

By: Rose

H.B. No. 2817

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the identification of individuals who have been the  
3 initial directors of corporations that have forfeited charters or  
4 that have been involuntarily dissolved.

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

6 SECTION 1. Section A, Article 3.02, Texas Business  
7 Corporation Act, is amended to read as follows:

8 A. The articles of incorporation shall set forth:

9 (1) The name of the corporation;

10 (2) The period of duration, which may be perpetual;

11 (3) The purpose or purposes for which the corporation  
12 is organized which may be stated to be, or to include, the  
13 transaction of any or all lawful business for which corporations  
14 may be incorporated under this Act;

15 (4) The aggregate number of shares which the  
16 corporation shall have authority to issue; if such shares are to  
17 consist of one class only, the par value of each of such shares, or a  
18 statement that all of such shares are without par value; or, if  
19 such shares are to be divided into classes, the number of shares of  
20 each class, and a statement of the par value of the shares of each  
21 class or that such shares are to be without par value;

22 (5) If the shares are to be divided into classes, the  
23 designation of each class and statement of the preferences,  
24 limitations, and relative rights in respect of the shares of each

1 class;

2 (6) If the corporation is to issue the shares of any  
3 class in series, then the designation of each series and a statement  
4 of the variations in the preferences, limitations and relative  
5 rights as between series insofar as the same are to be fixed in the  
6 articles of incorporation, and a statement of any authority to be  
7 vested in the board of directors to establish series and fix and  
8 determine the preferences, limitations and relative rights of each  
9 series;

10 (7) Any provision limiting or denying to shareholders  
11 the preemptive right to acquire additional or treasury shares of  
12 the corporation;

13 (8) If a corporation elects to become a close  
14 corporation in conformance with Part Twelve of this Act, any  
15 provision (a) required or permitted by this Act to be stated in the  
16 articles of incorporation of a close corporation, but not in the  
17 articles of incorporation of an ordinary corporation, (b) contained  
18 or permitted to be contained in a shareholders' agreement in  
19 conformance with Part Twelve of this Act which the incorporators  
20 elect to set forth in articles of incorporation, or (c) that makes a  
21 shareholders' agreement in conformance with Part Twelve of this Act  
22 part of the articles of incorporation of a close corporation in the  
23 manner prescribed in Section F, Article 2.22 of this Act, but any  
24 such provision, other than the statement required by Section A,  
25 Article 12.11 of this Act, shall be preceded by a statement that the  
26 provision shall be subject to the corporation remaining a close  
27 corporation in conformance with Part Twelve of this Act;

1           (9) Any provision, not inconsistent with law,  
2 including any provision which under this Act is required or  
3 permitted to be set forth in the bylaws or which is permitted to be  
4 included pursuant to Article 2.30-1 of this Act, providing for the  
5 regulation of the internal affairs of the corporation;

6           (10) The street address of its initial registered  
7 office and the name of its initial registered agent at such address;

8           (11) Subject to Article 2.30-1 of this Act, the number  
9 of directors constituting the initial board of directors and the  
10 names and addresses of, and any forfeiture identification numbers  
11 assigned to, the person or persons who are to serve as directors  
12 until the first annual meeting of shareholders or until their  
13 successors be elected and qualify, or, in the case of a close  
14 corporation that, in conformance with Part Twelve of this Act, is to  
15 be managed in some other manner pursuant to a shareholders'  
16 agreement by the shareholders or by the persons empowered by the  
17 agreement to manage its business and affairs, the names and  
18 addresses of, and any forfeiture identification numbers assigned  
19 to, the person or persons who, pursuant to the shareholders'  
20 agreement, will perform the functions of the initial board of  
21 directors provided for by this Act;

22           (12) The name and address of each incorporator, unless  
23 the corporation is being incorporated pursuant to a plan of  
24 conversion or a plan of merger, in which case the articles need not  
25 include such information; and

26           (13) If the corporation is being incorporated pursuant  
27 to a plan of conversion or a plan of merger, a statement to that

1 effect, and in the case of a plan of conversion, the name, address,  
2 date of formation, and prior form of organization and jurisdiction  
3 of incorporation or organization of the converting entity.

4 SECTION 2. Part Three, Texas Business Corporation Act, is  
5 amended by adding Article 3.07 to read as follows:

6 Art. 3.07. FORFEITURE IDENTIFICATION NUMBER. A. In this  
7 article, "dissolved corporation" means a corporation that has  
8 forfeited its charter, certificate of authority, or other rights to  
9 do business in this state, or that has been involuntarily dissolved  
10 under this Act, the Texas Miscellaneous Corporation Laws Act  
11 (Article 1302-1.01 et seq., Vernon's Texas Civil Statutes), the  
12 Texas Non-Profit Corporation Act (Article 1396-1.01 et seq.,  
13 Vernon's Texas Civil Statutes), the Tax Code, or other law.

14 B. The secretary of state shall assign a unique forfeiture  
15 identification number to each individual named as a director in the  
16 articles of incorporation for whom a forfeiture identification  
17 number is not listed.

18 C. If an individual has been named as a director in the  
19 articles of incorporation of two or more dissolved corporations,  
20 the secretary of state shall make the individual's name and  
21 forfeiture identification number available to the public and shall  
22 provide the information on an electronically searchable database on  
23 the secretary of state's Internet website.

24 D. If a dissolved corporation is reinstated or has its  
25 charter, certificate of authority, or other rights to do business  
26 in this state revived, the reinstated or revived corporation is not  
27 counted toward the number of dissolved corporations for which an

1 individual has been named as a director in the articles of  
2 incorporation. The secretary of state shall remove an individual's  
3 name and forfeiture identification number from the database and may  
4 not continue to make an individual's name and forfeiture  
5 identification number public after the date on which the  
6 corporation is reinstated or has its charter, certificate of  
7 authority, or other rights to do business in this state revived, if  
8 the effect of the reinstatement or revival is that the individual  
9 has not been named as a director in the articles of incorporation of  
10 two or more dissolved corporations.

11 SECTION 3. Section A, Article 3.02, Texas Non-Profit  
12 Corporation Act (Article 1396-3.02, Vernon's Texas Civil  
13 Statutes), is amended to read as follows:

14 A. The articles of incorporation shall set forth:

15 (1) The name of the corporation.

16 (2) A statement that the corporation is a non-profit  
17 corporation.

18 (3) The period of duration, which may be perpetual.

19 (4) The purpose or purposes for which the corporation  
20 is organized.

21 (5) If the corporation is to have no members, a  
22 statement to that effect.

23 (6) If management of the affairs of the corporation is  
24 to be vested in its members, a statement to that effect.

25 (7) Any provision, not inconsistent with law,  
26 including any provision which under this Act is required or  
27 permitted to be set forth in the by-laws, which the incorporators

1 elect to set forth in the articles of incorporation for the  
2 regulation of the internal affairs of the corporation.

3 (8) The street address of its initial registered  
4 office and the name of its initial registered agent at such street  
5 address.

6 (9) The number of directors constituting the initial  
7 board of directors, and the names and addresses of, and any  
8 forfeiture identification numbers assigned to, the persons who are  
9 to serve as the initial directors unless the management of the  
10 corporation is vested in its members, in which event a statement to  
11 that effect shall be set forth.

12 (10) The name and street or post office address of each  
13 incorporator.

14 (11) If the corporation is to be authorized on its  
15 dissolution to distribute its assets in a manner other than as  
16 provided by Article 6.02(3) of this Act, a statement describing the  
17 manner of distribution of the corporation's assets.

18 SECTION 4. The Texas Non-Profit Corporation Act (Article  
19 1396-1.01 et seq., Vernon's Texas Civil Statutes), is amended by  
20 adding Article 3.06 to read as follows:

21 Art. 3.06. FORFEITURE IDENTIFICATION NUMBER. A. In this  
22 article, "dissolved corporation" means a corporation that has  
23 forfeited its charter, certificate of authority, or other rights to  
24 do business in this state, or that has been involuntarily dissolved  
25 under this Act, the Texas Business Corporation Act, the Texas  
26 Miscellaneous Corporation Laws Act (Article 1302-1.01 et seq.,  
27 Vernon's Texas Civil Statutes), the Tax Code, or other law.

1       B. The secretary of state shall assign a unique forfeiture  
2 identification number to each individual named as a director in the  
3 articles of incorporation for whom a forfeiture identification  
4 number is not listed.

5       C. If an individual has been named as a director in the  
6 articles of incorporation of two or more dissolved corporations,  
7 the secretary of state shall make the individual's name and  
8 forfeiture identification number available to the public and shall  
9 provide the information on an electronically searchable database on  
10 the secretary of state's Internet website.

11       D. If a dissolved corporation is reinstated or has its  
12 charter, certificate of authority, or other rights to do business  
13 in this state revived, the reinstated or revived corporation is not  
14 counted toward the number of dissolved corporations for which an  
15 individual has been named as a director in the articles of  
16 incorporation. The secretary of state shall remove an individual's  
17 name and forfeiture identification number from the database and may  
18 not continue to make an individual's name and forfeiture  
19 identification number public after the date on which the  
20 corporation is reinstated or has its charter, certificate of  
21 authority, or other rights to do business in this state revived, if  
22 the effect of the reinstatement or revival is that the individual  
23 has not been named as a director in the articles of incorporation of  
24 two or more dissolved corporations.

25       SECTION 5. This Act applies only to an individual named as a  
26 director in articles of incorporation filed on or after the  
27 effective date of this Act.

1 SECTION 6. This Act takes effect September 1, 2005.