

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 3377

By: Shannon

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5  
6 AS INTRODUCED

7 An Act relating to business entities; creating the  
8 Oklahoma Religious-Based Entity Act; construing  
9 provisions; defining terms; describing naming of  
10 religious-based entities; providing for dual  
11 applicability with other business organization acts;  
12 clarifying individual compliance with each act;  
13 permitting formation for any purpose; listing  
14 requirements to organize as a religious-based entity;  
15 describing how entity ceases to be a religious-based  
16 entity; specifying voting procedures to resolve  
17 disputes, amend, merge or eliminate; directing  
18 managers to comply with the act; requiring managers  
19 give failure-to-qualify notice to owners; exempting  
20 entity and manager from certain duty; limiting  
21 personal liability of manager; permitting transfer if  
22 contrary to purpose; permitting derivative actions in  
23 certain cases; directing maintenance and updating of  
24 records; amending 18 O.S. 2011, Section 1091, which  
relates to appraisal rights; granting appraisal  
rights to entities organized pursuant to the act;  
providing for codification; and providing an  
effective date.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 1201 of Title 18, unless there  
is created a duplication in numbering, reads as follows:

1 This act shall be known and may be cited as the "Oklahoma  
2 Religious-Based Entity Act".

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1202 of Title 18, unless there  
5 is created a duplication in numbering, reads as follows:

6 The Oklahoma Religious-Based Entity Act shall be construed to  
7 effectuate its general purposes to:

8 1. Assure that adoption of an entity formed for the conduct of  
9 business for a profit does not curtail the right to the free  
10 exercise of assembly, association, speech or religion by the owners;

11 2. Neither endorse nor establish any particular religion;

12 3. Expressly provide for consideration of the religious-based  
13 purposes of a religious-based entity by the managers while they  
14 discharge their duties as managers; and

15 4. Provide a specific framework for entities operated for  
16 profit to pursue religious-based purposes, separate from the ability  
17 to pursue these purposes under existing state law.

18 SECTION 3. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1203 of Title 18, unless there  
20 is created a duplication in numbering, reads as follows:

21 As used in the Oklahoma Religious-Based Entity Act:

22 1. "Associated act" means the Oklahoma General Corporation Act,  
23 for a corporation formed under that act; the Oklahoma Revised  
24 Uniform Limited Partnership Act, for a limited partnership formed

1 under or subject to that act; or the Oklahoma Limited Liability  
2 Company Act, for a limited liability company formed under that act;

3 2. "Closely held" means the interests of the entity and the  
4 equity interests of any direct or indirect owner of the entity:

5 a. are not traded on a national securities exchange or on  
6 the over-the-counter market, and

7 b. are not required to be registered pursuant to Section  
8 12 of the Securities Exchange Act of 1934 or subject  
9 to Section 15(d) of the Securities Exchange Act of  
10 1934;

11 3. "Entity agreement" means bylaws of a corporation, a limited  
12 partnership agreement of a limited partnership, or an operating  
13 agreement of a limited liability company;

14 4. "Formation instrument" means a certificate of incorporation  
15 of a corporation, a certificate of limited partnership of a limited  
16 partnership, or articles of organization of a limited liability  
17 company;

18 5. "Interest" means a share of stock in a corporation, a  
19 partnership interest in a limited partnership or a membership  
20 interest in a limited liability company;

21 6. "Manager" means a director or officer of a corporation; a  
22 general partner or any of its managers, directors or officers of a  
23 limited partnership; or a manager, director or officer of a limited  
24 liability company;

1 7. "Owner" means a shareholder of a corporation, a general or  
2 limited partner of a limited partnership, or a member of a limited  
3 liability company;

4 8. "Religious-based entity" means a domestic corporation,  
5 limited partnership or limited liability company (including but not  
6 limited to a professional entity, business development corporation,  
7 or farming or ranching business corporation) that satisfies the  
8 requirements set forth in Section 7 of this act; and

9 9. "Religious-based purpose" means one or more purposes  
10 relating to the exercise of religion. The term "exercise of  
11 religion" means religious exercise and includes any exercise of  
12 religion, whether or not compelled by, or central to, a system of  
13 religious belief. The term "religion" includes all aspects of  
14 religious observance and practice, as well as belief.

15 SECTION 4. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 1204 of Title 18, unless there  
17 is created a duplication in numbering, reads as follows:

18 The name of a religious-based entity shall end with one or more  
19 of the words or abbreviations permitted in the applicable associated  
20 acts; provided, that the words or abbreviations shall be modified  
21 and preceded by the words "Religious-Based" or the letters "R.B." or  
22 "RB" or some abbreviation of the combination, with or without  
23 punctuation. If a religious-based entity is subject to a  
24 requirement, whether by another act, rule or regulation, requiring

1 additional words or abbreviations to be reflected in its name then  
2 such requirements shall be considered in addition to the  
3 requirements of this section.

4 SECTION 5. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 1205 of Title 18, unless there  
6 is created a duplication in numbering, reads as follows:

7 The applicable associated act shall apply to each religious-  
8 based entity, and each religious-based entity shall enjoy the powers  
9 and privileges and be subject to the duties, restrictions and  
10 obligations of other similarly situated business entities, except  
11 where inconsistent with the Oklahoma Religious-Based Entity Act. A  
12 religious-based entity may be subject simultaneously to the Oklahoma  
13 Religious-Based Entity Act and one or more other acts, including but  
14 not limited to the applicable associated act or the Professional  
15 Entity Act. Failure to satisfy the requirements of the Oklahoma  
16 Religious-Based Entity Act, at any time or from time to time, shall  
17 not affect an entity's rights, privileges, immunities, status or  
18 good standing under the applicable associated act.

19 SECTION 6. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 1206 of Title 18, unless there  
21 is created a duplication in numbering, reads as follows:

22 A religious-based entity may be formed for any purpose permitted  
23 by the associated act. If a religious-based entity is subject to a  
24 requirement, whether by another act, rule or regulation, requiring

1 additional purposes to be stated in its formation instrument then  
2 those requirements shall be considered in addition to the  
3 requirements of the Oklahoma Religious-Based Entity Act.

4 SECTION 7. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 1207 of Title 18, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. In order to be a religious-based entity, each of the  
8 following requirements shall be satisfied:

9 1. The formation instrument states at least one religious-based  
10 purpose and each such purpose is expressly identified as a  
11 religious-based purpose;

12 2. The entity is closely held;

13 3. The entity is a domestic corporation other than a nonprofit  
14 corporation, a domestic limited partnership or a domestic limited  
15 liability company; and

16 4. The formation instrument includes statements that:

17 a. the entity elects to be subject to the Oklahoma  
18 Religious-Based Entity Act,

19 b. upon filing the formation instrument, the entity will  
20 satisfy the requirements of this subsection, and

21 c. the owners of eighty percent (80%) of the interests  
22 entitled to vote have approved the religious-based  
23 purpose stated in the formation instrument.

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1       B. Failure by an entity to comply with the requirements set  
2 forth in subsection A of this section shall result in the entity  
3 ceasing to be a religious-based entity immediately upon the failure,  
4 but shall not affect the rights, privileges, immunities, status or  
5 good standing of an entity under the applicable associated act or  
6 other state law. Within a reasonable time after an entity ceases to  
7 be a religious-based entity, an entity shall amend its formation  
8 instrument to eliminate the statements required by subparagraphs a  
9 and b of paragraph 4 of subsection A of this section. In order to  
10 again qualify as a religious-based entity after ceasing to qualify,  
11 an entity shall satisfy the requirements of subsection A of this  
12 section.

13       C. Unless otherwise provided in the entity agreement, any  
14 disagreement concerning a religious-based purpose shall be  
15 determined by the owners of more than fifty percent (50%) of the  
16 interests entitled to vote.

17       SECTION 8.       NEW LAW       A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1208 of Title 18, unless there  
19 is created a duplication in numbering, reads as follows:

20       A. Notwithstanding any other provisions of the applicable  
21 associated act, formation instrument or entity agreement, a domestic  
22 corporation (other than a nonprofit corporation), limited  
23 partnership or limited liability company that is not a religious-

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1 based entity shall not, without the approval of the owners of at  
2 least eighty percent (80%) of the interests entitled to vote:

3 1. Amend its formation instrument, in accordance with the  
4 provisions of the applicable associated act or other laws, to  
5 include a statement that the entity is subject to the Oklahoma  
6 Religious-Based Entity Act; or

7 2. Merge with or into, convert to, consolidate with or agree to  
8 any share exchange with another entity if, as a result of the  
9 merger, conversion, consolidation or share exchange, the interests  
10 in the entity would become, or be converted into or exchanged for  
11 the right to receive, interests in a religious-based entity.

12 B. Notwithstanding any other provisions of the applicable  
13 associated act, formation instrument or entity agreement, and except  
14 as required by subsection B of Section 7 of the Oklahoma Religious-  
15 Based Entity Act, a religious-based entity shall not, without the  
16 approval of the owners of at least eighty percent (80%) of the  
17 interests entitled to vote:

18 1. Amend or eliminate, in accordance with the provisions of the  
19 applicable associated act or other laws, the statements in its  
20 formation instrument that are required by subsection A of Section 7  
21 of the Oklahoma Religious-Based Entity Act; or

22 2. Merge with or into, convert to, consolidate with or agree to  
23 any share exchange with any entity that is not a religious-based  
24 entity unless the surviving entity is a religious-based entity.



1           SECTION 9.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1209 of Title 18, unless there  
3 is created a duplication in numbering, reads as follows:

4           A. Subject to subsection C of this section, in discharging the  
5 duties imposed under the associated act, the formation instrument or  
6 the entity agreement:

7           1. Each manager shall take into account the religious-based  
8 purpose of the entity, as well as other purposes for which the  
9 entity may be formed pursuant to the associated act; and

10          2. Each manager shall take reasonable steps to cause the  
11 religious-based entity to comply with the requirements of Section 7  
12 of the Oklahoma Religious-Based Entity Act.

13 Consideration and pursuit by any manager of the religious-based  
14 purpose of the entity, even if inconsistent with any other stated  
15 purposes of the entity or detrimental to the maximization of  
16 monetary profits by the entity, shall not constitute a violation of  
17 any duty otherwise owed by the manager under applicable law. Within  
18 a reasonable time after a religious-based entity ceases to qualify  
19 as a religious-based entity, the managers shall notify all owners of  
20 the failure to qualify.

21          B. No religious-based entity and no manager or owner of a  
22 religious-based entity shall have any duty to a person:

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1           1. On account of any interest of the person in any public  
2 benefit that may be created or enhanced in connection with the  
3 religious-based purpose; or

4           2. On account of any interest materially affected by the  
5 conduct of the religious-based entity in the person's capacity as a  
6 beneficiary or potential beneficiary of the religious-based purpose.

7           C. Unless otherwise provided in the entity agreement, no  
8 manager shall be personally liable for monetary damages for failure  
9 of the religious-based entity to pursue its religious-based purpose  
10 or any act or omission in the course of performing the duties under  
11 subsection A of this section, except to the extent such act or  
12 omission constitutes:

13           1. A breach of the manager's duty of loyalty;

14           2. An act or omission not in good faith or which involves  
15 intentional misconduct or a knowing violation of law; or

16           3. A transaction from which the manager derived an improper  
17 personal benefit.

18           SECTION 10.       NEW LAW       A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1210 of Title 18, unless there  
20 is created a duplication in numbering, reads as follows:

21           No act of a religious-based entity and no conveyance or transfer  
22 of real or personal property to or by a religious-based entity shall  
23 be invalid by reason of the fact that the act or conveyance or

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1 transfer by the religious-based entity was contrary to any  
2 religious-based purpose of the entity.

3 SECTION 11. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1211 of Title 18, unless there  
5 is created a duplication in numbering, reads as follows:

6 Notwithstanding any other provisions of the applicable  
7 associated act, and subject to compliance with subsection C of  
8 Section 7 of the Oklahoma Religious-Based Entity Act, a derivative  
9 action on behalf of a religious-based entity that attempts to  
10 enforce, or that challenges or alleges noncompliance with, a  
11 religious-based purpose of the entity may be commenced or maintained  
12 only by the owners of at least five percent (5%) of the interests  
13 entitled to vote at the time of the challenged act or omission.

14 SECTION 12. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 1212 of Title 18, unless there  
16 is created a duplication in numbering, reads as follows:

17 Unless otherwise provided in the entity agreement, the records  
18 of a religious-based entity shall include reasonably detailed  
19 information regarding the religious-based entity's pursuit of its  
20 religious-based purpose, updated on an annual basis. Failure of a  
21 religious-based entity to maintain the records required by this  
22 section shall not be grounds for imposing liability on any person  
23 for the debts and obligations of the entity.

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1 SECTION 13. AMENDATORY 18 O.S. 2011, Section 1091, is  
2 amended to read as follows:

3 Section 1091.

4 APPRAISAL RIGHTS

5 A. Any shareholder of a corporation of this state who holds  
6 shares of stock on the date of the making of a demand pursuant to  
7 the provisions of subsection D of this section with respect to the  
8 shares, who continuously holds the shares through the effective date  
9 of the merger or consolidation, who has otherwise complied with the  
10 provisions of subsection D of this section and who has neither voted  
11 in favor of the merger or consolidation nor consented thereto in  
12 writing pursuant to the provisions of Section 1073 of this title  
13 shall be entitled to an appraisal by the district court of the fair  
14 value of the shares of stock under the circumstances described in  
15 subsections B and C of this section. As used in this section, the  
16 word "shareholder" means a holder of record of stock in a stock  
17 corporation and also a member of record of a nonstock corporation;  
18 the words "stock" and "share" mean and include what is ordinarily  
19 meant by those words and also membership or membership interest of a  
20 member of a nonstock corporation; and "depository receipt" means an  
21 instrument issued by a depository representing an interest in one or  
22 more shares, or fractions thereof, solely of stock of a corporation,  
23 which stock is deposited with the depository. The provisions of  
24 this subsection shall be effective only with respect to mergers or

1 consolidations consummated pursuant to an agreement of merger or  
2 consolidation entered into after November 1, 1988.

3 B. 1. Except as otherwise provided for in this subsection,  
4 appraisal rights shall be available for the shares of any class or  
5 series of stock of a constituent corporation in a merger or  
6 consolidation, or of the acquired corporation in a share  
7 acquisition, to be effected pursuant to the provisions of Section  
8 1081, other than a merger effected pursuant to subsection G of  
9 Section 1081, and Section 1082, 1086, 1087, 1090.1 or 1090.2 of this  
10 title.

11 2. a. No appraisal rights under this section shall be  
12 available for the shares of any class or series of  
13 stock which stock, or depository receipts in respect  
14 thereof, at the record date fixed to determine the  
15 shareholders entitled to receive notice of and to vote  
16 at the meeting of shareholders to act upon the  
17 agreement of merger or consolidation, were either:

18 (1) listed on a national securities exchange or  
19 designated as a national market system security  
20 on an interdealer quotation system by the  
21 National Association of Securities Dealers,

22 Inc.†L or

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

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1 No appraisal rights shall be available for any shares  
2 of stock of the constituent corporation surviving a  
3 merger if the merger did not require for its approval  
4 the vote of the shareholders of the surviving  
5 corporation as provided in subsection G of Section  
6 1081 of this title.

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

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

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

- 1           b. shares of stock of any other corporation, or  
2           depository receipts in respect thereof, which shares  
3           of stock or depository receipts at the effective date  
4           of the merger or consolidation will be either listed  
5           on a national securities exchange or designated as a  
6           national market system security on an interdealer  
7           quotation system by the National Association of  
8           Securities Dealers, Inc. or held of record by more  
9           than two thousand holders, ~~or~~
- 10          c. cash in lieu of fractional shares or fractional  
11          depository receipts described in subparagraphs a and b  
12          of this paragraph, or
- 13          d. any combination of the shares of stock, depository  
14          receipts, and cash in lieu of the fractional shares or  
15          depository receipts described in subparagraphs a, b,  
16          and c of this paragraph.

17          4. In the event all of the stock of a subsidiary Oklahoma  
18          corporation party to a merger effected pursuant to the provisions of  
19          Section 1083 of this title is not owned by the parent corporation  
20          immediately prior to the merger, appraisal rights shall be available  
21          for the shares of the subsidiary Oklahoma corporation.

22          5. Appraisal rights shall be available for the shares of any  
23          class or series of stock of a corporation in any amendment,  
24          conversion, merger, consolidation or share exchange described in

1 Section 8 of this act. The procedures set forth in subsections D  
2 and E of this section shall apply as nearly as practicable.

3 C. Any corporation may provide in its certificate of  
4 incorporation that appraisal rights under this section shall be  
5 available for the shares of any class or series of its stock as a  
6 result of an amendment to its certificate of incorporation, any  
7 merger or consolidation in which the corporation is a constituent  
8 corporation or the sale of all or substantially all of the assets of  
9 the corporation. If the certificate of incorporation contains such  
10 a provision, the procedures of this section, including those set  
11 forth in subsections D and E of this section, shall apply as nearly  
12 as is practicable.

13 D. Appraisal rights shall be perfected as follows:

14 1. If a proposed merger or consolidation for which appraisal  
15 rights are provided under this section is to be submitted for  
16 approval at a meeting of shareholders, the corporation, not less  
17 than twenty (20) days prior to the meeting, shall notify each of its  
18 shareholders entitled to appraisal rights that appraisal rights are  
19 available for any or all of the shares of the constituent  
20 corporations, and shall include in the notice a copy of this  
21 section. Each shareholder electing to demand the appraisal of the  
22 shares of the shareholder shall deliver to the corporation, before  
23 the taking of the vote on the merger or consolidation, a written  
24 demand for appraisal of the shares of the shareholder. The demand



1 will be sufficient if it reasonably informs the corporation of the  
2 identity of the shareholder and that the shareholder intends thereby  
3 to demand the appraisal of the shares of the shareholder. A proxy  
4 or vote against the merger or consolidation shall not constitute  
5 such a demand. A shareholder electing to take such action must do  
6 so by a separate written demand as herein provided. Within ten (10)  
7 days after the effective date of the merger or consolidation, the  
8 surviving or resulting corporation shall notify each shareholder of  
9 each constituent corporation who has complied with the provisions of  
10 this subsection and has not voted in favor of or consented to the  
11 merger or consolidation as of the date that the merger or  
12 consolidation has become effective; or

13 2. If the merger or consolidation is approved pursuant to the  
14 provisions of Section 1073 or 1083 of this title, either a  
15 constituent corporation before the effective date of the merger or  
16 consolidation or the surviving or resulting corporation within ten  
17 (10) days thereafter shall notify each of the holders of any class  
18 or series of stock of the constituent corporation who are entitled  
19 to appraisal rights of the approval of the merger or consolidation  
20 and that appraisal rights are available for any or all shares of  
21 such class or series of stock of the constituent corporation, and  
22 shall include in the notice a copy of this section. The notice may,  
23 and, if given on or after the effective date of the merger or  
24 consolidation, shall, also notify the shareholders of the effective

1 date of the merger or consolidation. Any shareholder entitled to  
2 appraisal rights may, within twenty (20) days after the date of  
3 mailing of the notice, demand in writing from the surviving or  
4 resulting corporation the appraisal of the holder's shares. The  
5 demand will be sufficient if it reasonably informs the corporation  
6 of the identity of the shareholder and that the shareholder intends  
7 to demand the appraisal of the holder's shares. If the notice does  
8 not notify shareholders of the effective date of the merger or  
9 consolidation either:

- 10 a. each constituent corporation shall send a second  
11 notice before the effective date of the merger or  
12 consolidation notifying each of the holders of any  
13 class or series of stock of the constituent  
14 corporation that are entitled to appraisal rights of  
15 the effective date of the merger or consolidation, or
- 16 b. the surviving or resulting corporation shall send a  
17 second notice to all holders on or within ten (10)  
18 days after the effective date of the merger or  
19 consolidation; provided, however, that if the second  
20 notice is sent more than twenty (20) days following  
21 the mailing of the first notice, the second notice  
22 need only be sent to each shareholder who is entitled  
23 to appraisal rights and who has demanded appraisal of  
24 the holder's shares in accordance with this

1 subsection. An affidavit of the secretary or  
2 assistant secretary or of the transfer agent of the  
3 corporation that is required to give either notice  
4 that the notice has been given shall, in the absence  
5 of fraud, be prima facie evidence of the facts stated  
6 therein. For purposes of determining the shareholders  
7 entitled to receive either notice, each constituent  
8 corporation may fix, in advance, a record date that  
9 shall be not more than ten (10) days prior to the date  
10 the notice is given; provided, if the notice is given  
11 on or after the effective date of the merger or  
12 consolidation, the record date shall be the effective  
13 date. If no record date is fixed and the notice is  
14 given prior to the effective date, the record date  
15 shall be the close of business on the day next  
16 preceding the day on which the notice is given.

17 E. Within one hundred twenty (120) days after the effective  
18 date of the merger or consolidation, the surviving or resulting  
19 corporation or any shareholder who has complied with the provisions  
20 of subsections A and D of this section and who is otherwise entitled  
21 to appraisal rights, may file a petition in district court demanding  
22 a determination of the value of the stock of all such shareholders;  
23 provided, however, at any time within sixty (60) days after the  
24 effective date of the merger or consolidation, any shareholder shall

1 have the right to withdraw the demand of the shareholder for  
2 appraisal and to accept the terms offered upon the merger or  
3 consolidation. Within one hundred twenty (120) days after the  
4 effective date of the merger or consolidation, any shareholder who  
5 has complied with the requirements of subsections A and D of this  
6 section, upon written request, shall be entitled to receive from the  
7 corporation surviving the merger or resulting from the consolidation  
8 a statement setting forth the aggregate number of shares not voted  
9 in favor of the merger or consolidation and with respect to which  
10 demands for appraisal have been received and the aggregate number of  
11 holders of the shares. The written statement shall be mailed to the  
12 shareholder within ten (10) days after the shareholder's written  
13 request for a statement is received by the surviving or resulting  
14 corporation or within ten (10) days after expiration of the period  
15 for delivery of demands for appraisal pursuant to the provisions of  
16 subsection D of this section, whichever is later.

17 F. Upon the filing of any such petition by a shareholder,  
18 service of a copy thereof shall be made upon the surviving or  
19 resulting corporation, which, within twenty (20) days after service,  
20 shall file, in the office of the court clerk of the district court  
21 in which the petition was filed, a duly verified list containing the  
22 names and addresses of all shareholders who have demanded payment  
23 for their shares and with whom agreements regarding the value of  
24 their shares have not been reached by the surviving or resulting

1 corporation. If the petition shall be filed by the surviving or  
2 resulting corporation, the petition shall be accompanied by such  
3 duly verified list. The court clerk, if so ordered by the court,  
4 shall give notice of the time and place fixed for the hearing on the  
5 petition by registered or certified mail to the surviving or  
6 resulting corporation and to the shareholders shown on the list at  
7 the addresses therein stated. Notice shall also be given by one or  
8 more publications at least one (1) week before the day of the  
9 hearing, in a newspaper of general circulation published in the City  
10 of Oklahoma City, Oklahoma, or other publication as the court deems  
11 advisable. The forms of the notices by mail and by publication  
12 shall be approved by the court, and the costs thereof shall be borne  
13 by the surviving or resulting corporation.

14 G. At the hearing on the petition, the court shall determine  
15 the shareholders who have complied with the provisions of this  
16 section and who have become entitled to appraisal rights. The court  
17 may require the shareholders who have demanded an appraisal of their  
18 shares and who hold stock represented by certificates to submit  
19 their certificates of stock to the court clerk for notation thereon  
20 of the pendency of the appraisal proceedings; and if any shareholder  
21 fails to comply with this direction, the court may dismiss the  
22 proceedings as to that shareholder.

23 H. After determining the shareholders entitled to an appraisal,  
24 the court shall appraise the shares, determining their fair value

1 exclusive of any element of value arising from the accomplishment or  
2 expectation of the merger or consolidation, together with a fair  
3 rate of interest, if any, to be paid upon the amount determined to  
4 be the fair value. In determining the fair value, the court shall  
5 take into account all relevant factors. In determining the fair  
6 rate of interest, the court may consider all relevant factors,  
7 including the rate of interest which the surviving or resulting  
8 corporation would have to pay to borrow money during the pendency of  
9 the proceeding. Upon application by the surviving or resulting  
10 corporation or by any shareholder entitled to participate in the  
11 appraisal proceeding, the court may, in its discretion, permit  
12 discovery or other pretrial proceedings and may proceed to trial  
13 upon the appraisal prior to the final determination of the  
14 shareholder entitled to an appraisal. Any shareholder whose name  
15 appears on the list filed by the surviving or resulting corporation  
16 pursuant to the provisions of subsection F of this section and who  
17 has submitted the certificates of stock of the shareholder to the  
18 court clerk, if required, may participate fully in all proceedings  
19 until it is finally determined that the shareholder is not entitled  
20 to appraisal rights pursuant to the provisions of this section.

21 I. The court shall direct the payment of the fair value of the  
22 shares, together with interest, if any, by the surviving or  
23 resulting corporation to the shareholders entitled thereto.  
24 Interest may be simple or compound, as the court may direct.

1 Payment shall be made to each shareholder, in the case of holders of  
2 uncertificated stock immediately, and in the case of holders of  
3 shares represented by certificates upon the surrender to the  
4 corporation of the certificates representing the stock. The court's  
5 decree may be enforced as other decrees in the district court may be  
6 enforced, whether the surviving or resulting corporation be a  
7 corporation of this state or of any other state.

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

16 K. From and after the effective date of the merger or  
17 consolidation, no shareholder who has demanded appraisal rights as  
18 provided for in subsection D of this section shall be entitled to  
19 vote the stock for any purpose or to receive payment of dividends or  
20 other distributions on the stock, except dividends or other  
21 distributions payable to shareholders of record at a date which is  
22 prior to the effective date of the merger or consolidation;  
23 provided, however, that if no petition for an appraisal shall be  
24 filed within the time provided for in subsection E of this section,

1 or if the shareholder shall deliver to the surviving or resulting  
2 corporation a written withdrawal of the shareholder's demand for an  
3 appraisal and an acceptance of the merger or consolidation, either  
4 within sixty (60) days after the effective date of the merger or  
5 consolidation as provided for in subsection E of this section or  
6 thereafter with the written approval of the corporation, then the  
7 right of the shareholder to an appraisal shall cease; provided  
8 further, no appraisal proceeding in the district court shall be  
9 dismissed as to any shareholder without the approval of the court,  
10 and approval may be conditioned upon terms as the court deems just.

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

16 SECTION 14. This act shall become effective November 1, 2014.

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