

1-1 By: Hughes, Hagenbuch S.B. No. 29
 1-2 (In the Senate - Filed February 27, 2025; February 28, 2025,
 1-3 read first time and referred to Committee on State Affairs;
 1-4 March 31, 2025, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 10, Nays 0; March 31, 2025,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18			X	
1-19	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 29 By: Hall

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to business entities.
 1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-25 SECTION 1. Section 1.002(55-a), Business Organizations
 1-26 Code, is amended to read as follows:
 1-27 (55-a) "National securities exchange" means:
 1-28 (A) an exchange registered as a national
 1-29 securities exchange under Section 6, Securities Exchange Act of
 1-30 1934 (15 U.S.C. Section 78f); or
 1-31 (B) a stock exchange that:
 1-32 (i) has its principal office in this state;
 1-33 and
 1-34 (ii) has received approval by the
 1-35 securities commissioner under Subchapter C, Chapter 4005,
 1-36 Government Code.
 1-37 SECTION 2. Subchapter B, Chapter 1, Business Organizations
 1-38 Code, is amended by adding Section 1.056 to read as follows:
 1-39 Sec. 1.056. LAWS GOVERNING FORMATION, INTERNAL AFFAIRS, AND
 1-40 GOVERNANCE OF DOMESTIC ENTITY. (a) The plain meaning of the text
 1-41 of this code may not be supplanted, contravened, or modified by the
 1-42 laws or judicial decisions of any other state.
 1-43 (b) The managerial officials of a domestic entity, in
 1-44 exercising their powers with respect to the domestic entity, may
 1-45 consider the laws and judicial decisions of other states and the
 1-46 practices observed by entities formed in those other states. The
 1-47 failure or refusal of a managerial official to consider, or to
 1-48 conform the exercise of the managerial official's powers to, the
 1-49 laws, judicial decisions, or practices of another state does not
 1-50 constitute or imply a breach of this code or of any duty existing
 1-51 under the laws of this state.
 1-52 SECTION 3. Section 2.115(b), Business Organizations Code,
 1-53 is amended to read as follows:
 1-54 (b) The governing documents of a domestic entity ~~may~~
 1-55 ~~require~~, consistent with applicable state and federal
 1-56 jurisdictional requirements, may require:
 1-57 (1) that any internal entity claims shall be brought
 1-58 only in a court in this state; and
 1-59 (2) that one or more courts in this state having
 1-60 jurisdiction shall serve as the exclusive forum and venue for any

2-1 internal entity claims.

2-2 SECTION 4. Subchapter B, Chapter 2, Business Organizations
2-3 Code, is amended by adding Section 2.116 to read as follows:

2-4 Sec. 2.116. WAIVER OF TRIAL BY JURY. (a) In this section,
2-5 "internal entity claim" has the meaning assigned by Section 2.115.

2-6 (b) The governing documents of a domestic entity may contain
2-7 a waiver of the right to a jury trial concerning any internal entity
2-8 claim.

2-9 (c) In a lawsuit asserting an internal entity claim, a
2-10 waiver of the right to a jury trial contained in the governing
2-11 documents of a domestic entity is enforceable, regardless of
2-12 whether the applicable governing document is signed by the members,
2-13 owners, officers, or governing persons.

2-14 (d) A person asserting an internal entity claim is
2-15 considered to have been informed of the waiver of the right to a
2-16 jury trial contained in the governing documents and to have
2-17 knowingly waived the right in the action if the person:

2-18 (1) voted for or affirmatively ratified the governing
2-19 document containing the waiver; or

2-20 (2) acquired an equity security of the domestic entity
2-21 or any predecessor to the entity at, or continued to hold an equity
2-22 security of a domestic entity that has one or more classes of equity
2-23 securities listed on a national securities exchange after, a time
2-24 at which the waiver was included in the governing documents.

2-25 (e) Nothing in this section prevents an entity from showing
2-26 that a person asserting an internal entity claim knowingly and
2-27 informedly waived the right to a jury trial by any evidence
2-28 satisfactory to the court having jurisdiction, including by the
2-29 person's consent or acquiescence to the waiver contained in the
2-30 governing documents.

2-31 SECTION 5. Section 21.218, Business Organizations Code, is
2-32 amended by amending Subsection (b) and adding Subsections (b-2) and
2-33 (b-3) to read as follows:

2-34 (b) On written demand stating a proper purpose, a holder of
2-35 shares of a corporation for at least six months immediately
2-36 preceding the holder's demand, or a holder of at least five percent
2-37 of all of the outstanding shares of a corporation, is entitled to
2-38 examine and copy, at a reasonable time at the corporation's
2-39 principal place of business or other location approved by the
2-40 corporation and the holder, the corporation's books, records of
2-41 account, minutes, share transfer records, and other records,
2-42 whether in written or other tangible form, if the records are
2-43 [~~record is~~] reasonably related to and appropriate to examine and
2-44 copy for that proper purpose. For purposes of this subsection, the
2-45 records of the corporation shall not include e-mails, text messages
2-46 or similar electronic communications, or information from social
2-47 media accounts unless the particular e-mail, communication, or
2-48 social media information effectuates an action by the corporation.

2-49 (b-2) This subsection applies only to a corporation that has
2-50 a class or series of voting shares listed on a national securities
2-51 exchange or that has made an affirmative election to be governed by
2-52 Section 21.419. For purposes of Subsection (b), a written demand
2-53 shall not be for a proper purpose if the corporation reasonably
2-54 determines that the demand is in connection with:

2-55 (1) an active or pending derivative proceeding in the
2-56 right of the corporation under Subchapter L that is or is expected
2-57 to be instituted or maintained by the holder or the holder's
2-58 affiliate; or

2-59 (2) an active or pending civil lawsuit to which the
2-60 corporation, or its affiliate, and the holder, or the holder's
2-61 affiliate, are or are expected to be adversarial named parties.

2-62 (b-3) Subsection (b-2) does not impair any rights of:

2-63 (1) the holder or the holder's affiliate to obtain
2-64 discovery of records from the corporation in:

2-65 (A) a civil lawsuit described by Subsection
2-66 (b-2)(2); or

2-67 (B) the derivative proceeding subject to Section
2-68 21.556; or

2-69 (2) the holder to obtain a court order to compel

3-1 production of records of the corporation for examination by the
 3-2 holder as provided by Subsection (c).

3-3 SECTION 6. Section 21.364, Business Organizations Code, is
 3-4 amended by amending Subsections (d) and (e) and adding Subsection
 3-5 (e-1) to read as follows:

3-6 (d) Unless an amendment to the certificate of formation is
 3-7 undertaken by the board of directors under Section 21.155, separate
 3-8 voting by a class or series of shares of a corporation is required
 3-9 for approval of an amendment to the certificate of formation that
 3-10 would result in:

3-11 (1) the increase or decrease of the aggregate number
 3-12 of authorized shares of the class or series, except that the number
 3-13 of authorized shares of any class or series may be increased or
 3-14 decreased, but not below the number of shares of the class or series
 3-15 then outstanding, by the affirmative vote of the holders of a
 3-16 majority of the stock of the corporation entitled to vote, as
 3-17 provided by:

- (A) the certificate of formation; or
- (B) an amendment of the certificate of formation

3-18 that:

3-19 (i) authorized the shares of the class or
 3-20 series;

3-21 (ii) was adopted before the issuance of any
 3-22 shares of the class or series; or

3-23 (iii) was authorized by one or more
 3-24 resolutions adopted by the affirmative vote of the holders of a
 3-25 majority of the shares of the class or series;

3-26 (2) the increase or decrease of the par value of the
 3-27 shares of the class or series, including changing shares with par
 3-28 value into shares without par value or changing shares without par
 3-29 value into shares with par value;

3-30 (3) effecting an exchange, reclassification, or
 3-31 cancellation of all or part of the shares of the class or series;

3-32 (4) effecting an exchange or creating a right of
 3-33 exchange of all or part of the shares of another class or series
 3-34 into the shares of the class or series;

3-35 (5) the change of the designations, preferences,
 3-36 limitations, or relative rights of the shares of the class or
 3-37 series;

3-38 (6) the change of the shares of the class or series,
 3-39 with or without par value, into the same or a different number of
 3-40 shares, with or without par value, of the same class or series or
 3-41 another class or series;

3-42 (7) the creation of a new class or series of shares
 3-43 with rights and preferences equal, prior, or superior to the shares
 3-44 of the class or series;

3-45 (8) increasing the rights and preferences of a class
 3-46 or series with rights and preferences equal, prior, or superior to
 3-47 the shares of the class or series;

3-48 (9) increasing the rights and preferences of a class
 3-49 or series with rights or preferences later or inferior to the shares
 3-50 of the class or series in such a manner that the rights or
 3-51 preferences will be equal, prior, or superior to the shares of the
 3-52 class or series;

3-53 (10) dividing the shares of the class into series and
 3-54 setting and determining the designation of the series and the
 3-55 variations in the relative rights and preferences between the
 3-56 shares of the series;

3-57 (11) the limitation or denial of existing preemptive
 3-58 rights or cumulative voting rights of the shares of the class or
 3-59 series;

3-60 (12) canceling or otherwise affecting the dividends on
 3-61 the shares of the class or series that have accrued but have not
 3-62 been declared; or

3-63 (13) the inclusion or deletion from the certificate of
 3-64 formation of provisions required or permitted to be included in the
 3-65 certificate of formation of a close corporation under Subchapter O.

3-66 (e) Except as provided by Subsection (e-1), the [The] vote
 3-67 required under Subsection (d) by a class or series of shares of a
 3-68
 3-69

4-1 corporation is required notwithstanding that shares of that class
4-2 or series do not otherwise have a right to vote under the
4-3 certificate of formation.

4-4 (e-1) If the certificate of formation provides that any vote
4-5 required by Subsection (d) shall be as a single class and without
4-6 separate voting by class or series, then shares of a class or series
4-7 that do not otherwise have a right to vote under the certificate of
4-8 formation shall be treated as having no votes in the vote as a
4-9 single class.

4-10 SECTION 7. Section 21.365(b), Business Organizations Code,
4-11 is amended to read as follows:

4-12 (b) With respect to a matter for which the affirmative vote
4-13 of the holders of a specified portion of the shares of a class or
4-14 series is required by this code, the certificate of formation may
4-15 provide that:

4-16 (1) the affirmative vote of the holders of a specified
4-17 portion, but not less than the majority, of the shares of that class
4-18 or series is required for action of the holders of shares of that
4-19 class or series on that matter; and

4-20 (2) notwithstanding any other provision of this code,
4-21 all classes or series of stock shall only be entitled to vote as a
4-22 single class or series, and separate voting by class or series is
4-23 not required, for the purpose of approving any matter, including in
4-24 connection with any fundamental action or fundamental business
4-25 transaction.

4-26 SECTION 8. Section 21.416, Business Organizations Code, is
4-27 amended by adding Subsection (g) to read as follows:

4-28 (g) This subsection applies only to a corporation that has a
4-29 class or series of voting shares listed on a national securities
4-30 exchange or that has made an affirmative election to be governed by
4-31 Section 21.419. The board of directors may adopt resolutions that
4-32 authorize the formation of a committee of independent and
4-33 disinterested directors to review and approve transactions,
4-34 whether or not contemplated at the time of the committee's
4-35 formation or a petition under Section 21.4161, involving the
4-36 corporation or any of its subsidiaries and a controlling
4-37 shareholder, director, or officer.

4-38 SECTION 9. Subchapter I, Chapter 21, Business Organizations
4-39 Code, is amended by adding Section 21.4161 to read as follows:

4-40 Sec. 21.4161. DETERMINATION OF INDEPENDENT AND
4-41 DISINTERESTED DIRECTORS. (a) A corporation that adopts a
4-42 resolution to authorize the formation of a committee of independent
4-43 and disinterested directors under Section 21.416(g) may petition a
4-44 court having jurisdiction to hold an evidentiary hearing to
4-45 determine whether the directors appointed to the committee are
4-46 independent and disinterested with respect to any transactions
4-47 involving the corporation or any of its subsidiaries and a
4-48 controlling shareholder, director, or officer.

4-49 (b) A petition under Subsection (a) shall be filed in the
4-50 business court unless the corporation's principal place of business
4-51 in this state is located in a county not contained within an
4-52 operating division of the business court, in which case the
4-53 petition may be filed in a district court in the county in which the
4-54 corporation's principal place of business in this state is located.

4-55 (c) In the petition, the corporation shall designate legal
4-56 counsel to act on behalf of the corporation and its shareholders,
4-57 other than the controlling shareholder, director, or officer
4-58 involved in the transaction.

4-59 (d) The corporation shall give notice to the corporation's
4-60 shareholders that:

4-61 (1) a petition has been filed under this section;

4-62 (2) identifies the court in which the petition is
4-63 filed and provides the case number for the proceeding;

4-64 (3) identifies counsel designated to act on behalf of
4-65 the corporation and its shareholders, other than the controlling
4-66 shareholder, director, or officer involved in the transaction; and

4-67 (4) the shareholders, other than the controlling
4-68 shareholder, director, or officer involved in the transaction, have
4-69 the right to participate in the proceeding in person or through

5-1 counsel.

5-2 (e) If the corporation has a class of its shares listed on a
 5-3 national securities exchange, the notice required by Subsection (d)
 5-4 may be provided through the filing of a current report with the
 5-5 United States Securities and Exchange Commission in accordance with
 5-6 the requirements of the Securities Exchange Act of 1934 (15 U.S.C.
 5-7 Section 78a et seq.), and any rules promulgated under that Act.

5-8 (f) Not earlier than the 10th day after the date the notice
 5-9 required under Subsection (d) is given, the court shall hold a
 5-10 preliminary hearing to determine the appropriate legal counsel to
 5-11 represent the corporation and its shareholders, other than the
 5-12 controlling shareholder, director, or officer involved in the
 5-13 transaction, whether or not the same as the legal counsel
 5-14 identified in the petition. Any other legal counsel representing a
 5-15 shareholder, other than the controlling shareholder, director, or
 5-16 officer involved in the transaction, may participate in the hearing
 5-17 to:

5-18 (1) object to counsel designated by the corporation in
 5-19 the petition on the ground that the designated counsel is
 5-20 insufficiently independent and disinterested; or

5-21 (2) request designation by the court as the
 5-22 appropriate legal counsel.

5-23 (g) After the court determines the appropriate legal
 5-24 counsel under Subsection (f), the court shall promptly hold an
 5-25 evidentiary hearing as to whether the directors on the committee
 5-26 are independent and disinterested with respect to transactions
 5-27 involving the corporation or any of its subsidiaries and a
 5-28 controlling shareholder, director, or officer. The appropriate
 5-29 legal counsel determined under Subsection (f) and legal counsel for
 5-30 the corporation may participate in the hearing. After hearing and
 5-31 reviewing the evidence presented, the court shall make its
 5-32 determination as to whether the directors on the committee are
 5-33 independent and disinterested.

5-34 (h) The court's determination that the directors are
 5-35 independent and disinterested under Subsection (g) shall be
 5-36 dispositive in the absence of facts, not presented to the court,
 5-37 constituting evidence sufficient to prove that one or more of those
 5-38 directors is not independent and disinterested with respect to a
 5-39 particular transaction involving the corporation or any of its
 5-40 subsidiaries and a controlling shareholder, director, or officer.

5-41 SECTION 10. Section 21.418, Business Organizations Code, is
 5-42 amended by adding Subsection (f) to read as follows:

5-43 (f) This subsection applies only to a corporation that has a
 5-44 class or series of voting shares listed on a national securities
 5-45 exchange or has made an affirmative election to be governed by
 5-46 Section 21.419. Regardless of whether the conditions of Subsection
 5-47 (b) are satisfied, neither the corporation nor any of the
 5-48 corporation's shareholders will have a cause of action against any
 5-49 director or officer for breach of duty with respect to the making,
 5-50 authorization, or performance of the contract or transaction
 5-51 because the director or officer had the relationship or interest
 5-52 described by Subsection (a) or took any of the actions authorized by
 5-53 Subsection (d) unless the cause of action is permitted by Section
 5-54 21.419.

5-55 SECTION 11. Subchapter I, Chapter 21, Business
 5-56 Organizations Code, is amended by adding Section 21.419 to read as
 5-57 follows:

5-58 Sec. 21.419. PRESUMPTIONS FOR DIRECTORS AND OFFICERS OF
 5-59 CERTAIN CORPORATIONS. (a) This section applies only to a
 5-60 corporation that has:

5-61 (1) a class or series of voting shares listed on a
 5-62 national securities exchange; or

5-63 (2) included in its governing documents a statement
 5-64 affirmatively electing to be governed by this section.

5-65 (b) In taking or declining to take any action on any matters
 5-66 of a corporation's business, a director or officer is presumed to
 5-67 act:

5-68 (1) in good faith;

5-69 (2) on an informed basis;

6-1 (3) in furtherance of the interests of the
6-2 corporation; and

6-3 (4) in obedience to the law and the corporation's
6-4 governing documents.

6-5 (c) Neither a corporation nor any of the corporation's
6-6 shareholders has a cause of action against a director or officer of
6-7 the corporation as a result of any act or omission in the person's
6-8 capacity as a director or officer unless:

6-9 (1) the claimant rebuts one or more of the
6-10 presumptions established by Subsection (b); and

6-11 (2) it is proven by the claimant that:

6-12 (A) the director's or officer's act or omission
6-13 constituted a breach of one or more of the person's duties as a
6-14 director or officer; and

6-15 (B) the breach involved fraud, intentional
6-16 misconduct, an ultra vires act, or a knowing violation of law.

6-17 (d) The presumptions established by this section:

6-18 (1) are in addition to any legal presumption arising
6-19 under common law or this code, in favor of any managerial official
6-20 of a corporation to which this section applies; and

6-21 (2) do not abrogate, preempt, or lessen any other
6-22 defense, presumption, immunity, or privilege under other
6-23 constitutional, statutory, case, or common law or rule provisions,
6-24 in favor of any managerial official of any domestic entity,
6-25 including any corporation to which this section does not apply.

6-26 (e) In alleging fraud, intentional misconduct, an ultra
6-27 vires act, or a knowing violation of the law under Subsection
6-28 (c)(2)(B), a party must state with particularity the circumstances
6-29 constituting the fraud, intentional misconduct, ultra vires act, or
6-30 knowing violation of law.

6-31 (f) This section does not limit the effectiveness or
6-32 applicability of a provision contained in the certificate of
6-33 formation or similar instrument of a corporation limiting monetary
6-34 liability of a governing person.

6-35 SECTION 12. Section 21.551(2), Business Organizations
6-36 Code, is amended to read as follows:

6-37 (2) "Shareholder" includes:

6-38 (A) a shareholder as defined by Section 1.002;

6-39 (B) ~~or~~ a beneficial owner whose shares are held
6-40 in a voting trust or by a nominee on the beneficial owner's behalf;
6-41 or

6-42 (C) two or more shareholders acting in concert
6-43 under an informal or formal agreement or understanding with respect
6-44 to a derivative proceeding.

6-45 SECTION 13. Section 21.552(a), Business Organizations
6-46 Code, is amended to read as follows:

6-47 (a) Subject to Subsection (b), a shareholder may not
6-48 institute or maintain a derivative proceeding unless:

6-49 (1) the shareholder:

6-50 (A) was a shareholder of the corporation at the
6-51 time of the act or omission complained of; or

6-52 (B) became a shareholder by operation of law
6-53 originating from a person that was a shareholder at the time of the
6-54 act or omission complained of; ~~and~~

6-55 (2) the shareholder fairly and adequately represents
6-56 the interests of the corporation in enforcing the right of the
6-57 corporation; and

6-58 (3) for a corporation with common shares listed on a
6-59 national securities exchange or a corporation that has made an
6-60 affirmative election to be governed by Section 21.419 and has 500 or
6-61 more shareholders, at the time the derivative proceeding is
6-62 instituted, the shareholder beneficially owns a number of the
6-63 common shares sufficient to meet the required ownership threshold
6-64 to institute a derivative proceeding in the right of the
6-65 corporation identified in the corporation's certificate of
6-66 formation or bylaws, provided that the required ownership threshold
6-67 does not exceed three percent of the outstanding shares of the
6-68 corporation.

6-69 SECTION 14. Section 21.554, Business Organizations Code, is

7-1 amended by amending Subsection (b) and adding Subsections (c), (d),
7-2 (e), (f), (g), (h), and (i) to read as follows:

7-3 (b) The court shall appoint a panel under Subsection (a)(3)
7-4 if the court finds that the individuals recommended by the
7-5 corporation are independent and disinterested and are otherwise
7-6 qualified with respect to expertise, experience, independent
7-7 judgment, and other factors considered appropriate by the court
7-8 under the circumstances to make the determinations. An individual
7-9 appointed by the court to a panel under this section may be a
7-10 director. An individual appointed by the court to a panel under
7-11 this section may not be held liable to the corporation or the
7-12 corporation's shareholders for an action taken or omission made by
7-13 the individual in that capacity, except for an act or omission
7-14 constituting fraud or wilful misconduct.

7-15 (c) Before the corporation's determination of how to
7-16 proceed on the allegations under Subsection (a), the corporation
7-17 may petition the court having jurisdiction to make a finding as to
7-18 whether the directors identified or appointed under Subsection
7-19 (a)(1) or (2) are independent and disinterested with respect to the
7-20 allegations made in the demand.

7-21 (d) If a derivative proceeding has been instituted, a
7-22 petition under Subsection (c) shall be filed in the court in which
7-23 the proceeding was instituted. If no derivative proceeding has
7-24 been instituted, a petition under Subsection (c) shall be filed in
7-25 the business court unless the corporation's principal place of
7-26 business in this state is located in a county not contained within
7-27 an operating division of the business court, in which case the
7-28 petition may be filed in a district court in the county in which the
7-29 corporation's principal place of business in this state is located.

7-30 (e) The corporation must serve a copy of the petition on the
7-31 shareholder filing the derivative proceeding or making the demand.

7-32 (f) Unless extended for good cause, a court in which a
7-33 petition under Subsection (c) is filed must conduct an evidentiary
7-34 hearing on the petition on or before the 45th day after the date the
7-35 petition is filed.

7-36 (g) A shareholder on whom a petition is served under
7-37 Subsection (e) is entitled to be served with all notices and papers
7-38 filed in the action and to intervene in the action to challenge the
7-39 petition. Unless good cause is shown, a shareholder who is not
7-40 already a party to the action must intervene not later than the
7-41 seventh day before the date the petition is heard by the court.

7-42 (h) Unless extended for good cause, not later than the 75th
7-43 day after the date the petition is filed, the court shall sign an
7-44 order stating whether the directors are independent and
7-45 disinterested.

7-46 (i) A court's finding that the directors or individuals are
7-47 independent and disinterested under this section shall be
7-48 dispositive in the absence of discovery of facts, not presented to
7-49 the court, constituting evidence sufficient to prove that one or
7-50 more of those directors or individuals are not independent and
7-51 disinterested.

7-52 SECTION 15. Section 21.561, Business Organizations Code, is
7-53 amended by adding Subsection (c) to read as follows:

7-54 (c) For purposes of Subsection (b), a substantial benefit to
7-55 the corporation does not include additional or amended disclosures
7-56 made to the shareholders, regardless of materiality.

7-57 SECTION 16. Section 21.562(a), Business Organizations
7-58 Code, is amended to read as follows:

7-59 (a) In a derivative proceeding brought in the right of a
7-60 foreign corporation, the matters covered by this subchapter are
7-61 governed by the laws of the jurisdiction of formation of the foreign
7-62 corporation, except for Sections 21.555, 21.560, and 21.561, which
7-63 with respect to foreign corporations are procedural provisions and
7-64 do not relate to the internal affairs of the foreign corporation,
7-65 unless applying the laws of the jurisdiction of formation of the
7-66 foreign corporation requires otherwise with respect to Section
7-67 21.555.

7-68 SECTION 17. Subchapter F, Chapter 101, Business
7-69 Organizations Code, is amended by adding Section 101.256 to read as

8-1 follows:

8-2 Sec. 101.256. PRESUMPTIONS FOR GOVERNING PERSONS OF CERTAIN
 8-3 LIMITED LIABILITY COMPANIES. (a) This section applies only to a
 8-4 limited liability company that has:

8-5 (1) a class or series of voting membership interests
 8-6 listed on a national securities exchange; or

8-7 (2) included in its company agreement a statement
 8-8 affirmatively electing to be governed by this section.

8-9 (b) In taking or declining to take any action on any matters
 8-10 of a limited liability company's business, a governing person or
 8-11 officer, and each affiliate or associate of a governing person or
 8-12 officer, is presumed to act in good faith and in compliance with:

8-13 (1) the person's or officer's duties required under
 8-14 the governing documents of the limited liability company or common
 8-15 law; and

8-16 (2) the governing documents of the limited liability
 8-17 company.

8-18 (c) Neither a limited liability company nor any of the
 8-19 company's members has a cause of action against a governing person
 8-20 or officer or any affiliate or associate of a governing person or
 8-21 officer of the company as a result of any act or omission in the
 8-22 person's capacity as a governing person or officer of the company
 8-23 unless:

8-24 (1) the claimant rebuts one or more of the
 8-25 presumptions established by Subsection (b); and

8-26 (2) it is proven by the claimant that:

8-27 (A) the act or omission of the governing person
 8-28 or officer or affiliate or associate of a governing person or
 8-29 officer constituted a breach of one or more of the person's duties
 8-30 as a governing person or officer to the extent the duty has not been
 8-31 modified or eliminated through an affirmative election contained in
 8-32 the governing documents as permitted by this chapter; and

8-33 (B) the breach involved fraud, intentional
 8-34 misconduct, an ultra vires act, or a knowing violation of law.

8-35 (d) The presumptions established by this section:

8-36 (1) are in addition to any legal presumption arising
 8-37 under common law or this code, in favor of any governing person or
 8-38 officer to which this section applies; and

8-39 (2) do not abrogate, preempt, or lessen any other
 8-40 defense, presumption, immunity, or privilege under other
 8-41 constitutional, statutory, case, or common law or rule provisions,
 8-42 in favor of any governing person or officer of any domestic entity,
 8-43 including any limited liability company to which this section does
 8-44 not apply.

8-45 (e) In alleging fraud, intentional misconduct, an ultra
 8-46 vires act, or a knowing violation of the law under Subsection
 8-47 (c)(2)(B), a party must state with particularity the circumstances
 8-48 constituting the fraud, intentional misconduct, ultra vires act, or
 8-49 knowing violation of law.

8-50 (f) This section does not limit the effectiveness or
 8-51 applicability of a provision contained in the certificate of
 8-52 formation or company agreement or similar instrument of a limited
 8-53 liability company limiting monetary liability of a governing person
 8-54 or officer.

8-55 SECTION 18. Section 101.401, Business Organizations Code,
 8-56 is amended to read as follows:

8-57 Sec. 101.401. EXPANSION, [OR] RESTRICTION, OR ELIMINATION
 8-58 OF DUTIES AND LIABILITIES. The company agreement of a limited
 8-59 liability company may expand, [or] restrict, or eliminate any
 8-60 duties, including fiduciary duties, and related liabilities that a
 8-61 member, manager, officer, or other person has to the company or to a
 8-62 member or manager of the company.

8-63 SECTION 19. Section 101.451(3), Business Organizations
 8-64 Code, is amended to read as follows:

8-65 (3) "Member" includes:

8-66 (A) a person who is a member or is an assignee of
 8-67 a membership interest or a person who beneficially owns a
 8-68 membership interest through a voting trust or a nominee on the
 8-69 person's behalf; and

9-1 (B) two or more members described by Paragraph
 9-2 (A) acting in concert under an informal or formal agreement or
 9-3 understanding with respect to a derivative proceeding.

9-4 SECTION 20. Section 101.452(a), Business Organizations
 9-5 Code, is amended to read as follows:

9-6 (a) Subject to Subsection (b), a member may not institute or
 9-7 maintain a derivative proceeding unless:

9-8 (1) the member:

9-9 (A) was a member of the limited liability company
 9-10 at the time of the act or omission complained of; or

9-11 (B) became a member by operation of law
 9-12 originating from a person that was a member at the time of the act or
 9-13 omission complained of; ~~and~~

9-14 (2) the member fairly and adequately represents the
 9-15 interests of the limited liability company in enforcing the right
 9-16 of the limited liability company; and

9-17 (3) for a limited liability company with membership
 9-18 interests listed on a national securities exchange or that has made
 9-19 an affirmative election to be governed by Section 101.256 and has
 9-20 500 or more members, at the time the derivative proceeding is
 9-21 instituted, the member beneficially owns a number of the membership
 9-22 interests sufficient to meet the required ownership threshold to
 9-23 institute a derivative proceeding in the right of the limited
 9-24 liability company identified in the limited liability company's
 9-25 certificate of formation or company agreement, provided that the
 9-26 required ownership threshold does not exceed three percent of the
 9-27 outstanding membership interests of the limited liability company.

9-28 SECTION 21. Section 101.461, Business Organizations Code,
 9-29 is amended by adding Subsection (c) to read as follows:

9-30 (c) For purposes of Subsection (b), a substantial benefit to
 9-31 the limited liability company does not include additional or
 9-32 amended disclosures made to the members, regardless of materiality.

9-33 SECTION 22. Section 101.502, Business Organizations Code,
 9-34 is amended by amending Subsection (a) and adding Subsections (a-1),
 9-35 (a-2), and (a-3) to read as follows:

9-36 (a) Unless otherwise provided by the governing documents of
 9-37 a limited liability company, a [A] member of a limited liability
 9-38 company or an assignee of a membership interest in a limited
 9-39 liability company, on written demand stating a proper purpose, is
 9-40 entitled to examine and copy at a reasonable time at the limited
 9-41 liability company's principal office identified under Section
 9-42 101.501(c) or another location approved by the limited liability
 9-43 company and the member or assignee, any records of the limited
 9-44 liability company, whether in written or other tangible form, which
 9-45 are reasonably related to and appropriate to examine and copy for
 9-46 that proper purpose. For purposes of this subsection, the records
 9-47 of the limited liability company shall not include e-mails, text
 9-48 messages or similar electronic communications, or information from
 9-49 social media accounts unless the particular e-mail, communication,
 9-50 or social media information effectuates an action by the limited
 9-51 liability company.

9-52 (a-1) This subsection applies only to a limited liability
 9-53 company that has a class or series of voting membership interests
 9-54 listed on a national securities exchange or that has made an
 9-55 affirmative election to be governed by Section 101.256. For
 9-56 purposes of Subsection (a), a written demand may be made only by a
 9-57 member or an assignee that has held the membership interest for at
 9-58 least six months immediately preceding the member's or assignee's
 9-59 demand.

9-60 (a-2) This subsection applies only to a limited liability
 9-61 company that has a class or series of voting membership interests
 9-62 listed on a national securities exchange or that has made an
 9-63 affirmative election to be governed by Section 101.256 or Section
 9-64 101.401. For purposes of Subsection (a), a written demand shall not
 9-65 be for a proper purpose if the limited liability company reasonably
 9-66 determines that the demand is in connection with:

9-67 (1) an active or pending derivative proceeding in the
 9-68 right of the limited liability company under Subchapter J that is or
 9-69 is expected to be instituted or maintained by the member or assignee

10-1 or the member's or assignee's affiliate; or
 10-2 (2) an active or pending civil lawsuit to which the
 10-3 company, or its affiliate, and the member or assignee, or the
 10-4 member's or assignee's affiliate, are or are expected to be
 10-5 adversarial named parties.

10-6 (a-3) Subsection (a-2) does not impair any rights of the
 10-7 member or assignee or the member's or assignee's affiliate to obtain
 10-8 discovery of records from the limited liability company in:

10-9 (1) a civil lawsuit described by Subsection (a-2)(2);

10-10 or

10-11 (2) the derivative proceeding subject to Section
 10-12 101.456.

10-13 SECTION 23. Section 152.002, Business Organizations Code,
 10-14 is amended by adding Subsection (e) to read as follows:

10-15 (e) This subsection applies only to a limited partnership
 10-16 that has a class or series of voting limited partnership interests
 10-17 listed on a national securities exchange or that has included in its
 10-18 governing documents a statement affirmatively electing to be
 10-19 governed by this subsection. Notwithstanding Subsection (b)(2),
 10-20 (3), or (4), a partnership agreement may eliminate any or all of the
 10-21 duty of loyalty under Section 152.205, the duty of care under
 10-22 Section 152.206, and the obligation of good faith under Section
 10-23 152.204(b), to the extent the governing documents of the
 10-24 partnership include a statement affirmatively electing to do so
 10-25 under this subsection.

10-26 SECTION 24. Subchapter D, Chapter 153, Business
 10-27 Organizations Code, is amended by adding Section 153.163 to read as
 10-28 follows:

10-29 Sec. 153.163. PRESUMPTIONS FOR GENERAL PARTNERS AND
 10-30 OFFICERS OF CERTAIN LIMITED PARTNERSHIPS. (a) This section
 10-31 applies only to a limited partnership that has:

10-32 (1) a class or series of voting limited partnership
 10-33 interests listed on a national securities exchange; or

10-34 (2) included in its governing documents a statement
 10-35 affirmatively electing to be governed by this section.

10-36 (b) In taking or declining to take any action on any matters
 10-37 of a limited partnership's business, any general partner of the
 10-38 limited partnership, including any director, officer, member, or
 10-39 other affiliate of the general partner, is presumed to act in good
 10-40 faith and in compliance with:

10-41 (1) the person's duties required under this code,
 10-42 common law, and the partnership agreement of the partnership; and

10-43 (2) the partnership agreement of such limited
 10-44 partnership.

10-45 (c) Neither a limited partnership nor any of the limited
 10-46 partnership's partners has a cause of action against a general
 10-47 partner of the limited partnership, including any director,
 10-48 officer, member, or other affiliate of the general partner, as a
 10-49 result of any act or omission in the person's capacity as a general
 10-50 partner or as an officer or director of the general partner unless:

10-51 (1) the claimant rebuts one or more of the
 10-52 presumptions established by Subsection (b); and

10-53 (2) it is proven by the claimant that:

10-54 (A) the general partner's or any director,
 10-55 officer, member, or other affiliate of the general partner's act or
 10-56 omission constituted a breach of one or more of the person's duties
 10-57 as a general partner, director, or officer to the extent the duty
 10-58 has not been modified or eliminated through an affirmative election
 10-59 contained in the governing documents as permitted by this chapter;
 10-60 and

10-61 (B) the breach involved fraud, intentional
 10-62 misconduct, an ultra vires act, or a knowing violation of law.

10-63 (d) The presumptions established by this section:

10-64 (1) are in addition to any legal presumption arising
 10-65 under common law or this code, in favor of any general partner or
 10-66 member or managerial official of a general partner to which this
 10-67 section applies; and

10-68 (2) do not abrogate, preempt, or lessen any other
 10-69 defense, presumption, immunity, or privilege under other

11-1 constitutional, statutory, case, or common law or rule provisions,
 11-2 in favor of any managerial official of any domestic entity,
 11-3 including any limited partnership to which this section does not
 11-4 apply.

11-5 (e) In alleging fraud, intentional misconduct, an ultra
 11-6 vires act, or a knowing violation of the law under Subsection
 11-7 (c)(2)(B), a party must state with particularity the circumstances
 11-8 constituting the fraud, intentional misconduct, ultra vires act, or
 11-9 knowing violation of law.

11-10 (f) This section does not limit the effectiveness or
 11-11 applicability of a provision contained in the certificate of
 11-12 formation or partnership agreement or similar instrument of a
 11-13 partnership limiting monetary liability of a governing person.

11-14 SECTION 25. Section 153.401(2), Business Organizations
 11-15 Code, is amended to read as follows:

11-16 (2) "Limited partner" means:

11-17 (A) a person who is a limited partner or is an
 11-18 assignee of a partnership interest, including the partnership
 11-19 interest of a general partner; and

11-20 (B) two or more limited partners described by
 11-21 Paragraph (A) acting in concert under an informal or formal
 11-22 agreement or understanding with respect to a derivative proceeding.

11-23 SECTION 26. Section 153.402(a), Business Organizations
 11-24 Code, is amended to read as follows:

11-25 (a) Subject to Subsection (b), a limited partner may not
 11-26 institute or maintain a derivative proceeding unless:

11-27 (1) the limited partner:

11-28 (A) was a limited partner of the limited
 11-29 partnership at the time of the act or omission complained of; or

11-30 (B) became a limited partner by operation of law
 11-31 originating from a person that was a limited partner or general
 11-32 partner at the time of the act or omission complained of; ~~and~~

11-33 (2) the limited partner fairly and adequately
 11-34 represents the interests of the limited partnership in enforcing
 11-35 the right of the limited partnership; and

11-36 (3) for a limited partnership with limited partnership
 11-37 interests listed on a national securities exchange or that has made
 11-38 an affirmative election to be governed by Section 152.002(e) or
 11-39 Section 153.163 and has 500 or more limited partners, at the time
 11-40 the derivative proceeding is instituted, the partner beneficially
 11-41 owns a number of limited partnership interests sufficient to meet
 11-42 the required ownership threshold to institute a derivative
 11-43 proceeding in the right of the limited partnership identified in
 11-44 the limited partnership's certificate of formation or partnership
 11-45 agreement, provided that the required ownership threshold does not
 11-46 exceed three percent of the outstanding limited partnership
 11-47 interests of the limited partnership.

11-48 SECTION 27. Section 153.411, Business Organizations Code,
 11-49 is amended by adding Subsection (c) to read as follows:

11-50 (c) For purposes of Subsection (b), a substantial benefit to
 11-51 the limited partnership does not include additional or amended
 11-52 disclosures made to the limited partners, regardless of
 11-53 materiality.

11-54 SECTION 28. Section 153.552, Business Organizations Code,
 11-55 is amended by amending Subsection (a) and adding Subsections (a-1)
 11-56 and (a-2) to read as follows:

11-57 (a) Unless otherwise provided by the governing documents of
 11-58 a limited partnership, on ~~an~~ written demand stating a proper
 11-59 purpose, a partner or an assignee of a partnership interest in a
 11-60 limited partnership is entitled to examine and copy, at a
 11-61 reasonable time at the partnership's principal office identified
 11-62 under Section 153.551 or other location approved by the partnership
 11-63 and the partner or assignee, any records of the partnership,
 11-64 whether in written or other tangible form, which are reasonably
 11-65 related to and appropriate to examine and copy for that proper
 11-66 purpose. For purposes of this subsection, the records of the
 11-67 limited partnership shall not include e-mails, text messages or
 11-68 similar electronic communications, or information from social
 11-69 media accounts unless the particular e-mail, communication, or

12-1 social media information effectuates an action by the limited
12-2 partnership.

12-3 (a-1) This subsection applies only to a limited partnership
12-4 that has a class or series of voting limited partnership interests
12-5 listed on a national securities exchange or that has made an
12-6 affirmative election to be governed by Section 152.002(e) or
12-7 153.163. For purposes of Subsection (a), a written demand:

12-8 (1) may be made only by a limited partner or an
12-9 assignee that has held the limited partnership interest for at
12-10 least six months immediately preceding the limited partner's or
12-11 assignee's demand; and

12-12 (2) shall not be for a proper purpose if the limited
12-13 partnership reasonably determines that the demand is in connection
12-14 with:

12-15 (A) an active or pending derivative proceeding in
12-16 the right of the limited partnership under Subchapter I that is or
12-17 is expected to be instituted or maintained by the limited partner or
12-18 assignee or the limited partner's or assignee's affiliate; or

12-19 (B) an active or pending civil lawsuit to which
12-20 the partnership, or its affiliate, and the limited partner or
12-21 assignee, or the limited partner's or assignee's affiliate, are or
12-22 are expected to be adversarial named parties.

12-23 (a-2) Subsection (a-1) does not impair any rights of the
12-24 limited partner or assignee or the limited partner's or assignee's
12-25 affiliate to obtain discovery of records from the limited
12-26 partnership in:

12-27 (1) a civil lawsuit described by Subsection

12-28 (a-1)(2)(B); or

12-29 (2) the derivative proceeding subject to Section
12-30 153.406.

12-31 SECTION 29. Sections 21.552(a), 21.561, 101.452(a),
12-32 101.461, 153.402(a), and 153.411, Business Organizations Code, as
12-33 amended by this Act, apply only to a derivative proceeding
12-34 instituted on or after the effective date of this Act. A derivative
12-35 proceeding instituted before the effective date of this Act is
12-36 governed by the law in effect on the date the proceeding was
12-37 instituted, and the former law is continued in effect for that
12-38 purpose.

12-39 SECTION 30. This Act takes effect immediately if it
12-40 receives a vote of two-thirds of all the members elected to each
12-41 house, as provided by Section 39, Article III, Texas Constitution.
12-42 If this Act does not receive the vote necessary for immediate
12-43 effect, this Act takes effect September 1, 2025.

12-44 * * * * *