

1 AN ACT

2 relating to business entities and associations.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Section 1.002, Business Organizations Code, is
5 amended by amending Subdivision (43) and adding Subdivisions (69-a)
6 and (69-b) to read as follows:

7 (43) "Jurisdiction of formation" means:

8 (A) in the case of a domestic filing entity, this
9 state;

10 (B) in the case of a foreign [~~filing~~] entity for
11 which a certificate of formation or similar organizational
12 instrument is filed in connection with its formation, the
13 jurisdiction in which the entity's certificate of formation or
14 similar organizational instrument is filed; or

15 (C) in the case of a [~~foreign or~~] domestic
16 nonfiling entity or a foreign entity for which a certificate of
17 formation or similar organizational instrument is not filed in
18 connection with its formation:

19 (i) the jurisdiction the laws of which are
20 chosen in the entity's governing documents to govern its internal
21 affairs if that jurisdiction bears a reasonable relation to the
22 owners or members or to the [~~domestic or foreign nonfiling~~]
23 entity's business and affairs under the principles of this state
24 that otherwise would apply to a contract among the owners or

1 members; or

2 (ii) if Subparagraph (i) does not apply,
3 the jurisdiction in which the entity has its chief executive
4 office.

5 (69-a) "Period of duration," in reference to when a
6 domestic entity is required to wind up its business and affairs:

7 (A) means:

8 (i) a specified term or period of time, such
9 as a specified number of months or years; or

10 (ii) a period that expires as of a specified
11 time or date; and

12 (B) does not include:

13 (i) a period that expires or whose
14 expiration is made contingent on the occurrence of a future event or
15 fact, other than the passage of time or the occurrence of a
16 specified time or date; or

17 (ii) a period specified to be perpetual.

18 (69-b) "Person" has the meaning assigned by Section
19 311.005, Government Code.

20 SECTION 2. Section 1.006, Business Organizations Code, is
21 amended to read as follows:

22 Sec. 1.006. SYNONYMOUS TERMS. To the extent not
23 inconsistent with the provisions of the constitution, ~~and~~ other
24 statutes or codes, and governing documents wherein such terms may
25 be found, and as the context requires, in this code, ~~or~~ any other
26 statute or code of this state, or any governing documents:

27 (1) a reference to "articles of incorporation,"

1 "articles of organization," "articles of association,"
2 "certificate of limited partnership," and "charter" includes a
3 "certificate of formation";

4 (2) a reference to "authorized capital stock" includes
5 "authorized shares";

6 (3) a reference to "capital stock" includes
7 "authorized and issued shares," "issued share," and "stated
8 capital";

9 (4) a reference to a "certificate of registration,"
10 "certificate of authority," and "permit to do business" includes
11 "registration";

12 (5) a reference to "stock" and "shares of stock"
13 includes "shares";

14 (6) a reference to "stockholder" includes
15 "shareholder";

16 (7) a reference to "no par stock" includes "shares
17 without par value";

18 (8) a reference to "paid-up capital" includes "stated
19 capital";

20 (9) a reference to "articles of merger" includes a
21 "certificate of merger";

22 (10) a reference to "articles of exchange" includes a
23 "certificate of exchange";

24 (11) a reference to "articles of conversion" includes
25 a "certificate of conversion";

26 (12) a reference to "articles of amendment" includes a
27 "certificate of amendment"; [~~and~~]

1 (13) a reference to "articles of dissolution" or
2 "certificate of cancellation" includes a "certificate of
3 termination";

4 (14) a reference to "incorporator" includes an
5 "organizer";

6 (15) a reference to "certificate of authority to
7 transact business" includes a "registration to transact business";

8 (16) a reference to "regulations" in connection with a
9 limited liability company includes a "company agreement"; and

10 (17) a reference to "business corporation" includes a
11 "for-profit corporation." [~~termination."~~]

12 SECTION 3. Sections 1.008(g), (h), and (i), Business
13 Organizations Code, are amended to read as follows:

14 (g) The provisions of Chapters 151, 153, and 154 and the
15 provisions of Title 1 and Chapter 152 to the extent applicable to
16 limited partnerships may be cited as the "Texas Limited Partnership
17 Law."

18 (h) The provisions of Title 5 and the provisions of Title 1
19 and Chapters 20 and 21 to the extent applicable to real estate
20 investment trusts may be cited as the "Texas Real Estate Investment
21 Trust Law."

22 (i) The provisions of Chapter 251 and the provisions of
23 Title 1 and Chapters 20 and 22 to the extent applicable to
24 cooperative associations may be cited as the "Texas Cooperative
25 Association Law."

26 SECTION 4. Section 2.003, Business Organizations Code, is
27 amended to read as follows:

1 Sec. 2.003. GENERAL PROHIBITED PURPOSES. A domestic entity
2 may not:

3 (1) engage in a business or activity that:

4 (A) is expressly unlawful or prohibited by a law
5 of this state; or

6 (B) cannot lawfully be engaged in by that entity
7 under state law; or

8 ~~[(C) may not be engaged in by an entity without
9 first obtaining a license under the laws of this state to engage in
10 that business or activity and a license cannot lawfully be granted
11 to the entity; or]~~

12 (2) operate as a:

13 (A) bank;

14 (B) trust company;

15 (C) savings association;

16 (D) insurance company;

17 (E) railroad company;

18 (F) cemetery organization, except as authorized
19 by Chapter 711, 712, or 715, Health and Safety Code; or

20 (G) abstract or title company governed by Title
21 11, Insurance Code.

22 SECTION 5. Section 2.007, Business Organizations Code, is
23 amended to read as follows:

24 Sec. 2.007. ADDITIONAL PROHIBITED ACTIVITIES OF FOR-PROFIT
25 CORPORATION. A for-profit corporation may not:

26 (1) operate a cooperative association, limited
27 cooperative association, or labor union;

1 (2) transact a combination of the businesses of:

2 (A) raising cattle and owning land for the
3 raising of cattle, other than operating and owning feedlots and
4 feeding cattle; and

5 (B) operating stockyards and slaughtering,
6 refrigerating, canning, curing, or packing meat; [~~or~~]

7 (3) engage in a combination of:

8 (A) the petroleum oil producing business in this
9 state; and

10 (B) the oil pipeline business in this state other
11 than through stock ownership in a for-profit corporation engaged in
12 the oil pipeline business and other than the ownership or operation
13 of private pipelines in and about the corporation's refineries,
14 fields, or stations; or

15 (4) engage in a business or activity that may not be
16 engaged in by a for-profit corporation without first obtaining a
17 license under the laws of this state and a license to engage in that
18 business or activity cannot lawfully be granted to the corporation.

19 SECTION 6. Section 2.010, Business Organizations Code, is
20 amended to read as follows:

21 Sec. 2.010. PROHIBITED ACTIVITIES OF NONPROFIT
22 CORPORATION. A nonprofit corporation may not be organized or
23 registered under this code to conduct its affairs in this state to:

24 (1) engage in or operate as a group hospital service,
25 rural credit union, agricultural and livestock pool, mutual loan
26 corporation, cooperative association under Chapter 251,
27 cooperative credit association, farmers' cooperative society,

1 Co-operative Marketing Act corporation, rural electric cooperative
2 corporation, telephone cooperative corporation, or fraternal
3 organization operating under the lodge system and incorporated
4 under Subchapter C, Chapter 23; [~~or~~]

5 (2) engage in water supply or sewer service except as
6 an entity incorporated under Chapter 67, Water Code; or

7 (3) engage in a business or activity that may not be
8 engaged in by a nonprofit corporation without first obtaining a
9 license under the laws of this state and a license to engage in that
10 business or activity cannot lawfully be granted to the corporation.

11 SECTION 7. Section 2.101, Business Organizations Code, is
12 amended to read as follows:

13 Sec. 2.101. GENERAL POWERS. Except as otherwise provided
14 by this code, a domestic entity has the same powers as an individual
15 to take action necessary or convenient to carry out its business and
16 affairs. Except as otherwise provided by this code, the powers of a
17 domestic entity include the power to:

18 (1) sue, be sued, and defend suit in the entity's
19 business name;

20 (2) have and alter a seal and use the seal or a
21 facsimile of it by impressing, affixing, or reproducing it;

22 (3) acquire, receive, own, hold, improve, use, and
23 deal in and with property or an interest in property;

24 (4) sell, convey, mortgage, pledge, lease, exchange,
25 and otherwise dispose of property;

26 (5) make contracts and guarantees;

27 (6) incur liabilities, borrow money, issue notes,

1 bonds, or other obligations, which may be convertible into, or
2 include the option to purchase, other securities or ownership
3 interests in the entity, and secure its obligations by mortgaging
4 or pledging its property, franchises, or income;

5 (7) lend money, invest its funds, and receive and hold
6 property as security for repayment [~~if the loan or assistance~~
7 ~~reasonably may be expected to benefit, directly or indirectly, the~~
8 ~~entity~~];

9 (8) acquire its own bonds, debentures, or other
10 evidences of indebtedness or obligations;

11 (9) acquire its own ownership interests, regardless of
12 whether redeemable, and hold the ownership interests as treasury
13 ownership interests or cancel or dispose of the ownership
14 interests;

15 (10) be a promoter, organizer, owner, partner, member,
16 associate, or manager of an organization;

17 (11) acquire, receive, own, hold, vote, use, pledge,
18 and dispose of ownership interests in or securities issued by
19 another person;

20 (12) conduct its business, locate its offices, and
21 exercise the powers granted by this code to further its purposes, in
22 or out of this state;

23 (13) lend money to, and otherwise assist, its
24 managerial officials, owners, members, or employees as necessary or
25 appropriate if the loan or assistance reasonably may be expected to
26 benefit, directly or indirectly, the entity;

27 (14) elect or appoint officers and agents of the

1 entity, establish the length of their terms, define their duties,
2 and fix their compensation;

3 (15) pay pensions and establish pension plans, pension
4 trusts, profit-sharing plans, bonus plans, and incentive plans for
5 managerial officials, owners, members, or employees or former
6 managerial officials, owners, members, or employees;

7 (16) indemnify and maintain liability insurance for
8 managerial officials, owners, members, employees, and agents of the
9 entity or the entity's affiliate;

10 (17) adopt and amend governing documents for managing
11 the affairs of the entity subject to applicable law;

12 (18) make donations for the public welfare or for a
13 charitable, scientific, or educational purpose;

14 (19) voluntarily wind up its business and activities
15 and terminate its existence;

16 (20) transact business or take action that will aid
17 governmental policy;

18 (21) renounce, in its certificate of formation or by
19 action of its governing authority, an interest or expectancy of the
20 entity in, or an interest or expectancy of the entity in being
21 offered an opportunity to participate in, specified business
22 opportunities or a specified class or category of business
23 opportunities presented to the entity or one or more of its
24 managerial officials or owners; and

25 (22) take other action necessary or appropriate to
26 further the purposes of the entity.

27 SECTION 8. Section 2.104(a), Business Organizations Code,

1 is amended to read as follows:

2 (a) In this section, "guaranty" means a guaranty, mortgage,
3 pledge, security agreement, or other agreement making the domestic
4 entity or its assets [~~secondarily~~] liable for another person's
5 contract, security, or other obligation.

6 SECTION 9. Section 3.005(a), Business Organizations Code,
7 is amended to read as follows:

8 (a) The certificate of formation must state:

9 (1) the name of the filing entity being formed;

10 (2) the type of filing entity being formed;

11 (3) for filing entities other than limited
12 partnerships, the purpose or purposes for which the filing entity
13 is formed, which may be stated to be or include any lawful purpose
14 for that type of entity;

15 (4) for filing entities other than limited
16 partnerships, the period of duration, if the entity is not formed to
17 exist perpetually and is intended to have a specific period of
18 duration;

19 (5) the street address of the initial registered
20 office of the filing entity and the name of the initial registered
21 agent of the filing entity at the office;

22 (6) the name and address of each:

23 (A) organizer for the filing entity, unless the
24 entity is formed under a plan of conversion or merger;

25 (B) general partner, if the filing entity is a
26 limited partnership; or

27 (C) trust manager, if the filing entity is a real

1 estate investment trust;

2 (7) if the filing entity is formed under a plan of
3 conversion or merger, a statement to that effect and, if formed
4 under a plan of conversion, the name, address, date of formation,
5 prior form of organization, and jurisdiction of formation of the
6 converting entity; and

7 (8) any other information required by this code to be
8 included in the certificate of formation for the filing entity.

9 SECTION 10. Section 3.007, Business Organizations Code, is
10 amended to read as follows:

11 Sec. 3.007. SUPPLEMENTAL PROVISIONS REQUIRED IN
12 CERTIFICATE OF FORMATION OF FOR-PROFIT OR PROFESSIONAL
13 CORPORATION. (a) In addition to the information required by
14 Section 3.005, the certificate of formation of a for-profit or
15 professional corporation must state:

16 (1) the aggregate number of shares the corporation is
17 authorized to issue;

18 (2) if the shares the corporation is authorized to
19 issue consist of one class of shares only, the par value of each
20 share or a statement that each share is without par value;

21 (3) if the corporation is to be managed by a board of
22 directors, the number of directors constituting the initial board
23 of directors and the name and address of each person who will serve
24 as director until the first annual meeting of shareholders and
25 until a successor is elected and qualified; and

26 (4) if the corporation is to be managed pursuant to a
27 shareholders' agreement in a manner other than by a board of

1 directors, the name and address of each person who will perform the
2 functions required by this code to be performed by the initial board
3 of directors.

4 (b) If the shares a for-profit or professional corporation
5 is authorized to issue consist of more than one class of shares, the
6 certificate of formation of the [~~for-profit~~] corporation must, with
7 respect to each class, state:

8 (1) the designation of the class;

9 (2) the aggregate number of shares in the class;

10 (3) the par value of each share or a statement that
11 each share is without par value;

12 (4) the preferences, limitations, and relative rights
13 of the shares; and

14 (5) if the shares in a class the corporation is
15 authorized to issue consist of more than one series, the following
16 with respect to each series:

17 (A) the designation of the series;

18 (B) the aggregate number of shares in the series;

19 (C) any preferences, limitations, and relative
20 rights of the shares to the extent provided in the certificate of
21 formation; and

22 (D) any authority vested in the board of
23 directors to establish the series and set and determine the
24 preferences, limitations, and relative rights of the series.

25 (c) If the shareholders of a for-profit or professional
26 corporation are to have a preemptive right or cumulative voting
27 right, the certificate of formation of the [~~for-profit~~] corporation

1 must comply with Section 21.203 or 21.360, as appropriate.

2 SECTION 11. Section 3.008(a), Business Organizations Code,
3 is amended to read as follows:

4 (a) In addition to a provision required or permitted to be
5 stated in the certificate of formation of a for-profit or
6 professional corporation under Section 3.007, the certificate of
7 formation of a close corporation, whether original, amended, or
8 restated, must include the sentence, "This corporation is a close
9 corporation."

10 SECTION 12. Section 3.015, Business Organizations Code, is
11 amended by amending Subsection (a) and adding Subsection (c) to
12 read as follows:

13 (a) In addition to containing the information required
14 under Sections 3.005 and 3.014, the certificate of formation of a
15 professional association must:

16 (1) be signed by each member of the association; and

17 (2) state:

18 (A) the name and address of each original member
19 of the association; ~~and~~

20 (B) whether the association is to be governed by
21 a board of directors or by an executive committee; and

22 (C) the name and address of each person serving
23 as an initial member of the board of directors or executive
24 committee [~~that a member of the association may not dissolve the~~
25 ~~association independently of other members~~] of the association.

26 (c) If the certificate of formation of a professional
27 association contains provisions regarding shares in the

1 association, the certificate of formation must also comply with
2 Section 3.007.

3 SECTION 13. The heading to Section 3.060, Business
4 Organizations Code, is amended to read as follows:

5 Sec. 3.060. SUPPLEMENTAL PROVISIONS FOR RESTATED
6 CERTIFICATE OF FORMATION FOR FOR-PROFIT CORPORATION OR
7 PROFESSIONAL CORPORATION.

8 SECTION 14. Section 3.060(a), Business Organizations Code,
9 is amended to read as follows:

10 (a) In addition to the provisions authorized or required by
11 Section 3.059, a restated certificate of formation for a for-profit
12 corporation or professional corporation may update the current
13 number of directors and the names and addresses of the persons
14 serving as directors.

15 SECTION 15. Subchapter B, Chapter 3, Business Organizations
16 Code, is amended by adding Section 3.0611 to read as follows:

17 Sec. 3.0611. SUPPLEMENTAL PROVISIONS FOR RESTATED
18 CERTIFICATE OF FORMATION FOR LIMITED LIABILITY COMPANY. In
19 addition to the provisions authorized or required by Section 3.059,
20 a restated certificate of formation for a limited liability company
21 may:

22 (1) if the company's certificate of formation states
23 that the company will have one or more managers, update the names
24 and addresses of the persons serving as managers; or

25 (2) if the certificate of formation states that the
26 company will not have managers, update the names and addresses of
27 the members of the company.

1 SECTION 16. Section 4.056(a), Business Organizations Code,
2 is amended to read as follows:

3 (a) If the effect of a filing instrument is conditioned on
4 the occurrence of a future event or fact, other than the passage of
5 time, and the statement required by Section 4.055 is not filed
6 before the expiration of the prescribed time, the filing instrument
7 does not take effect. This section does not preclude the filing of
8 a subsequent filing instrument required by this code to make the
9 action [~~event~~] or transaction evidenced by the original filing
10 instrument effective.

11 SECTION 17. Section 4.151, Business Organizations Code, is
12 amended to read as follows:

13 Sec. 4.151. FILING FEES: ALL ENTITIES. The secretary of
14 state shall impose the following fees:

15 (1) for filing a certificate of correction, \$15;

16 (2) for filing an application for reservation or
17 registration of a name, \$40;

18 (3) for filing a notice of transfer of a name
19 reservation [~~or registration~~], \$15;

20 (4) for filing an application for renewal of
21 registration of a name, \$40;

22 (5) for filing a certificate of merger or conversion,
23 other than a filing on behalf of a nonprofit corporation, \$300 plus,
24 with respect to a merger, any fee imposed for filing a certificate
25 of formation for each newly created filing entity or, with respect
26 to a conversion, the fee imposed for filing a certificate of
27 formation for the converted entity;

1 (6) for filing a certificate of exchange, \$300; and

2 (7) for preclearance of a filing instrument, \$50.

3 SECTION 18. Section 4.152, Business Organizations Code, is
4 amended to read as follows:

5 Sec. 4.152. FILING FEES: FOR-PROFIT CORPORATIONS. For a
6 filing by or for a for-profit corporation, the secretary of state
7 shall impose the following fees:

8 (1) for filing a certificate of formation, \$300;

9 (2) for filing a certificate of amendment, \$150;

10 (3) for filing an application of a foreign corporation
11 for registration to transact business in this state, \$750;

12 (4) for filing an application of a foreign corporation
13 for an amended registration to transact business in this state,
14 \$150;

15 (5) for filing a restated certificate of formation and
16 accompanying statement, \$300;

17 (6) for filing a statement of change of registered
18 office, registered agent, or both, \$15;

19 (7) for filing a statement of change of name or address
20 of a registered agent, \$15, except that the maximum fee for
21 simultaneous filings by a registered agent for more than one
22 corporation may not exceed \$750;

23 (8) for filing a statement of resolution establishing
24 one or more series of shares, \$15;

25 (9) for filing a certificate of termination, \$40;

26 (10) for filing a certificate of withdrawal of a
27 foreign corporation, \$15;

1 (11) for filing a certificate from the home state of a
2 foreign corporation that the corporation no longer exists in that
3 state, \$15;

4 (12) for filing a bylaw or agreement restricting
5 transfer of shares or securities other than as an amendment to the
6 certificate of formation, \$15;

7 (13) for filing an application for reinstatement of a
8 certificate of formation or registration as a foreign corporation
9 following forfeiture under the Tax Code, \$75;

10 (14) for filing an application for reinstatement of a
11 corporation or registration as a foreign corporation after
12 involuntary termination [~~dissolution~~] or revocation, \$75; and

13 (15) for filing any instrument as provided by this
14 code for which this section does not expressly provide a fee, \$15.

15 SECTION 19. Section 4.158, Business Organizations Code, is
16 amended to read as follows:

17 Sec. 4.158. FILING FEES: GENERAL PARTNERSHIPS. For a
18 filing by or for a general partnership, the secretary of state shall
19 impose the following fees:

20 (1) for filing a limited liability partnership
21 application, \$200 for each partner;

22 (2) for filing a limited liability partnership renewal
23 application, \$200 for each partner on the date of renewal;

24 (3) for filing an application for registration [~~a~~
25 ~~statement of foreign qualification~~] by a foreign limited liability
26 partnership, \$200 for each partner in this state, except that the
27 maximum fee may not exceed \$750;

1 (4) for filing a renewal of registration by a foreign
2 limited liability partnership, \$200 for each partner in this state,
3 except that the maximum fee may not exceed \$750;

4 (5) for filing a certificate of amendment for a
5 domestic limited liability partnership, \$10, plus \$200 for each
6 partner added by the amendment;

7 (6) for filing a certificate of amendment for a
8 foreign limited liability partnership, \$10, plus \$200 for each
9 partner in this state added by amendment not to exceed \$750; and

10 (7) for filing any other filing instrument, the filing
11 fee imposed for a similar instrument under Section 4.155.

12 SECTION 20. The heading to Section 5.054, Business
13 Organizations Code, is amended to read as follows:

14 Sec. 5.054. NAME OF CORPORATION, FOREIGN CORPORATION, [OR]
15 PROFESSIONAL CORPORATION, OR FOREIGN PROFESSIONAL CORPORATION.

16 SECTION 21. Section 5.054(c), Business Organizations Code,
17 is amended to read as follows:

18 (c) Instead of a word or abbreviation required by Subsection
19 (a), the name of a professional corporation or foreign professional
20 corporation may contain the phrase "professional corporation" or an
21 abbreviation of the phrase.

22 SECTION 22. Section 5.055, Business Organizations Code, is
23 amended by amending Subsection (b) and adding Subsection (c) to
24 read as follows:

25 (b) The name of a domestic or foreign limited partnership
26 that is a limited liability limited partnership must also contain[+

27 [~~1~~] the phrase "limited liability partnership" or

1 ~~["limited liability limited partnership", or~~
2 ~~(2)]~~ an abbreviation of that phrase ~~[one of these~~
3 ~~phrases]~~.

4 (c) The name of a domestic or foreign limited partnership
5 that is a limited liability limited partnership complies with the
6 requirements of Subsections (a) and (b) if the name of the limited
7 partnership contains the phrase "limited liability limited
8 partnership" or an abbreviation of that phrase.

9 SECTION 23. The heading to Section 5.057, Business
10 Organizations Code, is amended to read as follows:

11 Sec. 5.057. NAME OF COOPERATIVE ASSOCIATION OR FOREIGN
12 COOPERATIVE ASSOCIATION.

13 SECTION 24. Section 5.057(a), Business Organizations Code,
14 is amended to read as follows:

15 (a) The name of a cooperative association or foreign
16 cooperative association must contain:

17 (1) the word "cooperative"; or

18 (2) an abbreviation of that word.

19 SECTION 25. Section 5.058, Business Organizations Code, is
20 amended to read as follows:

21 Sec. 5.058. NAME OF PROFESSIONAL ASSOCIATION OR FOREIGN
22 PROFESSIONAL ASSOCIATION. The name of a professional association
23 or foreign professional association must contain:

24 (1) the word "associated," "associates," or
25 "association";

26 (2) the phrase "professional association"; or

27 (3) an abbreviation of one of those words or that

1 phrase.

2 SECTION 26. Section 5.059, Business Organizations Code, is
3 amended to read as follows:

4 Sec. 5.059. NAME OF PROFESSIONAL LIMITED LIABILITY COMPANY
5 OR FOREIGN PROFESSIONAL LIMITED LIABILITY COMPANY. (a) The name of
6 a professional limited liability company or foreign professional
7 limited liability company must contain:

8 (1) the phrase "professional limited liability
9 company"; or

10 (2) an abbreviation of that phrase.

11 (b) A professional limited liability company or foreign
12 professional limited liability company formed before September 1,
13 1993, the name of which complied with the laws of this state on the
14 date of formation but does not comply with this section, is not
15 required to change its name.

16 SECTION 27. Section 5.060, Business Organizations Code, is
17 amended to read as follows:

18 Sec. 5.060. NAME OF PROFESSIONAL ENTITY OR FOREIGN
19 PROFESSIONAL ENTITY; CONFLICTS WITH OTHER LAW OR ETHICAL RULE. The
20 name of a professional entity or foreign professional entity must
21 not be contrary to a statute or regulation of this state that
22 governs a person who provides a professional service through the
23 professional entity or foreign professional entity, including a
24 rule of professional ethics.

25 SECTION 28. Section 5.201(b), Business Organizations Code,
26 is amended to read as follows:

27 (b) The registered agent:

1 (1) is an agent of the entity on whom may be served any
2 process, notice, or demand required or permitted by law to be served
3 on the entity;

4 (2) may be:

5 (A) an individual who is a resident of this
6 state; or

7 (B) an organization [~~a domestic entity or a~~
8 ~~foreign entity~~] that is registered or authorized to do business in
9 this state; and

10 (3) must maintain a business office at the same
11 address as the entity's registered office.

12 SECTION 29. The heading to Chapter 6, Business
13 Organizations Code, is amended to read as follows:

14 CHAPTER 6. MEETINGS AND VOTING FOR DOMESTIC ENTITIES

15 SECTION 30. Section 6.051(b), Business Organizations Code,
16 is amended to read as follows:

17 (b) Subject to this code and the governing documents of a
18 domestic entity, notice of a meeting that is:

19 (1) mailed is considered to be given [~~delivered~~] on
20 the date notice is deposited in the United States mail with postage
21 paid in an envelope addressed to the person at the person's address
22 as it appears on the ownership or membership records of the entity;
23 and

24 (2) transmitted by facsimile or electronic message is
25 considered to be given [~~delivered~~] when the facsimile or electronic
26 message is [~~successfully~~] transmitted to a facsimile number or an
27 electronic message address provided by the person, or to which the

1 person consents, for the purpose of receiving notice.

2 SECTION 31. Sections 6.053(d) and (e), Business
3 Organizations Code, are amended to read as follows:

4 (d) A certificate or other document filed with the filing
5 officer [~~secretary of state~~] as a result of a meeting held or an
6 action taken by a filing entity without giving notice of the meeting
7 or action to a person not entitled to notice under this section may
8 state that notice of the meeting or action was given to each person
9 entitled to notice.

10 (e) Notice of a meeting must be given to a person not
11 entitled to notice of the meeting under this section if the person
12 delivers to the filing entity a written notice of the person's
13 address.

14 SECTION 32. Section 6.101(d), Business Organizations Code,
15 is amended to read as follows:

16 (d) If the owners or members of a domestic [~~an~~] entity are
17 not otherwise determined under this section, the record date for
18 determining the owners or members of a domestic [~~an~~] entity is the
19 date on which:

20 (1) notice of the meeting is given [~~mailed~~] to the
21 owners or members entitled to notice of the meeting; or

22 (2) with respect to a distribution, other than a
23 distribution involving a purchase or redemption by the domestic
24 entity of any of its own securities, the governing authority adopts
25 the resolution declaring the distribution.

26 SECTION 33. Section 6.102, Business Organizations Code, is
27 amended to read as follows:

1 Sec. 6.102. RECORD DATE FOR WRITTEN CONSENT TO ACTION. (a)
2 Subject to this code and the governing documents of a domestic [~~an~~]
3 entity, the governing authority of the domestic entity may provide
4 the record date for determining the owners or members of the
5 domestic entity entitled to written consent to action without a
6 meeting of the owners or members unless a record date is provided
7 under Section 6.101 for that action. The record date may not be
8 earlier than the date the governing authority adopts the resolution
9 providing for the record date.

10 (b) Subject to this code and the governing documents of a
11 domestic [~~an~~] entity, the record date for determining the owners or
12 members of the domestic entity entitled to written consent to
13 action without a meeting of the owners or members is the date a
14 signed written consent to action stating the action taken or
15 proposed to be taken is first delivered to the domestic entity if:

16 (1) the governing authority of the domestic entity
17 does not provide a record date under Subsection (a); and

18 (2) prior action by the governing authority is not
19 required under this code.

20 (c) Subject to this code or the governing documents of a
21 domestic [~~an~~] entity, the record date for determining the owners or
22 members of the domestic entity entitled to written consent to
23 action without a meeting of the owners or members is at the close of
24 business on the date the governing authority of the domestic entity
25 adopts a resolution taking prior action if:

26 (1) the governing authority does not provide a record
27 date under Subsection (a); and

1 (2) prior action by the governing authority is
2 required by this code.

3 SECTION 34. Section 6.152(a), Business Organizations Code,
4 is amended to read as follows:

5 (a) Except as provided by Subsection (b), an ownership
6 interest owned by the domestic entity that is the issuer of the
7 interest, or by its direct or indirect subsidiary, may not be:

8 (1) directly or indirectly voted at a meeting; or

9 (2) included in determining at any time the total
10 number of outstanding ownership interests of the domestic entity.

11 SECTION 35. Section 6.153, Business Organizations Code, is
12 amended to read as follows:

13 Sec. 6.153. VOTING OF INTERESTS OWNED BY ANOTHER ENTITY. An
14 ownership interest in a domestic [~~an~~] entity owned by another
15 entity, whether a domestic or foreign entity, may be voted by the
16 officer, agent, or proxy as authorized by:

17 (1) the governing documents of the entity that owns
18 the interest; or

19 (2) the governing authority of the entity that owns
20 the interest, if the governing documents do not provide for the
21 manner of voting.

22 SECTION 36. Section 6.154(a), Business Organizations Code,
23 is amended to read as follows:

24 (a) An administrator, executor, guardian, or conservator of
25 an estate who holds an ownership interest as part of the estate may
26 vote the interest, in person or by proxy, without transferring the
27 interest into the person's name.

1 SECTION 37. Section 6.204, Business Organizations Code, is
2 amended to read as follows:

3 Sec. 6.204. ADVANCE NOTICE NOT REQUIRED. Any advance
4 ~~[Advance]~~ notice required by this code for an action to be taken at
5 a meeting is not required to be given to take the ~~[an]~~ action by
6 written consent as provided by this subchapter.

7 SECTION 38. Sections 6.251(a) and (c), Business
8 Organizations Code, are amended to read as follows:

9 (a) Except as provided by this code or the governing
10 documents, any number of owners of a domestic ~~[an]~~ entity may enter
11 into a written voting trust agreement to confer on a trustee the
12 right to vote or otherwise represent ownership or membership
13 interests of the domestic entity.

14 (c) A copy of a voting trust agreement described by
15 Subsection (a) shall be deposited with the domestic entity at the
16 domestic entity's principal executive office or registered office
17 and is subject to examination by:

18 (1) an owner, whether in person or by the owner's agent
19 or attorney, in the same manner as the owner is entitled to examine
20 the books and records of the domestic entity; and

21 (2) a holder of a beneficial interest in the voting
22 trust, whether in person or by the holder's agent or attorney, at
23 any reasonable time for any proper purpose.

24 SECTION 39. Sections 6.252(a), (b), and (c), Business
25 Organizations Code, are amended to read as follows:

26 (a) Except as provided by this code or the governing
27 documents, any number of owners of a domestic ~~[an]~~ entity, or any

1 number of owners of the domestic entity and the domestic entity
2 itself, may enter into a written voting agreement to provide the
3 manner of voting of the ownership interests of the domestic entity.
4 A voting agreement entered into under this subsection is not part of
5 the governing documents of the domestic entity.

6 (b) A copy of a voting agreement entered into under
7 Subsection (a):

8 (1) shall be deposited with the domestic entity at the
9 domestic entity's principal executive office or registered office;
10 and

11 (2) is subject to examination by an owner, whether in
12 person or by the owner's agent or attorney, in the same manner as
13 the owner is entitled to examine the books and records of the
14 domestic entity.

15 (c) A voting agreement entered into under Subsection (a) is
16 specifically enforceable against the holder of an ownership
17 interest that is the subject of the agreement, and any successor or
18 transferee of the holder, if:

19 (1) the voting agreement is noted conspicuously on the
20 certificate representing the ownership interests; or

21 (2) a notation of the voting agreement is contained in
22 a notice sent by or on behalf of the domestic entity in accordance
23 with Section 3.205, if the ownership interest is not represented by
24 a certificate.

25 SECTION 40. Section 8.002(b), Business Organizations Code,
26 is amended to read as follows:

27 (b) The governing documents of a general partnership or

1 limited liability company may adopt provisions of this chapter or
2 may contain other [~~enforceable~~] provisions, which will be
3 enforceable, relating to:

- 4 (1) indemnification;
- 5 (2) advancement of expenses; or
- 6 (3) insurance or another arrangement to indemnify or
7 hold harmless a governing person.

8 SECTION 41. Section 8.103, Business Organizations Code, is
9 amended by amending Subsection (a) and adding Subsection (d) to
10 read as follows:

11 (a) Except as provided by Subsections (b) and (c), the
12 determinations required under Section 8.101(a) must be made by:

13 (1) a majority vote of the governing persons who at the
14 time of the vote are disinterested and independent, regardless of
15 whether the governing persons who are disinterested and independent
16 constitute a quorum;

17 (2) a majority vote of a committee of the governing
18 authority of the enterprise if the committee:

19 (A) is designated by a majority vote of the
20 governing persons who at the time of the vote are disinterested and
21 independent, regardless of whether the governing persons who are
22 disinterested and independent constitute a quorum; and

23 (B) is composed solely of one or more governing
24 persons who are disinterested and independent;

25 (3) special legal counsel selected by the governing
26 authority of the enterprise, or selected by a committee of the
27 governing authority [~~board of directors~~], by vote in accordance

1 with Subdivision (1) or (2);

2 (4) the owners or members of the enterprise in a vote
3 that excludes the ownership or membership interests held by each
4 governing person who is not disinterested and independent; or

5 (5) a unanimous vote of the owners or members of the
6 enterprise.

7 (d) With respect to a limited partnership, a vote of a
8 majority-in-interest of the limited partners in a vote that
9 excludes the interest held by each general partner who is not
10 disinterested and independent constitutes a determination under
11 Subsection (a)(4).

12 SECTION 42. Section 8.104, Business Organizations Code, is
13 amended by adding Subsection (d) to read as follows:

14 (d) With respect to a limited partnership, a vote of a
15 majority-in-interest of the limited partners in a vote that
16 excludes the interest held by each general partner who is not
17 disinterested and independent constitutes an authorization under
18 Subsection (b).

19 SECTION 43. Section 8.105(b), Business Organizations Code,
20 is amended to read as follows:

21 (b) An enterprise shall indemnify [~~and advance expenses to~~]
22 an officer to the same extent that indemnification [~~or advancement~~
23 ~~of expenses~~] is required under this chapter for a governing person.

24 SECTION 44. Section 8.152(b), Business Organizations Code,
25 is amended to read as follows:

26 (b) Subject to Subsection (c), the report must be made with
27 or before:

1 (1) the notice or waiver of notice of the next meeting
2 of the owners or members of the enterprise; or

3 (2) [~~and before~~] the next submission to the owners or
4 members of a consent to action without a meeting.

5 SECTION 45. Section 9.010, Business Organizations Code, is
6 amended to read as follows:

7 Sec. 9.010. NAME CHANGE OF FOREIGN FILING ENTITY. If a
8 foreign filing entity authorized to transact business [~~conduct~~
9 ~~affairs~~] in this state changes its name to a name that would cause
10 the entity to be denied an application for registration under this
11 subchapter, the entity's registration must be suspended. An entity
12 the registration of which has been suspended under this section may
13 transact business [~~conduct affairs~~] in this state only after the
14 entity:

15 (1) changes its name to a name that is available to it
16 under the laws of this state; or

17 (2) otherwise complies with this chapter.

18 SECTION 46. Section 9.054, Business Organizations Code, is
19 amended to read as follows:

20 Sec. 9.054. LATE FILING FEE. (a) The secretary of state
21 may collect from a foreign filing entity a late filing fee [~~equal to~~
22 ~~the registration fee for the entity for each year of delinquency~~] if
23 the entity has transacted business in this state for more than 90
24 days without registering under this chapter. The secretary may
25 condition the effectiveness of a registration after the 90-day
26 period on the payment of the late filing fee.

27 (b) The amount of the late filing fee is an amount equal to

1 the product of the amount of the registration fee for the foreign
2 filing entity multiplied by the number of calendar years that the
3 entity transacted business in this state without being registered.
4 For purposes of computing the fee, a partial calendar year is
5 counted as a full calendar year.

6 SECTION 47. Section 9.101(b), Business Organizations Code,
7 is amended to read as follows:

8 (b) The secretary of state may revoke a foreign filing
9 entity's registration if the secretary of state finds that:

10 (1) the entity has failed to, and, before the 91st day
11 after the date notice was mailed, has not corrected the entity's
12 failure to:

13 (A) [~~1~~] file a report within the period
14 required by law or pay a fee or penalty prescribed by law when due
15 and payable;

16 (B) [~~2~~] maintain a registered agent or
17 registered office in this state as required by law; or

18 (C) [~~3~~] amend its registration when required
19 by law; or

20 (2) the entity has failed to, and, before the 16th day
21 after the date notice was mailed, has not corrected the entity's
22 failure to [~~4~~] pay a fee required in connection with the
23 application for registration [~~a filing~~], or payment of the fee was
24 dishonored when presented by the state for payment.

25 SECTION 48. Section 9.201, Business Organizations Code, is
26 amended to read as follows:

27 Sec. 9.201. BUSINESS OF FOREIGN ENTITY. (a) Except as

1 provided by Subsection (b), a [A] foreign entity may not conduct in
2 this state a business or activity that is not permitted by this code
3 to be transacted by the domestic entity to which it most closely
4 corresponds, unless other law of this state authorizes the entity
5 to conduct the business or activity.

6 (b) A foreign business trust may engage in a business or
7 activity permitted by this code to be transacted by a limited
8 liability company.

9 SECTION 49. Sections 10.005(b) and (c), Business
10 Organizations Code, are amended to read as follows:

11 (b) A domestic entity may, without owner or member approval
12 and pursuant to a plan of merger, restructure the ownership or
13 membership structure of that entity to create a holding company
14 structure under this chapter and the provisions of this code under
15 which the entity was formed. The approval of the owners or members
16 of a merging domestic entity that is a party to a merger under a plan
17 of merger that creates a holding company is not required if:

18 (1) the holding company is a domestic entity of the
19 same organizational form as the merging domestic entity;

20 (2) approval is not otherwise required by the
21 governing documents of the merging domestic entity;

22 (3) the merging domestic entity merges with a direct
23 or indirect wholly owned subsidiary;

24 (4) after the merger the merging domestic entity or
25 its successor is a direct or indirect wholly owned subsidiary of a
26 holding company;

27 (5) the merging domestic entity and the direct or

1 indirect wholly owned subsidiary are the only parties to the
2 merger;

3 (6) each ownership or membership interest of the
4 merging domestic entity that is outstanding preceding the merger is
5 converted in the merger into an ownership or membership interest of
6 the holding company having the same designations, preferences,
7 limitations, and relative rights and corresponding obligations in
8 respect of the ownership or membership interest as the ownership or
9 membership interest held by the owner or member in the merging
10 domestic entity;

11 (7) except as provided by Subsection (c), the
12 governing documents of the holding company immediately following
13 the merger contain provisions substantively identical to the
14 governing documents of the merging domestic entity immediately
15 preceding the merger;

16 (8) except as provided by Subsections (c) and (d), the
17 governing documents of the surviving entity subsidiary immediately
18 following the merger contain provisions substantively identical to
19 the governing documents of the merging domestic entity immediately
20 preceding the merger;

21 (9) the governing persons of the merging domestic
22 entity become or remain the governing persons of the holding
23 company when the merger takes effect;

24 (10) the owners or members of the merging domestic
25 entity will not recognize gain or loss for United States federal
26 income tax purposes, the United States federal tax classification
27 of the holding company will be the same as that of the merging

1 domestic entity, and the merger will not result in the loss of any
2 tax benefit or attribute of the merging domestic entity, each as
3 determined by the governing authority of the merging domestic
4 entity; and

5 (11) the governing authority of the merging domestic
6 entity adopts a resolution approving the plan of merger.

7 (c) Subsections (b)(7) and (8) do not require identical
8 provisions regarding the organizer or organizers, the entity name,
9 the registered office and agent, the initial governing persons, and
10 the initial subscribers of ownership or membership interests and
11 provisions contained in any amendment to the governing documents as
12 were necessary to effect a change, exchange, reclassification, or
13 cancellation of ownership or membership interests, if the change,
14 exchange, reclassification, or cancellation was in effect
15 preceding the merger.

16 SECTION 50. Section 10.008(a), Business Organizations
17 Code, is amended to read as follows:

18 (a) When a merger takes effect:

19 (1) the separate existence of each domestic entity
20 that is a party to the merger, other than a surviving or new
21 domestic entity, ceases;

22 (2) all rights, title, and interests to all real
23 estate and other property owned by each organization that is a party
24 to the merger is allocated to and vested, subject to any existing
25 liens or other encumbrances on the property, in one or more of the
26 surviving or new organizations as provided in the plan of merger
27 without:

- 1 (A) reversion or impairment;
- 2 (B) any further act or deed; or
- 3 (C) any transfer or assignment having occurred;
- 4 (3) all liabilities and obligations of each
- 5 organization that is a party to the merger are allocated to one or
- 6 more of the surviving or new organizations in the manner provided by
- 7 the plan of merger;
- 8 (4) each surviving or new domestic organization to
- 9 which a liability or obligation is allocated under the plan of
- 10 merger is the primary obligor for the liability or obligation, and,
- 11 except as otherwise provided by the plan of merger or by law or
- 12 contract, no other party to the merger, other than a surviving
- 13 domestic entity or non-code organization liable or otherwise
- 14 obligated at the time of the merger, and no other new domestic
- 15 entity or non-code organization created under the plan of merger is
- 16 liable for the debt or other obligation;
- 17 (5) any proceeding pending by or against any domestic
- 18 entity or by or against any non-code organization that is a party to
- 19 the merger may be continued as if the merger did not occur, or the
- 20 surviving or new domestic entity or entities or the surviving or new
- 21 non-code organization or non-code organizations to which the
- 22 liability, obligation, asset, or right associated with that
- 23 proceeding is allocated to and vested in under the plan of merger
- 24 may be substituted in the proceeding;
- 25 (6) the governing documents of each surviving domestic
- 26 entity are amended to the extent provided by the plan of merger;
- 27 (7) each new filing entity whose certificate of

1 formation is included in the plan of merger under this chapter, on
2 meeting any additional requirements, if any, of this code for its
3 formation, is formed as a domestic entity under this code as
4 provided by the plan of merger;

5 (8) the ownership or membership interests of each
6 organization that is a party to the merger and that are to be
7 converted or exchanged, in whole or part, into ownership or
8 membership interests, obligations, rights to purchase securities,
9 or other securities of one or more of the surviving or new
10 organizations, into cash or other property, including ownership or
11 membership interests, obligations, rights to purchase securities,
12 or other securities of any organization, or into any combination of
13 these are converted and exchanged and the former owners or members
14 who held ownership or membership interests of each domestic entity
15 that is a party to the merger are entitled only to the rights
16 provided by the plan of merger or, if applicable, any rights to
17 receive the fair value for the ownership [~~or membership~~] interests
18 [~~previously held by them~~] provided under Subchapter H [~~this code~~];
19 and

20 (9) notwithstanding Subdivision (4), the surviving or
21 new organization named in the plan of merger as primarily obligated
22 to pay the fair value of an ownership or membership interest under
23 Section 10.003(2) is the primary obligor for that payment and all
24 other surviving or new organizations are secondarily liable for
25 that payment.

26 SECTION 51. Section 10.055, Business Organizations Code, is
27 amended to read as follows:

1 Sec. 10.055. GENERAL EFFECT OF INTEREST EXCHANGE. When an
2 interest exchange takes effect:

3 (1) the ownership or membership interest of each
4 acquired organization is exchanged as provided in the plan of
5 exchange, and the former owners or members whose interests are
6 exchanged under the plan of exchange are entitled only to the rights
7 provided in the plan [~~certificate~~] of exchange or, if applicable, a
8 right to receive the fair value for the ownership [~~or membership~~]
9 interests provided under Subchapter H; and

10 (2) the acquiring organization has all rights, title,
11 and interests with respect to the ownership or membership interest
12 to be acquired by it subject to the provisions of the plan
13 [~~certificate~~] of exchange.

14 SECTION 52. Section 10.101(e), Business Organizations
15 Code, is amended to read as follows:

16 (e) At the time a conversion takes effect, each owner or
17 member of the converting entity, other than those who receive
18 payment of their ownership or membership interest under any
19 applicable provisions of this code relating to dissent and
20 appraisal, has, unless otherwise agreed to by that owner or member,
21 an ownership or membership interest in, and is the owner or member
22 of, the converted entity.

23 SECTION 53. Section 10.151(b), Business Organizations
24 Code, is amended to read as follows:

25 (b) If a certificate of merger or exchange is required to be
26 filed in connection with an interest exchange or a merger, other
27 than a merger under Section 10.006, the certificate must be signed

1 on behalf of each domestic entity and non-code organization that is
2 a party to the merger or exchange by an officer or other authorized
3 representative and must include:

4 (1) the plan of merger or exchange or a statement
5 certifying:

6 (A) the name and organizational form of each
7 domestic entity or non-code organization that is a party to the
8 merger or exchange;

9 (B) for a merger, the name and organizational
10 form of each domestic entity or non-code organization that is to be
11 created by the plan of merger [~~or exchange~~];

12 (C) the name of the jurisdiction in which each
13 domestic entity or non-code organization named under Paragraph (A)
14 or (B) is incorporated or organized;

15 (D) for a merger, the amendments or changes to
16 the certificate of formation of each filing entity that is a party
17 to the merger, or if no amendments are desired to be effected by the
18 merger, a statement to that effect;

19 (E) for a merger, that the certificate of
20 formation of each new filing entity to be created under the plan of
21 merger [~~or exchange~~] is being filed with the certificate of merger
22 [~~or exchange~~];

23 (F) that a signed plan of merger or exchange is on
24 file at the principal place of business of each surviving,
25 acquiring, or new domestic entity or non-code organization, and the
26 address of each principal place of business; and

27 (G) that a copy of the plan of merger or exchange

1 will be on written request furnished without cost by each
2 surviving, acquiring, or new domestic entity or non-code
3 organization to any owner or member of any domestic entity that is a
4 party to or created by the plan of merger or exchange and, for a
5 merger with multiple surviving domestic entities or non-code
6 organizations, to any creditor or obligee of the parties to the
7 merger at the time of the merger if a liability or obligation is
8 then outstanding;

9 (2) if approval of the owners or members of any
10 domestic entity that was a party to the plan of merger or exchange
11 is not required by this code, a statement to that effect; and

12 (3) a statement that the plan of merger or exchange has
13 been approved as required by the laws of the jurisdiction of
14 formation of each organization that is a party to the merger or
15 exchange and by the governing documents of those organizations.

16 SECTION 54. Section 10.154(b), Business Organizations
17 Code, is amended to read as follows:

18 (b) If a certificate of conversion is required to be filed
19 in connection with a conversion, the certificate must be signed on
20 behalf of the converting entity and must include:

21 (1) the plan of conversion or a statement certifying
22 the following:

23 (A) the name, organizational form, and
24 jurisdiction of formation [~~organization~~] of the converting entity;

25 (B) the name, organizational form, and
26 jurisdiction of formation of the converted [~~converting~~] entity;

27 (C) that a signed plan of conversion is on file at

1 the principal place of business of the converting entity, and the
2 address of the principal place of business;

3 (D) that a signed plan of conversion will be on
4 file after the conversion at the principal place of business of the
5 converted entity, and the address of the principal place of
6 business; and

7 (E) that a copy of the plan of conversion will be
8 on written request furnished without cost by the converting entity
9 before the conversion or by the converted entity after the
10 conversion to any owner or member of the converting entity or the
11 converted entity; and

12 (2) a statement that the plan of conversion has been
13 approved as required by the laws of the jurisdiction of formation
14 and the governing documents of the converting entity.

15 SECTION 55. Section 10.254(b), Business Organizations
16 Code, is amended to read as follows:

17 (b) Except as otherwise expressly provided by another
18 statute [~~law~~], a person acquiring property described by this
19 section may not be held responsible or liable for a liability or
20 obligation of the transferring domestic entity that is not
21 expressly assumed by the person.

22 SECTION 56. Section 10.351(c), Business Organizations
23 Code, is amended to read as follows:

24 (c) The governing documents of a partnership or a limited
25 liability company may provide that its owners are entitled to the
26 rights of dissent and appraisal provided by this subchapter,
27 subject to any modification to those rights as provided by the

1 entity's governing documents.

2 SECTION 57. Section 10.362(b), Business Organizations
3 Code, is amended to read as follows:

4 (b) In computing the fair value of an ownership interest
5 under this subchapter, consideration must be given to the value of
6 the domestic entity [~~organization~~] as a going concern without
7 including in the computation of value any control premium, any
8 minority ownership discount, or any discount for lack of
9 marketability. If the domestic entity has different classes or
10 series of ownership interests, the relative rights and preferences
11 of and limitations placed on the class or series of ownership
12 interests, other than relative voting rights, held by the
13 dissenting owner must be taken into account in the computation of
14 value[+

15 [~~(1) payment for a control premium or minority~~
16 ~~discount other than a discount attributable to the type of~~
17 ~~ownership interests held by the dissenting owner; and~~

18 [~~(2) limitation placed on the rights and preferences~~
19 ~~of those ownership interests].~~

20 SECTION 58. Section 10.367(b), Business Organizations
21 Code, is amended to read as follows:

22 (b) On termination of the right of dissent under this
23 section:

24 (1) the dissenting owner and all persons claiming a
25 right under the owner are conclusively presumed to have approved
26 and ratified the action to which the owner dissented and are bound
27 by that action;

1 (2) the owner's right to be paid the fair value of the
2 owner's ownership interests ceases and the owner's status as an
3 owner of those ownership interests is restored without prejudice to
4 ~~[in]~~ any interim proceeding if the owner's ownership interests were
5 not canceled, converted, or exchanged as a result of the action or a
6 subsequent fundamental business transaction; and

7 (3) the dissenting owner is entitled to receive
8 dividends or other distributions made in the interim to owners of
9 the same class and series of ownership interests held by the owner
10 as if a demand for the payment of the ownership interests had not
11 been made under Section 10.356, subject to any change in or
12 adjustment to ownership interests because of the cancellation or
13 exchange of the ownership interests after the date a demand under
14 Section 10.356 was made pursuant to a fundamental business
15 transaction.

16 SECTION 59. Section 10.368, Business Organizations Code, is
17 amended to read as follows:

18 Sec. 10.368. EXCLUSIVITY OF REMEDY OF DISSENT AND
19 APPRAISAL. In the absence of fraud in the transaction, any right of
20 an owner of an ownership interest to dissent from an action and
21 obtain the fair value of the ownership interest under this
22 subchapter is the exclusive remedy for recovery of:

23 (1) the value of the ownership interest; or
24 (2) money damages to the owner with respect to the
25 action ~~[ownership interest, and~~

26 ~~[(2) the owner's right in the organization with~~
27 ~~respect to a fundamental business transaction].~~

1 SECTION 60. Sections 11.001(2) and (6), Business
2 Organizations Code, are amended to read as follows:

3 (2) "Event requiring a winding up" or "event requiring
4 winding up" means an event specified by Section 11.051.

5 (6) "Voluntary decision to wind up" means the
6 determination to wind up a domestic entity made by the domestic
7 entity or the owners, members, or governing authority of the
8 domestic entity in the manner specified by:

9 (A) the title of this code governing the domestic
10 entity; or

11 (B) if applicable to the domestic entity, Section
12 11.057(a) or (b) or 11.058(a).

13 SECTION 61. Section 11.051, Business Organizations Code, is
14 amended to read as follows:

15 Sec. 11.051. EVENT REQUIRING WINDING UP OF DOMESTIC ENTITY.
16 Winding up of a domestic entity is required on:

17 (1) the expiration of any [~~the domestic entity's~~]
18 period of duration specified in the domestic entity's governing
19 documents [~~, if not perpetual~~];

20 (2) a voluntary decision to wind up the domestic
21 entity;

22 (3) an event specified in the governing documents of
23 the domestic entity requiring the winding up, dissolution, or
24 termination of the domestic entity, other than an event specified
25 in another subdivision of this section;

26 (4) an event specified in other sections of this code
27 requiring the winding up or termination of the domestic entity,

1 other than an event specified in another subdivision of this
2 section; or

3 (5) a decree by a court requiring the winding up, ~~[or]~~
4 dissolution, or termination of the domestic entity, rendered under
5 this code or other law.

6 SECTION 62. Section 11.056, Business Organizations Code, is
7 amended to read as follows:

8 Sec. 11.056. SUPPLEMENTAL PROVISIONS FOR ~~[EVENT REQUIRING~~
9 ~~WINDING UP OF]~~ LIMITED LIABILITY COMPANY. (a) The ~~[In addition to~~
10 ~~an event listed under Section 11.051, the]~~ termination of the
11 continued membership of the last remaining member of a domestic
12 limited liability company is an event requiring ~~[a]~~ winding up
13 under Section 11.051(4) unless, not later than the 90th day after
14 the date of the termination, the legal representative or successor
15 of the last remaining member agrees:

16 (1) to continue the company; and

17 (2) to become a member of the company effective as of
18 the date of the termination or to designate another person who
19 agrees to become a member of the company effective as of the date of
20 the termination.

21 (b) The event requiring winding up specified in Subsection
22 (a) may be canceled in accordance with Sections 11.152(a) and
23 101.552(c).

24 SECTION 63. Section 11.057, Business Organizations Code, is
25 amended to read as follows:

26 Sec. 11.057. SUPPLEMENTAL PROVISIONS FOR DOMESTIC ~~[EVENTS~~
27 ~~REQUIRING WINDING UP OF]~~ GENERAL PARTNERSHIP. (a) Unless

1 otherwise provided by the partnership agreement, a voluntary
2 decision to wind up a domestic general partnership, other than a
3 partnership described by Subsection (b), requires the express will
4 of a majority-in-interest of the partners who have not assigned
5 their interests. A voluntary decision to wind up a partnership
6 under this subsection may be revoked in accordance with Sections
7 11.151 and 152.709(e).

8 (b) Unless otherwise provided by the partnership agreement,
9 a voluntary decision to wind up a domestic general partnership that
10 has a period of duration or is for a particular undertaking, or in
11 which the partnership agreement provides for the winding up of the
12 partnership on occurrence of a specified event, requires the
13 express will of all of the partners. A voluntary decision to wind
14 up a partnership under this subsection may be revoked in accordance
15 with Sections 11.151 and 152.709(d).

16 (c) An event requiring the winding up of a domestic general
17 partnership under Section 11.051(4) includes the following:

18 (1) in a general partnership for a particular
19 undertaking, the completion of the undertaking, unless otherwise
20 provided by the partnership agreement;

21 ~~(2) [An event requiring winding up of a general~~
22 ~~partnership includes, in addition to any event specified in Section~~
23 ~~11.051, the following:~~

24 ~~[(1) in a general partnership that is not for a~~
25 ~~definite term or for a particular undertaking or in which the~~
26 ~~partnership agreement does not provide for winding up the~~
27 ~~partnership business on a specified event, the express will of a~~

1 ~~majority-in-interest of the partners who have not assigned their~~
2 ~~interests,~~

3 ~~[(2) in a general partnership for a definite term or~~
4 ~~for a particular undertaking, on:~~

5 ~~[(A) the express will of all of the partners, or~~

6 ~~[(B) the expiration of the term or the completion~~
7 ~~of the undertaking, unless otherwise continued under Section~~
8 ~~152.709,~~

9 ~~[(3) in a general partnership in which the partnership~~
10 ~~agreement provides for the winding up of the partnership business~~
11 ~~on a specified event, upon:~~

12 ~~[(A) the express will of all of the partners, or~~

13 ~~[(B) the occurrence of the specified event,~~
14 ~~unless otherwise continued under Section 152.709,~~

15 ~~[(4)] an event that makes it illegal for all or~~
16 ~~substantially all of the partnership business to be continued, but~~
17 ~~a cure of illegality before the 91st day after the date of notice to~~
18 ~~the general partnership of the event is effective retroactively to~~
19 ~~the date of the event for purposes of this subsection; and~~

20 ~~(3) [(5)] the sale of all or substantially all of the~~
21 ~~property of the general partnership outside the ordinary course of~~
22 ~~business, unless otherwise provided by the partnership agreement.~~

23 ~~(d) In addition to the events specified by Subsection (c),~~
24 ~~unless otherwise provided by the partnership agreement, [+and~~

25 ~~[(6)] if a domestic general partnership does [~~is~~] not~~
26 ~~have a period of duration, is not for a [~~definite term or a~~]~~
27 ~~particular undertaking, and is not required under its partnership~~

1 agreement to wind up [~~does not provide for a specified event~~
2 ~~requiring a winding up of~~] the partnership on occurrence of a
3 specified event, an event requiring [~~business, a request for~~]
4 winding up of the partnership under Section 11.051(4) occurs on the
5 60th day [~~business from a partner, other than a partner who has~~
6 ~~agreed not to withdraw.~~

7 [~~(b) An event described by Subsection (a)(6) requires the~~
8 ~~winding up of a general partnership 60 days~~] after the date on which
9 the [~~general~~] partnership receives notice of a [~~the~~] request for
10 winding up the partnership from a partner, other than a partner who
11 has agreed not to withdraw, or [~~at~~] a later date as specified by the
12 request [~~notice~~], unless a majority-in-interest of the partners
13 deny the request for winding up or agree to continue the [~~general~~]
14 partnership. The continuation of the business by the other
15 partners or by those who habitually acted in the business before the
16 request, other than the partner making the request, without any
17 settlement or liquidation of the partnership business, is prima
18 facie evidence of an agreement to continue the partnership under
19 this subsection.

20 (e) An event requiring winding up specified in Subsection
21 (c)(1), (c)(3), or (d) may be canceled in accordance with Sections
22 11.152 and 152.709.

23 SECTION 64. Section 11.058, Business Organizations Code, is
24 amended to read as follows:

25 Sec. 11.058. SUPPLEMENTAL PROVISION FOR [~~EVENTS REQUIRING~~
26 ~~WINDING UP OF~~] LIMITED PARTNERSHIP. (a) A voluntary decision to
27 wind up a domestic limited partnership requires the written consent

1 of all partners in the limited partnership unless otherwise
2 provided by the partnership agreement. The voluntary decision to
3 wind up may be revoked in accordance with Sections 11.151 and
4 153.501(d).

5 (b) ~~An [event requiring the winding up of a limited~~
6 ~~partnership includes, in addition to any event specified in Section~~
7 ~~11.051, the following:~~

8 [~~(1) written consent of all partners to the winding up~~
9 ~~and termination of the limited partnership, and~~

10 [~~(2) an] event of withdrawal of a general partner of a~~

11 domestic limited partnership is an event requiring winding up under
12 Section 11.051(4) unless otherwise provided by the partnership
13 agreement. The event requiring winding up specified in this
14 subsection may be canceled in accordance with Sections 11.152(a)
15 and 153.501(b).

16 (c) An event requiring winding up of a limited partnership
17 under Section 11.051(4) includes when there are no limited partners
18 in the limited partnership. The event requiring winding up
19 specified in this subsection may be canceled in accordance with
20 Sections 11.152(a) and 153.501(e).

21 SECTION 65. Section 11.059, Business Organizations Code, is
22 amended to read as follows:

23 Sec. 11.059. SUPPLEMENTAL PROVISIONS FOR
24 CORPORATIONS. For purposes of Section 11.051(3), the event
25 requiring the winding up, dissolution, or termination of a domestic
26 corporation must be specified [~~specific~~] in:

27 (1) the certificate of formation of the corporation;

1 or

2 (2) a bylaw [~~bylaws~~] of the corporation adopted by the
3 owners or members of the corporation in the same manner as an
4 amendment to the certificate of formation of the corporation.

5 SECTION 66. Section 11.104, Business Organizations Code, is
6 amended to read as follows:

7 Sec. 11.104. ACTION BY SECRETARY OF STATE. The secretary of
8 state shall remove from its active records a domestic filing entity
9 whose period of duration specified in its certificate of formation
10 has expired when the secretary of state determines that:

11 (1) the entity has failed to file a certificate of
12 termination in accordance with Section 11.101; and

13 (2) the entity has failed to file an amendment to
14 extend its period of duration [~~existence~~] in accordance with
15 Section 11.152.

16 SECTION 67. Section 11.152(b), Business Organizations
17 Code, is amended to read as follows:

18 (b) A domestic entity whose specified period of duration has
19 expired [~~to which an event requiring winding up as specified in~~
20 ~~Section 11.051(1) occurs~~] may cancel that [~~the~~] event requiring
21 winding up by amending its governing documents in the manner
22 provided by this code, not later than the third anniversary of the
23 date the period expired [~~of the event requiring winding up~~] or an
24 earlier date prescribed by the title of this code governing the
25 domestic entity, to extend its [~~the~~] period of [~~its~~] duration. The
26 expiration of its [~~the~~] period of [~~its~~] duration does not by itself
27 create a vested right on the part of an owner, member, or creditor

1 of the entity to prevent the extension of that period [~~its~~
2 ~~existence~~]. An act undertaken or a contract entered into by the
3 domestic [~~a terminated~~] entity during a period in which the entity
4 could have extended its period of duration as provided by this
5 subsection [~~existence under this section~~] is not invalidated by the
6 expiration of that [~~the~~] period [~~of the entity's duration~~],
7 regardless of whether the entity has taken any action to extend its
8 period of duration [~~existence~~].

9 SECTION 68. Section 11.251(b), Business Organizations
10 Code, is amended to read as follows:

11 (b) The secretary of state may terminate a filing entity's
12 existence if the secretary finds that:

13 (1) the entity has failed to, and, before the 91st day
14 after the date notice was mailed has not corrected the entity's
15 failure to:

16 (A) [~~(1)~~] file a report within the period
17 required by law or [~~to~~] pay a fee or penalty prescribed by law when
18 due and payable; or

19 (B) [~~(2)~~] maintain a registered agent or
20 registered office in this state as required by law; or

21 (2) the entity has failed to, and, before the 16th day
22 after the date notice was mailed has not corrected the entity's
23 failure to, pay a fee required in connection with the filing of its
24 certificate of formation [~~(3) pay a fee required in connection with~~
25 ~~a filing~~], or payment of the fee was dishonored when presented by
26 the state for payment.

27 SECTION 69. Section 11.412, Business Organizations Code, is

1 amended to read as follows:

2 Sec. 11.412. DECREE OF INVOLUNTARY TERMINATION. In an
3 action in which the court has ordered the liquidation of [~~to~~
4 ~~liquidate~~] the property and business of a domestic entity in
5 accordance with other provisions of this code, the court shall
6 enter a decree terminating the [~~entity and the~~] existence of the
7 entity [~~shall cease~~]:

8 (1) when the costs and expenses of the action and all
9 obligations and liabilities of the domestic entity have been paid
10 and discharged or adequately provided for and all of the entity's
11 remaining property has been distributed to its owners and members;
12 or

13 (2) if the entity's property is not sufficient to
14 discharge the costs and other expenses of the action and all
15 obligations and liabilities of the entity, when all the property of
16 the entity has been applied toward their payment.

17 SECTION 70. Section 12.260, Business Organizations Code, is
18 amended to read as follows:

19 Sec. 12.260. ABATEMENT OF SUIT. An action or cause of
20 action for a fine, penalty, or forfeiture that this state has or may
21 have against a filing entity or foreign filing entity does not abate
22 because the entity winds up [~~dissolves~~], voluntarily or otherwise,
23 or the entity's certificate of formation is terminated or the
24 entity's registration is revoked.

25 SECTION 71. Section 21.211(a), Business Organizations
26 Code, is amended to read as follows:

27 (a) Without limiting the general powers granted by

1 ~~[Notwithstanding]~~ Sections 21.210 and 21.213 to impose and enforce
2 reasonable restrictions, a restriction placed on the transfer or
3 registration of transfer of a security of a corporation is valid if
4 the restriction reasonably:

5 (1) obligates the holder of the restricted security to
6 offer a person, including the corporation or other holders of
7 securities of the corporation, an opportunity to acquire the
8 restricted security within a reasonable time before the transfer;

9 (2) obligates the corporation, to the extent provided
10 by this code, or another person to purchase securities that are the
11 subject of an agreement relating to the purchase and sale of the
12 restricted security;

13 (3) requires the corporation or the holders of a class
14 of the corporation's securities to consent to a proposed transfer
15 of the restricted security or to approve the proposed transferee of
16 the restricted security for the purpose of preventing a violation
17 of law;

18 (4) prohibits the transfer of the restricted security
19 to a designated person or group of persons and the designation is
20 not manifestly unreasonable;

21 (5) maintains the status of the corporation as an
22 electing small business corporation under Subchapter S of the
23 Internal Revenue Code;

24 (6) maintains a tax advantage to the corporation;

25 (7) maintains the status of the corporation as a close
26 corporation under Subchapter O;

27 (8) obligates the holder of the restricted securities

1 to sell or transfer an amount of restricted securities to a person
2 or group of persons, including the corporation or other holders of
3 securities of the corporation; or

4 (9) causes or results in the automatic sale or
5 transfer of an amount of restricted securities to a person or group
6 of persons, including the corporation or other holders of
7 securities of the corporation.

8 SECTION 72. Section 21.220, Business Organizations Code, is
9 amended to read as follows:

10 Sec. 21.220. PENALTY FOR FAILURE TO PREPARE VOTING
11 LIST. An officer or agent of a corporation who is in charge of the
12 corporation's share transfer records and who does not prepare the
13 list of shareholders [~~owners~~], keep the list on file for a 10-day
14 period, or produce and keep the list available for inspection at the
15 annual meeting as required by Sections 21.354 and 21.372 is liable
16 to a shareholder [~~an owner~~] who suffers damages because of the
17 failure for the damage caused by the failure.

18 SECTION 73. Section 21.221, Business Organizations Code, is
19 amended to read as follows:

20 Sec. 21.221. PENALTY FOR FAILURE TO PROVIDE NOTICE OF
21 MEETING. If an officer or agent of a corporation is unable to
22 comply with the duties prescribed by Sections 21.354 and 21.372
23 because the officer or agent did not receive notice of a meeting of
24 shareholders [~~owners~~] within a sufficient time before the date of
25 the meeting, the corporation, rather than the officer or agent, is
26 liable to a shareholder [~~an owner~~] who suffers damages because of
27 the failure for the extent of the damage caused by the failure.

1 SECTION 74. Section 21.223(a), Business Organizations
2 Code, is amended to read as follows:

3 (a) A holder of shares, an owner of any beneficial interest
4 in shares, or a subscriber for shares whose subscription has been
5 accepted, or any affiliate of such a holder, owner, or subscriber or
6 of the corporation, may not be held liable to the corporation or its
7 obligees with respect to:

8 (1) the shares, other than the obligation to pay to the
9 corporation the full amount of consideration, fixed in compliance
10 with Sections 21.157-21.162, for which the shares were or are to be
11 issued;

12 (2) any contractual obligation of the corporation or
13 any matter relating to or arising from the obligation on the basis
14 that the holder, beneficial owner, subscriber, or affiliate is or
15 was the alter ego of the corporation or on the basis of actual or
16 constructive fraud, a sham to perpetrate a fraud, or other similar
17 theory; or

18 (3) any obligation of the corporation on the basis of
19 the failure of the corporation to observe any corporate formality,
20 including the failure to:

21 (A) comply with this code or the certificate of
22 formation [~~articles of incorporation~~] or bylaws of the corporation;
23 or

24 (B) observe any requirement prescribed by this
25 code or the certificate of formation [~~articles of incorporation~~] or
26 bylaws of the corporation for acts to be taken by the corporation or
27 its directors or shareholders.

1 SECTION 75. Sections 21.364(a) and (b), Business
2 Organizations Code, are amended to read as follows:

3 (a) In this section, a "fundamental action" means:

4 (1) an amendment of a certificate of formation,
5 including an amendment required for cancellation of an event
6 requiring winding up in accordance with Section 11.152(b);

7 (2) a voluntary winding up under Chapter 11;

8 (3) a revocation of a voluntary decision to wind up
9 under Section 11.151;

10 (4) a cancellation of an event requiring winding up
11 under Section 11.152(a) [~~11.152~~]; or

12 (5) a reinstatement under Section 11.202.

13 (b) Except as otherwise provided by this code or the
14 certificate of formation [~~or bylaws~~] of a corporation in accordance
15 with Section 21.365 [~~21.363~~], the vote required for approval of a
16 fundamental action by the shareholders is the affirmative vote of
17 the holders of at least two-thirds of the outstanding shares
18 entitled to vote on the fundamental action.

19 SECTION 76. Section 21.372(a), Business Organizations
20 Code, is amended to read as follows:

21 (a) Not later than the 11th day before the date of each
22 meeting of the shareholders of a corporation, an officer or agent of
23 the corporation who is in charge of the corporation's share
24 transfer [~~shareholder~~] records shall prepare an alphabetical list
25 of the shareholders entitled to vote at the meeting or at any
26 adjournment of the meeting. The list of shareholders must:

27 (1) state:

- 1 (A) the address of each shareholder;
2 (B) the type of shares held by each shareholder;
3 (C) the number of shares held by each
4 shareholder; and
5 (D) the number of votes that each shareholder is
6 entitled to if the number of votes is different from the number of
7 shares stated under Paragraph (C); and

8 (2) be kept on file at the registered office or
9 principal executive office of the corporation for at least 10 days
10 before the date of the meeting.

11 SECTION 77. Section 21.408(b), Business Organizations
12 Code, is amended to read as follows:

13 (b) The terms of office of the initial directors
14 constituting the first class expire at the first annual meeting of
15 shareholders after the election of those directors. The terms of
16 office of the initial directors constituting the second class
17 expire at the second annual meeting of shareholders after election
18 of those directors. The terms of office of the initial directors
19 constituting the third class, if any, expire at the third annual
20 meeting of shareholders after election of those directors. In each
21 case, the term of office of an initial director is extended until
22 the director's successor is elected and has qualified.

23 SECTION 78. Section 21.4091, Business Organizations Code,
24 is amended to read as follows:

25 Sec. 21.4091. RESIGNATION OF DIRECTORS. (a) Except as
26 otherwise provided by the certificate of formation or bylaws, a
27 director of a corporation may resign at any time by providing

1 written notice to the corporation.

2 (b) The director's resignation takes effect on the date the
3 notice is received by the corporation, unless the notice prescribes
4 a later effective date or states that the resignation takes effect
5 on the occurrence of a future event, such as the director's failure
6 to receive a specified vote for reelection as a director.

7 (c) If the director's resignation is to take effect on a
8 later date or on the occurrence of a future event, the resignation
9 takes effect on the later date or when the event occurs.

10 (d) The director's resignation is irrevocable when it takes
11 effect. The director's resignation is revocable before it takes
12 effect unless the notice of resignation expressly states it is
13 irrevocable.

14 SECTION 79. Sections 21.410(a) and (b), Business
15 Organizations Code, are amended to read as follows:

16 (a) A vacancy occurring in the initial board of directors
17 before the issuance of shares may be filled by the affirmative vote
18 or written consent of the majority of the organizers or by the
19 affirmative vote of the majority of the remaining directors, even
20 if ~~[the majority of]~~ the remaining directors constitute
21 ~~[constitutes]~~ less than a quorum of the board of directors.

22 (b) Except as provided by Subsection (e), a vacancy
23 occurring in the board of directors after the issuance of shares may
24 be filled by election at an annual or special meeting of
25 shareholders called for that purpose or by the affirmative vote of
26 the majority of the remaining directors, even if the remaining
27 ~~[majority of]~~ directors constitute ~~[constitutes]~~ less than a quorum

1 of the board of directors.

2 SECTION 80. Section 21.452(e), Business Organizations
3 Code, is amended to read as follows:

4 (e) Except as provided by Chapter 10 or Sections 21.457 and
5 21.459 [~~21.457-21.459~~], the shareholders of the corporation shall
6 approve the plan of merger as provided by this subchapter.

7 SECTION 81. Section 21.453(e), Business Organizations
8 Code, is amended to read as follows:

9 (e) Except as provided by Section 21.457 [~~Sections~~
10 ~~21.457-21.459~~], the shareholders of the corporation shall approve
11 the plan of conversion as provided by this subchapter.

12 SECTION 82. Section 21.454(e), Business Organizations
13 Code, is amended to read as follows:

14 (e) Except as provided by Section 21.457 [~~Sections~~
15 ~~21.457-21.459~~], the shareholders of the corporation shall approve
16 the plan of exchange as provided by this subchapter.

17 SECTION 83. Section 21.501, Business Organizations Code, is
18 amended to read as follows:

19 Sec. 21.501. APPROVAL OF VOLUNTARY WINDING UP,
20 REINSTATEMENT, OR REVOCATION OF VOLUNTARY WINDING UP. A
21 corporation must approve a voluntary winding up in accordance with
22 Chapter 11, a reinstatement in accordance with Section 11.202, a
23 cancellation of an event requiring winding up under Section
24 11.152(a) [~~11.152~~], or revocation of a voluntary decision to wind
25 up in accordance with Section 11.151 by complying with one of the
26 procedures prescribed by this subchapter.

27 SECTION 84. Section 21.563(b), Business Organizations

1 Code, is amended to read as follows:

2 (b) [~~Subject to Subsection (c),~~] Sections 21.552-21.559 do
3 not apply to a closely held corporation.

4 SECTION 85. Section 21.604, Business Organizations Code, is
5 amended to read as follows:

6 Sec. 21.604. BUSINESS COMBINATION. A business combination
7 is:

8 (1) a merger, share exchange, or conversion of an
9 issuing public corporation or a subsidiary with:

10 (A) an affiliated shareholder;

11 (B) a foreign or domestic corporation or other
12 entity that is, or after the merger, share exchange, or conversion
13 would be, an affiliate or associate of the affiliated shareholder;
14 or

15 (C) another domestic or foreign corporation or
16 other entity, if the merger, share exchange, or conversion is
17 caused by an affiliated shareholder, or an affiliate or associate
18 of an affiliated shareholder, and as a result of the merger, share
19 exchange, or conversion this subchapter does not apply to the
20 surviving corporation or other entity;

21 (2) a sale, lease, exchange, mortgage, pledge,
22 transfer, or other disposition, in one transaction or a series of
23 transactions, including an allocation of assets under a merger, to
24 or with the affiliated shareholder, or an affiliate or associate of
25 the affiliated shareholder, of assets of the issuing public
26 corporation or a subsidiary that:

27 (A) has an aggregate market value equal to 10

1 percent or more of the aggregate market value of all of the assets,
2 determined on a consolidated basis, of the issuing public
3 corporation;

4 (B) has an aggregate market value equal to 10 ,
5 percent or more of the aggregate market value of all of the
6 outstanding voting shares of the issuing public corporation; or

7 (C) represents 10 percent or more of the earning
8 power or net income, determined on a consolidated basis, of the
9 issuing public corporation;

10 (3) the issuance or transfer by an issuing public
11 corporation or a subsidiary to an affiliated shareholder or an
12 affiliate or associate of the affiliated shareholder, in one
13 transaction or a series of transactions, of shares of the issuing
14 public corporation or a subsidiary, except by the exercise of
15 warrants or rights to purchase shares of the issuing public
16 corporation offered, or a share dividend paid, pro rata to all
17 shareholders of the issuing public corporation after the affiliated
18 shareholder's share acquisition date;

19 (4) the adoption of a plan or proposal for the
20 liquidation, winding up, or dissolution of an issuing public
21 corporation proposed by or under any agreement, arrangement, or
22 understanding, regardless of whether in writing, with an affiliated
23 shareholder or an affiliate or associate of the affiliated
24 shareholder;

25 (5) a reclassification of securities, including a
26 reverse share split or a share split-up, share dividend, or other
27 distribution of shares, a recapitalization of the issuing public

1 corporation, a merger of the issuing public corporation with a
2 subsidiary or pursuant to which the assets and liabilities of the
3 issuing public corporation are allocated among two or more
4 surviving or new domestic or foreign corporations or other
5 entities, or any other transaction proposed by or under an
6 agreement, arrangement, or understanding, regardless of whether in
7 writing, with an affiliated shareholder or an affiliate or
8 associate of the affiliated shareholder that has the effect,
9 directly or indirectly, of increasing the proportionate ownership
10 percentage of the outstanding shares of a class or series of voting
11 shares or securities convertible into voting shares of the issuing
12 public corporation that is beneficially owned by the affiliated
13 shareholder or an affiliate or associate of the affiliated
14 shareholder, except as a result of immaterial changes due to
15 fractional share adjustments; or

16 (6) the direct or indirect receipt by an affiliated
17 shareholder or an affiliate or associate of the affiliated
18 shareholder of the benefit of a loan, advance, guarantee, pledge,
19 or other financial assistance or a tax credit or other tax advantage
20 provided by or through the issuing public corporation, except
21 proportionately as a shareholder of the issuing public corporation.

22 SECTION 86. Section 21.707, Business Organizations Code, is
23 amended by amending Subsections (a), (b), (d), and (e) and adding
24 Subsection (f) to read as follows:

25 (a) This section applies to an existing corporation that
26 elected to become a close corporation before the mandatory
27 application [~~effective~~] date of this code and has not terminated

1 that status.

2 (b) A close corporation existing before the mandatory
3 application [~~effective~~] date of this code is considered to be a
4 close corporation under this code.

5 (d) An agreement among the shareholders of a close
6 corporation in conformance with former law and Sections
7 21.714-21.725 before the mandatory application [~~effective~~] date of
8 this code is considered to be a shareholders' agreement.

9 (e) A certificate representing the shares issued or
10 delivered by the close corporation after the mandatory application
11 [~~effective~~] date of this code, whether in connection with the
12 original issue of shares or a transfer of shares, must conform with
13 Section 21.732.

14 (f) In this section, "mandatory application date" has the
15 meaning assigned by Section 401.001.

16 SECTION 87. Section 22.154, Business Organizations Code, is
17 amended to read as follows:

18 Sec. 22.154. FAILURE TO CALL ANNUAL MEETING. (a) If the
19 board of directors of a corporation fails to call the annual meeting
20 of members when required [~~at the designated time~~], a member of the
21 corporation may demand that the meeting be held within a reasonable
22 time. The demand must be made in writing and sent to an officer of
23 the corporation by registered mail.

24 (b) If a required [~~the~~] annual meeting is not called before
25 the 61st day after the date of demand, a member of the corporation
26 may compel the holding of the meeting by legal action directed
27 against the board of directors, and each of the extraordinary writs

1 of common law and of courts of equity are available to the member to
2 compel the holding of the meeting. Each member has a justiciable
3 interest sufficient to enable the member to institute and prosecute
4 the legal proceedings.

5 (c) Failure to hold a required ~~[the]~~ annual meeting at the
6 designated time does not result in the winding up and termination of
7 the corporation.

8 SECTION 88. Section 22.163(c), Business Organizations
9 Code, is amended to read as follows:

10 (c) The record date for the determination of members
11 entitled ~~[board of directors of a corporation may set a new date for~~
12 ~~determining the right]~~ to notice of or to vote at a meeting is
13 effective for an ~~[any]~~ adjournment of the ~~[a members']~~ meeting
14 unless the board of directors of a corporation sets a new date for
15 determining the right to notice of or to vote at the adjournment.
16 ~~[The board shall set a new date if the meeting is adjourned to a date~~
17 ~~more than 90 days after the record date for determining members~~
18 ~~entitled to notice of the original meeting.]~~

19 SECTION 89. Section 22.164(a), Business Organizations
20 Code, is amended to read as follows:

21 (a) In this section, "fundamental action" means:

22 (1) an amendment of a certificate of formation,
23 including an amendment required for the cancellation of an event
24 requiring winding up in accordance with Section 11.152(b);

25 (2) a voluntary winding up under Chapter 11;

26 (3) a revocation of a voluntary decision to wind up
27 under Section 11.151;

1 (4) a cancellation of an event requiring winding up
2 under Section 11.152(a) [~~11.152~~];

3 (5) a reinstatement under Section 11.202;

4 (6) a distribution plan under Section 22.305;

5 (7) a plan of merger under Subchapter F;

6 (8) a sale of all or substantially all of the assets of
7 a corporation under Subchapter F;

8 (9) a plan of conversion under Subchapter F; or

9 (10) a plan of exchange under Subchapter F.

10 SECTION 90. Section 22.220, Business Organizations Code, is
11 amended to read as follows:

12 Sec. 22.220. ACTION WITHOUT MEETING OF DIRECTORS OR
13 COMMITTEE. (a) The certificate of formation or bylaws of a
14 corporation may provide that an action required by this chapter to
15 be taken at a meeting of the corporation's directors or an action
16 that may be taken at a meeting of the directors or a committee may be
17 taken without a meeting if a written consent, stating the action to
18 be taken, is signed by the number of directors or committee members
19 necessary to take that action at a meeting at which all of the
20 directors or committee members are present and voting. The consent
21 must state the date of each director's or committee member's
22 signature.

23 (b) [~~A written consent signed by less than all of the~~
24 ~~directors or committee members is not effective to take the action~~
25 ~~that is the subject of the consent unless, not later than the 60th~~
26 ~~day after the date of the earliest dated consent delivered to the~~
27 ~~corporation in the manner required by this section, a consent or~~

1 ~~consents signed by the required number of directors or committee~~
2 ~~members are delivered to the corporation.~~

3 ~~[(1) at the registered office or principal place of~~
4 ~~business of the corporation; or~~

5 ~~[(2) through the corporation's registered agent,~~
6 ~~transfer agent, registrar, or exchange agent or an officer or agent~~
7 ~~of the corporation having custody of the books in which proceedings~~
8 ~~of meetings of directors or committees are recorded.~~

9 ~~[(c) Delivery under Subsection (b) must be by hand or by~~
10 ~~certified or registered mail, return receipt requested. Delivery~~
11 ~~to the corporation's principal place of business must be addressed~~
12 ~~to the president or principal executive officer of the corporation.~~

13 ~~[(d)]~~ Prompt notice of the taking of an action by directors
14 or a committee without a meeting by less than unanimous written
15 consent shall be given to each director or committee member who did
16 not consent in writing to the action.

17 SECTION 91. Section 22.222, Business Organizations Code, is
18 amended to read as follows:

19 Sec. 22.222. RELIGIOUS CORPORATION DIRECTOR'S GOOD FAITH
20 RELIANCE ON CERTAIN INFORMATION. A director of a religious
21 corporation, in the discharge of a duty imposed or power conferred
22 on the director, including a duty imposed or power conferred as a
23 committee member, may rely in good faith on information or on an
24 opinion, report, or statement, including a financial statement or
25 other financial data, concerning the corporation or another person
26 that was prepared or presented by:

27 (1) a religious authority; or

1 (2) a minister, priest, rabbi, or other person whose
2 position or duties in the religious organization [~~corporation~~] the
3 director believes justify reliance and confidence and whom the
4 director believes to be reliable and competent in the matters
5 presented.

6 SECTION 92. Section 22.234, Business Organizations Code, is
7 amended to read as follows:

8 Sec. 22.234. RELIGIOUS CORPORATION OFFICER'S GOOD FAITH
9 RELIANCE ON CERTAIN INFORMATION. An officer of a religious
10 corporation, in the discharge of a duty imposed or power conferred
11 on the officer, may rely in good faith and with ordinary care on
12 information or on an opinion, report, or statement, including a
13 financial statement or other financial data, concerning the
14 corporation or another person that was prepared or presented by:

15 (1) a religious authority [~~or another religious~~
16 ~~corporation~~]; or

17 (2) a minister, priest, rabbi, or other person whose
18 position or duties in the [~~religious authority or~~] religious
19 organization [~~corporation~~] the officer believes justify reliance
20 and confidence and whom the officer believes to be reliable and
21 competent in the matters presented.

22 SECTION 93. Section 22.301, Business Organizations Code, is
23 amended to read as follows:

24 Sec. 22.301. APPROVAL OF VOLUNTARY WINDING UP,
25 REINSTATEMENT, REVOCATION OF VOLUNTARY WINDING UP, OR DISTRIBUTION
26 PLAN. A corporation must approve a voluntary winding up in
27 accordance with Chapter 11, a reinstatement in accordance with

1 Section 11.202, a cancellation of an event requiring winding up
2 under Section 11.152(a) [~~11.152~~], a revocation of a voluntary
3 decision to wind up in accordance with Section 11.151, or a
4 distribution plan in accordance with Section 22.305 by complying
5 with the procedures prescribed by this subchapter.

6 SECTION 94. Section 23.053(b), Business Organizations
7 Code, is amended to read as follows:

8 (b) In accordance with Section 3.005(a)(3), the certificate
9 of formation of a [The] business development corporation must state
10 that the purposes of the corporation are [be organized] to:

11 (1) promote, stimulate, develop, and advance the
12 business prosperity and economic welfare of this state and the
13 residents of this state;

14 (2) encourage and assist, through loans, investments,
15 or other business transactions, new business and industry in this
16 state;

17 (3) rehabilitate and assist existing industry in this
18 state;

19 (4) stimulate and assist in the expansion of business
20 activity that will tend to promote the business development and
21 maintain the economic stability of this state, provide maximum
22 opportunities for employment, encourage thrift, and improve the
23 standard of living of the residents of this state;

24 (5) cooperate and act in conjunction with other public
25 or private organizations in the promotion and advancement of
26 industrial, commercial, agricultural, and recreational
27 developments in this state; and [~~or~~]

1 (6) provide financing for the promotion, development,
2 and conduct of business activity in this state.

3 SECTION 95. Section 23.058(a), Business Organizations
4 Code, is amended to read as follows:

5 (a) The organizers [~~incorporators~~] of a corporation shall
6 name the directors constituting the initial board of directors of
7 the corporation. Directors other than the initial directors shall
8 be elected at each annual meeting of the corporation. If an annual
9 meeting is not held at the time designated by the bylaws of the
10 corporation, the directors shall be elected at a special meeting
11 held in lieu of the annual meeting.

12 SECTION 96. Subchapter B, Chapter 101, Business
13 Organizations Code, is amended by adding Section 101.0515 to read
14 as follows:

15 Sec. 101.0515. EXECUTION OF FILINGS. Unless otherwise
16 provided by this title, a filing instrument of a limited liability
17 company must be signed by an authorized officer, manager, or member
18 of the limited liability company.

19 SECTION 97. Section 101.054(a), Business Organizations
20 Code, is amended to read as follows:

21 (a) Except as provided by this section, the following
22 provisions may not be waived or modified in the company agreement of
23 a limited liability company:

- 24 (1) this section;
- 25 (2) Section 101.101(b), 101.151, 101.206, 101.501, or
26 101.502;
- 27 (3) Chapter 1, if the provision is used to interpret a

1 provision or define a word or phrase contained in a section listed
2 in this subsection;

3 (4) Chapter 2, except that Section 2.104(c)(2),
4 2.104(c)(3), or 2.113 may be waived or modified in the company
5 agreement;

6 (5) Chapter 3, except that Subchapters C and E may be
7 waived or modified in the company agreement; or

8 (6) Chapter 4, 5, 7, 10, 11, or 12, other than Section
9 11.056.

10 SECTION 98. Section 101.112, Business Organizations Code,
11 is amended to read as follows:

12 Sec. 101.112. MEMBER'S [~~JUDGMENT CREDITOR, CHARGE OF~~
13 MEMBERSHIP INTEREST SUBJECT TO CHARGING ORDER. (a) On application
14 by a judgment creditor of a member of a limited liability company or
15 of any other owner of a membership interest in a limited liability
16 company, a court having jurisdiction may charge the membership
17 interest of the judgment debtor to satisfy [~~member or owner, as~~
18 ~~appropriate, with payment of the unsatisfied amount of~~] the
19 judgment.

20 (b) If a court charges a membership interest with payment of
21 a judgment as provided by Subsection (a), the judgment creditor has
22 only the right to receive any distribution to which the judgment
23 debtor would otherwise be entitled in respect [~~rights of an~~
24 ~~assignee~~] of the membership interest.

25 (c) A charging order constitutes a lien on the judgment
26 debtor's membership interest.

27 (d) The entry of a charging order is the exclusive remedy by

1 which a judgment creditor of a member or of any other owner of a
2 membership interest may satisfy a judgment out of the judgment
3 debtor's membership interest.

4 (e) This section may not be construed to deprive a member of
5 a limited liability company or any other owner of a membership
6 interest in a limited liability company of the benefit of any
7 exemption laws applicable to the membership interest of the member
8 or owner.

9 (f) A creditor of a member or of any other owner of a
10 membership interest does not have the right to obtain possession
11 of, or otherwise exercise legal or equitable remedies with respect
12 to, the property of the limited liability company.

13 SECTION 99. Section 101.352(b), Business Organizations
14 Code, is amended to read as follows:

15 (b) If the members of a limited liability company do not
16 constitute the governing authority of the company, notice of a
17 meeting of members required by Subsection (a) shall be given by or
18 at the direction of the governing authority not later than the 10th
19 day or earlier than the 60th day before the date of the meeting.
20 Notice of a meeting required under this subsection must state the
21 business to be transacted at the meeting or the purpose of the
22 meeting if:

23 (1) the meeting is a special meeting; or

24 (2) a purpose of the meeting is to consider a matter
25 described by Section 101.356.

26 SECTION 100. Section 101.463(b), Business Organizations
27 Code, is amended to read as follows:

1 (b) [~~Subject to Subsection (c),~~] Sections 101.452-101.459
2 do not apply to a closely held limited liability company.

3 SECTION 101. Sections 101.501(a) and (b), Business
4 Organizations Code, are amended to read as follows:

5 (a) In addition to the books and records required to be kept
6 under Section 3.151, a limited liability company shall keep at its
7 principal office in the United States, or make available to a person
8 at its principal office in the United States not later than the
9 fifth day after the date the person submits a written request to
10 examine the books and records of the company under Section 3.152(a)
11 or 101.502:

12 (1) a current list that states:

13 (A) the percentage or other interest in the
14 limited liability company owned by each member; and

15 (B) if one or more classes or groups of
16 membership interests are established in or under the certificate of
17 formation or company agreement, the names of the members of each
18 specified [~~of each member of a~~] class or group [~~of membership~~
19 ~~interests in the company~~];

20 (2) a copy of the company's federal, state, and local
21 tax information or income tax returns for each of the six preceding
22 tax years;

23 (3) a copy of the company's certificate of formation,
24 including any amendments to or restatements of the certificate of
25 formation;

26 (4) if the company agreement is in writing, a copy of
27 the company agreement, including any amendments to or restatements

1 of the company agreement;

2 (5) an executed copy of any powers of attorney;

3 (6) a copy of any document that establishes a class or
4 group of members of the company as provided by the company
5 agreement; and

6 (7) except as provided by Subsection (b), a written
7 statement of:

8 (A) the amount of a cash contribution and a
9 description and statement of the agreed value of any other
10 contribution made or agreed to be made by each member;

11 (B) the dates any additional contributions are to
12 be made by a member;

13 (C) any event the occurrence of which requires a
14 member to make additional contributions;

15 (D) any event the occurrence of which requires
16 the winding up of the company; and

17 (E) the date each member became a member of the
18 company.

19 (b) A limited liability company is not required to keep or
20 make available at its principal office in the United States a
21 written statement of the information required by Subsection (a)(7)
22 if that information is stated in a written ~~[the]~~ company agreement.

23 SECTION 102. Section 101.552, Business Organizations Code,
24 is amended to read as follows:

25 Sec. 101.552. APPROVAL OF VOLUNTARY WINDING UP, REVOCATION,
26 CANCELLATION, OR REINSTATEMENT. (a) A majority vote of all of the
27 ~~[governing]~~ members of a limited liability company or, if the

1 limited liability company has no members, a majority vote of all of
2 the managers of the company is required to approve:

3 (1) a voluntary winding up of the company under
4 Chapter 11;

5 (2) a revocation of a voluntary decision to wind up the
6 company under Section 11.151; or

7 ~~(3) [a cancellation of an event requiring the winding
8 up of the company under Section 11.152, or~~

9 ~~[(4)]~~ a reinstatement of a terminated company under
10 Section 11.202.

11 (b) The consent of all of the members of the limited
12 liability company is required to approve a cancellation under
13 Section 11.152 of an event requiring winding up specified in
14 Section 11.051(1) or (3).

15 (c) An event requiring winding up specified in Section
16 11.056 may be canceled in accordance with Section 11.152(a) if the
17 legal representative or successor of the last remaining member of
18 the domestic limited liability company agrees to:

19 (1) cancel the event requiring winding up and continue
20 the company; and

21 (2) become a member of the company effective as of the
22 date of termination of the membership of the last remaining member
23 of the company, or designate another person who agrees to become a
24 member of the company effective as of the date of the termination.

25 SECTION 103. Section 151.001(2), Business Organizations
26 Code, is amended to read as follows:

27 (2) "Distribution" means a transfer of property,

1 including cash, from a partnership to[+
2 [~~(A)~~] a partner in the partner's capacity as a
3 partner or the[~~+~~or
4 [~~(B)~~—a] partner's transferee.

5 SECTION 104. Section 152.002(b), Business Organizations
6 Code, is amended to read as follows:

7 (b) A partnership agreement or the partners may not:

8 (1) unreasonably restrict a partner's right of access
9 to books and records under Section 152.212;

10 (2) eliminate the duty of loyalty under Section
11 152.205, except that the partners by agreement may identify
12 specific types of activities or categories of activities that do
13 not violate the duty of loyalty if the types or categories are not
14 manifestly unreasonable;

15 (3) eliminate the duty of care under Section 152.206,
16 except that the partners by agreement may determine the standards
17 by which the performance of the obligation is to be measured if the
18 standards are not manifestly unreasonable;

19 (4) eliminate the obligation of good faith under
20 Section 152.204(b), except that the partners by agreement may
21 determine the standards by which the performance of the obligation
22 is to be measured if the standards are not manifestly unreasonable;

23 (5) vary the power to withdraw as a partner under
24 Section 152.501(b)(1), (7), or (8), except for the requirement that
25 notice be in writing;

26 (6) vary the right to expel a partner by a court in an
27 event specified by Section 152.501(b)(5);

1 (7) restrict rights of a third party under this
2 chapter or the other partnership provisions, except for a
3 limitation on an individual partner's liability in a limited
4 liability partnership as provided by this chapter;

5 (8) select a governing law not permitted under
6 Sections 1.103 and 1.002(43)(C); or

7 (9) except as provided in Subsections (c) and (d),
8 waive or modify the following provisions of Title 1:

9 (A) Chapter 1, if the provision is used to
10 interpret a provision or to define a word or phrase contained in a
11 section listed in this subsection;

12 (B) Chapter 2, other than Sections 2.104(c)(2),
13 2.104(c)(3), and 2.113;

14 (C) Chapter 3, other than Subchapters C and E of
15 that chapter; or

16 (D) Chapters 4, 5, 10, 11, and 12, other than
17 Sections 11.057(a), (b), (c)(1), (c)(3), and (d) [~~11.057(a)(1),~~
18 ~~(2), (5), and (6) and 11.057(b)~~].

19 SECTION 105. Section 152.302(c), Business Organizations
20 Code, is amended to read as follows:

21 (c) A conveyance of real property by a partner on behalf of
22 the partnership not otherwise binding on the partnership binds the
23 partnership if the property has been conveyed by the grantee or a
24 person claiming through the grantee to [~~be~~] a holder for value
25 without knowledge that the partner exceeded that partner's
26 authority in making the conveyance.

27 SECTION 106. Section 152.304(a), Business Organizations

1 Code, is amended to read as follows:

2 (a) Except as provided by Subsection (b) or Section
3 152.801(a) [~~152.801(b)~~], all partners are liable jointly and
4 severally for a debt or obligation of the partnership unless
5 otherwise:

- 6 (1) agreed by the claimant; or
- 7 (2) provided by law.

8 SECTION 107. Section 152.501(b), Business Organizations
9 Code, is amended to read as follows:

10 (b) An event of withdrawal of a partner occurs on:

11 (1) receipt by the partnership of notice of the
12 partner's express will to withdraw as a partner on:

- 13 (A) the date on which the notice is received; or
- 14 (B) a later date specified by the notice;

15 (2) an event specified in the partnership agreement as
16 causing the partner's withdrawal;

17 (3) the partner's expulsion as provided by the
18 partnership agreement;

19 (4) the partner's expulsion by vote of a
20 majority-in-interest of the other partners if:

21 (A) it is unlawful to carry on the partnership
22 business with that partner;

23 (B) there has been a transfer of all or
24 substantially all of that partner's partnership interest, other
25 than:

26 (i) a transfer for security purposes that
27 has not been foreclosed; or

1 (ii) the substitution of a successor
2 trustee or successor personal representative;

3 (C) not later than the 90th day after the date on
4 which the partnership notifies an entity partner, other than a
5 nonfiling entity or foreign nonfiling entity partner, that it will
6 be expelled because it has filed a certificate of termination or the
7 equivalent, its existence has been involuntarily terminated or its
8 charter has been revoked, or its right to conduct business has been
9 terminated or suspended by the jurisdiction of its formation, if
10 the certificate of termination or the equivalent is not revoked or
11 its existence, charter, or right to conduct business is not
12 reinstated; or

13 (D) an event requiring a winding up has occurred
14 with respect to a nonfiling entity or foreign nonfiling entity that
15 is a partner;

16 (5) the partner's expulsion by judicial decree, on
17 application by the partnership or another partner, if the judicial
18 decree determines that the partner:

19 (A) engaged in wrongful conduct that adversely
20 and materially affected the partnership business;

21 (B) wilfully or persistently committed a
22 material breach of:

23 (i) the partnership agreement; or

24 (ii) a duty owed to the partnership or the
25 other partners under Sections 152.204-152.206; or

26 (C) engaged in conduct relating to the
27 partnership business that made it not reasonably practicable to

1 carry on the business in partnership with that partner;

2 (6) the partner's:

3 (A) becoming a debtor in bankruptcy;

4 (B) executing an assignment for the benefit of a
5 creditor;

6 (C) seeking, consenting to, or acquiescing in the
7 appointment of a trustee, receiver, or liquidator of that partner
8 or of all or substantially all of that partner's property; or

9 (D) failing, not later than the 90th day after
10 the appointment, to have vacated or stayed the appointment of a
11 trustee, receiver, or liquidator of the partner or of all or
12 substantially all of the partner's property obtained without the
13 partner's consent or acquiescence, or not later than the 90th day
14 after the date of expiration of a stay, failing to have the
15 appointment vacated;

16 (7) if a partner is an individual:

17 (A) the partner's death;

18 (B) the appointment of a guardian or general
19 conservator for the partner; or

20 (C) a judicial determination that the partner has
21 otherwise become incapable of performing the partner's duties under
22 the partnership agreement;

23 (8) termination of a partner's existence;

24 (9) if a partner has transferred all of the partner's
25 partnership interest, redemption of the transferee's interest
26 under Section 152.611; or

27 (10) an agreement to continue the partnership under

1 Section 11.057(d) [~~11.057(b)~~] if the partnership has received a
2 notice from the partner under Section 11.057(d) [~~11.057(a)(6)~~]
3 requesting that the partnership be wound up ~~[, or~~

4 [~~(11) a conversion of the partnership if the partner:~~
5 [~~(A) did not consent to the conversion, and~~
6 [~~(B) failed to notify the partnership in writing~~
7 ~~of the partner's desire not to withdraw within 60 days after the~~
8 ~~later of:~~

9 [~~(i) the effective date of the conversion,~~
10 ~~or~~

11 [~~(ii) the date the partner receives actual~~
12 ~~notice of the conversion].~~

13 SECTION 108. Section 152.503(b), Business Organizations
14 Code, is amended to read as follows:

15 (b) A partner's withdrawal is wrongful only if:

16 (1) the withdrawal breaches an express provision of
17 the partnership agreement;

18 (2) in the case of a partnership that has a period of
19 duration, is for a [~~definite term or~~] particular undertaking, or is
20 required under its [~~for which the~~] partnership agreement to wind up
21 the partnership [~~provides for winding up~~] on occurrence of a
22 specified event, before the expiration of the period of duration
23 [~~term~~], the completion of the undertaking, or the occurrence of the
24 event, as appropriate:

25 (A) the partner withdraws by express will;

26 (B) the partner withdraws by becoming a debtor in
27 bankruptcy; or

1 (C) in the case of a partner that is not an
2 individual, a trust other than a business trust, or an estate, the
3 partner is expelled or otherwise withdraws because the partner
4 wilfully dissolved or terminated; or

5 (3) the partner is expelled by judicial decree under
6 Section 152.501(b)(5).

7 SECTION 109. Section 152.602(b), Business Organizations
8 Code, is amended to read as follows:

9 (b) The redemption price of the partnership interest of a
10 partner who wrongfully withdraws before the expiration of the
11 partnership's period of duration [~~a definite term~~], the completion
12 of a particular undertaking, or the occurrence of a specified event
13 requiring a winding up of partnership business is the lesser of:

14 (1) the fair value of the withdrawn partner's
15 partnership interest on the date of withdrawal; or

16 (2) the amount that the withdrawn partner would have
17 received if an event requiring a winding up of partnership business
18 had occurred at the time of the partner's withdrawal.

19 SECTION 110. Section 152.608(a), Business Organizations
20 Code, is amended to read as follows:

21 (a) A partner who wrongfully withdraws before the
22 expiration of the partnership's period of duration [~~a definite~~
23 ~~term~~], the completion of a particular undertaking, or the
24 occurrence of a specified event requiring a winding up of
25 partnership business is not entitled to receive any portion of the
26 redemption price until the expiration of the period [~~term~~], the
27 completion of the undertaking, or the occurrence of the specified

1 event, as appropriate, unless the partner establishes to the
2 satisfaction of a court that earlier payment will not cause undue
3 hardship to the partnership.

4 SECTION 111. Section 152.611(a), Business Organizations
5 Code, is amended to read as follows:

6 (a) A partnership must redeem the partnership interest of a
7 transferee for its fair value if:

8 (1) the interest was transferred when:

9 (A) the partnership had a period of duration that
10 had [~~was for a definite term~~] not yet expired;

11 (B) the partnership was for a particular
12 undertaking not yet completed; or

13 (C) the partnership agreement provided for
14 winding up of the partnership business on a specified event that had
15 not yet occurred;

16 (2) the partnership's period of duration [~~definite~~
17 ~~term of the partnership~~] has expired, the particular undertaking
18 has been completed, or the specified event has occurred; and

19 (3) the transferee makes a written demand for
20 redemption.

21 SECTION 112. Section 152.709, Business Organizations Code,
22 is amended to read as follows:

23 Sec. 152.709. CANCELLATION OR REVOCATION OF EVENT REQUIRING
24 WINDING UP; CONTINUATION OF PARTNERSHIP. (a) If a partnership has
25 a period of duration, is for a particular undertaking, or is
26 required under its partnership agreement to wind up the partnership
27 on occurrence of a specified event, all of the partners in the

1 partnership may cancel under Section 11.152 an event requiring a
2 winding up specified in Section 11.051(1) or (3), or Section
3 11.057(c)(1), by agreeing [~~all the partners in a partnership for a~~
4 ~~definite term or for a particular undertaking or for which the~~
5 ~~partnership agreement provides for winding up on a specified event~~
6 ~~agree~~] to continue the partnership business notwithstanding the
7 expiration of the partnership's period of duration [~~term~~], the
8 completion of the undertaking, or the occurrence of the event, as
9 appropriate, other than the withdrawal of a partner. On reaching
10 that agreement, the event requiring a winding up is canceled, the
11 partnership is continued, and the partnership agreement is
12 considered amended to provide that the expiration, the completion,
13 or the occurrence of the event did not result in an event requiring
14 [~~the~~] winding up of the partnership [~~business~~].

15 (b) A continuation of the business for 90 days by the
16 partners or those who habitually acted in the business during the
17 partnership's period of duration [~~term~~] or the undertaking or
18 preceding the event, without a settlement or liquidation of the
19 partnership business and without objection from a partner, is prima
20 facie evidence of agreement by all partners to continue the
21 business under Subsection (a).

22 (c) All of the partners of a partnership, by agreeing to
23 continue the partnership, may cancel under Section 11.152 an event
24 requiring winding up specified in Section 11.057(d) that arises
25 from a request to wind up from a partner. [~~The continuation of the~~
26 ~~business by the other partners or by those who habitually acted in~~
27 ~~the business before the notice under Section 11.057(b), other than~~

1 ~~the partner giving the notice, without any settlement or~~
2 ~~liquidation of the partnership business, is prima facie evidence of~~
3 ~~an agreement to continue the partnership under Section 11.057(b).]~~

4 (d) To approve a revocation under Section 11.151 by a
5 partnership of a voluntary decision to wind up pursuant to the
6 express will of all the partners as specified in Section 11.057(b)
7 [~~11.057(a)(2) or (3)~~], prior to completion of the winding up
8 process, all the partners must agree in writing to revoke the
9 voluntary decision to wind up and to continue the business of the
10 partnership.

11 (e) To approve a revocation under Section 11.151 by a
12 partnership of a voluntary decision to wind up pursuant to the
13 express will of a majority-in-interest of the partners as specified
14 in Section 11.057(a) [~~11.057(a)(1)~~], prior to completion of the
15 winding up process, a majority-in-interest of the partners must
16 agree in writing to revoke the voluntary decision to wind up and to
17 continue the business of the partnership.

18 (f) All of the partners of a partnership, by agreeing to
19 continue the partnership, may cancel under Section 11.152 an event
20 requiring winding up specified in Section 11.057(c)(3) that arises
21 from the sale of all or substantially all of the property of the
22 partnership.

23 SECTION 113. Section 152.901(b), Business Organizations
24 Code, is amended to read as follows:

25 (b) A foreign limited liability partnership may not be
26 denied registration because of a difference between the laws of the
27 jurisdiction [~~state~~] under which the partnership is formed and the

1 laws of this state.

2 SECTION 114. Section 152.902, Business Organizations Code,
3 is amended to read as follows:

4 Sec. 152.902. NAME. The name of a foreign limited
5 liability partnership must:

6 (1) satisfy the requirements of the jurisdiction
7 [~~state~~] of formation; and

8 (2) comply with Section 5.063.

9 SECTION 115. The heading to Section 152.905, Business
10 Organizations Code, is amended to read as follows:

11 Sec. 152.905. REGISTRATION PROCEDURE [~~STATEMENT OF FOREIGN~~
12 ~~QUALIFICATION~~].

13 SECTION 116. Sections 152.905(c) and (e), Business
14 Organizations Code, are amended to read as follows:

15 (c) A partnership is registered as a foreign limited
16 liability partnership on:

17 (1) the date on which a completed initial or renewal
18 application for registration [~~statement of foreign qualification~~]
19 is filed with the secretary of state in accordance with Chapter 4;
20 or

21 (2) a later date specified in the application
22 [~~statement~~].

23 (e) The registration of a foreign limited liability
24 partnership is effective until the first anniversary of the date
25 after the date of registration or a later effective date, unless the
26 registration [~~statement~~] is:

27 (1) withdrawn or revoked at an earlier time; or

1 (2) renewed in accordance with Section 152.908.

2 SECTION 117. Section 152.908(b), Business Organizations
3 Code, is amended to read as follows:

4 (b) The renewal application must contain:

5 (1) current information required for an initial
6 application for registration [~~statement of qualification~~]; and

7 (2) the most recent date of registration of the
8 partnership.

9 SECTION 118. The heading to Section 152.910, Business
10 Organizations Code, is amended to read as follows:

11 Sec. 152.910. EFFECT OF FAILURE TO REGISTER [~~QUALIFY~~].

12 SECTION 119. Section 152.914(b), Business Organizations
13 Code, is amended to read as follows:

14 (b) If it appears to the secretary of state that, with
15 respect to a foreign limited liability partnership, a circumstance
16 described by Subsection (a) exists, the secretary of state shall
17 provide notice to the partnership in the same manner and to the same
18 extent as notice is required to be provided to a foreign filing
19 entity under Sections 9.101 [~~9.101(a)~~] and 9.102 [~~9.102(a)~~].

20 SECTION 120. Section 153.052(b), Business Organizations
21 Code, is amended to read as follows:

22 (b) A certificate of formation may be amended to state the
23 name, mailing address, and street address of the business or
24 residence of each person winding up the limited partnership's
25 affairs if, after an event requiring the winding up of a limited
26 partnership but before the limited partnership is reconstituted or
27 a certificate of termination is filed as provided by Section 11.101

1 [~~153.451~~]:

2 (1) the certificate of formation has been amended to
3 reflect the withdrawal of all general partners; or

4 (2) a person who is not shown on the certificate of
5 formation as a general partner is carrying out the winding up of a
6 limited partnership's affairs.

7 SECTION 121. Section 153.103, Business Organizations Code,
8 is amended to read as follows:

9 Sec. 153.103. ACTIONS NOT CONSTITUTING PARTICIPATION IN
10 BUSINESS FOR LIABILITY PURPOSES. For purposes of this section and
11 Sections 153.102, 153.104, and 153.105, a limited partner does not
12 participate in the control of the business because the limited
13 partner has or has acted in one or more of the following capacities
14 or possesses or exercises one or more of the following powers:

15 (1) acting as:

16 (A) a contractor for or an agent or employee of
17 the limited partnership;

18 (B) a contractor for or an agent or employee of a
19 general partner;

20 (C) an officer, director, or stockholder of a
21 corporate general partner;

22 (D) a partner of a partnership that is a general
23 partner of the limited partnership; or

24 (E) a member or manager of a limited liability
25 company that is a general partner of the limited partnership;

26 (2) acting in a capacity similar to that described in
27 Subdivision (1) with any other person that is a general partner of

1 the limited partnership;

2 (3) consulting with or advising a general partner on
3 any matter, including the business of the limited partnership;

4 (4) acting as surety, guarantor, or endorser for the
5 limited partnership, guaranteeing or assuming one or more specific
6 obligations of the limited partnership, or providing collateral for
7 borrowings of the limited partnership;

8 (5) calling, requesting, attending, or participating
9 in a meeting of the partners or the limited partners;

10 (6) winding up the business of a limited partnership
11 under Chapter 11 and Subchapter K of this chapter;

12 (7) taking an action required or permitted by law to
13 bring, pursue, settle, or otherwise terminate a derivative action
14 in the right of the limited partnership;

15 (8) serving on a committee of the limited partnership
16 or the limited partners; or

17 (9) proposing, approving, or disapproving, by vote or
18 otherwise, one or more of the following matters:

19 (A) the [~~dissolution~~ ~~or~~] winding up or
20 termination of the limited partnership;

21 (B) an election to reconstitute the limited
22 partnership or continue the business of the limited partnership;

23 (C) the sale, exchange, lease, mortgage,
24 assignment, pledge, or other transfer of, or granting of a security
25 interest in, an asset of the limited partnership;

26 (D) the incurring, renewal, refinancing, or
27 payment or other discharge of indebtedness by the limited

1 partnership;

2 (E) a change in the nature of the business of the
3 limited partnership;

4 (F) the admission, removal, or retention of a
5 general partner;

6 (G) the admission, removal, or retention of a
7 limited partner;

8 (H) a transaction or other matter involving an
9 actual or potential conflict of interest;

10 (I) an amendment to the partnership agreement or
11 certificate of formation;

12 (J) if the limited partnership is qualified as an
13 investment company under the federal Investment Company Act of 1940
14 (15 U.S.C. Section 80a-1 et seq.), as amended, any matter required
15 by that Act or the rules and regulations of the Securities and
16 Exchange Commission under that Act, to be approved by the holders of
17 beneficial interests in an investment company, including:

18 (i) electing directors or trustees of the
19 investment company;

20 (ii) approving or terminating an investment
21 advisory or underwriting contract;

22 (iii) approving an auditor; and

23 (iv) acting on another matter that that Act
24 requires to be approved by the holders of beneficial interests in
25 the investment company;

26 (K) indemnification of a general partner under
27 Chapter 8 or otherwise;

1 (L) any other matter stated in the partnership
2 agreement;

3 (M) the exercising of a right or power granted or
4 permitted to limited partners under this code and not specifically
5 enumerated in this section; or

6 (N) the merger or conversion of a limited
7 partnership.

8 SECTION 122. Section 153.155(a), Business Organizations
9 Code, is amended to read as follows:

10 (a) A person ceases to be a general partner of a limited
11 partnership on the occurrence of one or more of the following events
12 of withdrawal:

13 (1) the general partner withdraws as a general partner
14 from the limited partnership as provided by Subsection (b);

15 (2) the general partner ceases to be a general partner
16 of the limited partnership as provided by Section 153.252(b);

17 (3) the general partner is removed as a general
18 partner in accordance with the partnership agreement;

19 (4) unless otherwise provided by a written partnership
20 agreement, or with the written consent of all partners, the general
21 partner:

22 (A) makes a general assignment for the benefit of
23 creditors;

24 (B) files a voluntary bankruptcy petition;

25 (C) becomes the subject of an order for relief or
26 is declared insolvent in a federal or state bankruptcy or
27 insolvency proceeding;

1 (D) files a petition or answer seeking for the
2 general partner a reorganization, arrangement, composition,
3 readjustment, liquidation, winding up, termination, dissolution,
4 or similar relief under law;

5 (E) files a pleading admitting or failing to
6 contest the material allegations of a petition filed against the
7 general partner in a proceeding of the type described by Paragraphs
8 (A)-(D); or

9 (F) seeks, consents to, or acquiesces in the
10 appointment of a trustee, receiver, or liquidator of the general
11 partner or of all or a substantial part of the general partner's
12 properties;

13 (5) unless otherwise provided by a written partnership
14 agreement or with the written consent of all partners, the
15 expiration of:

16 (A) 120 days after the date of the commencement
17 of a proceeding against the general partner seeking reorganization,
18 arrangement, composition, readjustment, liquidation, dissolution,
19 or similar relief under law if the proceeding has not been
20 previously dismissed;

21 (B) 90 days after the date of the appointment,
22 without the general partner's consent, of a trustee, receiver, or
23 liquidator of the general partner or of all or a substantial part of
24 the general partner's properties if the appointment has not
25 previously been vacated or stayed; or

26 (C) 90 days after the date of expiration of a
27 stay, if the appointment has not previously been vacated;

1 (6) the death of a general partner;

2 (7) a court adjudicating a general partner who is an
3 individual mentally incompetent to manage the general partner's
4 person or property;

5 (8) unless otherwise provided by a written partnership
6 agreement or with the written consent of all partners, the
7 commencement of winding up activities intended to conclude in the
8 termination of a trust that is a general partner, but not merely the
9 substitution of a new trustee;

10 (9) unless otherwise provided by a written partnership
11 agreement or with the written consent of all partners, the
12 commencement of winding up activities of a separate partnership
13 that is a general partner;

14 (10) unless otherwise provided by a written
15 partnership agreement or with the written consent of all partners,
16 the:

17 (A) filing of a certificate of termination or its
18 equivalent for an entity, other than a nonfiling entity or a foreign
19 nonfiling entity, that is a general partner; or

20 (B) termination or revocation of the certificate
21 of formation or its equivalent of an entity, other than a nonfiling
22 entity or a foreign nonfiling entity, that is a general partner and
23 the expiration of 90 days after the date of notice to the entity of
24 termination or revocation without a reinstatement of its
25 certificate of formation or its equivalent; or

26 (11) the distribution by the fiduciary of an estate
27 that is a general partner of the estate's entire interest in the

1 limited partnership.

2 SECTION 123. Section 153.157, Business Organizations Code,
3 is amended to read as follows:

4 Sec. 153.157. WITHDRAWAL OF GENERAL PARTNER IN VIOLATION OF
5 PARTNERSHIP AGREEMENT. Unless otherwise provided by the
6 partnership agreement, a withdrawal by a general partner of a
7 partnership having a period of duration [~~for a definite term~~] or for
8 a particular undertaking before the expiration of that period
9 [~~term~~] or completion of that undertaking is a breach of the
10 partnership agreement.

11 SECTION 124. Section 153.251(b), Business Organizations
12 Code, is amended to read as follows:

13 (b) Except as otherwise provided by the partnership
14 agreement, an assignment of a partnership interest:

15 (1) does not require the winding up of [~~dissolve~~] a
16 limited partnership;

17 (2) does not entitle the assignee to become, or to
18 exercise rights or powers of, a partner; and

19 (3) entitles the assignee to be allocated income,
20 gain, loss, deduction, credit, or similar items and to receive
21 distributions to which the assignor was entitled to the extent
22 those items are assigned.

23 SECTION 125. Section 153.256, Business Organizations Code,
24 is amended to read as follows:

25 Sec. 153.256. PARTNER'S PARTNERSHIP INTEREST SUBJECT TO
26 CHARGING ORDER [~~CHARGE IN PAYMENT OF JUDGMENT CREDITOR~~]. (a) On
27 application [~~to a court~~] by a judgment creditor of a partner or of

1 any other owner of a partnership interest, a ~~[the]~~ court having
2 jurisdiction may~~+~~

3 ~~[(1)]~~ charge the partnership interest of the judgment
4 debtor to satisfy the judgment ~~[partner or other owner with payment~~
5 ~~of the unsatisfied amount of the judgment, with interest,~~

6 ~~[(2)]~~ ~~appoint a receiver for the debtor partner's share~~
7 ~~of the partnership's profits and other money payable or that~~
8 ~~becomes payable to the debtor partner with respect to the limited~~
9 ~~partnership, and~~

10 ~~[(3)]~~ ~~make other orders, directions, and inquiries that~~
11 ~~the circumstances of the case require].~~

12 (b) To the extent that the partnership interest is charged
13 in the manner provided by Subsection (a), the judgment creditor has
14 only the right to receive any distribution to which the judgment
15 debtor would otherwise be entitled in respect ~~[rights of an~~
16 ~~assignee]~~ of the partnership interest.

17 (c) A charging order constitutes a lien on the judgment
18 debtor's ~~[The]~~ partnership interest ~~[charged may be~~

19 ~~[(1)]~~ ~~redeemed at any time before foreclosure, or~~

20 ~~[(2)]~~ ~~in case of a sale directed by the court, and~~
21 ~~without constituting an event requiring winding up, purchased:~~

22 ~~[(A)]~~ ~~by one or more of the general partners with~~
23 ~~separate property of any general partner, or~~

24 ~~[(B)]~~ ~~with respect to partnership property, by one~~
25 ~~or more of the general partners whose interests are not charged, on~~
26 ~~the consent of all general partners whose interests are not charged~~
27 ~~and a majority in interest of the limited partners, excluding~~

1 ~~limited partnership interests held by a general partner whose~~
2 ~~interest is charged].~~

3 (d) The entry of a charging order is the ~~[remedies provided~~
4 ~~by Subsection (a) are]~~ exclusive remedy by which a judgment
5 creditor of a partner or of any other owner of a partnership
6 interest may satisfy a judgment out of the judgment debtor's
7 partnership interest ~~[of other remedies that may exist, including~~
8 ~~remedies under laws of this state applicable to partnerships~~
9 ~~without limited partners].~~

10 (e) This section does not deprive a partner or other owner
11 of a partnership interest of a right under exemption laws with
12 respect to the judgment debtor's partnership interest.

13 (f) A creditor of a partner or of any other owner of a
14 partnership interest does not have the right to obtain possession
15 of, or otherwise exercise legal or equitable remedies with respect
16 to, the property of the limited partnership.

17 SECTION 126. Section 153.501, Business Organizations Code,
18 is amended to read as follows:

19 Sec. 153.501. CANCELLATION OR REVOCATION OF EVENT REQUIRING
20 WINDING UP; CONTINUATION OF BUSINESS ~~[WITHOUT WINDING UP]~~. (a)
21 The limited partnership may cancel under Section 11.152 an event
22 requiring winding up arising from the expiration of its period of
23 duration as specified in Section 11.051(1) or from the occurrence
24 of an event specified in its governing documents as specified in
25 Section 11.051(3) ~~[11.051(1) or (3)]~~ if, not later than the 90th day
26 after the event, all remaining partners, or another group or
27 percentage of partners as specified by the partnership agreement,

1 agree in writing to continue the business of the limited
2 partnership.

3 (b) The limited partnership may cancel under Section 11.152
4 ~~[revoke]~~ an event requiring winding up arising from an event of
5 withdrawal of a general partner as specified in Section 11.058(b)
6 ~~[11.058(2)]~~ if:

7 (1) there remains at least one general partner and the
8 partnership agreement permits the business of the limited
9 partnership to be carried on by the remaining general partners and
10 those remaining general partners carry on the business; or

11 (2) not later than one year after the event, all
12 remaining partners, or another group or percentage of partners
13 specified in the partnership agreement:

14 (A) agree in writing to continue the business of
15 the limited partnership in writing; and

16 (B) to the extent that they desire or if there are
17 no remaining general partners, agree to the appointment of one or
18 more new general partners.

19 (c) The appointment of one or more new general partners
20 under Subsection (b)(2)(B) is effective from the date of
21 withdrawal.

22 (d) To approve a revocation under Section 11.151 by a
23 limited partnership of a voluntary decision to wind up as specified
24 in Section 11.058(a) ~~[11.058(1)]~~, prior to filing the certificate
25 of termination required by Section 11.101 ~~[153.451]~~, all remaining
26 partners, or another group or percentage of partners as specified
27 by the partnership agreement, must agree in writing to revoke the

1 voluntary decision to wind up and continue the business of the
2 limited partnership.

3 (e) The limited partnership may cancel under Section 11.152
4 an event requiring winding up arising when there are no limited
5 partners in the limited partnership, as specified in Section
6 11.058(c), if, not later than the first anniversary of the date of
7 the event requiring winding up:

8 (1) the legal representative or successor of the last
9 remaining limited partner and all of the general partners agree to:

10 (A) continue the business of the limited
11 partnership; and

12 (B) admit the legal representative or successor
13 of the last remaining limited partner, or the person's nominee or
14 designee, to the limited partnership as a limited partner,
15 effective as of the date the event that caused the last remaining
16 limited partner to cease to be a limited partner occurred; or

17 (2) a limited partner is admitted to the limited
18 partnership in the manner provided by the partnership agreement,
19 effective as of the date the event that caused the last remaining
20 limited partner to cease to be a limited partner occurred.

21 SECTION 127. Section 153.503(a), Business Organizations
22 Code, is amended to read as follows:

23 (a) After the occurrence of an event requiring [~~the~~] winding
24 up of a limited partnership and until the filing of a certificate of
25 termination as provided by Section 11.101 [~~Sections 153.451 and~~
26 ~~153.452~~], unless a written partnership agreement provides
27 otherwise, a person winding up the limited partnership's business

1 in the name of and on behalf of the limited partnership may take the
2 actions specified in Sections 11.052 and 11.053.

3 SECTION 128. Subchapter K, Chapter 153, Business
4 Organizations Code, is amended by adding Section 153.505 to read as
5 follows:

6 Sec. 153.505. APPROVAL OF REINSTATEMENT. To approve a
7 reinstatement of a limited partnership under Section 11.202, all of
8 the remaining partners, or another group or percentage of partners
9 as specified by the partnership agreement, must agree in writing to
10 reinstate and continue the business of the limited partnership.

11 SECTION 129. Section 153.551(a), Business Organizations
12 Code, is amended to read as follows:

13 (a) A domestic limited partnership shall maintain the
14 following records in its principal office in the United States or
15 make the records available in that office not later than the fifth
16 day after the date on which a written request under Section
17 153.552(a) is received:

18 (1) a current list that states:

19 (A) the name and mailing address of each partner,
20 separately identifying in alphabetical order the general partners
21 and the limited partners;

22 (B) the last known street address of the business
23 or residence of each general partner;

24 (C) the percentage or other interest in the
25 partnership owned by each partner; and

26 (D) if one or more classes or groups are
27 established under the partnership agreement, the names of the

1 partners who are members of each specified class or group;

2 (2) a copy of:

3 (A) the limited partnership's federal, state,
4 and local information or income tax returns for each of the
5 partnership's six most recent tax years;

6 (B) the partnership agreement and certificate of
7 formation; and

8 (C) all amendments or restatements;

9 (3) copies of any document that creates, in the manner
10 provided by the partnership agreement, classes or groups of
11 partners;

12 (4) an executed copy of any powers of attorney under
13 which the partnership agreement, certificate of formation, and all
14 amendments or restatements to the agreement and certificate have
15 been executed;

16 (5) unless contained in the written partnership
17 agreement, a written statement of:

18 (A) the amount of the cash contribution and a
19 description and statement of the agreed value of any other
20 contribution made by each partner;

21 (B) the amount of the cash contribution and a
22 description and statement of the agreed value of any other
23 contribution that the partner has agreed to make in the future as an
24 additional contribution;

25 (C) the date on which additional contributions
26 are to be made or the date of events requiring additional
27 contributions to be made;

1 (D) the events requiring the winding up of the
2 limited partnership [~~to be dissolved and its affairs wound up~~]; and

3 (E) the date on which each partner in the limited
4 partnership became a partner; and

5 (6) books and records of the accounts of the limited
6 partnership.

7 SECTION 130. The heading to Section 153.553, Business
8 Organizations Code, is amended to read as follows:

9 Sec. 153.553. EXECUTION OF [~~CERTAIN~~] FILINGS.

10 SECTION 131. Section 153.553, Business Organizations Code,
11 is amended by amending Subsection (a) and adding Subsection (a-1)
12 to read as follows:

13 (a) Except as provided by Subsection (a-1), a filing
14 instrument [~~Each certificate~~] required by this code to be filed by a
15 limited partnership with the secretary of state must be signed by at
16 least one general partner.

17 (a-1) The following certificates shall be executed as
18 follows:

19 (1) an initial certificate of formation must be signed
20 as provided in Section 3.004(b)(1) [~~, except for an initial~~
21 ~~certificate of formation signed by a person under Section~~
22 ~~153.106(1)];~~

23 (2) a certificate of amendment or restated certificate
24 of formation must be signed by at least one general partner and by
25 each other general partner designated in the certificate of
26 amendment as a new general partner, unless signed and filed by a
27 person under Section 153.052(b) or (c), [~~153.052(c), or~~

1 ~~153.106(1),~~] but the certificate of amendment need not be signed by
2 a withdrawing general partner;

3 (3) a certificate of termination must be signed by all
4 general partners participating in the winding up of the limited
5 partnership's business or, if no general partners are winding up
6 the limited partnership's business, by all nonpartner liquidators
7 or, if the limited partners are winding up the limited
8 partnership's business, by a majority-in-interest of the limited
9 partners;

10 (4) a certificate of merger, conversion, or exchange
11 filed on behalf of a domestic limited partnership must be signed as
12 provided by Chapter 10; and

13 (5) a certificate filed under Subchapter G, Chapter
14 10, [Section 10.251] must be signed by the person designated by the
15 court [~~, and~~

16 ~~[(6) a certificate of correction must be signed by at~~
17 ~~least one general partner].~~

18 SECTION 132. Section 200.261(a), Business Organizations
19 Code, is amended to read as follows:

20 (a) In this section, a "fundamental action" means:

21 (1) an amendment of a certificate of formation,
22 including an amendment required for cancellation of an event
23 requiring winding up in accordance with Section 11.152(b);

24 (2) a voluntary winding up under Chapter 11;

25 (3) a revocation of a voluntary decision to wind up
26 under Section 11.151;

27 (4) a cancellation of an event requiring winding up

1 under Section 11.152(a) [~~11.152~~]; or

2 (5) a reinstatement under Section 11.202.

3 SECTION 133. Section 251.403, Business Organizations Code,
4 is amended to read as follows:

5 Sec. 251.403. DISTRIBUTION OF ASSETS. Subject to Sections
6 11.052 and 11.053(a), the trustees designated under Section 251.401
7 shall distribute the cooperative association's assets in the
8 following order:

9 (1) by returning the par value of the investors'
10 capital to investors;

11 (2) by returning the amounts paid on subscriptions to
12 subscribers for invested capital;

13 (3) by returning the amount of patronage dividends
14 credited to patrons' accounts to the patrons;

15 (4) by returning to members their membership capital;
16 and

17 (5) by distributing any surplus in the manner provided
18 by the certificate of formation:

19 (A) among the patrons who have been members or
20 subscribers of the cooperative association during the six years
21 preceding the date of termination [~~dissolution~~], on the basis of
22 patronage during that period;

23 (B) as a gift to any cooperative association or
24 other nonprofit enterprise designated in the certificate of
25 formation; or

26 (C) by a combination of both methods of
27 distribution.

1 SECTION 134. Section 301.001(c), Business Organizations
2 Code, is amended to read as follows:

3 (c) This title does not apply to a partnership, including a
4 ~~[partnerships or]~~ limited liability partnership ~~[partnerships]~~.

5 SECTION 135. Section 301.003(3), Business Organizations
6 Code, is amended to read as follows:

7 (3) "Professional corporation" means a corporation
8 that is:

9 (A) formed for the purpose of providing a
10 professional service, other than the practice of medicine by
11 physicians, surgeons, or other doctors of medicine, that by law a
12 corporation governed by Title 2 is prohibited from rendering; and

13 (B) governed as a professional entity under this
14 title.

15 SECTION 136. Section 301.006(b), Business Organizations
16 Code, is amended to read as follows:

17 (b) A professional entity or foreign professional entity,
18 other than a professional association or foreign professional
19 association, may provide a professional service in this state only
20 through owners, managerial officials, employees, or agents, each of
21 whom is an authorized person.

22 SECTION 137. Section 303.006, Business Organizations Code,
23 is amended to read as follows:

24 Sec. 303.006. EXECUTION OF CERTIFICATE OF TERMINATION
25 ~~[WINDING UP AND TERMINATION OF PROFESSIONAL CORPORATION]~~. (a)
26 Except as provided by Subsection (b), a certificate of termination
27 filed in accordance with Chapter 11 must be executed by an officer

1 of the professional corporation on behalf of the corporation.

2 (b) If a professional corporation does not have any living
3 officer, the certificate of termination must be executed by a
4 director of the corporation. If the professional corporation does
5 not have any living director, the certificate of termination must
6 be executed by the legal representative of the last living
7 director [~~A shareholder of a professional corporation may not wind~~
8 ~~up the affairs of and terminate the corporation independently of~~
9 ~~other shareholders]~~ of the corporation.

10 SECTION 138. Section 402.001(a), Business Organizations
11 Code, is amended to read as follows:

12 (a) On or after the effective date of this code, this code
13 applies to:

14 (1) a domestic entity formed on or after the effective
15 date of this code;

16 (2) a domestic entity that is a converted entity
17 resulting from a conversion that takes effect on or after the
18 effective date of this code;

19 (3) a foreign filing entity, or other foreign entity,
20 that is not registered with the secretary of state to transact
21 business in this state before the effective date of this code; and

22 (4) [~~(3)~~] a foreign nonfiling entity, including a
23 foreign limited liability partnership.

24 SECTION 139. Section 402.003, Business Organizations Code,
25 is amended to read as follows:

26 Sec. 402.003. EARLY ADOPTION OF CODE BY EXISTING DOMESTIC
27 ENTITY. [~~(a)~~] A domestic entity formed before the effective date

1 of this code may voluntarily elect to adopt and become subject to
2 this code by:

3 (1) adopting the code by complying with the procedures
4 for approval, under prior law and [~~to amend~~] its governing
5 documents, of an amendment to:

6 (A) its articles of incorporation, with respect
7 to a corporation or cooperative association;

8 (B) its regulations, with respect to a limited
9 liability company;

10 (C) its articles of association, with respect to
11 a professional association;

12 (D) its declaration of trust, with respect to a
13 real estate investment trust;

14 (E) its partnership agreement, with respect to a
15 partnership; or

16 (F) its primary governing document, with respect
17 to another type of domestic entity;

18 (2) if any of its governing documents, including its
19 certificate of formation, do not comply with this code, complying
20 with the procedures, under prior law and [~~adopt this code and, if~~
21 necessary, to cause] its governing documents, to amend the
22 noncomplying governing documents to comply with this code,
23 including filing with the filing officer in accordance with Chapter
24 4 a certificate of amendment to cause its certificate of formation
25 to comply with this code; and

26 (3) [~~2~~] if the domestic entity is a filing entity,
27 filing with the filing officer [~~secretary of state~~] in accordance

1 with Chapter 4[+]

2 [(A)] a statement that the filing entity is
3 electing to adopt this code[, and

4 ~~[(B) if necessary, a certificate of amendment~~
5 ~~that would cause its certificate of formation to comply with this~~
6 ~~code.~~

7 ~~[(b) If amendments to the governing documents of a domestic~~
8 ~~entity that are necessary to conform the governing documents to~~
9 ~~this code would not require, under prior law, the vote or consent of~~
10 ~~the owners or members of the entity, this code and any amendment to~~
11 ~~the governing documents required by this section may be adopted by~~
12 ~~the governing authority only in the manner provided for an~~
13 ~~amendment of the particular governing document].~~

14 SECTION 140. Article 2.32, Texas Business Corporation Act,
15 is amended by amending Section A and adding Section E to read as
16 follows:

17 A. The board of directors of a corporation shall consist of
18 one or more members. The number of directors shall be fixed by, or
19 in the manner provided in, the articles of incorporation or the
20 bylaws, except as to the number constituting the initial board of
21 directors, which number shall be fixed by the articles of
22 incorporation. The number of directors may be increased or
23 decreased from time to time by amendment to, or in the manner
24 provided in, the articles of incorporation or the bylaws, but no
25 decrease shall have the effect of shortening the term of any
26 incumbent director. In the absence of a bylaw or a provision of the
27 articles of incorporation fixing the number of directors or

1 providing for the manner in which the number of directors shall be
2 fixed, the number of directors shall be the same as the number
3 constituting the initial board of directors as fixed by the
4 articles of incorporation. The names and addresses of the members
5 of the initial board of directors shall be stated in the articles of
6 incorporation. ~~[Unless otherwise provided by the articles of
7 incorporation or the bylaws, a director may resign at any time by
8 giving notice in writing or by electronic transmission to the
9 corporation.]~~ Absent resignation or removal in accordance with the
10 provisions of the bylaws or the articles of incorporation, such
11 persons shall hold office until the first annual meeting of
12 shareholders, and until their successors shall have been elected
13 and qualified. At the first annual meeting of shareholders and at
14 each annual meeting thereafter, the holders of shares entitled to
15 vote in the election of directors shall elect directors to hold
16 office until the next succeeding annual meeting, except in case of
17 the classification of directors as permitted by this Act.

18 E. Unless otherwise provided by the articles of
19 incorporation or the bylaws, a director may resign at any time by
20 giving notice in writing or by electronic transmission to the
21 corporation. The director's resignation takes effect on the date
22 the notice is received by the corporation, unless the notice
23 prescribes a later effective date or states that the resignation
24 takes effect on the occurrence of a future event, such as the
25 director's failure to receive a specified vote for reelection as a
26 director. If the director's resignation is to take effect on a
27 later date or on the occurrence of a future event, the resignation

1 takes effect on the later date or when the event occurs. The
2 director's resignation is irrevocable when it takes effect. The
3 director's resignation is revocable before it takes effect unless
4 the notice of resignation expressly states that it is irrevocable.

5 SECTION 141. Section A, Article 5.12, Texas Business
6 Corporation Act, is amended to read as follows:

7 A. Any shareholder of any domestic corporation who has the
8 right to dissent from any of the corporate actions referred to in
9 Article 5.11 of this Act may exercise that right to dissent only by
10 complying with the following procedures:

11 (1)(a) With respect to proposed corporate action that
12 is submitted to a vote of shareholders at a meeting, the shareholder
13 shall file with the corporation, prior to the meeting, a written
14 objection to the action, setting out that the shareholder's right
15 to dissent will be exercised if the action is effective and giving
16 the shareholder's address, to which notice thereof shall be
17 delivered or mailed in that event. If the action is effected and
18 the shareholder shall not have voted in favor of the action, the
19 corporation, in the case of action other than a merger, or the
20 surviving or new corporation (foreign or domestic) or other entity
21 that is liable to discharge the shareholder's right of dissent, in
22 the case of a merger, shall, within ten (10) days after the action
23 is effected, deliver or mail to the shareholder written notice that
24 the action has been effected, and the shareholder may, within ten
25 (10) days from the delivery or mailing of the notice, make written
26 demand on the existing, surviving, or new corporation (foreign or
27 domestic) or other entity, as the case may be, for payment of the

1 fair value of the shareholder's shares. The fair value of the
2 shares shall be the value thereof as of the day immediately
3 preceding the meeting, excluding any appreciation or depreciation
4 in anticipation of the proposed action. In computing the fair value
5 of the shares under this article, consideration must be given to the
6 value of the corporation as a going concern without including in the
7 computation of value any ~~[payment for a]~~ control premium, any ~~[or]~~
8 minority discount, or any discount for lack of marketability. If
9 the corporation has different classes or series of shares, the
10 relative rights and preferences of and limitations placed on the
11 class or series of shares, other than relative voting rights, held
12 by the dissenting shareholder must be taken into account in the
13 computation of value ~~[other than a discount attributable to the~~
14 ~~type of share held by the dissenting shareholder and any limitation~~
15 ~~placed on the rights and preference of those shares]~~. The demand
16 shall state the number and class of the shares owned by the
17 shareholder and the fair value of the shares as estimated by the
18 shareholder. Any shareholder failing to make demand within the ten
19 (10) day period shall be bound by the action.

20 (b) With respect to proposed corporate action
21 that is approved pursuant to Section A of Article 9.10 of this Act,
22 the corporation, in the case of action other than a merger, and the
23 surviving or new corporation (foreign or domestic) or other entity
24 that is liable to discharge the shareholder's right of dissent, in
25 the case of a merger, shall, within ten (10) days after the date the
26 action is effected, mail to each shareholder of record as of the
27 effective date of the action notice of the fact and date of the

1 action and that the shareholder may exercise the shareholder's
2 right to dissent from the action. The notice shall be accompanied
3 by a copy of this Article and any articles or documents filed by the
4 corporation with the Secretary of State to effect the action. If
5 the shareholder shall not have consented to the taking of the
6 action, the shareholder may, within twenty (20) days after the
7 mailing of the notice, make written demand on the existing,
8 surviving, or new corporation (foreign or domestic) or other
9 entity, as the case may be, for payment of the fair value of the
10 shareholder's shares. The fair value of the shares shall be the
11 value thereof as of the date the written consent authorizing the
12 action was delivered to the corporation pursuant to Section A of
13 Article 9.10 of this Act, excluding any appreciation or
14 depreciation in anticipation of the action. The demand shall state
15 the number and class of shares owned by the dissenting shareholder
16 and the fair value of the shares as estimated by the shareholder.
17 Any shareholder failing to make demand within the twenty (20) day
18 period shall be bound by the action.

19 (2) Within twenty (20) days after receipt by the
20 existing, surviving, or new corporation (foreign or domestic) or
21 other entity, as the case may be, of a demand for payment made by a
22 dissenting shareholder in accordance with Subsection (1) of this
23 Section, the corporation (foreign or domestic) or other entity
24 shall deliver or mail to the shareholder a written notice that shall
25 either set out that the corporation (foreign or domestic) or other
26 entity accepts the amount claimed in the demand and agrees to pay
27 that amount within ninety (90) days after the date on which the

1 action was effected, and, in the case of shares represented by
2 certificates, upon the surrender of the certificates duly endorsed,
3 or shall contain an estimate by the corporation (foreign or
4 domestic) or other entity of the fair value of the shares, together
5 with an offer to pay the amount of that estimate within ninety (90)
6 days after the date on which the action was effected, upon receipt
7 of notice within sixty (60) days after that date from the
8 shareholder that the shareholder agrees to accept that amount and,
9 in the case of shares represented by certificates, upon the
10 surrender of the certificates duly endorsed.

11 (3) If, within sixty (60) days after the date on which
12 the corporate action was effected, the value of the shares is agreed
13 upon between the shareholder and the existing, surviving, or new
14 corporation (foreign or domestic) or other entity, as the case may
15 be, payment for the shares shall be made within ninety (90) days
16 after the date on which the action was effected and, in the case of
17 shares represented by certificates, upon surrender of the
18 certificates duly endorsed. Upon payment of the agreed value, the
19 shareholder shall cease to have any interest in the shares or in the
20 corporation.

21 SECTION 142. Article 4.06, Texas Limited Liability Company
22 Act (Article 1528n, Vernon's Texas Civil Statutes), is amended to
23 read as follows:

24 Art. 4.06. RIGHTS OF JUDGMENT CREDITOR. A. On application
25 [~~to a court of competent jurisdiction~~] by a judgment creditor of a
26 member or of any other owner of a membership interest, the court may
27 charge the membership interest of the judgment debtor to satisfy

1 ~~[member or other owner with payment of the unsatisfied amount of]~~
2 the judgment. To ~~[Except as otherwise provided in the regulations~~
3 ~~to]~~ the extent that the membership interest is charged in this
4 manner, the judgment creditor has only the right to receive any
5 distribution to which the judgment debtor would otherwise have been
6 entitled in respect ~~[rights of an assignee]~~ of the membership
7 interest.

8 B. A charging order constitutes a lien on the judgment
9 debtor's membership interest.

10 C. The entry of a charging order is the exclusive remedy by
11 which a judgment creditor of a member or of any other owner of a
12 membership interest may satisfy a judgment out of the judgment
13 debtor's membership interest.

14 D. This Section does not deprive any member or other owner
15 of a membership interest of the benefit of any exemption laws
16 applicable to the judgment debtor's ~~[that member's]~~ membership
17 interest.

18 E. A creditor of a member or of any other owner of a
19 membership interest does not have the right to obtain possession
20 of, or otherwise exercise legal or equitable remedies with respect
21 to, the property of the limited liability company.

22 SECTION 143. Section 7.03, Texas Revised Limited
23 Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes),
24 is amended to read as follows:

25 Sec. 7.03. RIGHTS OF JUDGMENT CREDITOR. (a) On
26 application ~~[to a court of competent jurisdiction]~~ by a judgment
27 creditor of a partner or of any other owner of a partnership

1 interest, the court may charge the partnership interest of the
2 judgment debtor to satisfy the judgment [~~partner or other owner~~
3 ~~with payment of the unsatisfied amount of the judgment, with~~
4 ~~interest, may then or later appoint a receiver of the debtor~~
5 ~~partner's share of the partnership's profits and of any other money~~
6 ~~payable or that becomes payable to the debtor partner with respect~~
7 ~~to the partnership, and may make all other orders, directions, and~~
8 ~~inquiries that the circumstances of the case require]. To the
9 extent that the partnership interest is charged in this manner, the
10 judgment creditor has only the right to receive any distribution to
11 which the judgment debtor would otherwise have been entitled in
12 respect [~~rights of an assignee~~] of the partnership interest.~~

13 (b) A charging order constitutes a lien on the judgment
14 debtor's [~~The~~] partnership interest [~~charged may be redeemed at any~~
15 ~~time before foreclosure or, in case of a sale directed by the court,~~
16 ~~may be purchased without a dissolution being caused.~~

17 [~~(1) with separate property of any general partner, by~~
18 ~~any one or more of the general partners, or~~

19 [~~(2) with respect to partnership property, by any one~~
20 ~~or more of the general partners whose interests are not charged, on~~
21 ~~the consent of all general partners whose interests are not charged~~
22 ~~and a majority in interest of the limited partners, excluding~~
23 ~~limited partnership interests held by any general partner whose~~
24 ~~interest is charged].~~

25 (c) The entry of a charging order is the [~~remedies provided~~
26 ~~by Subsection (a) of this section are] exclusive remedy by which a
27 judgment creditor of a partner or of any other owner of a~~

1 partnership interest may satisfy a judgment out of the judgment
2 debtor's partnership interest [~~of others that may exist, including~~
3 ~~remedies under laws of this state applicable to partnerships~~
4 ~~without limited partners~~].

5 (d) This section does not deprive any partner or other owner
6 of a partnership interest of the benefit of any exemption laws
7 applicable to the judgment debtor's [~~that partner's~~] partnership
8 interest.

9 (e) A creditor of a partner or of any other owner of a
10 partnership interest does not have the right to obtain possession
11 of, or otherwise exercise legal or equitable remedies with respect
12 to, the property of the limited partnership.

13 SECTION 144. The following are repealed:

14 (1) Section 22.306, Business Organizations Code;

15 (2) Section 152.501(c), Business Organizations Code;

16 and

17 (3) Subchapter J, Chapter 153, Business Organizations
18 Code.

19 SECTION 145. The changes in law made by this Act to Sections
20 101.112 and 153.256, Business Organizations Code, Article 4.06,
21 Texas Limited Liability Company Act (Article 1528n, Vernon's Texas
22 Civil Statutes), and Section 7.03, Texas Revised Limited
23 Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes),
24 apply only to the rights of a judgment creditor of a judgment
25 rendered on or after September 1, 2007. The rights of a judgment
26 creditor of a judgment rendered before that date are governed by the
27 law in effect when the judgment was rendered, and the former law is

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1 continued in effect for that purpose.

2 SECTION 146. This Act takes effect September 1, 2007.

David Newkum

President of the Senate

Jim Caddick

Speaker of the House

I certify that H.B. No. 1737 was passed by the House on May 7, 2007, by the following vote: Yeas 135, Nays 0, 2 present, not voting.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 1737 was passed by the Senate on May 23, 2007, by the following vote: Yeas 31, Nays 0.

Daisy Spaw
Secretary of the Senate

APPROVED: 15 JUN 07

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

5 PM O'CLOCK

JUN 15 2007

Roger Winnie
Secretary of State