

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	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

Committee/Subcommittee hearing bill: Civil Justice & Claims  
Subcommittee

Representative Tuck offered the following:

**Amendment**

Remove lines 3101-6462 and insert:

good faith, after conducting a reasonable inquiry upon which its  
conclusions are based, that the maintenance of the derivative  
proceeding is not in the best interests of the corporation. In  
all such cases, the corporation has the burden of proof  
regarding the qualifications, good faith, and reasonable inquiry  
of the group making the determination.

(2) Unless a panel is appointed pursuant to subsection  
(3), the determination required in subsection (1) must be made  
by:

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16        (a) A majority of qualified directors present at a meeting  
17 of the board of directors if the qualified directors constitute  
18 a quorum; or

19        (b) A majority vote of a committee consisting of two or  
20 more qualified directors appointed by majority vote of qualified  
21 directors present at a meeting of the board of directors,  
22 regardless of whether such qualified directors constitute a  
23 quorum.

24        (3) Upon motion by the corporation, the court may appoint  
25 a panel consisting of one or more disinterested and independent  
26 individuals to make a determination required in subsection (1).

27        (4) This section does not prevent the court from:

28        (a) Enforcing a person's rights under the corporation's  
29 articles of incorporation or bylaws or this chapter, including  
30 the person's rights to information under s. 617.1602; or

31        (b) Exercising its equitable or other powers, including  
32 granting extraordinary relief in the form of a temporary  
33 restraining order or preliminary injunction.

34        **Section 38. Section 617.0745, Florida Statutes, is created**  
35 **to read:**

36        617.0745 Discontinuance or settlement; notice.—

37        (1) A derivative action on behalf of a corporation may not  
38 be discontinued or settled without the court's approval.

39        (2) If the court determines that a proposed discontinuance  
40 or settlement will substantially affect the interest of any of

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41 the corporation's members, the court must direct that notice be  
42 given to the members affected. The court may determine which  
43 party or parties to the derivative action bears the expense of  
44 giving the notice.

45 **Section 39. Section 617.0746, Florida Statutes, is created**  
46 **to read:**

47 617.0746 Proceeds and expenses.—On termination of the  
48 derivative proceeding, the court may:

49 (1) Order the corporation to pay from the amount recovered  
50 in the derivative proceeding by the corporation the plaintiff's  
51 reasonable expenses, including reasonable attorney fees and  
52 costs, incurred in the derivative proceeding if it finds that,  
53 in the derivative proceeding, the plaintiff was successful in  
54 whole or in part; or

55 (2) Order the plaintiff to pay any of the defendant's  
56 reasonable expenses, including reasonable attorney fees and  
57 costs, incurred in defending the proceeding if it finds that the  
58 proceeding was commenced or maintained without reasonable cause  
59 or for an improper purpose.

60 **Section 40. Section 617.0747, Florida Statutes, is created**  
61 **to read:**

62 617.0747 Applicability to foreign corporations.—In any  
63 derivative proceeding in the right of a foreign corporation  
64 brought in the courts of this state, the matters covered by ss.  
65 617.0741-617.0747 are governed by the laws of the jurisdiction

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of incorporation of the foreign corporation, except for ss.  
617.0743, 617.0745, and 617.0746.

**Section 41. Section 617.0803, Florida Statutes, is amended to read:**

617.0803 Number of directors.—

~~(1)~~ A board of directors must consist of one ~~three~~ or more individuals, as may be ~~with the number~~ specified in or fixed in accordance with the articles of incorporation or the bylaws, as may be amended, except that a corporation that is exempt from federal income taxation under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, must have a board of directors that consists of three or more individuals.

~~(2) The number of directors may be increased or decreased from time to time by amendment to, or in the manner provided in, the articles of incorporation or the bylaws, but the corporation must never have fewer than three directors.~~

~~(3) Directors shall be elected or appointed in the manner and for the terms provided in the articles of incorporation or the bylaws.~~

**Section 42. Section 617.0804, Florida Statutes, is created to read:**

617.0804 Selection of directors.—

(1) The directors of a membership corporation, except for any initial directors named in the articles of incorporation or elected by the incorporators, shall be elected by the members

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entitled to vote at the time at the first annual meeting of members, and at each annual meeting thereafter. Notwithstanding this subsection, the articles of incorporation or bylaws may provide some other time or method of election, or provide that some or all of the directors are appointed by some other person or designated in some other manner.

(2) The directors of a nonmembership corporation, except for any initial directors named in the articles of incorporation or elected by the incorporators, shall be elected, appointed, or designated as provided in the articles of incorporation or bylaws. If no method of election, appointment, or designation is set forth in the articles of incorporation or bylaws, such directors are elected by the board of directors.

(3) If the articles of incorporation or bylaws divide, or authorize dividing, the members into classes, the articles of incorporation or bylaws may also authorize the election of all or a specified number of directors by the holders of one or more authorized classes of members. A class or multiple classes of members entitled to elect one or more directors is a separate voting group for purposes of the election of directors.

**Section 43. Section 617.0805, Florida Statutes, is created to read:**

617.0805 Terms of directors, generally.—

(1) The articles of incorporation or bylaws may specify the terms of directors. If a term is not specified in the

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articles of incorporation or bylaws, the term of a director is 1 year.

(2) A decrease in the number of directors or term of office does not shorten an incumbent director's term.

(3) Except as provided in the articles of incorporation or bylaws, the term of a director elected to fill a vacancy expires at the end of the term that the director is filling.

(4) Notwithstanding the expiration of a director's term, the director continues to serve until the director's successor is elected, appointed, or designated and until the director's successor takes office unless otherwise provided in the articles of incorporation or bylaws or there is a decrease in the number of directors.

**Section 44. Present subsection (3) of section 617.0808, Florida Statutes, is redesignated as subsection (2) of that section, and subsection (1) and present subsection (2) of that section are amended, to read:**

617.0808 Removal of directors.—

(1) ~~Subject to subsection (2),~~ A director may be removed from office pursuant to procedures provided in the articles of incorporation or the bylaws. Unless the articles of incorporation or bylaws provide otherwise, a director may be removed as follows ~~, which shall provide the following, and if they do not do so, shall be deemed to include the following:~~

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140 (a) Any member of the board of directors may be removed  
141 from office with or without cause by:

142 1. Except as provided in paragraph (i), a majority of all  
143 votes of the directors, if the director was elected or appointed  
144 by the directors; or

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

147 (b) If a director is elected by a class, chapter, or other  
148 organizational unit, or by region or other geographic grouping,  
149 the director may be removed only by the members of that class,  
150 chapter, unit, or grouping. However:

151 1. A director may be removed only if the number of votes  
152 cast to remove the director would be sufficient to elect the  
153 director at a meeting to elect directors, except as provided in  
154 subparagraphs 2. and 3.

155 2. If cumulative voting is authorized, a director may not  
156 be removed if the number of votes sufficient to elect the  
157 director under cumulative voting is voted against the removal of  
158 the director.

159 3. If at the beginning of the term of a director the  
160 articles of incorporation or bylaws provide that the director  
161 may be removed for missing a specified number of board meetings,  
162 the board may remove the director for failing to attend the  
163 specified number of meetings. The director may be removed only

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164 if a majority of the directors then in office vote for the  
165 removal.

166 (c) The notice of a meeting to recall a member or members  
167 of the board of directors must ~~shall~~ state the specific  
168 directors sought to be removed.

169 (d) A proposed removal of a director at a meeting requires  
170 ~~shall require~~ a separate vote for each director whose removal is  
171 sought. Where removal is sought by written consent, a separate  
172 consent is required for each director to be removed.

173 (e) If removal is effected at a meeting, any vacancies  
174 created shall be filled by the members or directors eligible to  
175 vote for the removal.

176 (f) Any director who is removed from the board is not  
177 eligible to stand for reelection until the next annual meeting  
178 at which directors are elected.

179 (g) Any director removed from office must ~~shall~~ turn over  
180 to the board of directors within 72 hours any and all records of  
181 the corporation in such director's ~~his or her~~ possession.

182 (h) If a director who is removed does not relinquish such  
183 director's ~~his or her~~ office or turn over records as required  
184 under this section, the circuit court in the county where the  
185 corporation's principal office is located may summarily order  
186 the director to relinquish such director's ~~his or her~~ office and  
187 turn over corporate records upon application of any member.

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

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

**Section 45. Present subsection (4) of section 617.0809, Florida Statutes, is redesignated as subsection (3) of that section, and subsections (1) and (2) and present subsection (3) of that section are amended, to read:**

617.0809 Board vacancy.—

(1) Except as otherwise provided in subsection (2) s. ~~617.0808(1)(f)~~, the articles of incorporation, or the bylaws, if a any vacancy occurs occurring on the board of directors, including a vacancy resulting from an increase in the number of directors, the vacancy may be filled by a ~~the affirmative vote of the majority of the remaining directors in office, even if though the remaining directors constitute less than a quorum, or by the sole remaining director or, if the vacancy is not so filled or if no director remains, by the members or, on the~~

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~~application of any person, by the circuit court of the county  
where the registered office of the corporation is located.~~

(2) Except as otherwise provided in the articles of  
incorporation or bylaws, whenever a vacancy in the position of a  
director who is: occurs with respect to a director

(a) Elected by a voting group of members, a class, chapter  
or other organizational, unit of members, or a region or other  
geographic grouping of members group, the vacancy may be filled  
during the first 3 months after the vacancy occurs only by  
members of that voting class, chapter, unit, or group, chapter,  
unit, region, or grouping, or by a majority of the directors  
then in office elected by such voting group, chapter, unit,  
region, or grouping class, chapter, unit, or group. If the  
vacancy has not been filled within the 3-month period, the  
vacancy may be filled by vote of a majority of the directors  
remaining in office in accordance with subsection (1);

(b) Appointed by persons, other than the members, may be  
filled only by those persons; or

(c) Designated in the articles of incorporation or bylaws  
may not be filled by action of the board of directors.

~~(3) The term of a director elected or appointed to fill a  
vacancy expires at the next annual meeting at which directors  
are elected. Any directorship to be filled by reason of an  
increase in the number of directors may be filled by the board  
of directors, but only for a term of office continuing until the~~

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~~next election of directors by the members or, if the corporation  
has no members or no members having the right to vote thereon,  
for such term of office as is provided in the articles of  
incorporation or the bylaws.~~

**Section 46. Section 617.08091, Florida Statutes, is  
created to read:**

617.08091 Removal of directors by judicial proceedings.—

(1) The court of the county where the principal office of  
a corporation, or if one is not in this state, its registered  
office, is located may remove a director from office in a  
proceeding commenced by or in the right of the corporation if  
the court finds that:

(a) The director engaged in fraudulent conduct with  
respect to the corporation or its members, grossly abused the  
position of director, or intentionally inflicted harm on the  
corporation; and

(b) Considering the director's course of conduct and the  
inadequacy of other available remedies, removal is in the best  
interest of the corporation.

(2) Only a member, an officer, or a director may bring an  
action under this section, and such action must comply with the  
requirements of ss. 617.0742-617.0747. An action by a member may  
not be brought unless the complaint is filed by a member having,  
or is formally joined by members collectively having, no less  
than 10 percent of the corporation's voting power.

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(3) In addition to removing the director, the court may bar the director from being reelected, redesignated, or reappointed for a period prescribed by the court.

(4) This section does not limit the equitable powers of the court to order other relief.

**Section 47. Section 617.0820, Florida Statutes, is amended to read:**

617.0820 Board meetings.—

(1) The board of directors may hold regular or special meetings in or out of this state.

(2) A majority of the directors present, whether or not a quorum exists, may adjourn any meeting of the board of directors to another time and place. Unless the bylaws otherwise provide, notice of any such adjourned meeting shall be given to the directors who were not present at the time of the adjournment and, unless the time and place of the adjourned meeting are announced at the time of the adjournment, to the other directors.

(3) Unless the articles of incorporation or the bylaws provide otherwise, meetings of the board of directors may be called and notice of the meeting delivered by the chair of the board, the president or a similarly situated officer, or 20 percent of the directors then in office ~~or by the president unless otherwise provided in the articles of incorporation or the bylaws.~~

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(4) Unless the articles of incorporation or the bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

(5) Unless the articles of incorporation or the bylaws provide for a longer or shorter period, regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting.

(6) Unless the articles of incorporation or the bylaws provide otherwise, a special meeting of the board of directors must be preceded by at least 2 days' notice of the date, time, and place of the meeting. The notice need not describe the purpose of the special meeting unless required by the articles of incorporation or the bylaws.

**Section 48. Subsections (1) and (2) of section 617.0821, Florida Statutes, are amended to read:**

617.0821 Action by directors without a meeting.—

(1) Unless the articles of incorporation or the bylaws provide otherwise, action required or permitted by this chapter ~~act~~ to be taken at a board of directors' meeting or committee meeting may be taken without a meeting if the action is taken by

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all members of the board or of the committee. The action must be evidenced by one or more written consents describing the action taken and signed by each director or committee member and delivered to the corporation.

(2) Action taken under this section is effective when the last director signs the consent and delivers the consent to the corporation, unless the consent specifies a different effective date. A director's consent may be withdrawn by a revocation signed by the director and delivered to the corporation before delivery to the corporation of unrevoked written consents signed by all the directors.

**Section 49. Section 617.0823, Florida Statutes, is amended to read:**

617.0823 Waiver of notice.—Notice of a meeting of the board of directors need not be given to any director who signs a waiver of notice either before or after the meeting. Attendance of a director at a meeting constitutes ~~shall constitute~~ a waiver of notice of such meeting and a waiver of any objection ~~and all objections~~ to the date of the meeting, the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when a director states, at the beginning of the meeting or promptly upon arrival at the meeting, any objection to holding the meeting or the transaction of affairs because the meeting is not lawfully called or

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336 convened and, after such objection, the director does not vote  
337 for or consent to action taken at the meeting.

338 **Section 50. Section 617.0830, Florida Statutes, is amended**  
339 **to read:**

340 (Substantial rewording of section. See s. 617.0830,  
341 F.S., for present text.)

342 617.0830 General standards for directors.—

343 (1) Each member of the board of directors, when  
344 discharging duties of a director, including in discharging  
345 duties as a member of a board committee, shall act:

346 (a) In good faith; and

347 (b) In a manner such director reasonably believes is in  
348 the best interests of the corporation.

349 (2) The members of the board of directors or a board  
350 committee, when becoming informed in connection with a  
351 decisionmaking function or devoting attention to an oversight  
352 function, shall discharge their duties with the care that an  
353 ordinary prudent person in a like position would reasonably  
354 believe appropriate under similar circumstances.

355 (3) In discharging board or board committee duties, a  
356 director who does not have knowledge that makes reliance  
357 unwarranted is entitled to rely on the performance by any of the  
358 persons specified in paragraph (5) (a) or paragraph (5) (b) to  
359 whom the board may have delegated, formally or informally by  
360 course of conduct, the authority or duty to perform one or more

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of the board's functions that are delegable under applicable law.

(4) In discharging board or board committee duties, a director who does not have knowledge that makes reliance unwarranted is entitled to rely on any information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by any of the persons specified in subsection (5).

(5) A director is entitled to rely, in accordance with subsection (3) or subsection (4), on:

(a) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports, or statements provided;

(b) Legal counsel, public accountants, or other persons retained by the corporation or by a committee of the board of the corporation as to matters involving skills or expertise the director reasonably believes are matters:

1. Within the particular person's professional or expert competence; or

2. As to which the particular person merits confidence; or

(c) A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

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(d) In the case of a corporation engaged in religious activity, religious authorities and ministers, priests, rabbis, imams, or other persons whose positions or duties the director reasonably believes justify reliance and confidence and whom the director believes to be reliable and competent in the matters presented.

(6) A director is not a trustee with respect to the corporation or with respect to any property held or administered by the corporation in trust, including property that may be subject to restrictions imposed by the donor or transferor of the property.

**Section 51. Section 617.0832, Florida Statutes, is amended to read:**

(Substantial rewording of section.

See s. 617.0832, F.S., for present text.)

617.0832 General standards for directors.—

(1) As used in this section, the following terms and definitions apply:

(a) "Director's conflict of interest transaction" means a transaction between a corporation and one or more of its directors, or another entity in which one or more of the corporation's directors are directly or indirectly a party to the transaction, other than being an indirect party as a result of being a member of the corporation, and have a direct or indirect material financial interest or other material interest.

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410 (b) "Fair to the corporation" means that the transaction,  
411 as a whole, is beneficial to the corporation and its members,  
412 taking into appropriate account whether it is:

413 1. Fair in terms of the director's dealings with the  
414 corporation in connection with that transaction; and

415 2. Comparable to what might have been obtainable in an  
416 arm's length transaction.

417 (c) "Family member" includes any of the following:

418 1. The director's spouse.

419 2. A child, stepchild, parent, stepparent, grandparent,  
420 sibling, step sibling, or half sibling of the director or the  
421 director's spouse.

422 (d) A director is "indirectly" a party to a transaction if  
423 that director has a material financial interest in or is a  
424 director, officer, member, manager, or partner of a person,  
425 other than the corporation, who is a party to the transaction.

426 (e) A director has an "indirect material financial  
427 interest" if a director's family member has a material financial  
428 interest in the transaction, other than having an indirect  
429 interest as a member of the corporation, or if the transaction  
430 is with an entity, other than the corporation, which has a  
431 material financial interest in the transaction and controls, or  
432 is controlled by, the director or another person specified in  
433 this section.

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434 (f) "Material financial interest" or "other material  
435 interest" means a financial or other interest in the transaction  
436 that would reasonably be expected to impair the objectivity of  
437 the director's judgment when participating in the action on the  
438 authorization of the transaction.

439 (2) If a director's conflict of interest transaction is  
440 fair to the corporation at the time it is authorized, approved,  
441 effectuated, or ratified:

442 (a) Such transaction is not void or voidable; and

443 (b) The fact that the transaction is a director's conflict  
444 of interest transaction is not grounds for any equitable relief,  
445 an award of damages, or other sanctions, because of that  
446 relationship or interest, because such director or directors are  
447 present at the meeting of the board of directors or a committee  
448 thereof which authorizes, approves, or ratifies such  
449 transaction, or because such directors or their votes are  
450 counted for such purpose.

451 (3) (a) In a proceeding challenging the validity of a  
452 director's conflict of interest transaction or in a proceeding  
453 seeking equitable relief, award of damages, or other sanctions  
454 with respect to a director's conflict of interest transaction,  
455 the person challenging the validity or seeking equitable relief,  
456 award of damages, or other sanctions has the burden of proving  
457 the lack of fairness of the transaction if:

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458       1. The material facts of the transaction and the  
459       director's interest in the transaction were disclosed or known  
460       to the board of directors or committee that authorizes,  
461       approves, or ratifies the transaction and the transaction was  
462       authorized, approved, or ratified by a vote of a majority of the  
463       qualified directors, even if the qualified directors constitute  
464       less than a quorum of the board or the committee; however, the  
465       transaction may not be authorized, approved, or ratified under  
466       this subsection solely by a single director; or

467       2. The material facts of the transaction and the  
468       director's interest in the transaction were disclosed or known  
469       to the members who voted upon such transaction and the  
470       transaction was authorized, approved, or ratified by a majority  
471       of the votes cast by disinterested members or by the written  
472       consent of disinterested members representing a majority of the  
473       votes that could be cast by all disinterested members. A  
474       membership interest owned by or voted under the control of a  
475       director who has a relationship or interest in the director's  
476       conflict of interest transaction may not be considered a  
477       membership interest owned by a disinterested member and may not  
478       be counted in a vote of members to determine whether to  
479       authorize, approve, or ratify a director's conflict of interest  
480       transaction under this subsection. The vote of those membership  
481       interests, however, is counted in determining whether the  
482       transaction is approved under other sections of this chapter. A

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majority of the membership interests, whether or not present,  
that are entitled to be counted in a vote on the transaction  
under this subsection constitutes a quorum for the purpose of  
taking action under this section.

(b) If neither of the conditions provided in paragraph (a)  
has been satisfied, the person defending or asserting the  
validity of a director's conflict of interest transaction has  
the burden of proving its fairness in a proceeding challenging  
the validity of the transaction.

(4) The presence of or a vote cast by a director with an  
interest in the transaction does not affect the validity of an  
action taken under paragraph (3)(a) if the transaction is  
otherwise authorized, approved, or ratified as provided in  
subsection (3), but the presence or vote of the director may be  
counted for purposes of determining whether the transaction is  
approved under this chapter.

(5) In addition to other grounds for challenge, a party  
challenging the validity of the transaction is not precluded  
from asserting and proving that a particular director or member  
was not disinterested on grounds of financial or other interest  
for purposes of the vote on, consent to, or approval of the  
transaction.

(6) If directors' action under this section does not  
otherwise satisfy a quorum or voting requirement applicable to  
the authorization of the transaction by directors as required by

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the articles of incorporation, the bylaws, this chapter, or any other law, an action to satisfy those authorization requirements, whether as part of the same action or by way of another action, must be taken by the board of directors or a committee in order to authorize the transaction. In such action, the vote or consent of directors who are not disinterested may be counted.

(7) If members' action under this section does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by members as required by the articles of incorporation, the bylaws, this chapter, or any other law, an action to satisfy those authorization requirements, whether as part of the same action or by way of another action, must be taken by the members in order to authorize the transaction. In such action, the vote or consent of members who are not disinterested members may be counted.

**Section 52.** Section 617.0834, Florida Statutes, is reordered and amended to read:

617.0834 Liability of directors and officers ~~and directors of certain corporations and associations not for profit; immunity from civil liability.-~~

(1) A director or an officer ~~or director of a nonprofit organization recognized under s. 501(c)(3) or s. 501(c)(4) or s. 501(c)(6) of the Internal Revenue Code of 1986, as amended, or of an agricultural or a horticultural organization recognized~~

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533 ~~under s. 501(c)(5), of the Internal Revenue Code of 1986, as~~  
534 ~~amended,~~ is not personally liable for monetary damages to the  
535 corporation or any person for any statement, vote, decision to  
536 take or not, ~~or failure~~ to take an action, or any failure to  
537 take any action, as a director or an officer regarding  
538 ~~organizational management or policy by an officer or director,~~  
539 unless:

540 (a) The director or officer ~~or director~~ breached or failed  
541 to perform the director's or officer's ~~his or her~~ duties as a  
542 director or an officer ~~or director~~; and

543 (b) The director's or officer's ~~or director's~~ breach of,  
544 or failure to perform, the director's or officer's ~~his or her~~  
545 duties constitutes any of the following:

546 1. A violation of the criminal law, unless the ~~officer or~~  
547 director or officer had reasonable cause to believe the  
548 director's or officer's ~~his or her~~ conduct was lawful or had no  
549 reasonable cause to believe the director's or officer's ~~his or~~  
550 ~~her~~ conduct was unlawful. A judgment or other final adjudication  
551 against a director or an officer ~~or director~~ in any criminal  
552 proceeding for violation of the criminal law estops that  
553 director or officer ~~or director~~ from contesting the fact that  
554 the director's or officer's ~~his or her~~ breach, or failure to  
555 perform, constitutes a violation of the criminal law, but does  
556 not estop the director or officer ~~or director~~ from establishing  
557 that the director or officer ~~he or she~~ had reasonable cause to

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558 believe that the director's or officer's ~~his or her~~ conduct was  
559 lawful or had no reasonable cause to believe that the director's  
560 or officer's ~~his or her~~ conduct was unlawful;

561 2. A transaction from which the director or officer ~~or~~  
562 ~~director~~ derived an improper personal benefit, directly or  
563 indirectly; ~~or~~

564 3. In a proceeding by or in the right of the corporation  
565 to procure a judgment in its favor or by or in the right of a  
566 member, conscious disregard for the best interest of the  
567 corporation, or willful or intentional misconduct; or

568 4. In a proceeding by or in the right of someone other  
569 than the corporation or a member, recklessness or an act or  
570 omission that was committed in bad faith or with malicious  
571 purpose or in a manner exhibiting wanton and willful disregard  
572 of human rights, safety, or property.

573 (2) A director or an officer is deemed not to have derived  
574 an improper personal benefit from any transaction if the  
575 transaction and the nature of any personal benefit derived by  
576 the director or officer are not prohibited by state or federal  
577 law or regulation and, without further limitation, the  
578 transaction is fair to the corporation at the time it is  
579 authorized, approved, or ratified as determined in accordance  
580 with s. 617.0832.

581 (3) The circumstances set forth in subsection (2) are not  
582 exclusive and do not preclude the existence of other

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583 circumstances under which a director or officer will be deemed  
584 not to have derived an improper benefit.

585 (4) For the purposes of this section, the term:

586 (c)-(a) "Recklessness" means the acting, or omission to  
587 act, in conscious disregard of a risk:

588 1. Known, or so obvious that it should have been known, to  
589 the director or officer ~~or director~~; and

590 2. Known to the director or officer ~~or director~~, or so  
591 obvious that it should have been known, to be so great as to  
592 make it highly probable that harm would follow from such action  
593 or omission.

594 (a)-(b) "Director" means a person who serves as a director,  
595 trustee, or member of the governing board of an organization.

596 (b)-(e) "Officer" means a person who serves as an officer  
597 without compensation except reimbursement for actual expenses  
598 incurred or to be incurred.

599 **Section 53. Subsection (4) of section 617.0835, Florida**  
600 **Statutes, is amended to read:**

601 617.0835 Prohibited activities by private foundations.—

602 (4) ~~The provisions of Subsections (2) and (3) do not apply~~  
603 ~~to any corporation that was incorporated before January 1, 1970,~~  
604 ~~and that has been properly relieved from the requirements of 26~~  
605 ~~U.S.C. s. 508(e)(1) by a timely judicial proceeding to the~~  
606 ~~extent that a court of competent jurisdiction determines that~~  
607 ~~such application would be contrary to the terms of the articles~~

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~~of incorporation or organization or other instrument governing  
such corporation or governing the administration of charitable  
funds held by it and that the same may not properly be changed  
to conform to such subsections.~~

**Section 54. Section 617.0844, Florida Statutes, is created  
to read:**

617.0844 Standards of conduct for officers.—

(1) An officer, when discharging his or her duties, shall  
act:

(a) In good faith; and

(b) In a manner such officer reasonably believes to be in  
the best interests of the corporation.

(2) An officer, when becoming informed in connection with  
a decisionmaking function or devoting attention to an oversight  
function, shall discharge his or her duties with the care that  
an ordinary prudent person in a like position would reasonably  
believe appropriate under similar circumstances.

(3) In discharging his or her duties, an officer who does  
not have knowledge that makes reliance unwarranted is entitled  
to rely on the performance by any of the persons specified in  
paragraph (5) (a) or paragraph (5) (b) to whom the board may have  
delegated, formally or informally by course of conduct, the  
authority or duty to perform one or more of the board's  
functions that are delegable under applicable law.

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632       (4) In discharging his or her duties, an officer who does  
633 not have knowledge that makes reliance unwarranted is entitled  
634 to rely on any information, opinions, reports, or statements,  
635 including financial statements and other financial data,  
636 prepared or presented by any of the persons specified in  
637 subsection (5).

638       (5) An officer is entitled to rely, in accordance with  
639 subsection (3) or subsection (4), on:

640       (a) One or more officers or employees of the corporation  
641 whom the officer reasonably believes to be reliable and  
642 competent in the functions performed or the information,  
643 opinions, reports, or statements provided;

644       (b) Legal counsel, public accountants, or other persons  
645 retained by the corporation or by a committee of the board of  
646 the corporation as to matters involving skills or expertise the  
647 officer reasonably believes are matters:

648       1. Within the particular person's professional or expert  
649 competence; or

650       2. As to which the particular person merits confidence; or

651       (c) A committee of the board of directors of which the  
652 officer is not a member if the officer reasonably believes the  
653 committee merits confidence.

654       (d) In the case of a corporation engaged in religious  
655 activity, religious authorities and ministers, priests, rabbis,  
656 imams, or other persons whose positions or duties the officer

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reasonably believes justify reliance and confidence and whom the officer believes to be reliable and competent in the matters presented.

(6) The duty of an officer includes the obligation to:

(a) Inform the superior officer to whom, or the board of directors or the committee to which, the officer reports of information about the affairs of the corporation known to the officer, within the scope of the officer's functions, and known or as should be known to the officer to be material to such superior officer, board, or committee; and

(b) Inform such officer's superior officer, or another appropriate person within the corporation, or the board of directors, or a committee thereof, of any actual or probable material violation of law involving the corporation or material breach of duty to the corporation by an officer, employee, or agent of the corporation the officer believes has occurred or is likely to occur.

(7) An officer is not a trustee with respect to the corporation or to any property held or administered by the corporation in trust, including property that may be subject to restrictions imposed by the donor.

**Section 55. Subsection (1) of section 617.1001, Florida Statutes, is amended to read:**

617.1001 Authority to amend the articles of incorporation.—

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(1) A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation or to delete a provision not required to be contained in the articles of incorporation. Whether a provision is required or permitted in the articles of incorporation is determined as of the effective date of the amendment ~~as provided in this act.~~

**Section 56. Present paragraph (b) of subsection (1) and present subsections (2) and (3) of section 617.1002, Florida Statutes, are redesignated as subsections (2), (4), and (5), respectively, a new subsection (3) is added to that section, and present subsection (1) of that section is amended, to read:**

617.1002 Procedure for amending articles of incorporation.—

(1) Unless the articles of incorporation provide otherwise ~~an alternative procedure~~, amendments to the articles of incorporation shall ~~must~~ be adopted ~~made~~ in the following manner:

(a) If there are members entitled to vote on a proposed amendment to the articles of incorporation, the proposed amendment shall first be adopted by the board of directors. ~~must adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members entitled to vote on the proposed amendment, which may be either an annual or a special meeting. Written notice setting forth the~~

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~~proposed amendment or a summary of the changes to be effected by the amendment must be given to each member entitled to vote at such meeting in accordance with the articles of incorporation or the bylaws. The proposed amendment shall be adopted upon receiving at least a majority, or any larger or smaller percentage specified in the articles of incorporation or the bylaws, of the votes which members present at such meeting or represented by proxy are entitled to cast; or~~

(b) Except as provided in subsection (3) or, with respect to restatements that do not require member approval, or s. 617.1007, the members shall approve the amendment.

(c) In submitting the proposed amendment to the members for approval, the board of directors shall recommend that the members approve the amendment unless the board of directors determines that, because of a conflict of interest or other special circumstances, it should not make such a recommendation, in which case the board must inform the members of the basis for proceeding without such recommendation.

(d) The board of directors may set conditions for the approval of the amendment by the members or the effectiveness of the amendment.

(e) If the amendment is required to be approved by the members, and the approval is to be given at a meeting, the corporation must notify each member entitled to vote on the amendment of the meeting of members at which the amendment is to

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732 be submitted for approval. The notice must state that the  
733 purpose, or one of the purposes, of the meeting is to consider  
734 the amendment, and must contain or be accompanied by a copy of  
735 the amendment.

736 (f) Unless this chapter, the articles of incorporation, or  
737 the board of directors, acting pursuant to paragraph (d),  
738 requires a greater vote or a greater quorum, the approval of the  
739 amendment requires the approval of the members at a meeting at  
740 which the current required quorum exists.

741 (2)(b) If there are no members or if members are not  
742 entitled to vote on proposed amendments to the articles of  
743 incorporation, unless the articles of incorporation provide  
744 otherwise, an amendment may be adopted at a meeting of the board  
745 of directors by a majority vote of the directors then in office,  
746 or by the incorporators if no board has been elected. Unless the  
747 articles of incorporation provide otherwise, an amendment  
748 adopted by the board of directors under this subsection must  
749 also be approved, if the amendment changes or deletes a  
750 provision regarding the appointment of a director by persons  
751 other than the board, by those persons as if they constituted a  
752 voting group.

753 (3) Unless the articles of incorporation provide  
754 otherwise, the board of directors of a corporation with members  
755 entitled to vote on proposed amendments may adopt amendments to

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the corporation's articles of incorporation without approval of  
the members to:

(a) Extend the duration of the corporation if it was  
incorporated at a time when limited duration was required by  
law;

(b) Delete the names and addresses of the initial  
directors;

(c) Delete the name and address of the initial registered  
agent or registered office, if a statement of change is on file  
with the department;

(d) Delete any other information contained in the articles  
of incorporation which is solely of historical interest;

(e) Change the corporate name by substituting the word  
"corporation," "incorporated," or the abbreviation "Corp.," or  
"Inc.," for a similar word or abbreviation in the name, or by  
adding, deleting, or changing a geographical attribution for the  
name; or

(f) Restate without change all of the then operative  
provisions of the articles of incorporation as provided in s.  
617.1007.

**Section 57. Section 617.1006, Florida Statutes, is amended  
to read:**

617.1006 Contents of articles of amendment.—

(1) After an amendment to the articles of incorporation  
has been adopted and approved as required by this chapter, the

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781 corporation shall deliver to the department for filing articles  
782 of amendment which must be signed in accordance with The  
783 ~~articles of amendment must be executed by the corporation as~~  
784 ~~provided in~~ s. 617.01201 and must set forth:

785 (a)(1) The name of the corporation;

786 (b)(2) The text of each amendment adopted or the  
787 information required by s. 617.01201(10), if applicable;

788 (c) If the amendment provides for an exchange, a  
789 reclassification, or a cancellation of memberships, provisions  
790 for implementing the amendment if not contained in the amendment  
791 itself, which may be made dependent upon facts objectively  
792 ascertainable outside the articles of amendment in accordance  
793 with s. 617.01201(10);

794 (d) The date of each amendment's adoption; and

795 (e) If the amendment:

796 1. Was adopted by the incorporators or the board of  
797 directors without member approval, a statement that the  
798 amendment was adopted by the incorporators or by the board of  
799 directors and that member approval was not required;  
800 2. Required approval by the members, a statement that the  
801 amendment was duly approved by the members in the manner  
802 required by this chapter and by the articles of incorporation  
803 and bylaws; or

804 3. Is being filed pursuant to s. 617.01201(10), a  
805 statement to that effect.

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(2) Articles of amendment take effect on the effective date determined pursuant to s. 617.0123.

~~(3) If there are members entitled to vote on a proposed amendment, the date of the adoption of the amendment by the members and a statement that the number of votes cast for the amendment was sufficient for approval; and~~

~~(4) If there are no members or if members are not entitled to vote on a proposed amendment, a statement of such fact and the date of the adoption of the amendment by the board of directors.~~

**Section 58. Section 617.1101, Florida Statutes, is amended to read:**

(Substantial rewording of section.

See s. 617.1101, F.S., for present text.)

617.1101 Plan of merger.—

(1) By complying with this chapter, including adopting a plan of merger in accordance with subsection (3) and complying with s. 617.1103:

(a) Subject to and except as otherwise provided in s. 617.1102, one or more domestic corporations may merge with one or more domestic or foreign eligible entities pursuant to a plan of merger, resulting in a survivor; and

(b) Any two or more eligible entities may merge, resulting in a surviving entity that is a domestic corporation created in the merger.

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(2) Subject to and except as otherwise provided in s. 617.1102, a domestic eligible entity that is not a corporation may be a party to a merger with a domestic corporation, or may be created as the survivor in a merger in which a domestic corporation is a party, but only if the parties to the merger comply with this chapter and the merger is permitted by the organic law of the domestic eligible entity that is not a corporation. A foreign eligible entity may be a party to a merger with a domestic corporation or, subject to and as otherwise provided in s. 617.1102, may be created as the survivor in a merger in which a domestic corporation is a party, but only if the parties to the merger comply with this chapter and the merger is permitted by the organic law of the foreign eligible entity.

(3) The plan of merger must set forth:

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

(b) The survivor's name, jurisdiction of formation, and type of entity, and, if the survivor is to be created in the merger, a statement to that effect;

(c) The terms and conditions of the merger, including:

1. A statement that the interests in such entity are to be canceled; or

2. The manner of converting the interests in such entity into interests, securities, obligations, money, other property,

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856 rights to acquire interests or securities, or any combination of  
857 the foregoing;

858 (d) The articles of incorporation of any domestic or  
859 foreign corporation, or the public organic record of any other  
860 domestic or foreign eligible entity to be created by the merger,  
861 or if a new domestic or foreign corporation or other eligible  
862 entity is not to be created by the merger, any amendment to, or  
863 restatement of, the survivor's articles of incorporation or  
864 other public organic record;

865 (e) The effective date and time of the merger, which may  
866 be on or after the filing date of filing the articles of merger;  
867 and

868 (f) Any other provision required by the laws under which  
869 any party to the merger is organized or by which it is governed,  
870 or by the articles of incorporation or organic rules of any such  
871 party.

872 (4) In addition to the requirements of subsection (3), a  
873 plan of merger may contain any other provision that is not  
874 prohibited by law.

875 (5) Terms of a plan of merger may be made dependent upon  
876 facts objectively ascertainable outside the plan in accordance  
877 with s. 617.01201(10).

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

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

884 (b) In the manner provided in the plan, except that an  
885 interest holder that was entitled to vote on or consent to the  
886 approval of the plan is entitled to vote on or consent to any  
887 amendment to the plan which will change:

888 1. The amount or kind of interests, securities,  
889 obligations, money, other property, rights to acquire interests  
890 or securities, or any combination of the foregoing, to be  
891 received under the plan by the interest holders of any party to  
892 the merger;

893 2. The articles of incorporation of any domestic  
894 corporation, or the organic rules of any other type of entity,  
895 that will be the survivor of the merger, except for changes  
896 permitted by s. 617.1002(3) or by comparable provisions of the  
897 organic law of any other type of entity; or

898 3. Any of the other terms or conditions of the plan if the  
899 change would adversely affect the interest holder in any  
900 material respect.

901 **Section 59. Section 617.1102, Florida Statutes, is amended**  
902 **to read:**

903 617.1102 Limitation on merger.—A domestic corporation that  
904 holds property for a charitable purpose ~~not for profit organized~~  
905 ~~under this chapter~~ may merge with one or more other eligible

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906 entities, ~~as identified in s. 607.1101(1),~~ only if the surviving  
907 entity of such merger is a domestic or foreign corporation ~~not~~  
908 ~~for-profit~~ or other eligible entity that has been organized as a  
909 nonprofit ~~not-for-profit~~ entity under a governing statute or  
910 other applicable law that allows such a merger.

911 **Section 60. Section 617.1103, Florida Statutes, is amended**  
912 **to read:**

913 (Substantial rewording of section.

914 See s. 617.1103, F.S., for present text.)

915 617.1103 Approval of plan of merger; abandonment of plan  
916 thereafter.-

917 (1) In the case of a domestic corporation that is a party  
918 to a merger, the plan of merger shall be adopted in the  
919 following manner if there are members of the domestic  
920 corporation entitled to vote on the merger:

921 (a) The plan of merger shall first be adopted by the board  
922 of directors of such domestic corporation.

923 (b) Except as provided in paragraph (h), and in s.  
924 617.1104, the members entitled to vote shall vote to adopt the  
925 plan of merger.

926 (c) In submitting the plan of merger to the members for  
927 approval, the board of directors shall recommend that the  
928 members approve the plan, unless the board of directors makes a  
929 determination that because of conflicts of interest or other  
930 special circumstances it should not make such a recommendation,

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931 in which case the board shall inform the members of the basis  
932 for proceeding without such recommendation.

933 (d) The board of directors may set conditions for the  
934 approval of the proposed merger by the members or the  
935 effectiveness of the plan of merger.

936 (e) If the approval by members is to be given at a  
937 meeting, the corporation shall notify each member entitled to  
938 vote of the meeting of members at which the plan is submitted  
939 for approval in accordance with this chapter and the articles of  
940 incorporation and bylaws of the corporation. The notice must  
941 also state that the purpose, or one of the purposes, of the  
942 meeting is to consider the plan of merger, regardless of whether  
943 the meeting is an annual or a special meeting, and contain or be  
944 accompanied by a copy of the plan. If the corporation is not to  
945 be the surviving entity, the notice must also include or be  
946 accompanied by a copy of the articles of incorporation and  
947 bylaws or the organic rules of the surviving entity.

948 (f) Unless this chapter, the articles of incorporation, or  
949 the board of directors, acting pursuant to paragraph (d),  
950 requires a greater vote or a greater quorum in the respective  
951 case, approval of the plan of merger shall require the approval  
952 of the members at a meeting at which the current required quorum  
953 exists by a majority of the votes entitled to be cast on the  
954 plan and, if any class of members is entitled to vote as a  
955 separate voting group on the plan of merger, the approval of

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956 each such separate voting group at a meeting at which a quorum  
957 of the voting group is present by a majority of the votes  
958 entitled to be cast on the merger by that voting group.

959 (g) Subject to paragraph (h), unless otherwise provided in  
960 the articles of incorporation, separate voting on a plan of  
961 merger is required for each class of members that is to be  
962 converted under the plan of merger into securities, interests,  
963 or obligations; rights to acquire securities or other interests;  
964 or cash, other property, or any combination thereof.

965 (h) The articles of incorporation may expressly limit or  
966 eliminate the separate voting rights as to any class of members.

967 (2) If a domestic corporation that is a party to a merger  
968 has no members or if its members are not entitled to vote on a  
969 plan of merger, such plan may be adopted at a meeting of its  
970 board of directors by a majority vote of the directors then in  
971 office.

972 (3)(a) After a plan of merger has been approved and before  
973 articles of merger are effective, the plan may be abandoned as  
974 provided in the plan. Unless prohibited by the plan, the plan  
975 may be abandoned by the board of directors in the same manner as  
976 the plan was approved by:

- 977 1. A domestic corporation; or  
978 2. A merging domestic eligible entity if the organic law  
979 of the entity does not provide for amendment of a plan of  
980 merger.

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(b) If a merger is abandoned under paragraph (a) after articles of merger have been delivered to the department for filing but before the articles of merger have become effective, a statement of abandonment signed by all the parties that signed the articles of merger shall be delivered to the department for filing before the articles of merger become effective. The statement takes effect on filing, whereupon the merger is deemed abandoned and does not become effective. The statement of abandonment must contain:

1. The name of each party to the merger;
2. The date on which the articles of merger were filed by the department; and
3. A statement that the merger has been abandoned in accordance with this section.

**Section 61. Section 617.1104, Florida Statutes, is created to read:**

617.1104 Short-form merger between parent and subsidiary or between subsidiaries.—

(1)(a) A domestic or foreign parent eligible entity that holds a membership in a domestic corporation that carries at least 80 percent of the voting power of each class of membership of the domestic corporation which has voting power may:

1. Merge the subsidiary into itself, or into another domestic or foreign eligible entity in which the parent eligible entity owns at least 80 percent of the voting power of each

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1006 class and series of the outstanding interests that have voting  
1007 power; or

1008 2. Merge itself into the subsidiary.

1009 (b) Mergers under subparagraphs (a)1. and 2. do not  
1010 require the approval of the board of directors or members of the  
1011 subsidiary unless the articles of incorporation or organic rules  
1012 of the parent eligible entity or the articles of incorporation  
1013 of the subsidiary entity otherwise provide. The articles of  
1014 merger relating to a merger under this section do not need to be  
1015 signed by the subsidiary entity.

1016 (2) The parent eligible entity shall, within 10 days after  
1017 the effective date of a merger approved under subsection (1),  
1018 notify each of the subsidiary entity's members that the merger  
1019 has become effective.

1020 (3) Except as provided for in subsections (1) and (2), a  
1021 merger between a parent eligible entity and a domestic  
1022 subsidiary corporation is governed by ss. 617.1101-617.1107,  
1023 which are applicable to mergers generally.

1024 **Section 62. Section 617.1105, Florida Statutes, is amended**  
1025 **to read:**

1026 (Substantial rewording of section.

1027 See s. 617.1105, F.S., for present text.)

1028 617.1105 Articles of merger.—

1029 (1) After a plan of merger has been adopted and approved  
1030 as required by this chapter or, if the merger is being effected

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1031 pursuant to s. 617.1101(1)(b), the merger has been approved as  
1032 required by the organic law governing the parties to the merger,  
1033 the articles of merger must be signed by each party to the  
1034 merger, except as provided in s. 617.1104. The articles of  
1035 merger must set forth:

1036 (a) The name, jurisdiction of formation, and type of  
1037 entity of each party to the merger;

1038 (b) If not already identified as the survivor pursuant to  
1039 paragraph (a), the name, jurisdiction of formation, and type of  
1040 entity of the survivor;

1041 (c) If the articles of incorporation of the survivor are  
1042 being amended, or if a new domestic corporation is being created  
1043 as a result of the merger:

1044 1. The amendments to the survivor's articles of  
1045 incorporation; or

1046 2. The articles of incorporation of the new corporation;

1047 (d) If the plan of merger required approval by the members  
1048 of a domestic corporation that is a party to the merger, a  
1049 statement that the plan was duly approved by the members and, if  
1050 voting by any separate voting group was required, by each such  
1051 separate voting group, in the manner required by this chapter  
1052 and the articles of incorporation of such domestic corporation;

1053 (e) If the plan of merger did not require approval by the  
1054 members of a domestic corporation that is a party to the merger,  
1055 a statement to that effect;

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1056       (f) As to each foreign corporation that is a party to the  
1057 merger, a statement that the participation of the foreign  
1058 corporation was duly authorized in accordance with such  
1059 corporation's organic law;

1060       (g) As to each domestic or foreign eligible entity that is  
1061 a party to the merger and that is not a domestic or foreign  
1062 corporation, a statement that the participation of the eligible  
1063 entity in the merger was duly authorized in accordance with such  
1064 eligible entity's organic law; and

1065       (h) If the survivor is not a domestic or foreign  
1066 corporation or other eligible entity that has been organized as  
1067 a nonprofit entity under a governing statute or other applicable  
1068 law that allows such a merger, as to each domestic corporation  
1069 that is a party to the merger, a statement that it does not hold  
1070 any property for a charitable purpose.

1071       (2) In addition to the requirements of subsection (1),  
1072 articles of merger may contain any other provision not  
1073 prohibited by law.

1074       (3) The articles of merger shall be delivered to the  
1075 department for filing, and, subject to subsection (4), the  
1076 merger must take effect on the effective date determined in  
1077 accordance with s. 617.0123.

1078       (4) With respect to a merger in which one or more foreign  
1079 entities is a party or a foreign corporation created by the

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merger is the survivor, the merger itself becomes effective at  
the later of:

(a) When all documents required to be filed in all foreign  
jurisdictions to effect the merger have become effective; or

(b) When the articles of merger take effect.

(5) Articles of merger required to be filed under this  
section may be combined with any filing required under the  
organic law governing any other domestic eligible entity  
involved in the transaction if the combined filing satisfies the  
requirements of both this section and the other organic law.

**Section 63. Section 617.1106, Florida Statutes, is amended**  
**to read:**

(Substantial rewording of section.

See s. 617.1106, F.S., for present text.)

617.1106 Effect of merger.—

(1) When a merger becomes effective:

(a) The domestic or foreign eligible entity that is  
designated in the plan of merger as the survivor continues or  
comes into existence, as the case may be;

(b) The separate existence of every merging entity, other  
than the survivor, ceases;

(c) All property owned by, and every contract right and  
other right possessed by, each merging entity vests in the  
survivor, without transfer, reversion, or impairment;

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1104        (d) All debts, obligations, and other liabilities of each  
1105 merging entity become debts, obligations, and liabilities of the  
1106 survivor;

1107        (e) The name of the survivor may be, but need not be,  
1108 substituted in any pending proceeding for the name of any party  
1109 to the merger whose separate existence ceased in the merger;

1110        (f) Neither the rights of creditors nor any liens upon the  
1111 property of any corporation party to the merger are impaired by  
1112 such merger;

1113        (g) If the survivor is a domestic eligible entity, the  
1114 articles of incorporation and bylaws or the organic rules of the  
1115 survivor are amended to the extent provided in the plan of  
1116 merger;

1117        (h) The articles of incorporation and bylaws or the  
1118 organic rules of a survivor that is a domestic eligible entity  
1119 and is created by the merger become effective;

1120        (i) The interests of each merging entity which are to be  
1121 canceled or converted in the merger are canceled or converted,  
1122 and the interest holders of those interests are entitled only to  
1123 the rights provided to them under the plan of merger and to any  
1124 appraisal rights they have under the merging entity's organic  
1125 law;

1126        (j) Except as provided by law or the plan of merger, all  
1127 the rights, privileges, franchises, and immunities of each  
1128 eligible entity that is a party to the merger, other than the

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1129 survivor, become the rights, privileges, franchises, and  
1130 immunities of the survivor; and

1131 (k) If the survivor exists before the merger:

1132 1. All the property and contract and other rights of the  
1133 survivor remain its property and contract and other rights  
1134 without transfer, reversion, or impairment;

1135 2. The survivor remains subject to all of its debts,  
1136 obligations, and other liabilities; and

1137 3. Except as provided by law or the plan of merger, the  
1138 survivor continues to hold all of its rights, privileges,  
1139 franchises, and immunities.

1140 (2) Except as provided in the organic law governing a  
1141 party to a merger or in its articles of incorporation or organic  
1142 rules, the merger does not give rise to any rights that any  
1143 interest holder or third party would have upon a dissolution,  
1144 liquidation, or winding up of that party. The merger does not  
1145 require a party to the merger to wind up its affairs and does  
1146 not constitute or cause its dissolution or termination.

1147 (3) Property held in trust or otherwise dedicated to a  
1148 charitable purpose and held by a domestic or foreign eligible  
1149 entity immediately before a merger becomes effective may not, as  
1150 a result of the merger, be diverted from the purposes for which  
1151 it was donated, granted, devised, or otherwise transferred  
1152 except pursuant to the laws of this state addressing cy pres or  
1153 dealing with nondiversion of charitable assets.

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(4) Any bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance which is made to an eligible entity that is a party to a merger that is not the survivor and which takes effect or remains payable after the merger inures to the survivor.

(5) A trust obligation that would govern property if the property is directed to be transferred to a nonsurviving eligible entity applies to property that is to be transferred instead to the survivor after a merger becomes effective.

**Section 64. Section 617.1107, Florida Statutes, is amended to read:**

617.1107 Merger of domestic and foreign corporations.—

~~(1) One or more foreign corporations and one or more domestic corporations may be merged into a corporation of this state or of another jurisdiction if such merger is permitted by the laws of the jurisdiction under which each such foreign corporation is organized and if:~~

~~(a) Each foreign corporation complies with the applicable laws of the jurisdiction under which it is organized; and~~

~~(b) Each domestic corporation complies with the provisions of this act relating to the merger of domestic corporations.~~

~~(2) Following a merger in accordance with s. 617.1101, if the surviving eligible entity is a foreign eligible entity corporation is to be governed by the laws of any jurisdiction other than this state, it must comply with the provisions of~~

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1179 this chapter act with respect to foreign corporations if it is  
1180 to conduct its affairs in this state, and in every case it will  
1181 be deemed to have filed with the department ~~of State~~:

1182 (a) An agreement that it may be served with process in  
1183 this state in any proceeding for the enforcement of any  
1184 obligation of any domestic corporation which is a party to such  
1185 merger; and

1186 (b) An irrevocable appointment of the department ~~of State~~  
1187 ~~of this state~~ as its agent to accept service of process in any  
1188 such proceeding.

1189 ~~(2)(3)~~ Following a merger in accordance with s. 617.1101,  
1190 if the surviving eligible entity is a corporation ~~is~~ to be  
1191 governed by the laws of this state, the effect of such merger is  
1192 the same as in the case of the merger of domestic corporations.  
1193 If the surviving eligible entity ~~corporation~~ is to be governed  
1194 by the laws of any jurisdiction other than this state, the  
1195 effect of such merger is governed by the laws of such other  
1196 jurisdiction.

1197 ~~(4) At any time prior to the filing of the articles of~~  
1198 ~~merger by the Department of State, the merger may be abandoned~~  
1199 ~~pursuant to provisions therefor, if any, set forth in the plan~~  
1200 ~~of merger.~~

1201 **Section 65. Section 617.1202, Florida Statutes, is amended**  
1202 **to read:**

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1203           617.1202 Sale, lease, exchange, or other disposition of  
1204 corporate property and assets requiring member approval. ~~A sale,~~  
1205 ~~lease, exchange, or other disposition of all or substantially~~  
1206 ~~all of the property and assets of a corporation, in all cases~~  
1207 ~~other than those not requiring member approval as specified in~~  
1208 ~~s. 617.1201, may be made upon such terms and conditions and for~~  
1209 ~~such consideration, which may consist in whole or in part of~~  
1210 ~~money or property, real or personal, including shares, bonds, or~~  
1211 ~~other securities of any corporation or corporations for profit,~~  
1212 ~~domestic or foreign, and must be authorized in the following~~  
1213 ~~manner:~~

1214           (1) If a the corporation has members entitled to vote, the  
1215 corporation may sell, lease, exchange, or otherwise dispose of  
1216 all, or substantially all, of its property, with or without good  
1217 will, on the terms and conditions and for the consideration  
1218 determined by the corporation's board of directors, but only if  
1219 the board of directors proposes and its members approve the  
1220 proposed transaction in the following manner: ~~on the sale,~~  
1221 ~~lease, exchange, or other disposition of corporate property, the~~  
1222 ~~board of directors must adopt a resolution approving such sale,~~  
1223 ~~lease, exchange, or other disposition, and directing that it be~~  
1224 ~~submitted to a vote at a meeting of members entitled to vote~~  
1225 ~~thereon, which may be either an annual or special meeting.~~  
1226 ~~Written notice stating that the purpose, or one of the purposes,~~  
1227 ~~of such meeting is to consider the sale, lease, exchange, or~~

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~~other disposition of all or substantially all of the property and assets of the corporation must be given to each member entitled to vote at such meeting in accordance with the articles of incorporation or the bylaws. At such meeting, the members may authorize such sale, lease, exchange, or other disposition and may approve or fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Such authorization requires at least a majority of the votes which members present at such meeting or represented by proxy are entitled to cast. After such authorization by a vote of members, the board of directors may, in its discretion, abandon such sale, lease, exchange, or other disposition of assets, subject to the rights of third parties under any contracts relating to such sale, lease, exchange, or other disposition, without further action or approval by members.~~

(a) The board of directors shall first adopt a resolution approving the disposition, and thereafter, the disposition must also be approved by the corporation's members having voting rights thereon.

(b) In submitting the disposition to the members who have voting rights for approval, the board of directors shall recommend the proposed transaction to the members of record unless the board of directors makes a determination that because of a conflict of interest or other special circumstances it

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1253 should not make such a recommendation, in which event the board  
1254 of directors shall inform the members of the basis for its so  
1255 proceeding without such recommendation.

1256 (c) The board of directors may set conditions for approval  
1257 of the disposition or the effectiveness of the disposition.

1258 (d) If the disposition is required to be approved by the  
1259 members under this subsection and if the approval is to be given  
1260 at the meeting, the corporation must notify each member entitled  
1261 to vote of the meeting of members at which the disposition is to  
1262 be submitted for approval. The notice must state that the  
1263 purpose, or one of the purposes, of the meeting is to consider  
1264 the disposition and must contain a description of the  
1265 disposition and the consideration to be received by the  
1266 corporation.

1267 (e) Unless this chapter, the articles of incorporation, or  
1268 the board of directors acting pursuant to paragraph (c) requires  
1269 a greater vote or a greater quorum, the approval of the  
1270 disposition shall require the approval of the members entitled  
1271 to vote at a meeting at which the current required quorum exists  
1272 consisting of a majority of all the votes entitled to be cast on  
1273 the disposition.

1274 (2) After a disposition has been approved by the members  
1275 under this section, and at any time before the disposition has  
1276 been consummated, it may be abandoned by the corporation without

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1277 action by the members, subject to any contractual rights of  
1278 other parties to the disposition.

1279 (3) A disposition of assets in the course of dissolution  
1280 is governed by ss. 617.1401-617.1440 and not by this section.

1281 (4) If the corporation has no members or if its members  
1282 are not entitled to vote thereon, a sale, lease, exchange, or  
1283 other disposition of all or substantially all the property and  
1284 assets of a corporation may be authorized by a majority vote of  
1285 the directors then in office.

1286 **Section 66. Subsection (2) of section 617.1401, Florida**  
1287 **Statutes, is amended, and subsection (3) of that section is**  
1288 **reenacted, to read:**

1289 617.1401 Voluntary dissolution of corporation prior to  
1290 conducting its affairs.—

1291 (2) Articles of dissolution must be executed in accordance  
1292 with s. 617.01201 and must set forth:

- 1293 (a) The name of the corporation;  
1294 (b) The date of filing of its articles of incorporation;  
1295 (c) That the corporation has not commenced to conduct its  
1296 affairs;  
1297 (d) That no debts of the corporation remain unpaid; ~~and~~  
1298 (e) That any net assets of the corporation remaining after  
1299 winding up have been distributed in accordance with s. 617.1406;  
1300 and

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1301        (f) That the incorporator or a majority of the  
1302 incorporators or a majority of the directors, as the case may  
1303 be, authorized the dissolution.

1304        (3) The articles of dissolution must be filed and shall  
1305 become effective in accordance with s. 617.1403, may be revoked  
1306 in accordance with s. 617.1404, and shall have the effect  
1307 prescribed in s. 617.1405.

1308        **Section 67. Section 617.1402, Florida Statutes, is amended**  
1309 **to read:**

1310        617.1402 Dissolution of corporation subsequent to  
1311 conducting its affairs.—A corporation desiring to dissolve and  
1312 wind up its affairs must adopt a resolution to dissolve in the  
1313 following manner:

1314        (1) If the corporation has members entitled to vote on a  
1315 resolution to dissolve, and unless the board of directors  
1316 determines that because of a conflict of interest or other  
1317 substantial reason it should not make any recommendation, the  
1318 board of directors must adopt a resolution recommending that the  
1319 corporation be dissolved and directing that the question of such  
1320 dissolution be submitted to a vote at a meeting of members  
1321 entitled to vote thereon, which may be either an annual or  
1322 special meeting. Written notice stating that the purpose, or one  
1323 of the purposes, of such meeting is to consider the advisability  
1324 of dissolving the corporation must be given to each member  
1325 entitled to vote at such meeting in accordance with the articles

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1326 of incorporation or the bylaws. A resolution to dissolve the  
1327 corporation must ~~shall~~ be adopted upon receiving at least a  
1328 majority of the votes which members present at such meeting or  
1329 represented by proxy are entitled to cast.

1330 (2) If the corporation has no members or if its members  
1331 are not entitled to vote on a resolution to dissolve, the  
1332 dissolution of the corporation may be authorized at a meeting of  
1333 the board of directors by a majority vote of the directors then  
1334 in office.

1335 **Section 68. Subsection (1) of section 617.1403, Florida**  
1336 **Statutes, is amended, and subsection (3) is added to that**  
1337 **section, to read:**

1338 617.1403 Articles of dissolution.—

1339 (1) At any time after dissolution is authorized, the  
1340 corporation may dissolve by delivering to the department ~~of~~  
1341 ~~State~~ for filing articles of dissolution setting forth:

1342 (a) The name of the corporation;

1343 (b) If the corporation has members entitled to vote on  
1344 dissolution, the date of the meeting of members at which the  
1345 resolution to dissolve was adopted, a statement that the number  
1346 of votes cast for dissolution was sufficient for approval, or a  
1347 statement that such a resolution was adopted by written consent  
1348 and executed in accordance with s. 617.0701; and

1349 (c) If the corporation has no members or if its members  
1350 are not entitled to vote on dissolution, a statement of such

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fact, the date of the adoption of such resolution by the board of directors, the number of directors then in office, and the vote for the resolution.

(3) For purposes of ss. 617.1401-617.1422, the term "dissolved corporation" means a corporation whose articles of dissolution have become effective and includes a successor entity, as defined in s. 617.01401.

**Section 69. Subsection (1) of section 617.1405, Florida Statutes, is amended, subsections (5) and (6) are added to that section, and subsection (4) of that section is reenacted, to read:**

617.1405 Effect of dissolution.—

(1) A ~~dissolved~~ corporation that has dissolved continues its corporate existence but may not conduct its affairs except to the extent appropriate to wind up and liquidate its affairs, including:

(a) Collecting its assets;

(b) Disposing of its properties that will not be distributed in kind pursuant to the plan of distribution of assets adopted under s. 617.1406;

(c) Discharging or making provision for discharging its liabilities;

(d) Distributing its remaining property in accordance with the plan of distribution of assets adopted under s. 617.1406; and

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1376 (e) Doing every other act necessary to wind up and  
1377 liquidate its affairs.

1378 (4) The name of a dissolved corporation is not available  
1379 for assumption or use by another corporation until 120 days  
1380 after the effective date of dissolution unless the dissolved  
1381 corporation provides the department with an affidavit, executed  
1382 pursuant to s. 617.01201, authorizing the immediate assumption  
1383 or use of the name by another corporation.

1384 (5) For purposes of this section, the circuit court may  
1385 appoint a trustee, custodian, receiver, or provisional director  
1386 as described in s. 617.1435 for any property owned or acquired  
1387 by the corporation who may engage in any act permitted in  
1388 accordance with subsection (1) if any director or officer of the  
1389 dissolved corporation is unwilling or unable to serve or cannot  
1390 be located.

1391 (6) Property held in trust or otherwise dedicated to a  
1392 public or charitable purpose may not be diverted from its trust  
1393 or charitable purpose by the dissolution of a corporation except  
1394 in compliance with and pursuant to the laws of this state  
1395 addressing cy pres or otherwise dealing with the nondiversion of  
1396 charitable assets.

1397 **Section 70. Section 617.1406, Florida Statutes, is amended**  
1398 **to read:**

1399 617.1406 Plan of distribution of assets.—A plan providing  
1400 for the distribution of assets, not inconsistent with this

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chapter ~~act~~ or the articles of incorporation, must be adopted by a corporation in the following manner:

(1) If the corporation has members entitled to vote on a plan of distribution of assets, the board of directors must adopt a resolution recommending a plan of distribution and directing its submission to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Written notice setting forth the proposed plan of distribution or a summary thereof must be given to each member entitled to vote at such meeting in accordance with the articles of incorporation or the bylaws. Such plan of distribution shall be adopted upon receiving at least a majority of the votes which the members present at such meeting or represented by proxy are entitled to cast.

(2) If the corporation has no members or if its members are not entitled to vote on a plan of distribution, such plan may be adopted at a meeting of the board of directors by a majority vote of the directors then in office.

(3) A plan of distribution of assets must provide that:

(a) All liabilities and obligations of the corporation be paid and discharged, or adequate provisions be made therefor;

(b) Assets held by the corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, be returned, transferred, or conveyed in accordance with such requirements;

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1426 (c) Assets received and held by the corporation subject to  
1427 limitations permitting their use only for charitable, religious,  
1428 ~~eleemosynary~~, benevolent, educational, or similar purposes, but  
1429 not held upon a condition requiring return, transfer, or  
1430 conveyance by reason of the dissolution, be transferred or  
1431 conveyed to one or more domestic or foreign corporations,  
1432 trusts, societies, or organizations engaged in activities  
1433 substantially similar to those of the dissolving corporation, as  
1434 provided in the plan of distribution of assets;

1435 (d) Other assets, if any, be distributed in accordance  
1436 with the ~~provisions of the~~ articles of incorporation or the  
1437 bylaws to the extent that the articles of incorporation or the  
1438 bylaws determine the distributive rights of members, or any  
1439 class or classes of members, or provide for distribution to  
1440 others; and

1441 (e) Any remaining assets be distributed to such persons,  
1442 trusts, societies, organizations, or domestic or foreign  
1443 corporations, whether for profit or not for profit, as specified  
1444 in the plan of distribution of assets.

1445 (4) A copy of the plan of distribution of assets,  
1446 authenticated by an officer of the corporation and containing  
1447 the officer's certificate of compliance with the requirements of  
1448 subsection (1) or subsection (2) must be filed with the  
1449 department ~~of State~~.

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1450       **Section 71. Section 617.1407, Florida Statutes, is amended**  
1451 **to read:**

1452       617.1407 Unknown claims against dissolved corporation.—

1453       (1) A dissolved corporation or successor entity may  
1454 execute one of the following procedures to resolve payment of  
1455 unknown claims:

1456       (a) A dissolved corporation or successor entity may file  
1457 notice of its dissolution with the department on the form  
1458 prescribed by the department and request that persons with  
1459 ~~having~~ claims against the corporation which are not known claims  
1460 as defined in s. 617.1408(5) to the corporation or successor  
1461 entity present them in accordance with the notice. The notice  
1462 must:

1463       1. State the name of the corporation that is the subject  
1464 ~~and the date of the~~ dissolution;

1465       2. State that the corporation is the subject of a  
1466 dissolution and the effective date of the dissolution;

1467       3. Specify ~~Describe~~ the information that must be included  
1468 in a claim;

1469       4. State that a claim must be in writing and provide a  
1470 mailing address to which the claim may be sent; and

1471       ~~5.3.~~ State that a claim against the corporation under this  
1472 subsection will be ~~is~~ barred unless a proceeding to enforce the  
1473 claim is commenced within 4 years after the date of the filing  
1474 of the notice.

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(b) A dissolved corporation or successor entity may, within 10 days after filing articles of dissolution with the department, publish a "Notice of Corporate Dissolution." The notice must appear once a week for 2 consecutive weeks in a newspaper of general circulation in the county in the state in which the corporation has its principal office, if any, or, if none, in a county in the state in which the corporation owns real or personal property. Such newspaper shall meet the requirements as are prescribed by law for such purposes. The notice must:

1. State the name of the corporation that is the subject ~~and the date of the~~ dissolution;

2. State that the corporation is the subject of a dissolution and the effective date of the dissolution;

3. Specify ~~Describe~~ the information that must be included in a claim;

4. State that a claim must be in writing and provide a mailing address to which the claim may be sent; and

~~5.3.~~ State that a claim against the corporation under this subsection will be ~~is~~ barred unless a proceeding to enforce the claim is commenced within 4 years after the filing ~~date of the second consecutive weekly publication~~ of the notice.

(2) If the dissolved corporation or successor entity complies with paragraph (1)(a) or paragraph (1)(b), unless sooner barred by another statute limiting actions, the claim of

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each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within 4 years after the date of filing the notice with the department or the date of the second consecutive weekly publication, as applicable:

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

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

(c) A claimant whose claim was excluded as a known claim as defined in s. 617.1408(5)(b).

(3) This section does not preclude or relieve the corporation from its notification to claimants otherwise set forth in this chapter ~~A claim may be entered under this section:~~

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

~~(b) If the assets have been distributed in liquidation, against a member of the dissolved corporation to the extent of such member's pro rata share of the claim or the corporate assets distributed to such member in liquidation, whichever is less; however, the aggregate liability of any member of a~~

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~~dissolved corporation may not exceed the amount distributed to  
the member in dissolution.~~

**Section 72. Section 617.1408, Florida Statutes, is amended  
to read:**

(Substantial rewording of section.

See s. 617.1408, F.S., for present text.)

617.1408 Known claims against dissolved corporation.

(1) A dissolved corporation or a successor entity may  
dispose of the known claims against it by giving written notice  
that satisfies the requirements of subsection (2) to its known  
claimants of the dissolution at any time after the effective  
date of the dissolution, but no later than the date that is 270  
days before the date which is 3 years after the effective date  
of the dissolution.

(2) The written notice must:

(a) State the name of the corporation that is the subject  
of the dissolution;

(b) State that the corporation is the subject of a  
dissolution and the effective date of the dissolution;

(c) Specify the information that must be included in a  
claim;

(d) State that a claim must be in writing and provide a  
mailing address where a claim may be sent;

(e) State the deadline, which may not be less than 120  
days after the date of the written notice is received by the

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1549 claimant, by which the dissolved corporation must receive the  
1550 claim;

1551 (f) State that the claim will be barred if not received by  
1552 the deadline;

1553 (g) State that the dissolved corporation or successor  
1554 entity may make distributions thereafter to other claimants and  
1555 the members of the corporation or persons interested as having  
1556 been such claimants without further notice; and

1557 (h) Be accompanied by a copy of ss. 617.1405-617.14091.

1558 (3) A dissolved corporation or successor entity may  
1559 reject, in whole or in part, a claim submitted by a claimant and  
1560 received before the deadline specified in the written notice  
1561 pursuant to subsections (1) and (2) by mailing notice of the  
1562 rejection to the claimant, on or before the date that is the  
1563 earlier of 90 days after the dissolved corporation receives the  
1564 claim, or the date that is at least 150 days before the date  
1565 which is 3 years after the effective date of the dissolution. A  
1566 rejection notice sent by the dissolved corporation pursuant to  
1567 this subsection must state that the claim will be barred unless  
1568 the claimant, not later than 120 days after the claimant  
1569 receives the rejection notice, commences an action in the  
1570 circuit court in the applicable county against the dissolved  
1571 corporation to enforce the claim.

1572 (4) A claim against a dissolved corporation is barred:

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1573 (a) If a claimant who is given written notice pursuant to  
1574 this section does not deliver the claim to the dissolved  
1575 corporation by the specified deadline; or

1576 (b) If the claim was timely received by the dissolved  
1577 corporation but was timely rejected by the dissolved corporation  
1578 under subsection (3) and the claimant does not commence the  
1579 required action in the applicable county within 120 days after  
1580 the claimant receives the rejection notice.

1581 (5) (a) For purposes of this chapter, "known claim" means  
1582 any claim or liability that, as of the date of the giving of  
1583 written notice described in subsections (1) and (2) above:

1584 1. Has matured sufficiently on or before the date of  
1585 dissolution to be legally capable of assertion against the  
1586 dissolved corporation; or

1587 2. Is unmatured as of the date of dissolution but will  
1588 mature in the future solely because of the passage of time.

1589 (b) For purposes of this chapter, "known claim" does not  
1590 include a contingent liability or a claim based on an event  
1591 occurring after the effective date of the dissolution.

1592 (6) The giving of any notice pursuant to this section does  
1593 not revive any claim then barred or constitute acknowledgment by  
1594 the dissolved corporation that any person to whom such notice is  
1595 sent is a proper claimant and does not operate as a waiver of  
1596 any defense or counterclaim in respect of any claim asserted by  
1597 any person to whom such notice is sent.

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1598       **Section 73. Section 617.1409, Florida Statutes, is created**  
1599 **to read:**

1600       617.1409 Court proceedings.—

1601       (1) A dissolved corporation that has filed a notice under  
1602 s. 617.1407(1)(a) or published a notice under s. 617.1407(1)(b)  
1603 may file an application with the circuit court in the applicable  
1604 county for a determination of the amount and form of security to  
1605 be provided for payment of claims that are not known claims as  
1606 defined in s. 617.1408(5) but that, based on the facts known to  
1607 the dissolved corporation, are reasonably estimated to arise  
1608 after the effective date of dissolution. Provisions need not be  
1609 made for any claim that is or is reasonably anticipated to be  
1610 barred under s. 617.1407(2).

1611       (2) Within 10 days after the filing of the application  
1612 pursuant to subsection (1), notice of the proceeding must be  
1613 given by the dissolved corporation to each claimant holding a  
1614 claim whose identity and contingent claim is known to the  
1615 dissolved corporation.

1616       (3) In any proceeding under this section, the court may  
1617 appoint a guardian ad litem to represent all claimants whose  
1618 identities are unknown. The reasonable fees and expenses of such  
1619 guardian ad litem, including all reasonable expert witness fees,  
1620 must be paid by the dissolved corporation.

1621       (4) Provisions by the dissolved corporation for security  
1622 in the amount and the form ordered by the court under subsection

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(1) satisfies the dissolved corporation's obligations with respect to claims that are contingent, have not been made known to the dissolved corporation, or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a person who received assets in liquidation.

**Section 74. Section 617.14091, Florida Statutes, is created to read:**

617.14091 Limitation on director liability for a dissolved corporation; claims against dissolved corporation; enforcement.—

(1) Directors of a dissolved corporation or governing persons of a successor entity that has disposed of claims under s. 617.1407, s. 617.1408, or s. 617.1409 are not personally liable to the claimants of the dissolved corporation.

(2) For a claim that is not barred by s. 617.1407 or s. 617.1408, or by any other law, limiting actions may be enforced:

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

(b) Except as provided in s. 617.1409(4), if the assets have been distributed in liquidation, against a member of the dissolved corporation to the extent of the member's pro rata share of the claim or the corporate assets distributed to the member in liquidation, whichever is less, provided that the aggregate liability of any member of a dissolved corporation arising under s. 617.1408 or otherwise may not exceed the total amount distributed to the member in dissolution.

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1648       **Section 75. Subsection (1) of section 617.1420, Florida**  
1649 **Statutes, is amended, and subsections (3) and (4) are added to**  
1650 **that section, to read:**

1651       617.1420 Grounds for administrative dissolution.—

1652       (1) The department ~~of State~~ may commence a proceeding  
1653 under s. 617.1421 to administratively dissolve a corporation if:

1654       (a) The corporation has failed to file its annual report  
1655 and pay the annual report filing fee by 5 p.m. Eastern Time on  
1656 the third Friday in September;

1657       (b) The corporation is without a registered agent or  
1658 registered office in this state for 30 days or more;

1659       (c) The corporation does not notify the department ~~of~~  
1660 ~~State~~ within 30 days after its registered agent or registered  
1661 office has been changed, after its registered agent has  
1662 resigned, or after its registered office has been discontinued;

1663       (d) The corporation has failed to answer truthfully and  
1664 fully, within the time prescribed by this chapter act,  
1665 interrogatories propounded by the department ~~of State~~; or

1666       (e) The corporation's period of duration stated in its  
1667 articles of incorporation has expired.

1668       (3) If the department determines that one or more grounds  
1669 exist for administratively dissolving a corporation under  
1670 paragraph (1)(a), paragraph (1)(b), paragraph (1)(c), or  
1671 paragraph (1)(d), the department shall serve notice in a record  
1672 to the corporation of its intent to administratively dissolve

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the corporation. Issuance of the notice may be made by electronic transmission to a corporation that has provided the department with an e-mail address.

(4) If, within 60 days after sending the notice of intent to administratively dissolve pursuant to subsection (3), a corporation does not correct each ground for dissolution under paragraph (1)(a), paragraph (1)(b), paragraph (1)(c), or paragraph (1)(d), or demonstrate to the reasonable satisfaction of the department that each ground determined by the department does not exist, the department shall dissolve the corporation administratively and issue to the corporation a notice in a record of administrative dissolution that states the grounds for dissolution. Issuance of the notice of administrative dissolution may be made by electronic transmission to a corporation that has provided the department with an e-mail address.

**Section 76. Subsections (1), (2), and (4) of section 617.1421, Florida Statutes, are amended, and subsection (3) of that section is reenacted, to read:**

617.1421 Procedure for and effect of administrative dissolution.—

(1) If the department ~~of State~~ determines that one or more grounds exist under s. 617.1420 for administratively dissolving a corporation, it shall serve the corporation with notice of its intent under s. 617.0504(2) to administratively dissolve the

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1698 corporation. If the corporation has provided the department with  
1699 an e-mail ~~electronic mail~~ address, such notice shall be by  
1700 electronic transmission. Administrative dissolution for failure  
1701 to file an annual report shall occur on the fourth Friday in  
1702 September of each year. The department ~~of State~~ shall issue a  
1703 certificate of dissolution to each dissolved corporation.  
1704 Issuance of the certificate of dissolution may be by electronic  
1705 transmission to any corporation that has provided the department  
1706 with an e-mail ~~electronic mail~~ address.

1707 (2) If the corporation does not correct each ground for  
1708 dissolution under s. 617.1420(1)(b), (c), (d), or (e) or  
1709 demonstrate to the reasonable satisfaction of the department ~~of~~  
1710 ~~State~~ that each ground determined by the department does not  
1711 exist within 60 days after issuance of the notice, the  
1712 department shall administratively dissolve the corporation by  
1713 issuing a certificate of dissolution that recites the ground or  
1714 grounds for dissolution and its effective date. Issuance of the  
1715 certificate of dissolution may be by electronic transmission to  
1716 any corporation that has provided the department with an e-mail  
1717 ~~electronic mail~~ address.

1718 (3) A corporation administratively dissolved continues its  
1719 corporate existence but may not conduct any affairs except that  
1720 necessary to wind up and liquidate its affairs under s. 617.1405  
1721 and adopt a plan of distribution of assets pursuant to s.  
1722 617.1406.

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(4) A director, officer, or agent of a corporation dissolved pursuant to this section, purporting to act on behalf of the corporation, is not personally liable for the debts, obligations, and liabilities of the corporation arising from such action and incurred subsequent to the corporation's administrative dissolution unless that officer, director, or agent ~~only if he or she~~ has actual notice of the administrative dissolution at the time such action is taken. Any; ~~but~~ such liability shall be terminated upon the ratification of such action by the corporation's board of directors or members subsequent to the reinstatement of the corporation.

**Section 77. Section 617.1430, Florida Statutes, is amended to read:**

617.1430 Grounds for judicial dissolution.—A circuit court may dissolve a corporation or order such other remedy as provided in s. 617.1432 or s. 617.1434:

(1)(a) In a proceeding by the Department of Legal Affairs if it is established that:

1. The corporation obtained its articles of incorporation through fraud; or

2. The corporation has exceeded or abused, or is continuing to exceed or abuse ~~continued to exceed or abuse~~ the authority conferred upon it by law.

(b) The enumeration in paragraph (a) of grounds for judicial dissolution does not exclude actions or special

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proceedings by the Department of Legal Affairs or any state official for the annulment or dissolution of a corporation for other causes as provided by law.

(2) In a proceeding brought by at least 50 members or members holding at least 10 percent of the voting power, whichever is less, or by a member or group or percentage of members as otherwise provided in the articles of incorporation or bylaws, or by a director or any person authorized in the articles of incorporation, if it is established that:

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

(b) The members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon qualification of their successors; ~~or~~

(c) The corporate assets are being misapplied or wasted;

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

(e) The corporation has insufficient assets to continue its activities and is no longer able to assemble a quorum of directors or members.

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(3) In a proceeding by a creditor if it is established that:

(a) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

(b) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent.

(4) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

**Section 78. Section 617.1431, Florida Statutes, is amended to read:**

617.1431 Procedure for judicial dissolution.—

(1) Venue for a proceeding brought under s. 617.1430 lies in the circuit court of the applicable county ~~where the corporation's principal office is or was last located, as shown by the records of the Department of State, or, if none in this state, where its registered office is or was last located.~~

(2) It is not necessary to make members or directors parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(3) A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian during the proceeding ~~pendente lite~~ with all powers and duties the court directs, take other action required to

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1798 preserve the corporate assets wherever located, and carry on the  
1799 affairs of the corporation until a full hearing can be held.

1800 (4) If the court determines that any party has commenced,  
1801 continued, or participated in a proceeding under s. 617.1430,  
1802 and has acted arbitrarily, frivolously, vexatiously, or in bad  
1803 faith, the court may award reasonable attorney fees and costs to  
1804 the other parties to the proceeding who have been affected  
1805 adversely by such actions.

1806 **Section 79. Subsections (1) through (5) of section**  
1807 **617.1432, Florida Statutes, are amended to read:**

1808 617.1432 Receivership or custodianship.—

1809 (1) A court in a judicial proceeding brought under s.  
1810 617.1430 to dissolve a corporation may appoint one or more  
1811 receivers to wind up and liquidate, or one or more custodians to  
1812 manage, the affairs of the corporation, except as otherwise  
1813 provided herein. The court shall hold a hearing, after notifying  
1814 all parties to the proceeding and any interested persons  
1815 designated by the court, before appointing a receiver or  
1816 custodian. The court appointing a receiver or custodian has  
1817 exclusive jurisdiction over the corporation and all of its  
1818 property wherever located. A court may not appoint a custodian  
1819 or a receiver in a judicial proceeding brought under s.  
1820 617.1430(2)(a) or s. 617.1430(2)(b) if the members, directors,  
1821 or any person authorized in the articles of incorporation, by  
1822 agreement or otherwise, or a court pursuant to s. 617.1435, have

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1823 provided for the appointment of a provisional director or other  
1824 means for the resolution of the deadlock, but the court may  
1825 enforce the remedy so provided, if appropriate.

1826 (2) The court may appoint a natural person or an eligible  
1827 entity ~~a corporation~~ authorized to act as a receiver or  
1828 custodian. The eligible entity ~~corporation~~ may be a domestic  
1829 ~~corporation~~ or a foreign eligible entity ~~corporation~~ authorized  
1830 to transact business in this state. The court may require the  
1831 receiver or custodian to post bond, with or without sureties, in  
1832 an amount the court directs.

1833 (3) The court shall describe the powers and duties of the  
1834 receiver or custodian in its appointing order, which may be  
1835 amended from time to time. Among other powers:

1836 (a) The receiver:

1837 1. May dispose of all or any part of the assets of the  
1838 corporation wherever located, at a public or private sale, if  
1839 authorized by the court; and

1840 2. May sue and defend in the receiver's ~~his or her~~ own  
1841 name as receiver of the corporation in all courts of this state.

1842 (b) The custodian may exercise all of the powers of the  
1843 corporation, through or in place of its board of directors or  
1844 officers, to the extent necessary to manage the affairs of the  
1845 corporation in the best interests of its members and creditors.

1846 (4) The court during a receivership may redesignate the  
1847 receiver to act as a custodian, and during a custodianship may

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redesignate the custodian to act as a receiver, if doing so is consistent with the mission of the corporation and in the best interests of the corporation, and its members, if any, and creditors. The court may amend the order designating the receiver as custodian and custodian as receiver as the court deems appropriate.

(5) The court from time to time during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and ~~his or her~~ counsel for the receiver or custodian from the assets of the corporation or proceeds from the sale of the assets.

**Section 80. Section 617.1433, Florida Statutes, is amended to read:**

617.1433 Judgment of dissolution.—

(1) If after a hearing in a proceeding under s. 617.1430 the court determines that one or more grounds for judicial dissolution described in s. 617.1430 exist, it may enter a judgment dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the judgment to the department ~~of~~ ~~State~~, which shall file it.

(2) After entering the judgment of dissolution, the court shall direct or oversee the winding up and liquidation of the corporation's affairs in accordance with ss. 617.1405 and

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1873 617.1406, and the notification of claimants in accordance with  
1874 ss. 617.1407 and 617.1408, subject to ~~the provisions of~~  
1875 subsection (3).

1876 (3) In a proceeding for judicial dissolution, the court  
1877 may require all creditors of the corporation to file with the  
1878 clerk of the court or with the receiver, in such form as the  
1879 court may prescribe, proofs under oath of their respective  
1880 claims. If the court requires the filing of claims, it shall fix  
1881 a date, which shall be not less than 4 months after the date of  
1882 the order, as the last day for filing of claims. The court shall  
1883 prescribe the method by which such notice for the deadline for  
1884 filing claims ~~that~~ shall be given to creditors and claimants.  
1885 Before ~~Prior to~~ the fixed date ~~so fixed~~, the court may extend  
1886 the time for the filing of claims by court order. Creditors and  
1887 claimants failing to file proofs of claim on or before the fixed  
1888 date ~~so fixed~~ may be barred, by order of court, from  
1889 participating in the distribution of the assets of the  
1890 corporation. ~~Nothing in~~ This section does not affect ~~affects~~ the  
1891 enforceability of any recorded mortgage or lien or the perfected  
1892 security interest or rights of a person in possession of real or  
1893 personal property.

1894 **Section 81. Section 617.1434, Florida Statutes, is created**  
1895 **to read:**

1896 617.1434 Alternative remedies to judicial dissolution.—

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(1) In a proceeding under s. 617.1430, the court may, as an alternative to directing the dissolution of the corporation and upon a showing of sufficient merit to warrant such remedy:

(a) Appoint a receiver or a custodian during the proceeding as provided in s. 617.1432;

(b) Appoint a provisional director as provided in s. 617.1435; or

(c) Make any order or grant any equitable relief other than dissolution as in its discretion it may deem appropriate.

(2) Alternative remedies, such as the appointment of a receiver or custodian, may also be ordered upon a showing of sufficient merit to warrant such remedy, in advance of directing the dissolution of the corporation or, after a judgment of dissolution is entered, to assist in facilitating the winding up of the corporation.

**Section 82. Section 617.1435, Florida Statutes, is created to read:**

617.1435 Provisional director.—

(1) (a) In a proceeding under s. 617.1430(2), the court may appoint a provisional director if it appears that such appointment will remedy the grounds alleged by the complaining members or director to support the jurisdiction of the court under s. 617.1430. A provisional director may be appointed notwithstanding the absence of a vacancy on the board of directors, and such director has all the rights and powers of a

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1922 duly elected director, including the right to notice of and to  
1923 vote at meetings of directors.

1924 (b) A provisional director retains the rights described in  
1925 paragraph (a) until such time as the provisional director is  
1926 removed by order of the court or, unless otherwise ordered by a  
1927 court, removed by a vote of the members or directors sufficient  
1928 either to elect a majority of the board of directors or, if  
1929 greater than majority voting is required by the articles of  
1930 incorporation or the bylaws, to elect the requisite number of  
1931 directors needed to take action. A provisional director shall be  
1932 an impartial person who is neither a member nor a creditor of  
1933 the corporation or of any subsidiary or affiliate of the  
1934 corporation, and whose further qualifications, if any, may be  
1935 determined by the court.

1936 (2) The provisional director shall report to the court as  
1937 ordered by the court concerning the matter complained of, or the  
1938 status of the deadlock, if any, and of the status of the  
1939 corporation's affairs, as the court shall direct. A provisional  
1940 director is not liable for any action taken or decision made,  
1941 except as directors may be liable under s. 617.0831. In  
1942 addition, the provisional director must submit to the court, if  
1943 so directed, recommendations as to the appropriate disposition  
1944 of the action. Whenever a provisional director is appointed, any  
1945 officer or director of the corporation may petition the court

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1946 for instructions clarifying the duties and responsibilities of  
1947 such officer or director.

1948 (3) In any proceeding under which a provisional director  
1949 is appointed pursuant to this section, the court must allow  
1950 reasonable compensation to the provisional director for services  
1951 rendered and reimbursement or direct payment of reasonable costs  
1952 and expenses, which amounts shall be paid by the corporation.

1953 **Section 83. Section 617.1440, Florida Statutes, is amended**  
1954 **to read:**

1955 617.1440 Deposit with Department of Financial Services.—  
1956 Unless otherwise provided in ss. 617.1407-617.1409, assets of a  
1957 dissolved corporation that should be transferred to a creditor,  
1958 claimant, member of the corporation, or other person who cannot  
1959 be found or who is not competent to receive them ~~must~~ shall be  
1960 deposited, or reduced to cash and deposited, as appropriate,  
1961 within 6 months after the date fixed for the payment of the  
1962 final liquidating distribution, with the Department of Financial  
1963 Services for safekeeping, where such assets shall be held as  
1964 abandoned property. When the creditor, claimant, member, or  
1965 other person furnishes satisfactory proof of entitlement to the  
1966 amount or assets deposited, the Department of Financial Services  
1967 shall pay the creditor, claimant, member, or other person, or  
1968 their ~~him or her or his or her~~ representative for that creditor,  
1969 claimant, member or other person, that amount or those assets.

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**Section 84. Section 617.15015, Florida Statutes, is created to read:**

617.15015 Foreign corporation governing law.—

(1) The laws of this state or other jurisdiction under which a foreign corporation exists govern:

(a) The organization and internal affairs of the foreign corporation; and

(b) The interest holder liability of its members.

(2) A foreign corporation may not be denied a certificate of authority by reason of a difference between the laws of its jurisdiction of formation and the laws of this state.

(3) A certificate of authority does not authorize a foreign corporation to engage in any business or exercise any power that a corporation may not engage in or exercise in this state.

**Section 85. Subsection (4) of section 617.1502, Florida Statutes, is amended, and subsections (6), (7), and (8) are added to that section, to read:**

617.1502 Consequences of conducting affairs without authority.—

(4) A foreign corporation which conducts its affairs in this state without authority to do so ~~is shall be~~ liable to this state for the years or parts thereof during which it conducted its affairs in this state without authority in an amount equal to all fees and taxes which would have been imposed by this

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chapter ~~act~~ upon such corporation had it duly applied for and received authority to conduct its affairs in this state as required by this chapter act. In addition to the payments ~~thus~~ prescribed in this subsection, such corporation is ~~shall be~~ liable for a civil penalty of not less than \$500 or more than \$1,000 for each year or part thereof during which it conducts its affairs in this state without a certificate of authority. The department ~~of State~~ may collect all penalties due under this subsection.

(6) A member, an officer, or a director of a foreign corporation is not liable for the debts, obligations, or other liabilities of the foreign corporation solely because the foreign corporation transacted business in this state without a certificate of authority.

(7) Section 617.15015(1) applies even if a foreign corporation fails to have a certificate of authority to transact business in this state.

(8) If a foreign corporation transacts business in this state without a certificate of authority or cancels its certificate of authority, it appoints the Secretary of State as its agent for service of process in proceedings and actions arising out of the transaction of business in this state.

**Section 86. Subsections (1) and (3) of section 617.1503, Florida Statutes, are amended to read:**

617.1503 Application for certificate of authority.—

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(1) A foreign corporation may apply for a certificate of authority to conduct its affairs in this state by delivering an application to the department ~~of State~~ for filing. Such application must ~~shall~~ be made on forms prescribed and furnished by the department ~~of State~~ and must ~~shall~~ set forth:

(a) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of s. 617.1506;

(b) The jurisdiction under the law of which it is incorporated;

(c) Its date of incorporation and period of duration;

(d) The purpose or purposes which it intends to pursue in this state and a statement that it is authorized to pursue such purpose or purposes in the jurisdiction of its incorporation;

(e) The street address of its principal office;

(f) The address of its registered office in this state and the name of its registered agent at that office;

(g) The names and usual business addresses of its current directors and officers; and

(h) Such additional information as may be necessary or appropriate in order to enable the department ~~of State~~ to determine whether such corporation is entitled to file an application for authority to conduct its affairs in this state and to determine and assess the fees and taxes payable as prescribed in this chapter ~~act~~.

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~~(3) A foreign corporation may not be denied authority to conduct its affairs in this state by reason of the fact that the laws of the jurisdiction under which such corporation is organized governing its organization and internal affairs differ from the laws of this state.~~

**Section 87. Section 617.1504, Florida Statutes, is amended to read:**

617.1504 Amended certificate of authority.—

(1) A foreign corporation authorized to conduct its affairs in this state shall make application to the department ~~of State~~ to obtain an amended certificate of authority if it changes:

- (a) Its corporate name;
- (b) The period of its duration;
- (c) The purpose or purposes which it intends to pursue in this state; ~~or~~
- (d) The jurisdiction of its incorporation; or
- (e) The name and street address in this state of the foreign corporation's registered agent in this state, unless the change was timely made in accordance with s. 617.1508.

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

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(a) The name of the foreign corporation as it appears on the department's records;

(b) The jurisdiction of its incorporation;

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

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

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

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

(g) If the purposes that the foreign corporation intends to pursue in this state have changed, a statement of such new purposes, and a further statement that the foreign corporation is authorized to pursue such purposes in the jurisdiction of its incorporation.

(3) The requirements of s. 617.1503 for obtaining an original certificate of authority apply to obtaining an amended certificate under this section unless the official having custody of the foreign corporation's publicly filed records in its jurisdiction of incorporation did not require an amendment to effectuate the change on its records.

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(4) Subject to subsection (3), a foreign corporation authorized to transact business in this state may make an application to the department to obtain an amended certificate of authority to add, remove, or change the name, title, capacity, or address of an officer or director of the foreign corporation.

**Section 88. Section 617.1505, Florida Statutes, is amended to read:**

617.1505 Effect of certificate of authority.—

(1) Unless the department determines that an application for a certificate of authority does not comply with the filing requirements of this chapter, upon payment of all filing fees, a certificate of authority authorizes the foreign corporation to which it is issued to conduct its affairs in this state subject, however, to the right of the department ~~of State~~ to suspend or revoke the certificate as provided in this chapter ~~act~~.

(2) A foreign corporation with a valid certificate of authority has the same but no greater rights and has the same but no greater privileges as, and except as otherwise provided by this chapter ~~act~~ is subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, a domestic corporation of like character.

~~(3) This act does not authorize this state to regulate the organization or internal affairs of a foreign corporation authorized to conduct its affairs in this state.~~

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**Section 89. Section 617.1506, Florida Statutes, is amended to read:**

617.1506 Corporate name of foreign corporation.—

(1) A foreign corporation whose name is unavailable under or whose name does not otherwise comply with s. 617.0401 must use an alternate name that complies with s. 617.0401 to transact business in this state. An alternate name adopted for use in this state must be cross-referenced to the actual name of the foreign corporation in the records of the Division of Corporations, provided that no cross-reference is required if the alternate name involves no more than adding the suffix "corporation" or "incorporated" or the abbreviation "Corp.," or "Inc.," or the designation "Corp" or "Inc" to the name; provided that the name of a foreign corporation may not contain the word "company" or the abbreviation "co." If the actual name of the foreign corporation subsequently becomes available in this state and the foreign corporation elects to operate in this state under its actual name, or the foreign corporation chooses to change its alternate name, a record approving the election or change, as the case may be, by its board of directors or by its members if such members are entitled to vote on such a record, and signed as required pursuant to s. 617.01201, must be delivered to the department for filing ~~may not file an application for a certificate of authority unless the corporate name of such corporation satisfies the requirements of s.~~

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~~617.0401. To obtain or maintain a certificate of authority to transact business in this state, the foreign corporation:~~

~~(a) May add the word "corporation" or "incorporated" or the abbreviation "corp." or "inc." or words of like import, which clearly indicate that it is a corporation instead of a natural person or partnership or other business entity; however, the name of a foreign corporation may not contain the word "company" or the abbreviation "co."; or~~

~~(b) May use an alternate name to transact business in this state if its real name is unavailable. Any alternate corporate name adopted for use in this state must be cross-referenced to the real corporate name in the records of the Division of Corporations. If the real corporate name of the corporation becomes available in this state or if the corporation chooses to change its alternate name, a copy of the resolution of its board of directors, changing or withdrawing the alternate name and executed as required by s. 617.01201, must be delivered for filing.~~

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

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

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

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2170 (c) The corporate name of a nonprofit ~~not-for-profit~~  
2171 corporation incorporated or authorized to transact business in  
2172 this state.

2173 (d) The names of all other entities or filings, except  
2174 fictitious name registrations pursuant to s. 865.09, organized,  
2175 or registered under the laws of this state, that are on file  
2176 with the Division of Corporations.

2177 (3) A foreign corporation that adopts an alternate name  
2178 under subsection (1) and obtains a certificate of authority with  
2179 the alternate name need not comply with s. 865.09 with respect  
2180 to the alternate name.

2181 (4) So long as a foreign corporation maintains a  
2182 certificate of authority with an alternate name, it may transact  
2183 business in this state under the alternate name unless the  
2184 foreign corporation is authorized under s. 865.09 to transact  
2185 business in this state under another name.

2186 (5) If a foreign corporation authorized to transact  
2187 business in this state changes its corporate name to one that  
2188 does not satisfy the requirements of s. 617.0401, such  
2189 corporation may not transact business in this state under the  
2190 changed name until the corporation adopts a name satisfying the  
2191 requirements of s. 617.0401 and obtains an amended certificate  
2192 of authority under s. 617.1504.

2193 (6) Notwithstanding this section, a foreign corporation  
2194 may register under a name that is not otherwise distinguishable

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on the records of another entity registered with the department  
if:

(a) The other entity consents to the use and submits an  
undertaking in a form satisfactory to the Secretary of State to  
change its name to a name that is distinguishable upon the  
records of the department from the name of the applying  
corporation; or

(b) The applicant delivers to the department a certified  
copy of a final judgment of a court of competent jurisdiction  
establishing the applicant's right to use the name applied for  
in the state.

**Section 90. Subsections (2) and (3) of section 617.1507,  
Florida Statutes, are amended, and subsection (4), (5), and (6)  
are added to that section, to read:**

617.1507 Registered office and registered agent of foreign  
corporation.—

(2) Each initial ~~A registered agent, and each appointed~~  
~~pursuant to this section or a~~ successor registered agent  
appointed pursuant to s. 617.1508 on whom process may be served  
shall ~~each~~ file a statement in writing with the department ~~of~~  
~~State, in the such~~ form and manner ~~as shall be~~ prescribed by the  
department, accepting the appointment as a registered agent  
while simultaneously ~~with his or her~~ being designated as the  
registered agent. Such statement of acceptance shall state that

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the registered agent is familiar with, and accepts, the obligations of that position.

(3) The duties of a registered agent are:

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

(b) If the registered agent resigns, to provide the statement required under s. 617.1509 to the foreign corporation at the address most recently supplied to the registered agent by the foreign corporation ~~For purposes of this section,~~

~~"authorized entity" means:~~

~~(a) A corporation for profit;~~

~~(b) A limited liability company;~~

~~(c) A limited liability partnership; or~~

~~(d) A limited partnership, including a limited liability limited partnership.~~

(4) The department shall maintain an accurate record of the registered agents and registered offices for service of process and promptly furnish any information disclosed thereby upon request and payment of the required fee.

(5) A foreign corporation may not prosecute or maintain any action in a court in this state until the foreign corporation complies with this section, pays to the department

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the amounts required by this chapter, and, to the extent ordered by a court of competent jurisdiction, pays to the department a penalty of \$5 for each day it has failed to so comply, or \$500, whichever is less.

(6) A court may stay a proceeding commenced by a foreign corporation until the corporation complies with this section.

**Section 91. Section 617.1508, Florida Statutes, is amended to read:**

617.1508 Change of registered office and registered agent of foreign corporation.—

(1) A foreign corporation authorized to conduct its affairs in this state may change its registered office or registered agent by delivering to the department ~~of State~~ for filing a statement of change that sets forth:

(a) Its name;

(b) The street address of its current registered office;

(c) If the current registered office is to be changed, the street address of its new registered office;

(d) The name of its current registered agent; and

(e) If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent described in s. 617.1507(3), ~~either on the statement or attached to it,~~ to the appointment.

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~~(f) That, after the change or changes are made, the street address of its registered office and the business office of its registered agent will be identical; and~~

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

(2) A statement of change is effective when filed by the department.

(3) If a registered agent changes the name or street address of the registered agent's ~~his or her~~ business office, they ~~he or she~~ may change the name or street address of the registered office of any foreign corporation for which they are ~~he or she is~~ the registered agent by notifying the corporation in writing of the change and signing, (either manually or in facsimile,) and delivering to the department ~~of State~~ for filing a statement of change that complies with the requirements of paragraphs (1) (a) - (e) ~~(1) (a) - (f)~~ and recites that the corporation has been notified of the change.

(4) The changes described in this section may also be made on the foreign corporation's annual report or in an application for reinstatement filed with the department under s. 617.1422.

**Section 92. Section 617.1509, Florida Statutes, is amended to read:**

617.1509 Resignation of registered agent of foreign corporation.—

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(1) The registered agent of a foreign corporation may resign as agent ~~his or her agency appointment~~ by signing and delivering to the department ~~of State~~ for filing a statement of resignation and mailing a copy of such statement to the corporation at the corporation's principal office address shown in its most recent annual report or, if none, shown in its application for a certificate of authority or other most recently filed document. After delivering the statement of resignation to the department for filing, the registered agent must promptly mail a copy to the foreign corporation at its current mailing address ~~The statement of resignation must state that a copy of such statement has been mailed to the corporation at the address so stated.~~ The statement of resignation may include a statement that the registered office is also discontinued.

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

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

(b) When a statement of change or other record designating a new registered agent is filed with the department ~~The agency appointment is terminated as of the 31st day after the date on which the statement was filed and, unless otherwise provided in the statement, termination of the agency acts as a termination of the registered office.~~

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(3) When a statement of resignation takes effect, the registered agent ceases to have responsibility for a matter thereafter tendered to them as agent for the foreign corporation. The resignation does not affect contractual rights that the foreign corporation has against the agent or that the agent has against the foreign corporation.

(4) A registered agent may resign from a foreign corporation regardless of whether the foreign corporation has active status.

**Section 93. Section 617.15091, Florida Statutes, is created to read:**

617.15091 Delivery of notice or other communication.—

(1) Except as otherwise provided in this chapter, permissible means of delivery of a notice or other communication includes delivery by hand, the United States Postal Service, a commercial delivery service, and electronic transmission, all as more particularly described in s. 617.0141.

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

(3) If a check is mailed to the department for payment of an annual report fee, the check is deemed to have been received by the department as of the postmark date appearing on the envelope or package transmitting the check if the envelope or the package is received by the department.

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**Section 94. Section 617.1520, Florida Statutes, is amended to read:**

(Substantial rewording of section.

See s. 617.1520, F.S., for present text.)

617.1520 Withdrawal and cancellation of certificate of authority for foreign corporation.—

(1) To cancel its certificate of authority to conduct affairs in this state, a foreign corporation must deliver to the department for filing a notice of withdrawal of certificate of authority. The certificate of authority is canceled when the notice of withdrawal becomes effective pursuant to s. 617.0123. The notice of withdrawal of certificate of authority must be signed by an officer or a director and state all of the following:

(a) The name of the foreign corporation as it appears on the records with the department.

(b) The name of the foreign corporation's jurisdiction of incorporation.

(c) The date the foreign corporation was authorized to conduct affairs in this state.

(d) That the foreign corporation is withdrawing its certificate of authority in this state.

(e) That the foreign corporation revokes the authority of its registered agent to accept service on its behalf and appoints the Secretary of State as its agent for service of

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process based on a cause of action arising during the time it was authorized to conduct its affairs in this state.

(f) A mailing address and an e-mail address to which a party seeking to effectuate service of process may send a copy of any process served on the Secretary of State under paragraph (e).

(g) A commitment to notify the department in the future of any change in its mailing address or e-mail address.

(2) After the withdrawal of the foreign corporation is effective, service of process is on the Secretary of State using the procedures in s. 48.161 for service on the foreign corporation.

**Section 95. Section 617.1521, Florida Statutes, is created to read:**

617.1521 Withdrawal of certificate of authority deemed on conversion to domestic filing entity.—A foreign corporation authorized to conduct affairs in this state that converts to a domestic corporation or another domestic eligible entity that is organized, incorporated, registered, or otherwise formed through the delivery of a record to the department for filing is deemed to have withdrawn its certificate of authority on the effective date of the conversion.

**Section 96. Section 617.1522, Florida Statutes, is created to read:**

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2390 617.1522 Withdrawal on dissolution, merger, or conversion  
2391 to certain non-filing entities.-

2392 (1) A foreign corporation that is authorized to conduct  
2393 affairs in this state that has dissolved and completed winding  
2394 up, has merged into a foreign eligible entity that is not  
2395 authorized to conduct affairs in this state, or has converted to  
2396 a domestic or foreign eligible entity that is not organized,  
2397 incorporated, registered, or otherwise formed through the public  
2398 filing of a record, must deliver a notice of withdrawal of  
2399 certificate of authority to the department for filing in  
2400 accordance with s. 617.1520.

2401 (2) After a withdrawal under this section of a foreign  
2402 corporation that has converted to another type of entity is  
2403 effective, service of process in any action or proceeding based  
2404 on a cause of action arising during the time the foreign  
2405 corporation was authorized to conduct affairs in this state may  
2406 be made pursuant to s. 617.1510.

2407 **Section 97. Section 617.1523, Florida Statutes, is created**  
2408 **to read:**

2409 617.1523 Action against foreign corporation by Department  
2410 of Legal Affairs.-The Department of Legal Affairs may maintain  
2411 an action to enjoin a foreign corporation from conducting  
2412 affairs in this state in violation of this chapter.

2413 **Section 98. Section 617.1530, Florida Statutes, is amended**  
2414 **to read:**

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2415 617.1530 ~~Grounds for~~ Revocation of certificate of  
2416 authority to transact business.—

2417 (1) ~~A conduct affairs.~~ ~~The Department of State may~~  
2418 ~~commence a proceeding under s. 617.1531 to revoke the~~  
2419 certificate of authority of a foreign corporation to transact  
2420 business authorized to conduct its affairs in this state may be  
2421 revoked by the department if:

2422 (a)(1) The foreign corporation does not deliver ~~has failed~~  
2423 ~~to file~~ its annual report to ~~with~~ the department ~~of State~~ by 5  
2424 p.m. Eastern Time on the third Friday in September of each  
2425 year;—

2426 (b)(2) The foreign corporation does not pay a fee or  
2427 penalty due to, ~~within the department under time required by~~  
2428 this chapter; ~~act, any fees, taxes, or penalties imposed by this~~  
2429 ~~act or other law.~~

2430 (c)(3) The foreign corporation does not appoint and  
2431 maintain ~~is without~~ a registered agent as required by s.  
2432 617.1507; ~~or registered office in this state for 30 days or~~  
2433 ~~more.~~

2434 ~~(4)~~ ~~The foreign corporation does not notify the Department~~  
2435 ~~of State under s. 617.1508 or s. 617.1509 that its registered~~  
2436 ~~agent has resigned or that its registered office has been~~  
2437 ~~discontinued within 30 days after the date of such resignation~~  
2438 ~~or discontinuance.~~

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2439        (d)~~(5)~~ The foreign corporation does not deliver for filing  
2440 a statement of a change under s. 617.1508 within 30 days after  
2441 the change in the name or address of the agent has occurred,  
2442 unless, within 30 days after the change occurred, either:

2443        1. The registered agent files a statement of change under  
2444 s. 617.1508; or

2445        2. The change was made in accordance with s. 617.1508(4)  
2446 or s. 617.1504(1)(e);

2447        (e) The foreign corporation has failed to amend its  
2448 certificate of authority to reflect a change in its name on the  
2449 records of the department or its jurisdiction of incorporation;

2450        (f) The foreign corporation's period of duration stated in  
2451 its articles of incorporation has expired;

2452        (g) An incorporator, director, officer, or agent of the  
2453 foreign corporation signs ~~signed~~ a document that he or she knew  
2454 was false in a ~~any~~ material respect with the intent that the  
2455 document be delivered to the department ~~of State~~ for filing;

2456        (h)~~(6)~~ The department receives a duly authenticated  
2457 certificate from the secretary of state or other official having  
2458 custody of corporate records in the jurisdiction under the law  
2459 of which the foreign corporation is incorporated stating that it  
2460 has been dissolved or is no longer active on the official's  
2461 record; or ~~disappeared as the result of a merger.~~

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2462        (i) ~~(7)~~ The foreign corporation has failed to answer  
2463 truthfully and fully, within the time prescribed by this chapter  
2464 act, interrogatories propounded by the department ~~of State~~.

2465        (2) Revocation of a foreign corporation's certificate of  
2466 authority for failure to file an annual report shall occur on  
2467 the fourth Friday in September of each year. The department  
2468 shall issue a notice in a record of the revocation to the  
2469 revoked foreign corporation. Issuance of the notice may be made  
2470 by electronic transmission to a foreign corporation that has  
2471 provided the department with an e-mail address.

2472        (3) If the department determines that one or more grounds  
2473 exist under paragraph (1)(b) for revoking a foreign  
2474 corporation's certificate of authority, the department shall  
2475 issue a notice in a record to the foreign corporation of the  
2476 department's intent to revoke the certificate of authority.  
2477 Issuance of the notice may be made by electronic transmission to  
2478 a foreign corporation that has provided the department with an  
2479 e-mail address.

2480        (4) If, within 60 days after the department sends the  
2481 notice of intent to revoke in accordance with subsection (3),  
2482 and the foreign corporation does not correct each ground for  
2483 revocation or demonstrate to the reasonable satisfaction of the  
2484 department that each ground determined by the department does  
2485 not exist, the department shall revoke the foreign corporation's  
2486 authority to transact business in this state and issue a notice

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in a record of revocation which states the grounds for  
revocation. Issuance of the notice may be made by electronic  
transmission to a foreign corporation that has provided the  
department with an e-mail address.

(5) Revocation of a foreign corporation's certificate of  
authority does not terminate the authority of the registered  
agent of the corporation.

**Section 99. Section 617.15315, Florida Statutes, is  
created to read:**

617.15315 Reinstatement following revocation.—

(1) A foreign corporation whose certificate of authority  
has been revoked pursuant to s. 617.1530 or former s. 617.1531  
may apply to the department for reinstatement at any time after  
the effective date of revocation of authority. The foreign  
corporation applying for reinstatement must submit all fees and  
penalties then owed by the foreign corporation at rates provided  
by law at the time the foreign corporation applies for  
reinstatement, together with an application for reinstatement  
prescribed and furnished by the department, which is signed by  
both the registered agent and an officer or director of the  
foreign corporation and states:

(a) The name under which the foreign corporation is  
authorized to conduct affairs in this state.

(b) The street address of the foreign corporation's  
principal office and mailing address.

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2512        (c) The jurisdiction of the foreign corporation's  
2513 formation and the date on which it became qualified to conduct  
2514 affairs in this state.

2515        (d) The foreign corporation's federal employer  
2516 identification number or, if none, whether one has been applied  
2517 for.

2518        (e) The name, title or capacity, and address of at least  
2519 one officer or director of the foreign corporation.

2520        (f) Additional information that is necessary or  
2521 appropriate to enable the department to carry out this chapter.

2522        (2) In lieu of the requirement to file an application for  
2523 reinstatement as described in subsection (1), a foreign  
2524 corporation whose certificate of authority has been revoked may  
2525 submit all fees and penalties owed by the corporation at the  
2526 rates provided by law at the time the corporation applies for  
2527 reinstatement, together with a current annual report, signed by  
2528 both the registered agent and an officer or director of the  
2529 corporation, which contains the information described in  
2530 subsection (1).

2531        (3) If the department determines that an application for  
2532 reinstatement contains the information required under subsection  
2533 (1) or subsection (2) and that the information is correct, upon  
2534 payment of all required fees and penalties, the department shall  
2535 reinstate the foreign corporation's certificate of authority.

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(4) When a reinstatement becomes effective, it relates back to and takes effect as of the effective date of the revocation of authority, and the foreign corporation may operate in this state as if the revocation of authority had never occurred.

(5) The name of the foreign corporation whose certificate of authority has been revoked is not available for assumption or use by another eligible entity until 1 year after the effective date of revocation of authority unless the corporation provides the department with a record signed as required by s. 617.01201, which authorizes the immediate assumption or use of the name by another eligible entity.

(6) If the name of the foreign corporation applying for reinstatement has been lawfully assumed in this state by another eligible entity, the department must require the foreign corporation to comply with s. 617.1506 before accepting its application for reinstatement.

**Section 100. Section 617.1532, Florida Statutes, is amended to read:**

(Substantial rewording of section.

See s. 617.1532, F.S., for present text.)

617.1532 Judicial review of denial of reinstatement.—

(1) If the department denies a foreign corporation's application for reinstatement after revocation of its certificate of authority, the department shall serve the foreign

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2561 corporation pursuant to s. 617.1510 with a written notice that  
2562 explains the reasons for the denial.

2563 (2) Within 30 days after service of a notice of denial of  
2564 reinstatement, a foreign corporation may appeal the department's  
2565 denial by petitioning the Circuit Court of Leon County to set  
2566 aside the revocation. The petition must be served on the  
2567 department and contain a copy of the department's notice of  
2568 revocation, the foreign corporation's application for  
2569 reinstatement, and the department's notice of denial.

2570 (3) The circuit court may order the department to  
2571 reinstate the certificate of authority of the foreign  
2572 corporation or take other action the court considers  
2573 appropriate.

2574 (4) The circuit court's final decision may be appealed as  
2575 in other civil proceedings.

2576 **Section 101. Section 617.1601, Florida Statutes, is**  
2577 **amended to read:**

2578 617.1601 Corporate records.—

2579 (1) A corporation shall maintain the following records:

2580 (a) Its articles of incorporation, as currently in effect.

2581 (b) Its bylaws, as currently in effect.

2582 (c) If the corporation has members, the minutes of all  
2583 members' meetings and records of all action taken by members  
2584 without a meeting for the past 3 years.

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2585        (d) The minutes of all meetings of its board of directors,  
2586 a record of all actions taken by the board of directors without  
2587 a meeting, and a record of all actions taken by a committee of  
2588 the board of directors in place of the board of directors on  
2589 behalf of the corporation.

2590        (e) If the corporation has members, all written  
2591 communications within the past 3 years to members generally or  
2592 to members of a class, including the financial statements  
2593 furnished for the past 3 years under s. 617.1605.

2594        (f) A list of the names and business street addresses, or  
2595 the home street addresses if there is no business street  
2596 address, of its current directors and officers.

2597        (g) Its most recent annual report delivered to the  
2598 department under s. 617.1622 ~~keep as records minutes of all~~  
2599 ~~meetings of its members and board of directors, a record of all~~  
2600 ~~actions taken by the members or board of directors without a~~  
2601 ~~meeting, and a record of all actions taken by a committee of the~~  
2602 ~~board of directors in place of the board of directors on behalf~~  
2603 ~~of the corporation.~~

2604        (2) A corporation shall maintain ~~accurate~~ accounting  
2605 records in a form that permits preparation of its financial  
2606 statements as required by s. 617.1605.

2607        (3) If a corporation has members, a corporation or its  
2608 agent must ~~shall~~ maintain a record of its members in a form that  
2609 permits preparation of a list of the names and addresses, which

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2610 may be an e-mail address or other electronic contact  
2611 information, of all members in alphabetical order by class of  
2612 voting members. This subsection does not require the corporation  
2613 to include the e-mail address or other electronic contact  
2614 information of a member in such record.

2615 (4) A corporation shall maintain the its records specified  
2616 in this section in a manner that allows them to be made  
2617 available for inspection ~~written form or in another form capable~~  
2618 ~~of conversion into written form~~ within a reasonable time.

2619 ~~(5) A corporation shall keep a copy of the following~~  
2620 ~~records:~~

2621 ~~(a) Its articles of incorporation or restated articles of~~  
2622 ~~incorporation and all amendments to them currently in effect.~~

2623 ~~(b) Its bylaws or restated bylaws and all amendments to~~  
2624 ~~them currently in effect.~~

2625 ~~(c) The minutes of all members' meetings and records of~~  
2626 ~~all action taken by members without a meeting for the past 3~~  
2627 ~~years.~~

2628 ~~(d) Written communications to all members generally or all~~  
2629 ~~members of a class within the past 3 years, including the~~  
2630 ~~financial statements furnished for the past 3 years under s.~~  
2631 ~~617.1605.~~

2632 ~~(e) A list of the names and business street, or home if~~  
2633 ~~there is no business street, addresses of its current directors~~  
2634 ~~and officers.~~

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~~(f) Its most recent annual report delivered to the  
Department of State under s. 617.1622.~~

**Section 102. Section 617.1602, Florida Statutes, is  
amended to read:**

617.1602 Inspection of records by members.—

(1) A member of a corporation is entitled to inspect and copy, during regular business hours at the corporation's principal office or at a reasonable location specified by the corporation, any of the records of the corporation described in s. 617.1601(1) ~~s. 617.1601(5)~~, excluding minutes of meetings of, and records of actions taken without a meeting by, the corporation's board of directors and any committee of the corporation, if the member delivers to ~~gives~~ the corporation written notice of the member's ~~his or her~~ demand at least 5 ~~10~~ business days before the date on which the member ~~he or she~~ wishes to inspect and copy.

(2) A member of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the member meets the requirements of subsection (3) and gives the corporation written notice of the member's ~~his or her~~ demand at least 5 ~~10~~ business days before the date on which the member ~~he or she~~ wishes to inspect and copy:

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(a) Excerpts from minutes of any meeting of, or records of any actions taken without a meeting by, the corporation's board of directors and board committees of the corporation maintained in accordance with s. 617.1601(1) (d); ~~records of any action of a committee of the board of directors while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the members, and records of action taken by the members or board of directors without a meeting, to the extent not subject to inspection under subsection (1).~~

(b) Accounting records of the corporation;;

(c) The record of members maintained in accordance with s. 617.1601(3); and

(d) Any other books and records.

(3) A member may inspect and copy the records described in subsection (2) only if:

(a) The member's demand is made in good faith and for a proper purpose;

(b) The member's demand ~~member~~ describes with reasonable particularity the member's ~~his or her~~ purpose and the records the member ~~he or she~~ desires to inspect; and

(c) The records are directly connected with the member's purpose.

(4) The corporation may impose reasonable restrictions on the disclosure, use, or distribution of, and reasonable

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obligations to maintain the confidentiality of, records  
described in subsection (2).

(5) For any meeting of members for which the record date  
for determining members entitled to vote at the meeting is  
different than the record date for notice of the meeting, any  
person who becomes a member after the record date for notice of  
the meeting and is entitled to vote at the meeting is entitled  
to obtain from the corporation upon request the notice and any  
other information provided by the corporation to members in  
connection with the meeting, unless the corporation has made  
such information generally available to members by posting it on  
its website or by other generally recognized means. Failure of a  
corporation to provide such information does not affect the  
validity of action taken at the meeting.

(6) The right of inspection granted by this section may  
not be abolished or limited by a corporation's articles of  
incorporation or bylaws.

~~(7)-(4)~~ This section does not affect:

(a) The right of a member in litigation with the  
corporation to inspect and copy records to the same extent as  
any other litigant; ~~or-~~

(b) The power of a court, independently of this chapter,  
to compel the production of corporate records for examination  
and to impose reasonable restrictions as provided in s.  
617.1604(3), provided that, in the case of production of records

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described in subsection (2) at the request of the member, the member has met the requirements of subsection (3).

(8)-(5) A corporation may deny any demand for inspection made pursuant to subsection (2) if the demand was made for an improper purpose, or if the demanding member has within 2 years preceding the member's ~~his or her~~ demand sold or offered for sale any list of members of the corporation or any other corporation, has aided or abetted any person in procuring any list of members for any such purpose, or has improperly used any information secured through any prior examination of the records of the corporation or any other corporation.

(9) A member may not sell or otherwise distribute any information or records inspected under this section, except to the extent that such use is for a proper purpose.

(10) Without consent of the board of directors, a membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to a member's interest as a member. Without limiting the foregoing, without the consent of the board, a membership list or any part thereof may not be:

(a) Used to solicit money or property unless the money or property will be used solely to solicit the votes of the members;

(b) Used for any commercial purpose; or

(c) Sold to or purchased by any person.

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(11)(6) For purposes of this section, the term "member" includes a beneficial owner whose beneficial interest is ~~shares~~ are held in a voting trust or by a nominee on the individual's ~~his or her~~ behalf.

(12)(7) For purposes of this section, a "proper purpose" means a purpose reasonably related to such person's interest as a member.

(13) The rights of a member to obtain records under subsections (1) and (2) apply to the records of subsidiaries of the corporation.

**Section 103. Section 617.1603, Florida Statutes, is amended to read:**

617.1603 Scope of inspection right.—

(1) A member's agent or attorney has the same inspection and copying rights as the member ~~he or she represents.~~

(2) The corporation may, if deemed reasonable, satisfy the right of a member to copy records under s. 617.1602 by furnishing to the member copies by such means as are chosen by the corporation, including furnishing copies through electronic delivery ~~The right to copy records under s. 617.1602 includes, if reasonable, the right to receive copies made by photographic, xerographic, or other means.~~

(3) The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the member. The charge may not exceed the

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2757 estimated cost of production or reproduction of the records. If  
2758 the records are kept in other than written form, the corporation  
2759 must ~~shall~~ convert such records into written form upon the  
2760 request of any person entitled to inspect the same. The  
2761 corporation shall bear the reasonable costs of converting any  
2762 records described in s. 617.1601(1) ~~s. 617.1601(5)~~. The  
2763 requesting member shall bear the costs, including the cost of  
2764 compiling the information requested, incurred to convert any  
2765 records described in s. 617.1602(2).

2766 (4) If requested by a member, the corporation shall comply  
2767 with a member's demand to inspect the records of members under  
2768 s. 617.1602(2) (c) by providing the member ~~him or her~~ with a list  
2769 of its members of the nature described in s. 617.1601(3). Such a  
2770 list must ~~shall~~ be compiled as of the last record date for which  
2771 it has been compiled or as of a subsequent date if specified by  
2772 the member.

2773 **Section 104. Section 617.1604, Florida Statutes, is**  
2774 **amended to read:**

2775 617.1604 Court-ordered inspection.—

2776 (1) If a corporation does not, within a reasonable time,  
2777 allow a member who complies with s. 617.1602 to inspect and copy  
2778 any record, and the member complies with any prerequisites to  
2779 inspection and copying imposed by this section, the member may  
2780 apply to the circuit court in the county where the corporation's  
2781 principal office, or, if none in this state, its registered

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office, is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited ~~summary~~ basis.

(2) If the court orders inspection or copying of the records demanded, it shall also order the corporation and the custodian of the particular records demanded to pay the member's costs, including reasonable attorney ~~attorney's~~ fees, reasonably incurred to obtain the order and enforce its rights under this section unless the corporation establishes that the corporation, ~~or the officer, director, or agent, as the case may be, provides that it or he or she~~ refused inspection in good faith because it ~~or he or she~~ had:

(a) A reasonable basis for doubt about the right of the member to inspect or copy the records demanded; or

(b) Required reasonable restrictions on the disclosure, use, or distribution of, and reasonable obligations to maintain the confidentiality of, such records demanded to which the demanding member had been unwilling to agree.

(3) If the court orders inspection or copying of the records demanded, it may impose reasonable restrictions on their confidentiality and the use or distribution of the records by the demanding member.

**Section 105. Section 617.1605, Florida Statutes, is amended to read:**

617.1605 Financial reports for members.—

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2807        (1) A corporation, upon a member's written demand, shall  
2808        furnish that member its latest annual financial statements,  
2809        which may be consolidated or combined statements of the  
2810        corporation and one or more of its subsidiaries or affiliates,  
2811        as appropriate, and which include a balance sheet as of the end  
2812        of the fiscal year and a statement of operations for that year.  
2813        If financial statements are prepared for the corporation on the  
2814        basis of generally accepted accounting principles, the annual  
2815        financial statements must also be prepared on such basis.

2816        (2) A corporation must deliver or make available the  
2817        latest annual financial statements to such member within 5  
2818        business days after the request if the annual financial  
2819        statements have already been prepared and are available. If the  
2820        annual financial statements have not been prepared for the  
2821        fiscal year requested, the corporation must notify the member  
2822        within 5 business days that the annual financial statements have  
2823        not yet been prepared and must deliver or make available such  
2824        annual financial statements to the member within 60 days after  
2825        the corporation receives the request, or within such additional  
2826        time thereafter as is reasonably necessary to enable the  
2827        corporation to prepare its annual financial statements if, for  
2828        reasons beyond the corporation's control, it is unable to  
2829        prepare its annual financial statements within the prescribed  
2830        period.

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2831       (3) A corporation may fulfill its responsibilities under  
2832 this section by delivering the specified annual financial  
2833 statements by posting the specified annual financial statements  
2834 on its website or by any other generally recognized means.

2835       (4) Notwithstanding subsections (1), (2), and (3):

2836       (a) As a condition to delivering or making available  
2837 annual financial statements to any requesting member, the  
2838 corporation may require the requesting member to agree to  
2839 reasonable restrictions on the confidentiality, use, and  
2840 distribution of such annual financial statements; and

2841       (b) The corporation may, if it reasonably determines that  
2842 the member's request is not made in good faith or for a proper  
2843 purpose, decline to deliver or make available such annual  
2844 financial statements to that member.

2845       (5) If a corporation does not respond to a member's  
2846 request for annual financial statements pursuant to this section  
2847 within the applicable period specified in subsection (2), all of  
2848 the following apply:

2849       (a) The requesting member may apply to the circuit court  
2850 in the applicable county for an order requiring delivery of or  
2851 access to the requested annual financial statements. The court  
2852 shall dispose of an application under this subsection on an  
2853 expedited basis.

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2854 (b) If the court orders delivery or access to the  
2855 requested annual financial statements, it may impose reasonable  
2856 restrictions on their confidentiality, use, or distribution.

2857 (c) In such proceeding, if the corporation has declined to  
2858 deliver or make available such annual financial statements  
2859 because the member had been unwilling to agree to restrictions  
2860 proposed by the corporation on the confidentiality, use, and  
2861 distribution of such financial statements, the corporation has  
2862 the burden of demonstrating that the restrictions proposed by  
2863 the corporation were reasonable.

2864 (d) In such a proceeding, if the corporation has declined  
2865 to deliver or make available such annual financial statements  
2866 pursuant to this section, the corporation has the burden of  
2867 demonstrating that it reasonably determined that the member's  
2868 request was not made in good faith or for a proper purpose.

2869 (6) If the court orders delivery or access to the  
2870 requested annual financial statements, it shall order the  
2871 corporation to pay the member's expenses, including reasonable  
2872 attorney fees, incurred to obtain such order unless the  
2873 corporation establishes that it had refused delivery or access  
2874 to the requested annual financial statements because the member  
2875 had refused to agree to reasonable restrictions on the  
2876 confidentiality, use, or distribution of the annual financial  
2877 statements or that the corporation had reasonably determined

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that the member's request was not made in good faith or for a proper purpose.

**Section 106. Section 617.16051, Florida Statutes, is created to read:**

617.16051 Inspection rights of directors.-

(1) A director of a corporation is entitled to inspect and copy the books, records, and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a board committee, but not for any other purpose or in any manner that would violate any duty to the corporation or attorney-client privilege or work-product privilege of the corporation.

(2) The circuit court of the applicable county may order inspection and copying of the books, records, and documents at the corporation's expense, upon application of a director who has been refused such inspection rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

(3) If an order is issued, the court may include provisions protecting the corporation from undue burden or expense and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the

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corporation to reimburse the director for the director's costs,  
including reasonable attorney fees, incurred in connection with  
the application.

**Section 107. Section 617.1622, Florida Statutes, is  
amended to read:**

617.1622 Annual report for department of State.—

(1) Each domestic corporation and each foreign corporation  
authorized to transact business ~~conduct its affairs~~ in this  
state shall deliver to the department ~~of State~~ for filing an a  
~~sworn annual report, on such form as the Department of State~~  
~~prescribes,~~ that states the following sets forth:

(a) The name of the corporation or, if a foreign  
corporation, the name under which the foreign corporation is  
authorized to transact business in this state ~~and the state or~~  
~~country under the law of which it is incorporated;~~

(b) The date of its incorporation and ~~or,~~ if a foreign  
corporation, the jurisdiction of its incorporation and the date  
on which it became qualified to transact business ~~was admitted~~  
~~to conduct its affairs~~ in this state;

(c) The street address of its ~~the~~ principal office and the  
mailing address of the corporation;

(d) The corporation's or foreign corporation's federal  
employer identification number, if any, or, if none, whether one  
has been applied for;

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2927 (e) The names and business street addresses of its  
2928 directors and principal officers; and

2929 ~~(f) The street address of its registered office in this~~  
2930 ~~state and the name of its registered agent at that office; and~~

2931 ~~(g) Any such~~ additional information that the department  
2932 has identified as ~~may be~~ necessary or appropriate to enable the  
2933 department ~~of State~~ to carry out the provisions of this chapter  
2934 act.

2935 (2) If an annual report contains the name and address of a  
2936 registered agent which differs from the information shown in the  
2937 records of the department immediately before the annual report  
2938 becomes effective, the differing information in the annual  
2939 report is considered a statement of change under s. 617.0502 or  
2940 s. 617.1508, as the case may be ~~The deposit of such report, on~~  
2941 ~~or before May 1, in the United States mail in a sealed envelope,~~  
2942 ~~properly addressed with postage prepaid, constitutes compliance~~  
2943 ~~with subsection (1).~~

2944 (3) If an annual report does not contain the information  
2945 required by this section ~~subsection (1)~~, the department ~~of State~~  
2946 shall promptly notify the reporting domestic corporation or  
2947 foreign corporation ~~in writing and return the report to it for~~  
2948 ~~correction~~. If the report is corrected to contain the  
2949 information required by subsection (1) and delivered to the  
2950 department ~~of State~~ within 30 days after the effective date of

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notice, it will ~~is deemed to~~ be considered timely delivered  
filed.

(4) ~~Each annual report must be executed by the corporation  
by an officer or director or, if the corporation is in the hands  
of a receiver or trustee, must be executed on behalf of the  
corporation by such receiver or trustee, and the signing of the  
annual report shall have the same legal effect as if made under  
oath, without the necessity of appending such oath thereto.~~

~~(5)~~ The first annual report must be delivered to the department  
~~of State~~ between January 1 and May 1 of the year following the  
calendar year in which a domestic corporation's articles of  
incorporation became effective or a foreign corporation obtained  
its certificate of authority to transact business in this state  
~~corporation was incorporated or a foreign corporation was~~  
~~authorized to conduct affairs.~~ Subsequent annual reports must be  
delivered to the department ~~of State~~ between January 1 and May 1  
of each the subsequent calendar year thereafter. If one or more  
forms of annual report are submitted for a calendar year, the  
department shall file each of them and make the information  
contained in them part of the official record. The first form of  
annual report filed in a calendar year shall be considered the  
annual report for that calendar year, and each report filed  
after that one in the same calendar year shall be treated as an  
amended report for that calendar year ~~years~~.

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2975        ~~(5)-(6)~~ Information in the annual report must be current as  
2976 of the date the annual report is delivered to the department for  
2977 filing ~~executed on behalf of the corporation.~~

2978        ~~(7) If an additional report is received, the department~~  
2979 ~~shall file the document and make the information contained~~  
2980 ~~therein part of the official record.~~

2981        ~~(6)-(8)~~ Any domestic corporation or foreign corporation  
2982 that fails to file an annual report that ~~which~~ complies with the  
2983 requirements of this section may not prosecute or maintain ~~or~~  
2984 ~~defend~~ any action in any court of this state until the ~~such~~  
2985 report is filed and all fees and penalties ~~taxes~~ due under this  
2986 chapter act are paid, and ~~such corporation~~ is subject to  
2987 dissolution or cancellation of its certificate of authority to  
2988 transact business ~~conduct its affairs~~ as provided in this  
2989 chapter act.

2990        ~~(7)-(9)~~ The department shall prescribe the forms, which may  
2991 be in an electronic format, on which to make the annual report  
2992 called for in this section and may substitute the uniform  
2993 business report, pursuant to s. 606.06, as a means of satisfying  
2994 the requirement of this chapter ~~section~~.

2995        (8) As a condition of a merger under s. 617.1101, each  
2996 party to a merger which exists under the laws of this state, and  
2997 each party to a merger which exists under the laws of another  
2998 jurisdiction and has a certificate of authority to transact  
2999 business or conduct its affairs in this state, must be active

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3000 and current in filing its annual reports in the records of the  
3001 department through December 31 of the calendar year in which the  
3002 articles of merger are submitted to the department for filing.

3003 (9) As a condition of a conversion of an entity to a  
3004 corporation under s. 617.1804, the entity, if it exists under  
3005 the laws of this state or if it exists under the laws of another  
3006 jurisdiction and has a certificate of authority to transact  
3007 business or conduct its affairs in this state, must be active  
3008 and current in filing its annual reports in the records of the  
3009 department through December 31 of the calendar year in which the  
3010 articles of conversion are submitted to the department for  
3011 filing.

3012 (10) As a condition of a conversion of a domestic  
3013 corporation to another type of entity under s. 617.1804, the  
3014 domestic corporation converting to the other type of entity must  
3015 be active and current in filing its annual reports in the  
3016 records of the department through December 31 of the calendar  
3017 year in which the articles of conversion are submitted to the  
3018 department for filing.

3019 (11) As a condition of domestication of a domestic  
3020 corporation into a foreign jurisdiction under s. 617.180301, the  
3021 domestic corporation domesticating into a foreign jurisdiction  
3022 must be active and current in filing its annual reports in the  
3023 records of the department through December 31 of the calendar

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year in which the articles of domestication are submitted to the  
department for filing.

**Section 108. Section 617.180301, Florida Statutes, is  
created to read:**

617.180301 Domestication.—

(1) By complying with this section and ss. 617.18031-  
617.18034, as applicable, a foreign corporation may become a  
domestic corporation if the domestication is permitted by the  
organic law of the foreign corporation.

(2) By complying with this section and ss. 617.18031-  
617.18034, as applicable, a domestic corporation may become a  
foreign corporation pursuant to a plan of domestication if the  
domestication is permitted by the organic law of the foreign  
corporation.

(3) In a domestication under subsection (2), the  
domesticating corporation must enter into a plan of  
domestication. The plan of domestication must include:

(a) The name of the domesticating corporation;

(b) The name and governing jurisdiction of the  
domesticated corporation;

(c) The manner and basis of cancelling or converting the  
eligible interests or other rights of the domesticating  
corporation into other eligible interests, other rights,  
obligations, rights to acquire eligible interests, cash, other

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property, other rights, or any combination of the foregoing of  
the domesticated corporation;

(d) The proposed organic rules of the domesticated  
corporation, which must be in writing; and

(e) The other terms and conditions of the domestication.

(4) In addition to the requirements of subsection (3), a  
plan of domestication may contain any other provision not  
prohibited by law.

(5) The terms of a plan of domestication may be made  
dependent upon facts objectively ascertainable outside the plan  
in accordance with s. 617.01201(10).

(6) If a protected agreement of a domesticating  
corporation in effect immediately before the domestication  
becomes effective contains a provision applying to a merger of  
the corporation and the agreement does not refer to a  
domestication of the corporation, the provision applies to a  
domestication of the corporation as if the domestication were a  
merger until such time as the provision is first amended after  
July 1, 2026.

**Section 109. Section 617.18031, Florida Statutes, is  
created to read:**

617.18031 Action on a plan of domestication.—In the case  
of a domestication of a domestic corporation into a foreign  
jurisdiction, the plan of domestication must be adopted in the  
following manner:

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3073       (1) Except as otherwise provided in the articles of  
3074 incorporation or bylaws, the plan of domestication must first be  
3075 adopted by the board of directors of such domestic corporation.  
3076 If the domesticating corporation does not have any members  
3077 entitled to vote on the domestication, a plan of domestication  
3078 is adopted by the corporation when it has been adopted by the  
3079 board of directors pursuant to this section.

3080       (2) If the domesticating corporation has members entitled  
3081 to vote on the domestication, the plan of domestication must be  
3082 approved by such members. In submitting the plan of  
3083 domestication to the members for approval, the board of  
3084 directors shall recommend that the members approve the plan,  
3085 unless the board of directors makes a determination that because  
3086 of conflicts of interest or other special circumstances it  
3087 should not make such a recommendation, in which case the board  
3088 of directors must inform the members of the basis for its so  
3089 proceeding without such recommendation.

3090       (3) The board of directors may set conditions for approval  
3091 of the plan of domestication by the members or the effectiveness  
3092 of the plan of domestication.

3093       (4) If the plan of domestication is required to be  
3094 approved by the members, and if the approval of the members is  
3095 to be given at a meeting, the corporation must notify each  
3096 member entitled to vote on the domestication of the meeting of  
3097 members at which the plan of domestication is to be submitted

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for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the plan of domestication and must contain or be accompanied by a copy of the plan. The notice must include or be accompanied by a written copy of the organic rules of the domesticated corporation as they will be in effect immediately after the domestication.

(5) Unless this chapter, the articles of incorporation, the bylaws, or the board of directors acting pursuant to subsection (3) require a greater vote or a greater quorum in the respective case, approval of the plan of domestication requires:

(a) The approval of the members entitled to vote on the domestication at a meeting at which a quorum exists consisting of a majority of the votes entitled to be cast on the plan; and

(b) If any class of members is entitled to vote as a separate group on the plan of domestication, the approval of each class of members voting as a separate voting group at a meeting at which a quorum of the voting group exists consisting of a majority of the votes entitled to be cast on the plan by that voting group.

(6) The articles of incorporation may expressly limit or eliminate the separate voting rights provided in paragraph (5)(b) as to any class of members, except when the public organic rules of the foreign corporation resulting from the domestication include what would be in effect an amendment that would entitle the class to vote as a separate voting group if it

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3123 were a proposed amendment of the articles of incorporation of a  
3124 domestic domesticating corporation.

3125 (7) If, as a result of a domestication, one or more  
3126 members of a domestic domesticating corporation would become  
3127 subject to interest holder liability, approval of the plan of  
3128 domestication must require the signing in connection with the  
3129 domestication, by each such member, of a separate written  
3130 consent to become subject to such interest holder liability,  
3131 unless in the case of a member that already has interest holder  
3132 liability with respect to the domesticating corporation, the  
3133 terms and conditions of the interest holder liability with  
3134 respect to the domesticated corporation are substantially  
3135 identical to those of the existing interest holder liability,  
3136 other than for changes that eliminate or reduce such interest  
3137 holder liability.

3138 (8) In addition to the adoption and approval of the plan  
3139 of domestication by the board of directors and any members  
3140 entitled to vote on the domestication as required by this  
3141 section, the plan of domestication must be approved in writing  
3142 by any person or group of persons whose approval is required  
3143 under the articles of incorporation or bylaws or whose approval  
3144 is required to amend the articles of incorporation or bylaws.

3145 **Section 110. Section 617.18032, Florida Statutes, is**  
3146 **created to read:**

3147 617.18032 Articles of incorporation; effectiveness.-

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3148       (1) Articles of domestication must be signed by the  
3149 domesticating corporation after:

3150       (a) A plan of domestication of a domestic corporation has  
3151 been adopted and approved as required by this chapter; or

3152       (b) A foreign corporation that is the domesticating  
3153 corporation has approved a domestication as required by this  
3154 chapter and under the foreign corporation's organic law.

3155       (2) Articles of domestication must set forth:

3156       (a) The name of the domesticating corporation and its  
3157 governing jurisdiction;

3158       (b) The name and governing jurisdiction of the  
3159 domesticated corporation; and

3160       (c)1. If the domesticating corporation is a domestic  
3161 corporation, a statement that the plan of domestication was  
3162 approved in accordance with this chapter; or

3163       2. If the domesticating corporation is a foreign  
3164 corporation, a statement that the domestication was approved in  
3165 accordance with its organic law.

3166       (3) If the domesticated corporation is to be a domestic  
3167 corporation, articles of incorporation of the domesticated  
3168 corporation that satisfy the requirements of s. 617.0202 must be  
3169 attached to the articles of domestication. Provisions that would  
3170 not be required to be included in restated articles of  
3171 incorporation may be omitted from the articles of incorporation  
3172 attached to the articles of domestication.

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3173       (4) The articles of domestication shall be delivered to  
3174 the department for filing and shall take effect on the effective  
3175 date determined in accordance with s. 617.0123.

3176       (5) (a) If the domesticated corporation is a domestic  
3177 corporation, the domestication becomes effective when the  
3178 articles of domestication are effective.

3179       (b) If the domesticated corporation is a foreign  
3180 corporation, the domestication becomes effective on the later of  
3181 the date and time provided by the organic law of the  
3182 domesticated corporation or when the articles of domestication  
3183 are effective.

3184       (6) If the domesticating corporation is a foreign  
3185 corporation that is qualified to transact business in this state  
3186 under ss. 617.1501-617.1532, its certificate of authority is  
3187 automatically canceled when the domestication becomes effective.

3188       (7) A copy of the articles of domestication, certified by  
3189 the department, may be filed in the official records of any  
3190 county in this state in which the domesticating corporation  
3191 holds an interest in real property.

3192       **Section 111. Section 617.18033, Florida Statutes, is**  
3193 **created to read:**

3194       617.18033 Amendment of a plan of domestication;  
3195 abandonment.-

3196       (1) Except as otherwise provided in the plan of  
3197 domestication and before the articles of domestication have

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3198 taken effect, a plan of domestication of a domestic corporation  
3199 adopted under s. 617.180301(3) may be amended:

3200 (a) In the same manner as the plan of domestication was  
3201 approved, if the plan does not provide for the manner in which  
3202 it may be amended; or

3203 (b) In the manner provided in the plan of domestication,  
3204 except that an interest holder who was entitled to vote on or  
3205 consent to approval of the plan is entitled to vote on or  
3206 consent to any amendment of the plan which will change:

3207 1. The amount or kind of eligible interests or other  
3208 rights, obligations, rights to acquire eligible interests, cash,  
3209 other property, other rights, or any combination of the  
3210 foregoing, to be received by any of the interest holders of the  
3211 domesticating corporation under the plan;

3212 2. The organic rules of the domesticated corporation that  
3213 are to be in writing and that will be in effect immediately  
3214 after the domestication becomes effective, except for changes  
3215 that do not require approval of the interest holder of the  
3216 domesticated corporation under its proposed organic rules as set  
3217 forth in the plan of domestication; or

3218 3. Any of the other terms or conditions of the plan, if  
3219 the change would adversely affect the interest holder in any  
3220 material respect.

3221 (2) After a plan of domestication has been adopted and  
3222 approved by a domestic corporation as required by this chapter,

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and before the articles of domestication have become effective,  
the plan may be abandoned by the corporation in the same manner  
as the plan was approved by the corporation without action by  
its interest holders in accordance with any procedures set forth  
in the plan or, if no such procedures are set forth in the plan,  
in the manner determined by the board of directors of the  
domestic corporation.

(3) If a domestication is abandoned after the articles of  
domestication have been delivered to the department for filing  
but before the articles of domestication become effective, a  
statement of abandonment signed by the domesticating corporation  
must be delivered to the department for filing before the  
articles of domestication become effective. The statement shall  
take effect upon filing, and the domestication shall be deemed  
abandoned and may not become effective. The statement of  
abandonment must contain:

(a) The name of the domesticating corporation;

(b) The date on which the articles of domestication were  
filed by the department; and

(c) A statement that the domestication has been abandoned  
in accordance with this section.

**Section 112. Section 617.18034, Florida Statutes, is**  
**created to read:**

617.18034 Effect of domestication.—

(1) When a domestication becomes effective:

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(a) All real property and other property owned by the domesticating corporation, including any interests therein and all title thereto, and every contract right and other right possessed by the domesticating corporation, are the property, contract rights, and other rights of the domesticated corporation without transfer, reversion, or impairment;

(b) All debts, obligations, and other liabilities of the domesticating corporation are the debts, obligations, and other liabilities of the domesticated corporation;

(c) The name of the domesticated corporation may be, but need not be, substituted for the name of the domesticating corporation in any pending action or proceeding;

(d) The organic rules of the domesticated corporation become effective;

(e) The eligible interests or other rights of the domesticating corporation are cancelled or reclassified into eligible interests or other rights, obligations, rights to acquire eligible interests, cash, other property, or any combination of the foregoing, in accordance with the terms of the domestication, and the interest holders of the domesticating corporation are entitled only to the rights provided to them by those terms; and

(f) The domesticated corporation is:

1. Incorporated under and subject to the organic law of the domesticated corporation;

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3273       2. The same corporation, without interruption, as the  
3274       domesticating corporation; and

3275       3. Deemed to have been incorporated on the date the  
3276       domesticating corporation was originally incorporated.

3277       (2) Except as otherwise provided in the organic law or  
3278       organic rules of a domesticating foreign corporation, the  
3279       interest holder liability of an interest holder in a foreign  
3280       corporation that is domesticated into this state who had  
3281       interest holder liability with respect to such domesticating  
3282       corporation before the domestication becomes effective must be  
3283       as follows:

3284       (a) The domestication does not discharge that prior  
3285       interest holder liability with respect to any interest holder  
3286       liabilities that arose before the domestication becomes  
3287       effective.

3288       (b) The organic law of the domesticating corporation must  
3289       continue to apply to the collection or discharge of any interest  
3290       holder liabilities preserved by paragraph (a), as if the  
3291       domestication had not occurred.

3292       (c) The interest holder shall have such rights of  
3293       contribution from other persons as are provided by the organic  
3294       law of the domesticating corporation with respect to any  
3295       interest holder liabilities preserved by paragraph (a), as if  
3296       the domestication had not occurred.

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3297       (d) The interest holder may not, by reason of such prior  
3298 interest holder liability, have interest holder liability with  
3299 respect to any interest holder liabilities that are incurred  
3300 after the domestication becomes effective.

3301       (3) An interest holder who becomes subject to interest  
3302 holder liability in respect of the domesticated corporation as a  
3303 result of the domestication has such interest holder liability  
3304 only with respect to interest holder liabilities that arise  
3305 after the domestication becomes effective.

3306       (4) A domestication does not constitute or cause the  
3307 dissolution of the domesticating corporation.

3308       (5) Property held in trust or otherwise dedicated to a  
3309 charitable purpose and held by a domestic or foreign corporation  
3310 immediately before a domestication becomes effective may not, as  
3311 a result of the domestication, be diverted from the purposes for  
3312 which it was donated, granted, devised, or otherwise transferred  
3313 except pursuant to the laws of this state addressing cy pres or  
3314 dealing with nondiversion of charitable assets.

3315       (6) A bequest, devise, gift, grant, or promise contained  
3316 in a will or other instrument of donation, subscription, or  
3317 conveyance which is made to the domesticating corporation, and  
3318 which takes effect or remains payable after the domestication  
3319 inures to the domesticated corporation.

3320       (7) A trust obligation that would govern property if  
3321 transferred to the domesticating corporation applies to property

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that is to be transferred to the domesticated corporation after  
the domestication takes effect.

**Section 113. Section 617.1804, Florida Statutes, is  
created to read:**

617.1804 Conversion.—

(1) By complying with this chapter, including being  
eligible under s. 617.18041, adopting a plan of conversion in  
accordance with s. 617.18042, and complying with s. 617.18043, a  
domestic corporation may become:

(a) A domestic eligible entity, other than a domestic  
corporation; or

(b) If the conversion is permitted by the organic law of  
the foreign eligible entity, a foreign eligible entity.

(2) By complying with this section and ss. 617.18042-  
617.18046, as applicable, and applicable provisions of its  
organic law, a domestic eligible entity other than a domestic  
corporation may become a domestic corporation.

(3) By complying with this section and ss. 617.18042-  
617.18046, as applicable, and by complying with the applicable  
provisions of its organic law, a foreign eligible entity may  
become a domestic corporation, but only if the organic law of  
the foreign eligible entity permits it to become a nonprofit  
corporation in another jurisdiction.

(4) If a protected agreement of a domestic converting  
corporation in effect immediately before the conversion becomes

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effective contains a provision applying to a merger of the corporation that is a converting corporation and the agreement does not refer to a conversion of the corporation, the provision applies to a conversion of the corporation as if the conversion were a merger, until such time as the provision is first amended after July 1, 2026.

**Section 114. Section 617.18041, Florida Statutes, is created to read:**

617.18041 Limitation on conversion.—A domestic corporation that holds property for a charitable purpose is prohibited from becoming a domestic eligible entity or a foreign eligible entity, except by domestication to become a foreign corporation.

**Section 115. Section 617.18042, Florida Statutes, is created to read:**

617.18042 Plan of conversion.—

(1) A domestic corporation may convert to a domestic or foreign eligible entity under this chapter by approving a plan of conversion. The plan of conversion must include all of the following:

(a) The name of the domestic converting corporation.

(b) The name, governing jurisdiction, and type of entity of the converted eligible entity.

(c) The manner and basis of canceling or converting the eligible interests or other rights of the domestic corporation;

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3371 or the rights to acquire eligible interests, obligations, other  
3372 rights, or any