



Transportation & Tourism Appropriations Subcommittee

**Wednesday, January 15, 2020
9:30 AM – 11:30 AM
Reed Hall (102 HOB)**

Committee Meeting Packet



The Florida House of Representatives
Appropriations Committee
Transportation & Tourism Appropriations Subcommittee

Jose Oliva
Speaker

Jay Trumbull
Chair

AGENDA

Wednesday, January 15, 2020
102 HOB (Reed Hall)
9:30 AM – 11:30 AM

- I. Call to Order/Roll Call
- II. Opening Remarks by Chair Trumbull
- III. Consideration of the following bills:
 - HB 37** School Bus Safety by Zika
 - CS/HB 433** Transportation Facility Designations by Transportation & Infrastructure Subcommittee, Fetterhoff
 - CS/HB 495** Business Organizations by Civil Justice Subcommittee, Robinson
- IV. Base Budget Reprioritization Exercise
- V. Closing Remarks/Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 37 School Bus Safety
SPONSOR(S): Zika and others
TIED BILLS: IDEN./SIM. BILLS: SB 290

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N	Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee		Hicks 	Davis 
3) State Affairs Committee			

SUMMARY ANALYSIS

School buses are required to stop as far to the right of the street as possible and display warning lights and stop signals before discharging or loading passengers. Other drivers are required to bring their vehicles to a full stop when approaching a stopped school bus displaying a stop signal, until the signal has been withdrawn.

The minimum civil penalty for failing to stop for a school bus displaying the stop signal is \$100. For a second or subsequent offense within a period of five years, the Department of Highway Safety and Motor Vehicles (DHSMV) must suspend the driver license of the driver for not less than three months and not more than six months.

The minimum civil penalty for passing a school bus on the side that children enter and exit when the school bus displays a stop signal is \$200. For a second or subsequent offense within a period of five years, DHSMV must suspend the driver license of the driver for not less than six months and not more than one year.

The bill increases the minimum civil penalty for failure to stop for a school bus from \$100 to \$200; and for a subsequent offense within five years, DHSMV must suspend the driver license of the driver for not less than six months and not more than one year.

The bill also increases the minimum civil penalty for passing a school bus on the side that children enter and exit, from \$200 to \$400; and for a subsequent offense within five years, DHSMV must suspend the driver license of the driver for not less than one year and not more than two years.

The bill will likely have an indeterminate, positive fiscal impact on state and local government revenues as a result of increasing the civil penalties for failing to stop for a school bus and passing a stopped school bus. DHSMV estimates an insignificant negative impact to the Highway Safety Operating Trust Fund due to required programming and implementation costs. Those costs can be absorbed within existing resources. See Fiscal Comments.

The bill has an effective date of July 1, 2020.

FULL ANALYSIS

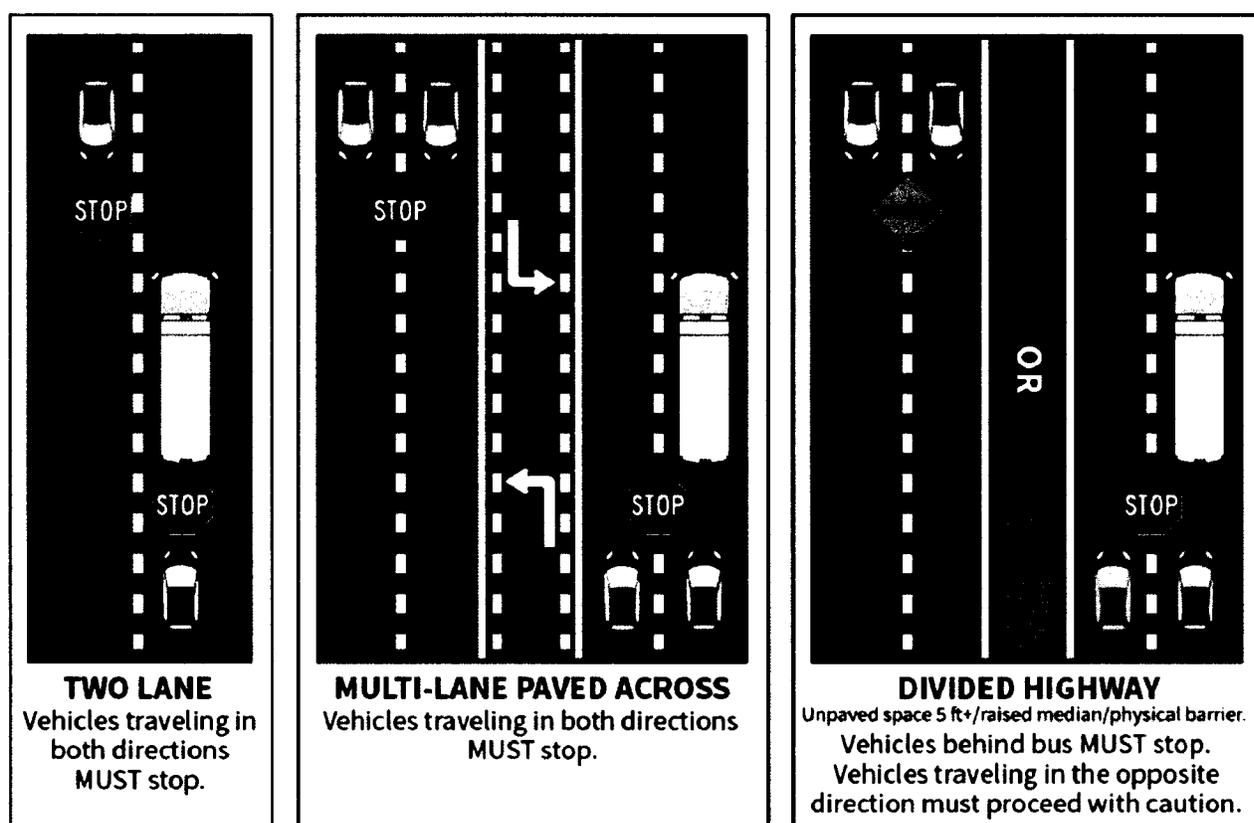
I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

School buses are required to stop as far to the right of the street as possible and display warning lights and stop signals before discharging or loading passengers.¹ When possible, school buses should not stop where visibility is obscured for a distance of 200 feet either way from the bus.²

Other drivers are required to bring their vehicles to a full stop when approaching a stopped school bus displaying a stop signal, until the signal has been withdrawn.³ However, a driver is not required to stop if the vehicle is traveling in the opposite direction of a stopped school bus upon a divided highway with an unpaved space of at least 5 feet, a raised median, or a physical barrier.⁴



A person cited for failing to stop for a school bus displaying the stop signal commits a moving violation and can pay the civil penalty, or can request a hearing to contest the citation.⁶ A driver who passes a school bus on the side that children enter and exit while the school bus displays a stop signal⁷ also

¹ Section 316.172(3), F.S.

² Section 316.172(3), F.S.

³ Section 316.172(1)(a), F.S.

⁴ Section 316.172(2), F.S.

⁵ Florida Department of Highway Safety and Motor Vehicles, *Child Safety: School Bus Safety*, available at <https://www.flhsmv.gov/safety-center/child-safety/school-bus-safety/> (last visited December 4, 2019).

⁶ Section 318.14, F.S.

⁷ Section 316.172(1)(b), F.S.

commits a moving violation. However, the driver must attend a mandatory hearing at a specified time and location.⁸

The minimum civil penalty for failing to stop for a school bus displaying the stop signal is \$100. For a second or subsequent offense within a period of five years, DHSMV must suspend the driver license of the driver for not less than three months and not more than six months.⁹ Including various fees and service charges, the total fine for this violation is up to \$263, which is distributed to various funds.¹⁰

The minimum civil penalty for passing a school bus on the side that children enter and exit when the school bus displays a stop signal is \$200. For a second or subsequent offense within a period of five years, DHSMV must suspend the driver license of the driver for not less than six months and not more than one year.¹¹ Including various fees and service charges, the total fine for this violation is up to \$363, which is distributed to various funds.¹²

In addition to the above penalties, a driver who illegally passes a stopped school bus, but does not cause serious bodily injury to or death of another, will receive four points on his or her driver license record.¹³ A driver who illegally passes a stopped school bus and causes serious bodily injury to or death of another will receive six points on his or her driver license record.¹⁴ A driver who illegally passes a school bus on either side and causes serious bodily injury to or death of another person must serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, and must participate in a victim's impact panel session. If such panel does not exist, the driver must attend a DHSMV-approved driver improvement course.¹⁵ In addition, the driver must pay a fine of \$1,500 and will have his or her driver license suspended by DHSMV for not less than one year.¹⁶

If the driver receives a traffic citation for illegally passing a stopped school bus and the court withholds adjudication, DHSMV will require him or her to complete a driver improvement course. If the course is not completed within 90 days of receiving a notice of the requirement to attend, the driver's license will be canceled until the improvement course is successfully completed.¹⁷

According to DHSMV data, in Fiscal Year 2018-2019, 3,760 traffic citations were issued for failing to stop for a school bus or passing a stopped school bus and 38 citations were issued for passing a school bus on the side children enter and exit.¹⁸

The Department of Education created a statewide survey for bus drivers to complete one day each year regarding the illegal passing of their school buses. The survey results from 2018 show that on a single day 10,937 illegal passes were made based on 9,009 school bus drivers completing the survey. Of these illegal passes, 447 were made on the right side of the bus where children generally enter and exit the vehicle, 10,018 were made on the left side, and for 472 of the passes the side was unknown.¹⁹

⁸ Sections 316.172(1)(b) and 318.19(3), F.S.

⁹ Section 318.18(5)(a), F.S.

¹⁰ Florida Court Clerks and Comptrollers, *Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs, and Fines, Including a Fee Schedule for Recording*, effective July 1, 2019, available at:

https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2019/19bull053_Attach_1_2019_Dist.pdf, p. 34 http://c.ymcdn.com/sites/www.flclerks.com/resource/resmgr/PublicationsAndDocuments/2016_Distribution_Schedule_w.pdf (last visited October 2, 2019).

¹¹ Section 318.18(5)(b), F.S.

¹² Florida Court Clerks, *supra*, at FN 10, p. 35.

¹³ Section 322.27(3)(d)4.a., F.S.

¹⁴ Section 322.27(3)(d)4.b., F.S.

¹⁵ Section 316.027(4)(b), F.S.

¹⁶ Section 318.18(5)(d), F.S.

¹⁷ Section 322.0261(4)(c), F.S.

¹⁸ Department of Highway Safety and Motor Vehicles, *Agency Analysis of 2020 House Bill 37*, p. 2 (October 24, 2019).

¹⁹ Florida Department of Education, *School Transportation, Illegal Passing of School Buses – Survey Results for 2018*, available at: <http://www.fdoe.org/core/fileparse.php/7585/urlt/fsr18.pdf> (last visited October 3, 2019).

The National Highway Traffic Safety Administration indicates that from 2007 to 2016, 98 school-age pedestrians (18 and younger) died in school-transportation-related crashes. Sixty percent were struck by school buses, 2 percent by vehicles functioning as school buses, and 38 percent by other vehicles involved in the crashes.²⁰

Proposed Changes

The bill amends s. 318.18(5)(a), F.S., increasing the minimum civil penalty for failure to stop for a school bus from \$100 to \$200; and for a subsequent offense within five years, DHSMV must suspend the driver license of the driver for not less than six months and not more than one year.

The bill amends s. 318.18(5)(b), F.S., increasing the minimum civil penalty for passing a school bus on the side that children enter and exit, from \$200 to \$400; and for a subsequent offense within five years, DHSMV must suspend the driver license of the driver for not less than one year and not more than two years.

B. SECTION DIRECTORY:

Section 1: Amends s. 318.18, F.S., relating to amount of penalties.

Section 2: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will likely have a positive fiscal impact on the General Revenue Fund as well as to various state trust funds due to the increase in penalties for failing to stop for a school bus or passing a stopped school bus. The number of drivers who will be subjected to the additional \$100 or \$200 penalty is unknown; therefore the impact is indeterminate.

2. Expenditures:

DHSMV estimates that approximately 72 hours of technology programming will be required as a result of this bill. These hours are estimated to have a fiscal impact to the Highway Safety Operating Trust Fund of \$3,120 in FTE and contracted resources.²¹ DHSMV indicates that all costs related to programming and implementation can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill will have a positive fiscal impact to local government revenues. The number of drivers who will be subjected to the additional \$100 or \$200 fine is unknown; therefore the impact is indeterminate.

2. Expenditures:

The bill does not appear to impact local government expenditures.

²⁰ National Highway Traffic Safety Administration, *Traffic Safety Facts, 2007-2016 Data, School-Transportation-Related Crashes*, DOT HS 812 476, revised January 2018, available at: <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812476> (last visited October 3, 2019).

²¹ Department of Highway Safety and Motor Vehicles, Agency Analysis of 2020 House Bill 37, p. 4-5 (October 24, 2019).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill increases penalties for persons failing to stop for a school bus.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to school bus safety; amending s.
 3 318.18, F.S.; revising civil penalties for certain
 4 violations relating to stopping for a school bus;
 5 providing an effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:

8
 9 Section 1. Paragraphs (a) and (b) of subsection (5) of
 10 section 318.18, Florida Statutes, are amended to read:

11 318.18 Amount of penalties.—The penalties required for a
 12 noncriminal disposition pursuant to s. 318.14 or a criminal
 13 offense listed in s. 318.17 are as follows:

14 (5) (a) Two ~~One~~ hundred dollars for a violation of s.
 15 316.172(1)(a), failure to stop for a school bus. If, at a
 16 hearing, the alleged offender is found to have committed this
 17 offense, the court shall impose a minimum civil penalty of \$200
 18 ~~\$100~~. In addition to this penalty, for a second or subsequent
 19 offense within a period of 5 years, the department shall suspend
 20 the driver license of the person for not less than 180 ~~90~~ days
 21 and not more than 1 year ~~6 months~~.

22 (b) Four ~~Two~~ hundred dollars for a violation of s.
 23 316.172(1)(b), passing a school bus on the side that children
 24 enter and exit when the school bus displays a stop signal. If,
 25 at a hearing, the alleged offender is found to have committed

HB 37

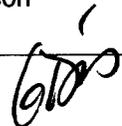
2020

26 | this offense, the court shall impose a minimum civil penalty of
27 | \$400 ~~\$200~~. In addition to this penalty, for a second or
28 | subsequent offense within a period of 5 years, the department
29 | shall suspend the driver license of the person for not less than
30 | 360 ~~180~~ days and not more than 2 years ~~1 year~~.

31 | Section 2. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 433 Transportation Facility Designations
SPONSOR(S): Transportation & Infrastructure Subcommittee, Fetterhoff
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	12 Y, 0 N, As CS	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee		Davis 	Davis
3) State Affairs Committee			

SUMMARY ANALYSIS

State law authorizes legislative designations of transportation facilities for honorary or memorial purposes or to distinguish a particular facility. The legislative designations do not officially change the current names of the facilities, nor does the law require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone system listings. State law also requires the appropriate city or county commission to pass a resolution supporting the designation prior to the erection of markers indicating the designation.

The bill designates the Purple Heart Memorial Highway, the Willis V. Rowan Memorial Highway, and the John C. Gainous Memorial Highway and directs the Department of Transportation (DOT) to erect suitable markers for each designation.

DOT estimates a \$14,000 negative fiscal impact to the State Transportation Trust Fund associated with erecting suitable markers for the above designations. This cost can be absorbed within existing DOT resources.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Designations

Section 267.062, F.S., provides for the naming of state buildings and other facilities. The statute provides that except as specifically provided by law, state buildings, roads, bridges, parks, recreational complexes, and other similar facilities may not be named for a living person.

Section 334.071, F.S., authorizes legislative designations of transportation facilities for honorary or memorial purposes or to distinguish a particular facility. The legislative designations do not officially change the current names of the facilities nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

Road Markers

The Department of Transportation (DOT) must place a marker at each termini or intersection of an identified road or bridge and erect other markers it deems appropriate for the transportation facility. The appropriate city or county commission must pass a resolution in support of a particular designation before road markers are erected. Additionally, if the designated road segment extends through multiple cities or counties, a resolution must be passed by each affected local government.

Effect of the Bill

Subsection 1 designates that portion of I-95 between the Florida state line in Nassau County and S.W. 32nd Road in Miami-Dade County as the "Purple Heart Memorial Highway."

The Purple Heart is awarded to members of the U.S. Armed Forces who are wounded by an instrument of war in the hands of the enemy and posthumously to the next of kin in the name of those who are killed in action or die of wounds received in action.¹

Subsection 2 designates that portion of U.S. 98 between C.R. 986 and Pine Street in Gulf County as the "Willis V. Rowan Memorial Highway."

Willis V. Rowan served in World War II as a 2nd Lieutenant in the Army Air Force and was killed in action. At the time of his death, on October 14, 1943, he was 25 years old.²

Subsection 3 designates that portion of U.S. 98 between Pine Street and C.R. 382/Industrial Road in Gulf County as the "John C. Gainous Memorial Highway."

John C. Gainous was killed in action in Vietnam. The Veterans of Foreign Wars Post 10069 in Highland View is named in his memory. At the time of his death, on May 18, 1967, he was 20 years old.³

The bill also requires DOT to erect suitable markers for each of the above honorary designations.

¹ The Military Order of the Purple Heart website, <https://www.purpleheart.org/about-the-purple-heart/> (Last visited Oct.23, 2019).

² <https://www.findagrave.com/memorial/99877556/willis-v-rowan> (Last visited Nov. 12, 2019).

³ <https://www.findagrave.com/memorial/100183488/john-c-gainous> (Last visited Nov. 12, 2019)

B. SECTION DIRECTORY:

Section 1 provides honorary designations for various transportation facilities and directs DOT to erect suitable markers.

Section 2 provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not impact state government revenues.

2. Expenditures:

DOT estimates a negative fiscal impact of \$14,000 to the State Transportation Trust Fund for appropriate markers for these designations. This will provide two signs (one sign in each direction) for each of the 12 counties traversed by I-95,⁴ and one sign in each direction for each of the other two designations at a cost of \$500 per sign.⁵ This cost can be absorbed within existing DOT resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not impact local government revenues.

2. Expenditures:

The bill does not impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

⁴ The 12 counties include: Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Martin, Palm Beach, Broward, and Miami-Dade.

⁵ Email from Amanda Marsh, Office of Legislative Programs, Florida Department of Transportation, RE: Road Designation Fiscal (Aug. 14, 2019).

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide a grant of rulemaking authority, nor does it require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 13, 2019, the Transportation & Infrastructure Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment clarified the beginning and end points of the Purple Heart Memorial Highway, and added designations for the Willis V. Rowan Memorial Highway and the John C. Gainous Memorial Highway.

This analysis is drafted to the committee substitute as approved by the Transportation & Infrastructure Subcommittee.

1 A bill to be entitled
 2 An act relating to transportation facility
 3 designations; providing honorary designations of
 4 certain transportation facilities in specified
 5 counties; directing the Department of Transportation
 6 to erect suitable markers; providing an effective
 7 date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Transportation facility designations;
 12 Department of Transportation to erect suitable markers.-

13 (1) That portion of I-95 between the Florida state line in
 14 Nassau County and S.W. 32nd Road in Miami-Dade County is
 15 designated as "Purple Heart Memorial Highway."

16 (2) That portion of U.S. 98 between C.R. 386 and Pine
 17 Street in Gulf County is designated as "Willis V. Rowan Memorial
 18 Highway."

19 (3) That portion of U.S. 98 between Pine Street and C.R.
 20 382/Industrial Road in Gulf County is designated as "John C.
 21 Gainous Memorial Highway."

22 (4) The Department of Transportation is directed to erect
 23 suitable markers designating the transportation facilities as
 24 described in this section.

25 Section 2. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 495 Business Organizations
SPONSOR(S): Civil Justice Subcommittee, Robinson
TIED BILLS: IDEN./SIM. **BILLS:** SB 838

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	14 Y, 0 N, As CS	Mawn	Luczynski
2) Transportation & Tourism Appropriations Subcommittee		Cobb <i>rc</i>	Davis <i>BD</i>
3) Judiciary Committee			

SUMMARY ANALYSIS

A corporation is a legal entity created through the laws of its state of incorporation. As of November 2019, approximately 974,990 active corporations exist in Florida, regulated under the Florida Business Corporation Act (FBCA), a law modeled after the Model Business Corporation Act (MBCA) promulgated by the American Bar Association in 1950. In 2014, the Florida Bar's Business Law Section organized a drafting task force to conduct a full FBCA study and propose FBCA revisions to:

- Bring the FBCA in line with the revised MBCA;
- Maintain Florida's competitiveness with other jurisdictions;
- Fix issues created by the existing FBCA; and
- Encourage the formation and use of Florida corporations.

The result of the task force's effort was CS/CS/HB 1009, a comprehensive revision to the FBCA and other Florida business entity statutes signed into law by the Governor on June 7, 2019, with a January 1, 2020 effective date. However, the task force subsequently identified several errors in the enrolled bill, including grammatical, typographical, and cross reference errors and business entity statute inconsistencies. The task force also studied a proposal to amend the Florida Not-For-Profit Corporation Act to allow a person who is not a member of a not-for-profit corporation's board of directors to serve on a board committee under specified circumstances.

CS/HB 495:

- Remedies identified errors in the 2019 FBCA and related business entity statute revisions;
- Authorizes a not-for-profit corporation to designate a non-board director to a board committee and to an advisory committee under certain circumstances; and
- Authorizes the Florida Department of State to direct interrogatories to a corporation under specified conditions to determine the corporation's FBCA compliance.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

A corporation is an independent legal entity created through the laws of its state of incorporation.¹ In 1950, the American Bar Association (ABA) promulgated the Model Business Corporations Act (MBCA), a body of laws designed to uniformly regulate United States corporations.² However, individual states may promulgate laws relating to the creation, organization, operation, and dissolution of corporations in their respective jurisdictions.³

As of November 2019, Florida has approximately 974,990 domestic⁴ and foreign⁵ for-profit and not-for-profit corporations⁶ active in the state,⁷ regulated under the Florida Business Corporation Act (FBCA),⁸ a law largely modeled after the MBCA.⁹ In 2014, the Corporations, Securities, and Financial Services Committee of the Florida Bar Business Law Section organized a drafting task force to recommend revisions to the FBCA, last overhauled in 1989, as the ABA was in the process of revising and modernizing the MBCA.¹⁰ The task force's mission statement included a full FBCA study and the proposal of FBCA revisions to:

- Bring the FBCA in line with MBCA revisions;
- Maintain Florida's competitiveness with other jurisdictions;
- Fix issues created by the existing FBCA; and
- Encourage the formation and use of Florida corporations.¹¹

The result of the task force's effort was CS/CS/HB 1009, a comprehensive revision to the FBCA and other Florida entity statutes¹² signed into law on June 7, 2019, with a January 1, 2020 effective date.¹³ However, the task force subsequently identified several errors in the enrolled bill, including grammar, punctuation, and cross reference errors and business entity statute inconsistencies.¹⁴ The task force also studied a proposal to amend the Florida Not-For-Profit Corporation Act¹⁵ (FNCA) to expressly allow a person who is not a director ("non-director") serving on a not-for-profit corporation's ("NPC") board of directors¹⁶ ("board") to serve on an NPC's board committee under specified circumstances.¹⁷

¹ *Corporations*, Legal Information Institute, available at <https://www.law.cornell.edu/wex/corporations> (last visited Dec. 12, 2019).

² William H. Clark, Jr., *The Relationship of the Model Business Corporation Act to Other Entity Laws*, Law and Contemporary Problems Vol. 74, No. 57, available at <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1609&context=lcp> (last visited Dec. 12, 2019).

³ *Id.*

⁴ "Domestic corporation" means an entity governed as to its internal affairs by the laws of this state. S. 607.01401(20), F.S.

⁵ "Foreign corporation" means an entity incorporated or organized under laws other than the laws of this state. Ss. 607.01401(36) and 617.01401(9), F.S.

⁶ A not-for-profit corporation is a corporation that does not distribute its income or profit to its members, directors, or officers, except as the FNCA otherwise allows. S. 617.01401(5), F.S.

⁷ *Yearly Statistics*, The Florida Department of State, Division of Corporations, available at <https://dos.myflorida.com/sunbiz/about-us/yearly-statistics/> (last visited Dec. 12, 2019).

⁸ Ch. 607, F.S.

⁹ The Florida Bar Business Law Section, *Proposed Modifications to Chapter 607 (Florida Business Corporation Act)*, (Jan. 24, 2019).

¹⁰ *Id.*

¹¹ *Id.*

¹² These included the Florida Revised Limited Liability Company Act of Ch. 605, F.S.,

¹³ Ch. 2019-90, Laws of Fla.

¹⁴ The Florida Bar Business Law Section, *White Paper for S.B. [838] & H.B. [495]: "An Act Relating to Business Organizations,"* (Oct. 21, 2019).

¹⁵ Ch. 617, F.S.

¹⁶ "Board of directors" means the group of persons vested with the management of the corporation's affairs irrespective of the name by which such group is designated, including, but not limited to, managers or trustees. S. 617.01401(2), F.S.

¹⁷ See *White Paper*, *supra* note 14.

Effect of Proposed Changes

Florida Department of State Interrogatories

Current Law

Prior to the 2019 FBCA revision, the FBCA permitted the Florida Department of State (“Department”) to direct interrogatories¹⁸ to a FBCA-regulated corporation, and to any of its officers or directors, if such interrogatories were reasonably necessary to determine the corporation’s FBCA compliance.¹⁹ However, the drafters of the 2019 FBCA revision inadvertently deleted this provision from the FBCA when intending to move it to a new stand-alone section, consistent with the placement of an identical provision in the Florida Revised Limited Liability Company Act.²⁰

Proposed Changes

CS/HB 495 reinstates the Department’s authority to direct interrogatories to an FBCA-regulated corporation, and to any of its officers or directors, if such interrogatories are reasonably necessary to determine the corporation’s FBCA compliance. Like the deleted FBCA provision, the bill:

- Gives the corporation 30 days to respond or a longer period of time fixed by the Department.
- Requires that interrogatories directed to an individual be answered by said individual.
- Does not require the Department to file a court record relating to the interrogatories:
 - Until the interrogatories are answered.
 - When the answers disclose that the record does not conform to FBCA requirements.
 - If the Department determines that the parties to the record have not paid all fees, taxes, and penalties owed to the state.
- Authorizes the Department to:
 - Bring a circuit court action to collect any penalties, fees, or taxes owed to the state and to compel any legally required filing, qualification, or registration.
 - File a lis pendens²¹ against any property owned by the corporation.
 - Certify its findings to the Department of Legal Affairs (DLA) to initiate any action DLA may deem appropriate.
 - Administer the FBCA and perform the duties imposed upon it by the FBCA.
 - Adopt reasonable rules necessary to carry out its duties and functions under the FBCA.

However, unlike the deleted FBCA provision, the bill also:

- Clarifies that a corporation served with interrogatories may be domestic or foreign.
- Requires interrogatories directed to a corporation to be answered by the corporation’s officers or directors, shareholders if there are no officers or directors, or fiduciaries if the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary.²²

¹⁸ “Interrogatories” are a list of questions one party in a civil action sends to another as part of the discovery process. The recipient must answer the questions under oath. See *Interrogatory*, Legal Information Institute, available at <https://www.law.cornell.edu/wex/interrogatory> (last visited Dec. 12, 2019).

¹⁹ S. 607.0130, F.S. (2018).

²⁰ See Ch. 2019-90, Laws of Fla.; see also *Proposed Modifications to Chapter 607*, *supra* note 9.

²¹ A “lis pendens,” filed with the clerk of the court, provides written notice that a lawsuit has been filed involving either title to or a claimed ownership interest in real property. See *Lis Pendens*, Legal Information Institute, available at https://www.law.cornell.edu/wex/lis_pendens (last visited Dec. 12, 2019).

²² The deleted FBCA provision required such interrogatories to be answered by the corporation’s president, vice president, secretary, or assistant secretary. S. 607.0130(1), F.S. (2018).

Not-For Profit Corporation Board Committees

Current Law

An NPC's board must have three or more directors, who must be natural persons²³ 18 years of age or older but need not be Florida residents or NPC members unless required by the articles of incorporation²⁴ or bylaws.²⁵ The board exercises all of the NPC's corporate powers²⁶ and directs its management to ensure the NPC fulfills its member, beneficiary, donor, and community obligations.²⁷

A director must discharge his or her duties in good faith,²⁸ with the care an ordinarily prudent person in a like position would exercise,²⁹ and in a manner he or she reasonably believes to be in the NPC's best interest.³⁰ A director is not liable for monetary damages for any statement, vote, decision to act or not act, or failure to act, unless the director breached his or her duties and such breach is:

- A criminal offense, unless the director reasonably believed his or her conduct was lawful.³¹
- A circumstance in which the director derived an improper personal benefit³² or the unlawful distribution liability provisions³³ apply.³⁴
- Conscious disregard for the NPC's best interests or willful or intentional misconduct in a proceeding by or in the right of a shareholder or the NPC.³⁵
- In a proceeding by or in the right of someone other than the NPC or a shareholder, recklessness or an act or omission:
 - Constituting bad faith; or
 - Done with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.³⁶

In addition to its other duties and obligations, an NPC's board, by resolution, may appoint board directors to a committee with all the authority of the board.³⁷ However, no such committee may:

- Approve or recommend for approval actions or proposals that members must approve,³⁸
- Fill board or board committee vacancies,³⁹ or
- Adopt, amend, or repeal the bylaws.⁴⁰

²³ "Person" means an individual, child, firm, association, joint adventure, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, and other groups or combinations. "Natural person" means a living human being. See s. 1.01(3), F.S.; *Natural Person*, Legal Information Institute, available at https://www.law.cornell.edu/wex/natural_person (last visited Dec. 12, 2019).

²⁴ "Articles of Incorporation" means the corporate charter filed with the state at the time of incorporation including the corporation's name and purpose, information about the type and number of shares, and the process of electing a board of directors. *Articles of Incorporation*, Legal Information Institute, available at https://www.law.cornell.edu/wex/articles_of_incorporation (last visited Dec. 12, 2019).

²⁵ Ss. 617.0802(1) and 607.0803(1), F.S.

²⁶ Unless specified otherwise in the articles of incorporation, corporate powers include the power to: sue and be sued; purchase, lease, or acquire, and own, hold, improve, use, and deal with, real or personal property; sell, convey, mortgage, or otherwise dispose of all or part of its property; lend or borrow money; and make contracts and incur liabilities. S. 607.0302, F.S.

²⁷ Jeffrey A. Baskies and Cara Freedman, "To Protect and to Serve": The Duties and Responsibilities of Directors of Florida Not-For Profit Corporations, *Florida Bar Journal* Vol. 89, No. 9 (Nov. 2015), available at <https://www.floridabar.org/the-florida-bar-journal/to-protect-and-to-serve-the-duties-and-responsibilities-of-directors-of-florida-not-for-profit-corporations/> (last visited Dec. 12, 2019).

²⁸ S. 617.0830(1)(a), F.S.

²⁹ S. 617.0830(1)(b), F.S.

³⁰ S. 617.0830(1)(c), F.S.

³¹ S. 607.0831(1)(a), F.S.

³² S. 607.0831(1)(b), F.S.

³³ A director who assents to a distribution violating s. 607.06401, F.S., s. 607.1410(1), F.S., or the articles of incorporation is personally liable to the corporation for the amount of the distribution exceeding what could have been distributed without such a violation if it is established that the director did not comply with s. 607.0830, F.S. S. 607.0834, F.S.

³⁴ S. 607.0831(1)(c), F.S.

³⁵ S. 607.0831(1)(d), F.S.

³⁶ S. 607.0831(1)(e), F.S.

³⁷ S. 617.0825(1) and (3), F.S.

³⁸ S. 617.0825(1)(a), F.S.

³⁹ S. 617.0825(1)(b), F.S.

⁴⁰ S. 617.0825(1)(c), F.S.

The Model Not-For-Profit Corporation Act (MNCA) also permits an NPC's board to create an advisory committee comprised of any number of directors and non-directors, or exclusively of non-directors. An advisory committee is not a board committee, may not have board authority, and may only make recommendations to the board or the NPC's officers or members.⁴¹ However, the FNCA does not contain a similar provision, and neither does the FNCA expressly allow an NPC to appoint non-directors to its board committees.⁴² Despite a lack of express statutory authorization to do so, many NPCs are believed to organize their board committees to include non-directors.⁴³

Proposed Changes

The bill:

- Authorizes an NPC's board to appoint a non-director to certain board committees⁴⁴ if the majority of the other committee members are directors. The bill also allows an NPC's board committee to consist of fewer directors than non-directors, or entirely of non-directors, if the committee:
 - Is created by the board or otherwise authorized by the articles of incorporation or bylaws; and
 - Relates to director elections, nominations, or credentials or is involved in the director election process.
- Gives a non-director serving on a board committee the same responsibility and fiduciary duties regarding committee activities, and the same liability protections, as a director serving on the committee.
- Authorizes an NPC to create an advisory committee comprised of any number of non-directors that is not a board committee and may:
 - Not act on behalf of the board, exercise any board powers or authority, or bind the NPC to any action.
 - Make recommendations to the board or to the NPC's officers or members.

These changes give an NPC flexibility to organize its committees in the way in which it may already operate, bring the FNCA in line with the MNCA with respect to advisory committees, and add necessary corporate governance protections.

Entity Statute Inconsistency Corrections

In reviewing the 2019 FBCA revisions, the drafting task force discovered inadvertent inconsistencies between comparable provisions in the FBCA and other business entity statutes. The bill corrects such inconsistencies in ss. 607.0123, 607.0601, 607.0602, 607.1102, 607.1106, 607.11920, 607.11923, 607.11924, 607.11935, 607.1422, and 605.0207, F.S.⁴⁵ These corrections include:

- Adding references to obligations, other securities, eligible interests, and rights to acquire any combination of shares, securities, cash, or property in connection with organic transactions.
- Altering "filed" to "accepted, as evidenced by the department's endorsement" when referencing documents filed with the Department.
- Specifying that a domestic corporation may acquire one or more classes or series of shares of another domestic or foreign corporation.
- Changing references from "business entity" to "eligible entity."
- Specifying that a series of shares authorized to receive the corporation's net assets upon dissolution may be a series with voting rights.
- Clarifying that, if a corporation's articles of incorporation so provide, a board of directors may reclassify the unissued shares of any class into one or more series within a class.

⁴¹ American Bar Association Committee on Nonprofit Organizations, Model Nonprofit Corporation Act § 8.25 (3rd ed. 2008).

⁴² Ch. 617, F.S.

⁴³ See *White Paper*, *supra* note 14.

⁴⁴ This section does not apply to condominium, cooperative, or homeowners' association fining or architectural review committees established under ss. 718.303(3), 719.303(3), 720.303(2), or 720.3035(1), F.S.

⁴⁵ Bill sections 2, 8, 9, 28, 32, 33, 35, 36, 39, 49, and 71.

Clarifying Changes

The bill makes clarifying changes to ss. 607.0123, 607.0125, 607.0501, 607.0620, 607.0630, 607.0705, 607.0720, 607.0808, 607.0850, 607.0901, 607.1003, 607.1103, 607.11035, 607.11921, 607.1302, 607.1333, 607.1430, 607.1432, 607.14401, 607.1501, 607.1502, 607.1509, 607.15091, 607.1520, 607.1602, 607.504, 605.0116, and 605.0215, F.S.⁴⁶ These changes include:

- Changing “checks in payment” to “payment,” as not every relevant payment is made by check.
- Altering “bank accounts” to “accounts,” as not every applicable account is a bank account.
- Clarifying that the corporate representative to whom the Department must return a refused document must be an authorized representative.
- Changing “his or her” to “his, her, or its” in various sections describing subscribers or shareholders, as these may be natural or legal persons.
- Altering “shares” to “interests” when the term relates to affiliated transactions, as not every business entity has shares but all have interests.
- Clarifying that a foreign corporation may revoke its registered agent’s authority to accept service on its behalf, as the current language is ambiguous.
- Clarifying that a corporate shareholder may inspect and copy the corporation’s board committee records under specified circumstances, as the current language is overbroad.
- Adding “domestication” to the list of ways a business entity may become a social purpose corporation, as it was inadvertently left out.
- Specifying that a foreign corporation’s assignee may require a certificate of authority.
- Clarifying that the notice of a shareholder meeting to remove a director need only state that such action is one of the meeting’s purposes, as opposed to its sole purpose.
- Specifying that the term “expenses” includes reasonable attorney fees and expenses.
- Clarifying that a statement of change or other record designating a new registered agent is filed with the Department, not by it.
- Altering “copy” to “certified copy” when referencing the evidentiary effect of document copies delivered with Department certificates.
- Clarifying that a circuit court may dissolve a corporation if a shareholder dissolution proceeding establishes that the directors are deadlocked in corporate management and the corporation faces irreparable injury, the corporation’s business can no longer be conducted, or both.
- Clarifying that, to amend a corporation’s articles of incorporation, at least a majority of all shares entitled to vote on the amendment must vote in favor of the amendment.

Conforming Changes

The bill makes non-substantive conforming changes to ss. 607.0120, 607.0123, 607.0141, 607.1002, 607.1202, 607.1302, 607.1403, 607.1431, 607.1502, 607.1504, 607.1907, and 605.0207, F.S.⁴⁷ These changes include altering references from:

- “Act” to “chapter;”
- “Do business” to “transact business;”
- “Corporation” to “domestic or foreign corporation;”
- “Filed document” and “filing” to “record filed;”
- “Rights of action” to “proceedings and actions;”
- “Action” to “proceeding;” and
- “This Act” to “Chapter 2019-90, Laws of Florida.”

⁴⁶ Bill sections 2, 3, 7, 10, 12, 14, 16, 20, 22, 25, 27, 29, 30, 34, 42, 45, 50, 52, 53, 54, 55, 60, 61, 63, 64, 69, 70, and 72.

⁴⁷ Bill sections 1, 2, 6, 17, 26, 40, 47, 51, 55, 57, 68, and 71.

Cross Reference and Applicability Corrections

The bill corrects missing or erroneous cross references in ss. 607.1406, 607.1422, 607.1504, 607.1604, and 607.1622, F.S.⁴⁸ The bill also modifies the sections, subsections, or paragraphs to which specified provisions apply in ss. 607.0721, 607.11932, and 605.0702, F.S.⁴⁹

Grammar, Punctuation, and Duplicative Language Corrections

The bill corrects non-substantive grammar and punctuation errors in ss. 607.0127, 607.01401, 607.0501, 607.0623, 607.0630, 607.0704, 607.0732, 607.0750, 607.0832, 607.0855, 607.0858, 607.1003, 607.1103, 607.11045, 607.11932, 607.11933, 607.11935, 607.1303, 607.1320, 607.1340, 607.1430, 607.1501, 607.1503, 607.1505, 607.1507, 607.15101, 605.0215, 605.0716, and 617.0501, F.S.⁵⁰

The bill also deletes unnecessary duplicative language in ss. 607.0707 and 607.1301, F.S.⁵¹

B. SECTION DIRECTORY:

Section 1: Amends s. 607.0120, F.S., relating to filing requirements.

Section 2: Amends s. 607.0123, F.S., relating to effective time and date of document.

Section 3: Amends s. 607.0125, F.S., relating to filing duties of the department.

Section 4: Amends s. 607.0127, F.S., relating to certificates to be received in evidence; evidentiary effect of certified copy of filed document.

Section 5: Amends s. 607.01401, F.S., relating to definitions.

Section 6: Amends s. 607.0141, F.S., relating to notice.

Section 7: Amends s. 607.0501, F.S., relating to registered office and registered agent.

Section 8: Amends s. 607.0601, F.S., relating to authorized shares.

Section 9: Amends s. 607.0602, F.S., relating to terms of class or series determined by board of directors.

Section 10: Amends s. 607.0620, F.S., relating to subscriptions for shares.

Section 11: Amends s. 607.0623, F.S., relating to share dividends.

Section 12: Amends s. 607.0630, F.S., relating to shareholders' preemptive rights.

Section 13: Amends s. 607.0704, F.S., relating to action by shareholders without a meeting.

Section 14: Amends s. 607.0705, F.S., relating to notice of meeting.

Section 15: Amends s. 607.0707, F.S., relating to record date.

Section 16: Amends s. 607.0720, F.S., relating to shareholders' list for meeting.

Section 17: Amends s. 607.0721, F.S., relating to voting entitlement of shares.

Section 18: Amends s. 607.0732, F.S., relating to shareholder agreements.

Section 19: Amends s. 607.0750, F.S., relating to direct action by shareholder.

Section 20: Amends s. 607.0808, F.S., relating to removal of directors by shareholders.

Section 21: Amends s. 607.0832, F.S., relating to director conflicts of interest.

Section 22: Amends s. 607.0850, F.S., relating to definitions.

⁴⁸ Bill sections 48, 49, 57, 65, and 66.

⁴⁹ Bill sections 17, 37, and 73.

⁵⁰ Bill sections 4, 5, 7, 11, 12, 13, 18, 19, 21, 23, 24, 27, 29, 31, 37, 38, 39, 43, 44, 46, 50, 54, 56, 58, 59, 62, 72, 74, and 75.

⁵¹ Bill sections 15 and 41.

- Section 23:** Amends s. 607.0855, F.S., relating to determination and authorization of indemnification.
- Section 24:** Amends s. 607.0858, F.S., relating to variation by corporate action; application of ss. 607.0850-607.0859.
- Section 25:** Amends s. 607.0901, F.S., relating to affiliated transactions.
- Section 26:** Amends s. 607.1002, F.S., relating to amendment by board of directors.
- Section 27:** Amends. 607.1003, F.S., relating to amendment by board of directors and shareholders.
- Section 28:** Amends s. 607.1102, F.S., relating to share exchange.
- Section 29:** Amends s. 607.1103, F.S., relating to action on a plan of merger or share exchange.
- Section 30:** Amends s. 607.11035, F.S., relating to shareholder approval of a merger or share exchange in connection with a tender offer.
- Section 31:** Amends s. 607.11045, F.S., relating to holding company formation by merger by certain corporations.
- Section 32:** Amends s. 607.1106, F.S., effect of merger or share exchange.
- Section 33:** Amends s. 607.11920, F.S., relating to domestication.
- Section 34:** Amends s. 607.11921, F.S., relating to action on a plan of domestication.
- Section 35:** Amends s. 607.11923, F.S., relating to amendment of a plan of domestication; abandonment.
- Section 36:** Amends s. 607.11924, F.S., relating to effect of domestication.
- Section 37:** Amends s. 607.11932, F.S., relating to action on a plan of conversion.
- Section 38:** Amends s. 607.11933, F.S., relating to articles of conversion, effectiveness.
- Section 39:** Amends s. 607.11935, F.S., relating to effect of conversion.
- Section 40:** Amends s. 607.1202, F.S., relating to shareholder approval of certain dispositions.
- Section 41:** Amends s. 607.1301, F.S., relating to appraisal rights; definitions.
- Section 42:** Amends s. 607.1302, F.S., relating to right of shareholders to appraisal.
- Section 43:** Amends s. 607.1303, F.S., relating to assertion of rights by nominees and beneficial owners.
- Section 44:** Amends s. 607.1320, F.S., relating to notice of appraisal rights.
- Section 45:** Amends s. 607.1333, F.S., relating to limitation on corporate payment.
- Section 46:** Amends s. 607.1340, F.S., relating to other remedies limited.
- Section 47:** Amends s. 607.1403, F.S., relating to articles of dissolution.
- Section 48:** Amends s. 607.1406, F.S., relating to known claims against dissolved corporations.
- Section 49:** Amends s. 607.1422, F.S., relating to reinstatement following administrative dissolution.
- Section 50:** Amends s. 607.1430, F.S., relating to grounds for judicial dissolution.
- Section 51:** Amends s. 607.1431, F.S., relating to procedure for judicial dissolution.
- Section 52:** Amends s. 607.1432, F.S., relating to receivership or custodianship.
- Section 53:** Amends s. 607.14401, F.S., relating to deposit with Department of Financial Services.
- Section 54:** Amends s. 607.1501, F.S., relating to authority of foreign corporation to transact business required; activities not constituting transacting business.
- Section 55:** Amends s. 607.1502, F.S., relating to effect of failure to have a certificate of authority.
- Section 56:** Amends s. 607.1503, F.S., relating to application for certificate of authority.

- Section 57:** Amends s. 607.1504, F.S., relating to amended certificate of authority.
- Section 58:** Amends s. 607.1505, F.S., relating to effect of a certificate of authority.
- Section 59:** Amends s. 607.1507, F.S., relating to registered office and registered agent of foreign corporation.
- Section 60:** Amends s. 607.1509, F.S., relating to resignation of registered agent of foreign corporation.
- Section 61:** Amends s. 607.15091, F.S., relating to change of name or address by registered agent.
- Section 62:** Amends s. 607.15101, F.S., relating to service of process, notice, or demand on a foreign corporation.
- Section 63:** Amends s. 607.1520, F.S., relating to withdrawal and cancellation of certificate of authority for foreign corporation.
- Section 64:** Amends s. 607.1602, F.S., relating to inspection of records by shareholders.
- Section 65:** Amends s. 607.1604, F.S., relating to court-ordered inspection.
- Section 66:** Amends s. 607.1622, F.S., relating to annual report for department.
- Section 67:** Creates s. 607.1703, F.S., relating to interrogatories by department; other powers of department.
- Section 68:** Amends s. 607.1907, F.S., relating to saving provision.
- Section 69:** Amends s. 607.504, F.S., relating to election of social purpose corporation status.
- Section 70:** Amends s. 605.0116, F.S., relating to change of name or address by registered agent.
- Section 71:** Amends s. 605.0207, F.S., relating to effective date and time.
- Section 72:** Amends s. 605.0215, F.S., relating to certificates to be received in evidence and evidentiary effect of copy of filed document.
- Section 73:** Amends s. 605.0702, F.S., relating to grounds for judicial dissolution.
- Section 74:** Amends s. 605.0716, F.S., relating to judicial review of denial of reinstatement.
- Section 75:** Amends s. 617.0501, F.S., relating to registered office and registered agent.
- Section 76:** Amends s. 617.0825, F.S., relating to committees.
- Section 77:** Providing an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have an impact on state revenues.

2. Expenditures:

The bill does not appear to have an impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have an impact on local government revenues.

2. Expenditures:

The bill does not appear to have an impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill restores rulemaking authority to the Department relating to interrogatories directed to corporations.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 12, 2019, the Civil Justice Subcommittee adopted three amendments and reported the bill favorably as a committee substitute. The amendments:

- Deleted language suggesting that a corporation could obtain a life insurance policy on a shareholder that is not a natural person.
- Clarified that, to amend a corporation's articles of incorporation, at least a majority of all shares entitled to vote on the amendment must vote in favor of the amendment.
- Provided that the provisions allowing a non-profit corporation's board of directors to appoint non-board members to certain board committees do not apply to condominium, cooperative, or homeowners' association fining or architectural review committees.

This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.

1 A bill to be entitled
 2 An act relating to business organizations; amending s.
 3 607.0120, F.S.; making technical changes; amending s.
 4 607.0123, F.S.; specifying that certain documents
 5 accepted by the Department of State for filing are
 6 effective on the date the documents are accepted by
 7 the department; making technical changes; amending ss.
 8 607.0125, 607.0127, 607.01401, 607.0141, 607.0501, and
 9 607.0601, F.S.; making technical changes; amending s.
 10 607.0602, F.S.; revising the authority of a board of
 11 directors to reclassify certain unissued shares;
 12 amending ss. 607.0620, 607.0623, 607.0630, 607.0704,
 13 607.0705, 607.0707, 607.0720, 607.0721, 607.0732, and
 14 607.0750, F.S.; making technical changes; amending s.
 15 607.0808, F.S.; revising the required contents of a
 16 meeting notice relating to the removal of a director
 17 by shareholders; amending s. 607.0832, F.S.; making a
 18 technical change; amending s. 607.0850, F.S.; revising
 19 the definition of the term "expenses"; amending ss.
 20 607.0855 and 607.0858, F.S.; making technical changes;
 21 amending s. 607.0901, F.S.; revising definitions;
 22 amending s. 607.1002, F.S.; making technical changes;
 23 amending s. 607.1003, F.S.; providing that, to amend a
 24 corporation's articles of incorporation, at least a
 25 majority of all shares entitled to vote on the

26 amendment must vote in favor of the amendment;
 27 amending s. 607.1102, F.S.; authorizing a domestic
 28 corporation to acquire one or more classes or series
 29 of shares under certain circumstances; amending ss.
 30 607.1103, 607.11035, 607.11045, 607.1106, and
 31 607.11920, F.S.; making technical changes; amending s.
 32 607.11921, F.S.; revising an exception for the
 33 procedure to approve a plan of domestication; making a
 34 technical change; amending ss. 607.11923 and
 35 607.11924, F.S.; making technical changes; amending s.
 36 607.11932, F.S.; revising an exception for the
 37 procedure to approve a plan of conversion; making a
 38 technical change; amending ss. 607.11933, 607.11935,
 39 607.1202, 607.1301, 607.1302, 607.1303, 607.1320,
 40 607.1333, 607.1340, 607.1403, 607.1406, 607.1422,
 41 607.1430, 607.1431, 607.1432, 607.14401, 607.1501,
 42 607.1502, 607.1503, 607.1504, 607.1505, 607.1507,
 43 607.1509, 607.15091, 607.15101, 607.1520, 607.1602,
 44 607.1604, and 607.1622, F.S.; making technical
 45 changes; creating s. 607.1703, F.S.; authorizing the
 46 department to direct certain interrogatories to
 47 certain corporations and to officers or directors of
 48 certain corporations; providing requirements for
 49 answering the interrogatories; providing requirements
 50 for the department relating to interrogatories;

51 | authorizing the department to bring certain actions;
 52 | authorizing the department to file a lis pendens
 53 | against certain property and to certify certain
 54 | findings to the Department of Legal Affairs; providing
 55 | for powers and duties of the Department of State;
 56 | amending ss. 607.1907, 607.504, and 605.0116, F.S.;
 57 | making technical changes; amending s. 605.0207, F.S.;
 58 | specifying that certain documents accepted by the
 59 | department for filing are effective on the date the
 60 | records are accepted by the department; making a
 61 | technical change; amending ss. 605.0215, 605.0702,
 62 | 605.0716, and 617.0501, F.S.; making technical
 63 | changes; amending s. 617.0825, F.S.; authorizing the
 64 | board of directors of a nonprofit corporation to
 65 | appoint persons to serve on certain committees;
 66 | requiring that a majority of the persons on such
 67 | committees be directors; providing exceptions;
 68 | providing responsibilities and duties for non-director
 69 | committee members; authorizing a corporation to create
 70 | or authorize the creation of advisory committees;
 71 | specifying an advisory committee is not a committee of
 72 | the board of directors; providing prohibitions and
 73 | authorizations for advisory committees; providing
 74 | applicability; providing an effective date.

75 |

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

77

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

80 607.0120 Filing requirements.—

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

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

88 607.0123 Effective time and date of document.—Except as
89 otherwise provided in s. 607.0124(5), and subject to s.
90 607.0124(4), any document delivered to the department for filing
91 under this chapter may specify an effective time and a delayed
92 effective date. In the case of initial articles of
93 incorporation, a prior effective date may be specified in the
94 articles of incorporation if such date is within 5 business days
95 before the date of filing.

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

98 (a) If the record filed ~~filing~~ does not specify an
99 effective time and does not specify a prior or a delayed
100 effective date, on the date and at the time the record ~~filing~~ is

101 accepted, as evidenced by the department's endorsement of the
 102 date and time on the filing.

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

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

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

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

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

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

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

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

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

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

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

140 607.0125 Filing duties of the department.—

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

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

148 607.0127 Certificates to be received in evidence;
 149 evidentiary effect of certified copy of filed document.—All
 150 certificates issued by the department pursuant to this chapter

151 must be taken and received in all courts, public offices, and
 152 official bodies as prima facie evidence of the facts stated. A
 153 certificate the department delivered with a copy of a document
 154 filed by the department, bearing the signature of the secretary
 155 of state, which may be in facsimile, and the seal of this ~~the~~
 156 state, is conclusive evidence that the original document is on
 157 file with the department.

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

161 607.01401 Definitions.—As used in this chapter, unless the
 162 context otherwise requires, the term:

163 (1) "Acquired eligible entity" means the ~~a~~ domestic or
 164 foreign eligible entity that will have all of one or more
 165 classes or series of its shares or eligible interests acquired
 166 in a share exchange.

167 (2) "Acquiring eligible entity" means the ~~a~~ domestic or
 168 foreign eligible entity that will acquire all of one or more
 169 classes or series of shares or eligible interests of the
 170 acquired eligible entity in a share exchange.

171 (22) "Domesticating corporation" means the ~~a~~ domestic
 172 corporation that approves a plan of domestication pursuant to s.
 173 607.11921, or the ~~a~~ foreign corporation that approves a
 174 domestication pursuant to the organic law of the foreign
 175 corporation.

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

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

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

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

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

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

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

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

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

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

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

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

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

214 (63) "Record date" means the date fixed for determining
 215 the identity of the corporation's shareholders and their share
 216 holdings for purposes of this chapter. Unless another time is
 217 specified when the record date is fixed, the determination shall
 218 be made as of the close of ~~the~~ business at the principal office
 219 of the corporation on the date so fixed.

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

222 607.0141 Notice.—

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

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

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

237 (11) If this chapter ~~act~~ prescribes requirements for
 238 notices or other communications in particular circumstances,
 239 those requirements govern. If articles of incorporation or
 240 bylaws prescribe requirements for notices or other
 241 communications not less stringent than the requirements of this
 242 section or other provisions of this chapter ~~act~~, those
 243 requirements govern. The articles of incorporation or bylaws may
 244 authorize or require delivery of notices of meetings of
 245 directors by electronic transmission.

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

248 607.0501 Registered office and registered agent.—

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

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

253 (b) A registered agent, which must be:

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

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

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

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

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

268 607.0601 Authorized shares.—

269 (2) The articles of incorporation must authorize:

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

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

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

278 607.0602 Terms of class or series determined by board of
 279 directors.-

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

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

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

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

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

292 607.0620 Subscriptions for shares.-

293 (5) If a subscriber defaults in payment of money or
 294 property under a subscription agreement entered into before
 295 incorporation, the corporation may collect the amount owed as
 296 any other debt. Alternatively, unless the subscription agreement
 297 provides otherwise, the corporation may rescind the agreement
 298 and may sell the shares if the debt remains unpaid more than 20
 299 days after the corporation delivers written demand for payment
 300 to the subscriber. If the subscription agreement is rescinded

301 and the shares sold, then, notwithstanding the rescission, the
302 defaulting subscriber or his, ~~or~~ her, or its legal
303 representative shall be entitled to be paid the excess of the
304 sale proceeds over the sum of the amount due and unpaid on the
305 subscription and the reasonable expenses incurred in selling the
306 shares, but in no event shall the defaulting subscriber or his,
307 ~~or~~ her, or its legal representative be entitled to be paid an
308 amount greater than the amount paid by the subscriber on the
309 subscription.

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

312 607.0623 Share dividends.—

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

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

320 607.0630 Shareholders' preemptive rights.—

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

326 (c) There is no preemptive right with respect to:
 327 1. Shares issued as compensation to directors, officers,
 328 agents, or employees of the corporation, its subsidiaries, or
 329 its affiliates;
 330 2. Shares issued to satisfy conversion or option rights
 331 created to provide compensation to directors, officers, agents,
 332 or employees of the corporation, its subsidiaries, or its
 333 affiliates;
 334 3. Shares authorized in the articles of incorporation that
 335 are issued within 6 months from the effective date of
 336 incorporation;
 337 4. Shares issued pursuant to a plan of reorganization
 338 approved by a court of competent jurisdiction pursuant to a law
 339 of this state or of the United States; or
 340 5. Shares issued for consideration other than money.
 341 (d) Holders of shares of any class or series without
 342 general voting rights but with preferential rights ~~to~~
 343 ~~distributions~~ to receive the net assets upon dissolution have no
 344 preemptive rights with respect to shares of any class or series.
 345 Section 13. Subsection (7) of section 607.0704, Florida
 346 Statutes, is amended to read:
 347 607.0704 Action by shareholders without a meeting.—
 348 (7) The notice requirements in subsection (3) do not delay
 349 the effectiveness of actions taken by written consent, and a
 350 failure to comply with such notice requirement does not

351 | invalidate actions taken by written consent. This subsection
 352 | shall ~~may~~ not be deemed to limit judicial power to fashion any
 353 | appropriate remedy in favor of a shareholder adversely affected
 354 | by a failure to give such notice within the required time
 355 | period.

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

358 | 607.0705 Notice of meeting.—

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

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

367 | (b) All, and at least two payments ~~checks in payment~~ of
 368 | dividends or interest on securities during a 12-month period,
 369 |
 370 | have been sent by first-class United States mail, addressed to
 371 | the shareholder at such person's address as it appears in the
 372 | record of shareholders of the corporation, maintained in
 373 | accordance with s. 607.1601(4), and returned undeliverable, then
 374 | the giving of such notice to such person shall not be required.
 375 | Any action or meeting which is taken or held without notice to

376 such person has the same force and effect as if such notice has
377 been duly given. If any such person delivers to the corporation
378 a written notice setting forth such person's then current
379 address, the requirement that a notice be given to such person
380 with respect to future notices shall be reinstated.

381 Section 15. Subsections (2), (9), and (10) of section
382 607.0707, Florida Statutes, are amended to read:

383 607.0707 Record date.—

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

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

395 (2) ~~(10)~~ If not otherwise fixed under s. 607.0703 or
396 otherwise provided by or pursuant to the bylaws, the record date
397 for determining shareholders entitled to demand a special
398 meeting is the earliest date on which a signed shareholder
399 demand is delivered to the corporation. A written demand for a
400 special meeting is not effective unless, within 60 days of the

401 earliest date on which such a demand delivered to the
402 corporation as required by s. 607.0702 was signed, written
403 demands signed by shareholders holding at least the percentage
404 of votes specified in or fixed in accordance with s.
405 607.0702(1)(b) have been delivered to the corporation.

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

408 607.0720 Shareholders' list for meeting.—

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

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

425 607.0721 Voting entitlement of shares.—

426 (3) Shares held by the corporation in a fiduciary capacity
 427 for the benefit of any person are entitled to vote unless they
 428 are held for the benefit of, or otherwise belong to, the
 429 corporation directly, or indirectly through an entity of which a
 430 majority of the voting power is held directly or indirectly by
 431 the corporation or which is otherwise controlled by the
 432 corporation. For the purposes of this section ~~subsection~~,
 433 "voting power" means the current power to vote in the election
 434 of directors of a corporation or to elect, select, or appoint
 435 those persons who will govern another entity.

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

438 607.0732 Shareholder agreements.—

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

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

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

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

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

451 607.0750 Direct action by shareholder.-

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

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

461 607.0808 Removal of directors by shareholders.-

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

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

469 607.0832 Director conflicts of interest.-

470 (7) If ~~where~~ shareholders' action under this section does
 471 not satisfy a quorum or voting requirement applicable to the
 472 authorization of the transaction by shareholders as required by
 473 the articles of incorporation, the bylaws, this chapter, or any
 474 other law, an action to satisfy those authorization
 475 requirements, whether as part of the same action or by way of

476 another action, must be taken by the shareholders in order to
477 authorize the transaction. In such action, the vote or consent
478 of shareholders who are not disinterested shareholders may be
479 counted.

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

482 607.0850 Definitions.—In ss. 607.0850–607.0859, the term:

483 (4) "Expenses" includes reasonable attorney fees and
484 expenses, including those incurred in connection with any
485 appeal.

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

488 607.0855 Determination and authorization of
489 indemnification.—

490 (2) The determination shall be made:

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

496 (b) By independent special legal counsel:

497 1. Selected in the manner prescribed by paragraph (a); or
498 2. If there are fewer than two qualified directors,
499 selected by the board of directors, in which selection directors
500 who are not qualified directors may participate; or

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

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

508 607.0858 Variation by corporate action; application of ss.
 509 607.0850-607.0859.—

510 (1) The indemnification provided pursuant to ss. 607.0851
 511 and 607.0852 and the advancement of expenses provided pursuant
 512 to s. 607.0853 are not exclusive, and a corporation may, by a
 513 provision in its articles of incorporation, bylaws, or any
 514 agreement, or by vote of shareholders or disinterested
 515 directors, or otherwise, obligate itself in advance of the act
 516 or omission giving rise to a proceeding to provide any other or
 517 further indemnification or advancement of expenses to any of its
 518 directors or officers. Any such obligatory provision shall be
 519 deemed to satisfy the requirements for authorization referred to
 520 in ss. 607.0853(3) and 607.0855(3). Any such provision that
 521 obligates the corporation to provide indemnification to the
 522 fullest extent permitted by law shall be deemed to obligate the
 523 corporation to advance funds to pay for or reimburse expenses in
 524 accordance with s. 607.0853 to the fullest extent permitted by
 525 law, unless the provision specifically provides otherwise.

526 Section 25. Paragraph (f) of subsection (1) of section
 527 607.0901, Florida Statutes, is amended to read:
 528 607.0901 Affiliated transactions.—
 529 (1) For purposes of this section:
 530 (f) "Control," "controlling," "controlled by," and "under
 531 common control with" mean the possession, directly or
 532 indirectly, through the ownership of voting interests ~~shares~~, by
 533 contract, arrangement, understanding, relationship, or
 534 otherwise, of the power to direct or cause the direction of the
 535 management and policies of a person. A person who is the owner
 536 of 20 percent or more of the outstanding voting interests ~~shares~~
 537 of any corporation, partnership, unincorporated association, or
 538 other entity is presumed to have control of such entity, in the
 539 absence of proof by a preponderance of the evidence to the
 540 contrary. Notwithstanding the foregoing, a person shall not be
 541 deemed to have control of an entity if such person holds voting
 542 interests ~~shares~~, in good faith and not for the purpose of
 543 circumventing this section, as an agent, bank, broker, nominee,
 544 custodian, or trustee for one or more beneficial owners who do
 545 not individually or as a group have control of such entity.
 546 Section 26. Subsection (11) of section 607.1002, Florida
 547 Statutes, is amended to read:
 548 607.1002 Amendment by board of directors.—Unless the
 549 articles of incorporation provide otherwise, a corporation's
 550 board of directors may adopt one or more amendments to the

551 corporation's articles of incorporation without shareholder
 552 approval:

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

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

558 607.1003 Amendment by board of directors and
 559 shareholders.—If a corporation has issued shares, an amendment
 560 to the articles of incorporation shall be adopted in the
 561 following manner:

562 (2)(a) Except as provided in s. ss. 607.1002, s.
 563 607.10025, s. and 607.1008, or and, with respect to restatements
 564 that do not require shareholder approval, s. 607.1007, the
 565 amendment shall then be approved by the shareholders.

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

575 (5) Unless this chapter, the articles of incorporation, or

576 | the board of directors, acting pursuant to subsection (3),
 577 | requires a greater vote or a greater quorum, the approval of the
 578 | amendment requires the approval of the shareholders at a meeting
 579 | at which a quorum exists consisting of at least a majority of
 580 | the shares entitled to be cast on the amendment ~~exists~~, and, if
 581 | any class or series of shares is entitled to vote as a separate
 582 | group on the amendment, except as provided in s. 607.1004(3),
 583 | the approval of each such separate voting group at a meeting at
 584 | which a quorum of the voting group exists consisting of at least
 585 | a majority of the votes entitled to be cast on the amendment by
 586 | that voting group.

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

589 | 607.1102 Share exchange.—

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

593 | (a) A domestic corporation may acquire all of the shares
 594 | or one or more classes or series of shares or rights to acquire
 595 | shares of one or more classes or series of shares or rights to
 596 | acquire shares of another domestic or foreign corporation, or
 597 | all of the eligible interests of one or more classes or series
 598 | of interests of a domestic or foreign eligible entity, or any
 599 | combination of the foregoing, pursuant to a plan of share
 600 | exchange, in exchange for:

- 601 1. Shares or other securities.
- 602 2. Eligible interests.
- 603 3. Obligations.
- 604 4. Rights to acquire shares, other securities, or eligible
- 605 interests.
- 606 5. Cash.
- 607 6. Other property.
- 608 7. Any combination of the foregoing; or
- 609 (b) All of the shares of one or more classes or series of
- 610 shares or rights to acquire shares of a domestic corporation may
- 611 be acquired by another domestic or foreign eligible entity,
- 612 pursuant to a plan of share exchange, in exchange for:
- 613 1. Shares or other securities.
- 614 2. Eligible interests.
- 615 3. Obligations.
- 616 4. Rights to acquire shares, other securities, or eligible
- 617 interests.
- 618 5. Cash.
- 619 6. Other property.
- 620 7. Any combination of the foregoing.
- 621 (6) A plan of share exchange may be amended only with the
- 622 consent of each party to the share exchange, except as provided
- 623 in the plan. A domestic eligible entity may approve an amendment
- 624 to a plan:
- 625 (a) In the same manner as the plan was approved, if the

626 plan does not provide for the manner in which it may be amended;
 627 or

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

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

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

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

643 607.1103 Action on a plan of merger or share exchange.—In
 644 the case of a domestic corporation that is a party to a merger
 645 or is the acquired eligible entity in a share exchange, the plan
 646 of merger or the plan of share exchange must be adopted in the
 647 following manner:

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

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

655 (b) In submitting the plan of merger or the plan of share
 656 exchange to the shareholders for approval, the board of
 657 directors shall recommend that the shareholders approve the
 658 plan, or in the case of an offer referred to in s.
 659 607.11035(1)(b), that the shareholders tender their shares to
 660 the offeror in response to the offer, unless:

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

664 2. Section 607.0826 applies.

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

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

672 (4) If the plan of merger or the plan of share exchange is
 673 required to be approved by the shareholders, and if the approval
 674 is to be given at a meeting, the corporation shall notify each
 675 shareholder, regardless of whether entitled to vote, of the

676 meeting of shareholders at which the plan is submitted for
677 approval in accordance with s. 607.0705. The notice shall also
678 state that the purpose, or one of the purposes, of the meeting
679 is to consider the plan of merger or the plan of share exchange,
680 regardless of whether or not the meeting is an annual or a
681 special meeting, and contain or be accompanied by a copy of the
682 plan. If the corporation is to be merged into an existing
683 foreign or domestic eligible entity, the notice must also
684 include or be accompanied by a copy of the articles of
685 incorporation and bylaws or the organic rules of that eligible
686 entity into which the corporation is to be merged. If the
687 corporation is to be merged with a domestic or foreign eligible
688 entity and a new domestic or foreign eligible entity is to be
689 created pursuant to the merger, the notice must include or be
690 accompanied by a copy of the articles of incorporation and
691 bylaws or the organic rules of the new eligible entity.
692 Furthermore, if applicable, the notice shall contain a clear and
693 concise statement that, if the plan of merger or share exchange
694 is effected, shareholders dissenting therefrom may be entitled,
695 if they comply with the provisions of this chapter regarding
696 appraisal rights, to be paid the fair value of their shares, and
697 shall be accompanied by a copy of ss. 607.1301-607.1340.

698 (5) Unless this chapter, the articles of incorporation, or
699 the board of directors (acting pursuant to subsection (3))
700 requires a greater vote or a greater quorum in the respective

701 case, approval of the plan of merger or the plan of share
 702 exchange shall require the approval of the shareholders at a
 703 meeting at which a quorum exists by a majority of the votes
 704 entitled to be cast on the plan, and, if any class or series of
 705 shares is entitled to vote as a separate voting group on the
 706 plan of merger or the plan of share exchange, the approval of
 707 each such separate voting group at a meeting at which a quorum
 708 of the voting group is present by a majority of the votes
 709 entitled to be cast on the merger or share exchange by that
 710 voting group.

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

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

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

726 amendment to the articles of incorporation.~~†~~~~or~~

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

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

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

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

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

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

751 plan of share exchange if the group is entitled under the
 752 articles of incorporation to vote as a separate voting group to
 753 approve the plan of merger or the plan of share exchange,
 754 respectively.

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

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

764 (b) Will not affect a substantive business combination.

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

768 (a) The corporation will survive the merger;

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

773 (c) Each shareholder of the surviving corporation whose
 774 shares were outstanding immediately prior to the effective date
 775 of the merger will hold the same number of shares, with

776 identical designations, preferences, rights, and limitations,
 777 immediately after the effective date of the merger.

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

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

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

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

800 (11) Unless the articles of incorporation otherwise

801 provide, shares in the acquired eligible entity not to be
 802 exchanged under the plan of share exchange are not entitled to
 803 vote on the plan.

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

806 607.11035 Shareholder approval of a merger or share
 807 exchange in connection with a tender offer.—

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

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

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

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

818 (b) Another party to the merger, the acquiring eligible
 819 entity in the share exchange, or a parent of another party to
 820 the merger or the parent of the acquiring eligible entity in the
 821 share exchange, makes an offer to purchase, on the terms
 822 provided in the plan of merger or the plan of share exchange,
 823 any and all of the outstanding shares of the corporation that,
 824 absent this section, would be entitled to vote on the plan of
 825 merger or the plan of share exchange, except that the offer may

826 | exclude shares of the corporation that are owned at the
 827 | commencement of the offer by the corporation, the offeror, or
 828 | any parent of the offeror, or by any wholly owned subsidiary of
 829 | any of the foregoing;

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

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

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

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

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

849 | 2. Shares otherwise owned by the offeror or by any parent
 850 | of the offeror or any wholly owned subsidiary of any of the

851 foregoing; and

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

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

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

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

876 607.11045 Holding company formation by merger by certain
877 corporations.—

878 (1) This section applies only to a corporation that has
879 shares registered pursuant to s. 12 of the Securities Exchange
880 Act of 1934~~7~~, or held of record by not fewer than 2,000
881 shareholders.

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

884 607.1106 Effect of merger or share exchange.—

885 (1) When a merger becomes effective:

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

889 (b) The separate existence of every domestic or foreign
890 eligible entity that is a party to the merger, other than the
891 survivor, ceases;

892 (c) All real property and other property, including any
893 interest therein and all title thereto, owned by, and every
894 contract right possessed by, each domestic or foreign eligible
895 entity that is a party to the merger, other than the survivor,
896 become the property and contract rights of and become vested in
897 the survivor, without transfer, reversion, or impairment;

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

901 liabilities of the survivor;

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

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

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

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

915 (i) The shares, obligations, and other securities (and the
 916 rights to acquire shares, obligations, or other securities) of
 917 each domestic or foreign corporation party to the merger, and
 918 the eligible interests in any other eligible entity that is a
 919 party to the merger, that are to be converted in accordance with
 920 the terms of the merger into shares or other securities;
 921 eligible interests; obligations; rights to acquire shares, other
 922 securities, or eligible interests; cash; other property; or any
 923 combination of the foregoing, are converted, and the former
 924 holders of such shares, obligations, other securities, and
 925 eligible interests (and the rights to acquire shares,

926 | obligations, other securities, or other eligible interests) are
 927 | entitled only to the rights provided to them by those terms of
 928 | the merger or to any rights they may have under s. 607.1302 or
 929 | under the organic law governing the eligible entity;

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

935 | (k) If the survivor exists before the merger:

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

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

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

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

946 | 607.11920 Domestication.—

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

950 | (a) The name of the domesticating corporation;

951 (b) The name and jurisdiction of formation of the
 952 domesticated corporation;

953 (c) The manner and basis of reclassifying the shares and
 954 rights to acquire shares of the domesticating corporation into
 955 shares or other securities, obligations, rights to acquire
 956 shares or other securities, cash, other property, or any
 957 combination of the foregoing;

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

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

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

963 607.11921 Action on a plan of domestication.—In the case
 964 of a domestication of a domestic corporation into a foreign
 965 jurisdiction, the plan of domestication shall be adopted in the
 966 following manner:

967 (5) Unless this chapter, the articles of incorporation, or
 968 the board of directors acting pursuant to subsection (3)~~7~~
 969 require a greater vote or a greater quorum in the respective
 970 case, approval of the plan of domestication requires:

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

974 (b) Except as provided in subsection (6), the approval of
 975 each class or series of shares voting as a separate voting group

976 at a meeting at which a quorum of the voting group exists
 977 consisting of a majority of the votes entitled to be cast on the
 978 plan by that voting group.

979 (6) The articles of incorporation may expressly limit or
 980 eliminate the separate voting rights provided in paragraph
 981 (5)(b) as to any class or series of shares, except when the
 982 public organic rules of the foreign corporation resulting from
 983 the domestication include what would be in effect an amendment
 984 that would entitle the class or series to vote as a separate
 985 voting group under s. 607.1004 if it were a proposed amendment
 986 of the articles of incorporation of a domestic domesticating
 987 corporation.

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

990 607.11923 Amendment of a plan of domestication;
 991 abandonment.—

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

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

997 (b) In the manner provided in the plan of domestication,
 998 except that a shareholder that was entitled to vote on or
 999 consent to approval of the plan is entitled to vote on or
 1000 consent to any amendment of the plan that will change:

1001 1. The amount or kind of shares or other securities;
 1002 obligations; rights to acquire shares or other securities, ~~or~~
 1003 ~~eligible interests~~; cash; other property; or any combination of
 1004 the foregoing, to be received by any of the shareholders or
 1005 holders of rights to acquire shares or other securities, ~~or~~
 1006 ~~eligible interests~~ of the domesticating corporation under the
 1007 plan;

1008 2. The organic rules of the domesticated corporation that
 1009 are to be in writing and that will be in effect immediately
 1010 after the domestication becomes effective, except for changes
 1011 that do not require approval of the shareholders of the
 1012 domesticated corporation under its organic rules as set forth in
 1013 the plan of domestication; or

1014 3. Any of the other terms or conditions of the plan, if
 1015 the change would adversely affect the shareholder in any
 1016 material respect.

1017 Section 36. Subsection (1) and paragraph (d) of subsection
 1018 (3) of section 607.11924, Florida Statutes, are amended to read:

1019 607.11924 Effect of domestication.—

1020 (1) When a domestication becomes effective:

1021 (a) All real property and other property owned by the
 1022 domesticating corporation, including any interests therein and
 1023 all title thereto, and every contract right possessed by the
 1024 domesticating corporation, are the property and contract rights
 1025 of the domesticated corporation without transfer, reversion, or

1026 impairment;

1027 (b) All debts, obligations, and other liabilities of the
 1028 domesticating corporation are the debts, obligations, and other
 1029 liabilities of the domesticated corporation;

1030 (c) The name of the domesticated corporation may be, but
 1031 need not be, substituted for the name of the domesticating
 1032 corporation in any pending proceeding;

1033 (d) The organic rules of the domesticated corporation
 1034 become effective;

1035 (e) The shares and other securities (and the rights to
 1036 acquire shares or other securities) or equity interests of the
 1037 domesticating corporation are reclassified into shares, ~~or~~ other
 1038 securities, obligations, rights to acquire shares or other
 1039 securities, cash, ~~or~~ other property, or any combination of the
 1040 foregoing, in accordance with the terms of the domestication,
 1041 and the shareholders or equity owners of the domesticating
 1042 corporation are entitled only to the rights provided to them by
 1043 those terms and to any appraisal rights they may have under the
 1044 organic law of the domesticating corporation; and

1045 (f) The domesticated corporation is:

1046 1. Incorporated under and subject to the organic law of
 1047 the domesticated corporation;

1048 2. The same corporation, without interruption, as the
 1049 domesticating corporation; and

1050 3. Deemed to have been incorporated or formed on the date

1051 the domesticating corporation was originally incorporated.

1052 (3) Except as otherwise provided in the organic law or
 1053 organic rules of a domesticating foreign corporation, the
 1054 interest holder liability of a shareholder or equity holder in a
 1055 foreign corporation that is domesticated into this state who had
 1056 interest holder liability in respect of such domesticating
 1057 corporation before the domestication becomes effective shall be
 1058 as follows:

1059 (d) The shareholder or equity holder shall ~~may~~ not, by
 1060 reason of such prior interest holder liability, have interest
 1061 holder liability with respect to any interest holder liabilities
 1062 that are incurred after the domestication becomes effective.

1063 Section 37. Paragraph (a) of subsection (2) and subsection
 1064 (5) of section 607.11932, Florida Statutes, are amended to read:

1065 607.11932 Action on a plan of conversion.—In the case of a
 1066 conversion of a domestic corporation to a domestic or foreign
 1067 eligible entity other than a domestic corporation, the plan of
 1068 conversion must be adopted in the following manner:

1069 (2)(a) The plan of conversion must ~~shall~~ then be approved
 1070 by the shareholders of such domestic corporation.

1071 (5) Unless this chapter, the articles of incorporation, or
 1072 the board of directors acting pursuant to subsection (3)~~7~~
 1073 require a greater vote or a greater quorum in the respective
 1074 case, approval of the plan of conversion requires:

1075 (a) The approval of the shareholders at a meeting at which

1076 a quorum exists consisting of a majority of the votes entitled
 1077 to be cast on the plan; and

1078 (b) The approval of each class or series of shares voting
 1079 as a separate voting group at a meeting at which a quorum of the
 1080 voting group exists consisting of a majority of the votes
 1081 entitled to be cast on the plan by that voting group.

1082 Section 38. Paragraph (a) of subsection (4) of section
 1083 607.11933, Florida Statutes, is amended to read:

1084 607.11933 Articles of conversion; effectiveness.—

1085 (4)(a) If the ~~a~~ converted eligible entity is a domestic
 1086 eligible entity, the conversion becomes effective when the
 1087 articles of conversion are effective.

1088 Section 39. Subsection (1) and paragraph (d) of subsection
 1089 (4) of section 607.11935, Florida Statutes, are amended to read:

1090 607.11935 Effect of conversion.—

1091 (1) When a conversion becomes effective:

1092 (a) All real property and other property owned by,
 1093 including any interest therein and all title thereto, and every
 1094 contract right possessed by, the converting eligible entity
 1095 remain the property and contract rights of the converted
 1096 eligible entity without transfer, reversion, or impairment;

1097 (b) All debts, obligations, and other liabilities of the
 1098 converting eligible entity remain the debts, obligations, and
 1099 other liabilities of the converted eligible entity;

1100 (c) The name of the converted eligible entity may be, but

1101 need not be, substituted for the name of the converting eligible
 1102 entity in any pending action or proceeding;

1103 (d) If the converted eligible entity is a filing entity, a
 1104 domestic corporation, or a domestic or foreign nonprofit
 1105 corporation, its public organic record and its private organic
 1106 rules become effective;

1107 (e) If the converted eligible entity is a nonfiling
 1108 entity, its private organic rules become effective;

1109 (f) If the converted eligible entity is a limited
 1110 liability partnership, the filing required to become a limited
 1111 liability partnership and its private organic rules become
 1112 effective;

1113 (g) The shares, obligations, eligible interests, and other
 1114 securities (and the rights to acquire shares, obligations,
 1115 eligible interests, or other securities) ~~and obligations~~ of the
 1116 converting eligible entity are reclassified into shares, other
 1117 securities, eligible interests, obligations, rights to acquire
 1118 shares, ~~or other securities, or eligible interests, obligations,~~
 1119 cash, other property, or any combination of the foregoing
 1120 ~~thereof~~, in accordance with the terms of the conversion, and the
 1121 shareholders or interest holders of the converting eligible
 1122 entity are entitled only to the rights provided to them by those
 1123 terms and to any rights they may have under s. 607.1302 or under
 1124 the organic law of the converting eligible entity; and

1125 (h) The converted eligible entity is:

- 1126 1. Deemed to be incorporated or organized under and
 1127 subject to the organic law of the converted eligible entity;
 1128 2. Deemed to be the same entity without interruption as
 1129 the converting eligible entity; and
 1130 3. Deemed to have been incorporated or otherwise organized
 1131 on the date that the converting eligible entity was originally
 1132 incorporated or organized.

1133 (4) Except as otherwise provided in the organic law or the
 1134 organic rules of the domestic or foreign eligible entity, the
 1135 interest holder liability of an interest holder in a converting
 1136 eligible entity that converts to a domestic corporation who had
 1137 interest holder liability in respect of such converting eligible
 1138 entity before the conversion becomes effective shall be as
 1139 follows:

1140 (d) The eligible interest holder shall ~~may~~ not, by reason
 1141 of such prior interest holder liability, have interest holder
 1142 liability with respect to any interest holder liabilities that
 1143 arise after the conversion becomes effective.

1144 Section 40. Subsection (4) of section 607.1202, Florida
 1145 Statutes, is amended to read:

1146 607.1202 Shareholder approval of certain dispositions.—

1147 (4) If the disposition is required to be approved by the
 1148 shareholders under subsection (1) and if the approval is to be
 1149 given at the meeting, the corporation shall notify each
 1150 shareholder, regardless of whether entitled to vote, of the

1151 meeting of shareholders at which the disposition is to be
 1152 submitted for approval. The notice must state that the purpose,
 1153 or one of the purposes, of the meeting is to consider the
 1154 disposition and shall contain a description of the disposition
 1155 and the consideration to be received by the corporation.
 1156 Furthermore, the notice shall contain a clear and concise
 1157 statement that, if the transaction is effected, shareholders
 1158 dissenting therefrom are or may be entitled, if they comply with
 1159 the provisions of this chapter ~~act~~ regarding appraisal rights,
 1160 to be paid the fair value of their shares and such notice must
 1161 be accompanied by a copy of ss. 607.1301-607.1340.

1162 Section 41. Subsection (2) and paragraph (a) of subsection
 1163 (6) of section 607.1301, Florida Statutes, are amended to read:

1164 607.1301 Appraisal rights; definitions.—The following
 1165 definitions apply to ss. 607.1301-607.1340:

1166 (2) "Affiliate" means a person that directly or indirectly
 1167 through one or more intermediaries controls, is controlled by,
 1168 or is under common control with, another person or is a senior
 1169 executive of such person. For purposes of paragraph (6)(a), a
 1170 person is deemed to be an affiliate of its senior executives.

1171 (6) "Interested transaction" means a corporate action
 1172 described in s. 607.1302(1), other than a merger pursuant to s.
 1173 607.1104, involving an interested person in which any of the
 1174 shares or assets of the corporation are being acquired or
 1175 converted. As used in this definition:

1176 (a) "Interested person" means a person, or an affiliate of
 1177 a person, who at any time during the 1-year period immediately
 1178 preceding approval by the board of directors of the corporate
 1179 action:

1180 1. Was the beneficial owner of 20 percent or more of the
 1181 voting power of the corporation, other than as owner of excluded
 1182 shares;

1183 2. Had the power, contractually or otherwise, other than
 1184 as owner of excluded shares, to cause the appointment or
 1185 election of 25 percent or more of the directors to the board of
 1186 directors of the corporation; or

1187 3. Was a senior executive or director of the corporation
 1188 or a senior executive of any affiliate of the corporation, and
 1189 will receive, as a result of the corporate action, a financial
 1190 benefit not generally available to other shareholders as such,
 1191 other than:

1192 a. Employment, consulting, retirement, or similar benefits
 1193 established separately and not as part of or in contemplation of
 1194 the corporate action;

1195 b. Employment, consulting, retirement, or similar benefits
 1196 established in contemplation of, or as part of, the corporate
 1197 action that are not more favorable than those existing before
 1198 the corporate action or, if more favorable, that have been
 1199 approved on behalf of the corporation in the same manner as is
 1200 provided in s. 607.0832; or

1201 c. In the case of a director of the corporation who, in
 1202 the corporate action, will become a director or governor of the
 1203 acquirer or any of its affiliates ~~in the corporate action,~~
 1204 rights and benefits as a director or governor that are provided
 1205 on the same basis as those afforded by the acquirer generally to
 1206 other directors or governors of such entity or such affiliate.

1207 Section 42. Subsection (1) of section 607.1302, Florida
 1208 Statutes, is amended to read:

1209 607.1302 Right of shareholders to appraisal.-

1210 (1) A shareholder of a domestic corporation is entitled to
 1211 appraisal rights, and to obtain payment of the fair value of
 1212 that shareholder's shares, in the event of any of the following
 1213 corporate actions:

1214 (a) Consummation of a domestication or a conversion of
 1215 such corporation pursuant to s. 607.11921 or s. 607.11932, as
 1216 applicable, if shareholder approval is required for the
 1217 domestication or the conversion;

1218 (b) Consummation of a merger to which such corporation is
 1219 a party:

1220 1. If shareholder approval is required for the merger
 1221 under s. 607.1103 or would be required but for s. 607.11035,
 1222 except that appraisal rights shall not be available to any
 1223 shareholder of the corporation with respect to shares of any
 1224 class or series that remains outstanding after consummation of
 1225 the merger where the terms of such class or series have not been

1226 materially altered; or
 1227 2. If such corporation is a subsidiary and the merger is
 1228 governed by s. 607.1104;
 1229 (c) Consummation of a share exchange to which the
 1230 corporation is a party as the corporation whose shares will be
 1231 acquired, except that appraisal rights are not available to any
 1232 shareholder of the corporation with respect to any class or
 1233 series of shares of the corporation that is not acquired in the
 1234 share exchange;
 1235 (d) Consummation of a disposition of assets pursuant to s.
 1236 607.1202 if the shareholder is entitled to vote on the
 1237 disposition, including a sale in dissolution, except that
 1238 appraisal rights shall not be available to any shareholder of
 1239 the corporation with respect to shares or any class or series
 1240 if:
 1241 1. Under the terms of the corporate action approved by the
 1242 shareholders there is to be distributed to shareholders in cash
 1243 the corporation's net assets, in excess of a reasonable amount
 1244 reserved to meet claims of the type described in ss. 607.1406
 1245 and 607.1407, within 1 year after the shareholders' approval of
 1246 the action and in accordance with their respective interests
 1247 determined at the time of distribution; and
 1248 2. The disposition of assets is not an interested
 1249 transaction;
 1250 (e) An amendment of the articles of incorporation with

1251 | respect to a class or series of shares which reduces the number
 1252 | of shares of a class or series owned by the shareholder to a
 1253 | fraction of a share if the corporation has the obligation or the
 1254 | right to repurchase the fractional share so created;

1255 | (f) Any other merger, share exchange, disposition of
 1256 | assets, or amendment to the articles of incorporation, in each
 1257 | case to the extent provided by the articles of incorporation,
 1258 | bylaws, or a resolution of the board of directors, except that
 1259 | no bylaw or board resolution providing for appraisal rights may
 1260 | be amended or otherwise altered except by shareholder approval;

1261 | (g) An amendment to the articles of incorporation or
 1262 | bylaws of the corporation, the effect of which is to alter or
 1263 | abolish voting or other rights with respect to such interest in
 1264 | a manner that is adverse to the interest of such shareholder,
 1265 | except as the right may be affected by the voting or other
 1266 | rights of new shares then being authorized of a new class or
 1267 | series of shares;

1268 | (h) An amendment to the articles of incorporation or
 1269 | bylaws of a corporation, the effect of which is to adversely
 1270 | affect the interest of the shareholder by altering or abolishing
 1271 | appraisal rights under this section;

1272 | (i) With regard to a class of shares prescribed in the
 1273 | articles of incorporation prior to October 1, 2003, including
 1274 | any shares within that class subsequently authorized by
 1275 | amendment, any amendment of the articles of incorporation if the

1276 shareholder is entitled to vote on the amendment and if such
 1277 amendment would adversely affect such shareholder by:

1278 1. Altering or abolishing any preemptive rights attached
 1279 to any of his, ~~or~~ her, or its shares;

1280 2. Altering or abolishing the voting rights pertaining to
 1281 any of his, ~~or~~ her, or its shares, except as such rights may be
 1282 affected by the voting rights of new shares then being
 1283 authorized of any existing or new class or series of shares;

1284 3. Effecting an exchange, cancellation, or
 1285 reclassification of any of his, ~~or~~ her, or its shares, when such
 1286 exchange, cancellation, or reclassification would alter or
 1287 abolish the shareholder's voting rights or alter his, ~~or~~ her, or
 1288 its percentage of equity in the corporation, or effecting a
 1289 reduction or cancellation of accrued dividends or other
 1290 arrearages in respect to such shares;

1291 4. Reducing the stated redemption price of any of the
 1292 shareholder's redeemable shares, altering or abolishing any
 1293 provision relating to any sinking fund for the redemption or
 1294 purchase of any of his, ~~or~~ her, or its shares, or making any of
 1295 his, ~~or~~ her, or its shares subject to redemption when they are
 1296 not otherwise redeemable;

1297 5. Making noncumulative, in whole or in part, dividends of
 1298 any of the shareholder's preferred shares which had theretofore
 1299 been cumulative;

1300 6. Reducing the stated dividend preference of any of the

1301 shareholder's preferred shares; or
 1302 7. Reducing any stated preferential amount payable on any
 1303 of the shareholder's preferred shares upon voluntary or
 1304 involuntary liquidation;

1305 (j) An amendment of the articles of incorporation of a
 1306 social purpose corporation to which s. 607.504 or s. 607.505
 1307 applies;

1308 (k) An amendment of the articles of incorporation of a
 1309 benefit corporation to which s. 607.604 or s. 607.605 applies;

1310 (l) A merger, domestication, conversion, or share exchange
 1311 of a social purpose corporation to which s. 607.504 applies; or

1312 (m) A merger, domestication, conversion, or share exchange
 1313 of a benefit corporation to which s. 607.604 applies.

1314 Section 43. Subsection (1) of section 607.1303, Florida
 1315 Statutes, is amended to read:

1316 607.1303 Assertion of rights by nominees and beneficial
 1317 owners.—

1318 (1) A record shareholder may assert appraisal rights as to
 1319 fewer than all the shares registered in the record shareholder's
 1320 name but owned by a beneficial shareholder or a voting trust
 1321 beneficial owner only if the record shareholder objects with
 1322 respect to all shares of the class or series owned by the
 1323 beneficial shareholder or the ~~a~~ voting trust beneficial owner
 1324 and notifies the corporation in writing of the name and address
 1325 of each beneficial shareholder or voting trust beneficial owner

1326 on whose behalf appraisal rights are being asserted. The rights
 1327 of a record shareholder who asserts appraisal rights for only
 1328 part of the shares held of record in the record shareholder's
 1329 name under this subsection shall be determined as if the shares
 1330 as to which the record shareholder objects and the record
 1331 shareholder's other shares were registered in the names of
 1332 different record shareholders.

1333 Section 44. Subsection (1) of section 607.1320, Florida
 1334 Statutes, is amended to read:

1335 607.1320 Notice of appraisal rights.—

1336 (1) If a proposed corporate action described in s.
 1337 607.1302(1) is to be submitted to a vote at a shareholders'
 1338 meeting, the meeting notice (or, where no approval of such
 1339 action is required pursuant to s. 607.11035, the offer made
 1340 pursuant to s. 607.11035) ~~must~~ must state that the corporation has
 1341 concluded that shareholders are, are not, or may be entitled to
 1342 assert appraisal rights under this chapter. If the corporation
 1343 concludes that appraisal rights are or may be available, a copy
 1344 of ss. 607.1301-607.1340 must accompany the meeting notice or
 1345 offer sent to those record shareholders entitled to exercise
 1346 appraisal rights.

1347 Section 45. Subsection (1) of section 607.1333, Florida
 1348 Statutes, is amended to read:

1349 607.1333 Limitation on corporate payment.—

1350 (1) No payment shall be made to a shareholder seeking

1351 appraisal rights if, at the time of payment, the corporation is
 1352 unable to meet the distribution standards of s. 607.06401. In
 1353 such event, the shareholder shall, at the shareholder's option:

1354 (a) Withdraw his, ~~or~~ her, or its notice of intent to
 1355 assert appraisal rights, which shall in such event be deemed
 1356 withdrawn with the consent of the corporation; or

1357 (b) Retain his, ~~or~~ her, or its status as a claimant
 1358 against the corporation and, if it is liquidated, be
 1359 subordinated to the rights of creditors of the corporation, but
 1360 have rights superior to the shareholders not asserting appraisal
 1361 rights, and if the corporation is not liquidated, retain his, ~~or~~
 1362 her, or its right to be paid for the shares, which right the
 1363 corporation shall be obliged to satisfy when the restrictions of
 1364 this section do not apply.

1365 Section 46. Subsection (1) of section 607.1340, Florida
 1366 Statutes, is amended to read:

1367 607.1340 Other remedies limited.—

1368 (1) A shareholder entitled to appraisal rights under this
 1369 chapter may not challenge a completed corporate action for which
 1370 appraisal rights are available unless such corporate action was
 1371 either:

1372 (a) Not authorized and approved in accordance with the
 1373 applicable provisions of this chapter; or

1374 (b) Procured as a result of fraud, a material
 1375 misrepresentation, or an omission of a material fact necessary

1376 to make statements made, in light of the circumstances in which
1377 they were made, not misleading.

1378 Section 47. Subsection (3) of section 607.1403, Florida
1379 Statutes, is amended to read:

1380 607.1403 Articles of dissolution.—

1381 (3) For purposes of ss. 607.1401-607.1410, the term
1382 "dissolved corporation" means a corporation whose articles of
1383 dissolution have become effective and includes a successor
1384 entity. Further, for the purposes of this subsection, the term
1385 "successor entity" includes a trust, receivership, or other
1386 legal entity governed by the laws of this state to which the
1387 remaining assets and liabilities of a dissolved corporation are
1388 transferred and which exists solely for the purposes of
1389 prosecuting and defending suits by or against the dissolved
1390 corporation, thereby enabling the dissolved corporation to
1391 settle and close the business of the dissolved corporation, to
1392 dispose of and convey the property of the dissolved corporation,
1393 to discharge the liabilities of the dissolved corporation, and
1394 to distribute to the dissolved corporation's shareholders any
1395 remaining assets, but not for the purpose of continuing the
1396 activities and affairs for which the dissolved corporation was
1397 organized.

1398 Section 48. Paragraph (a) of subsection (5) of section
1399 607.1406, Florida Statutes, is amended to read:

1400 607.1406 Known claims against dissolved corporation.—

1401 (5)(a) For purposes of ss. 607.1401-607.1410, the term
 1402 ~~this section~~, "known claims" means any claim or liability that,
 1403 as of the date of the giving of the written notice contemplated
 1404 by subsections (1) and (2):

1405 1. Has matured sufficiently on or prior to the effective
 1406 date of the dissolution to be legally capable of assertion
 1407 against the dissolved corporation; or

1408 2. Is unmatured as of the effective date of the
 1409 dissolution but will mature in the future solely based on the
 1410 passage of time.

1411 Section 49. Subsections (1) and (6) of section 607.1422,
 1412 Florida Statutes, are amended to read:

1413 607.1422 Reinstatement following administrative
 1414 dissolution.—

1415 (1) A corporation that is administratively dissolved under
 1416 s. 607.1420 or that was dissolved under former s. 607.1421
 1417 before January 1, 2020, may apply to the department for
 1418 reinstatement at any time after the effective date of
 1419 dissolution. The corporation must submit all fees and penalties
 1420 then owed by the corporation at the rates provided by law ~~laws~~
 1421 at the time the corporation applies for reinstatement, together
 1422 with an application for reinstatement prescribed and furnished
 1423 by the department, which is signed by both the registered agent
 1424 and an officer or director of the corporation and states:

1425 (a) The name of the corporation;

1426 (b) The street address of the corporation's principal
 1427 office and mailing address;

1428 (c) The date of the corporation's organization;

1429 (d) The corporation's federal employer identification
 1430 number or, if none, whether one has been applied for;

1431 (e) The name, title or capacity, and address of at least
 1432 one officer or director of the corporation; and

1433 (f) Additional information that is necessary or
 1434 appropriate to enable the department to carry out this chapter.

1435 (6) If the name of the dissolved corporation has been
 1436 lawfully assumed in this state by another eligible business
 1437 entity, the department shall require the dissolved corporation
 1438 to amend its articles of incorporation to change its name before
 1439 accepting its application for reinstatement.

1440 Section 50. Subsection (1), paragraph (b) of subsection
 1441 (3), and subsection (4) of section 607.1430, Florida Statutes,
 1442 are amended to read:

1443 607.1430 Grounds for judicial dissolution.—

1444 (1) A circuit court may dissolve a corporation or order
 1445 such other remedy as provided in s. 607.1434:

1446 (a) In a proceeding by the Department of Legal Affairs to
 1447 dissolve a corporation if it is established that:

1448 1. The corporation obtained its articles of incorporation
 1449 through fraud; or

1450 2. The corporation has continued to exceed or abuse the

1451 authority conferred upon it by law.

1452

1453 The enumeration in subparagraphs 1. and 2. of grounds for
 1454 involuntary dissolution does not exclude actions or special
 1455 proceedings by the Department of Legal Affairs or any state
 1456 official for the annulment or dissolution of a corporation for
 1457 other causes as provided in any other statute of this state;

1458 (b) In a proceeding by a shareholder to dissolve a
 1459 corporation if it is established that:

1460 1. The directors are deadlocked in the management of the
 1461 corporate affairs, the shareholders are unable to break the
 1462 deadlock, and:

1463 a. Irreparable injury to the corporation is threatened or
 1464 being suffered;

1465 b. The business and affairs of the corporation can no
 1466 longer be conducted to the advantage of the shareholders
 1467 generally because of the deadlock; or

1468 c. Both sub-subparagraphs a. and b.; or

1469 2. The shareholders are deadlocked in voting power and
 1470 have failed to elect successors to directors whose terms have
 1471 expired or would have expired upon qualification of their
 1472 successors;

1473 3. The corporate assets are being misapplied or wasted,
 1474 causing material injury to the corporation; or

1475 4. The directors or those in control of the corporation

1476 have acted, are acting, or are reasonably expected to act in a
 1477 manner that is illegal or fraudulent;

1478 (c) In a proceeding by a creditor if it is established
 1479 that:

1480 1. The creditor's claim has been reduced to judgment, the
 1481 execution on the judgment returned unsatisfied, and the
 1482 corporation is insolvent; or

1483 2. The corporation has admitted in writing that the
 1484 creditor's claim is due and owing and the corporation is
 1485 insolvent;

1486 (d) In a proceeding by the corporation to have its
 1487 voluntary dissolution continued under court supervision; or

1488 (e) In a proceeding by a shareholder if the corporation
 1489 has abandoned its business and has failed within a reasonable
 1490 period of time to liquidate and distribute its assets and
 1491 dissolve.

1492 (3)

1493 (b) For purposes of ~~As used in~~ this section, the term
 1494 "deadlock sale provision" means a provision in a shareholder
 1495 agreement that complies with s. 607.0732, which is or may be
 1496 applicable in the event of a deadlock among the directors or
 1497 shareholders of the corporation, ~~+~~ which neither the directors nor
 1498 the shareholders, as applicable, of the corporation are able to
 1499 break, ~~+~~ and which provides for a deadlock breaking mechanism,
 1500 including, but not limited to:

1501 1. A redemption or a purchase and sale of shares or other
1502 equity securities;

1503 2. A governance change;

1504 3. A sale of the corporation or all or substantially all
1505 of the assets of the corporation; or

1506 4. A similar provision that, if initiated and effectuated,
1507 breaks the deadlock by causing the transfer of the shares or
1508 other equity securities, a governance change, or a sale of the
1509 corporation or all or substantially all of the corporation's
1510 assets.

1511 (4) A deadlock sale provision in a shareholder agreement
1512 that ~~which~~ complies with s. 607.0732 which is not initiated and
1513 effectuated before the court enters an order of judicial
1514 dissolution under subparagraph (1)(b)1. or subparagraph
1515 (1)(b)2., as the case may be, or an order directing the purchase
1516 of petitioner's interest under s. 607.1436, does not adversely
1517 affect the rights of shareholders to seek judicial dissolution
1518 under subparagraph (1)(b)1. or subparagraph (1)(b)2., as the
1519 case may be, or the rights of the corporation or one or more
1520 shareholders to purchase the petitioner's interest under s.
1521 607.1436. The filing of an action for judicial dissolution on
1522 the grounds described in subparagraph (1)(b)1. or subparagraph
1523 (1)(b)2., as the case may be, or an election to purchase the
1524 petitioner's interest under s. 607.1436, does not adversely
1525 affect the right of a shareholder to initiate an available

1526 deadlock sale provision under the shareholder agreement that
 1527 complies with s. 607.0732 or to enforce a shareholder-initiated
 1528 or an automatically-initiated deadlock sale provision if the
 1529 deadlock sale provision is initiated and effectuated before the
 1530 court enters an order of judicial dissolution under subparagraph
 1531 (1)(b)1. or subparagraph (1)(b)2., as the case may be, or an
 1532 order directing the purchase of petitioner's interest under s.
 1533 607.1436.

1534 Section 51. Subsection (5) of section 607.1431, Florida
 1535 Statutes, is amended to read:

1536 607.1431 Procedure for judicial dissolution.—

1537 (5) If the court determines that any party has commenced,
 1538 continued, or participated in a proceeding under s. 607.1430 and
 1539 has acted arbitrarily, frivolously, vexatiously, or not in good
 1540 faith, the court may, in its discretion, award attorney fees and
 1541 other reasonable expenses to the other parties to the proceeding
 1542 ~~action~~ who have been affected adversely by such actions.

1543 Section 52. Subsection (5) of section 607.1432, Florida
 1544 Statutes, is amended to read:

1545 607.1432 Receivership or custodianship.—

1546 (5) The court from time to time during the receivership or
 1547 custodianship may order compensation paid and expense
 1548 disbursements or reimbursements made to any ~~the~~ receiver or
 1549 custodian and his, her, or its counsel from the assets of the
 1550 corporation or proceeds from the sale of the assets.

1551 Section 53. Section 607.14401, Florida Statutes, is
 1552 amended to read:

1553 607.14401 Deposit with Department of Financial Services.—
 1554 Assets of a dissolved corporation that should be transferred to
 1555 a creditor, claimant, or shareholder of the corporation who
 1556 cannot be found or who is not competent to receive them shall be
 1557 reduced to cash and deposited with the Department of Financial
 1558 Services for safekeeping. When the creditor, claimant, or
 1559 shareholder furnishes satisfactory proof of entitlement to the
 1560 amount ~~or assets~~ deposited, the Department of Financial Services
 1561 shall pay such person or his, ~~or her,~~ or its representative that
 1562 amount.

1563 Section 54. Paragraphs (c), (h), and (k) of subsection (2)
 1564 of section 607.1501, Florida Statutes, are amended to read:

1565 607.1501 Authority of foreign corporation to transact
 1566 business required; activities not constituting transacting
 1567 business.—

1568 (2) The following activities, among others, do not
 1569 constitute transacting business within the meaning of subsection
 1570 (1):

1571 (c) Maintaining ~~bank~~ accounts in financial institutions.

1572 (h) Securing or collecting debts or enforcing mortgages or
 1573 security interests in property securing the debts, or ~~and~~
 1574 holding, protecting, or maintaining property so acquired.

1575 (k) Owning and controlling a subsidiary corporation

1576 incorporated in or limited liability company formed in, or
 1577 transacting business within, this state; or voting the shares of
 1578 any such subsidiary corporation+ or voting the membership
 1579 interests of any such limited liability company, which it has
 1580 lawfully acquired.

1581 Section 55. Subsections (3) and (8) of section 607.1502,
 1582 Florida Statutes, are amended to read:

1583 607.1502 Effect of failure to have a certificate of
 1584 authority.-

1585 (3) A court may stay a proceeding commenced by a foreign
 1586 corporation or its successor or assignee until it determines
 1587 whether the foreign corporation or its successor or assignee
 1588 requires a certificate of authority. If it so determines, the
 1589 court may further stay the proceeding until the foreign
 1590 corporation or its successor or assignee has obtained a
 1591 certificate of authority to transact business in this state.

1592 (8) If a foreign corporation transacts business in this
 1593 state without a certificate of authority or cancels its
 1594 certificate of authority, it appoints the secretary of state as
 1595 its agent for service of process in proceedings and actions for
 1596 ~~rights of action~~ arising out of the transaction of business in
 1597 this state.

1598 Section 56. Subsection (2) of section 607.1503, Florida
 1599 Statutes, is amended to read:

1600 607.1503 Application for certificate of authority.-

1601 (2) The foreign corporation shall deliver with a completed
 1602 application under subsection (1) a certificate of existence or a
 1603 record of similar import, duly authenticated, not more than 90
 1604 days prior to delivery of the application to the department,
 1605 signed by the official having custody of the foreign
 1606 corporation's publicly filed records in its jurisdiction of
 1607 incorporation. A translation of the certificate, under oath of
 1608 the translator, must be attached to a certificate which is in a
 1609 language other than the English language.

1610 Section 57. Paragraph (c) of subsection (1) and paragraph
 1611 (c) of subsection (2) of section 607.1504, Florida Statutes, are
 1612 amended to read:

1613 607.1504 Amended certificate of authority.-

1614 (1) A foreign corporation authorized to transact business
 1615 in this state shall deliver for filing an amendment to its
 1616 certificate of authority to reflect a change in any of the
 1617 following:

1618 (c) The name and street address in this state of the
 1619 foreign corporation's registered agent in this state, unless the
 1620 change was timely made in accordance with s. 607.1508 or s.
 1621 607.15091 ~~s. 607.0502~~ ~~or s. 607.05031~~.

1622 (2) The amendment must be filed within 90 days after the
 1623 occurrence of a change described in subsection (1), must be
 1624 signed by an officer of the foreign corporation, and must state
 1625 the following:

1626 (c) The date the foreign corporation was authorized to
 1627 transact ~~do~~ business in this state.

1628 Section 58. Subsection (1) of section 607.1505, Florida
 1629 Statutes, is amended to read:

1630 607.1505 Effect of a certificate of authority.—

1631 (1) Unless the department determines that ~~than~~ an
 1632 application for a certificate of authority of a foreign
 1633 corporation to transact business in this state does not comply
 1634 with the filing requirements of this chapter, the department
 1635 shall, upon payment of all filing fees, authorize the foreign
 1636 corporation to transact business in this state and file the
 1637 application for certificate of authority.

1638 Section 59. Subsection (3) of section 607.1507, Florida
 1639 Statutes, is amended to read:

1640 607.1507 Registered office and registered agent of foreign
 1641 corporation.—

1642 (3) Each initial registered agent, and each successor
 1643 registered agent that is appointed, shall file a statement in
 1644 writing with the department, in the form and manner prescribed
 1645 by the department, accepting the appointment as a registered
 1646 agent while simultaneously being designated as the registered
 1647 agent. The statement of acceptance must provide that the
 1648 registered agent is familiar with, and accepts, the obligations
 1649 of that position.

1650 Section 60. Subsection (3) of section 607.1509, Florida

1651 Statutes, is amended to read:

1652 607.1509 Resignation of registered agent of foreign
1653 corporation.—

1654 (3) A registered agent is terminated upon the earlier of:

1655 (a) The 31st day after the department files the statement
1656 of resignation; or

1657 (b) When a statement of change or other record designating
1658 a new registered agent is filed with ~~by~~ the department.

1659 Section 61. Subsection (1) of section 607.15091, Florida
1660 Statutes, is amended to read:

1661 607.15091 Change of name or address by registered agent.—

1662 (1) If a registered agent changes his, ~~or~~ her, or its name
1663 or address, the agent may deliver to the department for filing a
1664 statement of change containing the following:

1665 (a) The name of the foreign corporation represented by the
1666 registered agent.

1667 (b) The name of the registered agent as currently shown in
1668 the records of the department for the corporation.

1669 (c) If the name of the registered agent has changed, his,
1670 her, or its new name.

1671 (d) If the address of the registered agent has changed,
1672 the new address.

1673 (e) A statement that the registered agent has given the
1674 notice required under subsection (2).

1675 Section 62. Subsection (7) of section 607.15101, Florida

1676 Statutes, is amended to read:

1677 607.15101 Service of process, notice, or demand on a
1678 foreign corporation.—

1679 (7) Any notice or demand on a foreign corporation under
1680 this chapter may be given or made: to the chair of the board,
1681 the president, any vice president, the secretary, or the
1682 treasurer of the foreign corporation; to the registered agent of
1683 the foreign corporation at the registered office of the foreign
1684 corporation in this state; or to any other address in this state
1685 that is in fact the principal office of the foreign corporation
1686 in this state.

1687 Section 63. Paragraph (e) of subsection (1) of section
1688 607.1520, Florida Statutes, is amended to read:

1689 607.1520 Withdrawal and cancellation of certificate of
1690 authority for foreign corporation.—

1691 (1) To cancel its certificate of authority to transact
1692 business in this state, a foreign corporation must deliver to
1693 the department for filing a notice of withdrawal of certificate
1694 of authority. The certificate of authority is canceled when the
1695 notice of withdrawal becomes effective pursuant to s. 607.0123.
1696 The notice of withdrawal of certificate of authority must be
1697 signed by an officer or director and state the following:

1698 (e) That the foreign corporation ~~it~~ revokes the authority
1699 of its registered agent to accept service on its behalf and
1700 appoints the secretary of state as its agent for service of

1701 process based on a cause of action arising during the time it
 1702 was authorized to transact business in this state.

1703 Section 64. Subsections (1), (2), and (8) of section
 1704 607.1602, Florida Statutes, are amended to read:

1705 607.1602 Inspection of records by shareholders.—

1706 (1) A shareholder of a corporation is entitled to inspect
 1707 and copy, during regular business hours at the corporation's
 1708 principal office, any of the records of the corporation
 1709 described in s. 607.1601(1), excluding minutes of meetings of,
 1710 and records of actions taken without a meeting by, the
 1711 corporation's board of directors and any board committees of the
 1712 corporation established under s. 607.0825, if the shareholder
 1713 gives the corporation written notice of the shareholder's demand
 1714 at least 5 business days before the date on which the
 1715 shareholder wishes to inspect and copy.

1716 (2) A shareholder of a corporation is entitled to inspect
 1717 and copy, during regular business hours at a reasonable location
 1718 specified by the corporation, any of the following records of
 1719 the corporation if the shareholder meets the requirements of
 1720 subsection (3) and gives the corporation written notice of the
 1721 shareholder's demand at least 5 business days before the date on
 1722 which the shareholder wishes to inspect and copy:

1723 (a) Excerpts from minutes of any meeting of, or records of
 1724 any actions taken without a meeting by, the corporation's board
 1725 of directors and board committees of the corporation maintained

1726 in accordance with s. 607.1601(1);
 1727 (b) The financial statements of the corporation maintained
 1728 in accordance with s. 607.1601(2);
 1729 (c) Accounting records of the corporation;
 1730 (d) The record of shareholders maintained in accordance
 1731 with s. 607.1601(4); and
 1732 (e) Any other books and records.
 1733 (8) A corporation may deny any demand for inspection made
 1734 pursuant to subsection (2) if the demand was made for an
 1735 improper purpose, or if the demanding shareholder has within 2
 1736 years preceding his, ~~or~~ her, or its demand sold or offered for
 1737 sale any list of shareholders of the corporation or any other
 1738 corporation, has aided or abetted any person in procuring any
 1739 list of shareholders for any such purpose, or has improperly
 1740 used any information secured through any prior examination of
 1741 the records of the corporation or any other corporation.
 1742 Section 65. Subsections (1) and (3) of section 607.1604,
 1743 Florida Statutes, are amended to read:
 1744 607.1604 Court-ordered inspection.—
 1745 (1) If a corporation does not allow a shareholder who
 1746 complies with s. 607.1602(1) to inspect and copy any records
 1747 required by that subsection to be available for inspection, the
 1748 circuit court in the applicable county may summarily order
 1749 inspection and copying of the records demanded at the
 1750 corporation's expense upon application of the shareholder. If

1751 the court orders inspection and copying of the records demanded
 1752 under s. 607.1602(1) ~~s. 607.1601(1)~~, it shall also order the
 1753 corporation to pay the shareholder's expenses, including
 1754 reasonable attorney fees, incurred to obtain the order and
 1755 enforce its rights under this section.

1756 (3) If the court orders inspection or ~~and~~ copying of the
 1757 records demanded under s. 607.1602(2), it may impose reasonable
 1758 restrictions on the disclosure, use, or distribution of, and
 1759 reasonable obligations to maintain the confidentiality of, such
 1760 records, and it shall also order the corporation to pay the
 1761 shareholder's expenses incurred, including reasonable attorney
 1762 fees, incurred to obtain the order and enforce its rights under
 1763 this section unless the corporation establishes that the
 1764 corporation refused inspection in good faith because the
 1765 corporation had:

1766 (a) A reasonable basis for doubt about the right of the
 1767 shareholder to inspect or copy the records demanded; or

1768 (b) Required reasonable restrictions on the disclosure,
 1769 use, or distribution of, and reasonable obligations to maintain
 1770 the confidentiality of, such records demanded to which the
 1771 demanding shareholder had been unwilling to agree.

1772 Section 66. Subsections (2) and (4) of section 607.1622,
 1773 Florida Statutes, are amended to read:

1774 607.1622 Annual report for department.—

1775 (2) If an annual report contains the name and address of a

1776 registered agent which differs from the information shown in the
 1777 records of the department immediately before the annual report
 1778 becomes effective, the differing information in the annual
 1779 report is considered a statement of change under s. 607.0502 or
 1780 s. 607.1508, as the case may be.

1781 (4) The first annual report must be delivered to the
 1782 department between January 1 and May 1 of the year following the
 1783 calendar year in which a domestic corporation's articles of
 1784 incorporation became effective or a foreign corporation obtained
 1785 its certificate of authority to transact business in this state.
 1786 Subsequent annual reports must be delivered to the department
 1787 between January 1 and May 1 of each calendar year thereafter. If
 1788 one or more forms of annual report are submitted for a calendar
 1789 year, the department shall file each of them and make the
 1790 information contained in them part of the official record. The
 1791 first form of annual report filed in a calendar year shall be
 1792 considered the annual report for that ~~the~~ calendar year, and
 1793 each report filed after that one in the same calendar year shall
 1794 be treated as an amended report for that calendar year.

1795 Section 67. Section 607.1703, Florida Statutes, is created
 1796 to read:

1797 607.1703 Interrogatories by department; other powers of
 1798 department.-

1799 (1) The department may direct to any domestic corporation
 1800 or foreign corporation subject to this chapter, and to any

1801 officer or director of any domestic corporation or foreign
 1802 corporation subject to this chapter, interrogatories reasonably
 1803 necessary and proper to enable the department to ascertain
 1804 whether the domestic corporation or foreign corporation has
 1805 complied with the provisions of this chapter applicable to the
 1806 domestic corporation or foreign corporation. The interrogatories
 1807 must be answered within 30 days after the date of mailing, or
 1808 within such additional time as fixed by the department. The
 1809 answers to the interrogatories must be full and complete and
 1810 must be made in writing and under oath. If the interrogatories
 1811 are directed to an individual, they must be answered by the
 1812 individual, and if directed to a domestic corporation or foreign
 1813 corporation, they must be answered by an officer or director of
 1814 the domestic corporation or foreign corporation, by a
 1815 shareholder if there are no officers or directors of the
 1816 domestic corporation or foreign corporation, or by a fiduciary
 1817 if the corporation is in the hands of a receiver, trustee, or
 1818 other court-appointed fiduciary.

1819 (2) The department need not file a record in a court of
 1820 competent jurisdiction to which the interrogatories relate until
 1821 the interrogatories are answered as provided in this chapter,
 1822 and is not required to file a record if the answers disclose
 1823 that the record is not in conformity with the requirements of
 1824 this chapter or if the department has determined that the
 1825 parties to such document have not paid all fees, taxes, and

1826 penalties due and owing this state. The department shall certify
 1827 to the Department of Legal Affairs, for such action as the
 1828 Department of Legal Affairs may deem appropriate, all
 1829 interrogatories and answers that disclose a violation of this
 1830 chapter.

1831 (3) The department may, based upon its findings under this
 1832 section or as provided in s. 213.053(15), bring an action in
 1833 circuit court to collect any penalties, fees, or taxes
 1834 determined to be due and owing the state and to compel any
 1835 filing, qualification, or registration required by law. In
 1836 connection with such proceeding, the department may, without
 1837 prior approval by the court, file a lis pendens against any
 1838 property owned by the corporation and may further certify any
 1839 findings to the Department of Legal Affairs for the initiation
 1840 of an action permitted pursuant to this chapter which the
 1841 Department of Legal Affairs may deem appropriate.

1842 (4) The department has the power and authority reasonably
 1843 necessary to administer this chapter efficiently, to perform the
 1844 duties herein imposed upon it, and to adopt reasonable rules
 1845 necessary to carry out its duties and functions under this
 1846 chapter.

1847 Section 68. Section 607.1907, Florida Statutes, is amended
 1848 to read:

1849 607.1907 Saving provision.—

1850 (1) Except as to procedural provisions, chapter 2019-90,

1851 Laws of Florida, ~~this act~~ does not affect a pending action or
 1852 proceeding or a right accrued before January 1, 2020, and a
 1853 pending civil action or proceeding may be completed, and a right
 1854 accrued may be enforced, as if chapter 2019-90, Laws of Florida,
 1855 ~~this act~~ had not become effective.

1856 (2) If a penalty or punishment for violation of a statute
 1857 or rule is reduced by chapter 2019-90, Laws of Florida, ~~this~~
 1858 ~~act~~, the penalty or punishment, if not already imposed, shall be
 1859 imposed in accordance with chapter 2019-90, Laws of Florida ~~this~~
 1860 ~~act~~.

1861 Section 69. Subsection (3) of section 607.504, Florida
 1862 Statutes, is amended to read:

1863 607.504 Election of social purpose corporation status.—

1864 (3) If an entity elects to become a social purpose
 1865 corporation by amendment of the articles of incorporation or by
 1866 a merger, domestication, conversion, or share exchange, the
 1867 shareholders of the entity are entitled to appraisal rights
 1868 under and pursuant to ss. 607.1301-607.1340.

1869 Section 70. Subsection (1) of section 605.0116, Florida
 1870 Statutes, is amended to read:

1871 605.0116 Change of name or address by registered agent.—

1872 (1) If a registered agent changes his, ~~or~~ her, or its name
 1873 or address, the agent may deliver to the department for filing a
 1874 statement of change that provides the following:

1875 (a) The name of the limited liability company or foreign

1876 limited liability company represented by the registered agent.

1877 (b) The name of the registered agent as currently shown in
 1878 the records of the department for the limited liability company
 1879 or foreign limited liability company.

1880 (c) If the name of the registered agent has changed, his,
 1881 her, or its new name.

1882 (d) If the address of the registered agent has changed,
 1883 the new address.

1884 (e) A statement that the registered agent has given the
 1885 notice required under subsection (2).

1886 Section 71. Subsections (2) and (7) of section 605.0207,
 1887 Florida Statutes, are amended to read:

1888 605.0207 Effective date and time.—Except as otherwise
 1889 provided in s. 605.0208, and subject to s. 605.0209(3), any
 1890 document delivered to the department for filing under this
 1891 chapter may specify an effective time and a delayed effective
 1892 date. In the case of initial articles of organization, a prior
 1893 effective date may be specified in the articles of organization
 1894 if such date is within 5 business days before the date of
 1895 filing. Subject to ss. 605.0114, 605.0115, 605.0208, and
 1896 605.0209, a record filed by the department is effective:

1897 (2) If the record filed specifies an effective time, but
 1898 not a prior or delayed effective date, on the date the record is
 1899 accepted, as evidenced by the department's endorsement, and
 1900 ~~filed~~ at the time specified in the filing.

1901 (7) If the record filed ~~a filed document~~ does not specify
 1902 the time zone or place at which the date or time, or both, is to
 1903 be determined, the date or time, or both, at which it becomes
 1904 effective shall be those prevailing at the place of filing in
 1905 this state.

1906 Section 72. Section 605.0215, Florida Statutes, is amended
 1907 to read:

1908 605.0215 Certificates to be received in evidence and
 1909 evidentiary effect of certified copy of filed document.—All
 1910 certificates issued by the department in accordance with this
 1911 chapter shall be taken and received in all courts, public
 1912 offices, and official bodies as prima facie evidence of the
 1913 facts stated. A certificate from the department delivered with a
 1914 copy of a document filed by the department bearing the signature
 1915 of the secretary of state, which may be in facsimile, and the
 1916 seal of this state, is conclusive evidence that the original
 1917 document is on file with the department.

1918 Section 73. Paragraph (b) of subsection (2) of section
 1919 605.0702, Florida Statutes, is amended to read:

1920 605.0702 Grounds for judicial dissolution.—

1921 (2)

1922 (b) For purposes of ~~As used in~~ this section, the term
 1923 "deadlock sale provision" means a provision in an operating
 1924 agreement which is or may be applicable in the event of a
 1925 deadlock among the managers or the members of the limited

1926 liability company which the members of the company are unable to
 1927 break and which provides for a deadlock breaking mechanism,
 1928 including, but not limited to:

- 1929 1. A redemption or a purchase and sale of interests;
- 1930 2. A governance change, among or between members;
- 1931 3. The sale of the company or all or substantially all of
- 1932 the assets of the company; or
- 1933 4. A similar provision that, if initiated and effectuated,
- 1934 breaks the deadlock by causing the transfer of interests, a
- 1935 governance change, or the sale of all or substantially all of
- 1936 the company's assets.

1937 Section 74. Subsection (2) of section 605.0716, Florida
 1938 Statutes, is amended to read:

1939 605.0716 Judicial review of denial of reinstatement.—

1940 (2) Within 30 days after service of a notice of denial of
 1941 reinstatement, a limited liability company may appeal the denial
 1942 by petitioning the Circuit Court of Leon County to set aside the
 1943 dissolution. The petition must be served on the department and
 1944 must contain a copy of the department's notice of administrative
 1945 dissolution, the company's application for reinstatement, and
 1946 the department's notice of denial.

1947 Section 75. Subsection (1) of section 617.0501, Florida
 1948 Statutes, is amended to read:

1949 617.0501 Registered office and registered agent.—

1950 (1) Each corporation shall have and continuously maintain

1951 | in this state:

1952 | (a) A registered office which may be the same as its
1953 | principal office; and

1954 | (b) A registered agent, who may be either:

1955 | 1. An individual who resides in this state whose business
1956 | office is identical with such registered office; or

1957 | 2.a. Another domestic entity that is an authorized entity
1958 | whose business address is identical to the address of the
1959 | registered office;7 or

1960 | b. A foreign entity authorized to transact business in
1961 | this state that is an authorized entity and whose business
1962 | address is identical to the address of the registered office.

1963 | Section 76. Section 617.0825, Florida Statutes, is amended
1964 | to read:

1965 | 617.0825 Board committees and advisory committees.-

1966 | (1) Unless the articles of incorporation or the bylaws
1967 | otherwise provide, the board of directors, by resolution adopted
1968 | by a majority of the full board of directors, may create an
1969 | executive committee and one or more other committees of the
1970 | board and appoint directors or such other persons as the board
1971 | of directors designates to serve on such committee or
1972 | committees. The majority of the persons on each committee must
1973 | be directors.

1974 | (2) Notwithstanding subsection (1), a board committee may
1975 | be composed of less than a majority of directors or entirely of

1976 non-directors if:

1977 (a) The committee is created by the board of directors or
 1978 is otherwise authorized by the articles of incorporation or the
 1979 bylaws; and

1980 (b) The committee relates to the election, nomination,
 1981 qualification, or credentials of directors or is involved in the
 1982 process of electing directors. ~~designate from among its members~~
 1983 ~~an executive committee and one or more other committees each of~~
 1984 which,

1985 (3) To the extent provided by the board of directors in a
 1986 ~~such~~ resolution or in the articles of incorporation or the
 1987 bylaws of the corporation, each such committee shall have and
 1988 may exercise powers and ~~all the~~ authority of the board of
 1989 directors, except that no such committee shall have the power or
 1990 authority to:

1991 (a) Approve or recommend to members actions or proposals
 1992 required by this act to be approved by members.

1993 (b) Fill vacancies on the board of directors or any
 1994 committee thereof.

1995 (c) Adopt, amend, or repeal the bylaws.

1996 (4)~~(2)~~ Unless the articles of incorporation or the bylaws
 1997 provide otherwise, ss. 617.0820, 617.0822, 617.0823, and
 1998 617.0824, which govern meetings, notice and waiver of notice,
 1999 and quorum and voting requirements of the board of directors,
 2000 apply to committees and their members as well.

2001 (5)~~(3)~~ Each committee must have two or more members who
 2002 serve at the pleasure of the board of directors. The board, by
 2003 resolution adopted in accordance with and consistent with
 2004 subsection (1), may designate one or more ~~directors~~ as alternate
 2005 members of any such committee who may act in the place and stead
 2006 of any absent member or members at any meeting of such
 2007 committee.

2008 (6) A committee member who is not a director has the same
 2009 responsibility and fiduciary duties with respect to activities
 2010 of such committee, and the same liability protections, as a
 2011 committee member who is a director.

2012 (7)~~(4)~~ Neither the designation of any such committee, the
 2013 delegation thereto of authority, nor action by such committee
 2014 pursuant to such authority shall alone constitute compliance by
 2015 any member of the board of directors not a member of the
 2016 committee in question with his or her responsibility to act in
 2017 good faith, in a manner he or she reasonably believes to be in
 2018 the best interests of the corporation, and with such care as an
 2019 ordinarily prudent person in a like position would use under
 2020 similar circumstances.

2021 (8) A corporation may create or authorize the creation of
 2022 one or more advisory committees with any number of persons on
 2023 the committee being non-directors. An advisory committee:

- 2024 (a) Is not a committee of the board of directors; and
- 2025 (b) May not act on behalf of or exercise any of the powers

2026 or authority of the board of directors or bind the corporation
 2027 to any action, but may make recommendations to the board of
 2028 directors, to the officers, or to the members.

2029 (9) This section does not apply to a committee established
 2030 under chapter 718, chapter 719, or chapter 720 to perform the
 2031 functions set forth in s. 718.303(3), s. 719.303(3), s.
 2032 720.303(2), or s. 720.3035(1), respectively.

2033 Section 77. This act shall take effect upon becoming a
 2034 law.