ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 610 By: Coffee of the Senate

and

Vaughn of the House

An Act relating to business entities; amending 2 O.S. 1991 Section 361w, which relates to The Cooperative Marketing Association Act; extending application of the Oklahoma General Corporation Act to foreign cooperatives; amending 18 O.S. 1991, Sections 1006, as last amended by Section 3, Chapter 69, O.S.L. 1996, 1007, as amended by Section 1, Chapter 422, O.S.L. 1998, * * * (18 O.S. Supp. 2000, Sections 1006, 1007, 1027, 1049, 1056, 1073, 1077, 1081, 1083, 1084 1090.2, 1090.3, 2002, 2014, 2015, 2016, 2017, 2049, 2055, 2055.1 and 2058), which relate to the Oklahoma General Corporation Act and the Limited Liability Company Act; * * * amending 54 O.S. 1991, Sections 311, 314, 350, as last amended by Section 37, Chapter 421, O.S.L. 1999, and Section 24, Chapter 69, O.S.L. 1996, (54 O.S. Supp. 2000, Sections 350 and 350.1), which relate to the Revised Uniform Limited Partnership Act; * * * amending 68 O.S. 1991, Section 3202, as last amended by Section 2, Chapter 340, O.S.L. 1999 (68 O.S. Supp. 2000, Section 3202), which relates to documentary stamp taxes; * * * repealing 15 O.S. 1991, Sections 218 and 219, which relate to restraint of trade; providing for codification; and providing an effective date.

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

"An Act relating to business entities; amending 2 O.S. 1991, Section 361w, which relates to The Cooperative Marketing Association Act; extending application of the Oklahoma General Corporation Act to foreign cooperatives; amending 18 O.S. 1991, Sections 1006, as last amended by Section 3, Chapter 69, O.S.L. 1996, 1007, as amended by Section 1, Chapter 422, O.S.L. 1998, 1013, 1014, 1016, 1027, as amended by Section 4, Chapter 422, O.S.L. 1998, 1049, as amended by Section 8, Chapter 422, O.S.L. 1998, 1055, 1056, as amended by Section 9, Chapter 422, O.S.L. 1998, 1064, 1067, 1069, 1073, as amended by Section 13, Chapter 422, O.S.L. 1998, 1074, 1075, 1077, as last amended by Section 12, Chapter 421, O.S.L. 1999, 1081, as last amended by Section 13, Chapter 421, O.S.L. 1999, 1083, as amended by Section 17, Chapter 422, O.S.L. 1998, 1084, as amended by Section 18, Chapter 422, O.S.L. 1998,

1090.2, as last amended by Section 16, Chapter 421, O.S.L. 1999, 1090.3, as last amended by Section 17, Chapter 421, O.S.L. 1999, Section 3, Chapter 148, O.S.L. 1992, as amended by Section 1, Chapter 418, O.S.L. 1997, Section 15, Chapter 148, O.S.L. 1992, as amended by Section 7, Chapter 366, O.S.L. 1993, Section 16, Chapter 148, O.S.L. 1992, as amended by Section 8, Chapter 366, O.S.L. 1993, Section 17, Chapter 148, O.S.L. 1992, Section 18, Chapter 148, O.S.L. 1992, as amended by Section 9, Chapter 366, O.S.L. 1993, Section 50, Chapter 148, O.S.L. 1992, Section 56, Chapter 148, O.S.L. 1992, as last amended by Section 19, Chapter 382, O.S.L. 1994, Section 15, Chapter 69, O.S.L. 1996, and Section 59, Chapter 148, O.S.L. 1992 (18 O.S. Supp. 2000, Sections 1006, 1007, 1027, 1049, 1056, 1073, 1077, 1081, 1083, 1084, 1090.2, 1090.3, 2002, 2014, 2015, 2016, 2017, 2049, 2055, 2055.1, and 2058), which relate to the Oklahoma General Corporation Act and the Limited Liability Company Act; modifying requirements for corporation name; clarifying language; authorizing specified signatures on certain documents; modifying persons authorized to adopt, amend and repeal bylaws; clarifying authority of directors; modifying procedure for adoption of emergency bylaws; authorizing certain civil actions; providing for renunciation of certain business opportunities; permitting electronic communication under certain circumstances; requiring certain filing be in certain form; clarifying language; authorizing payment of dividends by nonstock corporation; modifying restriction on transfer of securities; providing that certain restrictions are presumed to be reasonable; authorizing to determine location of shareholder meetings; authorizing shareholder meetings by remote communication; stating procedures for meetings by remote communication; authorizing ballot by electronic transmission under certain circumstances; deleting certain requirement for certain shareholders' lists; stating requirements for certain shareholder lists; modifying contents of certain notice; modifying form of certain records; permitting certain consent of shareholder in lieu of meeting; specifying delivery of certain consent of shareholder; authorizing certain use of copy of consent; providing for waiver of notice by electronic transmission; construing notice provision; providing for appointment of inspectors; providing procedure for appointment of inspector; stating duties of inspector; providing voting procedures; prohibiting acceptance of certain votes; stating exceptions; stating limitations for determining validity of certain votes; excepting certain entity from voting procedures; authorizing electronic notice; authorizing revocation of consent; stating certain transactions satisfy notice requirements; defining term; providing exception; deleting certain meeting requirement; permitting specified merger without shareholder vote; stating consequences of merger; stating application of certain ownership requirements; deleting obsolete language; modifying certain voting requirements; authorizing certain merger; providing certain

protection for certain persons; requiring shareholder approval under certain circumstances; deleting prohibition of certain bylaw amendments; defining term; authorizing specified conversion by business entity; stating requirements; providing contents for certificate of conversion; providing for effective date of conversion; stating effects of conversion; providing for approval of certificate of conversion and incorporation; stating persons required to sign certificate of conversion; authorizing certain conversion by corporation; defining term; requiring approval of conversion by resolution; requiring filing of resolution; providing for contents; stating certain dates of Secretary of State; stating effect of conversion; expanding purposes for which limited liability company may be formed; stating events causing cancellation of limited liability company; requiring publication of cancellation; providing for resignation of manager; permitting delegation of manager's authority; applying business judgment rule to managers; authorizing certain agreement to define certain duties; clarifying certain actions; defining term; authorizing conversion of business entity to domestic limited liability company; stating procedure for approving certain conversion; adding articles of conversion to articles of merger or consolidation for purposes of filing fee; stating classification of certain entity for tax purposes; prohibiting certain tax; stating treatment of members for tax purposes; construing act; amending 54 O.S. 1991, Sections 311, 314, 350, as last amended by Section 37, Chapter 421, O.S.L. 1999, and Section 24, Chapter 69, O.S.L. 1996, (54 O.S. Supp. 2000, Sections 350 and 350.1), which relate to the Revised Uniform Limited Partnership Act; defining term; authorizing conversion of certain business entity to limited partnership; stating procedure; stating content of certificate of conversion; providing for effective date; stating effect of conversion; stating effects of conversion; requiring approval of conversion; providing for approval of conversion of limited partnership; providing for cancellation of certain certificate; providing for contents of cancellation certificate; providing for publication of cancellation; providing for annual fee for specified business entities; providing for interest on fee under certain circumstances; stating duties of Secretary of State; stating consequences for failure to pay fee; modifying filing requirements; exempting specified entities from certain determination; modifying procedures and penalties for failure to pay registered agent fee; amending 68 O.S. 1991, Section 3202, as last amended by Section 2, Chapter 340, O.S.L. 1999 (68 O.S. Supp. 2000, Section 3202), which relates to documentary stamp taxes; exempting certain deeds from certain tax; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 1991, Section 361w, is amended to read as follows:

Section 361w. The provisions of the ~~general business corporation laws of this state~~ Oklahoma General Corporation Act and all powers and rights thereunder shall apply to the associations organized hereunder, except where such provisions are inconsistent with the express provisions of this act. The provisions of this act shall also apply to similar associations organized under the laws of other jurisdictions and doing business or seeking to do business in this state to the extent that this act applies to foreign corporations doing business or seeking to do business in this state.

SECTION 2. AMENDATORY 18 O.S. 1991, Section 1006, as last amended by Section 3, Chapter 69, O.S.L. 1996 (18 O.S. Supp. 2000, Section 1006), is amended to read as follows:

Section 1006.

CERTIFICATE OF INCORPORATION; CONTENTS

A. The certificate of incorporation shall set forth:

1. The name of the corporation which shall contain one of the words "association", "company", "corporation", "club", "foundation", "fund", "incorporated", "institute", "society", "union", "syndicate", or "limited" or ~~one of the abbreviations "co.", "corp.", "inc.", "ltd.", or words or abbreviations of like import in other languages~~ abbreviations thereof, with or without punctuation, or words or abbreviations thereof, with or without punctuation, of like import of foreign countries or jurisdictions; provided that such abbreviations are written in Roman characters or letters, and which shall be such as to distinguish it upon the records in the Office of the Secretary of State from:

a. names of other corporations organized under the laws of this state then existing or which existed at any time during the preceding three (3) years, ~~or~~

b. names of foreign corporations registered in accordance with the laws of this state then existing or which existed at any time during the preceding three (3) years, ~~or~~

c. names of then existing limited partnerships whether organized pursuant to the laws of this state or registered as foreign limited partnerships in this state, ~~or~~

d. trade names or fictitious names filed with the Secretary of State, ~~or~~

e. corporate, limited liability company or limited partnership names reserved with the Secretary of State, or

f. names of then existing limited liability companies whether organized pursuant to the laws of this state or registered as foreign limited liability companies in this state;

2. The address, including the street, number, city and county, of the corporation's registered office in this state, and the name of the corporation's registered agent at such address;

3. The nature of the business or purposes to be conducted or promoted. It shall be sufficient to state, either alone or with other businesses or purposes, that the purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the general corporation law of Oklahoma, and by such statement all lawful acts and activities shall be within the purposes of the corporation, except for express limitations, if any;

4. If the corporation is to be authorized to issue only one class of stock, the total number of shares of stock which the corporation shall have authority to issue and the par value of each of such shares, or a statement that all such shares are to be without par value. If the corporation is to be authorized to issue

more than one class of stock, the certificate of incorporation shall set forth the total number of shares of all classes of stock which the corporation shall have authority to issue and the number of shares of each class, and shall specify each class the shares of which are to be without par value and each class the shares of which are to have par value and the par value of the shares of each such class. The provisions of this paragraph shall not apply to corporations which are not organized for profit and which are not to have authority to issue capital stock. In the case of such corporations, the fact that they are not to have authority to issue capital stock shall be stated in the certificate of incorporation;

5. The name and mailing address of the incorporator or incorporators;

6. If the powers of the incorporator or incorporators are to terminate upon the filing of the certificate of incorporation, the names and mailing addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors are elected and qualify; and

7. If the corporation is not for profit:

a. that the corporation does not afford pecuniary gain, incidentally or otherwise, to its members as such,

b. the name and mailing address of each trustee or director,

c. the number of trustees or directors to be elected at the first meeting, and

d. in the event the corporation is a church, the street address of the location of the church.

The restriction on affording pecuniary gain to members shall not prevent a not-for-profit corporation operating as a cooperative from rebating excess revenues to patrons who may also be members.

B. In addition to the matters required to be set forth in the certificate of incorporation pursuant to the provisions of

subsection A of this section, the certificate of incorporation may also contain any or all of the following matters:

1. Any provision for the management of the business and for the conduct of the affairs of the corporation, and any provision creating, defining, limiting and regulating the powers of the corporation, the directors, and the shareholders, or any class of the shareholders, or the members of a nonstock corporation, if such provisions are not contrary to the laws of this state. Any provision which is required or permitted by any provision of the Oklahoma General Corporation Act to be stated in the bylaws may instead be stated in the certificate of incorporation;

2. The following provisions, in substantially the following form: "Whenever a compromise or arrangement is proposed between this corporation and its creditors or any class of them and/or between this corporation and its shareholders or any class of them, any court of equitable jurisdiction within the State of Oklahoma, on the application in a summary way of this corporation or of any creditor or shareholder thereof or on the application of any receiver or receivers appointed for this corporation under the provisions of Section 1106 of this title or on the application of trustees in dissolution or of any receiver or receivers appointed for this corporation under the provisions of Section 1100 of this title, may order a meeting of the creditors or class of creditors, and/or of the shareholders or class of shareholders of this corporation, as the case may be, to be summoned in such manner as the court directs. If a majority in number representing three-fourths (3/4) in value of the creditors or class of creditors, and/or of the shareholders or class of shareholders of this corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this corporation as a consequence of such compromise or arrangement, the compromise or arrangement and the reorganization, if sanctioned by the court to

which the application has been made, shall be binding on all the creditors or class of creditors, and/or on all the shareholders or class of shareholders, of this corporation, as the case may be, and also on this corporation.";

3. Such provisions as may be desired granting to the holders of the stock of the corporation, or the holders of any class or series of a class thereof, the preemptive right to subscribe to any or all additional issues of stock of the corporation of any or all classes or series thereof, or to any securities of the corporation convertible into such stock. No shareholder shall have any preemptive right to subscribe to an additional issue of stock or to any security convertible into such stock unless, and except to the extent that, such right is expressly granted to him in the certificate of incorporation. Preemptive rights, if granted, shall not extend to fractional shares;

4. Provisions requiring, for any corporate action, the vote of a larger portion of the stock or of any class or series thereof, or of any other securities having voting power, or a larger number of the directors, than is required by the provisions of ~~the Oklahoma General Corporation Act~~ this act;

5. A provision limiting the duration of the corporation's existence to a specified date; otherwise, the corporation shall have perpetual existence;

6. A provision imposing personal liability for the debts of the corporation on its shareholders or members to a specified extent and upon specified conditions; otherwise, the shareholders or members of a corporation shall not be personally liable for the payment of the corporation's debts, except as they may be liable by reason of their own conduct or acts;

7. A provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, provided that

such provision shall not eliminate or limit the liability of a director:

a. for any breach of the director's duty of loyalty to the corporation or its shareholders~~; or~~,

b. for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law~~; or~~,

c. under Section 1053 of this title~~;~~, or

d. for any transaction from which the director derived an improper personal benefit.

No such provision shall eliminate or limit the liability of a director for any act or omission occurring prior to the date when such provision becomes effective.

C. It shall not be necessary to set forth in the certificate of incorporation any of the powers conferred on corporations by the provisions of ~~the Oklahoma General Corporation Act~~ this act.

SECTION 3. AMENDATORY 18 O.S. 1991, Section 1007, as amended by Section 1, Chapter 422, O.S.L. 1998 (18 O.S. Supp. 2000, Section 1007), is amended to read as follows:

Section 1007.

EXECUTION, ACKNOWLEDGMENT, FILING AND EFFECTIVE DATE OF ORIGINAL CERTIFICATE OF INCORPORATION AND OTHER INSTRUMENTS; EXCEPTIONS

A. Whenever any provision of the Oklahoma General Corporation Act requires any instrument to be filed in accordance with the provisions of this section or with the provisions of ~~the Oklahoma General Corporation Act~~ this act, the instrument shall be executed as follows:

1. The certificate of incorporation and any other instrument to be filed before the election of the initial board of directors, if the initial directors were not named in the certificate of incorporation, shall be ~~executed~~ signed by the incorporator or

incorporators, or in case of any other instrument, the incorporator's or incorporators' successors and assigns. If any incorporator is not available by reason of death, incapacity, unknown address, or refusal or neglect to act, then any other instrument may be signed, with the same effect as if the incorporator had signed it, by any person for whom or on whose behalf the incorporator, in executing the certificate of incorporation, was acting directly or indirectly as employee or agent; provided that the other instrument shall state that the incorporator is not available and the reason therefor, that the incorporator in executing the certificate of incorporation was acting directly or indirectly as employee or agent for or on behalf of the person, and that the person's signature on the instrument is otherwise authorized and not wrongful;

2. All other instruments shall be executed:

a. by the chair or vice-chair of the board of directors, or by the president, or by a vice-president, and attested by the secretary or an assistant secretary; or by officers as may be duly authorized to exercise the duties, respectively, ordinarily exercised by the president or vice-president and by the secretary or an assistant secretary of a corporation~~;~~,

b. if it appears from the instrument that there are no such officers, then by a majority of the directors or by those directors designated by the board~~;~~,

c. if it appears from the instrument that there are no such officers or directors, then by the holders of record, or those designated by the holders of record, of a majority of all outstanding shares of stock~~;~~, or

d. by the holders of record of all outstanding shares of stock.

B. Whenever any provision of ~~the Oklahoma General Corporation Act~~ this act requires any instrument to be acknowledged, that requirement is satisfied by either:

1. The formal acknowledgment by the person or one of the persons signing the instrument that it is his or her act and deed or the act and deed of the corporation, as the case may be, and that the facts stated therein are true. The acknowledgment shall be made before a person who is authorized by the law of the place of execution to take acknowledgments of deeds and who shall affix a seal of office, if any, to the instrument; or

2. The signature, without more, of the person or persons signing the instrument, in which case the signature or signatures shall constitute the affirmation or acknowledgment of the signatory, under penalty of perjury, that the instrument is his or her act and deed or the act and deed of the corporation, as the case may be, and that the facts stated therein are true.

C. Whenever any provision of ~~the Oklahoma General Corporation Act~~ this act requires any instrument to be filed in accordance with the provisions of this section or with the provisions of ~~the Oklahoma General Corporation Act~~ this act, the requirement means that:

1. Two signed instruments, one of which may be a conformed copy, shall be delivered to the Office of the Secretary of State;

2. All delinquent franchise taxes authorized by law to be collected by the Oklahoma Tax Commission shall be tendered to the Oklahoma Tax Commission as prescribed by Sections 1201 through 1214 of Title 68 of the Oklahoma Statutes;

3. All fees authorized by law to be collected by the Secretary of State in connection with the filing of the instrument shall be tendered to the Secretary of State; and

4. Upon delivery of the instrument, and upon tender of the required taxes and fees, the Secretary of State shall certify that

the instrument has been filed in the Secretary of State's office by endorsing upon the signed instrument the word "Filed", and the date of its filing. This endorsement is the "filing date" of the instrument, and is conclusive of the date of its filing in the absence of actual fraud. Upon request, the Secretary of State shall also endorse the hour that the instrument was filed, which endorsement shall be conclusive of the hour of its filing in the absence of actual fraud. The Secretary of State shall thereupon file and index the endorsed instrument.

D. Any instrument filed in accordance with the provisions of subsection C of this section shall be effective upon its filing date. Any instrument may provide that it is not to become effective until a specified time subsequent to the time it is filed, but that date shall not be later than a time on the ninetieth day after the date of its filing. If any instrument filed in accordance with subsection C of this section provides for a future effective date or time and if the transaction is terminated or its terms are amended to change the future effective date or time prior to the future effective date or time, the instrument shall be terminated or amended by the filing, prior to the future effective date or time set forth in the instrument, of a certificate of termination or amendment of the original instrument, executed in accordance with subsection A of this section, which shall identify the instrument which has been terminated or amended and shall state that the instrument has been terminated or the manner in which it has been amended.

E. If another section of ~~the Oklahoma General Corporation Act~~ <u>this act</u> specifically prescribes a manner of executing, acknowledging, or filing a specified instrument or a time when an instrument shall become effective which differs from the corresponding provisions of this section, then the provisions of the other section shall govern.

F. Whenever any instrument authorized to be filed with the Secretary of State under any provision of ~~Title 18 of the Oklahoma Statutes~~ this title has been so filed and is an inaccurate record of the corporate action therein referred to, or was defectively or erroneously executed, sealed, or acknowledged, the instrument may be corrected by filing with the Secretary of State a certificate of correction of the instrument which shall be executed, acknowledged and filed in accordance with the provisions of this section. The certificate of correction shall specify the inaccuracy or defect to be corrected and shall set forth the portion of the instrument in corrected form. The corrected instrument shall be effective as of the date the original instrument was filed, except as to those persons who are substantially and adversely affected by the correction and as to those persons the corrected instrument shall be effective from the filing date of the corrected instrument.

G. If any instrument authorized to be filed with the Secretary of State pursuant to any provision of this title is filed inaccurately or defectively, or is erroneously executed, sealed, or acknowledged, or is otherwise defective in any respect, the Secretary of State shall have no liability to any person for the preclearance for filing, the acceptance for filing, or the filing and indexing of such instrument.

H. When authorized by the rules of the Secretary of State, any signature on any instrument authorized to be filed with the Secretary of State under any provision of this title may be a facsimile signature, a conformed signature, or an electronically transmitted signature.

SECTION 4. AMENDATORY 18 O.S. 1991, Section 1013, is amended to read as follows:

Section 1013.

BYLAWS

A. The original or other bylaws of a corporation may be adopted, amended or repealed by the incorporators, by the initial directors if they were named in the certificate of incorporation, or, before a corporation has received any payment for any of its stock, by its board of directors. After a corporation has received any payment for any of its stock, the power to adopt, amend or repeal bylaws shall be in the ~~shareholders entitled to vote~~ board of directors, or, in the case of a nonstock corporation, in its ~~members entitled to vote~~ governing body; provided, however, any corporation, in its certificate of incorporation, may confer the power to adopt, amend or repeal bylaws upon the ~~directors~~ shareholders entitled to vote or, in the case of a nonstock corporation, upon its ~~governing body by whatever name designated~~ members entitled to vote. The fact that such power has been so conferred upon the ~~directors or governing body~~ shareholders or members, as the case may be, shall not divest the ~~shareholders or members~~ board of directors or governing body of the power, nor limit their power to adopt, amend or repeal bylaws.

B. The bylaws may contain any provision, not inconsistent with law or with the certificate of incorporation, relating to the business of the corporation, the conduct of its affairs, and its rights or powers or the rights or powers of its shareholders, directors, officers or employees.

SECTION 5. AMENDATORY 18 O.S. 1991, Section 1014, is amended to read as follows:

Section 1014.

EMERGENCY BYLAWS AND OTHER POWERS IN EMERGENCY

A. The board of directors of any corporation may adopt emergency bylaws~~, subject to repeal or change by action of the shareholders,~~ which, notwithstanding any different provision in the Oklahoma General Corporation Act, in the certificate of incorporation, or bylaws, shall be operative during any emergency

resulting from an attack on the United States or on a locality in which the corporation conducts its business or customarily holds meetings of its board of directors or its shareholders, or during any nuclear or atomic disaster, or during the existence of any catastrophe, or other similar emergency condition, as a result of which a quorum of the board of directors or a standing committee thereof cannot readily be convened for action. The emergency bylaws may make any provision that may be practical and necessary for the circumstances of the emergency, including provisions that:

1. A meeting of the board of directors or a committee thereof may be called by an officer or director in such manner and under such conditions as shall be prescribed in the emergency bylaws;

2. The director or directors in attendance at the meeting, or any greater number fixed by the emergency bylaws, shall constitute a quorum; and

3. The officers or other persons designated on a list approved by the board of directors before the emergency, all in such order of priority and subject to such conditions and for such period of time, not longer than reasonably necessary after the termination of the emergency, as may be provided in the emergency bylaws or in the resolution approving the list, shall, to the extent required to provide a quorum at any meeting of the board of directors, be deemed directors for such meeting.

B. The board of directors, either before or during any such emergency, may provide, and from time to time modify, lines of succession in the event that during such emergency any or all officers or agents of the corporation shall for any reason be rendered incapable of discharging their duties.

C. The board of directors, either before or during any such emergency, may, effective in the emergency, change the head office or designate several alternative head offices or regional offices, or authorize the officers to do so.

D. No officer, director or employee acting in accordance with any emergency bylaws shall be liable except for willful misconduct.

E. To the extent not inconsistent with any emergency bylaws so adopted, the bylaws of the corporation shall remain in effect during any emergency and upon its termination the emergency bylaws shall cease to be operative.

F. Unless otherwise provided in emergency bylaws, notice of any meeting of the board of directors during such an emergency may be given only to such of the directors as it may be feasible to reach at the time and by such means as may be feasible at the time, including publication or radio.

G. To the extent required to constitute a quorum at any meeting of the board of directors during such an emergency, the officers of the corporation who are present shall, unless otherwise provided in emergency bylaws, be deemed, in order of rank and within the same rank in order of seniority, directors for such meeting.

H. Nothing contained in this section shall be deemed exclusive of any other provisions for emergency powers consistent with other sections of ~~the Oklahoma General Corporation Act~~ this act which have been or may be adopted by corporations created pursuant to the provisions of ~~the Oklahoma General Corporation Act~~ this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1014.1 of Title 18, unless there is created a duplication in numbering, reads as follows:

INTERPRETATION AND ENFORCEMENT OF THE CERTIFICATE OF INCORPORATION AND BYLAWS

Any shareholder, member or director may bring an action to interpret, apply or enforce the provisions of the certificate of incorporation or the bylaws of a domestic corporation in the district court.

SECTION 7. AMENDATORY 18 O.S. 1991, Section 1016, is amended to read as follows:

Section 1016.

SPECIFIC POWERS

Every corporation created pursuant to the provisions of the Oklahoma General Corporation Act shall have power to:

1. Have perpetual succession by its corporate name, unless a limited period of duration is stated in its certificate of incorporation;

2. Sue and be sued in all courts and participate, as a party or otherwise, in any judicial, administrative, arbitrative or other proceeding, in its corporate name;

3. Have a corporate seal, which may be altered at pleasure, and use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced;

4. Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease or otherwise acquire, own, hold, improve, employ, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated and to sell, convey, lease, exchange, transfer or otherwise dispose of, or mortgage or pledge, all or any of its property and assets, or any interest therein, wherever situated, subject to the limitations prescribed by Section 2 of Article XXII of the Oklahoma Constitution and Section ~~20~~ 1020 of this ~~act~~ title;

5. Appoint or elect such officers and agents as the business of the corporation requires and to pay or otherwise provide for them suitable compensation;

6. Adopt, amend and repeal bylaws;

7. Wind up and dissolve itself in the manner provided for in ~~the Oklahoma General Corporation Act~~ this act;

8. Conduct its business, carry on its operations, and have offices and exercise its powers within or without this state;

9. Make donations for the public welfare or for charitable, scientific or educational purposes, and in time of war or other national emergency in aid thereof;

10. Be an incorporator, promoter or manager of other corporations of any type or kind;

11. Participate with others in any corporation, partnership, limited partnership, joint venture or other association of any kind, or in any transaction, undertaking or arrangement which the participating corporation would have power to conduct by itself, whether or not such participation involves sharing or delegation of control with or to others;

12. Transact any lawful business which the corporation's board of directors shall find to be in aid of governmental authority;

13. Make contracts, including contracts of guaranty and suretyship, incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds and other obligations, and secure any of its obligations by mortgage, pledge or other encumbrance of all or any of its property, franchises and income, and make contracts of guaranty and suretyship which are necessary or convenient to the conduct, promotion or attainment of the business of:

a. a corporation, all of the outstanding stock of which is owned, directly or indirectly, by the contracting corporation~~;~~,

b. a corporation which owns, directly or indirectly, all of the outstanding stock of the contracting corporation~~;~~, or

c. a corporation, all of the outstanding stock of which is owned, directly or indirectly, by a corporation which owns, directly or indirectly, all of the outstanding stock of the contracting corporation, which contracts of guaranty and suretyship shall be

deemed to be necessary or convenient to the conduct, promotion or attainment of the business of the contracting corporation, and to make other contracts of guaranty and suretyship which are necessary or convenient to the conduct, promotion or attainment of the business of the contracting corporation;

14. Lend money for its corporate purposes, invest and reinvest its funds, and take, hold and deal with real and personal property as security for the payment of funds so loaned or invested;

15. Pay pensions and establish and carry out pension, profit sharing, stock option, stock purchase, stock bonus, retirement, benefit, incentive and compensation plans, trusts and provisions for any or all of its directors, officers, and employees, and for any or all of the directors, officers, and employees of its subsidiaries; ~~and~~

16. Provide insurance for its benefit on the life of any of its directors, officers, or employees, or on the life of any shareholder for the purpose of acquiring at his death shares of its stock owned by such shareholder; and

17. Renounce in its certificate of incorporation or by action of its board of directors any interest or expectancy of the corporation in, or in being offered an opportunity to participate in, specified business opportunities or specified classes or categories of business opportunities that are presented to the corporation or one or more of its officers, directors or shareholders.

SECTION 8. AMENDATORY 18 O.S. 1991, Section 1027, as amended by Section 4, Chapter 422, O.S.L. 1998 (18 O.S. Supp. 2000, Section 1027), is amended to read as follows:

Section 1027.

BOARD OF DIRECTORS; POWERS; NUMBER; QUALIFICATIONS; TERMS AND QUORUM; COMMITTEES; CLASSES OF DIRECTORS; NOT FOR PROFIT

CORPORATIONS; RELIANCE UPON BOOKS; ACTION WITHOUT MEETING; ETC.

A. The business and affairs of every corporation organized in accordance with the provisions of the Oklahoma General Corporation Act shall be managed by or under the direction of a board of directors, except as may be otherwise provided for in ~~the Oklahoma General Corporation Act~~ this act or in the corporation's certificate of incorporation. If any provision is made in the certificate of incorporation, the powers and duties conferred or imposed upon the board of directors by the provisions of ~~the Oklahoma General Corporation Act~~ this act shall be exercised or performed to the extent and by the person or persons stated in the certificate of incorporation.

B. The board of directors of a corporation shall consist of one or more members. The number of directors shall be fixed by or in the manner provided for in the bylaws, unless the certificate of incorporation fixes the number of directors, in which case a change in the number of directors shall be made only by amendment of the certificate. Directors need not be shareholders unless so required by the certificate of incorporation or the bylaws. The certificate of incorporation or bylaws may prescribe other qualifications for directors. Each director shall hold office until a successor is elected and qualified or until his or her earlier resignation or removal. Any director may resign at any time upon ~~written~~ notice given in writing or by electronic transmission to the corporation. A majority of the total number of directors shall constitute a quorum for the transaction of business unless the certificate of incorporation or the bylaws require a greater number. Except as provided in subsection G of this section, neither the certificate of incorporation nor the bylaws may provide that a quorum may be less than one-third (1/3) of the total number of directors. The vote of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors unless the

certificate of incorporation or the bylaws shall require a vote of a greater number.

C. The board of directors may designate one or more committees consisting of one or more of the directors of the corporation. The board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. The bylaws may provide that in the absence or disqualification of a member of a committee, the member or members present at a meeting and not disqualified from voting, whether or not the member or members constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any absent or disqualified member. Any committee, to the extent provided in the resolution of the board of directors, or in the bylaws of the corporation, shall have and may exercise all the powers and authority of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it; but no committee shall have the power or authority to:

1. Approve, adopt, or recommend to the shareholders any action or matter expressly required by ~~the Oklahoma General Corporation Act~~ this act to be submitted to shareholders for approval; or

2. Adopt, amend, or repeal any bylaw of the corporation.

D. The directors of any corporation organized in accordance with the provisions of ~~the Oklahoma General Corporation Act~~ this act, by the certificate of incorporation or by an initial bylaw, or by a bylaw adopted by the board of directors and approved by a vote of the shareholders, may be divided into one, two, or three classes; the term of office of those of the first class to expire at the annual meeting next ensuing; of the second class one (1) year thereafter; of the third class two (2) years thereafter; and at each annual election held after classification and election, directors

shall be chosen for a full term, as the case may be, to succeed those whose terms expire. The certificate of incorporation may confer upon holders of any class or series of stock the right to elect one or more directors who shall serve for the term, and have voting powers as shall be stated in the certificate of incorporation. The terms of office and voting powers of the directors elected in the manner so provided in the certificate of incorporation may be greater than or less than those of any other director or class of directors. If the certificate of incorporation provides that directors elected by the holders of a class or series of stock shall have more or less than one vote per director on any matter, every reference in ~~the Oklahoma General Corporation Act~~ this act to a majority or other proportion of directors shall refer to a majority or other proportion of the votes of the directors.

E. A member of the board of directors, or a member of any committee designated by the board of directors, in the performance of the member's duties, shall be fully protected in relying in good faith upon the records of the corporation and upon information, opinions, reports, or statements presented to the corporation by any of the corporation's officers or employees, or committees of the board of directors, or by any other person as to matters the member reasonably believes are within the officer's, employee's, committee's or other person's competence and who have been selected with reasonable care by or on behalf of the corporation.

F. Unless otherwise restricted by the certificate of incorporation or bylaws:

1. Any action required or permitted to be taken at any meeting of the board of directors, or of any committee thereof may be taken without a meeting if all members of the board or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the

board or committee; and the filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form;

2. The board of directors of any corporation organized in accordance with the provisions of ~~the Oklahoma General Corporation Act~~ this act may hold its meetings, and have an office or offices, outside of this state;

3. The board of directors shall have the authority to fix the compensation of directors; and

4. Members of the board of directors of any corporation, or any committee designated by the board, may participate in a meeting of the board or committee by means of conference telephone or ~~similar~~ other communications equipment by means of which all persons participating in the meeting can hear or otherwise communicate with each other. Participation in a meeting pursuant to the provisions of this subsection shall constitute presence in person at the meeting.

G. 1. The certificate of incorporation of any corporation organized in accordance with the provisions of ~~the Oklahoma General Corporation Act~~ this act which is not authorized to issue capital stock may provide that less than one-third (1/3) of the members of the governing body may constitute a quorum thereof and may otherwise provide that the business and affairs of the corporation shall be managed in a manner different from that provided for in this section.

2. Except as may be otherwise provided by the certificate of incorporation, the provisions of this section shall apply to such a corporation, and when so applied, all references to the board of directors, to members thereof, and to shareholders shall be deemed to refer to the governing body of the corporation, the members thereof and the members of the corporation, respectively.

H. 1. Any director or the entire board of directors may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors, except as follows:

a. unless the certificate of incorporation otherwise provides, in the case of a corporation whose board is classified as provided for in subsection D of this section, shareholders may effect such removal only for cause, or

b. in the case of a corporation having cumulative voting, if less than the entire board is to be removed, no director may be removed without cause if the votes cast against the director's removal would be sufficient to elect the director if then cumulatively voted at an election of the entire board of directors, or, if there are classes of directors, at an election of the class of directors of which the director is a part.

2. Whenever the holders of any class or series are entitled to elect one or more directors by the provisions of the certificate of incorporation, the provisions of this subsection shall apply, in respect to the removal without cause of a director or directors so elected, to the vote of the holders of the outstanding shares of that class or series and not to the vote of the outstanding shares as a whole.

SECTION 9. AMENDATORY 18 O.S. 1991, Section 1049, as amended by Section 8, Chapter 422, O.S.L. 1998 (18 O.S. Supp. 2000, Section 1049), is amended to read as follows:

Section 1049.

DIVIDENDS; PAYMENT; WASTING ASSET CORPORATIONS

A. The directors of every corporation, subject to any restrictions contained in its certificate of incorporation, may

declare and pay dividends upon the shares of its capital stock, or to its members if the corporation is a nonstock corporation, either out of its surplus, as defined in and computed in accordance with the provisions of Sections 1035 and 1079 of this title, or in case there is no surplus, out of its net profits for the fiscal year in which the dividend is declared or the preceding fiscal year. If the capital of the corporation, computed in accordance with the provisions of Sections 1035 and 1079 of this title, shall have been diminished by depreciation in the value of its property, or by losses, or otherwise, to an amount less than the aggregate amount of the capital represented by the issued and outstanding stock of all classes having a preference upon the distribution of assets, the directors of the corporation shall not declare and pay out of the net profits any dividends upon any shares of any classes of its capital stock until the deficiency in the amount of capital represented by the issued and outstanding stock of all classes having a preference upon the distribution of assets shall have been repaired. Nothing in this subsection shall invalidate or otherwise affect a note, debenture, or other obligation of the corporation paid by it as a dividend on shares of its stock, or any payment made thereon, if at the time the note, debenture, or obligation was delivered by the corporation, the corporation had either surplus or net profits as provided in this subsection from which the dividend could lawfully have been paid.

B. Subject to any restrictions contained in its certificate of incorporation, the directors of any corporation engaged in the exploitation of wasting assets including, but not limited to, a corporation engaged in the exploitation of natural resources or other wasting assets, including patents, or engaged primarily in the liquidation of specific assets, may determine the net profits derived from the exploitation of wasting assets or the net proceeds derived from liquidation without taking into consideration the

depletion of such assets resulting from lapse of time, consumption, liquidation, or exploitation.

SECTION 10. AMENDATORY 18 O.S. 1991, Section 1055, is amended to read as follows:

Section 1055.

RESTRICTION ON TRANSFER OF SECURITIES

A. A written restriction or restrictions on the transfer or registration of transfer of a security of a corporation, or on the amount of a corporation's securities that may be owned by any person or group of persons, if permitted by this section and noted conspicuously on the certificate or certificates representing the security or securities so restricted or, in the case of uncertificated shares, contained in the notice or notices sent pursuant to the provisions of subsection F of Section ~~32~~ 1032 of this ~~act~~ title, may be enforced against the holder of the restricted security or securities or any successor or transferee of the holder including an executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of the holder. Unless noted conspicuously on the certificate or certificates representing the security or securities so restricted or, in the case of uncertificated shares, contained in the notice or notices sent pursuant to the provisions of subsection F of Section ~~32~~ 1032 of this ~~act~~ title, a restriction, even though permitted by this section, is ineffective except against a person with actual knowledge of the restriction.

B. A restriction on the transfer or registration of transfer of securities of a corporation, or on the amount of a corporation's securities that may be owned by any person or group of persons, may be imposed either by the certificate of incorporation or by the bylaws or by an agreement among any number of security holders or among such holders and the corporation. No restriction so imposed shall be binding with respect to securities issued prior to the

adoption of the restriction unless the holders of the securities are parties to an agreement or voted in favor of the restriction.

C. A restriction on the transfer or registration of transfer of securities of a corporation or on the amount of a corporation's securities that may be owned by any person or group of persons is permitted by the provisions of this section if it:

1. Obligates the holder of the restricted securities to offer to the corporation or to any other holders of securities of the corporation or to any other person or to any combination of the foregoing, a prior opportunity, to be exercised within a reasonable time, to acquire the restricted securities; ~~or~~

2. Obligates the corporation or any holder of securities of the corporation or any other person or any combination of the foregoing, to purchase the securities which are the subject of an agreement respecting the purchase and sale of the restricted securities; ~~or~~

3. Requires the corporation or the holders of any class of securities of the corporation to consent to any proposed transfer of the restricted securities or to approve the proposed transferee of the restricted securities or to approve the amount of securities of the corporation that may be owned by any person or group of persons; ~~or~~

4. Obligates the holder of the restricted securities to sell or transfer an amount of restricted securities to the corporation or to any other holders of securities of the corporation or to any other person or to any combination of the foregoing, or causes or results in the automatic sale or transfer of an amount of restricted securities to the corporation or to any other holders of securities of the corporation or to any other person or to any combination of the foregoing; or

5. Prohibits or restricts the transfer of the restricted securities to, or the ownership of restricted securities by,

designated persons or classes of persons or groups of persons, and such designation is not manifestly unreasonable.

D. Any restriction on the transfer or the registration of transfer of the ~~shares~~ securities of a corporation, or on the amount of securities of a corporation that may be owned by a person or group of persons, shall be conclusively presumed to be for a reasonable purpose for ~~the purpose of~~ any of the following purposes:

1. Maintaining any local, state, federal or foreign tax advantage to the corporation or its shareholders, including without limitation:

a. maintaining ~~it's~~ the corporation's status as an electing small business corporation under Subchapter S of the United States Internal Revenue Code ~~or of maintaining any other tax advantage to the corporation is conclusively presumed to be for a reasonable purpose~~,

b. maintaining or preserving any tax attribute, including, without limitation, net operating losses, or

c. qualifying or maintaining the qualification of the corporation as a real estate investment trust pursuant to the United States Internal Revenue Code or regulations adopted pursuant to the United States Internal Revenue Code; or

2. Maintaining any statutory or regulatory advantage or complying with any statutory or regulatory requirements under applicable local, state, federal, or foreign law.

E. Any other lawful restriction on transfer or registration of transfer of securities, or on the amount of securities that may be owned by any person or group of persons, is permitted by the provisions of this section.

SECTION 11. AMENDATORY 18 O.S. 1991, Section 1056, as amended by Section 9, Chapter 422, O.S.L. 1998 (18 O.S. Supp. 2000, Section 1056), is amended to read as follows:

Section 1056.

MEETINGS OF SHAREHOLDERS

A. 1. Meetings of shareholders may be held at such place, either within or without this state, as may be designated by or in the manner provided ~~for~~ in the certificate of incorporation or bylaws or, if not so designated, ~~at the registered office of the corporation in this state~~ as determined by the board of directors. If, pursuant to this paragraph or the certificate of incorporation or the bylaws of the corporation, the board of directors is authorized to determine the place of a meeting of shareholders, the board of directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as authorized by paragraph 2 of this subsection.

2. If authorized by the board of directors in its sole discretion, and subject to such guidelines and procedures as the board of directors may adopt, shareholders and proxyholders not physically present at a meeting of shareholders may, by means of remote communication:

a. participate in a meeting of shareholders, and

b. be deemed present in person and vote at a meeting of shareholders whether the meeting is to be held at a designated place or solely by means of remote communication, provided that:

(1) the corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a shareholder or proxyholder,

(2) the corporation shall implement reasonable measures to provide such shareholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with the proceedings, and

(3) if any shareholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of the vote or other action shall be maintained by the corporation.

B. 1. Unless directors are elected by written consent in lieu of an annual meeting as permitted by this subsection, an annual meeting of shareholders shall be held for the election of directors on a date and at a time designated by or in the manner provided for in the bylaws. Shareholders may, unless the certificate of incorporation otherwise provides, act by written consent to elect directors; provided, however, that if the consent is less than unanimous, the action by written consent may be in lieu of holding an annual meeting only if all of the directorships to which directors could be elected at an annual meeting held at the effective time of the action are vacant and are filled by the action.

2. Any other proper business may be transacted at the annual meeting.

C. A failure to hold the annual meeting at the designated time or to elect a sufficient number of directors to conduct the business of the corporation shall not affect otherwise valid corporate acts or work a forfeiture or dissolution of the corporation except as may be otherwise specifically provided for in ~~the Oklahoma General Corporation Act~~ this act. If the annual meeting for election of

directors is not held on the date designated therefor or action by written consent to elect directors in lieu of an annual meeting has not been taken, the directors shall cause the meeting to be held as soon as is convenient. If there is a failure to hold the annual meeting or action by written consent to elect directors in lieu of an annual meeting for a period of thirty (30) days after the date designated for the annual meeting, or if no date has been designated, for a period of thirteen (13) months after the latest to occur of the organization of the corporation, its last annual meeting, or the last action by written consent to elect directors in lieu of an annual meeting, the district court may summarily order a meeting to be held upon the application of any shareholder or director. The shares of stock represented at the meeting, either in person or by proxy, and entitled to vote thereat, shall constitute a quorum for the purpose of the meeting, notwithstanding any provision of the certificate of incorporation or bylaws to the contrary. The district court may issue orders as may be appropriate, including, without limitation, orders designating the time and place of the meeting, the record date for determination of shareholders entitled to vote, and the form of notice of the meeting.

D. Special meetings of the shareholders may be called by the board of directors or by the person or persons as may be authorized by the certificate of incorporation or by the bylaws.

E. All elections of directors shall be by written ballot, unless otherwise provided for in the certificate of incorporation; if authorized by the board of directors, the requirement of a written ballot shall be satisfied by a ballot submitted by electronic transmission; provided that the electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the shareholder or proxyholder.

SECTION 12. AMENDATORY 18 O.S. 1991, 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, arranged in alphabetical order, and showing the address of each shareholder and the number of shares registered in the name of each shareholder. ~~Such~~ 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~~, during ordinary business hours,~~ for a period of at least ten (10) days prior to the meeting~~, either at a place within the city where the meeting is to be held, which place shall be specified on the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The~~:

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 ~~such~~ the meeting.

C. The stock ledger shall be the only evidence as to who are the shareholders entitled to examine the stock ledger, the list required by this section or the books of the corporation, or to vote in person or by proxy at any meeting of shareholders.

SECTION 13. AMENDATORY 18 O.S. 1991, Section 1067, is amended to read as follows:

Section 1067.

NOTICE OF MEETINGS AND ADJOURNED MEETINGS

A. Whenever shareholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which shareholders and proxyholders may be deemed to be present in person and vote at the meetings and, in the case of a special meeting, the purpose or purposes for which the meeting is called.

B. Unless otherwise provided for in the Oklahoma General Corporation Act, the written notice of any meeting shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each shareholder entitled to vote at such meeting. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the shareholder at his address as it

appears on the records of the corporation. 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, in the absence of fraud, shall be prima facie evidence of the facts stated therein.

C. When a meeting is adjourned to another time or place, unless the bylaws otherwise require, notice need not be given of the adjourned meeting if the time ~~and~~, place, if any, thereof, and the means of remote communications, if any, by which shareholders and proxyholders may be deemed to be present in person and vote at the adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting.

SECTION 14. AMENDATORY 18 O.S. 1991, Section 1069, is amended to read as follows:

Section 1069.

FORM OF RECORDS

Any records maintained by a corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept ~~in~~ on, or by means of, or be in the form of, ~~punch cards, magnetic tape, photographs, microphotographs, or~~ any ~~other~~ information storage device~~,~~ or method; provided that the records so kept can be converted into clearly legible ~~written~~ paper form within a reasonable time. Any corporation shall so convert any records so kept upon the request of any person entitled to inspect ~~the same~~ the records pursuant to any provision of the Oklahoma General Corporation Act. Where records are kept in ~~such~~ the manner, a clearly legible ~~written~~ paper form produced from or by means of

the ~~cards, tapes, photographs, microphotographs or other~~ 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 ~~written~~ paper record of the same information would have been, when ~~said written~~ the paper form accurately portrays the record.

SECTION 15. AMENDATORY 18 O.S. 1991, Section 1073, as amended by Section 13, Chapter 422, O.S.L. 1998 (18 O.S. Supp. 2000, Section 1073), is amended to read as follows:

Section 1073.

CONSENT OF SHAREHOLDERS IN LIEU OF MEETING

A. Except as provided in subsection B of this section or 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. With respect to a domestic corporation with a class of voting stock listed or traded on a national securities exchange or registered under Section 12(g) of the Securities Exchange Act of

1934, 15 U.S.C. Section 78a et seq., as amended, which has one thousand or more shareholders of record, unless otherwise provided for in the certificate of incorporation, any action required by the provisions of ~~the Oklahoma General Corporation Act~~ this act to be taken at any annual or special meeting of shareholders of the 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 taken, shall be signed by the holders of all outstanding stock entitled to vote thereon 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. The provisions of this subsection shall be effective with respect to corporate actions by written consent, and to written consent or consents, as to which the first written consent is executed or solicited after September 1, 1991.

C. Unless otherwise provided for in the certificate of incorporation, any action required by the provisions of ~~the Oklahoma General Corporation Act~~ this 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.

D. 1. A telegram, cablegram or other electronic transmission consenting to an action to be taken and transmitted by a shareholder or proxyholder, or by a person or persons authorized to act for a shareholder or proxyholder, shall be deemed to be written, 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 or proxyholder or by a person or persons authorized to act for the shareholder or proxyholder, and

b. the date on which the shareholder 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 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 are recorded if, to the extent and in the manner provided by resolution of the board of directors of the corporation.

2. 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.

E. Every written consent shall bear the date of signature of each shareholder or member who signs the consent and 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.

~~E.~~ F. 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 the meeting had been the date that written consents signed by a sufficient number of holders or members to take the action were delivered to the corporation as provided in subsection C

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 16. AMENDATORY 18 O.S. 1991, Section 1074, is amended to read as follows:

Section 1074.

WAIVER OF NOTICE

Whenever notice is required to be given under any provision of the Oklahoma General Corporation Act or of the certificate of incorporation or bylaws, a written waiver thereof, signed by the person entitled to notice, <u>or a waiver by electronic transmission by the person entitled to notice,</u> whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the shareholders, directors, or members of a committee of directors need be specified in any written waiver of notice <u>or any waiver by electronic transmission</u> unless so required by the certificate of incorporation or the bylaws.

SECTION 17. AMENDATORY 18 O.S. 1991, Section 1075, is amended to read as follows:

Section 1075.

EXCEPTION TO REQUIREMENTS OF NOTICE

A. Whenever notice is required to be given, pursuant to any provision of ~~Title 18 of the Oklahoma Statutes~~ this title or of the certificate of incorporation or bylaws of any corporation, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the corporation is such as to require the filing of a certificate under any of the other sections of ~~Title 18 of the Oklahoma Statutes~~ this title, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

B. Whenever notice is required to be given pursuant to any provision of the Oklahoma General Corporation Act or the certificate of incorporation or bylaws of any corporation, to any shareholder or, if the corporation is a nonstock corporation, to any member to whom:

1. ~~notice~~ Notice of two consecutive annual meetings and all notices of meetings or of the taking of action by written consent without a meeting to such person during the period between such two consecutive annual meetings; or

2. ~~all~~ All, and at least two, payments, if sent by first-class mail, of dividends or interest on securities during a twelve-month period,

have been mailed addressed to such person at ~~his~~ the person's address as shown on the records of the corporation and have been returned undeliverable, the giving of such notice to such person shall not be required. Any action or meeting which shall be taken

or held without notice to such person shall have the same force and effect as if such notice had been duly given. If any such person shall deliver to the corporation a written notice setting forth ~~his~~ the person's then current address, the requirement that notice be given to such person shall be reinstated. In the event that the action taken by the corporation is such as to require the filing of a certificate under any of the other sections of ~~the Oklahoma General Corporation Act~~ this act, the certificate need not state that notice was not given to persons to whom notice was not required to be given pursuant to the provisions of this subsection.

C. The exception in paragraph 1 of subsection B to the requirement that notice be given shall not be applicable to any notice returned as undeliverable if the notice was given by electronic transmission.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1075.1 of Title 18, unless there is created a duplication in numbering, reads as follows:

VOTING PROCEDURES AND INSPECTORS OF ELECTIONS

A. The corporation shall, in advance of any meeting of shareholders, appoint one or more inspectors to act at the meeting and make a written report thereof. The corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of shareholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of the duties of inspector, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of the inspector's ability.

B. The inspectors shall:

1. Ascertain the number of shares outstanding and the voting power of each;

2. Determine the shares represented at a meeting and the validity of proxies and ballots;

3. Count all votes and ballots;

4. Determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors; and

5. Certify their determination of the number of shares represented at the meeting, and their count of all votes and ballots.

The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors.

C. The date and time of the opening and the closing of the polls for each matter upon which the shareholders will vote at a meeting shall be announced at the meeting. No ballot, proxies or votes, nor any revocations thereof or changes thereto, shall be accepted by the inspectors after the closing of the polls unless the district court upon application by a shareholder shall determine otherwise.

D. In determining the validity and counting of proxies and ballots, the inspectors shall be limited to an examination of the proxies, any envelopes submitted with those proxies, any information provided in accordance with subsection E of Section 1056 or paragraph 2 of subsection C of Section 1057 of this title, or any information provided pursuant to divisions (1) or (3) of subparagraph b of paragraph 2 of subsection A of Section 1056 of this title, ballots and the regular books and records of the corporation, except that the inspectors may consider other reliable information for the limited purpose of reconciling proxies and ballots submitted by or on behalf of banks, brokers, their nominees or similar persons which represent more votes than the holder of a proxy is authorized by the record owner to cast or more votes than

the shareholder holds of record. If the inspectors consider other reliable information for the limited purpose permitted herein, the inspectors at the time they make their certification pursuant to paragraph 5 of subsection B of this section shall specify the precise information considered by them including the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained and the basis for the inspectors' belief the such information is accurate and reliable.

E. Unless otherwise provided in the certificate of incorporation or bylaws, this section shall not apply to a corporation that does not have a class of voting stock that is:

1. Listed on a national securities exchange;

2. Authorized for quotation on an interdealer quotation system of a registered national securities association; or

3. Held of record by more than 2,000 shareholders.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1075.2 of Title 18, unless there is created a duplication in numbering, reads as follows:

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 this 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 this act, "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, 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 apply to a domestic corporation that is not authorized to issue capital stock, and when so applied, all

references to shareholders shall be deemed to refer to members of such a corporation.

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

SECTION 20. AMENDATORY 18 O.S. 1991, Section 1077, as last amended by Section 12, Chapter 421, O.S.L. 1999 (18 O.S. Supp. 2000, Section 1077), is amended to read as follows:

Section 1077.

AMENDMENT OF CERTIFICATE OF INCORPORATION AFTER RECEIPT OF PAYMENT FOR STOCK; NONSTOCK CORPORATIONS

A. 1. After a corporation has received payment for any of its capital stock, it may amend its certificate of incorporation, from time to time, in any and as many respects as may be desired, so long as its certificate of incorporation as amended would contain only provisions as it would be lawful and proper to insert in an original certificate of incorporation filed at the time of the filing of the amendment; and if a change in stock or the rights of shareholders, or an exchange, reclassification, subdivision, combination, or cancellation of stock or rights of shareholders is to be made, provisions as may be necessary to effect the change, exchange, reclassification, subdivision, combination, or cancellation. In particular, and without limitation upon the general power of amendment, a corporation may amend its certificate of incorporation, from time to time, so as:

a. to change its corporate name,

b. to change, substitute, enlarge, or diminish the nature of its business or its corporate powers and purposes,

c. to increase or decrease its authorized capital stock or to reclassify the same, by changing the number, par value, designations, preferences, or relative, participating, optional, or other special rights of the shares, or the qualifications, limitations, or

restrictions of such rights, or by changing shares with par value into shares without par value, or shares without par value into shares with par value either with or without increasing or decreasing the number of shares or by subdividing or combining the outstanding shares of any class or series of a class of shares into a greater or lesser number of outstanding shares,

d. to cancel or otherwise affect the right of the holders of the shares of any class to receive dividends which have accrued but have not been declared,

e. to create new classes of stock having rights and preferences either prior and superior or subordinate and inferior to the stock of any class then authorized, whether issued or unissued, or

f. to change the period of its duration.

2. Any or all changes or alterations provided for in paragraph 1 of this subsection may be effected by one certificate of amendment.

B. Every amendment authorized by the provisions of subsection A of this section shall be made and effected in the following manner:

1. If the corporation has capital stock, its board of directors shall adopt a resolution setting forth the amendment proposed, declaring its advisability, and either calling a special meeting of the shareholders entitled to vote in respect thereof for the consideration of the amendment or directing that the amendment proposed be considered at the next annual meeting of shareholders. The special or annual meeting shall be called and held upon notice in accordance with the provisions of Section 1067 of this title. The notice shall set forth the amendment in full or a brief summary of the changes to be effected thereby, as the directors shall deem advisable. At the meeting, a vote of the shareholders entitled to

vote thereon shall be taken for and against the proposed amendment. If a majority of the outstanding stock entitled to vote thereon, and a majority of the outstanding stock of each class entitled to vote thereon as a class, has been voted in favor of the amendment, a certificate setting forth the amendment and certifying that the amendment has been duly adopted in accordance with the provisions of this section shall be executed, acknowledged, and filed and shall become effective in accordance with the provisions of Section 1007 of this title.

2. The holders of the outstanding shares of a class shall be entitled to vote as a class upon a proposed amendment, whether or not entitled to vote thereon by the provisions of the certificate of incorporation, if the amendment would increase or decrease the aggregate number of authorized shares of the class, increase or decrease the par value of the shares of the class, or alter or change the powers, preferences, or special rights of the shares of the class so as to affect them adversely. If any proposed amendment would alter or change the powers, preferences, or special rights of one or more series of any class so as to affect them adversely, but shall not so affect the entire class, then only the shares of the series so affected by the amendment shall be considered a separate class for the purposes of this paragraph. The number of authorized shares of any such class or classes of stock may be increased or decreased, but not below the number of shares thereof then outstanding, by the affirmative vote of the holders of a majority of the stock of the corporation entitled to vote irrespective of the provisions of this paragraph, if so provided in the original certificate of incorporation, in any amendment thereto which created the class or classes of stock or which was adopted prior to the issuance of any shares of the class or classes of stock, or in any amendment thereto which was authorized by a resolution or

resolutions adopted by the affirmative vote of the holders of a majority of the class or classes of stock.

3. If the corporation has no capital stock, then the governing body thereof shall adopt a resolution setting forth the amendment proposed and declaring its advisability. If ~~at a subsequent meeting, held upon notice stating the purpose thereof, not earlier than fifteen (15) days and not later than sixty (60) days from the meeting at which the resolution has been passed,~~ a majority of all the members of the governing body shall vote in favor of the amendment, a certificate thereof shall be executed, acknowledged, and filed and shall become effective in accordance with the provisions of Section 1007 of this title. The certificate of incorporation of a corporation without capital stock may contain a provision requiring an amendment thereto to be approved by a specified number or percentage of the members or of any specified class of members of the corporation in which event ~~only one meeting of the governing body thereof shall be necessary, and~~ the proposed amendment shall be submitted to the members or to any specified class of members of the corporation without capital stock in the same manner, so far as applicable, as is provided for in this section for an amendment to the certificate of incorporation of a stock corporation; and in the event of the adoption thereof <u>by the members</u>, a certificate evidencing the amendment shall be executed, acknowledged, and filed and shall become effective in accordance with the provisions of Section 1007 of this title.

4. Whenever the certificate of incorporation shall require action by the board of directors, by the holders of any class or series of shares, or by the holders of any other securities having voting power, the vote of a greater number or proportion than is required by the provisions of the Oklahoma General Corporation Act, the provision of the certificate of incorporation requiring a

greater vote shall not be altered, amended, or repealed except by a greater vote.

C. The resolution authorizing a proposed amendment to the certificate of incorporation may provide that at any time prior to the effectiveness of the filing of the amendment with the Secretary of State, notwithstanding authorization of the proposed amendment by the shareholders of the corporation or by the members of a nonstock corporation, the board of directors or governing body may abandon the proposed amendment without further action by the shareholders or members.

SECTION 21. AMENDATORY 18 O.S. 1991, Section 1081, as last amended by Section 13, Chapter 421, O.S.L. 1999 (18 O.S. Supp. 2000, Section 1081), is amended to read as follows:

Section 1081.

MERGER OR CONSOLIDATION OF DOMESTIC CORPORATIONS

A. Any two or more corporations existing under the laws of this state may merge into a single corporation, which may be any one of the constituent corporations or may consolidate into a new 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, 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 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, and, if any shares of any of the constituent corporations are not to be converted solely into shares or other securities of the surviving or resulting corporation, the cash, property, rights, or securities of any other corporation 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 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 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. The terms of the agreement may require that the agreement be submitted to the shareholders whether or not the board of directors determines at any time subsequent to declaring its advisability that the agreement is no longer advisable and recommends that the shareholders reject it. 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 prior to the date of the meeting. The notice shall contain a copy of the agreement or a brief summary thereof, as the directors shall deem advisable; 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. 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, certified, 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 as are desired to be effected by the merger, 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 corporation, stating the address thereof; and

7. That a copy of the agreement of consolidation or merger will be furnished by the surviving 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.

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 corporations to the merger,

b. each share or fraction of a share of the capital stock of the constituent corporation outstanding immediately prior to 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 each of the constituent corporations to the merger are corporations 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 prior to 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, 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 certificate of incorporation of the surviving corporation immediately following the effective time of the merger is identical to the certificate of incorporation of the constituent corporation immediately prior to 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, or cancellation of stock, if a change, exchange, reclassification, or cancellation has become effective; provided, however, that:

(1) the certificate of incorporation of the surviving corporation <u>other than the election or removal of directors of the surviving corporation</u> shall be amended in the merger to contain a provision requiring that any act or transaction by or involving the surviving corporation that requires for its adoption under this title or its certificate of incorporation the approval of the shareholders of the surviving 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 title or by the certificate of incorporation of the surviving corporation, and

(2) the certificate of incorporation of the surviving corporation may be amended in the merger to reduce the number of classes and shares of capital stock that the surviving corporation is authorized to issue, 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 subsection G of this section nor any provision of a surviving corporation's certificate of incorporation required by division (1) of subparagraph g of paragraph 1 of subsection G of this section shall be deemed or construed to require approval of the shareholders of the holding company to elect or remove directors of the surviving corporation.

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. 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 shareholder of stock of the constituent corporation converted in the merger was acquired; provided, that any shareholder who immediately prior to 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, and

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 prior to 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 shall be represented by the stock certificates that previously represented the shares of capital stock of the constituent corporation. 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 this subparagraph have been satisfied. 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 prior to the filing.

SECTION 22. AMENDATORY 18 O.S. 1991, Section 1083, as amended by Section 17, Chapter 422, O.S.L. 1998 (18 O.S. Supp. 2000, Section 1083), is amended to read as follows:

Section 1083.

MERGER OF PARENT CORPORATION AND SUBSIDIARY OR SUBSIDIARIES

A. In any case in which at least ninety percent (90%) of the outstanding shares of each class of 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 this title of which class there are outstanding shares that, absent this subsection, would be entitled to vote on such merger, is owned by another corporation and one of the corporations is a corporation of this state and the other or others are corporations of this state or of any other state or states or of the District of Columbia, and the laws of the other state or states or of the District of Columbia permit a corporation of that jurisdiction to merge with a corporation of another jurisdiction, the corporation having such stock ownership may either merge the other corporation or corporations into itself and assume all of its or their obligations, or merge itself, or itself and one or more of the other corporations, into one of the other corporations by executing, acknowledging, and filing, in accordance with the provisions of Section 1007 of this title, a certificate of ownership and merger setting forth a copy of the resolution of its board of directors to merge and the date of its adoption; provided, however, that in case the parent corporation shall not own all the outstanding stock of all the subsidiary corporations which are parties to the merger, the resolution of the board of directors of the parent corporation 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 corporation upon surrender of each share of the subsidiary corporation or corporations not owned by the parent corporation. Any of the terms of the resolution of the board of directors to so merge may be made dependent upon facts ascertainable outside of such resolution, provided that the manner in which such facts shall operate upon the terms of the resolution

is clearly and expressly set forth in the resolution. 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 corporation. If the parent corporation is not the surviving corporation, the resolution shall include provision for the pro rata issuance of stock of the surviving corporation to the holders of the stock of the parent corporation on surrender of any certificates therefor, and the certificate of ownership and merger shall state that the proposed merger has been approved by a majority of the outstanding stock of the parent corporation entitled to vote thereon at a meeting thereof duly called and held after twenty (20) days' notice of the purpose of the meeting is mailed to each shareholder at the shareholder's address as it appears on the records of the corporation if the parent corporation is a corporation of this state or state that the proposed merger has been adopted, approved, certified, executed, and acknowledged by the parent corporation in accordance with the laws under which it is organized if the parent corporation is not a corporation of this state. If the surviving corporation exists under the laws of the District of Columbia or any state other than this state, the provisions of subsection D of Section 1082 of this title shall also apply to a merger pursuant to the provisions of this section.

B. Subject to the provisions of paragraph 1 of subsection A of Section 1006 of this title, if the surviving corporation is an Oklahoma corporation, it may change its corporate name by the inclusion of a provision to that effect in the resolution of merger adopted by the directors of the parent corporation and set forth in the certificate of ownership and merger, and upon the effective date of the merger, the name of the corporation shall be changed.

C. The provisions of subsection D of Section 1081 of this title shall apply to a merger pursuant to the provisions of this section,

and 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 the subsidiary corporation and is a corporation of this state. For purposes of this subsection, references to "agreement of merger" in subsections D and E of Section 1081 of this title shall mean the resolution of merger adopted by the board of directors of the parent corporation. Any merger which effects any changes other than those authorized by the provisions of this section or made applicable by this subsection shall be accomplished in accordance with the provisions of Section 1081 or 1082 of this title. The provisions of Section 1091 of this title shall not apply to any merger effected pursuant to the provisions of this section, except as provided for in subsection D of this section.

D. In the event all of the stock of a subsidiary Oklahoma corporation party to a merger effected pursuant to the provisions of this section is not owned by the parent corporation immediately prior to the merger, the shareholders of the subsidiary Oklahoma corporation party to the merger shall have appraisal rights as set forth in Section 1091 of this title.

E. A merger may be effected pursuant to the provisions of this section although one or more of the corporate parties to the merger is a corporation organized under the laws of a jurisdiction other than one of the United States; provided, that the laws of that jurisdiction permit a corporation of that jurisdiction to merge with a corporation of another jurisdiction.

SECTION 23. AMENDATORY 18 O.S. 1991, Section 1084, as amended by Section 18, Chapter 422, O.S.L. 1998 (18 O.S. Supp. 2000, Section 1084), is amended to read as follows:

Section 1084.

MERGER OR CONSOLIDATION OF DOMESTIC NONSTOCK,

NOT FOR PROFIT CORPORATIONS

A. Any two or more nonstock corporations of this state, whether or not organized for profit, may merge into a single corporation, which may be any one of the constituent corporations, or they may consolidate into a new nonstock corporation, whether or not organized for profit, 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. 1. The governing body of each corporation which desires to merge or consolidate shall adopt a resolution approving an agreement of merger or consolidation. The agreement shall state:

a. the terms and conditions of the merger or consolidation,

b. the mode of carrying the same into effect,

c. other provisions or facts required or permitted by the Oklahoma General Corporation Act to be stated in a certificate of incorporation for nonstock corporations as can be stated in the case of a merger or consolidation, stated in an altered form as the circumstances of the case require,

d. the manner of converting the memberships of each of the constituent corporations into memberships of the corporation surviving or resulting from the merger or consolidation, and

e. other details or provisions as are deemed desirable.

2. 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 submitted to the members of each constituent corporation who have the right to vote for the election of the members of the governing body of their corporation, at an annual or special meeting for the purpose of acting on the agreement. Notice of the time, place, and purpose of the meeting shall be mailed to each member of each corporation who has the right to vote for the election of the members of the governing body of the corporation, at the member's address as it appears on the records of the corporation at least twenty (20) days prior to the date of the meeting. The notice shall contain a copy of the agreement or a brief summary thereof, as the governing body shall deem advisable~~; provided, however, that the notice shall be effective only with respect to mergers or consolidations for which the notice of the members meeting to vote thereon has been mailed after November 1, 1988~~. At the meeting, the agreement shall be considered and a vote by ballot, in person or by proxy, taken for the adoption or rejection of the agreement. ~~Each member who has the right to vote for the election of the members of the governing body of the corporation shall be entitled to one vote.~~ If ~~the votes of two-thirds (2/3) of the total number~~ a majority of the voting power of voting members of each corporation shall be for the adoption of the agreement, that fact shall be certified on the agreement by the officer performing the duties ordinarily performed by the secretary or assistant secretary of a corporation. The agreement shall be executed, acknowledged and filed, and shall become effective, in accordance with the provisions of Section 1007 of this title. The provisions of paragraphs 1 through 6 of subsection C of Section 1081 of this title shall apply to a merger or consolidation under this section.

D. If, under the provisions of the certificate of incorporation of any one or more of the constituent corporations, there shall be no members who have the right to vote for the election of the

members of the governing body of the corporation other than the members of that body themselves, the agreement duly entered into as provided for in subsection B of this section shall be submitted to the members of the governing body of the corporation or corporations at a meeting thereof. Notice of the meeting shall be mailed to the members of the governing body in the same manner as is provided in the case of a meeting of the members of a corporation. If at the meeting two-thirds (2/3) of the total number of members of the governing body shall vote by ballot, in person, for the adoption of the agreement, that fact shall be certified on the agreement in the same manner as is provided in the case of the adoption of the agreement by the vote of the members of a corporation and thereafter the same procedure shall be followed to consummate the merger or consolidation.

E. The provisions of subsection E of Section 1081 of this title shall apply to a merger pursuant to the provisions of this section.

F. Nothing in this section shall be construed to authorize the merger of a charitable nonstock corporation into a nonstock corporation if the charitable nonstock corporation would thereby have its charitable status lost or impaired; but a nonstock corporation may be merged into a charitable nonstock corporation which shall continue as the surviving corporation.

SECTION 24. AMENDATORY 18 O.S. 1991, Section 1090.2, as last amended by Section 16, Chapter 421, O.S.L. 1999 (18 O.S. Supp. 2000, Section 1090.2), is amended to read as follows:

Section 1090.2

MERGER OR CONSOLIDATION OF DOMESTIC CORPORATION

AND BUSINESS ENTITY

A. Any one or more corporations of this state may merge or consolidate with one or more business entities, of this state or of any other state or states of the United States, or of the District of Columbia, unless the laws of the other state or states or the

District of Columbia forbid the merger or consolidation. A corporation or corporations and one or more business entities may merge with or into a corporation, which may be any one of the corporations, or they may merge with or into a business entity, which may be any one of the business entities, or they may consolidate into a new corporation or business entity formed by the consolidation, which shall be a corporation or business entity of this state or any other state of the United States, or the District of Columbia, which permits the merger or consolidation, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. In addition, any one or more business entities formed 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 the laws under which the business entity or entities are formed permit a business entity of such jurisdiction to merge or consolidate with a corporation of another jurisdiction. As used in this section, "business entity" means a domestic or foreign partnership whether general or limited, limited liability company, business trust, common law trust, or other unincorporated business.

B. Each corporation and business entity merging or consolidating shall enter into a written 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 consolidation into effect;

3. The manner of converting the shares of stock of each such corporation and the ownership interests of each business entity into shares, ownership interests, or other securities of the entity surviving or resulting from the merger or consolidation, and if any shares of any corporation or any ownership interests of any business

entity are not to be converted solely into shares, ownership interests, or other securities of the entity surviving or resulting from the merger or consolidation, the cash, property, rights, or securities of any other rights or securities of any other corporation or entity which the holders of such shares or ownership interests are to receive in exchange for, or upon conversion of, the shares or ownership interests 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, ownership interests or other securities of the entity surviving or resulting from the merger or consolidation; and

4. Other details or provisions as are deemed desirable including, but not limited to, a provision for the payment of cash in lieu of the issuance of fractional shares or interests of the surviving or resulting corporation or business entity. 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 such 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 subsection B of this section shall be adopted, approved, certified, executed, and acknowledged by each of the corporations in the same manner as is provided in Section 1081 of this title and, in the case of the business entities, in accordance with their constituent agreements and in accordance with the laws of the ~~state~~ jurisdiction under which they are formed, as the case may be; provided that no holder of securities or an interest in a constituent entity who has not voted for or consented to the merger or consolidation shall be required to accept an

interest in the surviving or resulting business entity if acceptance would expose the holder to personal liability for the debts of the surviving business entity. The agreement shall be filed and recorded and shall become effective for all purposes of the laws of this state when and as provided in Section 1081 of this title with respect to the merger or consolidation of corporations of this state. In lieu of filing and recording the agreement of merger or consolidation, the surviving or resulting corporation or business entity may file a certificate of merger or consolidation, executed in accordance with Section 1007 of this title if the surviving or resulting entity is a corporation, or by a person authorized to act for the business entity, if the surviving or resulting entity is a business entity, which states:

1. The name and ~~state of domicile~~ jurisdiction of formation of each of the constituent entities;

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

3. The name of the surviving or resulting corporation or business entity;

4. In the case of a merger in which a corporation is the surviving entity, any amendments or changes in the certificate of incorporation of the surviving corporation as are desired to be effected by the merger, 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 a corporation is the resulting entity, that the certificate of incorporation of the resulting corporation shall be as set forth in an attachment to the certificate;

6. In the case of a consolidation in which a business entity other than a corporation is the resulting entity, that the charter

of the resulting entity shall be as set forth in an attachment to the certificate;

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

8. That a copy of the agreement of consolidation or merger shall be furnished by the surviving or resulting entity, on request and without cost, to any shareholder of any constituent corporation or any partner of any constituent business entity; and

9. The agreement, if any, required by subsection D of this section.

D. If the entity 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, the entity shall agree that it may be served with process in this state in any proceeding for enforcement of any obligation of any constituent corporation or business entity of this state, as well as for enforcement of any obligation of the surviving or resulting corporation or business entity 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 such suit or other proceedings and shall specify the address to which a copy of any process shall be mailed by the Secretary of State. In the event of service upon the Secretary of State pursuant to this subsection, the Secretary of State shall forthwith notify the surviving or resulting corporation or business entity by a letter, sent by certified mail with return receipt requested, directed to the surviving or resulting corporation or business entity at its specified address, unless the surviving or resulting corporation or business entity shall have designated in writing to

the Secretary of State a different address for that purpose, in which case it shall be mailed to the last address designated. Such letter shall enclose a copy of the process and any other papers served on the Secretary of State pursuant to this subsection. It shall be the duty of the plaintiff in the event of any service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being effected pursuant to 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, if the plaintiff shall prevail therein. 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 served upon the Secretary of State, the fact that service has been effected pursuant to this subsection, the return date thereof, and the date service was made. The Secretary of State shall not be required to retain this information longer than five (5) years from the date of receipt of the service of process by the Secretary of State.

E. Subsections C, D, E, F and G of Section 1081 of this title and Sections 1088 through 1090 and 1127 of this title, insofar as they are applicable, shall apply to mergers or consolidations between corporations and business entities.

SECTION 25. AMENDATORY 18 O.S. 1991, Section 1090.3, as last amended by Section 17, Chapter 421, O.S.L. 1999 (18 O.S. Supp. 2000, 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 of record or beneficially 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 voting power the votes attributable to those shares owned of record or beneficially 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 attributable to shares owned of record or beneficially 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, adopts an amendment to its bylaws within ninety (90) days of the effective date of this section, 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, ~~by action~~ 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 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 the case of a corporation that both:

(1) has never had a class of voting stock that falls within any of the three 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.

c. In all other cases, an amendment adopted pursuant to this paragraph shall not be effective until twelve (12) months after the adoption of the amendment and 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. ~~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,

b. authorized for quotation on the NASDAQ Stock Market, or

c. 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.

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 record or beneficially of twenty percent (20%) or more of any class of the voting stock of the corporation,

b. any trust or other estate in which the person has a beneficial interest of at least twenty percent (20%) 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, ~~or~~

(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 8 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; 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 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1090.4 of Title 18, unless there is created a duplication in numbering, reads as follows:

CONVERSION OF A DOMESTIC BUSINESS ENTITY TO A DOMESTIC CORPORATION

A. As used in this section, the term “business entity” means a domestic partnership, whether general or limited, limited liability company, business trust, common law trust, or other unincorporated association.

B. Any business entity may convert to a corporation incorporated under the laws of this state 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.

C. The certificate of conversion shall state:

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

2. The name of the business entity immediately prior to 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, 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 time of the certificate of conversion and the certificate of incorporation, the business entity shall be converted into a corporation of this state 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 business entity commenced its existence.

E. The conversion of any business entity into a corporation of this state shall not be deemed to affect any obligations or liabilities of the business entity incurred prior to its conversion to a corporation of this state or the personal liability of any person incurred prior to such conversion.

F. Unless otherwise agreed or otherwise provided by any laws of this state applicable to the converting business entity, the converting business 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 business entity and shall constitute a continuation of the existence of the converting business entity in the form of a corporation of this state.

G. Prior to 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 business 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.

H. The certificate of conversion 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 corporation of this state, however named or described, and who is authorized to sign the certificate of conversion on behalf of the business entity.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1090.5 of Title 18, unless there is created a duplication in numbering, reads as follows:

CONVERSION OF DOMESTIC CORPORATION TO A

DOMESTIC BUSINESS ENTITY

A. A corporation of this state may, upon the authorization of such conversion in accordance with this section, convert to a business entity. As used in this section, the term "business entity" means a domestic partnership, whether general or limited, limited liability company, business trust, common law trust, or other unincorporated association.

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 business 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. If all outstanding shares of stock of the corporation, whether voting or nonvoting, shall be voted for the adoption of the resolution, 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 business entity into which the corporation shall be converted;

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

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

C. Upon the filing of a certificate of conversion in accordance with subsection B of this section and payment to the Secretary of State of all fees prescribed under this title, the Secretary of State shall certify that the corporation has filed all documents and paid all fees required by this title, and thereupon the corporation shall cease to exist as a corporation of this state 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.

D. The conversion of a corporation pursuant to a certificate of conversion under this section shall not be deemed to affect any obligations or liabilities of the corporation incurred prior to such conversion or the personal liability of any person incurred prior to the conversion.

E. After the time the certificate of conversion becomes effective the corporation shall continue to exist as a business entity of this state, and the laws of this state shall apply to the entity to the same extent as prior to the time.

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 and shall constitute a continuation of the existence of the converting corporation in the form of the applicable business entity of this state.

SECTION 28. AMENDATORY Section 3, Chapter 148, O.S.L. 1992, as amended by Section 1, Chapter 418, O.S.L. 1997 (18 O.S. Supp. 2000, Section 2002), is amended to read as follows:

Section 2002. A limited liability company may be organized under ~~Section 2000 et seq. of this title and may conduct business in any state for any lawful purpose~~ the Oklahoma General Corporation Act for the purpose of carrying on any lawful business, purpose or activity, whether or not for profit, except that a limited liability company may not conduct business as a bank or domestic insurer.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2012.1 of Title 18, unless there is created a duplication in numbering, reads as follows:

CANCELLATION OF ARTICLES OF ORGANIZATION

A. The articles of organization shall be canceled upon the dissolution and the completion of winding up of a limited liability company, or as provided in subsection B of this section, or upon the filing of a certificate of merger or consolidation if the limited liability company is not the surviving or resulting entity in a merger or consolidation, or upon the conversion of a domestic limited liability company approved in accordance with Section 36 of this act.

B. The articles of organization of a domestic limited liability company shall be deemed to be canceled if the domestic limited liability company shall fail to pay the annual fee provided in Section 39 of this act or a registered agent fee to the Secretary of State due under Section 2055 of Title 18 of the Oklahoma Statutes for a period of three (3) years from the date it is due, the cancellation to be effective on the third anniversary of the due date.

C. On or before October 31 of each calendar year, the Secretary of State shall publish once in at least one newspaper of general circulation of this state a list of those domestic limited liability

companies whose articles of organization were canceled on July 1 of the calendar year pursuant to this section.

SECTION 30. AMENDATORY Section 15, Chapter 148, O.S.L. 1992, as amended by Section 7, Chapter 366, O.S.L. 1993 (18 O.S. Supp. 2000, Section 2014), is amended to read as follows:

Section 2014.

MANAGERS - ELECTION - REMOVAL - RESIGNATION

Unless otherwise provided in the articles of organization or operating agreement:

1. The election of managers shall be by majority vote of the members; ~~and~~

2. Any or all managers may be removed, with or without cause, by the written consent of the members; and

3. A manager may resign in accordance with the operating agreement or, if the operating agreement does not provide for the manager's resignation, upon notice to the limited liability company.

SECTION 31. AMENDATORY Section 16, Chapter 148, O.S.L. 1992, as amended by Section 8, Chapter 366, O.S.L. 1993 (18 O.S. Supp. 2000, Section 2015), is amended to read as follows:

Section 2015.

MANAGEMENT OF COMPANY WITHOUT DESIGNATED MANAGERS; RESIGNATION OF MEMBER

A. The articles of organization or operating agreement may provide that the business of the limited liability company shall be managed without designated managers. So long as such provision continues in effect:

1. The members shall be deemed to be managers for purposes of applying provisions of ~~this act~~ the Oklahoma General Corporation Act, unless the context clearly requires otherwise;

2. The members shall have and be subject to all duties and liabilities of managers; and

3. A member signing on behalf of the limited liability company shall sign as a manager.

B. A member of a member-managed limited liability company may resign as a member in accordance with the operating agreement or, if the operating agreement does not provide for the member's resignation, upon notice to the limited liability company. When a member of a member-managed limited liability company resigns, the member shall cease to have the rights and duties of a member and shall become an assignee; provided that the profits and losses of the limited liability company shall continue to be allocated to the member and any binding commitments for contributions shall continue as if the member had not resigned. If the resignation violates the operating agreement, in addition to any remedies otherwise available under applicable law, a limited liability company may recover from the resigning member damages for breach of the operating agreement and offset the damages against the amount otherwise distributable to the resigning member. The member's resignation shall not constitute a withdrawal from the limited liability company.

SECTION 32. AMENDATORY Section 17, Chapter 148, O.S.L. 1992 (18 O.S. Supp. 2000, Section 2016), is amended to read as follows:

Section 2016.

MANAGERS - DUTIES - GOOD FAITH - LIABILITY

Subject to the provisions of Section ~~18~~ 2017 of this ~~act~~ title:

1. A manager shall discharge ~~his~~ 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 ~~he~~ the manager reasonably believes to be in the best interests of the limited liability company;

2. In discharging ~~his~~ 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 ~~he~~ the manager is not a member if the manager reasonably believes the committee merits confidence;

~~3.~~ A manager is not acting in good faith if ~~he~~ the manager has knowledge concerning the matter in question that makes reliance otherwise permitted by this paragraph ~~2 of this section~~ unwarranted;

3. Unless otherwise provided in the operating agreement, a manager has the power and authority to delegate to one or more other persons the manager's rights and powers to manage and control the business and affairs of the limited liability company, including to delegate to the agents, officers and employees of a manager to the limited liability company, and to delegate by a management agreement or another agreement with, or otherwise to, other persons. The delegation by a manager shall not cause the manager to cease to be a manager 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 ~~he~~ the manager performed the duties of ~~his~~ the office in compliance with ~~this section~~ 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 ~~him~~ the manager of its property.

SECTION 33. AMENDATORY Section 18, Chapter 148, O.S.L. 1992, as amended by Section 9, Chapter 366, O.S.L. 1993 (18 O.S. Supp. 2000, Section 2017), is amended to read as follows:

Section 2017.

MEMBER OR MANAGER - LIMITATION OR ELIMINATION OF LIABILITY - INDEMNIFICATION

A. Subject to subsection B of this section, the articles of organization or operating agreement may:

1. Eliminate or limit the personal liability of a member or manager for monetary damages for breach of any duty provided for in Section 2016 of this title; and

2. Provide for indemnification of a member or manager for judgments, settlements, penalties, fines or expenses incurred in any proceeding because ~~he~~ the person is or was a member or manager.

B. No provision permitted under subsection A of this section shall limit or eliminate the liability of a manager for:

1. Any breach of the manager's duty of loyalty to the limited liability company or its members;

2. Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or

3. Any transaction from which the manager derived an improper personal benefit.

C. The articles of organization or operating agreement may define the scope of any duties owned by the members or managers to the limited liability company, if not manifestly unreasonable. A definition shall not eliminate the duty of loyalty or the obligation of good faith and fair dealing.

SECTION 34. AMENDATORY Section 50, Chapter 148, O.S.L. 1992 (18 O.S. Supp. 2000, Section 2049), is amended to read as follows:

Section 2049.

FOREIGN LIMITED LIABILITY COMPANY - ACTS NOT CONSTITUTING TRANSACTING BUSINESS IN STATE

A. The following activities of a foreign limited liability company, among others, do not constitute transacting business within the meaning of ~~this act~~ the Oklahoma General Corporation Act:

1. Maintaining, defending, or settling any proceeding;

2. Holding meetings of its members or carrying on any other activities concerning its internal affairs;

3. Maintaining bank accounts;

4. Maintaining offices or agencies for the transfer, exchange and registration of the foreign limited liability company's own securities or maintaining trustees or depositaries with respect to those securities;

5. Selling through independent contractors;

6. Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

7. Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

8. Securing or collecting debts or enforcing mortgages and security interest in property securing the debts;

9. Holding, protecting, renting, maintaining and operating real or personal property in this state so acquired;

10. Selling or transferring title to property in this state to any person; or

11. Conducting an isolated transaction that is completed within thirty (30) days and that is not one in the course of repeated transactions of a like nature.

B. For the purposes of this section, any foreign limited liability company which owns income-producing real or tangible personal property in this state, other than property exempted by

subsection A of this section, will be considered transacting business in this state.

C. A person shall not be deemed to be doing business in this state solely by reason of being a member or manager of a domestic limited liability company or a foreign limited liability company.

D. This section does not apply in determining the contracts or activities that may subject a foreign limited liability company to service of process or taxation in this state or to regulation under any other law of this state.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2054.1 of Title 18, unless there is created a duplication in numbering, reads as follows:

CONVERSION OF CERTAIN ENTITIES TO A LIMITED LIABILITY COMPANY

A. As used in this section, the term "business entity" means a domestic corporation, partnership, whether general or limited, business trust, common law trust, or other unincorporated association.

B. Any business 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 business entity was first formed;

2. The name of the business entity immediately prior to the filing of the articles of conversion to limited liability company; and

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.

D. Upon the filing in the Office of the Secretary of State of the articles of conversion to a limited liability company and the articles of organization, the business entity shall be converted into a domestic limited liability company and the limited liability company shall thereafter be subject to all of the provisions of the Oklahoma General Corporation 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 business entity was formed.

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

F. When any conversion shall have become effective under this section, for all purposes of the laws of this state, all of the rights, privileges and powers of the business entity that has converted, and all property, real, personal and mixed, and all debts due to such business entity, as well as all other things and causes of action belonging to such business entity, shall be vested in the domestic limited liability company and shall thereafter be the property of the domestic limited liability company as they were of the business entity that has converted, and the title to any real property vested by deed or otherwise in such business entity shall not revert or be in any way impaired by reason of this act, but all rights of creditors and all liens upon any property of such business

entity shall be preserved unimpaired, and all debts, liabilities and duties of the business entity that has converted shall thenceforth attach 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.

G. Unless otherwise agreed or otherwise provided by any laws of this state applicable to the converting business entity, the converting business 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 business entity and shall constitute a continuation of the existence of the converting business entity in the form of a domestic limited liability company. When a business entity has been converted to a limited liability company pursuant to this section, the limited liability company shall, for all purposes of the laws of this state, be deemed to be the same entity as the converting business entity.

H. Prior to filing the articles of conversion of a business entity to a 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 business entity and the conduct of its business or by applicable law, as appropriate, and an operating agreement shall be approved by the same authorization required to approve the conversion.

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2054.2 of Title 18, unless there is created a duplication in numbering, reads as follows:

APPROVAL OF CONVERSION OF A LIMITED LIABILITY COMPANY

A domestic limited liability company may convert to a corporation, partnership, whether general or limited, business trust, common law trust, or other unincorporated association

organized, formed or created under the laws of this state, upon the authorization of such conversion in accordance with this section. 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. 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. 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 by the members or, if there is more than one class or group of members, then by each class or group of members, in either case, by members who own more than fifty percent (50%) of the then current percentage or other interest in the profits of the domestic limited liability company owned by all of the members or by the members in each class or group, as appropriate. 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.

SECTION 37. AMENDATORY Section 56, Chapter 148, O.S.L. 1992, as last amended by Section 19, Chapter 382, O.S.L. 1994 (18 O.S. Supp. 2000, Section 2055), is amended to read as follows:

Section 2055.

FEES

The Secretary of State shall charge and collect the following fees:

1. For filing the original articles of organization, a fee of One Hundred Dollars ($100.00);

2. For filing amended, corrected or restated articles of organization, a fee of Fifty Dollars ($50.00);

3. For filing articles of merger or consolidation and issuing a certificate of merger or consolidation <u>or filing articles of conversion</u>, a fee of One Hundred Dollars ($100.00);

4. For filing articles of dissolution and issuing a certificate of cancellation, a fee of Fifty Dollars ($50.00);

5. For filing a certificate of correction of statements in an application for registration of a foreign limited liability company, a fee of One Hundred Dollars ($100.00);

6. For issuing a certificate for any purpose whatsoever, a fee of Ten Dollars ($10.00);

7. For filing an application for reservation of a name, or for filing a notice of the transfer or cancellation of any name reservation, a fee of Ten Dollars ($10.00);

8. For filing a statement of change of address of the principal office or resident agent, or both, or the resignation of a resident agent, a fee of Twenty-five Dollars ($25.00);

9. For filing an application for registration as a foreign limited liability company, a fee of Three Hundred Dollars ($300.00);

10. For filing an application of withdrawal as provided in Section 2047 of this title, a fee of One Hundred Dollars ($100.00);

11. For any service of notice, demand, or process upon the Secretary of State as resident agent of a limited liability company, a fee of Ten Dollars ($10.00), which amount may be recovered as taxable costs by the party to be sued, action, or proceeding causing such service to be made if such party prevails therein; and

12. For acting as the registered agent, a fee of Forty Dollars ($40.00) shall be paid on ~~the first day of~~ July 1 each year to the ~~office~~ Office of the Secretary of State.

All fees shall be properly accounted for and shall be paid into the State Treasury monthly. All fees received by the ~~Oklahoma~~ Secretary of State pursuant to the provisions of this section shall be paid to the credit of the revolving fund for the Office of the Secretary of State created pursuant to Section 276.1 of Title 62 of the Oklahoma Statutes.

SECTION 38. AMENDATORY Section 15, Chapter 69, O.S.L. 1996 (18 O.S. Supp. 2000, Section 2055.1), is amended to read as follows:

Section 2055.1

FAILURE TO PAY REGISTERED AGENT FEES

~~A. A limited liability company may have its certificate of registration revoked by the Secretary of State and its authority to do business in this state canceled for failure to pay the registered agent fee prescribed by paragraph 12 of Section 2055 of Title 18 of the Oklahoma Statutes. Before such revocation the Secretary of State shall give not less than thirty (30) days' notice sent by mail duly addressed to such limited liability company at its principal place of business or last address shown on the records of the Secretary of State of the Secretary of State's intent to revoke its authority to transact business in this state.~~

~~B. A limited liability company, after notice required by subsection A of this section, shall be subject to a penalty and shall forfeit to the state for each day it fails to comply with the provisions of this section, the sum of Twenty-five Dollars ($25.00) per day but not more than Five Hundred Dollars ($500.00) for each such offense.~~

~~C. The Secretary of State shall rescind such revocation and return the limited liability company to active status upon the~~

~~records of the state if the limited liability company tenders such penalties and any registered agent fees due within three (3) years of the revocation, to the Secretary of State~~ A domestic or foreign limited liability company for which the Secretary of State acts as the registered agent that fails to pay the registered agent fee by the due date as provided in paragraph 12 of Section 2055 of this title shall be subject to the provisions of Section 29 of this act.

SECTION 39. AMENDATORY Section 59, Chapter 148, O.S.L. 1992 (18 O.S. Supp. 2000, Section 2058), is amended to read as follows:

Section 2058.

RULES OF CONSTRUCTION OF ACT

A. The rules that statutes in derogation of the common law are to be strictly construed shall have no application to ~~this act~~ the Oklahoma General Corporation Act.

B. The law of estoppel shall apply to this act.

C. The law of agency shall apply under this act.

D. It is the policy of this act to give the maximum effect to the principle of freedom of contract and to the enforceability of operating agreements.

E. This act shall not be construed so as to impair the obligations of any contract existing when the act goes into effect, nor to affect any action or proceedings begun or right accrued before this act takes effect.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 310.2 of Title 54, unless there is created a duplication in numbering, reads as follows:

CONVERSION OF CERTAIN ENTITIES TO A LIMITED PARTNERSHIP

A. As used in this section, the term "business entity" means a domestic corporation, general partnership, limited liability

company, business trust, common law trust, or other unincorporated association.

B. Any business entity may convert to a domestic limited partnership by complying with subsection H of this section and filing with the Secretary of State in accordance with Section 314 of this title a certificate of conversion to limited partnership that has been executed in accordance with Section 312 of this title, to which shall be attached a certificate of limited partnership that complies with Section 309 of this title and has been executed in accordance with Section 312 of this title.

C. The certificate of conversion to limited partnership shall state:

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

2. The name of the business entity immediately prior to the filing of the certificate of conversion to limited partnership;

3. The name of the limited partnership as set forth in its certificate of limited partnership 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, of the conversion to a limited partnership if it is not to be effective upon the filing of the certificate of conversion to limited partnership and the certificate of limited partnership.

D. Upon the filing with the Secretary of State the certificate of conversion to limited partnership and the certificate of limited partnership or upon the future effective date or time of the certificate of conversion to limited partnership and the certificate of limited partnership, the business entity shall be converted into a domestic limited partnership and the limited partnership shall thereafter be subject to all of the provisions of the Oklahoma General Corporation Act, except that notwithstanding Section 309 of this title, the existence of the limited partnership shall be deemed to have commenced on the date the business entity was formed.

E. The conversion of any business entity into a domestic limited partnership shall not be deemed to affect any obligations or liabilities of the business entity incurred prior to its conversion to a domestic limited partnership, or the personal liability of any person incurred prior to such conversion.

F. When any conversion shall have become effective under this section, for all purposes of the laws of this state, all of the rights, privileges and powers of the business entity that has converted, and all property, real, personal and mixed, and all debts due to the business entity, as well as all other things and causes of action belonging to the business entity, shall be vested in the domestic limited partnership and shall thereafter be the property of the domestic limited partnership as they were of the business entity that has converted, and the title to any real property vested by deed or otherwise in the business entity shall not revert or be in any way impaired by reason of this act; but all rights of creditors and all liens upon any property of the business entity shall be preserved unimpaired, and all debts, liabilities and duties of the business entity that has converted shall thenceforth attach to the domestic limited partnership, and may be enforced against it to the same extent as if the debts, liabilities and duties had been incurred or contracted by it.

G. Unless otherwise agreed or otherwise provided by any laws of this state applicable to the converting business entity, the converting business 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 business entity and shall constitute a continuation of the existence of the converting business entity in the form of a domestic limited partnership. When a business entity has been converted to a limited partnership pursuant to this section, the limited partnership shall,

for all purposes of the laws of this state, be deemed to be the same entity as the converting business entity.

H. Prior to filing a certificate of conversion to limited partnership 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 business entity and the conduct of its business or by applicable law, as appropriate, and a partnership agreement shall be approved by the same authorization required to approve the conversion; provided that in any event, such approval shall include the approval of any person who, at the effective date or time of the conversion, shall be a general partner of the limited partnership.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 310.3 of Title 54, unless there is created a duplication in numbering, reads as follows:

APPROVAL OF CONVERSION OF A LIMITED PARTNERSHIP

A domestic limited partnership may convert to a corporation, general partnership, limited liability company, business trust, common law trust, or other unincorporated association organized, formed or created under the laws of this state, upon the authorization of the conversion in accordance with this section. If the partnership agreement specifies the manner of authorizing a conversion of the limited partnership, the conversion shall be authorized as specified in the partnership agreement. If the partnership agreement does not specify the manner of authorizing a conversion of the limited partnership and does not prohibit a conversion of the limited partnership, the conversion shall be authorized in the same manner as is specified in the partnership agreement for authorizing a merger or consolidation that involves the limited partnership as a constituent party to the merger or

consolidation. If the partnership agreement does not specify the manner of authorizing a conversion of the limited partnership or a merger or consolidation that involves the limited partnership as a constituent party and does not prohibit a conversion of the limited partnership, the conversion shall be authorized by the approval:

1. By all general partners; and

2. By the limited partners or, if there is more than one class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than fifty percent (50%) of the then current percentage or other interest in the profits of the domestic limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate.

Notwithstanding the foregoing, in addition to any other authorization required by this section, if the entity into which the limited partnership 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 partners who would be exposed to personal liability.

SECTION 42. AMENDATORY 54 O.S. 1991, Section 311, is amended to read as follows:

Section 311.

CANCELLATION OF CERTIFICATE

A. A certificate of limited partnership shall be canceled upon the dissolution and the commencement of winding up of the partnership or at any time there are no limited partners, or as provided in subsection B of this section, or upon the filing of a certificate of merger or consolidation if the limited partnership is not the surviving or resulting entity in a merger or consolidation, or upon the conversion of a domestic limited partnership approved in accordance with Section 310.3 of this title. The cancellation of the certificate of limited partnership shall not affect the limited

liability of the limited partners nor the rights and responsibilities of the partners as set forth in this act, in the certificate of limited partnership or in the partnership agreement during the period of winding up and prior to termination of the partnership. A certificate of cancellation shall be filed in the Office of the Secretary of State to accomplish the cancellation of a certificate of limited partnership upon the dissolution of a limited partnership or upon the conversion of a domestic limited partnership approved in accordance with Section 42 of this act and shall set forth:

1. The name of the limited partnership;

2. The date of filing of its certificate of limited partnership;

3. The reason for filing the certificate of cancellation;

4. The effective date, which shall be a date certain, of cancellation if it is not to be effective upon the filing of the certificate; ~~and~~

5. In the case of the conversion of a domestic limited partnership, the name of the entity to which the domestic limited partnership has been converted; and

6. Any other information the general partners filing the certificate determine.

B. The certificate of limited partnership of a domestic limited partnership shall be deemed to be canceled if the limited partnership shall fail to pay the annual fee provided in Section 44 of this act or the registered agent fee to the Secretary of State due under Section 350.1 of this title for a period of three (3) years from the date it is due, the cancellation to be effective on the third anniversary of the due date.

C. On or before October 31 of each calendar year, the Secretary of State shall publish in at least one newspaper of general circulation in this state a list of those domestic limited

partnerships whose certificates of limited partnership were canceled on July 1 of the calendar year pursuant to subsection B of this section.

SECTION 43. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 311.1 of Title 54, unless there is created a duplication in numbering, reads as follows:

ANNUAL FEE FOR DOMESTIC LIMITED PARTNERSHIP AND FOREIGN LIMITED PARNTERSHIP

A. Every domestic limited partnership and every foreign limited partnership registered to do business in this state shall pay an annual fee, for the use of this state, in the amount of Twenty-five Dollars ($25.00).

B. The annual fee shall be due and payable on July 1 following the close of the calendar year until the cancellation of a certificate of limited partnership. The Secretary of State shall receive the annual fee and pay over all fees collected to the credit of the revolving fund for the Secretary of State. If the annual fee remains unpaid after the due date, the fee shall bear interest at the rate of one and one-half percent (1 1/2%) for each month or portion thereof until fully paid.

C. The Secretary of State shall, at least sixty (60) days prior to July 1 of each year, cause to be mailed to each domestic limited partnership and foreign limited partnership required to comply with the provisions of this section in care of its registered agent in this state an annual statement for the fee to be paid hereunder and for any registered agent fees due to the Secretary of State.

D. In the event of neglect, refusal or failure on the part of any domestic limited partnership or foreign limited partnership to pay the annual fee to be paid hereunder on or before July 1 in any year, such domestic limited partnership or foreign limited partnership shall pay the sum of Twenty-five Dollars ($25.00) to be recovered by adding that amount to the annual fee, and the

additional sum shall become a part of the fee and shall be collected in the same manner and subject to the same penalties.

E. In the event any domestic limited partnership or foreign limited partnership shall fail to pay the annual fee due within the time required by this section, and in the event the agent in charge of the registered office of any domestic limited partnership or foreign limited partnership upon whom process against the domestic limited partnership or foreign limited partnership may be served shall die, resign, refuse to act as such, remove from this state or cannot with due diligence be found, it shall be lawful while default continues to serve process against the domestic limited partnership or foreign limited partnership upon the Secretary of State.

F. The annual fee or registered agent fee to the Secretary of State shall be a debt due from a domestic limited partnership or foreign limited partnership to this state, for which an action at law may be maintained after the same shall have been in arrears for a period of sixty (60) days from the due date. The fee shall also be a preferred debt in the case of insolvency.

G. A domestic limited partnership or foreign limited partnership that neglects, refuses or fails to pay the annual fee or registered agent fee to the Secretary of State within sixty (60) days after the date due shall cease to be in good standing as a domestic limited partnership or registered as a foreign limited partnership in this state.

H. Until cancellation, a domestic limited partnership that has ceased to be in good standing or a foreign limited partnership that has ceased to be registered by reason of the failure to pay an annual fee or registered agent fee to the Secretary of State shall be restored to and have the status of a domestic limited partnership in good standing or a foreign limited partnership that is registered in this state upon the payment of the annual fee or registered agent fee to the Secretary of State and all penalties and interest thereon

for each year for which such domestic limited partnership or foreign limited partnership neglected, refused or failed to pay an annual fee or registered agent fee within three (3) years from the date it is due.

I. A domestic limited partnership that has ceased to be in good standing by reason of its neglect, refusal or failure to pay an annual fee or registered agent fee to the Secretary of State shall remain a domestic limited partnership formed under this act until cancellation of its certificate of limited partnership. The Secretary of State shall not accept for filing any certificate, except a certificate of resignation of a registered agent when a successor registered agent is not being appointed, required or permitted by this act to be filed in respect of any domestic limited partnership or foreign limited partnership which has neglected, refused or failed to pay an annual fee, and shall not issue any certificate of good standing with respect to such domestic limited partnership or foreign limited partnership, unless and until the domestic limited partnership or foreign limited partnership shall have been restored to and have the status of a domestic limited partnership in good standing or a foreign limited partnership duly registered in this state.

J. A domestic limited partnership that has ceased to be in good standing or a foreign limited partnership that has ceased to be registered in this state by reason of its neglect, refusal or failure to pay an annual fee or registered agent fee to the Secretary of State may not maintain any action, suit or proceeding in any court of this state until the domestic limited partnership or foreign limited partnership has been restored to and has the status of a domestic limited partnership or foreign limited partnership in good standing or duly registered in this state. An action, suit or proceeding may not be maintained in any court of this state by any successor or assignee of the domestic limited partnership or foreign

limited partnership on any right, claim or demand arising out of the transaction of business by the domestic limited partnership after it has ceased to be in good standing or a foreign limited partnership that has ceased to be registered in this state until the domestic limited partnership, or foreign limited partnership, or any person that has acquired all or substantially all of its assets, has paid any annual fee or registered agent fee to the Secretary of State then due and payable, together with penalties and interest thereon.

K. The neglect, refusal or failure of a domestic limited partnership or foreign limited partnership to pay an annual fee or registered agent fee to the Secretary of State shall not impair the validity of any contract, deed, mortgage, security interest, lien or act of the domestic limited partnership or foreign limited partnership or prevent the domestic limited partnership or foreign limited partnership from defending any action, suit or proceeding in any court of this state.

L. A limited partner of a domestic limited partnership or foreign limited partnership is not liable as a general partner of the domestic limited partnership or foreign limited partnership solely by reason of the neglect, refusal or failure of the domestic limited partnership or foreign limited partnership to pay an annual fee or registered agent fee to the Secretary of State or by reason of the domestic limited partnership or foreign limited partnership ceasing to be in good standing or duly registered.

SECTION 44. AMENDATORY 54 O.S. 1991, Section 314, is amended to read as follows:

Section 314.

FILING IN OFFICE OF SECRETARY OF STATE

A. Two signed copies of the certificate of limited partnership of any certificates of amendment, correction, or cancellation or of any judicial decree of amendment or cancellation, and of any certificate of merger or consolidation, any restated certificate,

and any certificate of conversion to limited partnership shall be delivered to the Secretary of State. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of his authority as a prerequisite to filing. Unless the Secretary of State finds that any certificate does not conform to law, upon receipt of all filing fees required by law ~~he~~ the Secretary of State shall:

1. Endorse on each duplicate original the word "Filed" and the day, month and year of the filing thereof;

2. File one duplicate original in his office; and

3. Return the other duplicate original to the person who filed it or his representative.

B. Upon the filing of a certificate of amendment or judicial decree of amendment in the Office of the Secretary of State, the certificate of limited partnership shall be amended as set forth therein and upon the effective date of a certificate of cancellation or a judicial decree of amendment, the certificate of limited partnership is canceled.

C. The following fees shall be paid to the Secretary of State:

1. For filing a certificate of limited partnership, a fee of One Hundred Dollars ($100.00); and

2. For filing an amendment to a certificate of limited partnership or a certificate of cancellation, merger, consolidation or conversion, or any other certificate or document for which a fee is not otherwise specified under the Revised Uniform Limited Partnership Act a fee of Fifty Dollars ($50.00).

SECTION 45. AMENDATORY 54 O.S. 1991, Section 350, as last amended by Section 37, Chapter 421, O.S.L. 1999 (54 O.S. Supp. 2000, Section 350), is amended to read as follows:

Section 350.

REGISTRATION

A. Before transacting business in this state, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall:

1. Pay to the Secretary of State a registration fee in the amount of Three Hundred Dollars ($300.00);

2. Provide the Secretary of State with a certificate from the certifying officer of the jurisdiction of the foreign limited partnership's organization attesting to the foreign limited partnership's organization under the laws of such jurisdiction; and

3. Submit to the Secretary of State, in duplicate, an application for registration as a foreign limited partnership, signed by a general partner and setting forth:

a. the name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state,

b. the jurisdiction and date of its formation,

c. the name and street address of any agent for service of process on the foreign limited partnership whom the foreign limited partnership elects to appoint; the agent must be an individual resident of this state, a domestic corporation, limited partnership, limited liability company or a foreign corporation, limited partnership, or limited liability company authorized to do business in this state,

d. a statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if no agent has been appointed pursuant to subparagraph c of this paragraph or, if appointed, the agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence,

e. the address of the office required to be maintained in the jurisdiction of its organization by the laws of that jurisdiction or, if not so required, of the principal office of the foreign limited partnership,

f. the name and business address of each general partner, and

g. the address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is canceled or withdrawn.

B. A foreign limited partnership or a partnership, a limited liability company, a business or other trust or association or corporation formed or organized under the laws of any foreign country or other foreign jurisdiction or the laws of any state other than this state shall not be deemed to be doing business in this state solely by reason of its being a partner in a domestic limited partnership or foreign limited partnership doing business in this state.

SECTION 46. AMENDATORY Section 24, Chapter 69, O.S.L. 1996 (54 O.S. Supp. 2000, Section 350.1), is amended to read as follows:

Section 350.1

REGISTERED AGENT FEES

~~A. For acting~~ Each domestic and foreign limited partnership for which the Secretary of State acts as registered agent~~,~~ shall pay a fee of One Hundred Dollars ($100.00) ~~shall be paid~~ on ~~the first day of~~ or before July 1 of each year to the Office of the Secretary of State for deposit in the General Revenue Fund of the State Treasury. Failure to pay the registered agent fee by the due date shall

subject the limited partnership to the provisions of Section 311 of this title and Section 44 of this act.

~~B. A limited partnership may have its certificate of registration revoked by the Secretary of State and its authority to do business in this state canceled for failure to pay the registered agent fee prescribed by this section. Before such revocation the Secretary of State shall give not less than thirty (30) days' notice sent by mail duly addressed to such limited partnership at its principal place of business or last address shown on the records of the Secretary of State of the Secretary of State's intent to revoke its authority to transact business in this state.~~

~~C. A limited partnership, after notice required by subsection B of this section, shall be subject to a penalty and shall forfeit to the state for each day it fails to comply with the provisions of this section, the sum of Twenty-five Dollars ($25.00) per day but not more than Five Hundred Dollars ($500.00) for each such offense.~~

~~D. The Secretary of State shall rescind such revocation and return the limited partnership to active status upon the records of the state at such time as the partnership tenders such penalties and any registered agent fees due within three (3) years of the date of the revocation, to the Secretary of State.~~

SECTION 47. AMENDATORY 68 O.S. 1991, Section 3202, as last amended by Section 2, Chapter 340, O.S.L. 1999 (68 O.S. Supp. 2000, Section 3202), is amended to read as follows:

Section 3202. The tax imposed by Section 3201 of this title shall not apply to:

1. Deeds recorded prior to the effective date of Sections 3201 through 3206 of this title;

2. Deeds which secure a debt or other obligation;

3. Deeds which, without additional consideration, confirm, correct, modify or supplement a deed previously recorded;

4. Deeds between husband and wife, or parent and child, or any persons related within the second degree of consanguinity, without actual consideration therefor, deeds between any person and an express revocable trust created by such person or such person's spouse or deeds pursuant to which property is transferred from a person to a partnership, limited liability company or corporation of which the transferor or the transferor's spouse, parent, child, or other person related within the second degree of consanguinity to the transferor, or trust for primary benefit of such persons, are the only owners of the partnership, limited liability company or corporation. However, if ~~the ownership of~~ any interest in the partnership, limited liability company or corporation is ~~changed~~ transferred within one (1) year ~~of the property transfer~~ to any person other than the transferor or the transferor's spouse, parent, child, or other person related within the second degree of consanguinity to the transferor, the seller shall immediately pay the amount of tax which would have been due had this exemption not been granted;

5. Tax deeds;

6. Deeds of release of property which is security for a debt or other obligation;

7. Deeds executed by Indians in approval proceedings of the district courts or by the Secretary of the Interior;

8. Deeds of partition, unless, for consideration, some of the parties take shares greater in value than their undivided interests, in which event a tax attaches to each deed conveying such greater share computed upon the consideration for the excess;

9. Deeds made pursuant to mergers of partnerships, limited liability companies or corporations;

10. Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;

11. Deeds or instruments to which the State of Oklahoma or any of its instrumentalities, agencies or subdivisions is a party, whether as grantee or as grantor or in any other capacity;

12. Deeds or instruments to which the United States or any of its agencies or departments is a party, whether as grantor or as grantee or in any other capacity, provided that this shall not exempt transfers to or from national banks or federal savings and loan associations;

13. Any deed executed pursuant to a foreclosure proceeding in which the grantee is the holder of a mortgage on the property being foreclosed, or any deed executed pursuant to a power of sale in which the grantee is the party exercising such power of sale or any deed executed in favor of the holder of a mortgage on the property in consideration for the release of the borrower from liability on the indebtedness secured by such mortgage except as to cash consideration paid; provided, however, the tax shall apply to deeds in other foreclosure actions, unless otherwise hereinabove exempted, and shall be paid by the purchaser in such foreclosure actions; or

14. Deeds and other instruments to which the Oklahoma Space Industry Development Authority or a spaceport user, as defined in the Oklahoma Space Industry Development Act, is a party.

SECTION 48. This act shall become effective November 1, 2001."

Passed the House of Representatives the 26th day of March, 2001.

_____
Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 2001.

_____
President of the Senate