

By: Schwertner
(Longoria)

S.B. No. 2411

A BILL TO BE ENTITLED

AN ACT

relating to business organizations.

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

SECTION 1. Subchapter B, Chapter 1, Business Organizations Code, is amended by adding Sections 1.056 and 1.057 to read as follows:

Sec. 1.056. REFERENCES IN CODE TO CERTAIN DISTRICT COURTS INCLUDES BUSINESS COURTS. Notwithstanding any other law, a reference or grant of jurisdiction in this code, including a grant of exclusive jurisdiction, to a district court constitutes a reference or grant of concurrent jurisdiction to a business court established under Chapter 25A, Government Code, if the business court has authority and jurisdiction under Chapter 25A, Government Code, to adjudicate the action or claim. This section does not expand the authority of the business court under Chapter 25A, Government Code.

Sec. 1.057. LAWS GOVERNING FORMATION, INTERNAL AFFAIRS, AND GOVERNANCE OF DOMESTIC ENTITY. (a) The plain meaning of the text of this code may not be supplanted, contravened, or modified by the laws or judicial decisions of any other state.

(b) The managerial officials of a domestic entity, in exercising their powers with respect to the domestic entity, may consider the laws and judicial decisions of other states and the practices observed by entities formed in those other states. The

1 failure or refusal of a managerial official to consider, or to
2 conform the exercise of the managerial official's powers to, the
3 laws, judicial decisions, or practices of another state does not
4 constitute or imply a breach of this code or of any duty existing
5 under the laws of this state.

6 SECTION 2. Section 2.115(b), Business Organizations Code,
7 is amended to read as follows:

8 (b) The governing documents of a domestic entity [~~may~~
9 ~~require~~], consistent with applicable state and federal
10 jurisdictional requirements, may require:

11 (1) that any internal entity claims shall be brought
12 only in a court in this state; and

13 (2) that one or more courts in this state having
14 jurisdiction shall serve as the exclusive forum and venue for any
15 internal entity claims.

16 SECTION 3. Section 3.007(a), Business Organizations Code,
17 is amended to read as follows:

18 (a) In addition to the information required by Section
19 3.005, the certificate of formation of a for-profit or professional
20 corporation must state:

21 (1) the aggregate number of shares the corporation is
22 authorized to issue;

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

26 (3) if the corporation is to be managed by a board of
27 directors, the number of directors constituting the initial board

1 of directors and the name and address of each individual [~~person~~]
2 who will serve as director until the first annual meeting of
3 shareholders and until a successor is elected and qualified; and

4 (4) if the corporation is to be managed pursuant to a
5 shareholders' agreement in a manner other than by a board of
6 directors, the name and address of each person who will perform the
7 functions required by this code to be performed by the initial board
8 of directors.

9 SECTION 4. Section 3.015(a), Business Organizations Code,
10 is amended to read as follows:

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

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

15 (2) state:

16 (A) the name and address of each original member
17 of the association;

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

20 (C) the name and address of each individual
21 [~~person~~] serving as an initial member of the board of directors or
22 executive committee of the association.

23 SECTION 5. Section 3.060, Business Organizations Code, is
24 amended by amending Subsection (a) and adding Subsection (c) to
25 read as follows:

26 (a) In addition to the provisions authorized or required by
27 Section 3.059, a restated certificate of formation for a for-profit

corporation or professional corporation may omit:

(1) any prior statements regarding the number of directors and the names and addresses of the individuals ~~[persons]~~ serving as directors and, at the corporation's election, may insert a statement regarding the current number of directors and the names and addresses of the individuals ~~[persons]~~ currently serving as directors; and

(2) any provisions that were necessary to effect a change, exchange, reclassification, subdivision, combination, or cancellation of shares, if the change, exchange, reclassification, subdivision, combination, or cancellation has become effective.

(c) Any omission or insertion under Subsection (a) or omission under Section 3.059(b) is not considered an amendment that requires shareholder approval.

SECTION 6. Section 3.061, Business Organizations Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) In addition to the provisions authorized or required by Section 3.059, a restated certificate of formation for a nonprofit corporation may omit any prior statements regarding the number of directors and the names and addresses of the individuals ~~[persons]~~ serving as directors and, at the corporation's election, may insert a statement regarding the current number of directors and the names and addresses of the individuals ~~[persons]~~ currently serving as directors.

(c) Any omission or insertion under Subsection (a) or omission under Section 3.059(b) is not considered an amendment that

1 requires member approval.

2 SECTION 7. Section 3.0611, Business Organizations Code, is
3 amended to read as follows:

4 Sec. 3.0611. SUPPLEMENTAL PROVISIONS FOR RESTATED
5 CERTIFICATE OF FORMATION FOR LIMITED LIABILITY COMPANY. (a) In
6 addition to the provisions authorized or required by Section 3.059,
7 a restated certificate of formation for a limited liability company
8 may omit any prior statements regarding whether the company has or
9 does not have managers and the names and addresses of managers or
10 members and, at the company's election, may insert a statement:

11 (1) regarding whether the company currently has or
12 does not have managers;

13 (2) that the company currently has managers and the
14 names and addresses of the persons currently serving as managers;
15 or

16 (3) that the company currently does not have managers
17 and the names and addresses of the current members of the company.

18 (b) Any omission or insertion under Subsection (a) or
19 omission under Section 3.059(b) is not considered an amendment that
20 requires member approval.

21 SECTION 8. Section 3.062, Business Organizations Code, is
22 amended to read as follows:

23 Sec. 3.062. SUPPLEMENTAL PROVISIONS FOR RESTATED
24 CERTIFICATE OF FORMATION FOR REAL ESTATE INVESTMENT TRUST. (a) In
25 addition to the provisions authorized or required by Section 3.059,
26 a restated certificate of formation for a real estate investment
27 trust may update the current number of trust managers and the names

1 and addresses of the individuals [~~persons~~] serving as trust
2 managers.

3 (b) Any update under Subsection (a) or Section 3.059(b) is
4 not considered an amendment that requires shareholder approval.

5 SECTION 9. Subchapter C, Chapter 3, Business Organizations
6 Code, is amended by adding Section 3.106 to read as follows:

7 Sec. 3.106. AUTHORIZATION OF PLANS, AGREEMENTS,
8 INSTRUMENTS, AND OTHER DOCUMENTS. (a) If this code expressly
9 requires the governing authority to approve or take other action
10 with respect to any plan, agreement, instrument, or other document,
11 the plan, agreement, instrument, or other document may be approved
12 by the governing authority in final form or in substantially final
13 form.

14 (b) If the governing authority has acted to approve or take
15 other action with respect to a plan, agreement, instrument, or
16 other document that is required by this code to be filed with the
17 secretary of state or referenced in any certificate to be filed with
18 the secretary of state, the governing authority may, at any time
19 after acting to approve or taking that other action and before the
20 effectiveness of the filing with the secretary of state, act to
21 ratify the plan, agreement, instrument, or other document. That
22 ratification is considered:

23 (1) to be effective as of the time of the original act
24 to approve or the original taking of other action by the governing
25 authority; and

26 (2) to satisfy any requirement under this code that
27 the governing authority approve or take other action with respect

1 to the plan, agreement, instrument, or other document in a specific
2 manner or sequence.

3 SECTION 10. Section 4.001(a), Business Organizations Code,
4 is amended to read as follows:

5 (a) A filing instrument must be:

6 (1) signed by a person authorized by this code to act
7 on behalf of the entity in regard to the filing instrument; and

8 (2) delivered to the secretary of state in person or by
9 mail, courier, ~~[facsimile or]~~ electronic transmission, or any other
10 method approved by the secretary of state ~~[comparable form of~~
11 ~~delivery]~~.

12 SECTION 11. Section 4.152, Business Organizations Code, is
13 amended to read as follows:

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

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

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

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

21 (4) for filing an application of a foreign corporation
22 for an amended registration to transact business in this state,
23 \$150;

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

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

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

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

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

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

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

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

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

19 (14) for filing an application for reinstatement of a
20 corporation or registration as a foreign corporation after
21 involuntary termination or revocation, \$75;

22 (15) for filing a certificate of validation, \$15, plus
23 the filing fee imposed for filing each new filing instrument that is
24 attached as an exhibit to the certificate of validation under
25 Section 21.908(b)(3)(B) [~~21.908(b)(3)(C)~~]; and

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

SECTION 12. Section 4.153, Business Organizations Code, is amended to read as follows:

Sec. 4.153. FILING FEES: NONPROFIT CORPORATIONS. For a filing by or for a nonprofit corporation, the secretary of state shall impose the following fees:

- (1) for filing a certificate of formation, \$25;
- (2) for filing a certificate of amendment, \$25;
- (3) for filing a certificate of merger, conversion, or consolidation, without regard to whether the surviving or new corporation is a domestic or foreign corporation, \$50;
- (4) for filing a statement of change of a registered office, registered agent, or both, \$5;
- (5) for filing a certificate of termination, \$5;
- (6) for filing an application of a foreign corporation for registration to conduct affairs in this state, \$25;
- (7) for filing an application of a foreign corporation for an amended registration to conduct affairs in this state, \$25;
- (8) for filing a certificate of withdrawal of a foreign corporation, \$5;
- (9) for filing a restated certificate of formation and accompanying statement, \$50;
- (10) for filing a statement of change of name or address of a registered agent, \$15, except that the maximum fee for simultaneous filings by a registered agent for more than one corporation may not exceed \$250;
- (11) for filing a report under Chapter 22, \$5;
- (12) for filing a report under Chapter 22 to reinstate

1 a corporation's right to conduct affairs in this state, \$5, plus a
2 late fee in the amount of \$5 or in the amount of \$1 for each month or
3 part of a month that the report remains unfiled, whichever amount is
4 greater, except that the late fee may not exceed \$25;

5 (13) for filing a report under Chapter 22 to reinstate
6 a corporation or registration following involuntary termination or
7 revocation, \$25;

8 (14) for filing a certificate of validation, \$5, plus
9 the filing fee imposed for filing each new filing instrument that is
10 attached as an exhibit to the certificate of validation under
11 Section 22.508(c)(3)(B) [~~22.508(c)(3)(C)~~]; and

12 (15) for filing any instrument of a domestic or
13 foreign corporation as provided by this code for which this section
14 does not expressly provide a fee, \$5.

15 SECTION 13. Section 4.162(b), Business Organizations Code,
16 is amended to read as follows:

17 (b) For a filing by or for a registered series of a domestic
18 limited liability company when no other fee has been provided, the
19 secretary of state shall impose the same fee as the filing fee for a
20 similar instrument under Section 4.151 or 4.154.

21 SECTION 14. Section 6.051, Business Organizations Code, is
22 amended by adding Subsection (c) to read as follows:

23 (c) When a notice is required or permitted by this code or
24 the governing documents of a domestic entity to be given to an
25 owner, member, or governing person of the domestic entity, a
26 document enclosed with, or annexed or appended to, the notice is
27 considered part of the notice for the purpose of determining

1 whether notice was properly given under this code and the governing
2 documents.

3 SECTION 15. Section 6.202(d), Business Organizations Code,
4 is amended to read as follows:

5 (d) The entity shall promptly provide notice to ~~[notify]~~
6 each person who is an owner or member as of the record date for the
7 action, as determined by Section 6.102, who did not sign a consent
8 described by Subsection (b) of the action that is the subject of the
9 consent. The notice required by this subsection:

10 (1) in addition to other information required by
11 applicable law, must contain a reasonable description of the action
12 that is the subject of the consent; and

13 (2) may, instead of containing the complete notice,
14 include information directing the owner or member to a publicly
15 available electronic resource at which a reasonable description of
16 the action that is the subject of the consent and any other
17 information required by applicable law may be accessed by the owner
18 or member without subscription or cost.

19 SECTION 16. Section 7.001, Business Organizations Code, is
20 amended to read as follows:

21 Sec. 7.001. LIMITATION OF LIABILITY OF MANAGERIAL OFFICIAL
22 ~~[GOVERNING PERSON]~~. (a) Subsections (b) and (c) apply to:

23 (1) a domestic entity other than a partnership or
24 limited liability company;

25 (2) another organization incorporated or organized
26 under another law of this state; and

27 (3) to the extent permitted by federal law, a

1 federally chartered bank, savings and loan association, or credit
2 union.

3 (b) The certificate of formation or similar instrument of an
4 organization to which this section applies may provide that a
5 managerial official [~~governing person~~] of the organization is not
6 liable, or is liable only to the extent provided by the certificate
7 of formation or similar instrument, to the organization or its
8 owners or members for monetary damages for an act or omission by the
9 managerial official [~~person~~] in the managerial official's
10 [~~person's~~] capacity as a managerial official [~~governing person~~].

11 (c) Subsection (b) does not authorize the elimination or
12 limitation of the liability of a managerial official [~~governing~~
13 ~~person~~] to the extent the managerial official [~~person~~] is found
14 liable under applicable law for:

15 (1) a breach of the managerial official's [~~person's~~]
16 duty of loyalty, if any, to the organization or its owners or
17 members;

18 (2) an act or omission not in good faith that:

19 (A) constitutes a breach of duty of the
20 managerial official [~~person~~] to the organization; or

21 (B) involves intentional misconduct or a knowing
22 violation of law;

23 (3) a transaction from which the managerial official
24 [~~person~~] received an improper benefit, regardless of whether the
25 benefit resulted from an action taken within the scope of the
26 managerial official's [~~person's~~] duties; or

27 (4) an act or omission for which the liability of a

1 managerial official ~~[governing person]~~ is expressly provided by an
2 applicable statute.

3 (d) The liability of a managerial official ~~[governing~~
4 ~~person]~~ may be limited or eliminated:

5 (1) in a general partnership by its partnership
6 agreement to the same extent Subsections (b) and (c) permit the
7 limitation or elimination of liability of a managerial official
8 ~~[governing person]~~ of an organization to which those subsections
9 apply and to the additional extent permitted under Chapter 152;

10 (2) in a limited partnership by its partnership
11 agreement to the same extent Subsections (b) and (c) permit the
12 limitation or elimination of liability of a managerial official
13 ~~[governing person]~~ of an organization to which those subsections
14 apply and to the additional extent permitted under Chapter 153 and,
15 to the extent applicable to limited partnerships, Chapter 152; and

16 (3) in a limited liability company by its certificate
17 of formation or company agreement to the same extent Subsections
18 (b) and (c) permit the limitation or elimination of liability of a
19 managerial official ~~[governing person]~~ of an organization to which
20 those subsections apply and to the additional extent permitted
21 under Sections 101.052 and ~~[Section]~~ 101.401.

22 SECTION 17. Section 10.002, Business Organizations Code, is
23 amended by adding Subsection (e) to read as follows:

24 (e) Unless otherwise expressly provided by the plan of
25 merger, a disclosure letter, disclosure schedules, or similar
26 documents or instruments delivered in connection with the plan of
27 merger are not considered part of the plan of merger for purposes of

1 this chapter, but those documents or instruments have the effects
2 provided in the plan of merger.

3 SECTION 18. Section 10.004, Business Organizations Code, is
4 amended to read as follows:

5 Sec. 10.004. PLAN OF MERGER: PERMISSIVE PROVISIONS. (a) A
6 plan of merger may include:

7 (1) amendments to, restatements of, or amendments and
8 restatements of the governing documents of any surviving
9 organization, including a certificate of amendment, a restated
10 certificate of formation without amendment, or a restated
11 certificate of formation containing amendments;

12 (2) provisions relating to an interest exchange,
13 including a plan of exchange; ~~and~~

14 (3) provisions for the appointment, at or after the
15 time at which the plan of merger is adopted by the owners or members
16 of a party to the merger, of one or more persons, which may include
17 an organization surviving or resulting from the merger or any
18 managerial official, representative, or agent of a party to the
19 merger or of a surviving or resulting organization, as
20 representative of the owners or members of a party to the merger,
21 including those whose ownership interests or membership interests
22 are cancelled, converted, or exchanged in the merger; and

23 (4) any other provisions relating to the merger that
24 are not required by this chapter.

25 (b) Provisions for the appointment of a representative in a
26 plan of merger under Subsection (a)(3) may:

27 (1) delegate to the representative the sole and

1 exclusive authority to take action on behalf of the owners or
2 members under the plan of merger, including the authority to take
3 any action the representative determines to enforce or settle the
4 rights of the owners or members under the plan of merger, subject to
5 the terms and conditions prescribed by the plan of merger;

6 (2) prescribe the irrevocable nature and binding
7 effect of the appointment as to all owners or members to be bound by
8 the appointment from and after the approval of the plan of merger by
9 those owners or members in accordance with this subchapter; and

10 (3) provide that any of the provisions:

11 (A) may not be amended after the merger has
12 become effective; or

13 (B) may be amended only with the consent or
14 approval of persons specified in the plan of merger.

15 SECTION 19. Section 10.006(e), Business Organizations
16 Code, is amended to read as follows:

17 (e) Sections 10.001(c)-(e), 10.002(c), 10.003, 10.004, and
18 10.007-10.010 apply to a merger approved under Subsection (d),
19 except that the resolution approving the merger should be
20 considered the plan of merger for purposes of those sections.

21 SECTION 20. Section 10.052, Business Organizations Code, is
22 amended by adding Subsection (d) to read as follows:

23 (d) Unless otherwise expressly provided by the plan of
24 exchange, a disclosure letter, disclosure schedules, or similar
25 documents or instruments delivered in connection with the plan of
26 exchange are not considered part of the plan of exchange for
27 purposes of this chapter, but the documents or instruments have the

1 effect provided in the plan of exchange.

2 SECTION 21. Section 10.053, Business Organizations Code, is
3 amended to read as follows:

4 Sec. 10.053. PLAN OF EXCHANGE: PERMISSIVE PROVISIONS. (a)
5 A plan of exchange may include:

6 (1) provisions for the appointment, at or after the
7 time at which the plan of exchange is adopted by the owners or
8 members whose ownership or membership interests are being acquired
9 in the interest exchange, of one or more persons, which may include
10 an organization that is a party to the interest exchange or any
11 managerial official, representative, or agent of a party to the
12 interest exchange, as representative of those owners or members;
13 and

14 (2) any other provisions not required by Section
15 10.052 relating to the interest exchange.

16 (b) Provisions for the appointment of a representative in a
17 plan of exchange under Subsection (a)(1) may:

18 (1) delegate to the representative the sole and
19 exclusive authority to take action on behalf of the owners or
20 members under the plan of exchange, including the authority to take
21 actions the representative determines to enforce or settle the
22 rights of the owners or members under the plan of exchange, subject
23 to the terms and conditions as prescribed by the plan of exchange;

24 (2) prescribe the irrevocable nature and binding
25 effect of the appointment as to all owners or members to be bound by
26 the appointment from and after the approval of the plan of exchange
27 by those owners or members in accordance with this subchapter; and

1 (3) provide that any of the provisions:

2 (A) may not be amended after the interest
3 exchange has become effective; or

4 (B) may be amended only with the consent or
5 approval of persons specified in the plan of exchange.

6 SECTION 22. Section 10.104, Business Organizations Code, is
7 amended to read as follows:

8 Sec. 10.104. PLAN OF CONVERSION: PERMISSIVE PROVISIONS.

9 (a) A plan of conversion may include other provisions relating to
10 the conversion that are not inconsistent with law.

11 (b) An action to be taken by the converted entity in
12 connection with the conversion of the converting entity that is
13 provided by the plan of conversion adopted in the manner required by
14 Section 10.101 or 10.102, as applicable, and that is within the
15 power of the converted entity under the law of its jurisdiction of
16 formation:

17 (1) is considered authorized, adopted, and approved,
18 as applicable, by:

19 (A) the converted entity; and

20 (B) the governing authority and owners or members
21 of the converted entity, as applicable; and

22 (2) does not require any further action of the
23 governing authority, owners, or members of the converted entity for
24 purposes of this code.

25 SECTION 23. Section 21.053, Business Organizations Code, is
26 amended by amending Subsection (c) and adding Subsections (d), (e),
27 (f), and (g) to read as follows:

(c) Notwithstanding Section 21.054 and except as otherwise provided by the certificate of formation, the board of directors of a corporation that has outstanding shares:

(1) may, without shareholder approval, adopt an amendment to the corporation's certificate of formation to:

(A) change the word or abbreviation in its corporate name as required by Section 5.054(a) to be a different word or abbreviation required by that section;

(B) omit any provision that specifies the name and address of each organizer or director; or

(C) omit any provisions that were necessary to effect a change, exchange, reclassification, subdivision, combination, or cancellation of shares, if the change, exchange, reclassification, subdivision, combination, or cancellation has become effective; and

(2) if the corporation has only one class of outstanding stock that is not divided into series and in which no change is made in any par value of shares of that class, may, without shareholder approval, adopt an amendment to the corporation's certificate of formation to:

(A) reclassify by subdividing the issued shares of the class into a greater number of issued shares of the class; and

(B) if the reclassification is primarily for the purpose of maintaining the listing eligibility of the class on any applicable national securities exchange, reclassify by combining the issued shares of the class into a lesser number of issued shares

1 of the class.

2 (d) An amendment described by Subsection (c)(2)(A) may also
3 increase the number of authorized shares of the class up to an
4 amount determined by multiplying the existing number of authorized
5 shares of the class by the same multiple by which the issued shares
6 of the class are subdivided in the reclassification and rounding up
7 any resulting fractional number of shares to a whole number of
8 shares.

9 (e) An amendment described by Subsection (c)(2)(B) may also
10 decrease the number of authorized shares of the class to an amount
11 determined by dividing the existing number of authorized shares of
12 the class by the same multiple by which the issued shares of the
13 class are combined in the reclassification and rounding up any
14 resulting fractional number of shares to a whole number of shares.

15 (f) When a reclassification of issued shares:

16 (1) with par value is made by a corporation under
17 Subsection (c)(2)(A), an amount of surplus designated by the
18 corporation's board of directors that is not less than the
19 aggregate par value of the shares issued as a result of the
20 reclassification shall be transferred to stated capital; and

21 (2) without par value is made by a corporation under
22 Subsection (c)(2)(A), an amount of surplus equal to an aggregate
23 value with respect to the shares issued as a result of the
24 reclassification, as set by the board of directors when the
25 reclassification is authorized, shall be transferred to stated
26 capital.

27 (g) A corporation may not effect a reclassification under

1 Subsection (c)(2)(A) if the surplus of the corporation is less than
2 the amount required by Subsection (f)(1) or (f)(2), as applicable,
3 to be transferred to stated capital at the time the
4 reclassification becomes effective.

5 SECTION 24. Section 21.160(c), Business Organizations
6 Code, is amended to read as follows:

7 (c) A corporation may dispose of treasury shares for
8 consideration that may be determined by the board of directors. The
9 consideration received for treasury shares may:

10 (1) have a value greater or less than, or equal to, the
11 par value, if any, of the shares; and

12 (2) consist of the types of consideration described by
13 Section 21.159.

14 SECTION 25. Section 21.168(e), Business Organizations
15 Code, is amended to read as follows:

16 (e) An authorization of the board of directors may delegate
17 to a person or persons, in addition to the board of directors, the
18 authority to enter into one or more transactions to issue rights or
19 options. For a transaction entered into by a person or persons to
20 whom authority was delegated under this subsection, the rights or
21 options may be issued in the number, at the time, and for the
22 consideration, and under the other terms on which shares may be
23 issued on the exercise of those rights and options, as the person or
24 persons may determine if that authorization of the board of
25 directors:

26 (1) states:

27 (A) the maximum number of ~~[rights or options, and~~

1 ~~the maximum number of~~ shares issuable on exercise of those rights
2 or options, that may be issued under the authorization;

3 (B) the period of time during which the rights or
4 options~~[7]~~ and the period of time during which the shares issuable
5 on exercise of those rights or options, may be issued; and

6 (C) the minimum amount of consideration:

7 (i) if any, for which the rights or options
8 may be issued; and

9 (ii) for the shares issuable on exercise of
10 the rights or options; and

11 (2) does not permit the person or persons to whom
12 authority was delegated to issue rights, options, or shares to that
13 person or those persons.

14 SECTION 26. Section 21.402, Business Organizations Code, is
15 amended to read as follows:

16 Sec. 21.402. BOARD MEMBER ELIGIBILITY REQUIREMENTS. Unless
17 the certificate of formation or bylaws of a corporation provide
18 otherwise, a director ~~[person]~~ is not required to be a resident of
19 this state or a shareholder of the corporation ~~[to serve as a~~
20 ~~director]~~. The certificate of formation or bylaws may prescribe
21 other qualifications for directors.

22 SECTION 27. Section 21.404, Business Organizations Code, is
23 amended to read as follows:

24 Sec. 21.404. DESIGNATION OF INITIAL BOARD OF DIRECTORS. If
25 the corporation is to be managed by a board of directors, the
26 certificate of formation of a corporation must state the name and
27 address ~~[names and addresses]~~ of each individual who will serve as

1 director until the first annual meeting of shareholders and until a
2 successor is elected and qualified [~~the persons constituting the~~
3 ~~initial board of directors of the corporation~~].

4 SECTION 28. Section 21.561, Business Organizations Code, is
5 amended by adding Subsection (c) to read as follows:

6 (c) For purposes of Subsection (b)(1), substantial benefit
7 to the corporation does not include additional or amended
8 disclosures made to the shareholders, regardless of materiality.

9 SECTION 29. Section 21.562(a), Business Organizations
10 Code, is amended to read as follows:

11 (a) In a derivative proceeding brought in the right of a
12 foreign corporation, the matters covered by this subchapter are
13 governed by the laws of the jurisdiction of formation of the foreign
14 corporation, except for Sections 21.555, 21.560, and 21.561, which
15 with respect to foreign corporations are procedural provisions and
16 do not relate to the internal affairs of the foreign corporation,
17 unless applying the laws of the jurisdiction of formation of the
18 foreign corporation requires otherwise with respect to Section
19 21.555.

20 SECTION 30. Section 21.563(b), Business Organizations
21 Code, is amended to read as follows:

22 (b) Sections 21.552-21.560 do not apply to [~~a claim or~~] a
23 derivative proceeding by a shareholder of a closely held
24 corporation against a present or former director, officer, or
25 shareholder of the corporation. In the event the shareholder also
26 asserts a claim in the [~~or~~] derivative proceeding [~~is also made~~]
27 against a person who is not a present or former [~~that~~] director,

officer, or shareholder, this subsection applies only to a ~~the~~ claim in the ~~or~~ derivative proceeding against a present or former ~~the~~ director, officer, or shareholder.

SECTION 31. Sections 21.901(2) and (4), Business Organizations Code, are amended to read as follows:

(2) "Defective corporate act" means:

(A) an overissue;

(B) an election or appointment of directors that is void or voidable due to a failure of authorization; or

(C) any act or transaction purportedly taken by or on behalf of the corporation that is, and at the time the act or transaction was purportedly taken would have been, within the power of a corporation to take under the corporate statute, without regard to the failure of authorization identified in Section 21.903(a)(4), but is ineffective, void, or voidable due to a failure of authorization, including a failure to file with the filing officer a filing instrument that was required under the corporate statute to complete the effectiveness of the act or transaction.

(4) "Failure of authorization" means:

(A) the failure to authorize or effect an act or transaction in compliance with the provisions of the corporate statute, the governing documents of the corporation, any plan or agreement to which the corporation is a party, or the disclosure set forth in any proxy or consent solicitation statement, if and to the extent the failure would render the act or transaction ineffective, void, or voidable; or

1 (B) the failure of the board of directors or an
2 officer of the corporation to authorize or approve an act or
3 transaction taken by or on behalf of the corporation that required
4 the prior authorization or approval of the board of directors or the
5 officer.

6 SECTION 32. Section 21.902, Business Organizations Code, is
7 amended to read as follows:

8 Sec. 21.902. RATIFICATION OF DEFECTIVE CORPORATE ACT AND
9 PUTATIVE SHARES. (a) Except as provided by Subsection (b) and
10 subject [Subject] to Section 21.909 or 21.910, a defective
11 corporate act or putative shares are not ineffective, void, or
12 voidable solely as a result of a failure of authorization if the act
13 or shares are:

14 (1) ratified in accordance with this subchapter; or
15 (2) validated by the district court in a proceeding
16 brought under Section 21.914.

17 (b) A corporation may not ratify with retroactive effect in
18 accordance with this subchapter a defective corporate act resulting
19 from a failure of authorization that is attributable to the failure
20 to file with the filing officer the following filing instrument:

21 (1) a statement of change of registered agent or a
22 statement of change of registered office under Subchapter E,
23 Chapter 5;

24 (2) a certificate of amendment or restated certificate
25 of formation that amends the registered agent or registered office
26 under Subchapter B, Chapter 3;

27 (3) a certificate of formation under Subchapter A,

1 Chapter 3;

2 (4) a certificate of termination under Subchapter C,
3 Chapter 11;

4 (5) a certificate of merger or certificate of
5 conversion under Subchapter D, Chapter 10; or

6 (6) a report under Subchapter E, Chapter 171, Tax
7 Code.

8 SECTION 33. Sections 21.908(a), (b), and (c), Business
9 Organizations Code, are amended to read as follows:

10 (a) The ~~[If a defective corporate act ratified under this~~
11 ~~subchapter would have required under any other provision of the~~
12 ~~corporate statute the filing of a filing instrument or other~~
13 ~~document with the filing officer, the]~~ corporation shall file a
14 certificate of validation with respect to the defective corporate
15 act in accordance with Chapter 4, if:

16 (1) a defective corporate act ratified under this
17 subchapter would have required under any other provision of the
18 corporate statute the filing of a filing instrument or other
19 document with the filing officer; and

20 (2) the filing instrument or other document:

21 (A) previously filed with the filing officer
22 requires any change to give effect to the defective corporate act in
23 accordance with this subchapter, including a change to the date and
24 time of the effectiveness of the filed filing instrument or other
25 document; or

26 (B) was not previously filed with the filing
27 officer under any other provision of the corporate statute~~[7~~

1 ~~regardless of whether a filing instrument or other document was~~
2 ~~previously filed]~~ with respect to the defective corporate act.

3 (b) The certificate of validation must include:

4 (1) a statement that the corporation has ratified one
5 or more defective corporate acts that would have required the
6 filing of a filing instrument or other document with the filing
7 officer under any provision of the corporate statute ~~[each~~
8 ~~defective corporate act that is a subject of the certificate of~~
9 ~~validation, including:~~

10 ~~[(A) for a defective corporate act involving the~~
11 ~~issuance of putative shares, the number and type of putative shares~~
12 ~~issued and the date or dates on which the putative shares were~~
13 ~~purported to have been issued,~~

14 ~~[(B) the date of the defective corporate act, and~~

15 ~~[(C) the nature of the failure of authorization~~
16 ~~with respect to the defective corporate act];~~

17 (2) a statement that each defective corporate act has
18 been ~~[was]~~ ratified in accordance with this subchapter ~~[, including:~~

19 ~~[(A) the date on which the board of directors~~
20 ~~ratified each defective corporate act, and~~

21 ~~[(B) the date, if any, on which the shareholders~~
22 ~~approved the ratification of each defective corporate act]; and~~

23 (3) as appropriate:

24 (A) if a filing instrument was previously filed
25 with a filing officer under the corporate statute with respect to
26 the defective corporate act and ~~[no change to the filing instrument~~
27 ~~is required to give effect to the defective corporate act as~~

~~ratified in accordance with this subchapter:~~

~~[(i) the name, title, and filing date of the
previously filed filing instrument and of any certificate of
correction to the filing instrument, and~~

~~[(ii) a statement that a copy of the
previously filed filing instrument, together with any certificate
of correction to the filing instrument, is attached as an exhibit to
the certificate of validation;~~

~~[(B) if a filing instrument was previously filed
with a filing officer under the corporate statute with respect to
the defective corporate act and]~~ the filing instrument requires any
change to give effect to the defective corporate act as ratified in
accordance with this subchapter, including a change to the date and
time of the effectiveness of the filing instrument:

(i) the name, title, and filing date of the
previously filed filing instrument and of any certificate of
correction to the filing instrument;

(ii) a statement that a filing instrument
containing all the information required to be included under the
applicable provisions of this code to give effect to the ratified
defective corporate act is attached as an exhibit to the
certificate of validation; and

(iii) the date and time that the attached
filing instrument is considered to have become effective under this
subchapter; or

(B) ~~[(C)]~~ if a filing instrument was not
previously filed with a filing officer under the corporate statute

1 with respect to the defective corporate act and the defective
2 corporate act as ratified under this subchapter would have required
3 under the other applicable provisions of this code the filing of a
4 filing instrument in accordance with Chapter 4, if the defective
5 corporate act had occurred when this code was in effect:

6 (i) a statement that a filing instrument
7 containing all the information required to be included under the
8 applicable provisions of this code to give effect to the defective
9 corporate act, as if the defective corporate act had occurred when
10 this code was in effect, is attached as an exhibit to the
11 certificate of validation; and

12 (ii) the date and time that the attached
13 filing instrument is considered to have become effective under this
14 subchapter.

15 (c) A filing instrument attached to a certificate of
16 validation under this section [~~Subsection (b)(3)(B) or (C)~~] does
17 not need to be executed separately and does not need to include any
18 statement required by any other provision of this code that the
19 instrument has been approved and adopted in accordance with that
20 provision.

21 SECTION 34. Section 21.909, Business Organizations Code, is
22 amended to read as follows:

23 Sec. 21.909. ADOPTION OF RESOLUTIONS; EFFECT ON DEFECTIVE
24 CORPORATE ACT. On or after the validation effective time, unless
25 determined otherwise in an action brought under Section 21.914 and
26 subject to Sections 21.902(b) and [~~Section~~] 21.907(e), each
27 defective corporate act ratified in accordance with this subchapter

1 may not be considered ineffective, void, or voidable as a result of
2 the failure of authorization described by the resolutions adopted
3 under Sections 21.903 and 21.904, and the effect shall be
4 retroactive to the time of the defective corporate act.

5 SECTION 35. Section 21.910, Business Organizations Code, is
6 amended to read as follows:

7 Sec. 21.910. ADOPTION OF RESOLUTIONS; EFFECT ON PUTATIVE
8 SHARES. On or after the validation effective time, unless
9 determined otherwise in an action brought under Section 21.914 and
10 subject to Sections 21.902(b) and [Section] 21.907(e), each
11 putative share or fraction of a putative share issued or
12 purportedly issued pursuant to a defective corporate act ratified
13 in accordance with this subchapter and described by the resolutions
14 adopted under Sections 21.903 and 21.904 may not be considered
15 ineffective, void, or voidable and is considered to be an identical
16 share or fraction of a share outstanding as of the time it was
17 purportedly issued.

18 SECTION 36. Section 21.913(b), Business Organizations
19 Code, is amended to read as follows:

20 (b) The absence or failure of ratification of an act or
21 transaction in accordance with this subchapter or of validation of
22 an act or transaction as provided by Sections 21.914 through 21.917
23 does not, of itself, affect the validity or effectiveness of any act
24 or transaction or the issuance of any shares properly ratified
25 under common law or otherwise, nor does it create a presumption that
26 any such act or transaction is or was a defective corporate act or
27 that those shares are ineffective, void, or voidable.

SECTION 37. Section 21.915, Business Organizations Code, is amended to read as follows:

Sec. 21.915. EXCLUSIVE JURISDICTION. Subject to Section 1.056, the [The] district court has exclusive jurisdiction to hear and determine any action brought under Section 21.914.

SECTION 38. Section 21.917(b), Business Organizations Code, is amended to read as follows:

(b) Notwithstanding any other provision of this subchapter:

(1) an action claiming that a defective corporate act or putative shares are ineffective, void, or voidable due to a failure of authorization identified in the resolutions adopted in accordance with Section 21.903 may not be filed in or must be dismissed by any court after the applicable validation effective time; and

(2) an action claiming that a court of appropriate jurisdiction, in its discretion, should declare that a ratification in accordance with this subchapter not take effect or that the ratification take effect only on certain conditions may not be filed with the court after the expiration of the 120th day after the later of the validation effective time or the time that any notice required to be given under Section 21.911 is given with respect to the ratification.

SECTION 39. Sections 22.001(1) and (3-a), Business Organizations Code, are amended to read as follows:

(1) "Board of directors" means the group of individuals [persons] vested with the management of the affairs of the corporation, regardless of the name used to designate the

group. The term does not include the member or members of the corporation if the certificate of formation of the corporation vests the management of the affairs of the corporation in the members.

(3-a) "Director" means an individual ~~[a person]~~ who is a member of the board of directors, regardless of the name or title used to designate the individual ~~[person]~~. The term does not include an individual ~~[a person]~~ designated as a director of the corporation, or as an ex officio, honorary, or other type of director of the corporation if the individual ~~[person]~~ is not entitled to vote as a director.

SECTION 40. Section 22.218(a), Business Organizations Code, is amended to read as follows:

(a) The ~~[If authorized by the]~~ certificate of formation or bylaws of the corporation:

(1) [, the board of directors of a corporation, by resolution adopted by the majority of the directors in office,] may designate one or more committees to have and exercise all, or a specified portion, of the authority of the board of directors of the corporation in the management of the corporation; or

(2) may authorize the board of directors, by resolution adopted by the majority of the directors in office, to designate one or more committees to have and exercise all, or a specified portion, of the authority of the board in the management of the corporation to the extent permitted in the authorization in the certificate of formation or bylaws ~~[to the extent provided by:~~

~~[(1) the resolution,~~

1 ~~[(2) the certificate of formation, or~~
2 ~~[(3) the bylaws].~~

3 SECTION 41. Section 22.231(a), Business Organizations
4 Code, is amended to read as follows:

5 (a) The officers of a corporation shall include a president
6 and a secretary and may include one or more vice presidents, a
7 treasurer, and other officers and assistant officers as considered
8 necessary. Any two or more offices, other than the offices of
9 president and secretary, may be held by the same individual
10 ~~[person]~~.

11 SECTION 42. Sections 22.501(2) and (4), Business
12 Organizations Code, are amended to read as follows:

13 (2) "Defective corporate act" means:

14 (A) an election or appointment of directors that
15 is void or voidable due to a failure of authorization; or

16 (B) any act or transaction purportedly taken by
17 or on behalf of the corporation that is, and at the time the act or
18 transaction was purportedly taken would have been, within the power
19 of a corporation to take under the corporate statute, but is
20 ineffective, void, or voidable due to a failure of authorization,
21 including a failure to file with the filing officer a filing
22 instrument that was required under the corporate statute to
23 complete the effectiveness of the act or transaction.

24 (4) "Failure of authorization" means:

25 (A) the failure to authorize or effect an act or
26 transaction in compliance with the provisions of the corporate
27 statute, the governing documents of the corporation, a corporate

1 resolution, or any plan or agreement to which the corporation is a
2 party, if and to the extent the failure would render the act or
3 transaction ineffective, void, or voidable; or

4 (B) the failure of the board of directors or an
5 officer of the corporation to authorize or approve an act or
6 transaction taken by or on behalf of the corporation that required
7 the prior authorization or approval of the board of directors or the
8 officer.

9 SECTION 43. Section 22.502, Business Organizations Code, is
10 amended to read as follows:

11 Sec. 22.502. RATIFICATION OF DEFECTIVE CORPORATE ACT. (a)
12 Except as provided by Subsection (b) and subject [Subject] to
13 Section 22.509, a defective corporate act is not ineffective, void,
14 or voidable solely as a result of a failure of authorization if the
15 act is:

16 (1) ratified in accordance with this subchapter; or
17 (2) validated by the district court in a proceeding
18 brought under Section 22.512.

19 (b) A corporation may not ratify with retroactive effect in
20 accordance with this subchapter a defective corporate act resulting
21 from a failure of authorization that is attributable to the failure
22 to file with the filing officer the following filing instrument:

23 (1) a statement of change of registered agent or a
24 statement of change of registered office under Subchapter E,
25 Chapter 5;

26 (2) a certificate of amendment or restated certificate
27 of formation that amends the registered agent or registered office

1 under Subchapter B, Chapter 3;

2 (3) a certificate of formation under Subchapter A,
3 Chapter 3;

4 (4) a certificate of termination under Subchapter C,
5 Chapter 11;

6 (5) a certificate of merger or certificate of
7 conversion under Subchapter D, Chapter 10;

8 (6) a report under Subchapter E, Chapter 171, Tax
9 Code; or

10 (7) a report under Sections 22.357 through 22.359.

11 SECTION 44. Sections 22.508(a), (c), and (d), Business
12 Organizations Code, are amended to read as follows:

13 (a) ~~The [If a defective corporate act ratified under this~~
14 ~~subchapter would have required under any other provision of the~~
15 ~~corporate statute the filing of a filing instrument or other~~
16 ~~document with the filing officer, the]~~ corporation shall file a
17 certificate of validation with respect to the defective corporate
18 act in accordance with Chapter 4, if:

19 (1) a defective corporate act ratified under this
20 subchapter would have required under any other provision of the
21 corporate statute the filing of a filing instrument or other
22 document with the filing officer; and

23 (2) the filing instrument or other document:

24 (A) previously filed with the filing officer
25 requires any change to give effect to the defective corporate act in
26 accordance with this subchapter, including a change to the date and
27 time of the effectiveness of the filed filing instrument or other

1 document; or

2 (B) was not previously filed with the filing
3 officer under any other provision of the corporate statute~~[,~~
4 ~~regardless of whether a filing instrument or other document was~~
5 ~~previously filed]~~ with respect to the defective corporate act.

6 (c) The certificate of validation must include:

7 (1) a statement that the corporation has ratified one
8 or more defective corporate acts that would have required the
9 filing of a filing instrument or other document with the filing
10 officer under any provision of the corporate statute ~~[each~~
11 ~~defective corporate act that is a subject of the certificate of~~
12 ~~validation, including:~~

13 ~~[(A) the date of the defective corporate act; and~~
14 ~~[(B) the nature of the failure of authorization~~
15 ~~with respect to the defective corporate act];~~

16 (2) a statement that each defective corporate act has
17 been ~~[was]~~ ratified in accordance with this subchapter~~[, including:~~

18 ~~[(A) the date on which the board of directors~~
19 ~~ratified each defective corporate act; and~~

20 ~~[(B) if the corporation has members with voting~~
21 ~~rights, the date, if any, on which the members approved the~~
22 ~~ratification of each defective corporate act or, if the management~~
23 ~~of the affairs of the corporation is vested in its members under~~
24 ~~Section 22.202, the date on which the members ratified each~~
25 ~~defective corporate act]; and~~

26 (3) as appropriate:

27 (A) ~~[if a filing instrument was previously filed~~

1 ~~with a filing officer under the corporate statute with respect to~~
2 ~~the defective corporate act and no change to the filing instrument~~
3 ~~is required to give effect to the defective corporate act as~~
4 ~~ratified in accordance with this subchapter.~~

5 ~~[(i) the name, title, and filing date of the~~
6 ~~previously filed filing instrument and of any certificate of~~
7 ~~correction to the filing instrument; and~~

8 ~~[(ii) a statement that a copy of the~~
9 ~~previously filed filing instrument, together with any certificate~~
10 ~~of correction to the filing instrument, is attached as an exhibit to~~
11 ~~the certificate of validation;~~

12 ~~[(B)]~~ if a filing instrument was previously filed
13 with a filing officer under the corporate statute with respect to
14 the defective corporate act and the filing instrument requires any
15 change to give effect to the defective corporate act as ratified in
16 accordance with this subchapter, including a change to the date and
17 time of the effectiveness of the filing instrument:

18 (i) the name, title, and filing date of the
19 previously filed filing instrument and of any certificate of
20 correction to the filing instrument;

21 (ii) a statement that a filing instrument
22 containing all the information required to be included under the
23 applicable provisions of this code to give effect to the ratified
24 defective corporate act is attached as an exhibit to the
25 certificate of validation; and

26 (iii) the date and time that the attached
27 filing instrument is considered to have become effective under this

subchapter; or

(B) ~~[(C)]~~ if a filing instrument was not previously filed with a filing officer under the corporate statute with respect to the defective corporate act and the defective corporate act as ratified under this subchapter would have required under the other applicable provisions of this code the filing of a filing instrument in accordance with Chapter 4, if the defective corporate act had occurred when this code was in effect:

(i) a statement that a filing instrument containing all the information required to be included under the applicable provisions of this code to give effect to the defective corporate act, as if the defective corporate act had occurred when this code was in effect, is attached as an exhibit to the certificate of validation; and

(ii) the date and time that the attached filing instrument is considered to have become effective under this subchapter.

(d) A filing instrument attached to a certificate of validation under this section ~~[Subsection (c)(3)(B) or (C)]~~ does not need to be executed separately and does not need to include any statement required by any other provision of this code that the instrument has been approved and adopted in accordance with that provision.

SECTION 45. Section 22.509, Business Organizations Code, is amended to read as follows:

Sec. 22.509. ADOPTION OF RESOLUTIONS; EFFECT ON DEFECTIVE CORPORATE ACT. On or after the validation effective time, unless

1 determined otherwise in an action brought under Section 22.512 and
2 subject to Section 22.502(b), each defective corporate act ratified
3 in accordance with this subchapter may not be considered
4 ineffective, void, or voidable as a result of the failure of
5 authorization described by the resolutions adopted under Sections
6 22.503 and 22.504, and the effect shall be retroactive to the time
7 of the defective corporate act.

8 SECTION 46. Section 22.513, Business Organizations Code, is
9 amended to read as follows:

10 Sec. 22.513. EXCLUSIVE JURISDICTION. Subject to Section
11 1.056, the [The] district court has exclusive jurisdiction to hear
12 and determine any action brought under Section 22.512.

13 SECTION 47. Section 22.515(b), Business Organizations
14 Code, is amended to read as follows:

15 (b) Notwithstanding any other provision of this subchapter:

16 (1) an action claiming that a defective corporate act
17 is ineffective, void, or voidable due to a failure of authorization
18 identified in the resolutions adopted in accordance with Section
19 22.503 may not be filed in or must be dismissed by any court after
20 the applicable validation effective time; and

21 (2) an action claiming that a court of appropriate
22 jurisdiction, in its discretion, should declare that a ratification
23 in accordance with this subchapter not take effect or that the
24 ratification take effect only on certain conditions may not be
25 filed with the court after the expiration of the 120th day after the
26 later of the validation effective time or the time that any notice
27 required to be given under Section 22.510 is given with respect to

the ratification.

SECTION 48. Subchapter C, Chapter 101, Business Organizations Code, is amended by adding Section 101.1055 to read as follows:

Sec. 101.1055. SUBSCRIPTIONS. (a) A subscription to purchase a membership interest in a limited liability company in the process of being formed is irrevocable to the extent provided by the terms of the subscription if:

(1) the subscription is in writing and signed by the subscriber; and

(2) the subscription states that it is irrevocable.

(b) A written subscription entered into after the limited liability company is formed is a contract between the subscriber and the company.

SECTION 49. Section 101.109(a), Business Organizations Code, is amended to read as follows:

(a) A person who is assigned a membership interest in a limited liability company is entitled to:

(1) receive any allocation of income, gain, loss, deduction, credit, or a similar item that the assignor is entitled to receive to the extent the allocation of the item is assigned;

(2) receive any distribution the assignor is entitled to receive to the extent the distribution is assigned; and

(3) the rights described by Section 101.502 ~~[require, for any proper purpose, reasonable information or a reasonable account of the transactions of the company, and~~

~~[(4) make, for any proper purpose, reasonable~~

~~inspections of the books and records of the company].~~

SECTION 50. Section 101.463(b), Business Organizations Code, is amended to read as follows:

(b) Sections 101.452-101.460 do not apply to ~~[a claim or]~~ a derivative proceeding by a member of a closely held limited liability company against a present or former governing person, member, or officer of the limited liability company. In the event the member also asserts a claim in the ~~[or]~~ derivative proceeding ~~[is also made]~~ against a person who is not a present or former ~~[that]~~ governing person, member, or officer, this subsection applies only to a ~~[the]~~ claim in the ~~[or]~~ derivative proceeding against a present or former ~~[the]~~ governing person, member, or officer.

SECTION 51. Subchapter F, Chapter 153, Business Organizations Code, is amended by adding Section 153.258 to read as follows:

Sec. 153.258. SUBSCRIPTIONS. (a) A subscription to purchase a partnership interest in a limited partnership in the process of being formed is irrevocable to the extent provided by the terms of the subscription if:

(1) the subscription is in writing and signed by the subscriber; and

(2) the subscription states that it is irrevocable.

(b) A written subscription entered into after the limited partnership is formed is a contract between the subscriber and the partnership.

SECTION 52. Section 153.413(b), Business Organizations

Code, is amended to read as follows:

(b) Sections 153.402-153.410 do not apply to ~~[a claim or]~~ a derivative proceeding by a limited partner of a closely held limited partnership against a present or former general partner, limited partner, or officer of the limited partnership. In the event the limited partner also asserts a claim in the ~~[or]~~ derivative proceeding ~~[is also made]~~ against a person who is not a present or former ~~[that]~~ general partner, limited partner, or officer, this subsection shall apply only to a ~~[the]~~ claim in the ~~[or]~~ derivative proceeding against a present or former ~~[the]~~ general partner, limited partner, or officer.

SECTION 53. Section 153.553(a-1), Business Organizations Code, is amended to read as follows:

(a-1) The following certificates shall be executed as follows:

(1) an initial certificate of formation must be signed as provided in Section 3.004(b)(1);

(2) a certificate of amendment or restated certificate of formation containing amendments must be signed by at least one general partner and by each other general partner designated in the certificate of amendment or the restated certificate of formation as a new general partner, unless signed and filed by a person under Section 153.052(b) or (c), but the certificate of amendment or the restated certificate of formation need not be signed by a withdrawing general partner;

(3) a certificate of termination must be signed by all general partners participating in the winding up of the limited

partnership's business or, if no general partners are winding up the limited partnership's business, by all nonpartner liquidators or, if the limited partners are winding up the limited partnership's business, by a majority-in-interest of the limited partners;

(4) a certificate of merger~~[, conversion, or exchange]~~ filed on behalf of a domestic limited partnership must be signed by at least one general partner and by each other general partner designated as a new general partner by any amendment to the certificate of formation of the limited partnership being made by the certificate of merger, but the certificate of merger need not be signed by a withdrawing general partner; [as provided by Chapter 10, and]

(5) a certificate of conversion or exchange filed on behalf of a domestic limited partnership must be signed by at least one general partner; and

(6) a certificate filed under Subchapter [G](#), Chapter [10](#), must be signed by the person designated by the court.

SECTION 54. Section [251.352\(a\)](#), Business Organizations Code, is amended to read as follows:

(a) A cooperative association shall submit a written report to its members at the annual meeting of the cooperative association. The annual report must contain:

- (1) a balance sheet;
- (2) an income and expense statement;
- (3) the amount and nature of the cooperative association's authorized, subscribed, and paid-in capital;

- 1 (4) the total number of shareholders;
- 2 (5) the number of shareholders who were admitted to or
3 withdrew from the association during the year;
- 4 (6) the par value of the association's shares;
- 5 (7) the rate at which any investment dividends have
6 been paid; ~~and~~
- 7 (8) if the cooperative association does not issue
8 shares:
- 9 (A) the total number of members;
- 10 (B) the number of members who were admitted to or
11 withdrew from the association during the year; and
- 12 (C) the amount of membership fees received;
- 13 (9) the name, address, occupation, and date of
14 expiration of the term of office of each officer and director; and
- 15 (10) any compensation paid by the association to each
16 officer or director of the association.

17 SECTION 55. Section 252.017(b), Business Organizations
18 Code, is amended to read as follows:

19 (b) Chapters 1, 2, 4, ~~and~~ 10, and 11 and, if a nonprofit
20 association designates an agent for service of process, Subchapter
21 E, Chapter 5, apply to a nonprofit association.

22 SECTION 56. Sections 153.502(c), 251.353, and 251.354,
23 Business Organizations Code, are repealed.

24 SECTION 57. Section 4.001(a), Business Organizations Code,
25 as amended by this Act, applies only to a filing instrument
26 delivered to the secretary of state on or after the effective date
27 of this Act. A filing instrument delivered to the secretary of state

1 before the effective date of this Act is governed by the law in
2 effect on the date the filing instrument was delivered to the
3 secretary of state, and the former law is continued in effect for
4 that purpose.

5 SECTION 58. Sections [21.561](#) and [21.562](#), Business
6 Organizations Code, as amended by this Act, apply only to a
7 derivative proceeding instituted on or after the effective date of
8 this Act. A derivative proceeding instituted before the effective
9 date of this Act is governed by the law in effect on the date the
10 proceeding was instituted, and the former law is continued in
11 effect for that purpose.

12 SECTION 59. This Act takes effect September 1, 2025.