

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 29
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas is America's business capital, leading in jobs, innovation, and economic growth. Yet when it comes to corporate law, Texas lags behind states like Delaware, where most U.S. corporations—including many headquartered in Texas—choose to incorporate. For decades, Delaware's clear, pro-business legal framework, exemplified by its Chancery Court, fostered growth nationwide. But recent shifts have raised costs and risks, stifling the freedom businesses need to innovate.

Texas can seize this moment. S.B. 29 takes a bold step toward making Texas the corporate law capital of America by modernizing the Texas Business Organizations Code. It codifies the business judgment rule to shield directors from frivolous suits, sets fair thresholds for shareholder actions, and streamlines disputes through Texas Business Courts—balancing economic growth with accountability for shareholders and everyday Texans.

Countless corporations are eyeing Texas for its low taxes and pro-business climate. Yet advisors often point to Nevada's more developed corporate laws over Texas's sparser case law as a hesitation. S.B. 29 changes that. By clarifying and strengthening our legal framework, this bill signals to executives nationwide that Texas is ready for sophisticated business disputes. It will drive investment, create jobs, and cement Texas as America's corporate hub for decades to come.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 29 amends current law relating to business entities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.002(55-a), Business Organizations Code, to redefine "national securities exchange."

SECTION 2. Amends Subchapter B, Chapter 1, Business Organizations Code, by adding Section 1.056, as follows:

Sec. 1.056. LAWS GOVERNING FORMATION, INTERNAL AFFAIRS, AND GOVERNANCE OF DOMESTIC ENTITY. (a) Prohibits the plain meaning of the text of the Business Organizations Code from being supplanted, contravened, or modified by the laws or judicial decisions of any other state.

(b) Authorizes the managerial officials of a domestic entity, in exercising their powers with respect to the domestic entity, to consider the laws and judicial decisions of other states and the practices observed by entities formed in those other states. Provides that the failure or refusal of a managerial official to consider, or to conform the exercise of the managerial official's powers to, the

laws, judicial decisions, or practices of another state does not constitute or imply a breach of this code or of any duty existing under the laws of this state.

SECTION 3. Amends Section 2.115(b), Business Organizations Code, as follows:

(b) Authorizes the governing documents of a domestic entity, consistent with applicable state and federal jurisdictional requirements, to require:

(1) creates this subdivision from existing text and makes a nonsubstantive change; and

(2) that one or more courts in this state having jurisdiction are required to serve as the exclusive forum and venue for any internal entity claims.

Makes a nonsubstantive change to this subsection.

SECTION 4. Amends Subchapter B, Chapter 2, Business Organizations Code, by adding Section 2.116, as follows:

Sec. 2.116. WAIVER OF TRIAL BY JURY. (a) Defines "internal entity claim."

(b) Authorizes the governing documents of a domestic entity to contain a waiver of the right to a jury trial concerning any internal entity claim.

(c) Provides that, in a lawsuit asserting an internal entity claim, a waiver of the right to a jury trial contained in the governing documents of a domestic entity is enforceable, regardless of whether the applicable governing document is signed by the members, owners, or governing persons.

(d) Provides that a person asserting an internal entity claim is considered to have been informed of the waiver of the right to a jury trial contained in the governing documents and to have knowingly waived the right in the action if the person voted for or affirmatively ratified the governing document containing the waiver or acquired an equity security of the domestic entity or any predecessor to the entity at, or continued to hold an equity security of a domestic entity that has one or more classes of equity securities listed on a national securities exchange after, at a time at which the waiver was included in the governing documents.

(e) Provides that nothing in this section prevents an entity from showing that a person asserting an internal entity claim knowingly and informedly waived the right to a jury trial by any evidence satisfactory to the court having jurisdiction, including by the person's consent or acquiescence to the waiver contained in the governing documents.

SECTION 5. Amends Section 21.218, Business Organizations Code, by amending Subsection (b) and adding Subsections (b-2) and (b-3), as follows:

(b) Prohibits the records of the corporation, for purposes of this subsection, from including e-mails, text messages or similar electronic communications, or information from social media accounts unless the particular e-mail, communication, or social media information affects an action by the corporation. Makes a nonsubstantive change.

(b-2) Provides that this subsection applies only to a corporation that has a class or series of voting shares listed on a national securities exchange or that has made an affirmative election to be governed by Section 21.419. Prohibits a written demand, for purposes of Subsection (b), from being for a proper purpose if the corporation reasonably determines that the demand is in connection with:

(1) an active or pending derivative proceeding in the right of the corporation under Subchapter L (Derivative Proceedings) that is or is expected to be instituted or maintained by the holder or the holder's affiliate; or

(2) an active or pending civil lawsuit to which the corporation, or its affiliate, and the holder, or the holder's affiliate, are or are expected to be adversarial named parties.

(b-3) Provides that Subsection (b-2) does not impair any rights of:

(1) the holder or the holder's affiliate to obtain discovery of records from the corporation in a civil lawsuit described by Subsection (b-2)(2), or the derivative proceeding subject to Section 21.556 (Discovery); or

(2) the holder to obtain a court order to compel production of records of the corporation for examination by the holder as provided by Subsection (c) (relating to providing that Section 21.218 (Examination of Records) does not impair the power of the court to compel the production for examination by the holder, at the holder's cost).

SECTION 6. Amends Section 21.364, Business Organizations Code, by amending Subsections (d) and (e) and adding Subsection (e-1), as follows:

(d) Provides that, unless an amendment to the certificate of formation is undertaken by the board of directors under Section 21.155 (Series of Shares Established by Board of Directors), separate voting by a class or series of shares of a corporation is required for approval of an amendment to the certificate of formation that would result in certain outcomes, including the increase or decrease of the aggregate number of authorized shares of the class or series, except that the number is authorized to be increased or decreased, but not below the number of shares of the class or series then outstanding, by the affirmative vote of the holders of a majority of the stock of the corporation entitled to vote, as provided by certain provisions.

(e) Creates an exception under Subsection (e-1).

(e-1) Provides that if the certificate of formation provides that any vote required by Subsection (d) is required to be as a single class and without separate voting by class or series, then shares of a class or series that do not otherwise have a right to vote under the certificate of formation are required to be treated as having no votes in the vote as a single class.

SECTION 7. Amends Section 21.365(b), Business Organizations Code, as follows:

(b) Authorizes the certificate of formation, with respect to a matter for which the affirmative vote of the holders of a specified portion of the shares of a class or series is required by this code, to provide that, notwithstanding any other provision of this code, all classes or series of stock are required to be entitled to vote as a single class or series, and separate voting by class or series is not required, for the purpose of approving any matter, including in connection with any fundamental action or fundamental business transaction. Makes nonsubstantive changes.

SECTION 8. Amends Section 21.416, Business Organizations Code, by adding Subsection (g), as follows:

(g) Provides that this subsection applies only to a corporation that has a class or series of voting shares listed on a national securities exchange or that has made an affirmative election to be governed by Section 21.419. Authorizes the board of directors to adopt resolutions that authorize the formation of a committee of independent and disinterested directors to review and approve transactions, whether or not contemplated at the time of

the committee's formation or a petition under Section 21.4161, involving the corporation or any of its subsidiaries and a controlling shareholder, director, or officer.

SECTION 9. Amends Subchapter I, Chapter 21, Business Organizations Code, by adding Section 21.4161, as follows:

Sec. 21.4161. DETERMINATION OF INDEPENDENT AND DISINTERESTED DIRECTORS. (a) Authorizes a corporation that adopts a resolution to authorize the formulation of a committee of independent and disinterested directors under Section 21.416(g) to petition a court having jurisdiction to hold an evidentiary hearing to determine whether the directors appointed to the committee are independent and disinterested with respect to any transactions involving the corporation or any of its subsidiaries and a controlling shareholder, director, or officer.

(b) Requires that a petition under Subsection (a) be filed in the business court unless the corporation's principal place of business in this state is located in a county not contained within an operating division of the business court, in which case the petition is authorized to be filed in a district court in the county in which the corporation's principal place of business in this state is located.

(c) Requires the corporation, in the petition, to designate legal counsel to act on behalf of the corporation and its shareholders, other than the controlling shareholder, director, or officer involved in the transaction.

(d) Requires the corporation to give notice to the corporation's shareholders that a petition has been filed under this section; identifies the court in which the petition is filed and provide the case number for the proceeding; identifies counsel designated to act on behalf of the corporation and its shareholders, other than the controlling shareholder, director, or officer involved in the transaction; and the shareholders, other than the controlling shareholder, director, or officer involved in the transaction, have the right to participate in the proceeding in person or through counsel.

(e) Authorizes the notice required by Subsection (d), if the corporation has a class of its shares listed on a national securities exchange, to be provided through the filing of a current report with the United States Securities and Exchange Commission in accordance with the requirements of the Securities Exchange Act of 1934 (15 U.S.C. Section 78 et seq.), and any rules promulgated under that Act.

(f) Requires the court, not earlier than the 10th day after the date the notice required under Section (d) is given, to hold a preliminary hearing to determine the appropriate legal counsel to represent the corporation and its shareholders, other than the controlling shareholder, director, or officer involved in the transaction, whether or not the same as the legal counsel identified in the petition. Authorizes any other legal counsel representing a shareholder, other than the controlling shareholder, director, or officer involved in the transaction, to participate in the hearing to object to counsel designated by the corporation in the petition on the ground that the counsel is insufficiently independent and disinterested or request designation by the court as the appropriate legal counsel.

(g) Requires the court, after the court determines the appropriate legal counsel under Subsection (f), to promptly hold an evidentiary hearing as to whether the directors on the committee are independent and disinterested with respect to transactions involving the corporation or any of its subsidiaries and a controlling shareholder, director, or officer. Authorizes the appropriate legal counsel determined under Subsection (f) and legal counsel for the corporation to participate in the hearing. Requires the court, after hearing and reviewing the evidence presented, to make its determination as to whether the directors on the committee are independent and disinterested.

(h) Requires that the court's determination that the directors are independent and disinterested under Subsection (g) be dispositive in the absence of facts, not presented to the court, constituting evidence sufficient to prove that one or more of those directors is not independent and disinterested with respect to a particular transaction involving the corporation or any of its subsidiaries and a controlling shareholder, director, or officer.

SECTION 10. Amends Section 21.418, Business Organizations Code, by adding Subsection (f), as follows:

(f) Provides that this subsection applies only to a corporation that has a class or series of voting shares listed on a national securities exchange or has made an affirmative election to be governed by Section 21.419. Provides that, regardless of whether the conditions of Subsection (b) (relating to providing that a contract or transaction is valid and enforceable if certain conditions are met) are satisfied, neither the corporation nor any of the corporation's shareholders will have a cause of action against any director or officer for breach of duty with respect to the making, authorization, or performance of the contract or transaction because the director or officer had the relationship or interest described by Subsection (a) (relating to a contract or transaction between certain individuals of a corporation and an entity or other organization) or took any of the actions authorized by Subsection (d) (relating to defining a person who has the relationship or interest) unless the cause of action is permitted by Section 21.419.

SECTION 11. Amends Subchapter I, Chapter 21, Business Organizations Code, by adding Section 21.419, as follows:

Sec. 21.419. PRESUMPTIONS FOR DIRECTORS AND OFFICERS OF CERTAIN CORPORATIONS. (a) Provides that this section applies only to a corporation that has a class or series of voting shares listed on a national securities exchange or included in its governing statement affirmatively electing to be governed by this section.

(b) Provides that, in taking or declining to take any action on any matters of a corporation's business, a director or officer is presumed to act in good faith, on an informed basis, in furtherance of the interests of the corporation, and in obedience to the law and the corporation's governing documents.

(c) Provides that neither a corporation nor any of the corporation's shareholders has a cause of action against a director or officer of the corporation as a result of any act or omission in the person's capacity as a director or officer unless:

(1) the claimant rebuts one or more of the presumptions established by Subsection (b); and

(2) it is proven by the claimant that:

(A) the director's or officer's act or omission constituted a breach of one or more of the person's duties as a director or officer; and

(B) the breach involved fraud, intentional misconduct, an ultra vires act, or a knowing violation of law.

(d) Provides that the presumptions established by this section:

(1) are in addition to any legal presumption arising under common law or this code, in favor of any managerial official of a corporation to which this section applies; and

(2) do not abrogate, preempt, or lessen any other defense, presumption, immunity, or privilege under other constitutional, statutory, case, or common law or rule provisions, in favor of any managerial official of any

domestic entity, including any corporation to which this section does not apply.

(e) Requires a party, in alleging fraud, intentional misconduct, an ultra vires act, or a knowing violation of the law under Subsection (c)(2)(B), to state with particularity the circumstances constituting the fraud, intentional misconduct, ultra vires act, or knowing violation of law.

(f) Provides that this section does not limit the effectiveness or applicability of a provision contained in the certificate of formation or similar instrument of a corporation limiting monetary liability of a governing person.

SECTION 12. Amends Section 21.551(2), Business Organizations Code, to redefine "shareholder."

SECTION 13. Amends Section 21.552(a), Business Organizations Code, as follows:

(a) Prohibits a shareholder, subject to Subsection (b) (relating to prohibiting a converted entity in a conversion shareholder from instituting or maintaining a derivative proceeding based on an act or omission that occurred before the date of the conversion) from instituting or maintaining a derivative proceeding unless:

(1)-(2) makes nonsubstantive changes to these subdivisions; and

(3) for a corporation with common shares listed on a national securities exchange or corporation that has made an affirmative election to be governed by Section 21.419 and has 500 or more shareholders, at the time the derivative proceeding is instituted, the shareholder beneficially owns a number of the common shares sufficient to meet the required ownership threshold to institute a derivative proceeding in the right of the corporation identified in the corporation's certificate of formation or bylaws, provided that the required ownership threshold does not exceed three percent of the outstanding shares of the corporation.

SECTION 14. Amends Section 21.554, Business Organizations Code, by amending Subsection (b) and adding Subsections (c), (d), (e), (f), (g), (h), and (i), as follows:

(b) Authorizes an individual appointed by the court to a panel under Section 21.554 (Determination by Directors or Independent Persons) to be a director.

(c) Authorizes the corporation, before the corporation's determination of how to proceed on the allegations under Subsection (a) (relating to requiring that a determination of how to proceed on allegations relating to a derivative proceeding be made by an affirmative vote of certain majorities), to petition the court having jurisdiction to make a finding as to whether the directors identified or appointed under Subsection (a)(1) (relating to requiring that the determination be made by all independent and disinterested directors) or (2) (relating to requiring that the determination be made by a committee consisting of one or more independent and disinterested directors) are independent and disinterested with respect to the allegations made in the demand.

(d) Requires that a petition under Subsection (c), if a derivative proceeding has been instituted, to be filed in the court in which the proceeding was instituted. Requires that a petition under Subsection (c), if no derivative proceeding has been instituted, to be filed in the business court unless the corporation's principal place of business in this state is located in a county not contained within an operating division of the business court, in which case the petition is authorized to be filed in a district court in the county in which the corporation's principal place of business in this state is located.

(e) Requires the corporation to serve a copy of the petition on the shareholder filing the derivative proceeding or making the demand.

(f) Requires a court in which a petition under Subsection (c) is filed, unless extended for good cause, to conduct an evidentiary hearing on the petition on or before the 45th day after the date the petition is filed.

(g) Provides that a shareholder on whom a petition is served under Subsection (e) is entitled to be served with all notices and papers filed in the action and to intervene in the action to challenge the petition. Requires a shareholder who is not already a party to the action, unless good cause is shown, to intervene not later than the seventh day before the date the petition is heard by the court.

(h) Requires the court, unless extended for good cause, not later than the 75th day after the date the petition is filed, to sign an order stating whether the directors are independent and disinterested.

(i) Requires that a court's finding that the directors or individuals are independent and disinterested under this section be dispositive in the absence of discovery of facts, not presented to the court, constituting evidence sufficient to prove that one or more of those directors or individuals are not independent and disinterested.

SECTION 15. Amends Section 21.561, Business Organizations Code, by adding Subsection (c) to provide that, for purposes of Subsection (b) (relating to authorizing the court to order certain actions on termination of a derivative proceeding), a substantial benefit to the corporation does not include additional or amended disclosures made to the shareholders, regardless of materiality.

SECTION 16. Amends Section 21.562(a), Business Organizations Code, as follows:

(a) Provides that, in a derivative proceeding brought in the right of a foreign corporation, the matters covered by this subchapter are governed by the laws of the jurisdiction of formation of the foreign corporation, except for certain sections, which with respect to foreign corporations are procedural provisions and do not relate to the internal affairs of the foreign corporation, unless applying the laws of the jurisdiction of formation of the foreign corporation requires otherwise with respect to Section 21.555 (Stay of Proceeding).

SECTION 17. Amends Subchapter F, Chapter 101, Business Organizations Code, by adding Section 101.256, as follows:

Sec. 101.256. PRESUMPTIONS FOR GOVERNING PERSONS OF CERTAIN LIMITED LIABILITY COMPANIES. (a) Provides that this section applies only to a limited liability company that has a class or series of voting membership interests listed on a national securities exchange or that has included in its company agreement a statement affirmatively electing to be governed by this section.

(b) Provides that, in taking or declining to take any action on any matters of a limited liability company's business, a governing person or officer, and each affiliate or associate of a governing person or officer, is presumed to act in good faith and in compliance with the person's or officer's duties required under the governing documents of the limited liability company or common law and the governing documents of the limited liability company.

(c) Provides that neither a limited liability company nor any of the company's members has a cause of action against a governing person or officer or any affiliate or associate of a governing person or officer of the company as a result of any act or omission in the person's capacity as a governing person or officer of the company unless:

(1) the claimant rebuts one or more of the presumptions established by Subsection (b); and

(2) it is proven by the claimant that:

(A) the act or omission of the governing person or officer or affiliate or associate of a governing person or officer constituted a breach of one or more of the person's duties as a governing person or officer to the extent the duty has not been modified or eliminated through an affirmative election contained in the governing documents as permitted by Chapter 101 (Limited Liability Companies); and

(B) the breach involved fraud, intentional misconduct, an ultra vires act, or a knowing violation of law.

(d) Provides that the presumptions established by this section are in addition to any legal presumption arising under common law or this code, in favor of any governing person or officer to which this section applies and do not abrogate, preempt, or lessen any other constitutional, statutory, case, or common law or rule provisions, in favor of any governing person or officer of any domestic entity, including any limited liability company to which this section does not apply.

(e) Requires a party, in alleging fraud, intentional misconduct, an ultra vires act, or a knowing violation of law under Subsection (c)(2)(B), to state with particularity the circumstances constituting the fraud, intentional misconduct, ultra vires act, or knowing violation of law.

(f) Provides that this section does not limit the effectiveness or applicability of a provision contained in the certificate of formation or company agreement or similar instrument of a limited liability company limiting monetary liability of a governing person or officer.

SECTION 18. Amends Section 101.401, Business Organizations Code, as follows:

Sec. 101.401. New heading: EXPANSION, RESTRICTION, OR ELIMINATION OF DUTIES AND LIABILITIES. Authorizes the company agreement of a limited liability company to expand, restrict, or eliminate any duties, including fiduciary duties, and related liabilities that a member, manager, officer, or other person has to the company or to a member or manager of the company. Makes nonsubstantive changes.

SECTION 19. Amends Section 101.451(3), Business Organizations Code, to redefine "member."

SECTION 20. Amends Section 101.452(a), Business Organizations Code, as follows:

(a) Prohibits a member, subject to Subsection (b) (relating to prohibiting a member from instituting or maintaining a derivative proceeding based on an act or omission that occurred with respect to the converting entity), from instituting or maintaining a derivative proceeding unless certain circumstances are present, including for a limited liability company with membership interests listed on a national securities exchange or that has made an affirmative election to be governed by Section 101.256 and has 500 or more members, at the time the derivative proceeding is instituted, the member beneficially owns a number of the membership interests sufficient to meet the required ownership threshold to institute a derivative proceeding in the right of the limited liability company identified in the limited liability company's certificate of formation or company agreement, provided that the required ownership threshold does not exceed three percent of the outstanding membership interests of the limited liability company.

SECTION 21. Amends Section 101.461, Business Organizations Code, by adding Subsection (c) to provide that, for purposes of Subsection (b) (relating to authorizing the court, on termination of a derivative proceeding, to take certain actions), a substantial benefit to the limited liability company does not include additional or amended disclosures made to the members, regardless of materiality.

SECTION 22. Amends Section 101.502, Business Organizations Code, by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3), as follows:

(a) Provides that, unless otherwise provided by the governing documents of a limited liability company, a member of a limited liability company or an assignee of a membership interest in a limited liability company, on written demand stating a proper purpose, is entitled to examine and copy at a reasonable time at the limited liability company's principal office identified under Section 101.501(c) (relating to requiring a limited liability company to keep at its registered office and make available the street address of the company's principal office) or another location approved by the limited liability company and the member or assignee, any records of the limited liability company, whether in written or other tangible form, which are reasonably related to and appropriate to examine and copy for that proper purpose. Prohibits the records of a limited liability company, for purposes of this subsection, from including e-mails, text messages or similar electronic communications, or information from social media accounts unless the particular e-mail, communication, or social media information effectuates an action by the limited liability company.

(a-1) Provides that this subsection applies only to a limited liability company that has a class or series of voting membership interests listed on a national securities exchange or that has made an affirmative election to be governed by Section 101.256. Provides that, for purposes of Subsection (a), a written demand is authorized to be made only by a member or assignee that has held the membership interest for at least six months immediately proceeding the member's or assignee's demand.

(a-2) Provides that this section applies only to a limited liability company that has a class or series of voting membership interests listed on a national securities exchange or that has made an affirmative election to be governed by Section 101.256 or Section 101.401. Prohibits a written demand, for purposes of Subsection (a), from being for a proper purpose if the limited liability company reasonably determines that the demand is in connection with certain actions.

(a-3) Provides that Subsection (a-2) does not impair any rights of the member or assignee or the member's or assignee's affiliate to obtain discovery of records from the limited liability company in certain actions.

SECTION 23. Amends Section 152.002, Business Organizations Code, by adding Subsection (e), as follows:

(e) Provides that this subsection applies only to a limited partnership that has a class or series of voting limited partnership interests listed on a national securities exchange or that has included in its governing documents a statement affirmatively electing to be governed by this subsection. Authorizes a partnership agreement, notwithstanding certain provisions of Section 152.002 (Effect of Partnership Agreement; Nonwaivable and Variable Provisions), to eliminate any or all of the duty of loyalty under Section 152.205 (Partner's Duty of Loyalty), the duty of care under Section 152.206 (Partner's Duty of Care), and the obligation of good faith under Section 152.204(b) (relating to requiring a partner to discharge the partner's duties in the conduct or winding up on the partnership business in good faith), to the extent the governing documents of the partnership include a statement affirmatively electing to do so under this subsection.

SECTION 24. Amends Subchapter D, Chapter 153, Business Organizations Code, by adding Section 153.163, as follows:

Sec. 153.163. PRESUMPTIONS FOR GENERAL PARTNERS AND OFFICERS OF CERTAIN LIMITED PARTNERSHIPS. (a) Provides that this section applies only to a limited partnership that has a class or series of voting limited partnership interests listed on a national securities exchange or that has included in its governing documents a statement affirmatively electing to be governed by this section.

(b) Provides that, in taking or declining to take any action on any matters of a limited partnership's business, any general partner of the limited partnership, including any director, officer, member, or other affiliate of the general partner, is presumed to act in good faith and in compliance with the person's duties required under this code, common law, and the partnership agreement of the partnership and the partnership agreement of such limited partnership.

(c) Provides that neither a limited partnership nor any of the limited partnership's partners has cause of action against a general partner of the limited partnership, including any director, officer, member, or other affiliate of the general partner, as a result of any act or omission in the person's capacity as a general partner or as an officer or director of the general partner unless:

(1) the claimant rebuts one or more of the presumptions established by Subsection (b); and

(2) it is proven by the claimant that:

(A) the general partner's or any director, officer, member, or other affiliate of the general partner's act or omission constituted a breach of one or more of the person's duties as a governing person or officer to the extent the duty has not been modified or eliminated through an affirmative election contained in the governing documents as permitted by Chapter 153 (Limited Partnerships); and

(B) the breach involved fraud, intentional misconduct, an ultra vires act, or a knowing violation of law.

(d) Provides that the presumptions established by this section are in addition to any legal presumption arising under common law or this code, in favor of any general partner or member or managerial officer of a general partner to which this section applies and do not abrogate, preempt, or lessen any other constitutional, statutory, case, or common law or rule provisions, in favor of any managerial official or officer of any domestic entity, including any limited liability company to which this section does not apply.

(e) Requires a party, in alleging fraud, intentional misconduct, an ultra vires act, or a knowing violation of law under Subsection (c)(2)(B), to state with particularity the circumstances constituting the fraud, intentional misconduct, ultra vires act, or knowing violation of law.

(f) Provides that this section does not limit the effectiveness or applicability of a provision contained in the certificate of formation or partnership agreement or similar instrument of a partnership limiting monetary liability of a governing person.

SECTION 25. Amends Section 153.401(2), Business Organizations Code, to redefine "limited partner."

SECTION 26. Amends Section 153.402(a), Business Organizations Code, as follows:

(a) Prohibits a limited partner, subject to Subsection (b), from instituting or maintaining a derivative proceeding unless:

(1)-(2) makes nonsubstantive changes to these subdivisions; and

(3) for a limited partnership with limited partnership interests listed on a national securities exchange or that has made an affirmative election to be governed by

Section 152.002(e) or Section 153.163 and has 500 or more limited partners, at the time the derivative proceeding is instituted, the partner beneficially owns a number of limited partnership interests sufficient to meet the required ownership threshold to institute a derivative proceeding in the right of the limited partnership identified in the limited partnership's certificate of formation or partnership agreement, provided that the required ownership threshold does not exceed three percent of the outstanding limited partnership interests of the limited partnership.

SECTION 27. Amends Section 153.411, Business Organizations Code, by adding Subsection (c) to provide that, for purposes of Subsection (b) (relating to authorizing the court, on termination of a derivative proceeding, to take certain actions), a substantial benefit to the limited partnership does not include additional or amended disclosures made to the limited partners, regardless of materiality.

SECTION 28. Amends Section 153.552, Business Organizations Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Provides that, unless otherwise provided by the governing documents of a limited partnership, on written demand stating a proper purpose, a partner or an assignee of a partnership interest in a limited partnership is entitled to examine and copy, at a reasonable time at the partnership's principal office identified under Section 153.551 (Records) or other location approved by the partnership and the partner or assignee, any records of the partnership, whether in written or other tangible form, which are reasonably related to and appropriate to examine and copy for that proper purpose. Prohibits the records of a limited partnership, for purposes of this subsection, from including e-mails, text messages or similar electronic communications, or information from social media accounts unless the particular e-mail, communication, or social media information effectuates an action by the limited partnership.

(a-1) Provides that this subsection applies only to a limited partnership that has a class or series of voting limited partnership interests listed on a national securities exchange or that has made an affirmative election to be governed by Section 152.002(e) or 153.163. Provides that, for purposes of Subsection (a), a written demand is authorized to be made only by a limited partner or an assignee that has held the limited partnership interest for at least six months immediately preceding the limited partner's or assignee's demand and is prohibited from being for a proper purpose if the limited partnership reasonably determines that the demand is in connection with certain actions.

(a-2) Provides that Subsection (a-1) does not impair any rights of the limited partner or assignee or the limited partner's or assignee's affiliate to obtain discovery of records from the limited partnership in certain actions.

SECTION 29. Makes application of Sections 21.552(a), 21.561, 101.452(a), 101.461, 153.402(a), and 153.411, Business Organizations Code, as amended by this Act, prospective.

SECTION 30. Effective date: upon passage or September 1, 2025.