

## CHAPTER 2020-32

### Committee Substitute for Senate Bill No. 838

An act relating to business organizations; amending s. 607.0120, F.S.; making technical changes; amending s. 607.0123, F.S.; specifying that certain documents accepted by the Department of State for filing are effective on the date the documents are accepted by the department; making technical changes; amending ss. 607.0125, 607.0127, 607.01401, 607.0141, 607.0501, and 607.0601, F.S.; making technical changes; amending s. 607.0602, F.S.; revising the authority of a board of directors to reclassify certain unissued shares; amending ss. 607.0620, 607.0623, 607.0630, 607.0704, 607.0705, 607.0707, 607.0720, 607.0721, 607.0732, and 607.0750, F.S.; making technical changes; amending s. 607.0808, F.S.; revising the required contents of a meeting notice relating to the removal of a director by shareholders; amending s. 607.0832, F.S.; making a technical change; amending s. 607.0850, F.S.; revising the definition of the term “expenses”; amending ss. 607.0855 and 607.0858, F.S.; making technical changes; amending s. 607.0901, F.S.; revising definitions; amending ss. 607.1002 and 607.1003, F.S.; making technical changes; amending s. 607.1102, F.S.; authorizing a domestic corporation to acquire one or more classes or series of shares under certain circumstances; amending ss. 607.1103, 607.11035, 607.11045, 607.1106, and 607.11920, F.S.; making technical changes; amending s. 607.11921, F.S.; revising an exception for the procedure to approve a plan of domestication; making a technical change; amending ss. 607.11923 and 607.11924, F.S.; making technical changes; amending s. 607.11932, F.S.; revising an exception for the procedure to approve a plan of conversion; making a technical change; amending ss. 607.11933, 607.11935, 607.1202, 607.1301, 607.1302, 607.1303, 607.1320, 607.1333, 607.1340, 607.1403, 607.1406, 607.1422, 607.1430, 607.1431, 607.1432, 607.14401, 607.1501, 607.1502, 607.1503, 607.1504, 607.1505, 607.1507, 607.1509, 607.15091, 607.15101, 607.1520, 607.1602, 607.1604, and 607.1622, F.S.; making technical changes; creating s. 607.1703, F.S.; authorizing the department to direct certain interrogatories to certain corporations and to officers or directors of certain corporations; providing requirements for answering the interrogatories; providing requirements for the department relating to interrogatories; authorizing the department to bring certain actions; authorizing the department to file a lis pendens against certain property and to certify certain findings to the Department of Legal Affairs; amending ss. 607.1907, 607.504, and 605.0116, F.S.; making technical changes; amending s. 605.0207, F.S.; specifying that certain documents accepted by the department for filing are effective on the date the records are accepted by the department; making a technical change; amending ss. 605.0215, 605.0702, 605.0716, 605.1104, and 617.0501, F.S.; making technical changes; amending s. 617.0825, F.S.; authorizing a board of directors to appoint persons to serve on certain committees; requiring that a majority of the persons on such committees be directors; providing

exceptions; making technical changes; providing responsibilities and duties for non-director committee members; authorizing a corporation to create or authorize the creation of advisory committees; specifying an advisory committee is not a committee of the board of directors; providing prohibitions and authorizations for advisory committees; providing applicability; providing an effective date.

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

Section 1. Subsection (10) of section 607.0120, Florida Statutes, is amended to read:

607.0120 Filing requirements.—

(10) When the document is delivered to the department for filing, the correct filing fee, and any other tax, license fee, or penalty required to be paid by this chapter ~~aet~~ or other law shall be paid or provision for payment made in a manner permitted by the department.

Section 2. Subsections (1) and (2) of section 607.0123, Florida Statutes, are amended to read:

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

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

(a) If the record filed filing does not specify an effective time and does not specify a prior or a delayed effective date, on the date and at the time the record filing is accepted, as evidenced by the department's endorsement of the date and time on the filing.

(b) If the record filed filing specifies an effective time, but not a prior or delayed effective date, on the date the record filing is accepted, as evidenced by the department's endorsement, and filed at the time specified in the filing.

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

1. The specified date; or
2. The 90th day after the date the record is filed of the filing.

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

- 1. The specified date; or
- 2. The 90th day after the date the record is filed ~~of the filing~~.

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

- 1. The specified date; or
- 2. The 5th business day before the date of the record is filed ~~filing~~.

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

- 1. The specified date; or
- 2. The 5th business day before the date the record is filed ~~of the filing~~.

(2) If the record filed ~~a filed document~~ does not specify the time zone or place at which the date or time, or both, is to be determined, the date or time, or both, at which it becomes effective shall be those prevailing at the place of filing in this state.

Section 3. Subsection (3) of section 607.0125, Florida Statutes, is amended to read:

607.0125 Filing duties of the department.—

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

Section 4. Section 607.0127, Florida Statutes, is amended to read:

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

Section 5. Subsections (1), (2), (22), (51), (61), and (63) of section 607.01401, Florida Statutes, are amended to read:

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

(1) “Acquired eligible entity” means the a domestic or foreign eligible entity that will have all of one or more classes or series of its shares or eligible interests acquired in a share exchange.

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

(22) “Domesticating corporation” means the a domestic corporation that approves a plan of domestication pursuant to s. 607.11921, or the a foreign corporation that approves a domestication pursuant to the organic law of the foreign corporation.

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

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

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

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

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

(61) “Public organic record” means a record, the filing of which by a governmental body is required to form an entity, and ~~or~~ an amendment to or restatement of such record. Where a public organic record has been amended or restated, the term means the public organic record as last amended or restated. The term includes the following:

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

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

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

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

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

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

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

(63) “Record date” means the date fixed for determining the identity of the corporation’s shareholders and their share holdings for purposes of this chapter. Unless another time is specified when the record date is fixed, the determination shall be made as of the close of the business at the principal office of the corporation on the date so fixed.

Section 6. Subsections (4) and (11) of section 607.0141, Florida Statutes, are amended to read:

607.0141 Notice.—

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

(a) To its registered agent at the domestic corporation’s or foreign corporation’s registered office; or

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

(11) If this chapter aet prescribes requirements for notices or other communications in particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe requirements for notices or other communications not less stringent than the requirements of this section or other provisions of this chapter aet, those requirements govern. The articles of incorporation or bylaws may authorize or require delivery of notices of meetings of directors by electronic transmission.

Section 7. Subsections (1) and (5) of section 607.0501, Florida Statutes, are amended to read:

607.0501 Registered office and registered agent.—

(1) Each corporation shall designate and continuously maintain in this state:

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

(b) A registered agent, which must be:

1. An individual who resides in this state whose business address is identical to the address of the registered office;

2. Another domestic entity that is an authorized entity and whose business address is identical to the address of the registered office; or

3. A foreign entity authorized to transact business in this state which is an authorized entity and whose business address is identical to the address of the registered office.

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

Section 8. Subsection (2) of section 607.0601, Florida Statutes, is amended to read:

607.0601 Authorized shares.—

(2) The articles of incorporation must authorize:

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

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

Section 9. Subsection (1) of section 607.0602, Florida Statutes, is amended to read:

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

(1) If the articles of incorporation so provide, the board of directors is authorized, without shareholder approval, to:

(a) Classify any unissued shares into one or more classes or into one or more series within a class;

(b) Reclassify any unissued shares of any class into one or more classes or into one or more series within a class ~~one or more classes~~;

(c) Reclassify any unissued shares of any series of any class into one or more classes or into one or more series within a class.

Section 10. Subsection (5) of section 607.0620, Florida Statutes, is amended to read:

607.0620 Subscriptions for shares.—

(5) If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt. Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement and may sell the shares if the debt remains unpaid more than 20 days after the corporation delivers written demand for payment to the subscriber. If the subscription agreement is rescinded and the shares sold, then, notwithstanding the rescission, the defaulting subscriber or his, ~~or her,~~ or its legal representative shall be entitled to be paid the excess of the sale proceeds over the sum of the amount due and unpaid on the subscription and the reasonable expenses incurred in selling the shares, but in no event shall the defaulting subscriber or his, ~~or her,~~ or its legal representative be entitled to be paid an amount greater than the amount paid by the subscriber on the subscription.

Section 11. Subsection (1) of section 607.0623, Florida Statutes, is amended to read:

607.0623 Share dividends.—

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

Section 12. Paragraphs (c) and (d) of subsection (2) of section 607.0630, Florida Statutes, are amended to read:

607.0630 Shareholders' preemptive rights.—

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

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

1. Shares issued as compensation to directors, officers, agents, or employees of the corporation, its subsidiaries, or its affiliates;

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

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

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

5. Shares issued for consideration other than money.

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

Section 13. Subsection (7) of section 607.0704, Florida Statutes, is amended to read:

607.0704 Action by shareholders without a meeting.—

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

Section 14. Subsection (5) of section 607.0705, Florida Statutes, is amended to read:

607.0705 Notice of meeting.—

(5) Notwithstanding the foregoing, whenever notice is required to be given to any shareholder under this chapter or the articles of incorporation or bylaws of any corporation to whom:

(a) Notice of two consecutive annual meetings, and all notices of meetings or the taking of action by written consent without a meeting to such person during the period between such two consecutive annual meetings; or

(b) All, and at least two payments ~~checks in payment~~ of dividends or interest on securities during a 12-month period,

have been sent by first-class United States mail, addressed to the shareholder at such person's address as it appears in the record of shareholders of the corporation, maintained in accordance with s. 607.1601(4), and returned undeliverable, then the giving of such notice to such person shall not be required. Any action or meeting which is taken or held without notice to such person has the same force and effect as if such notice has been duly given. If any such person delivers to the corporation a written notice setting forth such person's then current address, the requirement that a notice be given to such person with respect to future notices shall be reinstated.

Section 15. Subsections (2), (9), and (10) of section 607.0707, Florida Statutes, are amended to read:

607.0707 Record date.—



~~(2) If not otherwise provided by or pursuant to the bylaws, the record date for determining shareholders entitled to demand a special meeting is the date the first shareholder delivers his or her demand to the corporation.~~

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

~~(2)~~(10) If not otherwise fixed under s. 607.0703 or otherwise provided by or pursuant to the bylaws, the record date for determining shareholders entitled to demand a special meeting is the earliest date on which a signed shareholder demand is delivered to the corporation. A written demand for a special meeting is not effective unless, within 60 days of the earliest date on which such a demand delivered to the corporation as required by s. 607.0702 was signed, written demands signed by shareholders holding at least the percentage of votes specified in or fixed in accordance with s. 607.0702(1)(b) have been delivered to the corporation.

Section 16. Subsection (2) of section 607.0720, Florida Statutes, is amended to read:

607.0720 Shareholders' list for meeting.—

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

Section 17. Subsection (3) of section 607.0721, Florida Statutes, is amended to read:

607.0721 Voting entitlement of shares.—

(3) Shares held by the corporation in a fiduciary capacity for the benefit of any person are entitled to vote unless they are held for the benefit of, or otherwise belong to, the corporation directly, or indirectly through an entity of which a majority of the voting power is held directly or indirectly by the corporation or which is otherwise controlled by the corporation. For the purposes of this ~~section~~ ~~subsection~~, "voting power" means the current power

to vote in the election of directors of a corporation or to elect, select, or appoint those persons who will govern another entity.

Section 18. Subsection (2) of section 607.0732, Florida Statutes, is amended to read:

607.0732 Shareholder agreements.—

(2) An agreement authorized by this section shall be:

(a)1. Set forth or referenced in the articles of incorporation or bylaws and approved by all persons who are shareholders at the time of the agreement; or

2. Set forth in a written agreement that is signed by all persons who are shareholders at the time of the agreement and such written agreement is made known to the corporation; and

(b) Subject to termination or amendment only by all persons who are shareholders at the time of the termination or amendment, unless the agreement provides otherwise.

Section 19. Subsection (1) of section 607.0750, Florida Statutes, is amended to read:

607.0750 Direct action by shareholder.—

(1) Subject to subsection (2), a shareholder may maintain a direct action against another shareholder, an officer, a director, or the company, to enforce the shareholder's rights and otherwise protect the shareholder's interests, including rights and interests under the articles of incorporation, the bylaws or this chapter or arising independently of the shareholder relationship.

Section 20. Subsection (4) of section 607.0808, Florida Statutes, is amended to read:

607.0808 Removal of directors by shareholders.—

(4) A director may be removed by the shareholders only at a meeting of shareholders called for the purpose of removing the director, and the meeting notice must state that the removal of the director is the purpose, or one of the purposes, of the meeting.

Section 21. Subsection (7) of section 607.0832, Florida Statutes, is amended to read:

607.0832 Director conflicts of interest.—

(7) ~~If~~ Where shareholders' action under this section does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by shareholders 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 shareholders in order to authorize the transaction. In such action, the vote or consent of shareholders who are not disinterested shareholders may be counted.

Section 22. Subsection (4) of section 607.0850, Florida Statutes, is amended to read:

607.0850 Definitions.—In ss. 607.0850-607.0859, the term:

(4) “Expenses” includes reasonable attorney fees and expenses, including those incurred in connection with any appeal.

Section 23. Subsection (2) of section 607.0855, Florida Statutes, is amended to read:

607.0855 Determination and authorization of indemnification.—

(2) The determination shall be made:

(a) If there are two or more qualified directors, by the board of directors by a majority vote of all of the qualified directors, a majority of whom shall for such purposes constitute a quorum, or by a majority of the members of a committee of two or more qualified directors appointed by such a vote; ~~or~~

(b) By independent special legal counsel:

1. Selected in the manner prescribed by paragraph (a); or

2. If there are fewer than two qualified directors, selected by the board of directors, in which selection directors who are not qualified directors may participate; or

(c) By the shareholders, but shares owned by or voted under the control of a director or officer who, at the time of the determination, is not a qualified director or an officer who is a party to the proceeding may not be counted as votes in favor of the determination.

Section 24. Subsection (1) of section 607.0858, Florida Statutes, is amended to read:

607.0858 Variation by corporate action; application of ss. 607.0850-607.0859.—

(1) The indemnification provided pursuant to ss. 607.0851 and 607.0852 and the advancement of expenses provided pursuant to s. 607.0853 are not exclusive, and a corporation may, by a provision in its articles of incorporation, bylaws, or any agreement, or by vote of shareholders or disinterested directors, or otherwise, obligate itself in advance of the act or omission giving rise to a proceeding to provide any other or further indemnification or advancement of expenses to any of its directors or officers. Any such

obligatory provision shall be deemed to satisfy the requirements for authorization referred to in ss. 607.0853(3) and 607.0855(3). Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law shall be deemed to obligate the corporation to advance funds to pay for or reimburse expenses in accordance with s. 607.0853 to the fullest extent permitted by law, unless the provision specifically provides otherwise.

Section 25. Paragraph (f) of subsection (1) of section 607.0901, Florida Statutes, is amended to read:

607.0901 Affiliated transactions.—

(1) For purposes of this section:

(f) “Control,” “controlling,” “controlled by,” and “under common control with” mean the possession, directly or indirectly, through the ownership of voting interests ~~shares~~, by contract, arrangement, understanding, relationship, or otherwise, of the power to direct or cause the direction of the management and policies of a person. A person who is the owner of 20 percent or more of the outstanding voting interests ~~shares~~ of any corporation, partnership, unincorporated association, or other entity is presumed to have control of such entity, in the absence of proof by a preponderance of the evidence to the contrary. Notwithstanding the foregoing, a person shall not be deemed to have control of an entity if such person holds voting interests ~~shares~~, in good faith and not for the purpose of circumventing this section, as an agent, bank, broker, nominee, custodian, or trustee for one or more beneficial owners who do not individually or as a group have control of such entity.

Section 26. Subsection (11) of section 607.1002, Florida Statutes, is amended to read:

607.1002 Amendment by board of directors.—Unless the articles of incorporation provide otherwise, a corporation’s board of directors may adopt one or more amendments to the corporation’s articles of incorporation without shareholder approval:

(11) To make any other change expressly permitted by this chapter ~~act~~ to be made without shareholder approval.

Section 27. Paragraph (a) of subsection (2) and subsections (4) and (5) of section 607.1003, Florida Statutes, are amended to read:

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

(2)(a) Except as provided in s. ~~ss.~~ 607.1002, s. 607.10025, s. ~~and~~ 607.1008, or ~~and~~, with respect to restatements that do not require

shareholder approval, s. 607.1007, the amendment shall then be approved by the shareholders.

(4) If the amendment is required to be approved by the shareholders, and the approval is to be given at a meeting, the corporation must notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the amendment is to be submitted for approval. The notice must be given in accordance with s. 607.0705; must state that the purpose, or one of the purposes, of the meeting is to consider the amendment; and must contain or be accompanied by a copy of the amendment.

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

Section 28. Subsections (1) and (6) of section 607.1102, Florida Statutes, are amended to read:

607.1102 Share exchange.—

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

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

1. Shares or other securities.
2. Eligible interests.
3. Obligations.
4. Rights to acquire shares, other securities, or eligible interests.
5. Cash.
6. Other property.
7. Any combination of the foregoing; or

(b) All of the shares of one or more classes or series of shares or rights to acquire shares of a domestic corporation may be acquired by another domestic or foreign eligible entity, pursuant to a plan of share exchange, in exchange for:

1. Shares or other securities.
2. Eligible interests.
3. Obligations.
4. Rights to acquire shares, other securities, or eligible interests.
5. Cash.
6. Other property.
7. Any combination of the foregoing.

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

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

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

1. The amount or kind of shares or other securities; eligible interests; obligations; rights to acquire shares, other securities, or eligible interests; cash; ~~or other property;~~ or any combination of the foregoing, to be received under the plan by the shareholders, members, or interest holders of the acquired eligible entity; or

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

Section 29. Section 607.1103, Florida Statutes, is amended to read:

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

(1) The plan of merger or the plan of share exchange shall first be adopted by the board of directors of such domestic corporation.

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

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

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

2. Section 607.0826 applies.

(c) If either subparagraph (b)1. or subparagraph (b)2. applies, the board shall inform the shareholders of the basis for its so proceeding without such recommendation.

(3) The board of directors may set conditions for the approval of the proposed merger or share exchange by the shareholders or the effectiveness of the plan of merger or the plan of share exchange.

(4) If the plan of merger or the plan of share exchange is required to be approved by the shareholders, and if the approval is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the plan is submitted for approval in accordance with s. 607.0705. The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger or the plan of share exchange, regardless of whether or not the meeting is an annual or a special meeting, and contain or be accompanied by a copy of the plan. If the corporation is to be merged into an existing foreign or domestic eligible entity, the notice must also include or be accompanied by a copy of the articles of incorporation and bylaws or the organic rules of that eligible entity into which the corporation is to be merged. If the corporation is to be merged with a domestic or foreign eligible entity and a new domestic or foreign eligible entity is to be created pursuant to the merger, the notice must include or be accompanied by a copy of the articles of incorporation and bylaws or the organic rules of the new eligible entity. Furthermore, if applicable, the notice shall contain a clear and concise statement that, if the plan of merger or share exchange is effected, shareholders dissenting therefrom may be entitled, if they comply with the provisions of this chapter regarding appraisal rights, to be paid the fair value of their shares, and shall be accompanied by a copy of ss. 607.1301-607.1340.

(5) Unless this chapter, the articles of incorporation, or the board of directors (acting pursuant to subsection (3)) requires a greater vote or a greater quorum in the respective case, approval of the plan of merger or the plan of share exchange shall require the approval of the shareholders at a

meeting at which a quorum exists by a majority of the votes entitled to be cast on the plan, and, if any class or series of shares is entitled to vote as a separate voting group on the plan of merger or the plan of share exchange, the approval of each such separate voting group at a meeting at which a quorum of the voting group is present by a majority of the votes entitled to be cast on the merger or share exchange by that voting group.

(6)(a) Subject to subsection (7), voting by a class or series as a separate voting group is required on a plan of merger:

1. By each class or series of shares of the corporation that would be entitled to vote as a separate voting group on any provision in the plan which, if such provision had been contained in a proposed amendment to the articles of incorporation of a surviving corporation, would have entitled the class or series to vote as a separate voting group on the proposed amendment under s. 607.1004~~;~~ ~~or~~

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

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

4. If the plan contains a provision that would allow the plan to be amended to convert other classes or series of shares of the corporation, by each class or series of shares of the corporation that would have been entitled to vote as a separate voting group if the plan were to be so amended.

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

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

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

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



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

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

(b) Will not affect a substantive business combination.

(8) Unless the corporation's articles of incorporation provide otherwise, approval by the corporation's shareholders of a plan of merger is not required if:

(a) The corporation will survive the merger;

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

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

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

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

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

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

(11) Unless the articles of incorporation otherwise provide, shares in the acquired eligible entity not to be exchanged under the plan of share exchange are not entitled to vote on the plan.

Section 30. Subsection (1) of section 607.11035, Florida Statutes, is amended to read:

607.11035 Shareholder approval of a merger or share exchange in connection with a tender offer.—

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) Each outstanding share of each class or series of shares of the corporation that the offeror is offering to purchase in accordance with the offer, and that is not purchased in accordance with the offer, is to be converted in the merger into, or into the right to receive, or is to be exchanged in the share exchange for, or for the right to receive, the same amount and kind of securities, eligible interests, obligations, rights, cash, other property, or any combination of the foregoing, to be paid or exchanged in accordance with the offer for each share of that class or series of shares that is tendered in response to the offer, except that shares of the corporation that are owned by the corporation or that are described in subparagraph (f)2. or subparagraph (f)3. need not be converted into or exchanged for the consideration described in this paragraph.

Section 31. Subsection (1) of section 607.11045, Florida Statutes, is amended to read:

607.11045 Holding company formation by merger by certain corporations.—

(1) This section applies only to a corporation that has shares registered pursuant to s. 12 of the Securities Exchange Act of 1934, or held of record by not fewer than 2,000 shareholders.

Section 32. Subsection (1) of section 607.1106, Florida Statutes, is amended to read:

607.1106 Effect of merger or share exchange.—

(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 domestic or foreign eligible entity that is a party to the merger, other than the survivor, ceases;

(c) All real property and other property, including any interest therein and all title thereto, owned by, and every contract right possessed by, each

domestic or foreign eligible entity that is a party to the merger, other than the survivor, become the property and contract rights of and become vested in the survivor, without transfer, reversion, or impairment;

(d) All debts, obligations, and other liabilities of each domestic or foreign eligible entity that is a party to the merger, other than the survivor, become debts, obligations, and liabilities of the survivor;

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

(f) Neither the rights of creditors nor any liens upon the property of any corporation party to the merger shall be impaired by such merger;

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

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

(i) The shares, obligations, and other securities (and the rights to acquire shares, obligations, or other securities) of each domestic or foreign corporation party to the merger, and the eligible interests in any other eligible entity that is a party to the merger, that are to be converted in accordance with the terms of the merger into shares or other securities; eligible interests; obligations; rights to acquire shares, other securities, or eligible interests; cash; other property; or any combination of the foregoing, are converted, and the former holders of such shares, obligations, other securities, and eligible interests (and the rights to acquire shares, obligations, other securities, or other eligible interests) are entitled only to the rights provided to them by those terms of the merger or to any rights they may have under s. 607.1302 or under the organic law governing the eligible entity;

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

(k) If the survivor exists before the merger:

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

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

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

Section 33. Subsection (3) of section 607.11920, Florida Statutes, is amended to read:

607.11920 Domestication.—

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

- (a) The name of the domesticating corporation;
- (b) The name and jurisdiction of formation of the domesticated corporation;
- (c) The manner and basis of reclassifying the shares and rights to acquire shares of the domesticating corporation into shares or other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing;
- (d) The proposed organic rules of the domesticated corporation which must be in writing; and
- (e) The other terms and conditions of the domestication.

Section 34. Subsections (5) and (6) of section 607.11921, Florida Statutes, are amended to read:

607.11921 Action on a plan of domestication.—In the case of a domestication of a domestic corporation into a foreign jurisdiction, the plan of domestication shall be adopted in the following manner:

(5) Unless this chapter, the articles of incorporation, 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 shareholders at a meeting at which a quorum exists consisting of a majority of the votes entitled to be cast on the plan; and

(b) Except as provided in subsection (6), the approval of each class or series of shares 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 or series of shares, 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 or series to vote as a separate voting group under s. 607.1004 if it were a proposed amendment of the articles of incorporation of a domestic domesticating corporation.

Section 35. Subsection (1) of section 607.11923, Florida Statutes, is amended to read:

607.11923 Amendment of a plan of domestication; abandonment.—

(1) A plan of domestication of a domestic corporation adopted under s. 607.11920(3) may be amended:

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

(b) In the manner provided in the plan of domestication, except that a shareholder that was entitled to vote on or consent to approval of the plan is entitled to vote on or consent to any amendment of the plan that will change:

1. The amount or kind of shares or other securities; obligations; rights to acquire shares or; other securities, ~~or eligible interests~~; cash; other property; or any combination of the foregoing, to be received by any of the shareholders or holders of rights to acquire shares or; other securities, ~~or eligible interests~~ of the domesticating corporation under the plan;

2. The organic rules of the domesticated corporation that are to be in writing and that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the shareholders of the domesticated corporation under its organic rules as set forth in the plan of domestication; or

3. Any of the other terms or conditions of the plan, if the change would adversely affect the shareholder in any material respect.

Section 36. Subsection (1) and paragraph (d) of subsection (3) of section 607.11924, Florida Statutes, are amended to read:

607.11924 Effect of domestication.—

(1) When a domestication becomes effective:

(a) All real property and other property owned by the domesticating corporation, including any interests therein and all title thereto, and every contract right possessed by the domesticating corporation, are the property and contract 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 proceeding;

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

(e) The shares and other securities (and the rights to acquire shares or other securities) or equity interests of the domesticating corporation are reclassified into shares, ~~or~~ other securities, obligations, rights to acquire shares or other securities, cash, ~~or~~ other property, or any combination of the foregoing, in accordance with the terms of the domestication, and the shareholders or equity owners of the domesticating corporation are entitled only to the rights provided to them by those terms and to any appraisal rights they may have under the organic law of the domesticating corporation; and

(f) The domesticated corporation is:

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

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

3. Deemed to have been incorporated or formed on the date the domesticating corporation was originally incorporated.

(3) Except as otherwise provided in the organic law or organic rules of a domesticating foreign corporation, the interest holder liability of a shareholder or equity holder in a foreign corporation that is domesticated into this state who had interest holder liability in respect of such domesticating corporation before the domestication becomes effective shall be as follows:

(d) The shareholder or equity holder shall ~~may~~ not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that are incurred after the domestication becomes effective.

Section 37. Paragraph (a) of subsection (2) and subsection (5) of section 607.11932, Florida Statutes, are amended to read:

607.11932 Action on a plan of conversion.—In the case of a conversion of a domestic corporation to a domestic or foreign eligible entity other than a domestic corporation, the plan of conversion must be adopted in the following manner:

(2)(a) The plan of conversion must ~~shall~~ then be approved by the shareholders of such domestic corporation.

(5) Unless this chapter, the articles of incorporation, 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 conversion requires:

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

(b) The approval of each class or series of shares 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.

Section 38. Paragraph (a) of subsection (4) of section 607.11933, Florida Statutes, is amended to read:

607.11933 Articles of conversion; effectiveness.—

(4)(a) If the a converted eligible entity is a domestic eligible entity, the conversion becomes effective when the articles of conversion are effective.

Section 39. Subsection (1) and paragraph (d) of subsection (4) of section 607.11935, Florida Statutes, are amended to read:

607.11935 Effect of conversion.—

(1) When a conversion becomes effective:

(a) All real property and other property owned by, including any interest therein and all title thereto, and every contract right possessed by, the converting eligible entity remain the property and contract rights of the converted eligible entity without transfer, reversion, or impairment;

(b) All debts, obligations, and other liabilities of the converting eligible entity remain the debts, obligations, and other liabilities of the converted eligible entity;

(c) The name of the converted eligible entity may be, but need not be, substituted for the name of the converting eligible entity in any pending action or proceeding;

(d) If the converted eligible entity is a filing entity, a domestic corporation, or a domestic or foreign nonprofit corporation, its public organic record and its private organic rules become effective;

(e) If the converted eligible entity is a nonfiling entity, its private organic rules become effective;

(f) If the converted eligible entity is a limited liability partnership, the filing required to become a limited liability partnership and its private organic rules become effective;

(g) The shares, obligations, eligible interests, and other securities (and the rights to acquire shares, obligations, eligible interests, or other securities) and ~~obligations~~ of the converting eligible entity are reclassified into shares, other securities, eligible interests, obligations, rights to acquire shares, ~~or other securities, or~~ eligible interests, ~~obligations~~, cash, other property, or any combination of the foregoing thereof, in accordance with the terms of the conversion, and the shareholders or interest holders of the



converting eligible entity are entitled only to the rights provided to them by those terms and to any rights they may have under s. 607.1302 or under the organic law of the converting eligible entity; and

(h) The converted eligible entity is:

1. Deemed to be incorporated or organized under and subject to the organic law of the converted eligible entity;

2. Deemed to be the same entity without interruption as the converting eligible entity; and

3. Deemed to have been incorporated or otherwise organized on the date that the converting eligible entity was originally incorporated or organized.

(4) Except as otherwise provided in the organic law or the organic rules of the domestic or foreign eligible entity, the interest holder liability of an interest holder in a converting eligible entity that converts to a domestic corporation who had interest holder liability in respect of such converting eligible entity before the conversion becomes effective shall be as follows:

(d) The eligible interest holder shall ~~may~~ not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the conversion becomes effective.

Section 40. Subsection (4) of section 607.1202, Florida Statutes, is amended to read:

607.1202 Shareholder approval of certain dispositions.—

(4) If the disposition is required to be approved by the shareholders under subsection (1) and if the approval is to be given at the meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the disposition is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the disposition and shall contain a description of the disposition and the consideration to be received by the corporation. Furthermore, the notice shall contain a clear and concise statement that, if the transaction is effected, shareholders dissenting therefrom are or may be entitled, if they comply with the provisions of this chapter ~~aet~~ regarding appraisal rights, to be paid the fair value of their shares and such notice must be accompanied by a copy of ss. 607.1301-607.1340.

Section 41. Subsection (2) and paragraph (a) of subsection (6) of section 607.1301, Florida Statutes, are amended to read:

607.1301 Appraisal rights; definitions.—The following definitions apply to ss. 607.1301-607.1340:

(2) “Affiliate” means a person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, another person or is a senior executive of such person. For purposes of paragraph (6)(a), a person is deemed to be an affiliate of its senior executives.

(6) “Interested transaction” means a corporate action described in s. 607.1302(1), other than a merger pursuant to s. 607.1104, involving an interested person in which any of the shares or assets of the corporation are being acquired or converted. As used in this definition:

(a) “Interested person” means a person, or an affiliate of a person, who at any time during the 1-year period immediately preceding approval by the board of directors of the corporate action:

1. Was the beneficial owner of 20 percent or more of the voting power of the corporation, other than as owner of excluded shares;

2. Had the power, contractually or otherwise, other than as owner of excluded shares, to cause the appointment or election of 25 percent or more of the directors to the board of directors of the corporation; or

3. Was a senior executive or director of the corporation or a senior executive of any affiliate of the corporation, and will receive, as a result of the corporate action, a financial benefit not generally available to other shareholders as such, other than:

a. Employment, consulting, retirement, or similar benefits established separately and not as part of or in contemplation of the corporate action;

b. Employment, consulting, retirement, or similar benefits established in contemplation of, or as part of, the corporate action that are not more favorable than those existing before the corporate action or, if more favorable, that have been approved on behalf of the corporation in the same manner as is provided in s. 607.0832; or

c. In the case of a director of the corporation who, in the corporate action, will become a director or governor of the acquirer or any of its affiliates ~~in the corporate action~~, rights and benefits as a director or governor that are provided on the same basis as those afforded by the acquirer generally to other directors or governors of such entity or such affiliate.

Section 42. Subsection (1) of section 607.1302, Florida Statutes, is amended to read:

607.1302 Right of shareholders to appraisal.—

(1) A shareholder of a domestic corporation is entitled to appraisal rights, and to obtain payment of the fair value of that shareholder’s shares, in the event of any of the following corporate actions:

(a) Consummation of a domestication or a conversion of such corporation pursuant to s. 607.11921 or s. 607.11932, as applicable, if shareholder approval is required for the domestication or the conversion;

(b) Consummation of a merger to which such corporation is a party:

1. If shareholder approval is required for the merger under s. 607.1103 or would be required but for s. 607.11035, except that appraisal rights shall not be available to any shareholder of the corporation with respect to shares of any class or series that remains outstanding after consummation of the merger where the terms of such class or series have not been materially altered; or

2. If such corporation is a subsidiary and the merger is governed by s. 607.1104;

(c) Consummation of a share exchange to which the corporation is a party as the corporation whose shares will be acquired, except that appraisal rights are not available to any shareholder of the corporation with respect to any class or series of shares of the corporation that is not acquired in the share exchange;

(d) Consummation of a disposition of assets pursuant to s. 607.1202 if the shareholder is entitled to vote on the disposition, including a sale in dissolution, except that appraisal rights shall not be available to any shareholder of the corporation with respect to shares or any class or series if:

1. Under the terms of the corporate action approved by the shareholders there is to be distributed to shareholders in cash the corporation's net assets, in excess of a reasonable amount reserved to meet claims of the type described in ss. 607.1406 and 607.1407, within 1 year after the shareholders' approval of the action and in accordance with their respective interests determined at the time of distribution; and

2. The disposition of assets is not an interested transaction;

(e) An amendment of the articles of incorporation with respect to a class or series of shares which reduces the number of shares of a class or series owned by the shareholder to a fraction of a share if the corporation has the obligation or the right to repurchase the fractional share so created;

(f) Any other merger, share exchange, disposition of assets, or amendment to the articles of incorporation, in each case to the extent provided by the articles of incorporation, bylaws, or a resolution of the board of directors, except that no bylaw or board resolution providing for appraisal rights may be amended or otherwise altered except by shareholder approval;

(g) An amendment to the articles of incorporation or bylaws of the corporation, the effect of which is to alter or abolish voting or other rights with respect to such interest in a manner that is adverse to the interest of

such shareholder, except as the right may be affected by the voting or other rights of new shares then being authorized of a new class or series of shares;

(h) An amendment to the articles of incorporation or bylaws of a corporation, the effect of which is to adversely affect the interest of the shareholder by altering or abolishing appraisal rights under this section;

(i) With regard to a class of shares prescribed in the articles of incorporation prior to October 1, 2003, including any shares within that class subsequently authorized by amendment, any amendment of the articles of incorporation if the shareholder is entitled to vote on the amendment and if such amendment would adversely affect such shareholder by:

1. Altering or abolishing any preemptive rights attached to any of his, ~~or her,~~ or its shares;

2. Altering or abolishing the voting rights pertaining to any of his, ~~or her,~~ or its shares, except as such rights may be affected by the voting rights of new shares then being authorized of any existing or new class or series of shares;

3. Effecting an exchange, cancellation, or reclassification of any of his, ~~or her,~~ or its shares, when such exchange, cancellation, or reclassification would alter or abolish the shareholder's voting rights or alter his, ~~or her,~~ or its percentage of equity in the corporation, or effecting a reduction or cancellation of accrued dividends or other arrearages in respect to such shares;

4. Reducing the stated redemption price of any of the shareholder's redeemable shares, altering or abolishing any provision relating to any sinking fund for the redemption or purchase of any of his, ~~or her,~~ or its shares, or making any of his, ~~or her,~~ or its shares subject to redemption when they are not otherwise redeemable;

5. Making noncumulative, in whole or in part, dividends of any of the shareholder's preferred shares which had theretofore been cumulative;

6. Reducing the stated dividend preference of any of the shareholder's preferred shares; or

7. Reducing any stated preferential amount payable on any of the shareholder's preferred shares upon voluntary or involuntary liquidation;

(j) An amendment of the articles of incorporation of a social purpose corporation to which s. 607.504 or s. 607.505 applies;

(k) An amendment of the articles of incorporation of a benefit corporation to which s. 607.604 or s. 607.605 applies;

(l) A merger, domestication, conversion, or share exchange of a social purpose corporation to which s. 607.504 applies; or

(m) A merger, domestication, conversion, or share exchange of a benefit corporation to which s. 607.604 applies.

Section 43. Subsection (1) of section 607.1303, Florida Statutes, is amended to read:

607.1303 Assertion of rights by nominees and beneficial owners.—

(1) A record shareholder may assert appraisal rights as to fewer than all the shares registered in the record shareholder's name but owned by a beneficial shareholder or a voting trust beneficial owner only if the record shareholder objects with respect to all shares of the class or series owned by the beneficial shareholder or the a voting trust beneficial owner and notifies the corporation in writing of the name and address of each beneficial shareholder or voting trust beneficial owner on whose behalf appraisal rights are being asserted. The rights of a record shareholder who asserts appraisal rights for only part of the shares held of record in the record shareholder's name under this subsection shall be determined as if the shares as to which the record shareholder objects and the record shareholder's other shares were registered in the names of different record shareholders.

Section 44. Subsection (1) of section 607.1320, Florida Statutes, is amended to read:

607.1320 Notice of appraisal rights.—

(1) If a proposed corporate action described in s. 607.1302(1) is to be submitted to a vote at a shareholders' meeting, the meeting notice (or, where no approval of such action is required pursuant to s. 607.11035, the offer made pursuant to s. 607.11035); must state that the corporation has concluded that shareholders are, are not, or may be entitled to assert appraisal rights under this chapter. If the corporation concludes that appraisal rights are or may be available, a copy of ss. 607.1301-607.1340 must accompany the meeting notice or offer sent to those record shareholders entitled to exercise appraisal rights.

Section 45. Subsection (1) of section 607.1333, Florida Statutes, is amended to read:

607.1333 Limitation on corporate payment.—

(1) No payment shall be made to a shareholder seeking appraisal rights if, at the time of payment, the corporation is unable to meet the distribution standards of s. 607.06401. In such event, the shareholder shall, at the shareholder's option:

(a) Withdraw his, ~~or her,~~ or its notice of intent to assert appraisal rights, which shall in such event be deemed withdrawn with the consent of the corporation; or

(b) Retain his, ~~or her,~~ or its status as a claimant against the corporation and, if it is liquidated, be subordinated to the rights of creditors of the corporation, but have rights superior to the shareholders not asserting appraisal rights, and if the corporation is not liquidated, retain his, ~~or her,~~ or its right to be paid for the shares, which right the corporation shall be obliged to satisfy when the restrictions of this section do not apply.

Section 46. Subsection (1) of section 607.1340, Florida Statutes, is amended to read:

607.1340 Other remedies limited.—

(1) A shareholder entitled to appraisal rights under this chapter may not challenge a completed corporate action for which appraisal rights are available unless such corporate action was either:

(a) Not authorized and approved in accordance with the applicable provisions of this chapter; or

(b) Procured as a result of fraud, a material misrepresentation, or an omission of a material fact necessary to make statements made, in light of the circumstances in which they were made, not misleading.

Section 47. Subsection (3) of section 607.1403, Florida Statutes, is amended to read:

607.1403 Articles of dissolution.—

(3) For purposes of ss. 607.1401-607.1410, the term “dissolved corporation” means a corporation whose articles of dissolution have become effective and includes a successor entity. Further, for the purposes of this subsection, the term “successor entity” includes a trust, receivership, or other legal entity governed by the laws of this state to which the remaining assets and liabilities of a dissolved corporation are transferred and which exists solely for the purposes of prosecuting and defending suits by or against the dissolved corporation, thereby enabling the dissolved corporation to settle and close the business of the dissolved corporation, to dispose of and convey the property of the dissolved corporation, to discharge the liabilities of the dissolved corporation, and to distribute to the dissolved corporation’s shareholders any remaining assets, but not for the purpose of continuing the activities and affairs for which the dissolved corporation was organized.

Section 48. Paragraph (a) of subsection (5) of section 607.1406, Florida Statutes, is amended to read:

607.1406 Known claims against dissolved corporation.—

(5)(a) For purposes of ss. 607.1401-607.1410, the term ~~this section~~, “known claims” means any claim or liability that, as of the date of the giving of the written notice contemplated by subsections (1) and (2):

1. Has matured sufficiently on or prior to the effective date of the dissolution to be legally capable of assertion against the dissolved corporation; or

2. Is unmatured as of the effective date of the dissolution but will mature in the future solely based on the passage of time.

Section 49. Subsections (1) and (6) of section 607.1422, Florida Statutes, are amended to read:

607.1422 Reinstatement following administrative dissolution.—

(1) A corporation that is administratively dissolved under s. 607.1420 or that was dissolved under former s. 607.1421 before January 1, 2020, may apply to the department for reinstatement at any time after the effective date of dissolution. The corporation must submit all fees and penalties then owed by the corporation at the rates provided by law laws at the time the 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 corporation and states:

(a) The name of the corporation;

(b) The street address of the corporation’s principal office and mailing address;

(c) The date of the corporation’s organization;

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

(e) The name, title or capacity, and address of at least one officer or director of the corporation; and

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

(6) If the name of the dissolved corporation has been lawfully assumed in this state by another eligible ~~business~~ entity, the department shall require the dissolved corporation to amend its articles of incorporation to change its name before accepting its application for reinstatement.

Section 50. Subsection (1), paragraph (b) of subsection (3), and subsection (4) of section 607.1430, Florida Statutes, are amended to read:

607.1430 Grounds for judicial dissolution.—

(1) A circuit court may dissolve a corporation or order such other remedy as provided in s. 607.1434:

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

1. The corporation obtained its articles of incorporation through fraud; or
2. The corporation has continued to exceed or abuse the authority conferred upon it by law.

The enumeration in subparagraphs 1. and 2. of grounds for involuntary dissolution does not exclude actions or special proceedings by the Department of Legal Affairs or any state official for the annulment or dissolution of a corporation for other causes as provided in any other statute of this state;

(b) In a proceeding by a shareholder to dissolve a corporation if it is established that:

1. The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and:

- a. Irreparable injury to the corporation is threatened or being suffered;
- b. The business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally because of the deadlock; or
- c. Both sub-subparagraphs a. and b.; or

2. The shareholders are deadlocked in voting power and have failed to elect successors to directors whose terms have expired or would have expired upon qualification of their successors;

3. The corporate assets are being misapplied or wasted, causing material injury to the corporation; or

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

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

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

2. The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent;

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



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

(3)

(b) For purposes of As used in this section, the term “deadlock sale provision” means a provision in a shareholder agreement that complies with s. 607.0732, which is or may be applicable in the event of a deadlock among the directors or shareholders of the corporation, which neither the directors nor the shareholders, as applicable, of the corporation are able to break,<sup>3</sup> and which provides for a deadlock breaking mechanism, including, but not limited to:

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

2. A governance change;

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

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

(4) A deadlock sale provision in a shareholder agreement that ~~which~~ complies with s. 607.0732 which is not initiated and effectuated before the court enters an order of judicial dissolution under subparagraph (1)(b)1. or subparagraph (1)(b)2., as the case may be, or an order directing the purchase of petitioner’s interest under s. 607.1436, does not adversely affect the rights of shareholders to seek judicial dissolution under subparagraph (1)(b)1. or subparagraph (1)(b)2., as the case may be, or the rights of the corporation or one or more shareholders to purchase the petitioner’s interest under s. 607.1436. The filing of an action for judicial dissolution on the grounds described in subparagraph (1)(b)1. or subparagraph (1)(b)2., as the case may be, or an election to purchase the petitioner’s interest under s. 607.1436, does not adversely affect the right of a shareholder to initiate an available deadlock sale provision under the shareholder agreement that complies with s. 607.0732 or to enforce a shareholder-initiated or an automatically-initiated deadlock sale provision if the deadlock sale provision is initiated and effectuated before the court enters an order of judicial dissolution under subparagraph (1)(b)1. or subparagraph (1)(b)2., as the case may be, or an order directing the purchase of petitioner’s interest under s. 607.1436.

Section 51. Subsection (5) of section 607.1431, Florida Statutes, is amended to read:

607.1431 Procedure for judicial dissolution.—

(5) If the court determines that any party has commenced, continued, or participated in a proceeding under s. 607.1430 and has acted arbitrarily, frivolously, vexatiously, or not in good faith, the court may, in its discretion, award attorney fees and other reasonable expenses to the other parties to the proceeding action who have been affected adversely by such actions.

Section 52. Subsection (5) of section 607.1432, Florida Statutes, is amended to read:

607.1432 Receivership or custodianship.—

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

Section 53. Section 607.14401, Florida Statutes, is amended to read:

607.14401 Deposit with Department of Financial Services.—Assets of a dissolved corporation that should be transferred to a creditor, claimant, or shareholder of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash and deposited with the Department of Financial Services for safekeeping. When the creditor, claimant, or shareholder furnishes satisfactory proof of entitlement to the amount ~~of~~ assets deposited, the Department of Financial Services shall pay such person or his, ~~or her,~~ or its representative that amount.

Section 54. Paragraphs (c), (h), and (k) of subsection (2) of section 607.1501, Florida Statutes, are amended to read:

607.1501 Authority of foreign corporation to transact business required; activities not constituting transacting business.—

(2) The following activities, among others, do not constitute transacting business within the meaning of subsection (1):

(c) Maintaining ~~bank~~ accounts in financial institutions.

(h) Securing or collecting debts or enforcing mortgages or security interests in property securing the debts, or ~~and~~ holding, protecting, or maintaining property so acquired.

(k) Owning and controlling a subsidiary corporation incorporated in or limited liability company formed in, or transacting business within, this state; or voting the shares of any such subsidiary corporation; or voting the membership interests of any such limited liability company, which it has lawfully acquired.

Section 55. Subsections (3) and (8) of section 607.1502, Florida Statutes, are amended to read:

607.1502 Effect of failure to have a certificate of authority.—

(3) A court may stay a proceeding commenced by a foreign corporation or its successor or assignee until it determines whether the foreign corporation or its successor or assignee requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor or assignee has obtained 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 ~~for rights of action~~ arising out of the transaction of business in this state.

Section 56. Subsection (2) of section 607.1503, Florida Statutes, is amended to read:

607.1503 Application for certificate of authority.—

(2) The foreign corporation shall deliver with a completed application under subsection (1) a certificate of existence or a record of similar import, duly authenticated, not more than 90 days prior to delivery of the application to the department, signed by the official having custody of the foreign corporation’s publicly filed records in its jurisdiction of incorporation. A translation of the certificate, under oath of the translator, must be attached to a certificate which is in a language other than the English language.

Section 57. Paragraph (c) of subsection (1) and paragraph (c) of subsection (2) of section 607.1504, Florida Statutes, are amended to read:

607.1504 Amended certificate of authority.—

(1) A foreign corporation authorized to transact business in this state shall deliver for filing an amendment to its certificate of authority to reflect a change in any of the following:

(c) 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. 607.1508 or s. 607.15091 ~~s. 607.0502 or s. 607.05031~~.

(2) The amendment must be filed within 90 days after the occurrence of a change described in subsection (1), must be signed by an officer of the foreign corporation, and must state the following:

(c) The date the foreign corporation was authorized to transact ~~do~~ business in this state.

Section 58. Subsection (1) of section 607.1505, Florida Statutes, is amended to read:

607.1505 Effect of a certificate of authority.—

(1) Unless the department determines ~~that than~~ an application for a certificate of authority of a foreign corporation to transact business in this state does not comply with the filing requirements of this chapter, the department shall, upon payment of all filing fees, authorize the foreign corporation to transact business in this state and file the application for certificate of authority.

Section 59. Subsection (3) of section 607.1507, Florida Statutes, is amended to read:

607.1507 Registered office and registered agent of foreign corporation.

(3) Each initial registered agent, and each successor registered agent that is appointed, shall file a statement in writing with the department, in the form and manner prescribed by the department, accepting the appointment as a registered agent while simultaneously being designated as the registered agent. The statement of acceptance must provide that the registered agent is familiar with, and accepts, the obligations of that position.

Section 60. Subsection (3) of section 607.1509, Florida Statutes, is amended to read:

607.1509 Resignation of registered agent of foreign corporation.—

(3) 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 by the department.

Section 61. Subsection (1) of section 607.15091, Florida Statutes, is amended to read:

607.15091 Change of name or address by registered agent.—

(1) If a registered agent changes his, ~~or~~ her, or its name or address, the agent may deliver to the department for filing a statement of change containing the following:

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

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

(c) If the name of the registered agent has changed, his, her, or its new name.

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

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

Section 62. Subsection (7) of section 607.15101, Florida Statutes, is amended to read:

607.15101 Service of process, notice, or demand on a foreign corporation.

(7) Any notice or demand on a foreign corporation under this chapter may be given or made: to the chair of the board, the president, any vice president, the secretary, or the treasurer of the foreign corporation; to the registered agent of the foreign corporation at the registered office of the foreign corporation in this state; or to any other address in this state that is in fact the principal office of the foreign corporation in this state.

Section 63. Paragraph (e) of subsection (1) of section 607.1520, Florida Statutes, is amended to read:

607.1520 Withdrawal and cancellation of certificate of authority for foreign corporation.—

(1) To cancel its certificate of authority to transact business 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. 607.0123. The notice of withdrawal of certificate of authority must be signed by an officer or director and state the following:

(e) That the foreign corporation ~~it~~ 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 process based on a cause of action arising during the time it was authorized to transact business in this state.

Section 64. Subsections (1), (2), and (8) of section 607.1602, Florida Statutes, are amended to read:

607.1602 Inspection of records by shareholders.—

(1) A shareholder of a corporation is entitled to inspect and copy, during regular business hours at the corporation’s principal office, any of the records of the corporation described in s. 607.1601(1), excluding minutes of meetings of, and records of actions taken without a meeting by, the corporation’s board of directors and any board committees of the corporation established under s. 607.0825, if the shareholder gives the corporation written notice of the shareholder’s demand at least 5 business days before the date on which the shareholder wishes to inspect and copy.

(2) A shareholder 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 shareholder meets the requirements of subsection (3) and gives the corporation written notice of the shareholder's demand at least 5 business days before the date on which the shareholder wishes to inspect and copy:

(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. 607.1601(1);

(b) The financial statements of the corporation maintained in accordance with s. 607.1601(2);

(c) Accounting records of the corporation;

(d) The record of shareholders maintained in accordance with s. 607.1601(4); and

(e) Any other books and records.

(8) 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 shareholder has within 2 years preceding his, or her, or its demand sold or offered for sale any list of shareholders of the corporation or any other corporation, has aided or abetted any person in procuring any list of shareholders 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.

Section 65. Subsections (1) and (3) of section 607.1604, Florida Statutes, are amended to read:

607.1604 Court-ordered inspection.—

(1) If a corporation does not allow a shareholder who complies with s. 607.1602(1) to inspect and copy any records required by that subsection to be available for inspection, the circuit court in the applicable county may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the shareholder. If the court orders inspection and copying of the records demanded under s. 607.1602(1) ~~s. 607.1601(1)~~, it shall also order the corporation to pay the shareholder's expenses, including reasonable attorney fees, incurred to obtain the order and enforce its rights under this section.

(3) If the court orders inspection or and copying of the records demanded under s. 607.1602(2), it may impose reasonable restrictions on the disclosure, use, or distribution of, and reasonable obligations to maintain the confidentiality of, such records, and it shall also order the corporation to pay the shareholder's expenses incurred, including reasonable attorney fees, incurred to obtain the order and enforce its rights under this section unless the corporation establishes that the corporation refused inspection in good faith because the corporation had:

(a) A reasonable basis for doubt about the right of the shareholder 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 shareholder had been unwilling to agree.

Section 66. Subsections (2) and (4) of section 607.1622, Florida Statutes, are amended to read:

607.1622 Annual report for department.—

(2) If an annual report contains the name and address of a registered agent which differs from the information shown in the records of the department immediately before the annual report becomes effective, the differing information in the annual report is considered a statement of change under s. 607.0502 or s. 607.1508, as the case may be.

(4) The first annual report must be delivered to the department 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. Subsequent annual reports must be delivered to the department between January 1 and May 1 of each 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 the 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.

Section 67. Section 607.1703, Florida Statutes, is created to read:

607.1703 Interrogatories by department; other powers of department.

(1) The department may direct to any domestic corporation or foreign corporation subject to this chapter, and to any officer or director of any domestic corporation or foreign corporation subject to this chapter, interrogatories reasonably necessary and proper to enable the department to ascertain whether the domestic corporation or foreign corporation has complied with the provisions of this chapter applicable to the domestic corporation or foreign corporation. The interrogatories must be answered within 30 days after the date of mailing, or within such additional time as fixed by the department. The answers to the interrogatories must be full and complete and must be made in writing and under oath. If the interrogatories are directed to an individual, they must be answered by the individual, and if directed to a domestic corporation or foreign corporation, they must be answered by an officer or director of the domestic corporation or foreign corporation, by a shareholder if there are no officers or directors of the

domestic corporation or foreign corporation, or by a fiduciary if the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary.

(2) The department need not file a record in a court of competent jurisdiction to which the interrogatories relate until the interrogatories are answered as provided in this chapter, and is not required to file a record if the answers disclose that the record is not in conformity with the requirements of this chapter or if the department has determined that the parties to such document have not paid all fees, taxes, and penalties due and owing this state. The department shall certify to the Department of Legal Affairs, for such action as the Department of Legal Affairs may deem appropriate, all interrogatories and answers that disclose a violation of this chapter.

(3) The department may, based upon its findings under this section or as provided in s. 213.053(15), bring an action in circuit court to collect any penalties, fees, or taxes determined to be due and owing the state and to compel any filing, qualification, or registration required by law. In connection with such proceeding, the department may, without prior approval by the court, file a lis pendens against any property owned by the corporation and may further certify any findings to the Department of Legal Affairs for the initiation of an action permitted pursuant to this chapter which the Department of Legal Affairs may deem appropriate.

Section 68. Section 607.1907, Florida Statutes, is amended to read:

607.1907 Saving provision.—

(1) Except as to procedural provisions, chapter 2019-90, Laws of Florida, ~~this act~~ does not affect a pending action or proceeding or a right accrued before January 1, 2020, and a pending civil action or proceeding may be completed, and a right accrued may be enforced, as if chapter 2019-90, Laws of Florida, ~~this act~~ had not become effective.

(2) If a penalty or punishment for violation of a statute or rule is reduced by chapter 2019-90, Laws of Florida, ~~this act,~~ the penalty or punishment, if not already imposed, shall be imposed in accordance with chapter 2019-90, Laws of Florida ~~this act.~~

Section 69. Subsection (3) of section 607.504, Florida Statutes, is amended to read:

607.504 Election of social purpose corporation status.—

(3) If an entity elects to become a social purpose corporation by amendment of the articles of incorporation or by a merger, domestication, conversion, or share exchange, the shareholders of the entity are entitled to appraisal rights under and pursuant to ss. 607.1301-607.1340.



Section 70. Subsection (1) of section 605.0116, Florida Statutes, is amended to read:

605.0116 Change of name or address by registered agent.—

(1) If a registered agent changes his, ~~or her,~~ or its name or address, the agent may deliver to the department for filing a statement of change that provides the following:

(a) The name of the limited liability company or foreign limited liability company represented by the registered agent.

(b) The name of the registered agent as currently shown in the records of the department for the limited liability company or foreign limited liability company.

(c) If the name of the registered agent has changed, his, her, or its new name.

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

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

Section 71. Subsections (2) and (7) of section 605.0207, Florida Statutes, are amended to read:

605.0207 Effective date and time.—Except as otherwise provided in s. 605.0208, and subject to s. 605.0209(3), any document delivered to the department for filing under this chapter may specify an effective time and a delayed effective date. In the case of initial articles of organization, a prior effective date may be specified in the articles of organization if such date is within 5 business days before the date of filing. Subject to ss. 605.0114, 605.0115, 605.0208, and 605.0209, a record filed by the department is effective:

(2) If the record filed specifies an effective time, but not a prior or delayed effective date, on the date the record is accepted, as evidenced by the department’s endorsement, and filed at the time specified in the filing.

(7) If the record filed ~~a filed document~~ does not specify the time zone or place at which the date or time, or both, is to be determined, the date or time, or both, at which it becomes effective shall be those prevailing at the place of filing in this state.

Section 72. Section 605.0215, Florida Statutes, is amended to read:

605.0215 Certificates to be received in evidence and evidentiary effect of certified copy of filed document.—All certificates issued by the department in accordance with this chapter shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts stated. A

certificate from the department delivered with a copy of a document filed by the department bearing the signature of the secretary of state, which may be in facsimile, and the seal of this state, is conclusive evidence that the original document is on file with the department.

Section 73. Paragraph (b) of subsection (2) of section 605.0702, Florida Statutes, is amended to read:

605.0702 Grounds for judicial dissolution.—

(2)

(b) ~~For purposes of As used in~~ this section, the term “deadlock sale provision” means a provision in an operating agreement which is or may be applicable in the event of a deadlock among the managers or the members of the limited liability company which the members of the company are unable to break and which provides for a deadlock breaking mechanism, including, but not limited to:

1. A redemption or a purchase and sale of interests;
2. A governance change, among or between members;
3. The sale of the company or all or substantially all of the assets of the company; or
4. A similar provision that, if initiated and effectuated, breaks the deadlock by causing the transfer of interests, a governance change, or the sale of all or substantially all of the company’s assets.

Section 74. Subsection (2) of section 605.0716, Florida Statutes, is amended to read:

605.0716 Judicial review of denial of reinstatement.—

(2) Within 30 days after service of a notice of denial of reinstatement, a limited liability company may appeal the denial by petitioning the Circuit Court of Leon County to set aside the dissolution. The petition must be served on the department and must contain a copy of the department’s notice of administrative dissolution, the company’s application for reinstatement, and the department’s notice of denial.

Section 75. Subsection (4) of section 605.1104, Florida Statutes, is amended to read:

605.1104 Interrogatories by department; other powers of department.

~~(4) The department has the power and authority reasonably necessary to administer this chapter efficiently, to perform the duties herein imposed upon it, and to adopt reasonable rules necessary to carry out its duties and functions under this chapter.~~

Section 76. Subsection (1) of section 617.0501, Florida Statutes, is amended to read:

617.0501 Registered office and registered agent.—

(1) Each corporation shall have and continuously maintain in this state:

(a) A registered office which may be the same as its principal office; and

(b) A registered agent, who may be either:

1. An individual who resides in this state whose business office is identical with such registered office; or

2.a. Another domestic entity that is an authorized entity whose business address is identical to the address of the registered office~~;~~ or

b. A foreign entity authorized to transact business in this state that is an authorized entity and whose business address is identical to the address of the registered office.

Section 77. Section 617.0825, Florida Statutes, is amended to read:

617.0825 Board committees and advisory committees.—

(1) Unless the articles of incorporation or the bylaws otherwise provide, the board of directors, by resolution adopted by a majority of the full board of directors, may create an executive committee and one or more other committees of the board and appoint directors or such other persons as the board of directors designates to serve on such committee or committees. The majority of the persons on each committee must be directors.

(2) Notwithstanding subsection (1), a board committee may be composed of less than a majority of directors or entirely of non-directors if:

(a) The committee is created by the board of directors or is otherwise authorized by the articles of incorporation or the bylaws; and

(b) The committee relates to the election, nomination, qualification, or credentials of directors or is involved in the process of electing directors. designate from among its members an executive committee and one or more other committees each of which,

(3) To the extent provided by the board of directors in a such resolution or in the articles of incorporation or the bylaws of the corporation, each such committee shall have and may exercise powers and all the authority of the board of directors, except that no such committee shall have the power or authority to:

(a) Approve or recommend to members actions or proposals required by this act to be approved by members.

- (b) Fill vacancies on the board of directors or any committee thereof.
- (c) Adopt, amend, or repeal the bylaws.

~~(4)~~<sup>(2)</sup> Unless the articles of incorporation or the bylaws provide otherwise, ss. 617.0820, 617.0822, 617.0823, and 617.0824, which govern meetings, notice and waiver of notice, and quorum and voting requirements of the board of directors, apply to committees and their members as well.

~~(5)~~<sup>(3)</sup> Each committee must have two or more members who serve at the pleasure of the board of directors. The board, by resolution adopted in accordance with and consistent with subsection (1), may designate one or more ~~directors as~~ alternate members of any such committee who may act in the place and stead of any absent member or members at any meeting of such committee.

(6) A committee member who is not a director has the same responsibility and fiduciary duties with respect to activities of such committee, and the same liability protections, as a committee member who is a director.

~~(7)~~<sup>(4)</sup> Neither the designation of any such committee, the delegation thereto of authority, nor action by such committee pursuant to such authority shall alone constitute compliance by any member of the board of directors not a member of the committee in question with his or her responsibility to act in good faith, in a manner he or she reasonably believes to be in the best interests of the corporation, and with such care as an ordinarily prudent person in a like position would use under similar circumstances.

(8) A corporation may create or authorize the creation of one or more advisory committees with any number of persons on the committee being non-directors. An advisory committee:

(a) Is not a committee of the board of directors; and

(b) May not act on behalf of or exercise any of the powers or authority of the board of directors or bind the corporation to any action, but may make recommendations to the board of directors, to the officers, or to the members.

(9) This section does not apply to a committee established under chapter 718, chapter 719, or chapter 720 to perform the functions set forth in s. 718.303(3), s. 719.303(3), s. 720.303(2), or s. 720.3035(1), respectively.

Section 78. This act shall take effect upon becoming a law.

Approved by the Governor June 18, 2020.

Filed in Office Secretary of State June 18, 2020.