate of
13056 merger may also be used for purposes of s. 620.8919(3). Each
13057 domestic constituent partnership in the merger shall also file a
13058 registration statement in accordance with s. 620.8105(1) if it
13059 does not have a currently effective registration statement filed
13060 with the Department of State.

13061 Section 281. Paragraph (b) of subsection (2) and subsection
13062 (4) of section 621.12, Florida Statutes, are amended to read:

13063 621.12 Identification with individual shareholders or
13064 individual members.—

13065 (2) The name shall also contain:

13066 (b)1. In the case of a professional corporation, the words
13067 "professional association," or the abbreviation "P.A." or the
13068 designation "PA"; or

13069 2. In the case of a professional limited liability company
13070 formed before January 1, 2014, the words "professional limited
13071 company" or "professional limited liability company," the
13072 abbreviation "P.L." or "P.L.L.C." or the designation "PL" or
13073 "PLLC," in lieu of the words "limited company" or "limited
13074 liability company," or the abbreviation "L.C." or "L.L.C." or
13075 the designation "LC" or "LLC" as otherwise required under s.
13076 605.0112 or former s. 608.406.

13077 3. In the case of a professional limited liability company
13078 formed on or after January 1, 2014, the words "professional
13079 limited liability company," the abbreviation "P.L.L.C." or the

590-03467A-19

2019892c2

13080 designation "PLLC," in lieu of the words "limited liability
13081 company," or the abbreviation "L.L.C." or the designation "LLC"
13082 as otherwise required under s. 605.0112.

13083 (4) It shall be permissible, however, for the corporation
13084 or limited liability company to render professional services and
13085 to exercise its authorized powers under a name which is
13086 identical to its name or contains any one or more of the last
13087 names of any shareholder or member included in such name except
13088 that the word "chartered," the words "professional association,"
13089 "professional limited company," or "professional limited
13090 liability company," the abbreviations "P.A.," "P.L.," or
13091 "P.L.L.C.," or the designation "PA," "PL," or "PLLC" may be
13092 omitted, provided that the corporation or limited liability
13093 company has first registered the name to be so used in the
13094 manner required for the registration of fictitious names.

13095 Section 282. Paragraph (e) of subsection (14) of section
13096 865.09, Florida Statutes, is amended to read:

13097 865.09 Fictitious name registration.—

13098 (14) PROHIBITION.—A fictitious name registered as provided
13099 in this section may not contain the following words,
13100 abbreviations, or designations:

13101 (e) "Professional association," "PA," "P.A.," or
13102 "chartered," unless the person or business for which the name is
13103 registered is organized as a professional corporation pursuant
13104 to chapter 621, or is organized as a professional corporation
13105 pursuant to a similar law of another jurisdiction and has
13106 obtained a certificate of authority to transact business in this
13107 state pursuant to chapter 607.

13108 Section 283. Subsection (1) of section 662.150, Florida

590-03467A-19

2019892c2

13109 Statutes, is amended to read:

13110 662.150 Domestication of a foreign family trust company.—

13111 (1) A foreign family trust company lawfully organized and
13112 currently in good standing with the state regulatory agency in
13113 the jurisdiction where it is organized may become domesticated
13114 in this state by:

13115 (a) Filing with the Department of State articles a
13116 ~~certificate~~ of domestication and articles of incorporation in
13117 accordance with and subject to s. 607.11922 ~~s. 607.1801~~ or by
13118 filing articles of conversion in accordance with s. 605.1045 or
13119 s. 607.11933; and

13120 (b) Filing an application for a license to begin operations
13121 as a licensed family trust company in accordance with s.
13122 662.121, which must first be approved by the office, or by
13123 filing the prescribed form with the office to register as a
13124 family trust company to begin operations in accordance with s.
13125 662.122.

13126 Section 284. Subsection (1) of section 331.355, Florida
13127 Statutes, is amended to read:

13128 331.355 Use of name; ownership rights to intellectual
13129 property.—

13130 (1) (a) The corporate name of a corporation incorporated or
13131 authorized to transact business in this state, or the name of
13132 any person or business entity transacting business in this
13133 state, may not use the words "Space Florida," "Florida Space
13134 Authority," "Florida Aerospace Finance Corporation," "Florida
13135 Space Research Institute," "spaceport Florida," or "Florida
13136 spaceport" in its name unless the Space Florida board of
13137 directors gives written approval for such use.

590-03467A-19

2019892c2

13138 (b) The Department of State may dissolve, pursuant to s.
13139 607.1420 ~~s. 607.1421~~, any corporation that violates paragraph
13140 (a).

13141 Section 285. Paragraph (a) of subsection (4) of section
13142 339.12, Florida Statutes, is amended to read:

13143 339.12 Aid and contributions by governmental entities for
13144 department projects; federal aid.—

13145 (4) (a) Prior to accepting the contribution of road bond
13146 proceeds, time warrants, or cash for which reimbursement is
13147 sought, the department shall enter into agreements with the
13148 governing body of the governmental entity for the project or
13149 project phases in accordance with specifications agreed upon
13150 between the department and the governing body of the
13151 governmental entity. The department in no instance is to receive
13152 from such governmental entity an amount in excess of the actual
13153 cost of the project or project phase. By specific provision in
13154 the written agreement between the department and the governing
13155 body of the governmental entity, the department may agree to
13156 reimburse the governmental entity for the actual amount of the
13157 bond proceeds, time warrants, or cash used on a highway project
13158 or project phases that are not revenue producing and are
13159 contained in the department's adopted work program, or any
13160 public transportation project contained in the adopted work
13161 program. Subject to appropriation of funds by the Legislature,
13162 the department may commit state funds for reimbursement of such
13163 projects or project phases. Reimbursement to the governmental
13164 entity for such a project or project phase must be made from
13165 funds appropriated by the Legislature, and reimbursement for the
13166 cost of the project or project phase is to begin in the year the

590-03467A-19

2019892c2

13167 project or project phase is scheduled in the work program as of
13168 the date of the agreement. Funds advanced pursuant to this
13169 section, which were originally designated for transportation
13170 purposes and so reimbursed to a county or municipality, shall be
13171 used by the county or municipality for any transportation
13172 expenditure authorized under s. 336.025(7). Also, cities and
13173 counties may receive funds from persons, and reimburse those
13174 persons, for the purposes of this section. Such persons may
13175 include, but are not limited to, those persons defined in s.
13176 607.01401(56) ~~s. 607.01401(19)~~.

13177 Section 286. Section 628.530, Florida Statutes, is amended
13178 to read:

13179 628.530 Effects of redomestication.—The certificate of
13180 authority, agents appointments and licenses, rates, and other
13181 items which the office or department allows, in its discretion,
13182 which are in existence at the time any insurer licensed to
13183 transact the business of insurance in this state transfers its
13184 corporate domicile to this or any other state by merger,
13185 consolidation, merger pursuant to s. 607.1101(7) ~~s. 607.1107(5)~~,
13186 or any other lawful method shall continue in full force and
13187 effect upon such transfer if such insurer remains duly qualified
13188 to transact the business of insurance in this state. All
13189 outstanding policies of any transferring insurer shall remain in
13190 full force and effect and need not be endorsed as to the new
13191 name of the company or its new location unless so ordered by the
13192 office. Every transferring insurer shall file new policy forms
13193 with the office on or before the effective date of the transfer,
13194 but may use existing policy forms with appropriate endorsements
13195 if allowed by, and under such conditions as are approved by, the

590-03467A-19

2019892c2

13196 office. However, every such transferring insurer shall notify
13197 the office of the details of the proposed transfer and shall
13198 file promptly any resulting amendments to corporate documents
13199 filed or required to be filed with the office.

13200 Section 287. Section 631.0515, Florida Statutes, is amended
13201 to read:

13202 631.0515 Appointment of receiver; insurance holding
13203 company.—A delinquency proceeding pursuant to this chapter
13204 constitutes the sole and exclusive method of dissolving,
13205 liquidating, rehabilitating, reorganizing, conserving, or
13206 appointing a receiver of a Florida corporation which is not
13207 insolvent as defined by s. 607.01401 ~~s. 607.01401(16)~~; which
13208 through its shareholders, board of directors, or governing body
13209 is deadlocked in the management of its affairs; and which
13210 directly or indirectly owns all of the stock of a Florida
13211 domestic insurer. The department may petition for an order
13212 directing it to rehabilitate such corporation if the interests
13213 of policyholders or the public will be harmed as a result of the
13214 deadlock. The department shall use due diligence to resolve the
13215 deadlock. Whether or not the department petitions for an order,
13216 the circuit court shall not have jurisdiction pursuant to s.
13217 607.271, s. 607.274, or s. 607.277 to dissolve, liquidate, or
13218 appoint receivers with respect to, a Florida corporation which
13219 directly or indirectly owns all of the stock of a Florida
13220 domestic insurer and which is not insolvent as defined by s.
13221 607.01401 ~~s. 607.01401(16)~~. However, a managing general agent or
13222 holding company with a controlling interest in a domestic
13223 insurer in this state is subject to jurisdiction of the court
13224 under the provisions of s. 631.025.

590-03467A-19

2019892c2

13225 Section 288. Subsection (5) of section 658.44, Florida
13226 Statutes, is amended to read:

13227 658.44 Approval by stockholders; rights of dissenters;
13228 preemptive rights.—

13229 (5) The fair value, as defined in s. 607.1301(5) ~~s.~~
13230 ~~607.1301(4)~~, of dissenting shares of each constituent state bank
13231 or state trust company, the owners of which have not accepted an
13232 offer for such shares made pursuant to subsection (3), shall be
13233 determined pursuant to ss. 607.1326-607.1331 except as the
13234 procedures for notice and demand are otherwise provided in this
13235 section as of the effective date of the merger.

13236 Section 289. Section 663.03, Florida Statutes, is amended
13237 to read:

13238 663.03 Applicability of the Florida Business Corporation
13239 Act.—Notwithstanding s. 607.01401(36) ~~s. 607.01401(12)~~, the
13240 provisions of part I of chapter 607 not in conflict with the
13241 financial institutions codes which relate to foreign
13242 corporations apply to all international banking corporations and
13243 their offices doing business in this state.

13244 Section 290. Section 663.403, Florida Statutes, is amended
13245 to read:

13246 663.403 Applicability of the Florida Business Corporation
13247 Act.—Notwithstanding s. 607.01401(36) ~~s. 607.01401(12)~~, the
13248 provisions of part I of chapter 607 which are not in conflict
13249 with the financial institutions codes and which relate to
13250 foreign corporations apply to all international trust entities
13251 and their offices doing business in this state.

13252 Section 291. Section 694.16, Florida Statutes, is amended
13253 to read:

590-03467A-19

2019892c2

13254 694.16 Conveyances by merger or conversion of business
13255 entities.—As to any merger or conversion of business entities
13256 prior to June 15, 2000, the title to all real estate, or any
13257 interest therein, owned by a business entity that was a party to
13258 a merger or a conversion is vested in the surviving entity
13259 without reversion or impairment, notwithstanding the requirement
13260 of a deed which was previously required by former s. 607.11101,
13261 former s. 608.4383, former s. 620.204, former s. 620.8904, or
13262 former s. 620.8906.

13263 Section 292. This act shall take effect January 1, 2020.