

AN ACT

relating to business entities and associations.

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

SECTION 1. Subsection (d), Section 3.059, Business Organizations Code, is amended to read as follows:

(d) A restated certificate of formation that makes new amendments to the certificate of formation being restated must:

(1) be accompanied by a statement that each new amendment has been made in accordance with this code;

~~(2) [identify by reference or description each added, altered, or deleted provision];~~

~~[(3)]~~ be accompanied by a statement that each amendment has been approved in the manner required by this code and the governing documents of the entity;

(3) ~~[(4)]~~ be accompanied by a statement that the restated certificate of formation:

(A) accurately states the text of the certificate of formation being restated and each amendment to the certificate of formation being restated that is in effect, as further amended by the restated certificate of formation; and

(B) does not contain any other change in the certificate of formation being restated except for information omitted under Subsection (b); and

(4) ~~[(5)]~~ include any other information required by

the title of this code applicable to the entity.

SECTION 2. Subsection (d), Section 7.001, Business Organizations Code, is amended to read as follows:

(d) The liability of a governing person may be limited or eliminated [~~restricted~~]:

(1) in a general partnership by its partnership agreement to the same extent Subsections (b) and (c) permit the limitation or elimination of liability of a governing person of an organization to which those subsections apply and to the additional extent permitted under Chapter 152;

(2) in a limited partnership by its partnership agreement to the same extent Subsections (b) and (c) permit the limitation or elimination of liability of a governing person of an organization to which those subsections apply and to the additional extent permitted under Chapter 153 and, to the extent applicable to limited partnerships, Chapter 152; and

(3) in a limited liability company by its certificate of formation or company agreement to the same extent Subsections (b) and (c) permit the limitation or elimination of liability of a governing person of an organization to which those subsections apply and to the additional extent permitted under Section 101.401.

SECTION 3. Subsection (a), Section 11.052, Business Organizations Code, is amended to read as follows:

(a) Except as provided by the title of this code governing the domestic entity, on the occurrence of an event requiring winding up of a domestic entity, unless the event requiring winding up is revoked under Section 11.151 or canceled under Section

11.152, the owners, members, managerial officials, or other persons specified in the title of this code governing the domestic entity shall, as soon as reasonably practicable, wind up the business and affairs of the domestic entity. The domestic entity shall:

(1) cease to carry on its business, except to the extent necessary to wind up its business;

(2) if the domestic entity is not a general partnership, send a written notice of the winding up to each known claimant against the domestic entity;

(3) collect and sell its property to the extent the property is not to be distributed in kind to the domestic entity's owners or members; and

(4) perform any other act required to wind up its business and affairs.

SECTION 4. Subdivision (1), Section 21.301, Business Organizations Code, is amended to read as follows:

(1) "Distribution limit," with respect to a distribution made by a corporation, other than a distribution described by Subdivision (2), means:

(A) the net assets of the corporation if the distribution:

(i) is a purchase or redemption of its own shares by a corporation that:

(a) is eliminating fractional shares;

(b) is collecting or compromising indebtedness owed by or to the corporation; or

(c) is paying dissenting shareholders

entitled to payment for their shares under this code; or

(ii) is made by a consuming assets corporation and is not the purchase or redemption of its own shares ~~[by a consuming assets corporation]~~; or

(B) the surplus of the corporation for a distribution not described by Paragraph (A).

SECTION 5. Section 101.052, Business Organizations Code, is amended by adding Subsection (e) to read as follows:

(e) A company agreement may provide rights to any person, including a person who is not a party to the company agreement, to the extent provided by the company agreement.

SECTION 6. Section 101.605, Business Organizations Code, is amended to read as follows:

Sec. 101.605. GENERAL POWERS OF SERIES. A series established under this subchapter has the power and capacity, in the series' own name, to:

(1) sue and be sued;

(2) contract;

(3) acquire, sell, and hold title to assets of the series, including real property, personal property, and intangible property; ~~and~~

(4) grant liens and security interests in assets of the series; and

(5) exercise any power or privilege as necessary or appropriate to the conduct, promotion, or attainment of the business, purposes, or activities of the series.

SECTION 7. The heading to Section 101.609, Business

Organizations Code, is amended to read as follows:

Sec. 101.609. APPLICABILITY OF OTHER PROVISIONS OF CHAPTER OR TITLE 1; SYNONYMOUS TERMS.

SECTION 8. Section 101.609, Business Organizations Code, is amended by adding Subsection (c) to read as follows:

(c) To the extent not inconsistent with this subchapter, a series and the governing persons and officers associated with the series have the powers and rights provided by Subchapters C and D, Chapter 3, and Subchapter F, Chapter 10. For purposes of those provisions, and as the context requires:

(1) a reference to "entity," "domestic entity," or "filing entity" includes the "series";

(2) a reference to "governing person" includes "governing person associated with the series";

(3) a reference to "governing authority" includes "governing authority associated with the series"; and

(4) a reference to "officer" includes "officer associated with the series."

SECTION 9. Subchapter M, Chapter 101, Business Organizations Code, is amended by adding Section 101.622 to read as follows:

Sec. 101.622. SERIES NOT A SEPARATE DOMESTIC ENTITY OR ORGANIZATION. For purposes of this chapter and Title 1, a series has the rights, powers, and duties provided by this subchapter to the series but is not a separate domestic entity or organization.

SECTION 10. Subchapter B, Chapter 154, Business Organizations Code, is amended by adding Section 154.104 to read as

1 follows:

2 Sec. 154.104. RIGHTS OF THIRD PERSONS UNDER PARTNERSHIP
3 AGREEMENT. A partnership agreement may provide rights to any
4 person, including a person who is not a party to the partnership
5 agreement, to the extent provided by the partnership agreement.

6 SECTION 11. Subsection (c), Section 24.003, Business &
7 Commerce Code, is repealed.

8 SECTION 12. This Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 847 passed the Senate on March 27, 2013, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 847 passed the House on April 18, 2013, by the following vote: Yeas 143, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor