STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 228 By: Montgomery

AS INTRODUCED

An Act relating to business entities; amending 18 O.S. 2011, Section 1012, as amended by Section 1, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Section 1012), which relates to the Oklahoma General Corporation Act; authorizing electronic transmission of certain notice; clarifying procedures for certain consent effective on future date; establishing procedures for certain document form, signature and delivery; authorizing certain electronic transactions; providing exceptions; clarifying applicability of provisions; amending 18 O.S. 2011, Sections 1032, 1033, as amended by Section 7, Chapter 323, O.S.L. 2017, 1038, Section 9, Chapter 323, O.S.L. 2017, 1064, as amended by Section 14, Chapter 323, O.S.L. 2017, 1069, 1073, as amended by Section 19, Chapter 323, O.S.L. 2017, 1075.2, as amended by Section 14, Chapter 88, O.S.L. 2019, 1081, as amended by Section 22, Chapter 323, O.S.L. 2017, 1082, as amended by Section 23, Chapter 323, O.S.L. 2017, Section 24, Chapter 323, O.S.L. 2017, 1090.3, as amended by Section 25, Chapter 323, O.S.L. 2017, 1090.4, as amended by Section 23, Chapter 88, O.S.L. 2019, 1090.5, as amended by Section 24, Chapter 88, O.S.L. 2019 and 1091, as amended by Section 26, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Sections 1033, 1055.1, 1064, 1073, 1075.2, 1081, 1082, 1083.1, 1090.3, 1090.4, 1090.5 and 1091), which relate to the Oklahoma General Corporation Act; authorizing electronic transmission of certain notice; modifying procedures for issuance of capital stock; establishing minimum amount of consideration for issuance of shares; authorizing stock price to be fixed by certain formula; conforming language; modifying requirements for certain ratification vote; modifying definitions; requiring corporation to

prepare list of certain shareholders within specified time period; defining term; specifying functions of certain ledger; expanding methods of delivery of consents given by electronic transmission; modifying definition; clarifying usage of certain terms; conforming language; adding information required for inclusion in certain agreements; permitting mergers and consolidations under certain circumstances; clarifying effective date of amendments to certificates of incorporation; conforming appraisal rights to certain mergers; amending 18 O.S. 2011, Sections 2001, as amended by Section 37, Chapter 323, O.S.L. 2017, 2010, 2016, 2054.1, as amended by Section 52, Chapter 323, O.S.L. 2017, 2054.2, as amended by Section 53, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Sections 2001, 2054.1 and 2054.2), which relate to the Oklahoma Limited Liability Company Act; modifying definitions; clarifying entities that may act as registered agents; authorizing delegation of certain manager duties; authorizing conversion of certain entities; creating the Oklahoma Public Benefit Limited Liability Company Act; providing short title; defining terms; establishing requirements and procedures for formation and operation of public benefit limited liability companies; establishing rights and duties of managers and members of certain companies; requiring reporting of certain activities; authorizing derivative lawsuit to enforce certain requirements; clarifying applicability of provisions; construing provisions; amending 54 O.S. 2011, Section 500-114A, which relates to the Uniform Limited Partnership Act; clarifying entities that may act as registered agents; updating statutory references; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 18 O.S. 2011, Section 1012, as amended by Section 1, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Section 1012), is amended to read as follows:

Section 1012.

ORGANIZATION MEETING OF INCORPORATORS OR DIRECTORS NAMED IN CERTIFICATE OF INCORPORATION

A. After the filing of the certificate of incorporation, an organization meeting of the incorporator or incorporators, or of the board of directors if the initial directors were named in the certificate of incorporation, shall be held either within or without this state at the call of a majority of the incorporators or directors, as the case may be, for the purposes of adopting bylaws, electing directors if the meeting is of the incorporators, to serve or hold office until the first annual meeting of shareholders or until their successors are elected and qualify, electing officers if the meeting is of the directors, doing any other or further acts to perfect the organization of the corporation, and transacting such other business as may come before the meeting.

B. The persons calling the meeting shall give to each other incorporator or director, as the case may be, at least two (2) days' ~~written~~ notice thereof in writing or by electronic transmission by any usual means of communication, which notice shall state the time, place and purposes of the meeting as fixed by the persons calling it. Notice of the meeting need not be given to anyone who attends the meeting or who signs a waiver of notice either before or after the meeting.

C. Any action permitted to be taken at the organization meeting of the incorporators or directors, as the case may be, may be taken without a meeting if each incorporator or director, where there is more than one, or the sole incorporator or director where there is only one, ~~signs an instrument which states the action so taken~~ consents thereto in writing or by electronic transmission. Any person whether or not then an incorporator or director may provide, whether through instruction to an agent or otherwise, that a consent to action will be effective at a future time including a time determined upon the happening of an event, no later than sixty (60) days after such instruction is given or such provision is made and such consent shall be deemed to have been given for purposes of this subsection at such effective time so long as such person is then an incorporator or director, as the case may be, and did not revoke the consent prior to such time. Any such consent shall be revocable prior to its becoming effective.

D. If any incorporator is not available to act, then any person for whom or on whose behalf the incorporator was acting directly or indirectly as employee or agent may take any action that such incorporator would have been authorized to take under this section or Section 1011 of this title; provided, that any instrument signed by such other person, or any record of the proceedings of a meeting in which such person participated, shall state that such incorporator is not available and the reason therefor, that such

incorporator was acting directly or indirectly as employee or agent for or on behalf of such person, and that such person's signature on such instrument or participation in such meeting is otherwise authorized and not wrongful.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1014.3 of Title 18, unless there is created a duplication in numbering, reads as follows:

DOCUMENT FORM, SIGNATURE AND DELIVERY

A. Except as provided in subsection B of this section, without limiting the manner in which any act or transaction may be documented, or the manner in which a document may be signed or delivered:

1. Any act or transaction contemplated or governed by this title or the certificate of incorporation or bylaws may be provided for in a document, and an electronic transmission shall be deemed the equivalent of a written document. "Document" means (i) any tangible medium on which information is inscribed, and includes handwritten, typed, printed or similar instruments, and copies of such instruments and (ii) an electronic transmission;

2. Whenever this act or the certificate of incorporation or bylaws requires or permits a signature, the signature may be a manual, facsimile, conformed or electronic signature. "Electronic signature" means an electronic symbol or process that is attached to,

or logically associated with, a document and executed or adopted by a person with an intent to authenticate or adopt the document; and

3. Unless otherwise agreed between the sender and recipient, an electronic transmission shall be deemed delivered to a person for purposes of this title and the certificate of incorporation and bylaws when it enters an information processing system that the person has designated for the purpose of receiving electronic transmissions of the type delivered, so long as the electronic transmission is in a form capable of being processed by that system and such person is able to retrieve the electronic transmission. Whether a person has so designated an information processing system is determined by the certificate of incorporation, the bylaws or from the context and surrounding circumstances including the parties' conduct. An electronic transmission is delivered under this section even if no person is aware of its receipt. Receipt of an electronic acknowledgement from an information processing system establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

This act shall not prohibit one or more persons from conducting a transaction in accordance with the Uniform Electronic Transaction Act so long as the part or parts of the transaction that are governed by this act are documented, signed and delivered in accordance with this subsection or otherwise in accordance with this act. This subsection

shall apply solely for purposes of determining whether an act or transaction has been documented, and the document has been signed and delivered, in accordance with this act, the certificate of incorporation and the bylaws.

B. Subsection A of this section shall not apply to:

1. A document filed with or submitted to the Secretary of State or a court or other judicial or governmental body of this state;

2. A document comprising part of the stock ledger;

3. A certificate representing a security;

4. Any document expressly referenced as a notice or waiver of notice by this act, the certificate of incorporation or bylaws;

5. A consent in lieu of a meeting given by a director, shareholder or incorporator;

6. A ballot to vote on actions at a meeting of shareholders; and

7. An act or transaction effected pursuant to Section 1100.1 of Title 18 of the Oklahoma Statutes.

The provisions of this subsection shall not create any presumption about the lawful means to document a matter addressed by this subsection, or the lawful means to sign or deliver a document addressed by this subsection. A provision of the certificate of incorporation or bylaws shall not limit the application of subsection A of this section unless the provision expressly restricts one or

more of the means of documenting an act or transaction, or of signing or delivering a document, permitted by subsection A of this section.

C. In the event that any provision of this act is deemed to modify, limit or supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sections 7001 et. seq., the provisions of this act shall control to the fullest extent permitted by Section 7002(a)(2) of such act.

SECTION 3. AMENDATORY 18 O.S. 2011, Section 1032, is amended to read as follows:

Section 1032.

CLASSES AND SERIES OF STOCK; RIGHTS, ETC.

A. Every corporation may issue one or more classes of stock or one or more series of stock within any class thereof, any or all of which classes may be of stock with par value or stock without par value and which classes or series may have voting powers, full or limited, or no voting powers, and designations, preferences and relative, participating, optional, or other special rights, and qualifications, limitations, or restrictions thereof, as shall be stated and expressed in the certificate of incorporation or of any amendment thereto, or in the resolution or resolutions providing for the issue of the stock adopted by the board of directors pursuant to authority expressly vested in it by the provisions of its certificate of incorporation. Any of the voting powers, designations, preferences, rights, and qualifications, limitations

or restrictions of any class or series of stock may be made dependent upon facts ascertainable outside the certificate of incorporation or of any amendment thereto, or outside the resolution or resolutions providing for the issue of the stock adopted by the board of directors pursuant to authority expressly vested in it by the provisions of its certificate of incorporation; provided, that the manner in which the facts shall operate upon the voting powers, designations, preferences, rights, and qualifications, limitations, or restrictions of the class or series of stock is clearly and expressly set forth in the certificate of incorporation or in the resolution or resolutions providing for the issue of the stock adopted by the board of directors. The power to increase or decrease or otherwise adjust the capital stock as provided for in the Oklahoma General Corporation Act shall apply to all or any such classes of stock. The term "facts", as used in this subsection, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

B. Any stock of any class or series may be made subject to redemption by the corporation at its option or at the option of the holders of the stock or upon the happening of a specified event; provided, however, immediately following any redemption, the corporation shall have outstanding one or more shares or one or more classes or series of stock, which share, or shares together, shall

have full voting powers. Notwithstanding the limitation stated in the foregoing proviso:

1. Any stock of a regulated investment company registered under the Investment Company Act of 1940, as heretofore or hereafter amended, may be made subject to redemption by the corporation at its option or at the option of the holders of the stock.

2. Any stock of a corporation which directly or indirectly holds a license or franchise from a governmental agency to conduct its business or is a member of a national securities exchange, which license, franchise~~,~~ or membership is conditioned upon some or all of the holders of its stock possessing prescribed qualifications, may be made subject to redemption by the corporation to the extent necessary to prevent the loss of the license, franchise~~,~~ or membership or to reinstate it. Any stock which may be made redeemable under this section may be redeemed for cash, property~~,~~ or rights~~,~~ including securities of the same or another corporation, at such time or times, price or prices, or rate or rates, and with any adjustments, as shall be stated in the certificate of incorporation or in the resolution or resolutions providing for the issue of the stock adopted by the board of directors as provided for in subsection A of this section.

C. The holders of preferred or special stock of any class or of any series thereof shall be entitled to receive dividends at such rates, conditions~~,~~ and times as shall be stated in the certificate

of incorporation or in the resolution or resolutions providing for the issue of the stock adopted by the board of directors as provided for in subsection A of this section, payable in preference to, or in relation to, the dividends payable on any other class or classes or of any other series of stock, and cumulative or noncumulative as shall be so stated and expressed. When dividends upon the preferred and special stocks, if any, to the extent of the preference to which the stocks are entitled, shall have been paid or declared and set apart for payment, a dividend on the remaining class or classes or series of stock may then be paid out of the remaining assets of the corporation available for dividends as otherwise provided for in the Oklahoma General Corporation Act.

D. The holders of the preferred or special stock of any class or of any series thereof shall be entitled to the rights upon the dissolution of, or upon any distribution of the assets of, the corporation as shall be stated in the certificate of incorporation or in the resolution or resolutions providing for the issue of the stock adopted by the board of directors as provided for in subsection A of this section.

E. Any stock of any class or of any series thereof may be made convertible into, or exchangeable for, at the option of either the holder or the corporation or upon the happening of a specified event, shares of any other class or classes or any other series of the same or any other class or classes of stock of the corporation,

at the price or prices or at the rate or rates of exchange, and with adjustments as shall be stated in the certificate of incorporation or in the resolution or resolutions providing for the issue of the stock adopted by the board of directors as provided for in subsection A of this section.

F. If any corporation shall be authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences~~,~~ and relative, participating, optional~~,~~ or other special rights of each class of stock or series thereof and the qualifications, limitations~~,~~ or restrictions of such preferences or rights shall be set forth in full or summarized on the face or back of the certificate which the corporation shall issue to represent the class or series of stock; provided that, except as otherwise provided for in Section 1055 of this title, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the corporation shall issue to represent the class or series of stock, a statement that the corporation will furnish without charge to each shareholder who so requests the powers, designations, preferences~~,~~ and relative, participating, optional~~,~~ or other special rights of each class of stock or series thereof and the qualifications, limitations~~,~~ or restrictions of the preferences or rights. Within a reasonable time after the issuance or transfer of uncertificated stock, the corporation shall send to the registered owner ~~thereof~~ a ~~written~~ notice, in writing or by

electronic transmission, containing the information required to be set forth or stated on certificates pursuant to this section or Section 1037, subsection A of Section 1055 or subsection A of Section 1063 of this title, or with respect to this section a statement that the corporation will furnish without charge to each shareholder who so requests the powers, designations, preferences, and relative, participating, optional, or other special rights of each class of stock or series thereof and the qualifications, limitations, or restrictions of the preferences or rights. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holder of certificates representing stock of the same class and series shall be identical.

G. 1. When any corporation desires to issue any shares of stock of any class or of any series of any class of which the powers, designations, preferences, and relative, participating, optional, or other rights, if any, or the qualifications, limitations, or restrictions thereof, if any, shall not have been set forth in the certificate of incorporation or in any amendment thereto but shall be provided for in a resolution or resolutions adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the certificate of incorporation or any amendment thereto, a certificate of designations setting forth a copy of the resolution or resolutions and the number of

shares of stock of the class or series to which the resolution or resolutions apply shall be executed, acknowledged~~,~~ and filed, and shall become effective~~,~~ in accordance with the provisions of Section 1007 of this title. Unless otherwise provided in any resolution or resolutions, the number of shares of stock of any series to which the resolution or resolutions apply may be increased, but not above the total number of authorized shares of the class, or decreased, but not below the number of shares thereof then outstanding, by a certificate likewise executed, acknowledged~~,~~ and filed setting forth a statement that a specified increase or decrease therein had been authorized and directed by a resolution or resolutions likewise adopted by the board of directors. In case the number of the shares shall be decreased, the number of shares so specified in the certificate shall resume the status which they had prior to the adoption of the first resolution or resolutions. Unless otherwise provided in the certificate of incorporation, if no shares of stock have been issued of a class or series of stock established by a resolution of the board of directors, the voting powers, designations, preferences~~,~~ and relative, participating, optional~~,~~ or other rights, if any, or the qualifications, limitations~~,~~ or restrictions thereof~~,~~ may be amended by a resolution or resolutions adopted by the board of directors. A certificate which states that no shares of the class or series have been issued, sets forth a copy of the resolution or resolutions, and, if the designation of the

class or series is being changed, indicates the original designation and the new designation, shall be executed, acknowledged~~,~~ and filed, and shall become effective, in accordance with the provisions of Section 1007 of this title. When no shares of any class or series are outstanding, either because none were issued or because no issued shares of any class or series remain outstanding, a certificate setting forth a resolution or resolutions adopted by the board of directors that none of the authorized shares of the class or series are outstanding, and that none will be issued subject to the certificate of designations previously filed with respect to the class or series, may be executed, acknowledged~~,~~ and filed in accordance with the provisions of Section 1007 of this title and, when the certificate becomes effective, it shall have the effect of eliminating from the certificate of incorporation all matters set forth in the certificate of designations with respect to the class or series of stock.

2. When any certificate filed pursuant to the provisions of this subsection becomes effective, it shall have the effect of amending the certificate of incorporation; except that neither the filing of the certificate nor the filing of a restated certificate of incorporation pursuant to Section 1080 of this title shall prohibit the board of directors from subsequently adopting resolutions as authorized by this subsection.

SECTION 4. AMENDATORY 18 O.S. 2011, Section 1033, as amended by Section 7, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Section 1033), is amended to read as follows:

Section 1033.

ISSUANCE OF STOCK, LAWFUL CONSIDERATION - FULLY PAID STOCK

A. The consideration, as determined pursuant to the provisions of subsections A and B of Section 1034 of this title, for subscriptions to, or the purchase of, the capital stock to be issued by a corporation shall be paid in such form and in such manner as the board of directors shall determine. The board of directors may authorize capital stock to be issued for consideration consisting of cash, any tangible or intangible property or any benefit to the corporation, or any combination thereof, except for services to be performed. The resolution authorizing the issuance of capital stock may provide that any stock to be issued pursuant to such resolution may be issued in one or more transactions in such numbers and at such times as are set forth in or determined by or in the manner set forth in the resolution, which may include a determination or action by any person or body including the corporation, provided the resolution fixes a maximum number of shares that may be issued pursuant to such resolution, a time period during which such shares may be issued and a minimum amount of consideration for which such shares may be issued. The board of directors may determine the amount of ~~such~~ consideration for which shares may be issued by

setting a minimum amount of consideration or by approving a formula by which the amount of consideration is determined. The formula may include or be made dependent upon facts ascertainable outside the formula, provided the manner in which such facts shall operate upon the formula is clearly and expressly set forth in the formula or in the resolution approving the formula. In the absence of actual fraud in the transaction, the judgment of the directors as to the value of such consideration shall be conclusive. The capital stock so issued shall be deemed to be fully paid and nonassessable stock upon receipt by the corporation of the authorized consideration.

B. The provisions of subsection A of this section shall not be construed to prevent the board of directors from issuing partly paid shares in accordance with the provisions of Section 1037 of this title.

SECTION 5. AMENDATORY 18 O.S. 2011, Section 1038, is amended to read as follows:

Section 1038.

RIGHTS AND OPTIONS RESPECTING STOCK

A. Subject to any provisions in the certificate of incorporation, every corporation may create and issue, whether or not in connection with the issue and sale of any shares of stock or other securities of the corporation, rights or options entitling the holders thereof to acquire from the corporation any shares of its capital stock of any class or classes, such rights or options to be

evidenced by or in such instrument or instruments as shall be approved by the board of directors.

B. The terms upon which, including the time or times, which may be limited or unlimited in duration, at or within which, and the consideration, including any formula by which such consideration may be determined, for which any such shares may be acquired from the corporation upon the exercise of any such right or option, shall be such as shall be stated in the certificate of incorporation, or in a resolution adopted by the board of directors providing for the creation and issue of such rights or options, and, in every case, shall be set forth or incorporated by reference in the instrument or instruments evidencing such rights or options. A formula by which such consideration may be determined may include or be made dependent upon facts ascertainable outside the formula, provided the manner in which such facts shall operate upon the formula is clearly and expressly set forth in the formula or in the resolution approving the formula. In the absence of actual fraud in the transaction, the judgment of the directors as to the consideration for the issuance of such rights or options and the sufficiency thereof shall be conclusive.

C. The board of directors may, by a resolution adopted by the board, authorize one or more officers of the corporation to do one or both of the following:

1. Designate officers and employees of the corporation or of any of its subsidiaries to be recipients of such rights or options created by the corporation; and

2. Determine the number of such rights or options to be received by such officers and employees;

provided, however, that the resolution so authorizing such officer or officers shall specify the total number of rights or options such officer or officers may so award. The board of directors may not authorize an officer to designate himself or herself as a recipient of any such rights or options.

D. In case the shares of stock of the corporation to be issued upon the exercise of such rights or options shall be shares having a par value, the consideration so to be received therefor shall have a value not less than the par value thereof. In case the shares of stock so to be issued shall be shares of stock without par value, the consideration therefor shall be determined in the manner provided for in Section 1034 of this title.

SECTION 6. AMENDATORY Section 9, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Section 1055.1), is amended to read as follows:

Section 1055.1.

RATIFICATION OF DEFECTIVE CORPORATE ACTS AND STOCK

A. Subject to subsection F of this section, no defective corporate act or putative stock shall be void or voidable solely as

a result of a failure of authorization if ratified as provided in this section or validated by the District Court in a proceeding brought under Section ~~10 of this act~~ 1055.2 of this title.

B. 1. In order to ratify one or more defective corporate acts pursuant to this section, other than the ratification of an election of the initial board of directors pursuant to paragraph 2 of this subsection, the board of directors of the corporation shall adopt resolutions stating:

a. the defective corporate act or acts to be ratified,

b. the date of each defective corporate act or acts,

c. if such defective corporate act or acts involved the issuance of shares of putative stock, the number and type of shares of putative stock issued and the date or dates upon which such putative shares were purported to have been issued,

d. the nature of the failure of authorization in respect of each defective corporate act to be ratified, and

e. that the board of directors approves the ratification of the defective corporate act or acts.

The resolutions may also provide that, at any time before the validation effective time for the defective act or acts, notwithstanding approval of the ratification by shareholders, the board of directors may abandon the ratification without further action of the shareholders. The quorum and voting requirements

applicable to the ratification by the board of directors shall be the quorum and voting requirements applicable at the time to the type of defective corporate act proposed to be ratified when the board adopts the resolutions ratifying the defective corporate act; provided, that if the certificate of incorporation or bylaws of the corporation, any plan or agreement to which the corporation was a party or any provision of ~~Title 18 of the Oklahoma Statutes~~ this title, in each case as in effect as of the time of the defective corporate act, would have required a larger number or portion of directors or of specified directors for a quorum to be present or to approve the defective corporate act, such larger number or portion of such directors or such specified directors shall be required for a quorum to be present or to adopt the ratifying resolutions, as applicable, except that the presence or approval of any director elected, appointed or nominated by holders of any class or series of which no shares are then outstanding, or by any person that is no longer a shareholder, shall not be required.

2. To ratify a defective corporate act in respect of the election of the initial board of directors of the corporation, a majority of the persons who, at the time the resolutions required by this paragraph are adopted, are exercising the powers of directors under claim and color of an election or appointment as such may adopt resolutions stating:

a. the name of the person or persons who first took action in the name of the corporation as the initial board of directors of the corporation,

b. the earlier of the date on which such persons first took such action or were purported to have been elected as the initial board of directors, and

c. that the ratification of the election of such person or persons as the initial board of directors is approved.

C. Each defective corporate act ratified pursuant to paragraph 1 of subsection B of this section shall be submitted to shareholders for approval as provided in subsection D of this section, unless:

~~(1) no~~

1. a. No other provision of ~~Title 18 of the Oklahoma Statutes~~ this title, and no provision of the certificate of incorporation or bylaws of the corporation, or of any plan or agreement to which the corporation is a party, would have required shareholder approval of the defective corporate act to be ratified, either at the time of the defective corporate act or at the time the board of directors adopts the resolutions ratifying the defective corporate act pursuant to paragraph 1 of subsection B of this section~~, and (2) the~~.

b. The defective corporate act did not result from a failure to comply with Section 1090.3 of ~~Title 18 of the Oklahoma Statutes~~ this title; or

2. As of the record date for determining the shareholders entitle to vote on the ratification of the defective corporate act, there are no shares of valid stock outstanding and entitled to vote thereon, regardless of whether there then exist any shares of putative stock.

D. If ratification of a defective corporate act is required to be submitted to shareholders for approval pursuant to subsection C of this section, due notice of the time, place, if any, and purpose of the meeting shall be given at least twenty (20) days before the date of the meeting to each holder of valid stock and putative stock, whether voting or nonvoting, at the address of such holder as it appears or most recently appeared, as appropriate, on the records of the corporation. The notice shall also be given to the holders of record of valid stock and putative stock, whether voting or nonvoting, as of the time of the defective corporate act, ~~other than~~ or, in the case of any defective corporate act that involved the establishment of a record date for notice of or voting at any meeting of shareholders, for action by written consent of shareholders in lieu of a meeting, or for any other purpose, as of the record date for notice of or voting at such meeting, the record date for action by written consent, or the record date for such

other action, as the case may be, except that no notice need be given to holders whose identities or addresses cannot be determined from the records of the corporation. The notice shall contain a copy of the resolutions adopted by the board of directors pursuant to paragraph 1 of subsection B of this section or the information required by paragraphs a through e of paragraph 1 of subsection B of this section and a statement that any claim that the defective corporate act or putative stock ratified hereunder is void or voidable due to the failure of authorization, or that the District Court should declare in its discretion that a ratification in accordance with this section not be effective or be effective only on certain conditions must be brought within one hundred twenty (120) days from the validation effective time. At such meeting the quorum and voting requirements applicable to the ratification of such defective corporate act shall be the quorum and voting requirements applicable to the type of defective corporate act proposed to be ratified at the time of the approval of the ratification, except that:

1. If the certificate of incorporation or bylaws of the corporation, any plan or agreement to which the corporation was a party or any provision of this title in effect as of the time of the defective corporate act would have required a larger number or portion of stock or of any class or series thereof or of specified shareholders for a quorum to be present or to approve the defective

corporate act, the presence or approval of such larger number or portion of stock or of such class or series thereof or of such specified shareholders shall be required for a quorum to be present or to approve the ratification of the defective corporate act, as applicable, except that the presence or approval of shares of any class or series of which no shares are then outstanding, or of any person that is no longer a shareholder, shall not be required;

2. The approval by shareholders of the ratification of the election of a director shall require the affirmative vote of the majority of shares present at the meeting and entitled to vote on the election of such director, except that if the certificate of incorporation or bylaws of the corporation then in effect or in effect at the time of the defective election require or required a larger number or portion of stock or of any class or series thereof or of specified shareholders to elect such director, the affirmative vote of such larger number or portion of stock or of any class or series thereof or of specified shareholders shall be required to ratify the election of such director, except that the presence or approval of shares of any class or series of which no shares are then outstanding, or of any person that is no longer a shareholder, shall not be required; and

3. In the event of a failure of authorization resulting from failure to comply with the provisions of Section 1090.3 of ~~Title 18 of the Oklahoma Statutes~~ this title, the ratification of the

defective corporate act shall require the vote set forth in paragraph 3 of subsection A of Section 1090.3 of ~~Title 18 of the Oklahoma Statutes~~ this title, regardless of whether such vote would have otherwise been required.

Shares of putative stock on the record date for determining shareholders entitled to vote on any matter submitted to shareholders pursuant to subsection C of this section, and without giving effect to any ratification that becomes effective after such record date, shall neither be entitled to vote nor counted for quorum purposes in any vote to ratify any defective corporate act.

E. If a defective corporate act ratified pursuant to this section would have required under any other section of ~~Title 18 of the Oklahoma Statutes~~ this title the filing of a certificate in accordance with Section 1007 of ~~Title 18 of the Oklahoma Statutes~~ this title, then, whether or not a certificate was previously filed in respect of such defective corporate act and in lieu of filing the certificate otherwise required by ~~Title 18 of the Oklahoma Statutes~~ this title, the corporation shall file a certificate of validation with respect to such defective corporate act in accordance with Section 1007 of ~~Title 18 of the Oklahoma Statutes~~ this title. A separate certificate of validation shall be required for each defective corporate act requiring the filing of a certificate of validation under this section, except that (i) two or more defective corporate acts may be included in a single certificate of validation

if the corporation filed, or to comply with ~~Title 18 of the Oklahoma Statutes~~ this title would have filed, a single certificate under another provision of ~~Title 18 of the Oklahoma Statutes~~ this title to effect such acts, and (ii) two or more overissues of shares of any class, classes or series of stock may be included in a single certificate of validation, provided that the increase in the number of authorized shares of each such class or series set forth in the certificate of validation shall be effective as of the date of the first such overissue. The certificate of validation shall set forth:

1. Each defective corporate act that is the subject of the certificate of validation~~,~~ including, in the case of any defective corporate act involving the issuance of shares of putative stock, the number and type of shares of putative stock issued and the date or dates upon which such putative shares were purported to have been issued, the date of such defective corporate act~~,~~ and the nature of the failure of authorization in respect of such defective corporate act;

2. A statement that such defective corporate act was ratified in accordance with this section~~,~~ including the date on which the board of directors ratified such defective corporate act and the date, if any, on which the shareholders approved the ratification of such defective corporate act; and

3. The information required by one of the following paragraphs:

a. if a certificate was previously filed under Section 1007 of ~~Title 18 of the Oklahoma Statutes~~ this title in respect of such defective corporate act and no changes to such certificate are required to give effect to such defective corporate act in accordance with this section, the certificate of validation shall set forth (1) the name, title and filing date of the certificate previously filed and of any certificate of correction thereto and (2) a statement that a copy of the certificate previously filed, together with any certificate of correction thereto, is attached as an exhibit to the certificate of validation,

b. if a certificate was previously filed under Section 1007 of ~~Title 18 of the Oklahoma Statutes~~ this title in respect of the defective corporate act and such certificate requires any change to give effect to the defective corporate act in accordance with this section, including a change to the date and time of the effectiveness of such certificate, the certificate of validation shall set forth (1) the name, title and filing date of the certificate so previously filed and of any certificate of correction thereto, (2) a statement that a certificate containing all of the information required to be included under the

applicable section or sections of ~~Title 18 of the Oklahoma Statutes~~ this title to give effect to the defective corporate act is attached as an exhibit to the certificate of validation, and (3) the date and time that such certificate shall be deemed to have become effective pursuant to this section, or

c. if a certificate was not previously filed under Section 1007 of ~~Title 18 of the Oklahoma Statutes~~ this title in respect of the defective corporate act and the defective corporate act ratified pursuant to this section would have required under any other section of ~~Title 18 of the Oklahoma Statutes~~ this title the filing of a certificate in accordance with Section 1007 of ~~Title 18 of the Oklahoma Statutes~~ this title, the certificate of validation shall set forth (1) a statement that a certificate containing all of the information required to be included under the applicable section or sections of ~~Title 18 of the Oklahoma Statutes~~ this title to give effect to the defective corporate act is attached as an exhibit to the certificate of validation, and (2) the date and time that such certificate shall be deemed to have become effective pursuant to this section.

A certificate attached to a certificate of validation pursuant to subparagraph b or c of paragraph 3 of this subsection need not be separately executed and acknowledged and need not include any statement required by any other section of ~~Title 18 of the Oklahoma Statutes~~ this title that such instrument has been approved and adopted in accordance with the provisions of such other section.

F. From and after the validation effective time, unless otherwise determined in an action brought pursuant to Section ~~10 of this act~~ 1055.2 of this title:

1. Subject to the last sentence of subsection D of this section, each defective corporate act ratified in accordance with this section shall no longer be deemed void or voidable as a result of the failure of authorization described in the adopted resolutions and such effect shall be retroactive to the time of the defective corporate act; and

2. Subject to the last sentence of subsection D of this section, each share or fraction of a share of putative stock issued or purportedly issued pursuant to any such defective corporate act shall no longer be deemed void or voidable and shall be deemed to be an identical share or fraction of a share of outstanding stock as of the time it was purportedly issued.

G. In respect of each defective corporate act ratified by the board of directors pursuant to subsection B of this section, prompt notice of the ratification shall be given to all holders of valid

stock and putative stock, whether voting or nonvoting, as of the date the board of directors adopts the resolutions approving such defective corporate act, or as of a date within sixty (60) days after the date of adoption, as established by the board of directors, at the address of such holder as it appears or most recently appeared, as appropriate, on the records of the corporation. The notice shall also be given to the holders of record of valid stock and putative stock, whether voting or nonvoting, as of the time of the defective corporate act, other than holders whose identities or addresses cannot be determined from the records of the corporation. The notice shall contain a copy of the resolutions adopted pursuant to subsection B of this section or the information specified in subparagraphs a through e of paragraph 1 of subsection B of this section or subparagraphs a through c of paragraph 2 of subsection B of this section, as applicable, and a statement that any claim that the defective corporate act or putative stock ratified hereunder is void or voidable due to the failure of authorization, or that the district court should declare in its discretion that a ratification in accordance with this section not be effective or be effective only on certain conditions must be brought within one hundred twenty (120) days from the later of the validation effective time or the time at which the notice required by this subsection is given. Notwithstanding the foregoing, no such notice shall be required if notice of the

ratification of the defective corporate act is to be given in accordance with subsection D of this section, and in the case of a corporation that has a class of stock listed on a national securities exchange, the notice required by this subsection and subsection D of this section may be deemed given if disclosed in a document publicly filed by the corporation with the Securities and Exchange Commission pursuant to Sections 13, 14 or 15(d) of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, or the corresponding provisions of any subsequent United States federal securities laws, rules or regulations. If any defective corporate act has been approved by shareholders acting pursuant to Section 1073 of ~~Title 18 of the Oklahoma Statutes~~ this title, the notice required by this subsection may be included in any notice required to be given pursuant to subsection F of Section 1073 of ~~Title 18 of the Oklahoma Statutes~~ this title and, if so given, shall be sent to the shareholders entitled to notice under subsection F of Section 1073 of ~~Title 18 of the Oklahoma Statutes~~ this title and to all holders of valid and putative stock to whom notice would be required under this subsection if the defective corporate act had been approved at a meeting other than any shareholder who approved the action by consent in lieu of a meeting pursuant to Section 1073 of ~~Title 18 of the Oklahoma Statutes~~ this title or any holder of putative stock who otherwise consented thereto in writing. Solely for purposes of

subsection D of this section and this subsection, notice to holders of putative stock, and notice to holders of valid stock and putative stock as of the time of the defective corporate act, shall be treated as notice to holders of valid stock for purposes of Sections 1067, 1073, 1074, 1075, 1075.2 and 1075.3 of ~~Title 18 of the Oklahoma Statutes~~ this title.

H. As used in this section and in Section ~~10 of this act~~ 1055.2 of this title only, the term:

1. "Defective corporate act" means an overissue, an election or appointment of directors that is void or voidable due to a failure of authorization, or any act or transaction purportedly taken by or on behalf of the corporation that is, and at the time such act or transaction was purportedly taken would have been, within the power of a corporation under ~~subchapter II of Title 18 of the Oklahoma Statutes~~ this title, without regard to the failure of authorization identified in subparagraph d of paragraph 1 of subsection B of this section, but is void or voidable due to a failure of authorization;

2. "Failure of authorization" means ~~(a)~~:

a. the failure to authorize or effect an act or transaction in compliance with:

(1) the provisions of ~~Title 18 of the Oklahoma Statutes~~ this title,

(2) the certificate of incorporation or bylaws of the corporation, or

(3) 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 such failure would render such act or transaction void or voidable, or ~~(b)~~

b. the failure of the board of directors or any officer of the corporation to authorize or approve any act or transaction taken by or on behalf of the corporation that would have required for its due authorization the approval of the board of directors or such officer;

3. "Overissue" means the purported issuance of (a) shares of capital stock of a class or series in excess of the number of shares of such class or series the corporation has the power to issue under Section 1042 of ~~Title 18 of the Oklahoma Statutes~~ this title at the time of such issuance, or (b) shares of any class or series of capital stock that is not then authorized for issuance by the certificate of incorporation of the corporation;

4. "Putative stock" means the shares of any class or series of capital stock of the corporation, including shares issued upon exercise of options, rights, warrants or other securities convertible into shares of capital stock of the corporation, or interests with respect thereto that were created or issued pursuant to a defective corporate act, that: (a) but for any failure of

authorization, would constitute valid stock, or (b) cannot be determined by the board of directors to be valid stock;

5. "Time of the defective corporate act" means the date and time the defective corporate act was purported to have been taken;

6. "Valid stock" means the shares of any class or series of capital stock of the corporation that have been duly authorized and validly issued in accordance with ~~Title 18 of the Oklahoma Statutes~~ this title; and

7. "Validation effective time" with respect to any defective corporate act ratified pursuant to this section means the latest of (a) the time at which the defective act submitted to the shareholders for approval pursuant to subsection C of this section is approved by such shareholders, or if no such vote of shareholders is required to approve the ratification, the time at which the board of directors adopts the resolutions required by paragraphs 1 or 2 of subsection B of this section, (b) where no certificate of validation is required to be filed pursuant to subsection E of this section, the time, if any, specified by the board of directors in the resolutions adopted pursuant to paragraphs 1 or 2 of subsection B of this section, which time shall not precede the time at which such resolutions are adopted; and (c) the time at which any certificate of validation filed pursuant to subsection E of this section shall become effective in accordance with Section 1007 of ~~Title 18 of the Oklahoma Statutes~~ this title.

In the absence of actual fraud in the transaction, the judgment of the board of directors that shares of stock are valid stock or putative stock shall be conclusive, unless otherwise determined by the District Court in a proceeding brought pursuant to Section ~~10 of this act~~ 1055.2 of this title.

I. Ratification under this section or validation under Section ~~10 of this act~~ 1055.2 of this title shall not be deemed to be the exclusive means of ratifying or validating any act or transaction taken by or on behalf of the corporation, including any defective corporate act, or any issuance of stock, including any putative stock, or of adopting or endorsing any act or transaction taken by or in the name of the corporation prior to the commencement of its existence, and the absence or failure of ratification in accordance with either this section or validation under Section ~~10 of this act~~ 1055.2 of this title shall not, of itself, affect the validity or effectiveness of any act or transaction or the issuance of any stock properly ratified under common law or otherwise, nor shall it create a presumption that any such act or transaction is or was a defective corporate act or that such stock is void or voidable.

SECTION 7. AMENDATORY 18 O.S. 2011, Section 1064, as amended by Section 14, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Section 1064), is amended to read as follows:

Section 1064.

LIST OF SHAREHOLDERS ENTITLED TO VOTE; PENALTY FOR REFUSAL TO PRODUCE STOCK LEDGER

A. The ~~officer who has charge of the stock ledger of~~ ~~a~~ corporation shall prepare ~~and make~~, at least ten (10) days before every meeting of shareholders, a complete list of the shareholders entitled to vote at the meeting; provided, however, if the record date for determining the shareholders entitled to vote is less than ten (10) days before the meeting date, the list shall reflect the shareholders entitled to vote as of the tenth day before the meeting date, arranged in alphabetical order, and showing the address of each shareholder and the number of shares registered in the name of each shareholder. Nothing contained in this section shall require the corporation to include electronic mail addresses or other electronic contact information on the list. The list shall be open to the examination of any shareholder, for any purpose germane to the meeting for a period of at least ten (10) days prior to the meeting:

1. On a reasonably accessible electronic network; provided, that the information required to gain access to the list is provided with the notice of the meeting; or

2. During ordinary business hours, at the principal place of business of the corporation. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that the information

is available only to shareholders of the corporation. If the meeting is to be held at a place, then the list shall also be produced and kept at the time and place of the meeting during the whole time thereof~~,~~ and may be inspected by any shareholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any shareholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access the list shall be provided with the notice of the meeting.

B. Upon the willful neglect or refusal of the directors to produce such a list at any meeting for the election of directors held at a place, or to open such a list to examination on a reasonably accessible electronic network during any meeting for the election of directors held solely by means of remote communication, they shall be ineligible for election to any office at the meeting.

C. For the purposes of the Oklahoma General Corporation Act, "stock ledger" means one or more records administered by or on behalf of the corporation in which the names of all the corporation's shareholders of record, the address and number of shares registered in the name of each such shareholder and all issuances and transfers of stock of the corporation are recorded in accordance with Section 1069 of this title. The stock ledger shall be the only evidence as to who are the shareholders entitled by this

section to examine the list required by this section or to vote in person or by proxy at any meeting of shareholders.

SECTION 8. AMENDATORY 18 O.S. 2011, Section 1069, is amended to read as follows:

Section 1069.

FORM OF RECORDS

Any records ~~maintained~~ administered by or on behalf of a corporation in the regular course of its business~~,~~ including its stock ledger, books of account~~,~~ and minute books~~,~~ may be kept on, or by means of, or be in the form of, any information storage device, ~~or~~ method or one or more electronic networks or databases including one or more distributed electronic networks or databases; provided that the records so kept can be converted into clearly legible paper form within a reasonable time, and, with respect to the stock ledger, that the records so kept (i) can be used to prepare the list of shareholders specified in Sections 1064 and 1065 of this title, (ii) record the information specified in Sections 1037, 1040 and 1063, and subsection A of Section 1062 of this title, and (iii) record transfers of stock as governed by Article 8 of the Uniform Commercial Code. Any corporation shall ~~so~~ convert any records so kept into clearly legible paper form upon the request of any person entitled to inspect the records pursuant to any provision of the Oklahoma General Corporation Act. Where records are kept in the manner, a clearly legible paper form ~~produced~~ prepared from or by

means of the information storage device, ~~or~~ method shall be admissible in evidence and shall be accepted for all other purposes, to the same extent as an original paper record of the same information would have been, when the paper form accurately portrays the record.

SECTION 9. AMENDATORY 18 O.S. 2011, Section 1073, as amended by Section 19, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Section 1073), is amended to read as follows:

Section 1073.

CONSENT OF SHAREHOLDERS IN LIEU OF MEETING

A. Unless otherwise provided for in the certificate of incorporation, any action required by the provisions of the Oklahoma General Corporation Act to be taken at any annual or special meeting of shareholders of a corporation or any action which may be taken at any annual or special meeting of shareholders, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take the action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the corporation by delivery to its registered office in this state, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of shareholders

are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested.

B. Unless otherwise provided for in the certificate of incorporation, any action required by the provisions of the Oklahoma General Corporation Act to be taken at a meeting of the members of a nonstock corporation, or any action which may be taken at any meeting of the members of a nonstock corporation, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action taken, shall be signed by members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members having a right to vote thereon were present and voted and shall be delivered to the corporation by delivery to its registered office in this state, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of shareholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested.

C. 1. ~~A telegram, cablegram or other~~ An electronic transmission consenting to an action to be taken and transmitted by a shareholder, member or proxyholder, or by a person or persons authorized to act for a shareholder, member or proxyholder, shall be

deemed to be written~~,~~ and signed ~~and dated~~ for the purposes of this section; provided that any ~~telegram, cablegram or other~~ electronic transmission sets forth or is delivered with information from which the corporation can determine:

a. that the ~~telegram, cablegram or other~~ electronic transmission was transmitted by the shareholder, member or proxyholder or by a person or persons authorized to act for the shareholder, member or proxyholder, and

b. the date on which the shareholder, member or proxyholder or authorized person or persons transmitted the ~~telegram, cablegram or~~ electronic transmission.

~~The date on which the telegram, cablegram or electronic transmission is transmitted shall be deemed to be the date on which the consent was signed. No consent given by telegram, cablegram or other electronic transmission shall be deemed to have been delivered until the consent is reproduced in paper form and until the paper form shall be delivered to the corporation by delivery to its registered office in this state, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of shareholders or members are recorded. Delivery made to a corporation's registered office shall be made by hand or by certified or registered mail, return receipt~~

~~requested. Notwithstanding the foregoing limitations on delivery, consents given by telegram, cablegram or other electronic transmission may be otherwise delivered to the principal place of business of the corporation or to an officer or agent of the corporation having custody of the book in which proceedings of meetings of shareholders or members are recorded if, to the extent and in the manner provided by resolution of the board of directors or governing body of the corporation.~~

2. A consent given by electronic transmission is delivered to the corporation upon the earliest of:

a. when the consent enters an information processing system, if any, designated by the corporation for receiving consents, so long as the electronic transmission is in a form capable of being processed by that system and the corporation is able to retrieve that electronic transmission,

b. when a paper reproduction of the consent is delivered to the corporation's principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders or members are recorded,

c. when a paper reproduction of the consent is delivered to the corporation's registered office in this state

by hand or by certified or registered mail, return receipt requested, or

d. when delivered in such other manner, if any, provided by resolution of the board of directors or governing body of the corporation.

Whether the corporation has so designated an information processing system to receive consents is determined by the certificate of incorporation, the bylaws or from the context and surrounding circumstances including the conduct of the corporation. A consent given by electronic transmission is delivered under this section even if no person is aware of its receipt. Receipt of an electronic acknowledgement from an information processing system establishes that a consent given by electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

3. Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used; provided that the copy, facsimile or other reliable reproduction shall be a complete reproduction of the entire original writing.

D. ~~Every written consent shall bear the date of signature of each shareholder or member who signs the consent and no~~ No written consent shall be effective to take the corporate action referred to

therein unless~~, within sixty (60) days of the earliest dated consent delivered in the manner required by this section to the corporation,~~ written consents signed by a sufficient number of holders or members to take action are delivered to the corporation ~~by delivery to its registered office in this state, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of shareholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested~~ in the manner required by this section within sixty (60) days of the first date on which a written consent is so delivered to the corporation. Any person executing a consent may provide, whether through instruction to an agent or otherwise, that such a consent will be effective at a future time~~,~~ including a time determined upon the happening of an event, no later than sixty (60) days after such instruction is given or such provision is made ~~and, for the purposes of this section,~~ if evidence of such instruction or provision is provided to the corporation~~, such later effective time shall serve as the date of signature~~. Unless otherwise provided, any such consent shall be revocable prior to its becoming effective.

E. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those shareholders or members, as the case may be, who have not consented in writing and who, if the action had been taken at a

meeting, would have been entitled to notice of the meeting if the record date for notice of the meeting had been the date that written consents signed by a sufficient number of shareholders or members to take the action were delivered to the corporation as provided in ~~subsection B of~~ this section. In the event that the action for which consent is given is an action that would have required the filing of a certificate under any other section of this title if the action had been voted on by shareholders or by members at a meeting thereof the certificate filed under the other section shall state, in lieu of any statement required by the section concerning any vote of shareholders or members, that written consent has been given in accordance with the provisions of this section.

SECTION 10. AMENDATORY 18 O.S. 2011, Section 1075.2, as amended by Section 14, Chapter 88, O.S.L. 2019 (18 O.S. Supp. 2020, Section 1075.2), is amended to read as follows:

Section 1075.2.

ELECTRONIC NOTICE; EFFECTIVENESS; REVOCATION OF CONSENT

A. Without limiting the manner of which notice otherwise may be given effectively to shareholders, any notice to shareholders given by the corporation under any provision of the Oklahoma General Corporation Act, the certificate of incorporation, or the bylaws shall be effective if given by a form of electronic transmission consented to by the shareholder to whom the notice is given. The

consent shall be revocable by the shareholder by written notice to the corporation. The consent shall be deemed revoked if:

1. The corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with the consent; and

2. The inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent, or other person responsible for the giving of notice; provided, however, the inadvertent failure to treat the inability as a revocation shall not invalidate any meeting or other action.

B. Notice given pursuant to subsection A of this section shall be deemed given if by:

1. Facsimile telecommunication, when directed to a number at which the shareholder has consented to receive notice;

2. Electronic mail, when directed to an electronic mail address at which the shareholder has consented to receive notice;

3. A posting on an electronic network together with separate notice to the shareholder of the specific posting, upon the later of:

a. the posting, and

b. the giving of the separate notice; and

4. Any other form of electronic transmission, when directed to the shareholder in accordance with the shareholder's consent.

An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

C. For purposes of the Oklahoma General Corporation Act, "electronic transmission" means any form of communication, not directly involving the physical transmission of paper~~,~~ including the use of, or participation in, one or more electronic networks or databases including one or more distributed electronic networks or databases, that creates a record that may be retained, retrieved~~,~~ and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

D. This section shall not apply to Sections 1045 or 1111 of this title.

SECTION 11. AMENDATORY 18 O.S. 2011, Section 1081, as amended by Section 22, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Section 1081), is amended to read as follows:

Section 1081.

MERGER OR CONSOLIDATION OF DOMESTIC CORPORATIONS

A. Any two or more domestic corporations ~~existing under the laws of this state~~ may merge into a single surviving corporation, which may be any one of the constituent corporations or may

consolidate into a new resulting corporation formed by the consolidation, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with the provisions of this section.

B. The board of directors of each corporation which desires to merge or consolidate shall adopt a resolution approving an agreement of merger or consolidation and declaring its advisability. The agreement shall state:

1. The terms and conditions of the merger or consolidation;

2. The mode of carrying the same into effect;

3. In the case of a merger, the amendments or changes in the certificate of incorporation of the surviving corporation as are desired to be effected by the merger, which amendments or changes may amend and restate the certificate of incorporation of the surviving corporation in its entirety, or, if no amendments or changes are desired, a statement that the certificate of incorporation of the surviving corporation shall be its certificate of incorporation of the surviving or resulting corporation;

4. In the case of a consolidation, that the certificate of incorporation of the resulting corporation shall be as is set forth in an attachment to the agreement;

5. The manner, if any, of converting the shares of each of the constituent corporations into shares or other securities of the corporation surviving or resulting from the merger or consolidation,

or of canceling some or all of the shares, and, if any shares of any of the constituent corporations are not to remain outstanding, to be converted solely into shares or other securities of the surviving or resulting corporation or to be canceled, the cash, property, rights, or securities of any other corporation or entity which the holders of the shares are to receive in exchange for or upon conversion of the shares and the surrender of any certificates evidencing them, which cash, property, rights~~,~~ or securities of any other corporation or entity may be in addition to or in lieu of shares or other securities of the surviving or resulting corporation; and

6. Other details or provisions as are deemed desirable, including without limiting the generality of the foregoing, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, ~~interests or~~ rights or other securities of the surviving or resulting corporation or of any other corporation or entity the shares, rights or other securities of which are to be received in the merger or consolidation, or for any other arrangement with respect thereto, consistent with the provisions of Section 1036 of this title. The agreement so adopted shall be executed and acknowledged in accordance with the provisions of Section 1007 of this title. Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of the agreement; provided, that the manner in which these facts shall operate upon the terms of the agreement is

clearly and expressly set forth in the agreement of merger or consolidation. The term "facts" as used in this paragraph, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

C. The agreement required by the provisions of subsection B of this section shall be submitted to the shareholders of each constituent corporation at an annual or special meeting thereof for the purpose of acting on the agreement. Due notice of the time, place, and purpose of the meeting shall be mailed to each holder of stock whether voting or nonvoting, of the corporation at the address which appears on the records of the corporation, at least twenty (20) days before the date of the meeting. The notice shall contain a copy of the agreement or a brief summary thereof; provided, however, the notice shall be effective only with respect to mergers or consolidations for which the notice of the shareholders meeting to vote thereon has been mailed after November 1, 1988. At the meeting the agreement shall be considered and a vote taken for its adoption or rejection. If a majority of the outstanding stock of the corporation entitled to vote thereon shall be voted for the adoption of the agreement, that fact shall be certified on the agreement by the secretary or the assistant secretary of the corporation; provided, that such certification on the agreement shall not be required if a certificate of merger or consolidation is

filed in lieu of filing the agreement. If the agreement shall be so adopted and certified by each constituent corporation, it shall then be filed and shall become effective in accordance with the provisions of Section 1007 of this title. In lieu of filing an agreement of merger or consolidation required by this section, the surviving or resulting corporation may file a certificate of merger or consolidation executed in accordance with the provisions of Section 1007 of this title and which states:

1. The name and state of incorporation of each of the constituent corporations;

2. That an agreement of merger or consolidation has been approved, adopted, executed~~,~~ and acknowledged by each of the constituent corporations in accordance with the provisions of this section;

3. The name of the surviving or resulting corporation;

4. In the case of a merger, the amendments or changes in the certificate of incorporation of the surviving corporation, which may be amended and restated, that are desired to be effected by the merger, which amendments or changes may amend and restate the certificate of incorporation of the surviving corporation in its entirety, or, if no amendments or changes are desired, a statement that the certificate of incorporation of the surviving corporation shall be its certificate of incorporation;

5. In the case of a consolidation, that the certificate of incorporation of the resulting corporation shall be as is set forth in an attachment to the certificate;

6. That the executed agreement of consolidation or merger is on file at the principal place of business of the surviving or resulting corporation, stating the address thereof; and

7. That a copy of the agreement of consolidation or merger will be furnished by the surviving or resulting corporation, on request and without cost, to any shareholder of any constituent corporation. For purposes of Sections 1084 and 1086 of this title, the term "shareholder" shall be deemed to include "member".

D. Any agreement of merger or consolidation may contain a provision that at any time prior to the time that the agreement, or a certificate filed with the Secretary of State in lieu thereof, becomes effective in accordance with Section 1007 of this title, the agreement may be terminated by the board of directors of any constituent corporation notwithstanding approval of the agreement by the shareholders of all or any of the constituent corporations; provided, if the agreement of merger or consolidation is terminated after the filing of the agreement, or a certificate filed with the Secretary of State in lieu thereof, but before the agreement or certificate has become effective, a certificate of termination of merger or consolidation shall be filed in accordance with Section 1007 of this title. Any agreement of merger or consolidation may

contain a provision that the boards of directors of the constituent corporations may amend the agreement at any time prior to the time that the agreement, or a certificate filed with the Secretary of State in lieu thereof, becomes effective in accordance with Section 1007 of this title; provided, that an amendment made subsequent to the adoption of the agreement by the shareholders of any constituent corporation shall not:

1. Alter or change the amount or kind of shares, securities, cash, property~~,~~ or rights to be received in exchange for or on conversion of all or any of the shares of any class or series thereof of the constituent corporation;

2. Alter or change any term of the certificate of incorporation of the surviving corporation to be effected by the merger or consolidation; or

3. Alter or change any of the terms and conditions of the agreement if an alteration or change would adversely affect the holders of any class or series thereof of the constituent corporation.

If the agreement of merger or consolidation is amended after the filing of the agreement, or a certificate in lieu thereof, with the Secretary of State, but before the agreement or certificate has become effective, a certificate of amendment of merger or consolidation shall be filed in accordance with Section 1007 of this title.

E. In the case of a merger, the certificate of incorporation of the surviving corporation shall automatically be amended to the extent, if any, that changes in the certificate of incorporation are set forth in the certificate of merger.

F. Notwithstanding the requirements of subsection C of this section, unless required by its certificate of incorporation, no vote of shareholders of a constituent corporation surviving a merger shall be necessary to authorize a merger if:

1. The agreement of merger does not amend in any respect the certificate of incorporation of the constituent corporation;

2. Each share of stock of the constituent corporation outstanding immediately prior to the effective date of the merger is to be an identical outstanding or treasury share of the surviving corporation after the effective date of the merger; and

3. Either no shares of common stock of the surviving corporation and no shares, securities~~,~~ or obligations convertible into such stock are to be issued or delivered under the plan of merger, or the authorized unissued shares or the treasury shares of common stock of the surviving corporation to be issued or delivered under the plan of merger plus those initially issuable upon conversion of any other shares, securities~~,~~ or obligations to be issued or delivered under the plan do not exceed twenty percent (20%) of the shares of common stock of the constituent corporation outstanding immediately prior to the effective date of the merger.

No vote of shareholders of a constituent corporation shall be necessary to authorize a merger or consolidation if no shares of the stock of the corporation shall have been issued prior to the adoption by the board of directors of the resolution approving the agreement of merger or consolidation. If an agreement of merger is adopted by the constituent corporation surviving the merger, by action of its board of directors and without any vote of its shareholders pursuant to the provisions of this subsection, the secretary or assistant secretary of that corporation shall certify on the agreement that the agreement has been adopted pursuant to the provisions of this subsection and:

a. if it has been adopted pursuant to paragraph 1 of this subsection, that the conditions specified have been satisfied, or

b. if it has been adopted pursuant to paragraph 2 of this subsection, that no shares of stock of the corporation were issued prior to the adoption by the board of directors of the resolution approving the agreement of merger or consolidation; provided, that such certification on the agreement shall not be required if a certificate of merger or consolidation is filed in lieu of filing the agreement.

The agreement so adopted and certified shall then be filed and shall become effective in accordance with the provisions of Section

1007 of this title. Filing shall constitute a representation by the person who executes the certificate that the facts stated in the certificate remain true immediately prior to filing.

G. 1. Notwithstanding the requirements of subsection C of this section, unless expressly required by its certificate of incorporation, no vote of shareholders of a constituent corporation shall be necessary to authorize a merger with or into a single direct or indirect wholly owned subsidiary of the constituent corporation if:

a. the constituent corporation and the direct or indirect wholly owned subsidiary of the constituent corporation are the only constituent entities to the merger,

b. each share or fraction of a share of the capital stock of the constituent corporation outstanding immediately before the effective time of the merger is converted in the merger into a share or equal fraction of share of capital stock of a holding company having the same designations, rights, powers~~,~~ and preferences, and the qualifications, limitations~~,~~ and restrictions thereof, as the share of stock of the constituent corporation being converted in the merger,

c. the holding company and the constituent corporation are domestic corporations ~~of this state~~ and the direct or indirect wholly owned subsidiary that is the other

constituent entity to the merger is a domestic corporation or limited liability company ~~of this state~~,

d. the certificate of incorporation and bylaws of the holding company immediately following the effective time of the merger contain provisions identical to the certificate of incorporation and bylaws of the constituent corporation immediately before the effective time of the merger, other than provisions, if any, regarding the incorporator or incorporators, the corporate name, the registered office and agent, the initial board of directors~~,~~ and the initial subscribers of shares and provisions contained in any amendment to the certificate of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock, if a change, exchange, reclassification~~,~~ or cancellation has become effective,

e. as a result of the merger, the constituent corporation or its successor corporation becomes or remains a direct or indirect wholly owned subsidiary of the holding company,

f. the directors of the constituent corporation become or remain the directors of the holding company upon the effective time of the merger,

g. the organizational documents of the surviving entity immediately following the effective time of the merger contain provisions identical to the certificate of incorporation of the constituent corporation immediately before the effective time of the merger, other than provisions, if any, regarding the incorporator or incorporators, the corporate or entity name, the registered office and agent, the initial board of directors and the initial subscribers for shares, references to members rather than shareholders, references to interests, units or the like rather than stock or shares, references to managers, managing members or other members of the governing body rather than directors and such provisions contained in any amendment to the certificate of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock, if such change, exchange, reclassification, subdivision, combination or cancellation has become effective; provided, however, that:

(1) if the organizational documents of the surviving entity do not contain the following provisions, they shall be amended in the merger to contain provisions requiring that:

(a) any act or transaction by or involving the surviving entity, other than the election or removal of directors or managers, managing members or other members of the governing body of the surviving entity, that requires for its adoption under ~~this act~~ the Oklahoma General Corporation Act or its organizational documents the approval of the shareholders or members of the surviving entity shall, by specific reference to this subsection, require, in addition, the approval of the shareholders of the holding company (or any successor by merger), by the same vote as is required by ~~this act~~ the Oklahoma General Corporation Act and/or by the organizational documents of the surviving entity; provided, however, that for purposes of this subdivision, any surviving entity that is not a corporation shall include in such amendment a

requirement that the approval of the shareholders of the holding company be obtained for any act or transaction by or involving the surviving entity, other than the election or removal of directors or managers, managing members or other members of the governing body of the surviving entity, which would require the approval of the shareholders of the surviving entity if the surviving entity were a corporation subject to ~~this act~~ the Oklahoma General Corporation Act,

(b) any amendment of the organizational documents of a surviving entity that is not a corporation, which amendment would, if adopted by a corporation subject to ~~this act~~ the Oklahoma General Corporation Act, be required to be included in the certificate of incorporation of such corporation, shall, by specific reference to this subsection, require, in addition, the approval of the shareholders of the holding company, or any successor by merger, by the same vote as is required by ~~this act~~ the Oklahoma General

Corporation Act and/or by the organizational documents of the surviving entity, and

(c) the business and affairs of a surviving entity that is not a corporation shall be managed by or under the direction of a board of directors, board of managers or other governing body consisting of individuals who are subject to the same fiduciary duties applicable to, and who are liable for breach of such duties to the same extent as, directors of a corporation subject to ~~this act~~ the Oklahoma General Corporation Act, and

(2) the organizational documents of the surviving entity may be amended in the merger:

(a) to reduce the number of classes and shares of capital stock or other equity interests or units that the surviving entity is authorized to issue, and

(b) to eliminate any provision authorized by subsection D of Section 1027 of this title; and

h. the shareholders of the constituent corporation do not recognize gain or loss for federal income tax purposes

as determined by the board of directors of the constituent corporation.

Neither division (1) of subparagraph g of paragraph 1 of this subsection nor any provision of a surviving entity's organizational documents required by division (1) of subparagraph g of paragraph 1 of this subsection shall be deemed or construed to require approval of the shareholders of the holding company to elect or remove directors or managers, managing members or other members of the governing body of the surviving entity.

2. As used in this subsection, the term "holding company" means a corporation which, from its incorporation until consummation of a merger governed by this subsection, was at all times a direct or indirect wholly owned subsidiary of the constituent corporation and whose capital stock is issued in a merger.

3. As used in this subsection, the term "organizational documents" means, when used in reference to a corporation, the certificate of incorporation of the corporation and, when used in reference to a limited liability company, the articles of organization and the operating agreement of the limited liability company.

4. From and after the effective time of a merger adopted by a constituent corporation by action of its board of directors and without any vote of shareholders pursuant to this subsection:

a. to the extent the restriction of Section 1090.3 of this title applied to the constituent corporation and its shareholders at the effective time of the merger, restrictions shall apply to the holding company and its shareholders immediately after the effective time of the merger as though it were the constituent corporation, and all shareholders of stock of the holding company acquired in the merger shall for purposes of Section 1090.3 of this title be deemed to have been acquired at the time that the shares of stock of the constituent corporation converted in the merger were acquired; provided, that any shareholder who immediately before the effective time of the merger was not an interested shareholder within the meaning of Section 1090.3 of this title shall not solely by reason of the merger become an interested shareholder of the holding company,

b. if the corporate name of the holding company immediately following the effective time of the merger is the same as the corporate name of the constituent corporation immediately before the effective time of the merger, the shares of capital stock of the holding company into which the shares of capital stock of the constituent corporation are converted in the merger

shall be represented by the stock certificates that previously represented the shares of capital stock of the constituent corporation, and

c. to the extent a shareholder of the constituent corporation immediately before the merger had standing to institute or maintain derivative litigation on behalf of the constituent corporation, nothing in this section shall be deemed to limit or extinguish such standing.

5. If any agreement of merger is adopted by a constituent corporation by action of its board of directors and without any vote of shareholders pursuant to this subsection, the secretary or assistant secretary of the constituent corporation shall certify on the agreement that the agreement has been adopted pursuant to this subsection and that the conditions specified in paragraph 1 of this subsection have been satisfied; provided, that such certification on the agreement shall not be required if a certificate of merger or consolidation is filed in lieu of filing the agreement. The agreement so adopted and certified shall then be filed and become effective in accordance with Section 1007 of this title. Filing shall constitute a representation by the person who executes the agreement that the facts stated in the certificate remain true immediately before the filing.

H. Notwithstanding the requirements of subsection C of this section, unless expressly required by its certificate of incorporation, no vote of shareholders of a constituent corporation that has a class or series of stock that is listed on a national securities exchange or held of record by more than two thousand holders immediately prior to the execution of the agreement of merger by such constituent corporation shall be necessary to authorize a merger if:

1. The agreement of merger expressly (a) permits or requires such merger to be effected under this subsection and (b) provides that such merger shall be effected as soon as practicable following the consummation of the offer referred to in paragraph 2 of this subsection if such merger is effected under this subsection;

2. A corporation consummates an offer for all of the outstanding stock of such constituent corporation on the terms provided in such agreement of merger that, absent this subsection, would be entitled to vote on the adoption or rejection of the agreement of merger; provided, however, that such offer may be conditioned on the tender of a minimum number or percentage of shares of the stock of such constituent corporation, or of any class or series thereof, and such offer may exclude any excluded stock; and provided further, that the corporation may consummate separate offers for separate classes or series of the stock of such constituent corporation;

3. Immediately following the consummation of the offer referred to in paragraph 2 of this subsection, the stock irrevocably accepted for purchase or exchange pursuant to such offer and received by the depository prior to expiration of such offer, together with the stock otherwise owned by the consummating corporation or its affiliates and any rollover stock, equals at least such percentage of the shares of stock of such constituent corporation, and of each class or series thereof, that, absent this subsection, would be required to adopt the agreement of merger by this chapter and by the certificate of incorporation of such constituent corporation;

4. The corporation consummating the offer referred to in paragraph 2 of this subsection merges with or into such constituent corporation pursuant to such agreement;

5. Each outstanding share, other than shares of excluded stock, of each class or series of stock of the constituent corporation that is the subject of and not irrevocably accepted for purchase or exchange in the offer referred to in paragraph 2 of this subsection is to be converted in such merger into, or into the right to receive, the same amount and kind of cash, property, rights or securities paid for shares of such class or series of stock of such constituent corporation irrevocably accepted for purchase or exchange in such offer; and

6. As used in this subsection only, the term:

a. "affiliate" means, in respect of the corporation making the offer referred to in paragraph 2 of this subsection, any person that (1) owns, directly or indirectly, all of the outstanding stock of such corporation or (2) is a direct or indirect wholly owned subsidiary of such corporation or of any person referred to in proviso (1) of this subparagraph,

b. "consummates", and with correlative meaning, "consummation" and "consummating", means irrevocably accepts for purchase or exchange stock tendered pursuant to an offer,

c. "depository" means an agent~~,~~ including a depository, appointed to facilitate consummation of the offer referred to in paragraph 2 of this subsection,

d. "excluded stock" means (1) stock of such constituent corporation that is owned at the commencement of the offer referred to in paragraph 2 of this subsection by such constituent corporation, the corporation making the offer referred to in paragraph 2 of this subsection, any person that owns, directly or indirectly, all of the outstanding stock of the corporation making such offer, or any direct or indirect wholly owned subsidiary of any of the foregoing and (2) rollover stock,

e. “person” means any individual, corporation, partnership, limited liability company, unincorporated association or other entity,

f. “received” solely for purposes of paragraph 3 of this subsection means (1) with respect to certificated shares, physical receipt of a stock certificate accompanied by an executed letter of transmittal, (2) with respect to uncertificated shares held of record by a clearing corporation as nominee, transfer into the depository’s account by means of an agent’s message, and (3) with respect to uncertificated shares held of record by a person other than a clearing corporation as nominee, physical receipt of an executed letter of transmittal by the depository; provided, however, that shares shall cease to be “received” (4) with respect to certificated shares, if the certificate representing such shares was canceled prior to consummation of the offer referred to in paragraph 2 of this subsection, or (5) with respect to uncertificated shares, to the extent such uncertificated shares have been reduced or eliminated due to any sale of such shares prior to consummation of the offer referred to in paragraph 2 of this subsection, and

g. "rollover stock" means any shares of stock of such constituent corporation that are the subject of a written agreement requiring such shares to be transferred, contributed or delivered to the consummating corporation or any of its affiliates in exchange for stock or other equity interests in such consummating corporation or an affiliate thereof; provided, however, that such shares of stock shall cease to be rollover stock for purposes of paragraph 3 of this subsection if, immediately prior to the time the merger becomes effective under this chapter, such shares have not been transferred, contributed or delivered to the consummating corporation or any of its affiliates pursuant to such written agreement.

If an agreement of merger is adopted without the vote of shareholders of a corporation pursuant to this subsection, the secretary or assistant secretary of the surviving corporation shall certify on the agreement that the agreement has been adopted pursuant to this subsection and that the conditions specified in this subsection, other than the condition listed in paragraph 4 of this subsection, have been satisfied; provided, that such certification on the agreement shall not be required if a certificate of merger is filed in lieu of filing the agreement. The agreement so adopted and certified shall then be filed and shall

become effective, in accordance with Section 1007 of this title. Such filing shall constitute a representation by the person who executes the agreement that the facts stated in the certificate remain true immediately prior to such filing.

SECTION 12. AMENDATORY 18 O.S. 2011, Section 1082, as amended by Section 23, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Section 1082), is amended to read as follows:

Section 1082.

MERGER OR CONSOLIDATION OF DOMESTIC AND FOREIGN CORPORATIONS; SERVICE OF PROCESS UPON SURVIVING OR RESULTING CORPORATION

A. Any one or more domestic corporations ~~of this state~~ may merge or consolidate with one or more ~~other corporations of any other state or states of the United States, or of the District of Columbia, if the laws of the other state or states or of the District permit a corporation of the jurisdiction to merge or consolidate with a corporation of another jurisdiction~~ foreign corporations, unless the laws of the jurisdiction or jurisdictions under which such foreign corporation or corporations are organized prohibit the merger or consolidation. The constituent corporations may merge into a single surviving corporation, which may be any one of the constituent corporations, or they may consolidate into a new resulting corporation formed by the consolidation, which may be a corporation of the ~~state of incorporation~~ jurisdiction of organization of any one of the constituent corporations, pursuant to

an agreement of merger or consolidation, as the case may be, complying and approved in accordance with the provisions of this section~~. In addition, any one or more corporations organized under the laws of any jurisdiction other than one of the United States may merge or consolidate with one or more corporations existing under the laws of this state if the surviving or resulting corporation will be a corporation of this state, and if the laws under which the other corporation or corporations are formed permit a corporation of that jurisdiction to merge or consolidate with a corporation of another jurisdiction~~.

B. All the constituent corporations shall enter into an agreement of merger or consolidation. The agreement shall state:

1. The terms and conditions of the merger or consolidation;

2. The mode of carrying the same into effect;

3. In the case of a merger in which the surviving corporation is a domestic corporation, such amendments or changes in the certificate of incorporation of the surviving corporation as are desired to be effected by the merger, which amendments or changes may amend and restate the certificate of incorporation of the surviving corporation in its entirety, or, if no such amendments or changes are desired, a statement that the certificate of incorporation of the surviving corporation shall be its certificate of incorporation;

4. In the case of a consolidation in which the resulting corporation is a domestic corporation, that the certificate of incorporation of the resulting corporation shall be as is set forth in an attachment to the agreement;

5. The manner, if any, of converting the shares of each of the constituent corporations into shares or other securities of the corporation surviving or resulting from the merger or consolidation, or of canceling some or all of the shares, and, if any shares of any of the constituent corporations are not to remain outstanding, to be converted solely into shares or other securities of the surviving or resulting corporation or to be canceled, the cash, property, rights~~,~~ or securities of any other corporation or entity which the holder of the shares is to receive in exchange for, or upon conversion of, the shares and the surrender of any certificates evidencing them, which cash, property, rights~~,~~ or securities of any other corporation or entity may be in addition to or in lieu of the shares or other securities of the surviving or resulting corporation;

~~4.~~ 6. Other details or provisions as are deemed desirable~~,~~ including, without limiting the generality of the foregoing, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, rights or other securities of the surviving or resulting corporation or of any other corporation or entity, the shares, rights or other securities of which are to be received in the merger or consolidation, or for some other

arrangement with respect thereto consistent with the provisions of Section 1036 of this title; and

~~5.~~ 7. Other provisions or facts as shall be required to be set forth in ~~the certificate of incorporation by the laws of the state which are stated in the agreement to be the laws that shall govern the~~ an agreement of merger or consolidation including any provision for amendment of the certificate of incorporation or equivalent document of a surviving or resulting corporation and that can be stated in the case of a merger or consolidation. Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of the agreement; provided, that the manner in which the facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. The term "facts" as used in this paragraph~~,~~ includes, but is not limited to, the occurrence of any event~~,~~ including a determination or action by any person or body~~,~~ including the corporation.

C. The agreement shall be adopted, approved, executed, and acknowledged by each of the constituent corporations in accordance with the laws under which it is ~~formed~~ organized, and, in the case of ~~an Oklahoma~~ a domestic corporation, in the same manner as is provided for in Section 1081 of this title. The agreement shall be filed and shall become effective for all purposes of the laws of this state when and as provided for in Section 1081 of this title

with respect to the merger or consolidation of domestic corporations ~~of this state~~. In lieu of filing the agreement of merger or consolidation, the surviving or resulting corporation may file a certificate of merger or consolidation executed in accordance with the provisions of Section 1007 of this title, which states:

1. The name and ~~state~~ jurisdiction of ~~incorporation~~ organization of each of the constituent corporations;

2. That an agreement of merger or consolidation has been approved, adopted, executed~~,~~ and acknowledged by each of the constituent corporations in accordance with the provisions of this subsection;

3. The name of the surviving or resulting corporation;

4. In the case of a merger in which the surviving corporation is a domestic corporation, the amendments or changes in the certificate of incorporation of the surviving corporation, which may be amended and restated, that are effected by the merger, which amendments or changes may amend and restate the certificate of incorporation of the surviving corporation in its entirety, or, if no amendments or changes are desired, a statement that the certificate of incorporation of the surviving corporation shall be its certificate of incorporation;

5. In the case of a consolidation in which the resulting corporation is a domestic corporation, that the certificate of

incorporation of the resulting corporation shall be as is set forth in an attachment to the certificate;

6. That the executed agreement of consolidation or merger is on file at the principal place of business of the surviving or resulting corporation, and the address thereof;

7. That a copy of the agreement of consolidation or merger will be furnished by the surviving or resulting corporation, on request and without cost, to any shareholder of any constituent corporation;

8. If the corporation surviving or resulting from the merger or consolidation is ~~to be~~ a domestic corporation, the authorized capital stock of each constituent corporation which is not a domestic corporation; and

9. The agreement, if any, required by the provisions of subsection D of this section. For purposes of Section 1085 of this title, the term "shareholder" in subsection D of this section shall be deemed to include "member".

D. If the corporation surviving or resulting from the merger or consolidation is ~~to be governed by the laws of the District of Columbia or any state other than this state~~ a foreign corporation, it shall agree that it may be served with process in this state in any proceeding for enforcement of any obligation of any constituent corporation of this state, as well as for enforcement of any obligation of the surviving or resulting corporation arising from the merger or consolidation, including any suit or other proceeding

to enforce the right of any shareholders as determined in appraisal proceedings pursuant to the provisions of Section 1091 of this title, and shall irrevocably appoint the Secretary of State as its agent to accept service of process in any suit or other proceedings and shall specify the address to which a copy of process shall be mailed by the Secretary of State. In the event of service upon the Secretary of State in accordance with the provisions of Section 2004 of Title 12 of the Oklahoma Statutes, the Secretary of State shall immediately notify the surviving or resulting corporation thereof by letter, certified mail, return receipt requested, directed to the surviving or resulting corporation at the address specified unless the surviving or resulting corporation shall have designated in writing to the Secretary of State a different address for this purpose, in which case it shall be mailed to the last address so designated. The notice shall include a copy of the process and any other papers served on the Secretary of State pursuant to the provisions of this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being effected pursuant to the provisions of this subsection, and to pay the Secretary of State the fee provided for in paragraph 7 of subsection A of Section 1142 of this title, which fee shall be taxed as part of the costs in the proceeding. The Secretary of State shall maintain an alphabetical record of any such

service setting forth the name of the plaintiff and the defendant, the title, docket number~~,~~ and nature of the proceeding in which process has been served upon the Secretary of State, the fact that service has been effected pursuant to the provisions of this subsection, the return date thereof, and the date service was made. The Secretary of State shall not be required to retain such information longer than five (5) years from receipt of the service of process by the Secretary of State.

E. The provisions of subsection D of Section 1081 of this title shall apply to any merger or consolidation pursuant to the provisions of this section. The provisions of subsection E of Section 1081 of this title shall apply to a merger pursuant to the provisions of this section in which the surviving corporation is a domestic corporation ~~of this state~~. The provisions of subsections F and H of Section 1081 of this title shall apply to any merger pursuant to the provisions of this section.

SECTION 13. AMENDATORY Section 24, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Section 1083.1), is amended to read as follows:

Section 1083.1.

MERGER OF PARENT ENTITY AND SUBSIDIARY CORPORATION OR CORPORATIONS

A. In any case in which:

1. At least ninety percent (90%) of the outstanding shares of each class of the stock of a corporation or corporations, other than a corporation which has in its certificate of incorporation the provision required by division (1) of subparagraph g of paragraph 1 of subsection G of Section 1081 of ~~Title 18 of the Oklahoma Statutes~~ this title, of which class there are outstanding shares that, absent this subsection, would be entitled to vote on such merger, is owned by an entity; and

2. One or more of such corporations is a domestic corporation ~~of this state; and~~

~~3. Any entity or corporation that is not an entity or corporation of this state is an entity or corporation of any other state or the District of Columbia, the laws of which do not forbid such merger~~. Unless the laws of the jurisdiction or jurisdictions under which such entity or such foreign corporations are formed or organized prohibit such merger, the entity having such stock ownership may either merge the corporation or corporations into itself and assume all of its or their obligations, or merge itself, or itself and one or more of such corporations, into one of the other corporations by:

a. authorizing such merger in accordance with such entity's governing documents and the laws of the jurisdiction under which such entity is formed or organized, and

b. acknowledging and filing with the Secretary of State, in accordance with Section 1007 of ~~Title 18 of the Oklahoma Statutes~~ this title, a certificate of such ownership and merger certifying:

(1) that such merger was authorized in accordance with such entity's governing documents and the laws of the jurisdiction under which such entity is formed or organized, such certificate executed in accordance with such entity's governing documents and in accordance with the laws of the jurisdiction under which such entity is formed or organized, and

(2) the type of entity of each constituent entity to the merger; provided, however, that in case the entity shall not own all the outstanding stock of all the corporations, parties to a merger as aforesaid:

(a) the certificate of ownership and merger shall state the terms and conditions of the merger~~,~~ including the securities, cash, property, or rights to be issued, paid, delivered or granted by the surviving constituent party upon surrender of each share of the

corporation or corporations not owned by the entity, or the cancellation of some or all of such shares, and

(b) such terms and conditions of the merger may not result in a holder of stock in a corporation becoming a general partner in a surviving entity that is a partnership, other than a limited liability partnership or a limited liability limited partnership.

Any of the terms of the merger may be made dependent upon facts ascertainable outside of the certificate of ownership and merger, provided that the manner in which such facts shall operate upon the terms of the merger is clearly and expressly set forth in the certificate of ownership and merger. The term "facts", as used in the preceding sentence~~,~~ includes, but is not limited to, the occurrence of any event including a determination or action by any person or body~~,~~ including the entity. If the surviving constituent party ~~exists under the laws of the District of Columbia or any state or~~ is an entity formed or organized under the laws of a jurisdiction other than this state, subsection D of Section 1082 of ~~Title 18 of the Oklahoma Statutes~~ this title shall also apply to a merger under this section; if the surviving constituent party is the entity, the word "corporation" where applicable, as used in subsection D of

Section 1082 of ~~Title 18 of the Oklahoma Statutes~~ this title, shall be deemed to include an entity as defined herein; and the terms and conditions of the merger shall obligate the surviving constituent party to provide the agreement, and take the actions required by subsection D of Section 1082 of ~~Title 18 of the Oklahoma Statutes~~ this title.

B. Sections 1088, 1090 and 1127 of ~~Title 18 of the Oklahoma Statutes~~ this title shall, insofar as they are applicable, apply to a merger under this section, and Section 1089 and subsection E of Section 1081 of ~~Title 18 of the Oklahoma Statutes~~ this title shall apply to a merger under this section in which the surviving constituent party is a corporation of this state. For purposes of this subsection, references to "agreement of merger" in subsection F of Section 1081 of ~~Title 18 of the Oklahoma Statutes~~ this title shall mean the terms and condition of the merger set forth in the certificate of ownership and merger, and references to "corporation" in Sections 1088, 1089~~,~~ and 1090 of ~~Title 18 of the Oklahoma Statutes~~ this title and Section 1127 of ~~Title 18 of the Oklahoma Statutes~~ this title shall be deemed to include the entity, as applicable. Section 1091 of ~~Title 18 of the Oklahoma Statutes~~ this title shall not apply to any merger effected under this section, except as provided in subsection C of this section.

C. In the event all of the stock of ~~an Oklahoma~~ a domestic corporation party to a merger effected under this section is not

owned by the entity immediately prior to the merger, the shareholders of such ~~Oklahoma~~ domestic corporation party to the merger shall have appraisal rights as set forth in Section 1091 of ~~Title 18 of the Oklahoma Statutes~~ this title.

D. ~~A merger may be effected under this section although one or more of the constituent parties is a corporation organized under the laws of a jurisdiction other than one of the United States, provided that the laws of such jurisdiction do not forbid such merger.~~

~~E.~~ As used in this section ~~only, the term~~:

1. "Constituent party" means an entity or corporation to be merged pursuant to this section;

2. "Entity" means a partnership, whether general or limited, and including a limited liability partnership and a limited liability limited partnership, a limited liability company, and any unincorporated nonprofit or for-profit association, trust or enterprise having members or having outstanding shares of stock or other evidences of financial, beneficial or membership interest therein, whether formed by agreement or under statutory authority or otherwise and whether formed or organized under the laws of this state or the laws of any other jurisdiction; and

3. "Governing documents" means a partnership agreement, operating agreement, articles of association or any other

instrument containing the provisions by which an entity is formed or organized.

SECTION 14. AMENDATORY 18 O.S. 2011, Section 1090.3, as amended by Section 25, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Section 1090.3), is amended to read as follows:

Section 1090.3.

BUSINESS COMBINATIONS WITH INTERESTED SHAREHOLDERS

A. Notwithstanding any other provisions of this title, a corporation shall not engage in any business combination with any interested shareholder for a period of three (3) years following the time that the person became an interested shareholder, unless:

1. Prior to that time, the board of directors of the corporation approved either the business combination or the transaction which resulted in the person becoming an interested shareholder;

2. Upon consummation of the transaction which resulted in the person becoming an interested shareholder, the interested shareholder owned at least eighty-five percent (85%) of the outstanding voting stock of the corporation at the time the transaction commenced, excluding for purposes of determining the outstanding voting stock, but not the outstanding voting stock owned by the interested shareholder, those shares owned by:

a. persons who are directors and also officers, and

b. employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or

3. At or subsequent to such time, the business combination is approved by the board of directors and authorized at an annual or special meeting of shareholders, and not by written consent, by the affirmative vote of at least two-thirds (2/3) of the outstanding voting stock which is not owned by the interested shareholder.

B. The restrictions contained in this section shall not apply if:

1. The corporation's original certificate of incorporation contains a provision expressly electing not to be governed by this section;

2. The corporation, by action of its board of directors, adopted an amendment to its bylaws by November 30, 1991, expressly electing not to be governed by this section, which amendment shall not be further amended by the board of directors;

3. a. The corporation, with the approval of its shareholders, adopts an amendment to its certificate of incorporation or bylaws expressly electing not to be governed by this section; provided that, in addition to any other vote required by law, an amendment to the certificate of incorporation or bylaws must be ~~approved~~ adopted by the

affirmative vote of a majority of the outstanding voting stock of the corporation.

b. ~~An amendment adopted pursuant to this paragraph shall be effective immediately in~~ In the case of a corporation that both:

(1) has never had a class of voting stock that falls within any of the ~~three~~ two categories set out in paragraph 4 of this subsection, and

(2) has not elected by a provision in its original certificate of incorporation or any amendment thereto to be governed by this section, such amendment shall become effective upon (i) in the case of an amendment to the certificate of incorporation, the date and time at which the certificate filed in accordance with Section 1007 of this title becomes effective, or (ii) in the case of an amendment to the bylaws, the date of the adoption of such amendment.

c. In all other cases, an amendment adopted pursuant to this paragraph shall ~~not be~~ become effective ~~until~~ (i) in the case of an amendment to the certificate of incorporation, twelve (12) months after the ~~adoption of the amendment and~~ date and time at which the certificate filed in accordance with Section 1007 of

this title becomes effective, or (ii) in the case of an amendment to the bylaws, twelve (12) months after the date of the adoption of such amendment, and in either case, the election not to be governed by this section shall not apply to any business combination between a corporation and any person who became an interested shareholder of the corporation on or ~~prior to the adoption~~ before (i) in the case of an amendment to the certificate of incorporation, the date and time at which the certificate filed in accordance with Section 1007 of this title becomes effective, or (ii) in the case of an amendment to the bylaws, the date of the adoption of such amendment. A bylaw amendment adopted pursuant to this paragraph shall not be further amended by the board of directors;

4. The corporation does not have a class of voting stock that is:

a. listed on a national securities exchange, or

b. held of record by one thousand or more shareholders, unless any of the foregoing results from action taken, directly or indirectly, by an interested shareholder or from a transaction in which a person becomes an interested shareholder;

5. A person becomes an interested shareholder inadvertently and:

a. as soon as practicable divests itself of ownership of sufficient shares so that the person ceases to be an interested shareholder, and

b. would not, at any time within the three-year period immediately prior to a business combination between the corporation and the person, have been an interested shareholder but for the inadvertent acquisition;

6. a. The business combination is proposed prior to the consummation or abandonment of, and subsequent to the earlier of the public announcement or the notice required hereunder of, a proposed transaction which:

(1) constitutes one of the transactions described in subparagraph b of this paragraph,

(2) is with or by a person who:

(a) was not an interested shareholder during the previous three (3) years, or

(b) became an interested shareholder with the approval of the corporation's board of directors or during the period described in paragraph 7 of this subsection, and

(3) is approved or not opposed by a majority of the members of the board of directors then in office, but not less than one, who were directors prior to any person becoming an interested shareholder during the previous three (3) years or were recommended for election or elected to succeed the directors by a majority of the directors.

b. The proposed transactions referred to in subparagraph a of this paragraph are limited to:

(1) a share acquisition pursuant to Section 1090.1 of this title, or a merger or consolidation of the corporation, except for a merger in respect of which, pursuant to subsection F or G of Section 1081 of this title, no vote of the shareholders of the corporation is required,

(2) a sale, lease, exchange, mortgage, pledge, transfer, or other disposition, in one transaction or a series of transactions, whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary of the corporation, other than to any direct or indirect wholly owned subsidiary or to the corporation, having an aggregate market value equal to fifty percent

(50%) or more of either the aggregate market value of all of the assets of the corporation determined on a consolidated basis or the aggregate market value of all the outstanding stock of the corporation, or

(3) a proposed tender or exchange offer for outstanding stock of the corporation which represents fifty percent (50%) or more of the outstanding voting stock of the corporation. The corporation shall give not less than twenty (20) days' notice to all interested shareholders prior to the consummation of any of the transactions described in divisions (1) or (2) of this subparagraph; or

7. The business combination is with an interested shareholder who became an interested shareholder at a time when the restriction contained in this section did not apply by reason of any of paragraphs 1 through 4 of this subsection; provided, however, that this paragraph shall not apply if, at the time the interested shareholder became an interested shareholder, the corporation's certificate of incorporation contained a provision authorized by subsection C of this section.

C. Notwithstanding paragraphs 1, 2, 3 and 4 of subsection B of this section, a corporation may elect by a provision of its original

certificate of incorporation or any amendment thereto to be governed by this section; provided, that any amendment to the certificate of incorporation shall not apply to restrict a business combination between the corporation and an interested shareholder of the corporation if the interested shareholder became an interested shareholder ~~prior to the effective date of the amendment~~ before the date and time at which the certificate filed in accordance with Section 1007 of this title becomes effective.

D. As used in this section:

1. "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another person;

2. "Associate", when used to indicate a relationship with any person, means:

a. any corporation, partnership, unincorporated association, or other entity of which the person is a director, officer, or partner or is the owner of twenty percent (20%) or more of any class of voting stock,

b. any trust or other estate in which the person has at least a twenty-percent beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and

c. any relative or spouse of the person, or any relative of the spouse, who has the same residence as the person;

3. "Business combination", when used in reference to any corporation and any interested shareholder of the corporation, means:

a. any merger or consolidation of the corporation or any direct or indirect majority-owned subsidiary of the corporation with:

(1) the interested shareholder, or

(2) any other corporation, partnership, unincorporated association, or other entity if the merger or consolidation is caused by the interested shareholder and, as a result of the merger or consolidation subsection A of this section is not applicable to the surviving entity,

b. any sale, lease, exchange, mortgage, pledge, transfer, or other disposition, in one transaction or a series of transactions, except proportionately as a shareholder of the corporation, to or with the interested shareholder, whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary

of the corporation which assets have an aggregate market value equal to ten percent (10%) or more of either the aggregate market value of all the assets of the corporation determined on a consolidated basis or the aggregate market value of all the outstanding stock of the corporation,

c. any transaction which results in the issuance or transfer by the corporation or by any direct or indirect majority-owned subsidiary of the corporation of any stock of the corporation or of the subsidiary to the interested shareholder, except:

(1) pursuant to the exercise, exchange, or conversion of securities exercisable for, exchangeable for, or convertible into stock of the corporation or any subsidiary which securities were outstanding prior to the time that the interested shareholder became an interested shareholder,

(2) pursuant to a merger under subsection G of Section 1081 of this title,

(3) pursuant to a dividend or distribution paid or made, or the exercise, exchange, or conversion of securities exercisable for, exchangeable for, or convertible into stock of the corporation or any subsidiary which security is distributed, pro

rata, to all holders of a class or series of stock of the corporation subsequent to the time the interested shareholder became an interested shareholder,

(4) pursuant to an exchange offer by the corporation to purchase stock made on the same terms to all holders of the stock, or

(5) any issuance or transfer of stock by the corporation; provided, however, that in no case under divisions (3) through (5) of this subparagraph shall there be an increase in the interested shareholder's proportionate share of the stock of any class or series of the corporation or of the voting stock of the corporation,

d. any transaction involving the corporation or any direct or indirect majority-owned subsidiary of the corporation which has the effect, directly or indirectly, of increasing the proportionate share of the stock of any class or series, or securities convertible into the stock of any class or series, or the outstanding voting stock, of the corporation or of any subsidiary which is owned by the interested shareholder, except as a result of immaterial changes

due to fractional share adjustments or as a result of any purchase or redemption of any shares of stock not caused, directly or indirectly, by the interested shareholder,

e. any receipt by the interested shareholder of the benefit, directly or indirectly, except proportionately as a shareholder of the corporation, of any loans, advances, guarantees, pledges, or other financial benefits, other than those expressly permitted in subparagraphs a through d of this paragraph, provided by or through the corporation or any direct or indirect majority-owned subsidiary, or

f. any share acquisition by the interested shareholder from the corporation or any direct or indirect majority-owned subsidiary of the corporation pursuant to Section 1090.1 of this title;

4. "Control"~~,~~ including the terms "controlling", "controlled by" and "under common control with", means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting stock, by contract, or otherwise. A person who is the owner of twenty percent (20%) or more of the outstanding voting stock of any corporation, partnership, unincorporated association or other entity shall be presumed to have control of the entity, in the

absence of proof by a preponderance of the evidence to the contrary. Notwithstanding the foregoing, a presumption of control shall not apply where the person holds stock, in good faith and not for the purpose of circumventing this section, as an agent, bank, broker, nominee, custodian, or trustee for one or more owners who do not individually or as a group have control of the entity;

5. a. "Interested shareholder" means:

(1) any person, other than the corporation and any direct or indirect majority-owned subsidiary of the corporation, that:

(a) is the owner of fifteen percent (15%) or more of the outstanding voting stock of the corporation, or

(b) is an affiliate or associate of the corporation and was the owner of fifteen percent (15%) or more of the outstanding voting stock of the corporation at any time within the three-year period immediately prior to the date on which it is sought to be determined whether the person is an interested shareholder, and

(2) the affiliates and associates of the person.

b. "Interested shareholder" shall not mean:

(1) any person who:

(a) owned shares in excess of the fifteen percent (15%) limitation set forth herein as of, or acquired such shares pursuant to a tender offer commenced prior to, September 1, 1991, or pursuant to an exchange offer announced prior to September 1, 1991, and commenced within ninety (90) days thereafter and either:

i. continued to own shares in excess of the fifteen percent (15%) limitation or would have but for action by the corporation, or

ii. is an affiliate or associate of the corporation and so continued, or so would have continued but for action by the corporation, to be the owner of fifteen percent (15%) or more of the outstanding voting stock of the corporation at any time within the three-year period immediately prior to the date on which it is sought to be determined whether the person is an interested shareholder, or

(b) acquired the shares from a person described in subdivision (a) of this division by gift, inheritance, or in a transaction in which no consideration was exchanged, or

(2) any person whose ownership of shares in excess of the fifteen percent (15%) limitation set forth herein is the result of action taken solely by the corporation; provided, that the person shall be an interested shareholder if thereafter the person acquires additional shares of voting stock of the corporation, except as a result of further corporate action not caused, directly or indirectly, by the person.

c. For the purpose of determining whether a person is an interested shareholder, the stock of the corporation deemed to be outstanding shall include stock deemed to be owned by the person through application of paragraph 9 of this subsection, but shall not include any other unissued stock of the corporation which may be issuable pursuant to any agreement, arrangement, or understanding, or upon exercise of conversion rights, warrants, or options, or otherwise;

6. "Person" means any individual, corporation, partnership, unincorporated association, any other entity, any group and any member of a group;

7. "Stock" means, with respect to any corporation, capital stock and, with respect to any other entity, any equity interest;

8. "Voting stock" means, with respect to any corporation, stock of any class or series entitled to vote generally in the election of directors and, with respect to any entity that is not a corporation, any equity interest entitled to vote generally in the election of the governing body of the entity. Every reference to a percentage of voting stock refers to the percentage of the votes of the voting stock; and

9. "Owner"~~,~~ including the terms "own" and "owned", when used with respect to any stock, means a person who individually or with or through any of its affiliates or associates:

a. beneficially owns the stock, directly or indirectly, or

b. has:

(1) the right to acquire the stock, whether the right is exercisable immediately or only after the passage of time, pursuant to any agreement, arrangement, or understanding, or upon the exercise of conversion rights, exchange rights, warrants, or options, or otherwise; provided,

however, that a person shall not be deemed the owner of stock tendered pursuant to a tender or exchange offer made by the person or any of the person's affiliates or associates until the tendered stock is accepted for purchase or exchange, or

(2) the right to vote the stock pursuant to any agreement, arrangement~~,~~ or understanding; provided, however, that a person shall not be deemed the owner of any stock because of the person's right to vote the stock if the agreement, arrangement~~,~~ or understanding to vote the stock arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made to ten or more persons, or

c. has any agreement, arrangement~~,~~ or understanding for the purpose of acquiring, holding~~,~~ or voting, except voting pursuant to a revocable proxy or consent as described in division (2) of subparagraph b of this paragraph, or disposing of the stock with any other person that beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, the stock.

E. No provisions of a certificate of incorporation or bylaw shall require, for any vote of shareholders required by this section, a greater vote of shareholders than that specified in this section.

SECTION 15. AMENDATORY 18 O.S. 2011, Section 1090.4, as amended by Section 23, Chapter 88, O.S.L. 2019 (18 O.S. Supp. 2020, Section 1090.4), is amended to read as follows:

Section 1090.4.

CONVERSION OF AN ENTITY TO A DOMESTIC CORPORATION

A. As used in this section, the term "entity" means a domestic or foreign partnership, whether general or limited~~,~~ and including a limited liability partnership and a limited liability limited partnership, a foreign corporation including a public benefit corporation, a domestic or foreign limited liability company~~,~~ including a public benefit limited liability company, and any unincorporated nonprofit or for-profit association, trust or enterprise having members or having outstanding shares of stock or other evidences of financial, beneficial or membership interest therein, whether formed by agreement or under statutory authority or otherwise and whether formed or organized under the laws of this state or the laws of any other jurisdiction.

B. Any entity may convert to a domestic corporation by complying with subsection G of this section and filing in the office of the Secretary of State a certificate of conversion that has been

executed in accordance with subsection H of this section and filed in accordance with Section 1007 of this title, to which shall be attached, a certificate of incorporation that has been prepared, executed and acknowledged in accordance with Section 1007 of this title. Each of the certificates required by this subsection shall be filed simultaneously in the office of the Secretary of State.

C. The certificate of conversion to a corporation shall state:

1. The date on which the entity was first formed;

2. The name, jurisdiction of formation or organization, and type of entity of the entity when formed and, if changed, its name, jurisdiction and type of entity immediately before the filing of the certificate of conversion;

3. The name of the corporation as set forth in its certificate of incorporation filed in accordance with subsection B of this section; and

4. The future effective date or time, which shall be a date or time certain not later than ninety (90) days after the filing, of the conversion to a corporation if the conversion is not to be effective upon the filing of the certificate of conversion and the certificate of incorporation provides for the same future effective date as authorized in subsection D of Section 1007 of this title.

D. Upon the effective date or time of the certificate of conversion and the certificate of incorporation, the entity shall be converted to a domestic corporation and the corporation shall

thereafter be subject to all of the provisions of this title, except that notwithstanding Section 1007 of this title, the existence of the corporation shall be deemed to have commenced on the date the entity commenced its existence.

E. The conversion of any entity to a domestic corporation shall not be deemed to affect any obligations or liabilities of the entity incurred before its conversion to a domestic corporation or the personal liability of any person incurred before such conversion.

F. When an entity has converted to a domestic corporation under this section, the domestic corporation shall be deemed to be the same entity as the converting entity. All of the rights, privileges and powers of the entity that has converted, and all property, real, personal and mixed, and all debts due to the entity, as well as all other things and causes of action belonging to the entity, shall remain vested in the domestic corporation to which the entity has converted and shall be the property of the domestic corporation and the title to any real property vested by deed or otherwise in the entity shall not revert or be in any way impaired by reason of the conversion; but all rights of creditors and all liens upon any property of the entity shall be preserved unimpaired, and all debts, liabilities and duties of the entity that has converted shall remain attached to the domestic corporation to which the entity has converted, and may be enforced against it to the same extent as if ~~said~~ the debts, liabilities and duties had originally been incurred

or contracted by it in its capacity as a domestic corporation. The rights, privileges, powers and interests in property of the entity, as well as the debts, liabilities and duties of the entity, shall not be deemed, as a consequence of the conversion, to have been transferred to the domestic corporation to which the entity has converted for any purpose of the laws of this state.

G. Unless otherwise agreed or otherwise provided by any laws of this state applicable to the converting entity, the converting entity shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not be deemed to constitute a dissolution of such entity and shall constitute a continuation of the existence of the converting entity in the form of a domestic corporation.

H. Before filing a certificate of conversion with the Secretary of State, the conversion shall be approved in the manner provided for by the document, instrument, agreement or other writing, as the case may be, governing the internal affairs of the entity and the conduct of its business or by applicable law, as appropriate, and a certificate of incorporation shall be approved by the same authorization required to approve the conversion.

I. The certificate of conversion to a corporation shall be signed by an officer, director, trustee, manager, partner, or other person performing functions equivalent to those of an officer or director of a domestic corporation, however named or described, and

who is authorized to sign the certificate of conversion on behalf of the entity.

J. In a conversion of an entity to a domestic corporation under this section, rights or securities of, or memberships or membership, economic or ownership interests in, the entity which is to be converted to a domestic corporation may be exchanged for or converted into cash, property~~,~~ or shares of stock, rights or securities of the domestic corporation or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property~~,~~ or shares of stock, rights or securities of or interests in another domestic corporation or entity or may be canceled.

SECTION 16. AMENDATORY 18 O.S. 2011, Section 1090.5, as amended by Section 24, Chapter 88, O.S.L. 2019 (18 O.S. Supp. 2020, Section 1090.5), is amended to read as follows:

Section 1090.5.

CONVERSION OF DOMESTIC CORPORATION TO AN ENTITY

A. A domestic corporation may, upon the authorization of such conversion in accordance with this section, convert to an entity. As used in this section, the term "entity" means a domestic or foreign partnership, whether general or limited, and including a limited liability partnership and a limited liability limited partnership, a foreign corporation including a public benefit corporation, a domestic or foreign limited liability company~~,~~ including a public benefit limited liability company, and any

unincorporated nonprofit or for-profit association, trust or enterprise having members or having outstanding shares of stock or other evidences of financial, beneficial or membership interest therein, whether formed by agreement or under statutory authority or otherwise and whether formed or organized under the laws of this state or the laws of any other jurisdiction.

B. The board of directors of the corporation which desires to convert under this section shall adopt a resolution approving such conversion, specifying the type of entity into which the corporation shall be converted and recommending the approval of the conversion by the shareholders of the corporation. The resolution shall be submitted to the shareholders of the corporation at an annual or special meeting. Due notice of the time, and purpose of the meeting shall be mailed to each holder of shares, whether voting or nonvoting, of the corporation at the address of the shareholder as it appears on the records of the corporation, at least twenty (20) days prior to the date of the meeting. At the meeting, the resolution shall be considered and a vote taken for its adoption or rejection. The corporation adopts the conversion if all outstanding shares of stock of the corporation, whether voting or nonvoting, are voted for the resolution.

C. If the governing act of the domestic entity to which the corporation is converting does not provide for the filing of a conversion notice with the Secretary of State or the corporation is

converting to a foreign entity, the corporation shall file with the Secretary of State a certificate of conversion executed in accordance with Section 1007 of this title which certifies:

1. The name of the corporation and, if it has been changed, the name under which it was originally incorporated;

2. The date of filing of its original certificate of incorporation with the Secretary of State;

3. The name of the entity to which the corporation shall be converted, its jurisdiction of formation if a foreign entity, and the type of entity;

4. That the conversion has been approved in accordance with the provisions of this section;

5. The future effective date or time of the conversion to an entity, which shall be a date or time certain not later than ninety (90) days after the filing, if it is not to be effective upon the filing of the certificate of conversion;

6. The agreement of the foreign entity that it may be served with process in this state in any action, suit or proceeding for enforcement of any obligation of the foreign entity arising while it was a domestic corporation and that it irrevocably appoints the Secretary of State as its agent to accept service of process in any such action, suit or proceeding;

7. The address to which a copy of the process referred to in this subsection shall be mailed by the Secretary of State. In the

event of such service upon the Secretary of State in accordance with the provisions of Section 2004 of Title 12 of the Oklahoma Statutes, the Secretary of State shall immediately notify such corporation that has converted out of the State of Oklahoma by letter, certified mail, return receipt requested, directed to the corporation at the address specified unless the corporation shall have designated in writing to the Secretary of State a different address for this purpose, in which case it shall be mailed to the last address so designated. The notice shall include a copy of the process and any other papers served on the Secretary of State pursuant to the provisions of this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being effected pursuant to the provisions of this subsection, and to pay the Secretary of State the fee provided for in paragraph 7 of Section 1142 of this title, which fee shall be taxed as part of the costs in the proceeding. The Secretary of State shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and the defendant, the title, docket number, and nature of the proceeding in which process has been served upon the Secretary of State, the fact that service has been effected pursuant to the provisions of this subsection, the return date thereof, and the date service was made. The Secretary of State shall not be required to retain such information longer

than five (5) years from receipt of the service of process by the Secretary of State; and

8. If the entity to which the corporation is converting was required to make a filing with the Secretary of State as a condition of its formation, the type and date of such filing.

D. Upon the filing of a conversion notice with the Secretary of State, whether under subsection C of this section or under the governing act of the domestic entity to which the corporation is converting, the filing of any formation document required by the governing act of the domestic entity to which the corporation is converting, and payment to the Secretary of State of all prescribed fees, the Secretary of State shall certify that the corporation has filed all documents and paid all required fees, and thereupon the corporation shall cease to exist as a domestic corporation at the time the certificate of conversion becomes effective in accordance with Section 1007 of this title. The certificate of the Secretary of State shall be prima facie evidence of the conversion by the corporation.

E. The conversion of a corporation under this section and the resulting cessation of its existence as a domestic corporation shall not be deemed to affect any obligations or liabilities of the corporation incurred before such conversion or the personal liability of any person incurred before the conversion, nor shall it

be deemed to affect the choice of law applicable to the corporation with respect to matters arising before the conversion.

F. Unless otherwise provided in a resolution of conversion adopted in accordance with this section, the converting corporation shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not constitute a dissolution of such corporation.

G. In a conversion of a domestic corporation to an entity under this section, shares of stock of the converting domestic corporation may be exchanged for or converted into cash, property, rights or securities of, or memberships or membership, economic or ownership interests in, the entity to which the domestic corporation is being converted or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, shares of stock, rights or securities of, or interests in, another corporation or entity or may be canceled.

H. When a corporation has converted to an entity under this section, the entity shall be deemed to be the same entity as the corporation. All of the rights, privileges and powers of the corporation that has converted, and all property, real, personal and mixed, and all debts due to the corporation, as well as all other things and causes of action belonging to the corporation, shall remain vested in the entity to which the corporation has converted and shall be the property of the entity, and the title to any real

property vested by deed or otherwise in the corporation shall not revert or be in any way impaired by reason of the conversion; but all rights of creditors and all liens upon any property of the corporation shall be preserved unimpaired, and all debts, liabilities and duties of the corporation that has converted shall remain attached to the entity to which the corporation has converted, and may be enforced against it to the same extent as if ~~said~~ the debts, liabilities and duties had originally been incurred or contracted by it in its capacity as the entity. The rights, privileges, powers and interest in property of the corporation that has converted, as well as the debts, liabilities and duties of the corporation, shall not be deemed, as a consequence of the conversion, to have been transferred to the entity to which the corporation has converted for any purpose of the laws of this state.

I. No vote of shareholders of a corporation shall be necessary to authorize a conversion if no shares of the stock of the corporation shall have been issued before the adoption by the board of directors of the resolution approving the conversion.

J. Nothing in this section shall be deemed to authorize the conversion of a charitable nonstock corporation into another entity, if the charitable status of such charitable nonstock corporation would thereby be lost or impaired.

SECTION 17. AMENDATORY 18 O.S. 2011, Section 1091, as amended by Section 26, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Section 1091), is amended to read as follows:

Section 1091.

APPRAISAL RIGHTS

A. Any shareholder of a corporation of this state who holds shares of stock on the date of the making of a demand pursuant to the provisions of subsection D of this section with respect to the shares, who continuously holds the shares through the effective date of the merger or consolidation, who has otherwise complied with the provisions of subsection D of this section and who has neither voted in favor of the merger or consolidation nor consented thereto in writing pursuant to the provisions of Section 1073 of this title shall be entitled to an appraisal by the district court of the fair value of the shares of stock under the circumstances described in subsections B and C of this section. As used in this section, the word "shareholder" means a holder of record of stock in a stock corporation; the words "stock" and "share" mean and include what is ordinarily meant by those words; and "depository receipt" means an instrument issued by a depository representing an interest in one or more shares, or fractions thereof, solely of stock of a corporation, which stock is deposited with the depository.

B. 1. Except as otherwise provided for in this subsection, appraisal rights shall be available for the shares of any class or

series of stock of a constituent corporation in a merger or consolidation, or of the acquired corporation in a share acquisition, to be effected pursuant to the provisions of Section 1081 of this title, other than a merger effected pursuant to subsection G of Section 1081 of this title, or~~, subject to paragraph 3 of this subsection, subsection H of Section 1081, and~~ the provisions of Section 1082, 1084, 1085, 1086, 1087, 1090.1 or 1090.2 of this title.

2. a. No appraisal rights under this section shall be available for the shares of any class or series of stock which stock, or depository receipts in respect thereof, at the record date fixed to determine the shareholders entitled to receive notice of the meeting of shareholders to act upon the agreement of merger or consolidation, or, the case of a merger pursuant to subsection H of Section 1081 of this title, as of immediately before the execution of the agreement of merger, were either:

(1) listed on a national securities exchange; or

(2) held of record by more than two thousand holders.

~~No appraisal rights shall be available for any shares of stock of the constituent corporation surviving a merger if the merger did not require for its approval the vote of the shareholders of the~~

~~surviving corporation as provided in subsection C of Section 1081 of this title.~~

b. ~~in~~ In addition, no appraisal rights shall be available for any shares of stock, or depository receipts in respect thereof, of the constituent corporation surviving a merger if the merger did not require for its approval the vote of the shareholders of the surviving corporation as provided for in subsection F of Section 1081 of this title.

3. Notwithstanding the provisions of paragraph 2 of this subsection, appraisal rights provided for in this section shall be available for the shares of any class or series of stock of a constituent corporation if the holders thereof are required by the terms of an agreement of merger or consolidation pursuant to the provisions of Section 1081, 1082, 1084, 1085, 1086, 1087, 1090.1 or 1090.2 of this title to accept for the stock anything except:

a. shares of stock of the corporation surviving or resulting from the merger or consolidation or depository receipts thereof, or

b. shares of stock of any other corporation, or depository receipts in respect thereof, which shares of stock or depository receipts at the effective date of the merger or consolidation will be either listed

on a national securities exchange or held of record by more than two thousand holders, or

c. cash in lieu of fractional shares or fractional depository receipts described in subparagraphs a and b of this paragraph, or

d. any combination of the shares of stock, depository receipts, and cash in lieu of the fractional shares or depository receipts described in subparagraphs a, b, and c of this paragraph.

4. In the event all of the stock of a subsidiary Oklahoma corporation party to a merger effected pursuant to the provisions of ~~subsection H of Section 1081 or~~ Section 1083 or 1083.1 of this title is not owned by the parent corporation immediately prior to the merger, appraisal rights shall be available for the shares of the subsidiary Oklahoma corporation.

C. Any corporation may provide in its certificate of incorporation that appraisal rights under this section shall be available for the shares of any class or series of its stock as a result of an amendment to its certificate of incorporation, any merger or consolidation in which the corporation is a constituent corporation or the sale of all or substantially all of the assets of the corporation. If the certificate of incorporation contains such a provision, the procedures of this section, including those set

forth in subsections D and E of this section, shall apply as nearly as is practicable.

D. Appraisal rights shall be perfected as follows:

1. If a proposed merger or consolidation for which appraisal rights are provided under this section is to be submitted for approval at a meeting of shareholders, the corporation, not less than twenty (20) days prior to the meeting, shall notify each of its shareholders who was such on the record date for notice of such meeting, or such members who received notice in accordance with subsection C of Section 1081 of this title, with respect to shares for which appraisal rights are available pursuant to subsection B or C of this section that appraisal rights are available for any or all of the shares of the constituent corporations, and shall include in the notice a copy of this section and, if one of the constituent corporations is a nonstock corporation, a copy of Section 1004.1 of this title. Each shareholder electing to demand the appraisal of the shares of the shareholder shall deliver to the corporation, before the taking of the vote on the merger or consolidation, a written demand for appraisal of the shares of the shareholder. The demand will be sufficient if it reasonably informs the corporation of the identity of the shareholder and that the shareholder intends thereby to demand the appraisal of the shares of the shareholder. A proxy or vote against the merger or consolidation shall not constitute such a demand. A shareholder electing to take such

action must do so by a separate written demand as herein provided. Within ten (10) days after the effective date of the merger or consolidation, the surviving or resulting corporation shall notify each shareholder of each constituent corporation who has complied with the provisions of this subsection and has not voted in favor of or consented to the merger or consolidation as of the date that the merger or consolidation has become effective; or

2. If the merger or consolidation is approved pursuant to the provisions of Section 1073, subsection H of Section 1081, Section 1083 or Section 1083.1 of this title, either a constituent corporation before the effective date of the merger or consolidation or the surviving or resulting corporation within ten (10) days thereafter shall notify each of the holders of any class or series of stock of the constituent corporation who are entitled to appraisal rights of the approval of the merger or consolidation and that appraisal rights are available for any or all shares of such class or series of stock of the constituent corporation, and shall include in the notice a copy of this section and, if one of the constituent corporations is a nonstock corporation, a copy of Section 1004.1 of this title. The notice may, and, if given on or after the effective date of the merger or consolidation, shall, also notify the shareholders of the effective date of the merger or consolidation. Any shareholder entitled to appraisal rights may, within twenty (20) days after the date of mailing of the notice or,

in the case of a merger approved pursuant to subsection H of Section 1081 of this title, within the later of the consummation of an offer contemplated by subsection H of Section 1081 of this title and twenty (20) days after the date of mailing of such notice, demand in writing from the surviving or resulting corporation the appraisal of the holder's shares. The demand will be sufficient if it reasonably informs the corporation of the identity of the shareholder and that the shareholder intends to demand the appraisal of the holder's shares. If the notice does not notify shareholders of the effective date of the merger or consolidation either:

a. each constituent corporation shall send a second notice before the effective date of the merger or consolidation notifying each of the holders of any class or series of stock of the constituent corporation that are entitled to appraisal rights of the effective date of the merger or consolidation, or

b. the surviving or resulting corporation shall send a second notice to all holders on or within ten (10) days after the effective date of the merger or consolidation; provided, however, that if the second notice is sent more than twenty (20) days following the mailing of the first notice or, in the case of a merger approved pursuant to subsection H of Section 1081 of this title, later than the later of the

consummation of the offer contemplated by subsection H of Section 1081 of this title and twenty (20) days following the sending of the first notice, the second notice need only be sent to each shareholder who is entitled to appraisal rights and who has demanded appraisal of the holder's shares in accordance with this subsection. An affidavit of the secretary or assistant secretary or of the transfer agent of the corporation that is required to give either notice that the notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein. For purposes of determining the shareholders entitled to receive either notice, each constituent corporation may fix, in advance, a record date that shall be not more than ten (10) days prior to the date the notice is given; provided, if the notice is given on or after the effective date of the merger or consolidation, the record date shall be the effective date. If no record date is fixed and the notice is given prior to the effective date, the record date shall be the close of business on the day next preceding the day on which the notice is given.

E. Within one hundred twenty (120) days after the effective date of the merger or consolidation, the surviving or resulting

corporation or any shareholder who has complied with the provisions of subsections A and D of this section and who is otherwise entitled to appraisal rights, may file a petition in district court demanding a determination of the value of the stock of all such shareholders. Notwithstanding the foregoing, at any time within sixty (60) days after the effective date of the merger or consolidation, any shareholder who has not commenced an appraisal proceeding or joined that proceeding as a named party shall have the right to withdraw the demand of the shareholder for appraisal and to accept the terms offered upon the merger or consolidation. Within one hundred twenty (120) days after the effective date of the merger or consolidation, any shareholder who has complied with the requirements of subsections A and D of this section, upon written request, shall be entitled to receive from the corporation surviving the merger or resulting from the consolidation a statement setting forth the aggregate number of shares not voted in favor of the merger or consolidation ~~and~~ or, in the case of a merger approved pursuant to subsection H of Section 1081 of this title, the aggregate number of shares, other than any excluded stock as defined in subparagraph d of paragraph 6 of subsection H of Section 1081 of this title, that were the subject of, and were not tendered into, and accepted for purchase or exchange in, the offer referred to in paragraph 2 of subsection H of Section 1081 of this title and, in either case, with respect to which demands for appraisal have been received and the

aggregate number of holders of the shares. The written statement shall be mailed to the shareholder within ten (10) days after the shareholder's written request for a statement is received by the surviving or resulting corporation or within ten (10) days after expiration of the period for delivery of demands for appraisal pursuant to the provisions of subsection D of this section, whichever is later. Notwithstanding subsection A of this section, a person who is the beneficial owner of shares of such stock held either in a voting trust or by a nominee on behalf of such person may, in such person's own name, file a petition or request from the corporation the statement described in this section.

F. Upon the filing of any such petition by a shareholder, service of a copy thereof shall be made upon the surviving or resulting corporation, which, within twenty (20) days after service, shall file, in the office of the court clerk of the district court in which the petition was filed, a duly verified list containing the names and addresses of all shareholders who have demanded payment for their shares and with whom agreements regarding the value of their shares have not been reached by the surviving or resulting corporation. If the petition shall be filed by the surviving or resulting corporation, the petition shall be accompanied by such duly verified list. The court clerk, if so ordered by the court, shall give notice of the time and place fixed for the hearing on the petition by registered or certified mail to the surviving or

resulting corporation and to the shareholders shown on the list at the addresses therein stated. Notice shall also be given by one or more publications at least one (1) week before the day of the hearing, in a newspaper of general circulation published in the City of Oklahoma City, Oklahoma, or other publication as the court deems advisable. The forms of the notices by mail and by publication shall be approved by the court, and the costs thereof shall be borne by the surviving or resulting corporation.

G. At the hearing on the petition, the court shall determine the shareholders who have complied with the provisions of this section and who have become entitled to appraisal rights. The court may require the shareholders who have demanded an appraisal of their shares and who hold stock represented by certificates to submit their certificates of stock to the court clerk for notation thereon of the pendency of the appraisal proceedings; and if any shareholder fails to comply with this direction, the court may dismiss the proceedings as to that shareholder. If immediately before the merger or consolidation the shares of the class or series of stock of the constituent corporation as to which appraisal rights are available were listed on a national securities exchange, the court shall dismiss the proceedings as to all holders of such shares who are otherwise entitled to appraisal rights unless (1) the total number of shares entitled to appraisal exceeds one percent (1%) of the outstanding shares of the class or series eligible for

appraisal, (2) the value of the consideration provided in the merger or consolidation for such total number of shares exceeds One Million Dollars ($1,000,000.00), or (3) the merger was approved pursuant to Section 1083 or Section 1083.1 of this title.

H. After determining the shareholders entitled to an appraisal, the court shall appraise the shares, determining their fair value exclusive of any element of value arising from the accomplishment or expectation of the merger or consolidation, together with interest, if any, to be paid upon the amount determined to be the fair value. In determining the fair value, the court shall take into account all relevant factors. In determining the fair rate of interest, the court may consider all relevant factors. Unless the court in its discretion determines otherwise for good cause shown, and except as provided in this subsection, interest from the effective date of the merger through the date of payment of the judgment shall be compounded quarterly and shall accrue at five percent (5%) over the Federal Reserve discount rate~~,~~ including any surcharge, as established from time to time during the period between the effective date of the merger and the date of payment of judgment. At any time before the entry of judgment in the proceedings, the surviving corporation may pay to each shareholder entitled to appraisal an amount in cash, in which case interest shall accrue thereafter as provided herein only upon the sum of (1) the difference, if any, between the amount so paid and the fair value of

the shares as determined by the court, and (2) interest theretofore accrued, unless paid at that time. Upon application by the surviving or resulting corporation or by any shareholder entitled to participate in the appraisal proceeding, the court may, in its discretion, proceed to trial upon the appraisal prior to the final determination of the shareholder entitled to an appraisal. Any shareholder whose name appears on the list filed by the surviving or resulting corporation pursuant to the provisions of subsection F of this section and who has submitted the certificates of stock of the shareholder to the court clerk, if required, may participate fully in all proceedings until it is finally determined that the shareholder is not entitled to appraisal rights pursuant to the provisions of this section.

I. The court shall direct the payment of the fair value of the shares, together with interest, if any, by the surviving or resulting corporation to the shareholders entitled thereto. Payment shall be made to each shareholder, in the case of holders of uncertificated stock immediately, and in the case of holders of shares represented by certificates upon the surrender to the corporation of the certificates representing the stock. The court's decree may be enforced as other decrees in the district court may be enforced, whether the surviving or resulting corporation be a corporation of this state or of any other state.

J. The costs of the proceeding may be determined by the court and taxed upon the parties as the court deems equitable in the circumstances. Upon application of a shareholder, the court may order all or a portion of the expenses incurred by any shareholder in connection with the appraisal proceeding~~,~~ including, without limitation, reasonable attorney's fees and the fees and expenses of experts, to be charged pro rata against the value of all of the shares entitled to an appraisal.

K. From and after the effective date of the merger or consolidation, no shareholder who has demanded appraisal rights as provided for in subsection D of this section shall be entitled to vote the stock for any purpose or to receive payment of dividends or other distributions on the stock, except dividends or other distributions payable to shareholders of record at a date which is prior to the effective date of the merger or consolidation; provided, however, that if no petition for an appraisal shall be filed within the time provided for in subsection E of this section, or if the shareholder shall deliver to the surviving or resulting corporation a written withdrawal of the shareholder's demand for an appraisal and an acceptance of the merger or consolidation, either within sixty (60) days after the effective date of the merger or consolidation as provided for in subsection E of this section or thereafter with the written approval of the corporation, then the right of the shareholder to an appraisal shall cease; provided

further, no appraisal proceeding in the district court shall be dismissed as to any shareholder without the approval of the court, and approval may be conditioned upon terms as the court deems just; provided, however, that this provision shall not affect the right of any shareholder who has not commenced an appraisal proceeding or joined that proceeding as a named party to withdraw such shareholder's demand for appraisal and to accept the terms offered upon the merger or consolidation within sixty (60) days after the effective date of the merger or consolidation, as set forth in subsection E of this section.

L. The shares of the surviving or resulting corporation into which the shares of any objecting shareholders would have been converted had they assented to the merger or consolidation shall have the status of authorized and unissued shares of the surviving or resulting corporation.

SECTION 18. AMENDATORY 18 O.S. 2011, Section 2001, as amended by Section 37, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Section 2001), is amended to read as follows:

Section 2001.

DEFINITIONS

As used in the Oklahoma Limited Liability Company Act, unless the context otherwise requires:

1. "Articles of organization" means documents filed for the purpose of forming a limited liability company, and the articles as amended;

2. "Bankrupt" means bankrupt under the United States Bankruptcy Code, as amended, or insolvent under any state insolvency act;

3. "Business" means any trade, occupation, profession or other activity regardless of whether engaged in for gain, profit or livelihood;

4. "Capital contribution" means anything of value that a person contributes to the limited liability company as a prerequisite for, or in connection with, membership~~,~~ including cash, property, services rendered~~,~~ or a promissory note or other binding obligation to contribute cash or property or to perform services;

5. "Capital interest" means the fair market value as of the date contributed of a member's capital contribution as adjusted for any additional capital contributions or withdrawals, a person's share of the profits and losses of a limited liability company and a person's right to receive distributions of the limited liability company's assets;

6. "Corporation" means a corporation ~~formed~~ organized under the laws of this state or ~~a foreign corporation as defined in this section~~ the laws of any jurisdiction other than this state;

7. "Court" includes every court and judge having jurisdiction in the case;

8. "Foreign corporation" means a corporation ~~formed~~ organized under the laws of any ~~state~~ jurisdiction other than this state~~, or under the laws of the District of Columbia or any foreign country~~;

9. "Foreign limited liability company" means:

a. an unincorporated association,

b. ~~organized~~ formed under the laws of ~~a state~~ any jurisdiction other than ~~the laws of~~ this state ~~or organized under the laws of any foreign country~~, and

c. ~~organized~~ formed under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity~~, and a limited liability company formed under the laws of any state other than this state, or under the laws of the District of Columbia or any foreign country~~;

10. "Foreign limited partnership" means a limited partnership formed under the laws of any ~~state~~ jurisdiction other than this state~~, or under the laws of the District of Columbia or any foreign country~~;

11. "Jurisdiction", when used to refer to a political entity, means the United States, a state, a tribal government, a foreign country or a political subdivision of a foreign country;

12. "Limited liability company" or "domestic limited liability company" means an entity formed under the Oklahoma Limited Liability Company Act and existing under the laws of this state;

~~12.~~ 13. "Limited partnership" means a limited partnership formed under the laws of this state or a foreign limited partnership as defined in this section;

~~13.~~ 14. "Manager" or "managers" means a person or persons designated by the members of a limited liability company to manage the limited liability company as provided in the articles of organization or an operating agreement;

~~14.~~ 15. "Member" means a person with an ownership interest in a limited liability company, with the rights and obligations specified under ~~this act~~ the Oklahoma Limited Liability Company Act;

~~15.~~ 16. "Membership interest" or "interest" means a member's rights in the limited liability company, collectively~~,~~ including the member's share of the profits and losses of the limited liability company, the right to receive distributions of the limited liability company's assets and capital interest, any right to vote or participate in management~~,~~ and such other rights accorded to members under the articles of organization, operating agreement~~,~~ or the Oklahoma Limited Liability Company Act;

~~16.~~ 17. "Operating agreement", regardless of whether referred to as an operating agreement and whether oral, in a record, implied~~,~~ or in any combination thereof, means any agreement of the members,

including a sole member, as to the affairs of a limited liability company and the conduct of its business~~,~~ including the agreement as amended or restated;

~~17.~~ 18. "Person" means an individual, a general partnership, a limited partnership, a limited liability company, a trust, an estate, an association, a corporation or any other legal or commercial entity;

~~18.~~ 19. "State" means a state, territory or possession of the United States, the District of Columbia~~,~~ or the Commonwealth of Puerto Rico; and

~~19.~~ 20. "Charitable entity" means any nonprofit limited liability company or other entity that is exempt from taxation under Section 501(c)(3) of the United States Internal Revenue Code (26 U.S.C., Section 501(c)(3)), or any successor provisions.

SECTION 19. AMENDATORY 18 O.S. 2011, Section 2010, is amended to read as follows:

Section 2010. A. Every domestic limited liability company shall continuously maintain in this state:

1. A registered office which may be, but need not be, the same as its principal place of business; and

2. A registered agent for service of process on the limited liability company that may be the domestic limited liability company itself, an individual resident of this state~~,~~ or a domestic or qualified foreign corporation, limited liability company~~,~~ or general

or limited partnership including a limited liability partnership or a limited liability limited partnership. Each registered agent shall maintain a business office identical with the registered office which is open during regular business hours to accept service of process and otherwise perform the functions of a registered agent.

B. 1. A limited liability company may designate or change its registered agent, registered office~~,~~ or principal office by filing with the Office of the Secretary of State a statement authorizing the designation or change and signed by any manager.

2. A limited liability company may change the street address of its registered office by filing with the Office of the Secretary of State a statement of the change signed by any manager.

3. A designation or change of a principal office or registered agent or street address of the registered office for a limited liability company under this subsection is effective when the Office of the Secretary of State files the statement, unless a later effective date or time, which shall be a specified date or time not later than a time on the ninetieth day after the filing, is provided in the statement.

C. 1. A registered agent who changes his or her street address in the state may notify the Office of the Secretary of State of the change by filing with the Office of the Secretary of State a

statement of the change signed by the agent or on the agent's behalf.

2. The statement shall include:

a. the name of the limited liability company for which the change is effective,

b. the new street address of the registered agent, and

c. the date on which the change is effective, if to be effective after the filing date.

3. If the new address of the registered agent is the same as the new address of the principal office of the limited liability company, the statement may include a change of address of the principal office if:

a. the registered agent notifies the limited liability company of the change in writing, and

b. the statement recites that the registered agent has done so.

4. The change of address of the registered agent or principal office is effective when the Office of the Secretary of State files the statement, unless a later effective date or time, which shall be a specified date or time not later than a time on the ninetieth day after the filing, is provided in the statement.

D. 1. A registered agent may resign by filing with the Office of the Secretary of State a copy of the resignation, signed and acknowledged by the registered agent, which contains a statement

that notice of the resignation was given to the limited liability company at least thirty (30) days before the filing of the resignation by mailing or delivering the notice to the limited liability company at its address last known to the registered agent and specifying the address therein.

2. The resignation is effective thirty (30) days after it is filed, unless a later effective date or time, which shall be a specified date or time not later than a time on the ninetieth day after the filing, is provided in the resignation.

3. If a domestic limited liability company fails to obtain and designate a new registered agent before the resignation is effective, the Secretary of State shall be deemed to be the registered agent of the limited liability company until a new registered agent is designated.

E. If a limited liability company has no registered agent or the registered agent cannot be found, then service of process on the limited liability company may be made by serving the Secretary of State as its agent as provided in Section 2004 of Title 12 of the Oklahoma Statutes.

SECTION 20. AMENDATORY 18 O.S. 2011, Section 2016, is amended to read as follows:

Section 2016.

MANAGERS – DUTIES – GOOD FAITH – LIABILITY

Subject to the provisions of Section 2017 of this title:

1. A manager shall discharge the duties as a manager in good faith, with the care an ordinary prudent person in a like position could exercise under similar circumstances, and in the manner the manager reasonably believes to be in the best interests of the limited liability company;

2. In discharging the duties, a manager may rely on information, opinions, reports or statements~~,~~ including financial statements and other financial data, if prepared or presented by:

a. one or more employees of the limited liability company whom the manager reasonably believes to be reliable and competent in the matters presented,

b. legal counsel, public accountants, or other persons as to matters the manager reasonably believes are within the person's professional or expert competence, or

c. a committee of managers of which the manager is not a member if the manager reasonably believes the committee merits confidence;

A manager is not acting in good faith if the manager has knowledge concerning the matter in question that makes reliance otherwise permitted by this paragraph unwarranted;

3. Unless otherwise provided in the operating agreement, a manager has the power and authority to delegate to one or more other persons any or all of the manager's rights ~~and~~, powers and duties to manage and control the business and affairs of the limited liability

company~~, including to delegate~~. Any delegation may be to the agents, officers and employees of a manager ~~to~~ of the limited liability company, and ~~to delegate~~ by a management agreement or another agreement with, or otherwise to, other persons. A delegation may be irrevocable if it states that it is irrevocable. The delegation by a manager shall not cause the manager to cease to be a manager of the limited liability company or cause the delegate to be a manager of the limited liability company. No other provision of the Oklahoma Limited Liability Company Act shall be construed to restrict a manager's power and authority to delegate any or all of the manager's rights, powers and duties to manage and control the business and affairs of the limited liability company;

4. A manager is not liable for any action taken as a manager, or any failure to take any action, if the manager performed the duties of the office in compliance with the business judgment rule as applied to directors and officers of a corporation; and

5. Except as otherwise provided in the articles of organization or operating agreement, every manager must account to the limited liability company and hold as trustee for it any profit or benefit derived by the manager without the informed consent of the members from any transaction connected with the conduct or winding up of the limited liability company or from any personal use by the manager of its property.

SECTION 21. AMENDATORY 18 O.S. 2011, Section 2054.1, as amended by Section 52, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Section 2054.1), is amended to read as follows:

Section 2054.1.

CONVERSION OF AN ENTITY TO A LIMITED LIABILITY COMPANY

A. As used in this section, the term " entity" means a foreign limited liability company, a domestic or foreign public benefit limited liability company, a domestic or foreign corporation, a domestic or foreign partnership whether general or limited, and including a limited liability partnership and a limited liability limited partnership, and any domestic or foreign unincorporated nonprofit or for-profit association, trust or enterprise having members or having outstanding shares of stock or other evidences of financial, beneficial or membership interest therein, whether formed by agreement or under statutory authority or otherwise.

B. Any entity may convert to a domestic limited liability company by complying with subsection H of this section and filing with the Secretary of State in accordance with Section 2007 of this title articles of conversion to a limited liability company that have been executed in accordance with Section 2006 of this title, to which shall be attached articles of organization that comply with Sections 2005 and 2008 of this title and have been executed by one or more authorized persons in accordance with Section 2006 of this title.

C. The articles of conversion to a limited liability company shall state:

1. The date on which the entity was first formed;

2. The name, jurisdiction of formation of the entity, and type of entity when formed and, if changed, its name, jurisdiction~~,~~ and type of entity immediately before filing of the articles of conversion to limited liability company;

3. The name of the limited liability company as set forth in its articles of organization filed in accordance with subsection B of this section; and

4. The future effective date or time of the conversion to a limited liability company, which shall be a date or time certain not later than ninety (90) days after the filing, if it is not to be effective upon the filing of the articles of conversion to a limited liability company and the articles of organization.

D. Upon the effective date or time of the articles of conversion to limited liability company and the articles of organization, the entity shall be converted to a domestic limited liability company and the limited liability company shall thereafter be subject to all of the provisions of the Oklahoma Limited Liability Company Act, except that notwithstanding Section 2004 of this title, the existence of the limited liability company shall be deemed to have commenced on the date the entity was formed.

E. The conversion of any entity into a domestic limited liability company shall not be deemed to affect any obligations or liabilities of the entity incurred before its conversion to a domestic limited liability company or the personal liability of any person incurred before the conversion.

F. When an entity has converted to a domestic limited liability company under this section, the domestic limited liability company shall be deemed to be the same entity as the converting entity. All of the rights, privileges and powers of the entity that has converted, and all property, real, personal and mixed, and all debts due to the entity, as well as all other things and causes of action belonging to the entity, shall remain vested in the domestic limited liability company and shall be the property of the domestic limited liability company, and the title to any real property vested by deed or otherwise in the entity shall not revert or be in any way impaired by reason of the conversion, but all rights of creditors and all liens upon any property of the entity shall be preserved unimpaired, and all debts, liabilities and duties of the entity that has converted shall remain attached to the domestic limited liability company and may be enforced against it to the same extent as if the debts, liabilities and duties had been incurred or contracted by it in its capacity as a domestic limited liability company. The rights, privileges, powers and interests in property of the entity, as well as the debts, liabilities and duties of the

entity, shall not be deemed, as a consequence of the conversion, to have been transferred to the domestic limited liability company to which the entity has converted for any purpose of the laws of this state.

G. Unless otherwise agreed or otherwise provided by any laws of this state applicable to the converting entity, the converting entity shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not be deemed to constitute a dissolution of the entity and shall constitute a continuation of the existence of the converting entity in the form of a domestic limited liability company.

H. Before filing the articles of conversion to a domestic limited liability company with the Office of the Secretary of State, the conversion shall be approved in the manner provided for by the document, instrument, agreement or other writing, as the case may be, governing the internal affairs of the entity and the conduct of its business or by applicable law, as appropriate, and articles of organization shall be approved by the same authorization required to approve the conversion.

I. In a conversion of an entity to a domestic limited liability company under this section, rights or securities of or memberships or membership, economic or ownership interests in the entity that is to be converted to a domestic limited liability company may be exchanged for or converted into cash, property, or rights or

securities of or interests in the domestic limited liability company or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property or rights or securities of or memberships or membership, economic or ownership interests in another domestic limited liability company or other entity.

J. The provisions of this section shall not be construed to limit the accomplishment of a change in the law governing, or the domicile of, an entity to this state by any other means provided for in an operating agreement or other agreement or as otherwise permitted by law~~,~~ including by the amendment of an operating agreement or other agreement.

K. Nothing in this section shall be deemed to authorize the conversion of a charitable entity into a domestic limited liability company, if the charitable status of such entity would thereby be lost or impaired.

SECTION 22. AMENDATORY 18 O.S. 2011, Section 2054.2, as amended by Section 53, Chapter 323, O.S.L. 2017 (18 O.S. Supp. 2020, Section 2054.2), is amended to read as follows:

Section 2054.2.

CONVERSION OF A LIMITED LIABILITY COMPANY TO AN ENTITY

A. A domestic limited liability company may convert to an entity upon the authorization of such conversion in accordance with this section. As used in this section, the term " entity" means a foreign limited liability company, a domestic or foreign public

benefit limited liability company, a domestic or foreign corporation, a domestic or foreign partnership whether general or limited, and including a limited liability partnership and a limited liability limited partnership, and any domestic or foreign unincorporated nonprofit or for-profit association, trust or enterprise having members or having outstanding shares of stock or other evidences of financial, beneficial or membership interest therein, whether formed by agreement or under statutory authority or otherwise.

B. If the operating agreement specifies the manner of authorizing a conversion of the limited liability company, the conversion shall be authorized as specified in the operating agreement.

C. If the operating agreement does not specify the manner of authorizing a conversion of the limited liability company and does not prohibit a conversion of the limited liability company, the conversion shall be authorized in the same manner as is specified in the operating agreement for authorizing a merger or consolidation that involves the limited liability company as a constituent party to a merger or consolidation.

D. If the operating agreement does not specify the manner of authorizing a conversion of the limited liability company or a merger or consolidation that involves the limited liability company as a constituent party and does not prohibit a conversion of the

limited liability company, the conversion shall be authorized by the approval of a majority of the membership interest or, if there is more than one class or group of members, then by a majority of the membership interest in each class or group of members. Notwithstanding the foregoing, in addition to any other authorization required by this section, if the entity into which the limited liability company is to convert does not afford all of its interest holders protection against personal liability for the debts of the entity, the conversion must be authorized by any and all members who would be exposed to personal liability.

E. Unless otherwise agreed, the conversion of a domestic limited liability company to another entity pursuant to this section shall not require the limited liability company to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not constitute a dissolution of the limited liability company.

F. In a conversion of a domestic limited liability company to an entity under this section, rights or securities of or interests in the domestic limited liability company which are to be converted may be exchanged for or converted into cash, property, rights or securities of or memberships or membership, economic or ownership interests in the entity to which the domestic limited liability company is being converted or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or

securities of or memberships or membership, economic or ownership interests in another entity or may be canceled.

G. If the governing act of ~~the~~ a domestic entity to which the limited liability company is converting does not provide for the filing of a conversion notice with the Secretary of State or the limited liability company is converting to a foreign entity, articles of conversion executed in accordance with Section 2006 of this title, shall be filed in the Office of the Secretary of State in accordance with Section 2007 of this title. The articles of conversion shall state:

1. The name of the limited liability company and, if it has been changed, the name under which its articles of organization were originally filed;

2. The date of filing of its original articles of organization with the Secretary of State;

3. The name and type of entity to which the limited liability company is converting and its jurisdiction of formation, if a foreign entity;

4. The future effective date or time of the conversion, which shall be a date or time certain not later than ninety (90) days after the filing, if it is not to be effective upon the filing of the articles of conversion;

5. That the conversion has been approved in accordance with this section;

6. The agreement of the foreign entity that it may be served with process in this state in any action, suit or proceeding for enforcement of any obligation of the foreign entity arising while it was a domestic limited liability company, and that it irrevocably appoints the Secretary of State as its agent to accept service of process in any such action, suit or proceeding, and its street address to which a copy of the process shall be mailed to it by the Secretary of State; and

7. If the domestic entity to which the domestic limited liability company is converting was required to make a filing with the Secretary of State as a condition of its formation, the type and date of such filing.

H. Upon the filing of a conversion notice with the Secretary of State, whether under subsection G of this section or under the governing act of the domestic entity to which the limited liability company is converting, the filing of any formation document required by the governing act of the domestic entity to which the limited liability company is converting, and payment to the Secretary of State of all prescribed fees, the Secretary of State shall certify that the limited liability company has filed all documents and paid all required fees, and thereupon the domestic limited liability company shall cease to exist as a limited liability company of this state. The Secretary of State's certificate shall be prima facie

evidence of the conversion by the domestic limited liability company.

I. The conversion of a domestic limited liability company to an entity under this section and the resulting cessation of its existence as a domestic limited liability company shall not be deemed to affect any obligations or liabilities of the limited liability company incurred before the conversion or the personal liability of any person incurred before the conversion, nor shall it be deemed to affect the choice of law applicable to the limited liability company with respect to matters arising before the conversion.

J. When a domestic limited liability company has converted to an entity under this section, the entity shall be deemed to be the same entity as the limited liability company. All of the rights, privileges and powers of the domestic limited liability company that has converted, and all property, real, personal and mixed, and all debts due to the limited liability company, as well as all other things and causes of action belonging to the limited liability company, shall remain vested in the entity to which the domestic limited liability company has converted and shall be the property of the entity, and the title to any real property vested by deed or otherwise in the domestic limited liability company shall not revert or be in any way impaired by reason of the conversion; but all rights of creditors and all liens upon any property of the limited

liability company shall be preserved unimpaired, and all debts, liabilities and duties of the limited liability company that has converted shall remain attached to the entity to which the domestic limited liability company has converted, and may be enforced against it to the same extent as if ~~said~~ the debts, liabilities and duties had originally been incurred or contracted by it in its capacity as the entity. The rights, privileges, powers and interests in property of the domestic limited liability company that has converted, as well as the debts, liabilities and duties of the limited liability company, shall not be deemed, as a consequence of the conversion, to have been transferred to the entity to which the limited liability company has converted for any purpose of the laws of this state.

K. Nothing in this section shall be deemed to authorize the conversion of a charitable domestic limited liability company into another entity, if the charitable status of such domestic limited liability company would thereby be lost or impaired.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2061 of Title 18, unless there is created a duplication in numbering, reads as follows:

PUBLIC BENEFIT LIMITED LIABILITY COMPANIES.

A. Sections 23 through 29 of this act shall be known and may be cited as the "Oklahoma Public Benefit Limited Liability Company Act" and within such sections as this act.

B. A "public benefit limited liability company" is a for-profit limited liability company formed under and subject to the requirements of the Oklahoma Limited Liability Company Act including a professional limited liability company, that is intended to produce a public benefit or public benefits and to operate in a responsible and sustainable manner as provided under this act. A public benefit limited liability company is formed by filing articles of organization as required under the Oklahoma Limited Liability Company Act and further by stating in the heading of its articles of organization that it is a public benefit limited liability company and by setting forth one or more public benefits to be promoted by the limited liability company in its articles of organization. The operating agreement of a public benefit limited liability company may not contain any provision inconsistent with this act.

C. "Public benefit" means a positive effect, or reduction of negative effects, on one or more categories of persons, entities, communities or interests, other than members in their capacities as members including effects of an artistic, charitable, cultural, economic, educational, environmental, literary, medical, religious, scientific or technological nature. "Public benefit provisions" means the provisions of the articles of organization or an operating agreement contemplated by this act.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2062 of Title 18, unless there is created a duplication in numbering, reads as follows:

CERTAIN AMENDMENTS AND MERGERS; VOTES REQUIRED.

A. Upon the approval of members or other holders who own at least two-thirds (2/3) of the then outstanding equity interests entitled to vote:

1. An existing domestic limited liability company including a professional limited liability company, may become a public benefit limited liability company by amending its articles of organization to conform to the public benefit provisions of subsection B of Section 20 of this act; or

2. A domestic entity that is not a public benefit limited liability company may become a public benefit limited liability company through a merger, consolidation, exchange or conversion in which the surviving or resulting entity is a public benefit limited liability company whose articles of organization conform to the public benefit provisions of subsection B of Section 23 of this act.

B. "Domestic entity" is a limited liability company, corporation, partnership whether general or limited, and including a limited liability partnership and a limited liability limited partnership, an entity subject to the Professional Entity Act, or any unincorporated nonprofit or for-profit association, trust or enterprise having members or having outstanding shares of stock or

other evidences of financial, beneficial or membership interest therein, whether formed by agreement or under statutory authority or otherwise, formed under the laws of this jurisdiction.

C. A public benefit limited liability company may not, without the approval of members who own at least two-thirds (2/3) of the then outstanding membership interests of the limited liability company entitled to vote:

1. Amend its articles of organization to delete, add or amend a provision required by subsection B of Section 23 of this act;

2. Merge or consolidate with or exchange or convert into another entity if, as a result of such merger, consolidation, exchange or conversion, the membership interests in such limited liability company would become, or be converted into or exchanged for the right to receive, membership interests or other equity interests in a domestic or foreign limited liability company or other entity that is not a public benefit limited liability company or similar entity, the articles of organization or operating agreement, or similar governing document, of which does not contain provisions identifying a public benefit or public benefits comparable in all material respects to those set forth in the articles of organization of such limited liability company as contemplated by subsection B of Section 23 of this act; or

3. Cease to be a public benefit limited liability company under the provisions of this act.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2063 of Title 18, unless there is created a duplication in numbering, reads as follows:

DUTIES OF MEMBERS OR MANAGERS.

A. The members or managers or other persons with authority to manage or direct the business and affairs of a public benefit limited liability company shall manage or direct the business and affairs of the public benefit limited liability company in a manner that balances the pecuniary interests of the members, the best interests of those materially affected by the limited liability company's conduct, and the specific public benefit or public benefits set forth in its articles of organization. Unless otherwise provided in an operating agreement, no member, manager or other person with authority to manage or direct the business and affairs of the public benefit limited liability company shall have any liability for monetary damages for the failure to manage or direct the business and affairs of the public benefit limited liability company as provided in this subsection.

B. A member or manager of a public benefit limited liability company or any other person with authority to manage or direct the business and affairs of the public benefit limited liability company shall not, by virtue of the public benefit provisions or subsection B of Section 23 of this act, have any duty to any person on account of any interest of such person in the public benefit or public

benefits set forth in its articles of organization or operating agreement or on account of any interest materially affected by the limited liability company's conduct and, with respect to a decision implicating the balance requirement in subsection A of this section, will be deemed to satisfy such person's fiduciary duties to members and the limited liability company if such person's decision is both informed and disinterested and not such that no person of ordinary, sound judgment would approve.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2064 of Title 18, unless there is created a duplication in numbering, reads as follows:

PERIODIC STATEMENTS AND THIRD-PARTY CERTIFICATION.

A public benefit limited liability company shall no less than biennially provide its members with a statement as to the limited liability company's promotion of the public benefit or public benefits set forth in its articles of organization and as to the best interests of those materially affected by the limited liability company's conduct. The statement shall include:

1. The objectives that have been established to promote such public benefit or public benefits and interests;

2. The standards that have been adopted to measure the limited liability company's progress in promoting such public benefit or public benefits and interests;

3. Objective factual information based on those standards regarding the limited liability company's success in meeting the objectives for promoting such public benefit or public benefits and interests; and

4. An assessment of the limited liability company's success in meeting the objectives and promoting such public benefit or public benefits and interests.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2065 of Title 18, unless there is created a duplication in numbering, reads as follows:

DERIVATIVE SUITS.

Members of a public benefit limited liability company or assignees of membership interests in a public benefit limited liability company owning individually or collectively, as of the date of instituting such derivative suit, at least two percent (2%) of the then-current membership interests of the limited liability company may maintain a derivative lawsuit to enforce the requirements set forth in subsection A of Section 25 of this act.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2066 of Title 18, unless there is created a duplication in numbering, reads as follows:

NO EFFECT ON OTHER LIMITED LIABILITY COMPANIES.

This act shall not affect a statute or rule of law that is applicable to a limited liability company that is not a public benefit limited liability company.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2067 of Title 18, unless there is created a duplication in numbering, reads as follows:

ACCOMPLISHMENT BY OTHER MEANS.

The provisions of this act shall not be construed to limit the accomplishment by any other means permitted by law of the formation or operation of a limited liability company that is formed or operated for a public benefit including a limited liability company that is designated as a public benefit limited liability company, that is not a public benefit limited liability company.

SECTION 30. AMENDATORY 54 O.S. 2011, Section 500-114A, is amended to read as follows:

Section 500-114A.

OFFICE AND AGENT FOR SERVICE OF PROCESS.

(a) A limited partnership shall designate and continuously maintain in this state:

(1) an office, which need not be a place of its activity in this state; and

(2) an agent for service of process.

(b) A foreign limited partnership shall designate and continuously maintain in this state an agent for service of process.

(c) An agent for service of process of a limited partnership or foreign limited partnership must be an individual who is a resident of this state or a corporation, limited liability company, or general or limited partnership including a limited liability partnership or a limited liability limited partnership, formed in or authorized to do business in this state. A domestic limited partnership may be its own agent.

SECTION 31. This act shall become effective November 1, 2021.

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