

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 769 By: Leewright of the Senate

3 and  
4 Montgomery and Murdock of  
5 the House

6  
7  
8 [ business entities - organization meeting and  
9 enforcement of corporate instruments - requirements  
10 for person acting on behalf of incorporator -  
11 registered office and agent, indemnification,  
12 issuance of stock and stock certificates - defective  
13 acts - shareholders and voting agreements - proxy  
14 solicitation materials - Oklahoma General Corporation  
15 Act - Oklahoma Limited Liability Company Act - cases  
16 not covered by act - annual certificates -  
17 codification - effective date ]

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1 documents; modifying permissible entities to be  
2 registered agents for domestic corporations;  
3 modifying duties of registered agent; requiring  
4 certain information be provided to registered agent;  
5 modifying certain indemnification requirements;  
6 authorizing approval for formula for certain  
7 consideration; modifying persons authorized to sign  
8 stock certificates; establishing procedures for  
9 ratification of defective corporate acts and stock;  
10 requiring certain notice; defining terms; clarifying  
11 district court jurisdiction over defective acts;  
12 amending 18 O.S. 2011, Sections 1056, 1058, 1063 and  
13 1064, which relate to shareholders and voting  
14 agreements; authorizing district court to issue  
15 certain orders; modifying requirements for fixing  
16 certain record dates; permitting delivery of voting  
17 trust to principal office; modifying requirement for  
18 certain shareholder list; authorizing conditions for  
19 certain conditions for proxy solicitation materials;  
20 authorizing reimbursement of certain expenses under  
21 certain circumstances; amending 18 O.S. 2011,  
22 Sections 1067, 1068, 1070, 1073, 1077, 1080, 1081  
23 and 1082, which relate to meetings, vacancies,  
24 election of directors, consent, certificates of  
incorporation, and merger or consolidation of  
domestic or foreign corporations; modifying certain  
notice requirements; authorizing certain application  
to district court; providing for removal of director  
by district court upon certain application;  
eliminating the public company exception for  
shareholder action by written consent; modifying  
requirements for execution of certain consent;  
expanding permissible amendments to certificates of  
incorporation; modifying certain amendment  
procedures; modifying requirements for certain  
restated certificates; modifying requirements for  
merger or consolidation agreements; modifying  
requirements for certain filing; providing exemption  
for certain certification; providing exceptions for  
shareholder vote under certain circumstances;  
defining terms; modifying inclusions for certain  
certificate; establishing procedures and  
requirements for merger of parent entity and  
subsidiary corporations; amending 18 O.S. 2011,  
Sections 1090.3, 1091, 1095, 1096, 1099, 1119, 1120,  
1121, 1130, 1133, 1135 and 1136, which relate to the  
Oklahoma General Corporation Act; deleting obsolete

1 reference; modifying definitions; modifying scope of  
2 certain appraisal rights; modifying procedures for  
3 perfecting certain appraisal rights; establishing  
4 interest rate for certain appraisal; modifying  
5 required contents for certain certificates of  
6 dissolution; modifying certain notice requirement;  
7 clarifying applicability of certain provisions;  
8 modifying requirements for revocation of voluntary  
9 dissolution; modifying requirements for revival,  
10 extension and restoration of certificates of  
11 incorporation; providing exceptions; affirming  
12 status of restored or revived corporations;  
13 modifying filing requirements for foreign  
14 corporations; modifying requirements for successor  
15 registered agents for foreign corporations;  
16 modifying procedures for withdrawal of foreign  
17 corporations; modifying requirements for certain  
18 service of process; amending 18 O.S. 2011, Sections  
19 2001, 2004, 2012.2, 2015, 2019, 2020, 2025, 2030,  
20 2032, 2033, 2034, 2035, 2036, 2040, 2054, 2054.1,  
21 2054.2, 2054.4 and 2055.2, as amended by Section 1,  
22 Chapter 245, O.S.L. 2012 (18 O.S. Supp. 2016,  
23 Section 2055.2), which relate to the Oklahoma  
24 Limited Liability Company Act; modifying  
definitions; clarifying effect of certain tax  
status; providing for capital interest; providing  
for resignation of certain member; modifying member  
voting rights; modifying allocation of certain  
profits and losses; modifying date for measurement  
of effect of distribution; conforming language;  
modifying certain power to withdraw; providing for  
wrongful withdrawal; specifying status of withdrawn  
member; authorizing buyout of certain interest;  
directing distribution of certain assets; modifying  
definition; providing for rights of certain  
interests; modifying required contents of articles  
of merger or consolidation; prohibiting merger of  
certain entities; conforming conversion provisions;  
establishing means for holding title to certain  
assets; deleting reinstatement provisions; providing  
procedures for reinstatement of limited liability  
companies; amending 18 O.S. 2011, Section 2060,  
which relates to cases not covered by act; affirming  
application of fiduciary duties; amending 54 O.S.  
2011, Section 500-210A, which relates to annual  
certificates; authorizing electronic methods of  
certain notice; updating statutory references;

1 conforming language; providing for codification; and  
2 providing an effective date.

3  
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. AMENDATORY 18 O.S. 2011, Section 1012, is  
6 amended to read as follows:

7 Section 1012.

8 ORGANIZATION MEETING OF INCORPORATORS OR DIRECTORS NAMED IN  
9 CERTIFICATE OF INCORPORATION

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

22 B. The persons calling the meeting shall give to each other  
23 incorporator or director, as the case may be, at least two (2) days'  
24 written notice thereof by any usual means of communication, which

1 notice shall state the time, place and purposes of the meeting as  
2 fixed by the persons calling it. Notice of the meeting need not be  
3 given to anyone who attends the meeting or who signs a waiver of  
4 notice either before or after the meeting.

5 C. Any action permitted to be taken at the organization meeting  
6 of the incorporators or directors, as the case may be, may be taken  
7 without a meeting if each incorporator or director, where there is  
8 more than one, or the sole incorporator or director where there is  
9 only one, signs an instrument which states the action so taken.

10 D. If any incorporator is not available to act, then any person  
11 for whom or on whose behalf the incorporator was acting directly or  
12 indirectly as employee or agent may take any action that such  
13 incorporator would have been authorized to take under this section  
14 or Section 1011 of this title; provided, that any instrument signed  
15 by such other person, or any record of the proceedings of a meeting  
16 in which such person participated, shall state that such  
17 incorporator is not available and the reason therefor, that such  
18 incorporator was acting directly or indirectly as employee or agent  
19 for or on behalf of such person, and that such person's signature on  
20 such instrument or participation in such meeting is otherwise  
21 authorized and not wrongful.

22 SECTION 2. AMENDATORY 18 O.S. 2011, Section 1014.1, is  
23 amended to read as follows:

24 Section 1014.1

1 INTERPRETATION AND ENFORCEMENT OF ~~THE CERTIFICATE OF~~  
2 ~~INCORPORATION AND BYLAWS~~ CORPORATE INSTRUMENTS AND PROVISIONS OF  
3 THIS TITLE

4 A. Any shareholder, member or director may bring an action to  
5 interpret, apply or enforce ~~the~~ or determine the validity of:

6 1. The provisions of the certificate of incorporation or the  
7 bylaws of a domestic corporation;

8 2. Any instrument, document or agreement (a) by which a  
9 corporation creates or sells, or offers to create or sell, any of  
10 its stock, or any rights or options respecting its stock, or (b) to  
11 which a corporation and one or more holders of its stock are  
12 parties, and pursuant to which any such holder or holders sell or  
13 offer to sell any of such stock, or (c) by which a corporation  
14 agrees to sell, lease or exchange any of its property or assets, and  
15 which by its terms provides that one or more holders of its stock  
16 approve of or consent to such sale, lease or exchange;

17 3. Any written restrictions on the transfer, registration of  
18 transfer or ownership of securities under Section 1055 of this  
19 title;

20 4. Any proxy under Section 1057 or 1060 of this title;

21 5. Any voting trust or other voting agreement under Section  
22 1063 of this title;

1       6. Any agreement, certificate of merger or consolidation, or  
2 certificate of ownership and merger governed by Sections 1081  
3 through 1087, or Section 1090.2 of this title;

4       7. Any certificate of conversion under Section 1090.4 or 1090.5  
5 of this title; or

6       8. Any other instrument, document, agreement or certificate  
7 required by any provision of this title,  
8 may be brought in the district court, except to the extent that a  
9 statute confers exclusive jurisdiction on a court, agency or  
10 tribunal other than the district court.

11       B. Any civil action to interpret, apply or enforce any  
12 provision of this title may be brought in the district court.

13       SECTION 3.       NEW LAW       A new section of law to be codified  
14 in the Oklahoma Statutes as Section 1014.2 of Title 18 unless there  
15 is created a duplication in numbering, reads as follows:

16                               FORUM SELECTION PROVISIONS

17       The certificate of incorporation or the bylaws may require,  
18 consistent with applicable jurisdictional requirements, that any or  
19 all internal corporate claims shall be brought solely and  
20 exclusively in any or all of the courts in this state, and no  
21 provision of the certificate of incorporation or the bylaws may  
22 prohibit bringing such claims in the courts of this state.

23       "Internal corporate claims" means claims, including claims in the  
24 right of the corporation, (a) that are based upon a violation of a

1 duty by a current or former director or officer or shareholder in  
2 such capacity, or (b) as to which this title confers jurisdiction  
3 upon the district court.

4 SECTION 4. AMENDATORY 18 O.S. 2011, Section 1021, is  
5 amended to read as follows:

6 Section 1021.

7 REGISTERED OFFICE IN STATE; PRINCIPAL OFFICE  
8 OR PLACE OF BUSINESS IN STATE

9 A. Every corporation shall have and maintain in this state a  
10 registered office which may, but need not be, the same as its place  
11 of business.

12 B. Whenever the term "corporation's principal office or place  
13 of business in this state" or "principal office or place of business  
14 of the corporation in this state", or other term of like import, is  
15 or has been used in a corporation's certificate of incorporation, or  
16 in any other document, or in any statute, it shall be deemed to mean  
17 and refer to, unless the context indicates otherwise, the  
18 corporation's registered office required by this section. It shall  
19 not be necessary for any corporation to amend its certificate of  
20 incorporation or any other document to comply with the provisions of  
21 this section.

22 C. As contained in any certificate of incorporation or other  
23 document filed with the Secretary of State under this title, the  
24



1 address of a registered office shall include the street, number,  
2 city, state and postal code.

3 SECTION 5. AMENDATORY 18 O.S. 2011, Section 1022, is  
4 amended to read as follows:

5 Section 1022.

6 REGISTERED AGENT IN STATE; RESIDENT AGENT

7 A. Every domestic corporation shall have and maintain in this  
8 state a registered agent, which agent may be ~~either~~ any of the  
9 following:

10 1. The domestic corporation itself;

11 2. An individual resident of this state; ~~or~~

12 3. A domestic ~~or qualified foreign~~ corporation, ~~limited~~  
13 ~~liability company, limited liability partnership, or limited~~  
14 ~~partnership. Each registered agent shall maintain a business office~~  
15 ~~identical with the registered office which is open during regular~~  
16 ~~business hours to accept service of process and otherwise perform~~  
17 ~~the functions of a registered agent~~ a domestic partnership whether  
18 general or limited and including a limited liability partnership or  
19 a limited liability limited partnership or a domestic limited  
20 liability company; or

21 4. A foreign corporation, a foreign partnership whether general  
22 or limited and including a limited liability partnership or a  
23 limited liability limited partnership or a foreign limited liability  
24 company, if authorized to transact business in this state.

1 B. Every foreign corporation transacting business in this state  
2 shall have and maintain the Secretary of State as its registered  
3 agent in this state. In addition, such foreign corporation may have  
4 and maintain in this state a an additional registered agent, which  
5 ~~agent may be either:~~

6 ~~1. An individual resident of this state; or~~  
7 ~~2. A domestic or qualified foreign corporation, limited~~  
8 ~~liability company, limited liability partnership, or limited~~  
9 ~~partnership. Each registered agent shall maintain a business office~~  
10 ~~identical with the registered office which is open during regular~~  
11 ~~business hours to accept service of process and otherwise perform~~  
12 ~~the functions of a registered agent~~ may be an individual or entity  
13 set forth in subsection A of this section; provided, that the  
14 foreign corporation may not be its own registered agent. If such  
15 additional registered agent is designated, service of process shall  
16 be on such agent and not on the Secretary of State.

17 C. Each registered agent for a domestic corporation or foreign  
18 corporation shall:

19 1. If an entity, maintain a business office identical with the  
20 registered office which is open during regular business hours, or if  
21 an individual, be generally present at the registered office to  
22 accept service of process and otherwise perform the functions of a  
23 registered agent;  
24

1        2. If a foreign entity, be authorized to transact business in  
2 this state; and

3        3. Accept service of process and other communications directed  
4 to the corporations for which it serves as registered agent and  
5 forward same to the corporation to which the service or  
6 communication is directed.

7        D. Every corporation formed under the laws of this state or  
8 qualified to do business in this state shall provide to its  
9 registered agent, and update from time to time as necessary, the  
10 name, business address and business telephone number of a natural  
11 person who is an officer, director, employee or designated agent of  
12 the corporation, who is then authorized to receive communications  
13 from the registered agent. Such person shall be deemed the  
14 communications contact for the corporation. Every registered agent  
15 shall retain, in paper or electronic form, the information required  
16 by this subsection concerning the current communications contact for  
17 each corporation for which he, she or it serves as a registered  
18 agent. If the corporation fails to provide the registered agent  
19 with a current communications contact, the registered agent may  
20 resign as the registered agent for such corporation pursuant to  
21 Section 1026 of this title.

22        E. Whenever the term "resident agent" or "resident agent in  
23 charge of a corporation's principal office or place of business in  
24 this state", or other term of like import which refers to a

1 corporation's agent required by statute to be located in this state,  
2 is or has been used in a corporation's certificate of incorporation,  
3 or in any other document, or in any statute, it shall be deemed to  
4 mean and refer to, unless the context indicates otherwise, the  
5 corporation's registered agent required by this section. It shall  
6 not be necessary for any corporation to amend its certificate of  
7 incorporation or any other document to comply with the provisions of  
8 this section.

9 SECTION 6. AMENDATORY 18 O.S. 2011, Section 1031, is  
10 amended to read as follows:

11 Section 1031.

12 INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS;  
13 INSURANCE

14 A. A corporation shall have power to indemnify any person who  
15 was or is a party or is threatened to be made a party to any  
16 threatened, pending, or completed action, suit, or proceeding,  
17 whether civil, criminal, administrative, or investigative, other  
18 than an action by or in the right of the corporation, by reason of  
19 the fact that the person is or was a director, officer, employee, or  
20 agent of the corporation, or is or was serving at the request of the  
21 corporation as a director, officer, employee, or agent of another  
22 corporation, partnership, joint venture, trust, or other enterprise,  
23 against expenses, including ~~attorneys'~~ attorney fees, judgments,  
24 fines, and amounts paid in settlement actually and reasonably

1 incurred by the person in connection with the action, suit, or  
2 proceeding if the person acted in good faith and in a manner the  
3 person reasonably believed to be in or not opposed to the best  
4 interests of the corporation, and, with respect to any criminal  
5 action or proceeding, had no reasonable cause to believe the conduct  
6 was unlawful. The termination of any action, suit, or proceeding by  
7 judgment, order, settlement, conviction, or upon a plea of nolo  
8 contendere or its equivalent, shall not, of itself, create a  
9 presumption that the person did not act in good faith and in a  
10 manner which the person reasonably believed to be in or not opposed  
11 to the best interests of the corporation, and, with respect to any  
12 criminal action or proceeding, had reasonable cause to believe that  
13 the conduct was unlawful.

14 B. A corporation shall have the power to indemnify any person  
15 who was or is a party or is threatened to be made a party to any  
16 threatened, pending, or completed action or suit by or in the right  
17 of the corporation to procure a judgment in its favor by reason of  
18 the fact that the person is or was a director, officer, employee, or  
19 agent of the corporation, or is or was serving at the request of the  
20 corporation as a director, officer, employee, or agent of another  
21 corporation, partnership, joint venture, trust, or other enterprise  
22 against expenses, including ~~attorneys'~~ attorney fees, actually and  
23 reasonably incurred by the person in connection with the defense or  
24 settlement of an action or suit if the person acted in good faith

1 and in a manner the person reasonably believed to be in or not  
2 opposed to the best interests of the corporation and except that no  
3 indemnification shall be made in respect of any claim, issue, or  
4 matter as to which the person shall have been adjudged to be liable  
5 to the corporation unless and only to the extent that the court in  
6 which the action or suit was brought shall determine upon  
7 application that, despite the adjudication of liability but in view  
8 of all the circumstances of the case, the person is fairly and  
9 reasonably entitled to indemnity for expenses which the court shall  
10 deem proper.

11 C. To the extent that a present or former director or officer  
12 of a corporation has been successful on the merits or otherwise in  
13 defense of any action, suit, or proceeding referred to in subsection  
14 A or B of this section, or in defense of any claim, issue, or matter  
15 therein, the person shall be indemnified against expenses, including  
16 ~~attorneys'~~ attorney fees, actually and reasonably incurred by the  
17 person in connection therewith.

18 D. Any indemnification under the provisions of subsection A or  
19 B of this section, unless ordered by a court, shall be made by the  
20 corporation only as authorized in the specific case upon a  
21 determination that indemnification of the present or former director  
22 or officer is proper in the circumstances because the person has met  
23 the applicable standard of conduct set forth in subsection A or B of  
24 this section. This determination shall be made, with respect to a

1 person who is a director or officer of the corporation at the time  
2 of the determination:

3 1. By a majority vote of the directors who are not parties to  
4 the action, suit, or proceeding, even though less than a quorum;

5 2. By a committee of directors designated by a majority vote of  
6 directors, even though less than a quorum;

7 3. If there are no such directors, or if such directors so  
8 direct, by independent legal counsel in a written opinion; or

9 4. By the shareholders.

10 E. Expenses including attorney fees incurred by an officer or  
11 director in defending a civil ~~or~~, criminal, administrative or  
12 investigative action, suit, or proceeding may be paid by the  
13 corporation in advance of the final disposition of the action, suit,  
14 or proceeding upon receipt of an undertaking by or on behalf of the  
15 director or officer to repay the amount if it shall ultimately be  
16 determined that the person is not entitled to be indemnified by the  
17 corporation as authorized by the provisions of this section.

18 Expenses including attorney fees incurred by former directors or  
19 officers or other employees and agents or persons serving at the  
20 request of the corporation as directors, officers, employees or  
21 agents of another corporation, partnership, joint venture, trust or  
22 other enterprise may be paid upon the terms and conditions, if any,  
23 as the corporation deems appropriate.

24

1 F. The indemnification and advancement of expenses provided by  
2 or granted pursuant to the other subsections of this section shall  
3 not be deemed exclusive of any other rights to which those seeking  
4 indemnification or advancement of expenses may be entitled under any  
5 bylaw, agreement, vote of shareholders or disinterested directors,  
6 or otherwise, both as to action in the person's official capacity  
7 and as to action in another capacity while holding an office. A  
8 right to indemnification or to advancement of expenses arising under  
9 a provision of the certificate of incorporation or a bylaw shall not  
10 be eliminated or impaired by an amendment to the certificate of  
11 incorporation or the bylaw after the occurrence of the act or  
12 omission that is the subject of the civil, criminal, administrative  
13 or investigative action, suit or proceeding for which  
14 indemnification or advancement of expenses is sought, unless the  
15 provision in effect at the time of such act or omission explicitly  
16 authorizes such elimination or impairment after such action or  
17 omission has occurred.

18 G. A corporation shall have power to purchase and maintain  
19 insurance on behalf of any person who is or was a director, officer,  
20 employee, or agent of the corporation, or is or was serving at the  
21 request of the corporation as a director, officer, employee, or  
22 agent of another corporation, partnership, joint venture, trust, or  
23 other enterprise against any liability asserted against the person  
24 and incurred by the person in any such capacity, or arising out of



1 the person's status as such, whether or not the corporation would  
2 have the power to indemnify the person against liability under the  
3 provisions of this section.

4 H. For purposes of this section, references to "the  
5 corporation" shall include, in addition to the resulting  
6 corporation, any constituent corporation, including any constituent  
7 of a constituent, absorbed in a consolidation or merger which, if  
8 its separate existence had continued, would have had power and  
9 authority to indemnify its directors, officers, and employees, or  
10 agents, so that any person who is or was a director, officer,  
11 employee, or agent of a constituent corporation, or is or was  
12 serving at the request of a constituent corporation as a director,  
13 officer, employee, or agent of another corporation, partnership,  
14 joint venture, trust, or other enterprise, shall stand in the same  
15 position under the provisions of this section with respect to the  
16 resulting or surviving corporation as the person would have with  
17 respect to the constituent corporation if its separate existence had  
18 continued.

19 I. For purposes of this section, references to "other  
20 enterprises" shall include, but are not limited to, employee benefit  
21 plans; references to "fines" shall include, but are not limited to,  
22 any excise taxes assessed on a person with respect to an employee  
23 benefit plan; and references to "serving at the request of the  
24 corporation" shall include, but are not limited to, any service as a

1 director, officer, employee, or agent of the corporation which  
2 imposes duties on, or involves services, by the director, officer,  
3 employee, or agent with respect to an employee benefit plan, its  
4 participants, or beneficiaries; and a person who acted in good faith  
5 and in a manner the person reasonably believed to be in the interest  
6 of the participants and beneficiaries of an employee benefit plan  
7 shall be deemed to have acted in a manner "not opposed to the best  
8 interests of the corporation" as referred to in this section.

9 J. The indemnification and advancement of expenses provided by  
10 or granted pursuant to this section, unless otherwise provided when  
11 authorized or ratified, shall continue as to a person who has ceased  
12 to be a director, officer, employee, or agent and shall inure to the  
13 benefit of the heirs, executors, and administrators of the person.

14 K. The district court is vested with exclusive jurisdiction to  
15 hear and determine all actions for advancement of expenses or  
16 indemnification brought under this section or under any bylaw,  
17 agreement, vote of shareholders or disinterested directors, or  
18 otherwise. The court may summarily determine a corporation's  
19 obligation to advance expenses including ~~attorneys'~~ attorney fees.

20 SECTION 7. AMENDATORY 18 O.S. 2011, Section 1033, is  
21 amended to read as follows:

22 Section 1033.

23 ISSUANCE OF STOCK, LAWFUL CONSIDERATION~~+~~ = FULLY PAID STOCK  
24

1 A. The consideration, as determined pursuant to the provisions  
2 of subsections A and B of Section 1034 of this title, for  
3 subscriptions to, or the purchase of, the capital stock to be issued  
4 by a corporation shall be paid in such form and in such manner as  
5 the board of directors shall determine. The board of directors may  
6 authorize capital stock to be issued for consideration consisting of  
7 cash, any tangible or intangible property or any benefit to the  
8 corporation, or any combination thereof, except for services to be  
9 performed. The board of directors may determine the amount of such  
10 consideration by approving a formula by which the amount of  
11 consideration is determined. In the absence of actual fraud in the  
12 transaction, the judgment of the directors as to the value of such  
13 consideration shall be conclusive. The capital stock so issued  
14 shall be deemed to be fully paid and nonassessable stock upon  
15 receipt by the corporation of the authorized consideration.

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

20 SECTION 8. AMENDATORY 18 O.S. 2011, Section 1039, is  
21 amended to read as follows:

22 Section 1039.

23 STOCK CERTIFICATES; 7 UNCERTIFICATED SHARES

24

1       The shares of a corporation shall be represented by  
2 certificates, provided that the board of directors of the  
3 corporation may provide by resolution or resolutions that some or  
4 all of any or all classes or series of its stock shall be  
5 uncertificated shares. Any such resolution shall not apply to  
6 shares represented by a certificate until the certificate is  
7 surrendered to the corporation. Every holder of stock represented  
8 by certificates shall be entitled to have a certificate signed by,  
9 or in the name of, the corporation by ~~the chairman or vice chairman~~  
10 ~~of the board of directors, or the president or vice president, and~~  
11 ~~by the treasurer or an assistant treasurer or the secretary or an~~  
12 ~~assistant secretary~~ any two authorized officers of the corporation  
13 representing the number of shares registered in certificate form.  
14 Any or all the signatures on the certificate may be a facsimile. In  
15 case any officer, transfer agent, or registrar who has signed or  
16 whose facsimile signature has been placed upon a certificate shall  
17 have ceased to be such officer, transfer agent, or registrar before  
18 the certificate is issued, it may be issued by the corporation with  
19 the same effect as if he were such officer, transfer agent or  
20 registrar at the date of issue. A corporation shall not have the  
21 power to issue a certificate in bearer form.

22       SECTION 9.       NEW LAW       A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1055.1 of Title 18, unless there  
24 is created a duplication in numbering, which reads as follows:

1                   RATIFICATION OF DEFECTIVE CORPORATE ACTS AND STOCK

2           A. Subject to subsection F of this section, no defective  
3 corporate act or putative stock shall be void or voidable solely as  
4 a result of a failure of authorization if ratified as provided in  
5 this section or validated by the District Court in a proceeding  
6 brought under Section 10 of this act.

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

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

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

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

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

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

23           The resolutions may also provide that, at any time before the  
24 validation effective time for the defective act or acts,

1 notwithstanding approval of the ratification by shareholders, the  
2 board of directors may abandon the ratification without further  
3 action of the shareholders. The quorum and voting requirements  
4 applicable to the ratification by the board of directors shall be  
5 the quorum and voting requirements applicable at the time to the  
6 type of defective corporate act proposed to be ratified when the  
7 board adopts the resolutions ratifying the defective corporate act;  
8 provided, that if the certificate of incorporation or bylaws of the  
9 corporation, any plan or agreement to which the corporation was a  
10 party or any provision of Title 18 of the Oklahoma Statutes, in each  
11 case as in effect as of the time of the defective corporate act,  
12 would have required a larger number or portion of directors or of  
13 specified directors for a quorum to be present or to approve the  
14 defective corporate act, such larger number or portion of such  
15 directors or such specified directors shall be required for a quorum  
16 to be present or to adopt the ratifying resolutions, as applicable,  
17 except that the presence or approval of any director elected,  
18 appointed or nominated by holders of any class or series of which no  
19 shares are then outstanding, or by any person that is no longer a  
20 shareholder, shall not be required.

21 2. To ratify a defective corporate act in respect of the  
22 election of the initial board of directors of the corporation, a  
23 majority of the persons who, at the time the resolutions required by  
24 this paragraph are adopted, are exercising the powers of directors

1 under claim and color of an election or appointment as such may  
2 adopt resolutions stating:

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

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

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

12 C. Each defective corporate act ratified pursuant to paragraph  
13 1 of subsection B of this section shall be submitted to shareholders  
14 for approval as provided in subsection D of this section, unless (1)  
15 no other provision of Title 18 of the Oklahoma Statutes, and no  
16 provision of the certificate of incorporation or bylaws of the  
17 corporation, or of any plan or agreement to which the corporation is  
18 a party, would have required shareholder approval of the defective  
19 corporate act to be ratified, either at the time of the defective  
20 corporate act or at the time the board of directors adopts the  
21 resolutions ratifying the defective corporate act pursuant to  
22 paragraph 1 of subsection B of this section, and (2) the defective  
23 corporate act did not result from a failure to comply with Section  
24 1090.3 of Title 18 of the Oklahoma Statutes.

1 D. If ratification of a defective corporate act is required to  
2 be submitted to shareholders for approval pursuant to subsection C  
3 of this section, due notice of the time, place, if any, and purpose  
4 of the meeting shall be given at least twenty (20) days before the  
5 date of the meeting to each holder of valid stock and putative  
6 stock, whether voting or nonvoting, at the address of such holder as  
7 it appears or most recently appeared, as appropriate, on the records  
8 of the corporation. The notice shall also be given to the holders  
9 of record of valid stock and putative stock, whether voting or  
10 nonvoting, as of the time of the defective corporate act, other than  
11 holders whose identities or addresses cannot be determined from the  
12 records of the corporation. The notice shall contain a copy of the  
13 resolutions adopted by the board of directors pursuant to paragraph  
14 1 of subsection B of this section or the information required by  
15 paragraphs a through e of paragraph 1 of subsection B of this  
16 section and a statement that any claim that the defective corporate  
17 act or putative stock ratified hereunder is void or voidable due to  
18 the failure of authorization, or that the District Court should  
19 declare in its discretion that a ratification in accordance with  
20 this section not be effective or be effective only on certain  
21 conditions must be brought within one hundred twenty (120) days from  
22 the validation effective time. At such meeting the quorum and  
23 voting requirements applicable to the ratification of such defective  
24 corporate act shall be the quorum and voting requirements applicable



1 to the type of defective corporate act proposed to be ratified at  
2 the time of the approval of the ratification, except that:

3 1. If the certificate of incorporation or bylaws of the  
4 corporation, any plan or agreement to which the corporation was a  
5 party or any provision of this title in effect as of the time of the  
6 defective corporate act would have required a larger number or  
7 portion of stock or of any class or series thereof or of specified  
8 shareholders for a quorum to be present or to approve the defective  
9 corporate act, the presence or approval of such larger number or  
10 portion of stock or of such class or series thereof or of such  
11 specified shareholders shall be required for a quorum to be present  
12 or to approve the ratification of the defective corporate act, as  
13 applicable, except that the presence or approval of shares of any  
14 class or series of which no shares are then outstanding, or of any  
15 person that is no longer a shareholder, shall not be required;

16 2. The approval by shareholders of the ratification of the  
17 election of a director shall require the affirmative vote of the  
18 majority of shares present at the meeting and entitled to vote on  
19 the election of such director, except that if the certificate of  
20 incorporation or bylaws of the corporation then in effect or in  
21 effect at the time of the defective election require or required a  
22 larger number or portion of stock or of any class or series thereof  
23 or of specified shareholders to elect such director, the affirmative  
24 vote of such larger number or portion of stock or of any class or

1 series thereof or of specified shareholders shall be required to  
2 ratify the election of such director, except that the presence or  
3 approval of shares of any class or series of which no shares are  
4 then outstanding, or of any person that is no longer a shareholder,  
5 shall not be required; and

6 3. In the event of a failure of authorization resulting from  
7 failure to comply with the provisions of Section 1090.3 of Title 18  
8 of the Oklahoma Statutes, the ratification of the defective  
9 corporate act shall require the vote set forth in paragraph 3 of  
10 subsection A of Section 1090.3 of Title 18 of the Oklahoma Statutes,  
11 regardless of whether such vote would have otherwise been required.

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

18 E. If a defective corporate act ratified pursuant to this  
19 section would have required under any other section of Title 18 of  
20 the Oklahoma Statutes the filing of a certificate in accordance with  
21 Section 1007 of Title 18 of the Oklahoma Statutes, then, whether or  
22 not a certificate was previously filed in respect of such defective  
23 corporate act and in lieu of filing the certificate otherwise  
24 required by Title 18 of the Oklahoma Statutes, the corporation shall

1 file a certificate of validation with respect to such defective  
2 corporate act in accordance with Section 1007 of Title 18 of the  
3 Oklahoma Statutes. A separate certificate of validation shall be  
4 required for each defective corporate act requiring the filing of a  
5 certificate of validation under this section, except that (i) two or  
6 more defective corporate acts may be included in a single  
7 certificate of validation if the corporation filed, or to comply  
8 with Title 18 of the Oklahoma Statutes would have filed, a single  
9 certificate under another provision of Title 18 of the Oklahoma  
10 Statutes to effect such acts, and (ii) two or more overissues of  
11 shares of any class, classes or series of stock may be included in a  
12 single certificate of validation, provided that the increase in the  
13 number of authorized shares of each such class or series set forth  
14 in the certificate of validation shall be effective as of the date  
15 of the first such overissue. The certificate of validation shall  
16 set forth:

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

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

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

7           a. if a certificate was previously filed under Section  
8           1007 of Title 18 of the Oklahoma Statutes in respect  
9           of such defective corporate act and no changes to such  
10           certificate are required to give effect to such  
11           defective corporate act in accordance with this  
12           section, the certificate of validation shall set forth  
13           (1) the name, title and filing date of the certificate  
14           previously filed and of any certificate of correction  
15           thereto and (2) a statement that a copy of the  
16           certificate previously filed, together with any  
17           certificate of correction thereto, is attached as an  
18           exhibit to the certificate of validation,

19           b. if a certificate was previously filed under Section  
20           1007 of Title 18 of the Oklahoma Statutes in respect  
21           of the defective corporate act and such certificate  
22           requires any change to give effect to the defective  
23           corporate act in accordance with this section,  
24           including a change to the date and time of the

1 effectiveness of such certificate, the certificate of  
2 validation shall set forth (1) the name, title and  
3 filing date of the certificate so previously filed and  
4 of any certificate of correction thereto, (2) a  
5 statement that a certificate containing all of the  
6 information required to be included under the  
7 applicable section or sections of Title 18 of the  
8 Oklahoma Statutes to give effect to the defective  
9 corporate act is attached as an exhibit to the  
10 certificate of validation, and (3) the date and time  
11 that such certificate shall be deemed to have become  
12 effective pursuant to this section, or

13 c. if a certificate was not previously filed under  
14 Section 1007 of Title 18 of the Oklahoma Statutes in  
15 respect of the defective corporate act and the  
16 defective corporate act ratified pursuant to this  
17 section would have required under any other section of  
18 Title 18 of the Oklahoma Statutes the filing of a  
19 certificate in accordance with Section 1007 of Title  
20 18 of the Oklahoma Statutes, the certificate of  
21 validation shall set forth (1) a statement that a  
22 certificate containing all of the information required  
23 to be included under the applicable section or  
24 sections of Title 18 of the Oklahoma Statutes to give

1 effect to the defective corporate act is attached as  
2 an exhibit to the certificate of validation, and (2)  
3 the date and time that such certificate shall be  
4 deemed to have become effective pursuant to this  
5 section.

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

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

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

21 2. Subject to the last sentence of subsection D of this  
22 section, each share or fraction of a share of putative stock issued  
23 or purportedly issued pursuant to any such defective corporate act  
24 shall no longer be deemed void or voidable and shall be deemed to be

1 an identical share or fraction of a share of outstanding stock as of  
2 the time it was purportedly issued.

3 G. In respect of each defective corporate act ratified by the  
4 board of directors pursuant to subsection B of this section, prompt  
5 notice of the ratification shall be given to all holders of valid  
6 stock and putative stock, whether voting or nonvoting, as of the  
7 date the board of directors adopts the resolutions approving such  
8 defective corporate act, or as of a date within sixty (60) days  
9 after the date of adoption, as established by the board of  
10 directors, at the address of such holder as it appears or most  
11 recently appeared, as appropriate, on the records of the  
12 corporation. The notice shall also be given to the holders of  
13 record of valid stock and putative stock, whether voting or  
14 nonvoting, as of the time of the defective corporate act, other than  
15 holders whose identities or addresses cannot be determined from the  
16 records of the corporation. The notice shall contain a copy of the  
17 resolutions adopted pursuant to subsection B of this section or the  
18 information specified in subparagraphs a through e of paragraph 1 of  
19 subsection B of this section or subparagraphs a through c of  
20 paragraph 2 of subsection B of this section, as applicable, and a  
21 statement that any claim that the defective corporate act or  
22 putative stock ratified hereunder is void or voidable due to the  
23 failure of authorization, or that the district court should declare  
24 in its discretion that a ratification in accordance with this

1 section not be effective or be effective only on certain conditions  
2 must be brought within one hundred twenty (120) days from the later  
3 of the validation effective time or the time at which the notice  
4 required by this subsection is given. Notwithstanding the  
5 foregoing, no such notice shall be required if notice of the  
6 ratification of the defective corporate act is to be given in  
7 accordance with subsection D of this section, and in the case of a  
8 corporation that has a class of stock listed on a national  
9 securities exchange, the notice required by this subsection may be  
10 deemed given if disclosed in a document publicly filed by the  
11 corporation with the Securities and Exchange Commission pursuant to  
12 Sections 13, 14 or 15(d) of the Securities Exchange Act of 1934, as  
13 amended, and the rules and regulations promulgated thereunder, or  
14 the corresponding provisions of any subsequent United States federal  
15 securities laws, rules or regulations. If any defective corporate  
16 act has been approved by shareholders acting pursuant to Section  
17 1073 of Title 18 of the Oklahoma Statutes, the notice required by  
18 this subsection may be included in any notice required to be given  
19 pursuant to subsection F of Section 1073 of Title 18 of the Oklahoma  
20 Statutes and, if so given, shall be sent to the shareholders  
21 entitled to notice under subsection F of Section 1073 of Title 18 of  
22 the Oklahoma Statutes and to all holders of valid and putative stock  
23 to whom notice would be required under this subsection if the  
24 defective corporate act had been approved at a meeting other than



1 any shareholder who approved the action by consent in lieu of a  
2 meeting pursuant to Section 1073 of Title 18 of the Oklahoma  
3 Statutes or any holder of putative stock who otherwise consented  
4 thereto in writing. Solely for purposes of subsection D of this  
5 section and this subsection, notice to holders of putative stock,  
6 and notice to holders of valid stock and putative stock as of the  
7 time of the defective corporate act, shall be treated as notice to  
8 holders of valid stock for purposes of Sections 1067, 1073, 1074,  
9 1075, 1075.2 and 1075.3 of Title 18 of the Oklahoma Statutes.

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

12 1. "Defective corporate act" means an overissue, an election or  
13 appointment of directors that is void or voidable due to a failure  
14 of authorization, or any act or transaction purportedly taken by or  
15 on behalf of the corporation that is, and at the time such act or  
16 transaction was purportedly taken would have been, within the power  
17 of a corporation under subchapter II of Title 18 of the Oklahoma  
18 Statutes, but is void or voidable due to a failure of authorization;

19 2. "Failure of authorization" means (a) the failure to  
20 authorize or effect an act or transaction in compliance with the  
21 provisions of Title 18 of the Oklahoma Statutes, the certificate of  
22 incorporation or bylaws of the corporation, or any plan or agreement  
23 to which the corporation is a party, if and to the extent such  
24 failure would render such act or transaction void or voidable, or

1 (b) the failure of the board of directors or any officer of the  
2 corporation to authorize or approve any act or transaction taken by  
3 or on behalf of the corporation that would have required for its due  
4 authorization the approval of the board of directors or such  
5 officer;

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

13 4. "Putative stock" means the shares of any class or series of  
14 capital stock of the corporation, including shares issued upon  
15 exercise of options, rights, warrants or other securities  
16 convertible into shares of capital stock of the corporation, or  
17 interests with respect thereto that were created or issued pursuant  
18 to a defective corporate act, that: (a) but for any failure of  
19 authorization, would constitute valid stock, or (b) cannot be  
20 determined by the board of directors to be valid stock;

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

23 6. "Valid stock" means the shares of any class or series of  
24 capital stock of the corporation that have been duly authorized and

1 validly issued in accordance with Title 18 of the Oklahoma Statutes;  
2 and

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

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

24

1 I. Ratification under this section or validation under Section  
2 10 of this act shall not be deemed to be the exclusive means of  
3 ratifying or validating any act or transaction taken by or on behalf  
4 of the corporation, including any defective corporate act, or any  
5 issuance of stock, including any putative stock, or of adopting or  
6 endorsing any act or transaction taken by or in the name of the  
7 corporation prior to the commencement of its existence, and the  
8 absence or failure of ratification in accordance with either this  
9 section or validation under Section 10 of this act shall not, of  
10 itself, affect the validity or effectiveness of any act or  
11 transaction or the issuance of any stock properly ratified under  
12 common law or otherwise, nor shall it create a presumption that any  
13 such act or transaction is or was a defective corporate act or that  
14 such stock is void or voidable.

15 SECTION 10. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 1055.2 of Title 18, unless there  
17 is created a duplication in numbering, which reads as follows:

18 PROCEEDINGS REGARDING VALIDITY OF DEFECTIVE CORPORATE ACTS AND  
19 STOCK

20 A. Subject to subsection F of this section, upon application by  
21 the corporation, any successor entity to the corporation, any member  
22 of the board of directors, any record or beneficial holder of valid  
23 stock or putative stock, any record or beneficial holder of valid or  
24 putative stock as of the time of a defective corporate act ratified

1 pursuant to Section 9 of this act, or any other person claiming to  
2 be substantially and adversely affected by a ratification pursuant  
3 to Section 9 of this act, the district court may:

4 1. Determine the validity and effectiveness of any defective  
5 corporate act ratified pursuant to Section 9 of this act;

6 2. Determine the validity and effectiveness of the ratification  
7 of any defective corporate act pursuant to Section 9 of this act;

8 3. Determine the validity and effectiveness of any defective  
9 corporate act not ratified or not ratified effectively pursuant to  
10 Section 9 of this act;

11 4. Determine the validity of any corporate act or transaction  
12 and any stock, rights or options to acquire stock; and

13 5. Modify or waive any of the procedures set forth in Section 9  
14 of this act to ratify a defective corporate act.

15 B. In connection with an action under this section, the  
16 district court may:

17 1. Declare that a ratification in accordance with and pursuant  
18 to Section 9 of this act is not effective or shall only be effective  
19 at a time or upon conditions established by the court;

20 2. Validate and declare effective any defective corporate act  
21 or putative stock and impose conditions upon such validation by the  
22 court;

23 3. Require measures to remedy or avoid harm to any person  
24 substantially and adversely affected by a ratification pursuant to

1 Section 9 of this act or from any order of the court pursuant to  
2 this section, excluding any harm that would have resulted if the  
3 defective corporate act had been valid when approved or effectuated;

4 4. Order the Secretary of State to accept an instrument for  
5 filing with an effective time specified by the court, which  
6 effective time may be prior or subsequent to the time of such order;  
7 provided, that the filing date of such instrument shall be  
8 determined in accordance with paragraph 4 of subsection C of Section  
9 1007 of Title 18 of the Oklahoma Statutes;

10 5. Approve a stock ledger for the corporation that includes any  
11 stock ratified or validated in accordance with this section or with  
12 Section 9 of this act;

13 6. Declare that shares of putative stock are shares of valid  
14 stock or require a corporation to issue and deliver shares of valid  
15 stock in place of any shares of putative stock;

16 7. Order that a meeting of holders of valid stock or putative  
17 stock be held and exercise the powers provided to the court under  
18 Section 1027 of Title 18 of the Oklahoma Statutes with respect to  
19 such a meeting;

20 8. Declare that a defective corporate act validated by the  
21 court shall be effective as of the time of the defective corporate  
22 act or at such other time as the court shall determine;

23 9. Declare that putative stock validated by the court shall be  
24 deemed to be an identical share or fraction of a share of valid

1 stock as of the time originally issued or purportedly issued or at  
2 such other time as the court shall determine; and

3 10. Make such other orders regarding such matters as it deems  
4 proper under the circumstances.

5 C. Service of the application under subsection A of this  
6 section upon the registered agent of the corporation shall be deemed  
7 to be service upon the corporation, and no other party need be  
8 joined in order for the district court to adjudicate the matter. In  
9 an action filed by the corporation, the court may require notice of  
10 the action be provided to other persons specified by the court and  
11 permit such other persons to intervene in the action.

12 D. In connection with the resolution of matters pursuant to  
13 subsections A and B of this section, the district court may consider  
14 the following:

15 1. Whether the defective corporate act was originally approved  
16 or effectuated with the belief that the approval or effectuation was  
17 in compliance with the provisions of Title 18 of the Oklahoma  
18 Statutes, the certificate of incorporation or bylaws of the  
19 corporation;

20 2. Whether the corporation and board of directors has treated  
21 the defective corporate act as a valid act or transaction and  
22 whether any person has acted in reliance on the public record that  
23 such defective corporate act was valid;

24

1           3. Whether any person will be or was harmed by the ratification  
2 or validation of the defective corporate act, excluding any harm  
3 that would have resulted if the defective corporate act had been  
4 valid when approved or effectuated;

5           4. Whether any person will be harmed by the failure to ratify  
6 or validate the defective corporate act; and

7           5. Any other factors or considerations the court deems just and  
8 equitable.

9           E. The district court is hereby vested with exclusive  
10 jurisdiction to hear and determine all actions brought under this  
11 section.

12           F. Notwithstanding any other provision of this section, no  
13 action asserting:

14           1. That a defective corporate act or putative stock ratified in  
15 accordance with Section 9 of this act is void or voidable due to a  
16 failure of authorization identified in the resolution adopted in  
17 accordance with subsection B of Section 9 of this act; or

18           2. That the district court should declare in its discretion  
19 that a ratification in accordance with Section 9 of this act not be  
20 effective or be effective only on certain conditions,  
21 may be brought after the expiration of one hundred twenty (120) days  
22 from the later of the validation effective time and the time notice,  
23 if any, that is required to be given pursuant to subsection G of  
24 Section 9 of this act is given with respect to such ratification,



1 except that this subsection shall not apply to an action asserting  
2 that a ratification was not accomplished in accordance with Section  
3 9 of this act or to any person to whom notice of the ratification  
4 was required to have been given pursuant to subsection D or G of  
5 Section 9 of this act, but to whom such notice was not given.

6 SECTION 11. AMENDATORY 18 O.S. 2011, Section 1056, is  
7 amended to read as follows:

8 Section 1056.

9 MEETINGS OF SHAREHOLDERS

10 A. 1. Meetings of shareholders may be held at such place,  
11 either within or without this state, as may be designated by or in  
12 the manner provided in the certificate of incorporation or bylaws  
13 or, if not so designated, as determined by the board of directors.  
14 If, pursuant to this paragraph or the certificate of incorporation  
15 or the bylaws of the corporation, the board of directors is  
16 authorized to determine the place of a meeting of shareholders, the  
17 board of directors may, in its sole discretion, determine that the  
18 meeting shall not be held at any place, but may instead be held  
19 solely by means of remote communication as authorized by paragraph 2  
20 of this subsection.

21 2. If authorized by the board of directors in its sole  
22 discretion, and subject to such guidelines and procedures as the  
23 board of directors may adopt, shareholders and proxyholders not  
24

1 physically present at a meeting of shareholders may, by means of  
2 remote communication:

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

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

- 13 (2) the corporation shall implement reasonable  
14 measures to provide such shareholders and  
15 proxyholders a reasonable opportunity to  
16 participate in the meeting and to vote on matters  
17 submitted to the shareholders, including an  
18 opportunity to read or hear the proceedings of  
19 the meeting substantially concurrently with the  
20 proceedings, and

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

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

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

15 C. A failure to hold the annual meeting at the designated time  
16 or to elect a sufficient number of directors to conduct the business  
17 of the corporation shall not affect otherwise valid corporate acts  
18 or work a forfeiture or dissolution of the corporation except as may  
19 be otherwise specifically provided for in this act. If the annual  
20 meeting for election of directors is not held on the date designated  
21 therefor or action by written consent to elect directors in lieu of  
22 an annual meeting has not been taken, the directors shall cause the  
23 meeting to be held as soon as is convenient. If there is a failure  
24 to hold the annual meeting or action by written consent to elect

1 directors in lieu of an annual meeting for a period of thirty (30)  
2 days after the date designated for the annual meeting, or if no date  
3 has been designated, for a period of thirteen (13) months after the  
4 latest to occur of the organization of the corporation, its last  
5 annual meeting, or the last action by written consent to elect  
6 directors in lieu of an annual meeting, the district court may  
7 summarily order a meeting to be held upon the application of any  
8 shareholder or director. The shares of stock represented at the  
9 meeting, either in person or by proxy, and entitled to vote thereat,  
10 shall constitute a quorum for the purpose of the meeting,  
11 notwithstanding any provision of the certificate of incorporation or  
12 bylaws to the contrary. The district court may issue orders as may  
13 be appropriate, including, without limitation, orders designating  
14 the time and place of the meeting, the record date or dates for  
15 determination of shareholders entitled to notice of the meeting and  
16 to vote, and the form of notice of the meeting.

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

20 E. All elections of directors shall be by written ballot,  
21 unless otherwise provided for in the certificate of incorporation;  
22 if authorized by the board of directors, the requirement of a  
23 written ballot shall be satisfied by a ballot submitted by  
24 electronic transmission; provided that the electronic transmission

1 must either set forth or be submitted with information from which it  
2 can be determined that the electronic transmission was authorized by  
3 the shareholder or proxyholder.

4 SECTION 12. AMENDATORY 18 O.S. 2011, Section 1058, is  
5 amended to read as follows:

6 Section 1058.

7 FIXING DATE FOR DETERMINATION OF SHAREHOLDERS OF RECORD

8 A. In order that the corporation may determine the shareholders  
9 entitled to notice of or to vote at any meeting of shareholders or  
10 any adjournment thereof, the board of directors may fix a record  
11 date, which record date shall not precede the date upon which the  
12 resolution fixing the record date is adopted by the board of  
13 directors, and which record date shall not be more than sixty (60)  
14 nor less than ten (10) days before the date of such meeting. If the  
15 board of directors so fixes a date, such date shall also be the  
16 record date for determining the shareholders entitled to vote at  
17 such meeting unless the board of directors determines, at the time  
18 it fixes such record date, that a later date on or before the date  
19 of the meeting shall be the date for making such determination. If  
20 no record date is fixed by the board of directors, the record date  
21 for determining shareholders entitled to notice of or to vote at a  
22 meeting of shareholders shall be at the close of business on the day  
23 next preceding the day on which notice is given, or, if notice is  
24 waived, at the close of business on the day next preceding the day

1 on which the meeting is held. A determination of shareholders of  
2 record entitled to notice of or to vote at a meeting of shareholders  
3 shall apply to any adjournment of the meeting; provided, however,  
4 that the board of directors may fix a new record date for the  
5 adjourned meeting and in such case shall also fix as the record date  
6 for shareholders entitled to notice of such adjourned meeting the  
7 same or an earlier date as that fixed for determination of  
8 shareholders entitled to vote in accordance with the foregoing  
9 provisions of this section at the adjourned meeting.

10 B. 1. In order that the corporation may determine the  
11 shareholders entitled to consent to corporate action in writing  
12 without a meeting, the board of directors may fix a record date,  
13 which record date shall not precede the date upon which the  
14 resolution fixing the record date is adopted by the board of  
15 directors, and which date shall not be more than ten (10) days after  
16 the date upon which the resolution fixing the record date is adopted  
17 by the board of directors. If no record date has been fixed by the  
18 board of directors, the record date for determining shareholders  
19 entitled to consent to corporate action in writing without a  
20 meeting, when no prior action by the board of directors is required  
21 by the Oklahoma General Corporation Act, shall be the first date on  
22 which a signed written consent setting forth the action taken or  
23 proposed to be taken is delivered to the corporation by delivery to  
24 its registered office in this state, its principal place of

1 business, or an officer or agent of the corporation having custody  
2 of the book in which proceedings of meetings of shareholders are  
3 recorded. Delivery made to a corporation's registered office shall  
4 be by hand or by certified or registered mail, return receipt  
5 requested. If no record date has been fixed by the board of  
6 directors and prior action by the board of directors is required by  
7 the Oklahoma General Corporation Act, the record date for  
8 determining shareholders entitled to consent to corporate action in  
9 writing without a meeting shall be at the close of business on the  
10 day on which the board of directors adopts the resolution taking  
11 such prior action.

12 2. The provisions of this subsection shall be effective with  
13 respect to corporate actions taken by written consent, and to such  
14 written consent or consents, as to which the first written consent  
15 is executed or solicited after November 1, 1988.

16 C. In order that the corporation may determine the shareholders  
17 entitled to receive payment of any dividend or other distribution or  
18 allotment of any rights or the shareholders entitled to exercise any  
19 rights in respect of any change, conversion or exchange of stock, or  
20 for the purpose of any other lawful action, the board of directors  
21 may fix a record date, which record date shall not precede the date  
22 upon which the resolution fixing the record date is adopted, and  
23 which record date shall be not more than sixty (60) days prior to  
24 such action. If no record date is fixed, the record date for

1 determining shareholders for any such purpose shall be at the close  
2 of business on the day on which the board of directors adopts the  
3 resolution relating thereto.

4 SECTION 13. AMENDATORY 18 O.S. 2011, Section 1063, is  
5 amended to read as follows:

6 Section 1063.

7 VOTING TRUSTS AND OTHER VOTING AGREEMENTS

8 A. One (1) or more shareholders, by agreement in writing, may  
9 deposit capital stock of an original issue with or transfer capital  
10 stock to any person or persons, or entity or entities, authorized to  
11 act as trustee, for the purpose of vesting in the person or persons,  
12 or entity or entities, who may be designated voting trustee, or  
13 voting trustees, the right to vote thereon for any period of time  
14 determined by the agreement upon the terms and conditions stated in  
15 the agreement. The agreement may contain any other lawful  
16 provisions not inconsistent with its purpose. After ~~the filing~~  
17 delivery of a copy of the agreement ~~in~~ to the registered office of  
18 the corporation in this state or the principal place of business of  
19 the corporation, which copy shall be open to the inspection of any  
20 shareholder of the corporation or any beneficiary of the trust under  
21 the agreement daily during business hours, certificates of stock or  
22 uncertificated stock shall be issued to the voting trustee or  
23 trustees to represent any stock of an original issue so deposited  
24 with the trustee or trustees, and any certificates of stock or



1 uncertificated stock so transferred to the voting trustee or  
2 trustees shall be surrendered and canceled and new certificates or  
3 uncertificated stock shall be issued therefor to the voting trustee  
4 or trustees. In the certificate so issued, if any, it shall be  
5 stated that it is issued pursuant to the agreement and that fact  
6 shall also be stated in the stock ledger of the corporation. The  
7 voting trustee or trustees may vote the stock so issued or  
8 transferred during the period specified in the agreement. Stock  
9 standing in the name of the voting trustee or trustees may be voted  
10 either in person or by proxy. In voting the stock, the voting  
11 trustee or trustees shall incur no responsibility as shareholder,  
12 trustee, or otherwise, except for the trustee's or trustees' own  
13 individual malfeasance. In any case where two (2) or more persons  
14 or entities are designated as voting trustees, and the right and  
15 method of voting any stock standing in their names at any meeting of  
16 the corporation are not fixed by the agreement appointing the  
17 trustees, the right to vote the stock and the manner of voting it at  
18 the meeting shall be determined by a majority of the trustees, or if  
19 they be equally divided or the right and manner of voting the stock  
20 in any particular case, the vote of the stock shall be divided  
21 equally among the trustees.

22 B. Any amendment to a voting trust agreement shall be made by a  
23 written agreement, a copy of which shall be ~~filed in~~ delivered to  
24

1 the registered office of the corporation in this state or the  
2 principal place of business of the corporation.

3 C. An agreement between two (2) or more shareholders, if in  
4 writing and signed by the parties thereto, may provide that in  
5 exercising any voting rights, the shares held by them shall be voted  
6 as provided by the agreement, or as the parties may agree, or as  
7 determined in accordance with a procedure agreed upon by them.

8 D. This section shall not be construed to invalidate any voting  
9 or other agreement among shareholders or any irrevocable proxy which  
10 is not otherwise illegal.

11 SECTION 14. AMENDATORY 18 O.S. 2011, Section 1064, is  
12 amended to read as follows:

13 Section 1064.

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

16 A. The officer who has charge of the stock ledger of a  
17 corporation shall prepare and make, at least ten (10) days before  
18 every meeting of shareholders, a complete list of the shareholders  
19 entitled to vote at the meeting; provided, however, if the record  
20 date for determining the shareholders entitled to vote is less than  
21 ten (10) days before the meeting date, the list shall reflect the  
22 shareholders entitled to vote as of the tenth day before the meeting  
23 date, arranged in alphabetical order, and showing the address of  
24 each shareholder and the number of shares registered in the name of

1 each shareholder. Nothing contained in this section shall require  
2 the corporation to include electronic mail addresses or other  
3 electronic contact information on the list. The list shall be open  
4 to the examination of any shareholder, for any purpose germane to  
5 the meeting for a period of at least ten (10) days prior to the  
6 meeting:

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

10 2. During ordinary business hours, at the principal place of  
11 business of the corporation. In the event that the corporation  
12 determines to make the list available on an electronic network, the  
13 corporation may take reasonable steps to ensure that the information  
14 is available only to shareholders of the corporation. If the  
15 meeting is to be held at a place, then the list shall also be  
16 produced and kept at the time and place of the meeting during the  
17 whole time thereof, and may be inspected by any shareholder who is  
18 present. If the meeting is to be held solely by means of remote  
19 communication, then the list shall also be open to the examination  
20 of any shareholder during the whole time of the meeting on a  
21 reasonably accessible electronic network, and the information  
22 required to access the list shall be provided with the notice of the  
23 meeting.

24

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

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

11 SECTION 15. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1065.1 of Title 18 unless there  
13 is created a duplication in numbering, reads as follows:

14 ACCESS TO PROXY SOLICITATION MATERIALS; PROXY EXPENSE  
15 REIMBURSEMENT

16 A. The bylaws may provide that if the corporation solicits  
17 proxies with respect to an election of directors, it may be  
18 required, to the extent and subject to such procedures or  
19 conditions as may be provided in the bylaws, to include in its  
20 proxy solicitation materials, including any form of proxy it  
21 distributes, in addition to individuals nominated by the board of  
22 directors, one or more individuals nominated by a shareholder.  
23 Such procedures or conditions may include any of the following:

24

1 1. A provision requiring a minimum record or beneficial  
2 ownership, or duration of ownership, of shares of the  
3 corporation's capital stock, by the nominating shareholder, and  
4 defining beneficial ownership to take into account options or other  
5 rights in respect of or related to such stock;

6 2. A provision requiring the nominating shareholder to submit  
7 specified information concerning the shareholder and the  
8 shareholder's nominees, including information concerning ownership  
9 by such persons of shares of the corporation's capital stock, or  
10 options or other rights in respect of or related to such stock;

11 3. A provision conditioning eligibility to require inclusion  
12 in the corporation's proxy solicitation materials upon the number  
13 or proportion of directors nominated by shareholders or whether the  
14 shareholder previously sought to require such inclusion;

15 4. A provision precluding nominations by any person if such  
16 person, any nominee of such person, or any affiliate or associate  
17 of such person or nominee, has acquired or publicly proposed to  
18 acquire shares constituting a specified percentage of the voting  
19 power of the corporation's outstanding voting stock within a  
20 specified period before the election of directors;

21 5. A provision requiring that the nominating shareholder  
22 undertake to indemnify the corporation in respect of any loss  
23 arising as a result of any false or misleading information or  
24

1 statement submitted by the nominating shareholder in connection  
2 with a nomination; and

3 6. Any other lawful condition.

4 B. The bylaws may provide for the reimbursement by the  
5 corporation of expenses incurred by a shareholder in soliciting  
6 proxies in connection with an election of directors, subject to  
7 such procedures or conditions as the bylaws may prescribe,  
8 including:

9 1. Conditioning eligibility for reimbursement upon the number  
10 or proportion of persons nominated by the shareholder seeking  
11 reimbursement or whether such shareholder previously sought  
12 reimbursement for similar expenses;

13 2. Limitations on the amount of reimbursement based upon the  
14 proportion of votes cast in favor of one or more of the persons  
15 nominated by the shareholder seeking reimbursement, or upon the  
16 amount spent by the corporation in soliciting proxies in connection  
17 with the election;

18 3. Limitations concerning elections of directors by cumulative  
19 voting pursuant to Section 1059 of Title 18 of the Oklahoma  
20 Statutes; or

21 4. Any other lawful condition.

22 C. No bylaw so adopted shall apply to elections for which any  
23 record date precedes its adoption.

24

1 SECTION 16. AMENDATORY 18 O.S. 2011, Section 1067, is  
2 amended to read as follows:

3 Section 1067.

4 NOTICE OF MEETINGS AND ADJOURNED MEETINGS

5 A. Whenever shareholders are required or permitted to take any  
6 action at a meeting, a written notice of the meeting shall be given  
7 which shall state the place, if any, date and hour of the meeting,  
8 the means of remote communications, if any, by which shareholders  
9 and proxyholders may be deemed to be present in person and vote at  
10 the meetings, the record date for determining the shareholders  
11 entitled to vote at the meeting, if such date is different from the  
12 record date for determining shareholders entitled to notice of the  
13 meeting and, in the case of a special meeting, the purpose or  
14 purposes for which the meeting is called.

15 B. Unless otherwise provided for in the Oklahoma General  
16 Corporation Act, the written notice of any meeting shall be given  
17 not less than ten (10) nor more than sixty (60) days before the date  
18 of the meeting to each shareholder entitled to vote at such meeting  
19 as of the record date for determining the shareholders entitled to  
20 notice of the meeting. If mailed, notice is given when deposited in  
21 the United States mail, postage prepaid, directed to the shareholder  
22 at his address as it appears on the records of the corporation. An  
23 affidavit of the secretary or an assistant secretary or of the  
24 transfer agent or other agent of the corporation that the notice has

1 | been given, in the absence of fraud, shall be prima facie evidence  
2 | of the facts stated therein.

3 |       C. When a meeting is adjourned to another time or place, unless  
4 | the bylaws otherwise require, notice need not be given of the  
5 | adjourned meeting if the time, place, if any, thereof, and the means  
6 | of remote communications, if any, by which shareholders and  
7 | proxyholders may be deemed to be present in person and vote at the  
8 | adjourned meeting are announced at the meeting at which the  
9 | adjournment is taken. At the adjourned meeting the corporation may  
10 | transact any business which might have been transacted at the  
11 | original meeting. If the adjournment is for more than thirty (30)  
12 | days, ~~or if after the adjournment a new record date is fixed for the~~  
13 | ~~adjourned meeting,~~ a notice of the adjourned meeting shall be given  
14 | to each shareholder of record entitled to vote at the meeting. If  
15 | after the adjournment a new record date for shareholders entitled to  
16 | vote is fixed for the adjourned meeting, the board of directors  
17 | shall fix a new record date for notice of such adjourned meeting in  
18 | accordance with subsection A of Section 1058 of this title, and  
19 | shall give notice of the adjourned meeting to each shareholder of  
20 | record entitled to vote at such adjourned meeting as of the record  
21 | date fixed for notice of such adjourned meeting.

22 |       SECTION 17.        AMENDATORY        18 O.S. 2011, Section 1068, is  
23 | amended to read as follows:

24 |        Section 1068.



VACANCIES AND NEWLY CREATED DIRECTORSHIPS

A. 1. Unless otherwise provided in the certificate of incorporation or bylaws:

a. ~~Vacancies~~ vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the shareholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director~~+~~,l and

b. ~~Whenever~~ whenever the holders of any class or classes of stock or series thereof are entitled to elect one ~~(1)~~ or more directors by the provisions of the certificate of incorporation, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected.

2. If at any time, by reason of death or resignation or other cause, a corporation should have no directors in office, then any officer or any shareholder or an executor, administrator, trustee or guardian of a shareholder, or other fiduciary entrusted with like responsibility for the person or estate of a shareholder, may call a

1 special meeting of shareholders in accordance with the provisions of  
2 the certificate of incorporation or the bylaws, or may apply to the  
3 district court for a decree summarily ordering an election as  
4 provided for in ~~Section~~ Sections 1056 and 1060 of this title.

5 B. In the case of a corporation the directors of which are  
6 divided into classes, any directors chosen under subsection A of  
7 this section shall hold office until the next election of the class  
8 for which such directors shall have been chosen, and until their  
9 successors shall be elected and qualified.

10 C. If, at the time of filling any vacancy or any newly created  
11 directorship, the directors then in office shall constitute less  
12 than a majority of the whole board, as constituted immediately prior  
13 to any such increase, the district court, upon application of any  
14 shareholder or shareholders holding at least ten percent (10%) of  
15 the voting stock at the time outstanding having the right to vote  
16 for such directors, may summarily order an election to be held to  
17 fill any such vacancies or newly created directorships, or to  
18 replace the directors chosen by the directors then in office, which  
19 election shall be governed by the provisions of ~~Section~~ Sections  
20 1056 and 1060 of this title as far as applicable.

21 D. Unless otherwise provided in the certificate of  
22 incorporation or bylaws, when one or more directors shall resign  
23 from the board, effective at a future date, a majority of the  
24 directors then in office, including those who have so resigned,

1 shall have power to fill such vacancy or vacancies, the vote thereon  
2 to take effect when such resignation or resignations shall become  
3 effective, and each director so chosen shall hold office as provided  
4 for in this section in the filling of other vacancies.

5 SECTION 18. AMENDATORY 18 O.S. 2011, Section 1070, is  
6 amended to read as follows:

7 Section 1070.

8 CONTESTED ELECTION OF DIRECTORS; PROCEEDINGS TO DETERMINE  
9 VALIDITY

10 A. Upon application of any shareholder or director, or any  
11 officer whose title to office is contested, ~~or any member of a~~  
12 ~~corporation without capital stock,~~ the district court may hear and  
13 determine the validity of any election, appointment, removal or  
14 resignation of any director, ~~member of the governing body,~~ or  
15 officer of any corporation, and the right of any person to hold, or  
16 continue to hold, such office, and, in case any such office is  
17 claimed by more than one person, may determine the person entitled  
18 thereto; and to that end make such order or decree in any such case  
19 as may be just and proper, with power to enforce the production of  
20 any books, papers and records of the corporation relating to the  
21 issue. In case it should be determined that no valid election has  
22 been held, the district court may order an election to be held in  
23 accordance with the provisions of Section 1056 or 1060 of this  
24 title. In any such application, service of copies of the

1 application upon the registered agent of the corporation shall be  
2 deemed to be service upon the corporation and upon the person whose  
3 title to office is contested and upon the person, if any, claiming  
4 such office; and the registered agent shall forward immediately a  
5 copy of the application to the corporation and to the person whose  
6 title to office is contested and to the person, if any, claiming  
7 such office, in a postpaid, sealed, registered letter addressed to  
8 such corporation and such person at their post office addresses last  
9 known to the registered agent or furnished to the registered agent  
10 by the applicant shareholder. The court may make such order  
11 respecting further or other notice of such application as it deems  
12 proper under the circumstances.

13 B. Upon application of any shareholder or ~~any member of a~~  
14 ~~corporation without capital stock~~ upon application of the  
15 corporation itself, the district court may hear and determine the  
16 result of any vote of shareholders ~~or members, as the case may be,~~  
17 upon matters other than the election of directors, or officers ~~or~~  
18 ~~members of the governing body~~. Service of the application upon the  
19 registered agent of the corporation shall be deemed to be service  
20 upon the corporation, and no other party need be joined in order for  
21 the court to adjudicate the result of the vote. The court may make  
22 such order respecting notice of the application as it deems proper  
23 under the circumstances.

24

1        C. If one or more directors has been convicted of a felony in  
2 connection with the duties of such director or directors to the  
3 corporation, or if there has been a prior judgment on the merits by  
4 a court of competent jurisdiction that one or more directors has  
5 committed a breach of the duty of loyalty in connection with the  
6 duties of such director or directors to that corporation, then, upon  
7 application by the corporation, or derivatively in the right of the  
8 corporation by any shareholder, in a subsequent action brought for  
9 such purpose, the district court may remove from office such  
10 director or directors if the court determines that the director or  
11 directors did not act in good faith in performing the acts resulting  
12 in the prior conviction or judgment and judicial removal is  
13 necessary to avoid irreparable harm to the corporation. In  
14 connection with such removal, the court may make such orders as are  
15 necessary to effect such removal. In any such application, service  
16 of copies of the application upon the registered agent of the  
17 corporation shall be deemed to be service upon the corporation and  
18 upon the director or directors whose removal is sought; and the  
19 registered agent shall forward immediately a copy of the application  
20 to the corporation and to such director or directors, in a postpaid,  
21 sealed, registered letter addressed to such corporation and such  
22 director or directors at their post office addresses last known to  
23 the registered agent or furnished to the registered agent by the  
24 applicant. The court may make such order respecting further or

1 other notice of such application as it deems proper under the  
2 circumstances.

3 SECTION 19. AMENDATORY 18 O.S. 2011, Section 1073, is  
4 amended to read as follows:

5 Section 1073.

6 CONSENT OF SHAREHOLDERS IN LIEU OF MEETING

7 A. ~~Except as provided in subsection B of this section or unless~~  
8 Unless otherwise provided for in the certificate of incorporation,  
9 any action required by the provisions of the Oklahoma General  
10 Corporation Act to be taken at any annual or special meeting of  
11 shareholders of a corporation or any action which may be taken at  
12 any annual or special meeting of shareholders, may be taken without  
13 a meeting, without prior notice, and without a vote, if a consent or  
14 consents in writing, setting forth the action so taken, shall be  
15 signed by the holders of outstanding stock having not less than the  
16 minimum number of votes that would be necessary to authorize or take  
17 the action at a meeting at which all shares entitled to vote thereon  
18 were present and voted and shall be delivered to the corporation by  
19 delivery to its registered office in this state, its principal place  
20 of business, or an officer or agent of the corporation having  
21 custody of the book in which proceedings of meetings of shareholders  
22 are recorded. Delivery made to a corporation's registered office  
23 shall be by hand or by certified or registered mail, return receipt  
24 requested.

1 B. ~~1. With respect to any domestic corporation with both:~~  
2     ~~a. a class of voting stock listed or traded on a national~~  
3         ~~securities exchange or registered under Section 12(g)~~  
4         ~~of the Securities Exchange Act of 1934, 15 U.S.C.~~  
5         ~~Section 78a et seq., as amended, and~~  
6     ~~b. one thousand (1,000) or more shareholders of record,~~  
7         ~~any action by shareholders of the corporation shall be~~  
8         ~~taken at an annual or special meeting of shareholders,~~  
9         ~~and cannot be taken without a meeting of the~~  
10         ~~shareholders, unless such action is approved by~~  
11         ~~written consent, signed by all of the holders of all~~  
12         ~~outstanding stock entitled to vote thereon and~~  
13         ~~delivered to the corporation by delivery to its~~  
14         ~~registered office in this state, its principal place~~  
15         ~~of business, or an officer or agent of the corporation~~  
16         ~~having custody of the book in which proceedings of~~  
17         ~~meetings of shareholders are recorded. Delivery made~~  
18         ~~to a corporation's registered office shall be by hand~~  
19         ~~or by certified or registered mail, return receipt~~  
20         ~~requested. The provisions of this subsection shall be~~  
21         ~~effective with respect to corporate actions by written~~  
22         ~~consent, and to written consent or consents, as to~~  
23         ~~which the first written consent is executed or~~  
24         ~~solicited after September 1, 2010.~~

1       ~~2. This subsection shall cease to apply to any domestic~~  
2 ~~corporation after such corporation either:~~

- 3           ~~a. ceases to have any class of voting stock listed or~~  
4           ~~traded on a national securities exchange or registered~~  
5           ~~under Section 12(g) of the Securities Exchange Act of~~  
6           ~~1934, 15 U.S.C. Section 78a et seq., as amended, or~~  
7           ~~b. ceases to have one thousand (1,000) or more~~  
8           ~~shareholders of record on the last business day of~~  
9           ~~each month for a consecutive twelve-month period.~~

10       ~~C.~~ Unless otherwise provided for in the certificate of  
11 incorporation, any action required by the provisions of ~~this act~~ the  
12 Oklahoma General Corporation Act to be taken at a meeting of the  
13 members of a nonstock corporation, or any action which may be taken  
14 at any meeting of the members of a nonstock corporation, may be  
15 taken without a meeting, without prior notice and without a vote, if  
16 a consent or consents in writing, setting forth the action taken,  
17 shall be signed by members having not less than the minimum number  
18 of votes that would be necessary to authorize or take such action at  
19 a meeting at which all members having a right to vote thereon were  
20 present and voted and shall be delivered to the corporation by  
21 delivery to its registered office in this state, its principal place  
22 of business, or an officer or agent of the corporation having  
23 custody of the book in which proceedings of meetings of shareholders  
24 are recorded. Delivery made to a corporation's registered office



1 shall be by hand or by certified or registered mail, return receipt  
2 requested.

3 ~~D.~~ C. 1. A telegram, cablegram or other electronic  
4 transmission consenting to an action to be taken and transmitted by  
5 a shareholder, member or proxyholder, or by a person or persons  
6 authorized to act for a shareholder, member or proxyholder, shall be  
7 deemed to be written, signed and dated for the purposes of this  
8 section; provided that any telegram, cablegram or other electronic  
9 transmission sets forth or is delivered with information from which  
10 the corporation can determine:

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

16 b. the date on which the shareholder, member or  
17 proxyholder or authorized person or persons  
18 transmitted the telegram, cablegram or electronic  
19 transmission.

20 The date on which the telegram, cablegram or electronic  
21 transmission is transmitted shall be deemed to be the date on which  
22 the consent was signed. No consent given by telegram, cablegram or  
23 other electronic transmission shall be deemed to have been delivered  
24 until the consent is reproduced in paper form and until the paper

1 form shall be delivered to the corporation by delivery to its  
2 registered office in this state, its principal place of business or  
3 an officer or agent of the corporation having custody of the book in  
4 which proceedings of meetings of shareholders or members are  
5 recorded. Delivery made to a corporation's registered office shall  
6 be made by hand or by certified or registered mail, return receipt  
7 requested. Notwithstanding the foregoing limitations on delivery,  
8 consents given by telegram, cablegram or other electronic  
9 transmission may be otherwise delivered to the principal place of  
10 business of the corporation or to an officer or agent of the  
11 corporation having custody of the book in which proceedings of  
12 meetings of shareholders or members are recorded if, to the extent  
13 and in the manner provided by resolution of the board of directors  
14 or governing body of the corporation.

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

21 ~~E.~~ D. Every written consent shall bear the date of signature of  
22 each shareholder or member who signs the consent and no written  
23 consent shall be effective to take the corporate action referred to  
24 therein unless, within sixty (60) days of the earliest dated consent

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

18 F. E. Prompt notice of the taking of the corporate action  
19 without a meeting by less than unanimous written consent shall be  
20 given to those shareholders or members, as the case may be, who have  
21 not consented in writing and who, if the action had been taken at a  
22 meeting, would have been entitled to notice of the meeting if the  
23 record date for notice of the meeting had been the date that written  
24 consents signed by a sufficient number of shareholders or members to

1 take the action were delivered to the corporation as provided in  
2 subsection C B of this section. In the event that the action for  
3 which consent is given is an action that would have required the  
4 filing of a certificate under any other section of this title if the  
5 action had been voted on by shareholders or by members at a meeting  
6 thereof the certificate filed under the other section shall state,  
7 in lieu of any statement required by the section concerning any vote  
8 of shareholders or members, that written consent has been given in  
9 accordance with the provisions of this section.

10 SECTION 20. AMENDATORY 18 O.S. 2011, Section 1077, is  
11 amended to read as follows:

12 Section 1077.

13 AMENDMENT OF CERTIFICATE OF INCORPORATION AFTER RECEIPT OF  
14 PAYMENT FOR STOCK; ~~—~~ — NONSTOCK CORPORATIONS

15 A. 1. After a corporation has received payment for any of its  
16 capital stock, or after a nonstock corporation has members, it may  
17 amend its certificate of incorporation, from time to time, in any  
18 and as many respects as may be desired, so long as its certificate  
19 of incorporation as amended would contain only such provisions as it  
20 would be lawful and proper to insert in an original certificate of  
21 incorporation filed at the time of the filing of the amendment; and  
22 if a change in stock or the rights of shareholders, or an exchange,  
23 reclassification, subdivision, combination, or cancellation of stock  
24 or rights of shareholders is to be made, such provisions as may be

1 necessary to effect ~~the~~ such change, exchange, reclassification,  
2 subdivision, combination, or cancellation. In particular, and  
3 without limitation upon the general power of amendment, a  
4 corporation may amend its certificate of incorporation, from time to  
5 time, so as:

- 6 a. to change its corporate name,
- 7 b. to change, substitute, enlarge, or diminish the nature  
8 of its business or its corporate powers and purposes,
- 9 c. to increase or decrease its authorized capital stock  
10 or to reclassify the same, by changing the number, par  
11 value, designations, preferences, or relative,  
12 participating, optional, or other special rights of  
13 the shares, or the qualifications, limitations, or  
14 restrictions of such rights, or by changing shares  
15 with par value into shares without par value, or  
16 shares without par value into shares with par value  
17 either with or without increasing or decreasing the  
18 number of shares or by subdividing or combining the  
19 outstanding shares of any class or series of a class  
20 of shares into a greater or lesser number of  
21 outstanding shares,
- 22 d. to cancel or otherwise affect the right of the holders  
23 of the shares of any class to receive dividends which  
24 have accrued but have not been declared,

- 1 e. to create new classes of stock having rights and  
2 preferences either prior and superior or subordinate  
3 and inferior to the stock of any class then  
4 authorized, whether issued or unissued, ~~or~~
- 5 f. to change the period of its duration, or
- 6 g. to delete (1) such provisions of the original  
7 certificate of incorporation which named the  
8 incorporator or incorporators, the initial board of  
9 directors and the original subscribers for shares, and  
10 (2) such provisions contained in any amendment to the  
11 certificate of incorporation as were necessary to  
12 effect a change, exchange, reclassification,  
13 subdivision, combination or cancellation of stock, if  
14 such change, exchange, reclassification, subdivision,  
15 combination or cancellation has become effective.

16 2. Any or all changes or alterations provided for in paragraph  
17 1 of this subsection may be effected by one certificate of  
18 amendment.

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

21 1. If the corporation has capital stock, its board of directors  
22 shall adopt a resolution setting forth the amendment proposed,  
23 declaring its advisability, and either calling a special meeting of  
24 the shareholders entitled to vote in respect thereof for the

1 consideration of the amendment or directing that the amendment  
2 proposed be considered at the next annual meeting of shareholders;  
3 provided, however, that unless otherwise expressly required by the  
4 certificate of incorporation, no meeting or vote of shareholders  
5 shall be required to adopt an amendment that effects only changes  
6 described in paragraph (a) or (g) of subsection A of this section.  
7 The special or annual meeting shall be called and held upon notice  
8 in accordance with the provisions of Section 1067 of this title.  
9 The notice shall set forth the amendment in full or a brief summary  
10 of the changes to be effected thereby, ~~as the directors shall deem~~  
11 advisable unless such notice constitutes a notice of Internet  
12 availability of proxy materials under the rules promulgated under  
13 the Securities Exchange Act of 1934. At the meeting, a vote of the  
14 shareholders entitled to vote thereon shall be taken for and against  
15 ~~the~~ any proposed amendment that requires adoption by shareholders.  
16 If no vote of shareholders is required to effect such amendment, or  
17 if a majority of the outstanding stock entitled to vote thereon, and  
18 a majority of the outstanding stock of each class entitled to vote  
19 thereon as a class, has been voted in favor of the amendment, a  
20 certificate setting forth the amendment and certifying that the  
21 amendment has been duly adopted in accordance with the provisions of  
22 this section shall be executed, acknowledged, and filed and shall  
23 become effective in accordance with the provisions of Section 1007  
24 of this title.

1        2. The holders of the outstanding shares of a class shall be  
2 entitled to vote as a class upon a proposed amendment, whether or  
3 not entitled to vote thereon by the provisions of the certificate of  
4 incorporation, if the amendment would increase or decrease the  
5 aggregate number of authorized shares of the class, increase or  
6 decrease the par value of the shares of the class, or alter or  
7 change the powers, preferences, or special rights of the shares of  
8 the class so as to affect them adversely. If any proposed amendment  
9 would alter or change the powers, preferences, or special rights of  
10 one or more series of any class so as to affect them adversely, but  
11 shall not so affect the entire class, then only the shares of the  
12 series so affected by the amendment shall be considered a separate  
13 class for the purposes of this paragraph. The number of authorized  
14 shares of any such class or classes of stock may be increased or  
15 decreased, but not below the number of shares thereof then  
16 outstanding, by the affirmative vote of the holders of a majority of  
17 the stock of the corporation entitled to vote irrespective of the  
18 provisions of this paragraph, if so provided in the original  
19 certificate of incorporation, in any amendment thereto which created  
20 the class or classes of stock or which was adopted prior to the  
21 issuance of any shares of the class or classes of stock, or in any  
22 amendment thereto which was authorized by a resolution or  
23 resolutions adopted by the affirmative vote of the holders of a  
24 majority of the class or classes of stock.



1        3. If the corporation ~~has no capital stock~~ is a nonstock  
2 corporation, then the governing body thereof shall adopt a  
3 resolution setting forth the amendment proposed and declaring its  
4 advisability. If a majority of all the members of the governing  
5 body shall vote in favor of the amendment, a certificate thereof  
6 shall be executed, acknowledged, and filed and shall become  
7 effective in accordance with the provisions of Section 1007 of this  
8 title. The certificate of incorporation of a any nonstock  
9 corporation ~~without capital stock~~ may contain a provision requiring  
10 an amendment thereto to be approved by a specified number or  
11 percentage of the members or of any specified class of members of  
12 the corporation in which event the proposed amendment shall be  
13 submitted to the members or to any specified class of members of the  
14 corporation ~~without capital stock~~ in the same manner, so far as  
15 applicable, as is provided for in this section for an amendment to  
16 the certificate of incorporation of a stock corporation; and in the  
17 event of the adoption thereof by the members, a certificate  
18 evidencing the amendment shall be executed, acknowledged, and filed  
19 and shall become effective in accordance with the provisions of  
20 Section 1007 of this title.

21        4. Whenever the certificate of incorporation shall require  
22 action by the board of directors of a corporation other than a  
23 nonstock corporation or by the governing body of a nonstock  
24 corporation, by the holders of any class or series of shares or by

1 the members, or by the holders of any other securities having voting  
2 power, the vote of a greater number or proportion than is required  
3 by the provisions of the Oklahoma General Corporation Act, the  
4 provision of the certificate of incorporation requiring a greater  
5 vote shall not be altered, amended, or repealed except by a greater  
6 vote.

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

15 SECTION 21. AMENDATORY 18 O.S. 2011, Section 1080, is  
16 amended to read as follows:

17 Section 1080.

18 RESTATED CERTIFICATE OF INCORPORATION

19 A. A corporation, whenever desired, may integrate into a single  
20 instrument all of the provisions of its certificate of incorporation  
21 which are then in effect and operative as a result of there having  
22 up to that time been filed with the Secretary of State one or more  
23 certificates or other instruments pursuant to any of the sections  
24 referred to in Section 1008 of this title, and it may at the same

1 time also further amend its certificate of incorporation by adopting  
2 a restated certificate of incorporation.

3 B. If the restated certificate of incorporation merely restates  
4 and integrates but does not further amend the certificate of  
5 incorporation, as up to that time amended or supplemented by any  
6 instrument that was filed pursuant to any of the sections mentioned  
7 in Section 1008 of this title, it may be adopted by the board of  
8 directors without a vote of the shareholders, or it may be proposed  
9 by the directors and submitted by them to the shareholders for  
10 adoption, in which case the procedure and vote required, if any, by  
11 Section 1077 of this title for amendment of the certificate of  
12 incorporation shall be applicable. If the restated certificate of  
13 incorporation restates and integrates and also further amends in any  
14 respect the certificate of incorporation, as up to that time amended  
15 or supplemented, it shall be proposed by the directors and adopted  
16 by the shareholders in the manner and by the vote prescribed by  
17 Section 1077 of this title or, if the corporation has not received  
18 any payment for any of its stock, in the manner and by the vote  
19 prescribed by Section 1076 of this title.

20 C. A restated certificate of incorporation shall be  
21 specifically designated as such in its heading. It shall state,  
22 either in its heading or in an introductory paragraph, the  
23 corporation's present name, and, if it has been changed, the name  
24 under which it was originally incorporated, and the date of filing

1 of its original certificate of incorporation with the Secretary of  
2 State. If it was adopted by the board of directors without a vote  
3 of the shareholders, unless it was adopted pursuant to the  
4 provisions of Section 1076 of this title or without a vote of  
5 members pursuant to paragraph 3 of subsection B of Section 1077 of  
6 this title, it shall state that it only restates and integrates and  
7 does not further amend the provisions of the corporation's  
8 certificate of incorporation as up to that time amended or  
9 supplemented, and that there is no discrepancy between those  
10 provisions and the provisions of the restated certificate. A  
11 restated certificate of incorporation may omit:

12 1. Such provisions of the original certificate of incorporation  
13 which named the incorporator or incorporators, the initial board of  
14 directors, and the original subscribers for shares; and

15 2. Such provisions contained in any amendment to the  
16 certificate of incorporation as were necessary to effect a change,  
17 exchange, reclassification, subdivision, combination or cancellation  
18 of stock, if such change, exchange, reclassification, subdivision,  
19 combination or cancellation has become effective.

20 Any such omissions shall not be deemed a further amendment.

21 D. A restated certificate of incorporation shall be executed,  
22 acknowledged and filed in accordance with the provisions of Section  
23 1007 of this title. Upon its filing with the Secretary of State,  
24 the original certificate of incorporation, as up to that time

1 amended or supplemented, shall be superseded. From that time  
2 forward, the restated certificate of incorporation, including any  
3 further amendments or changes made thereby, shall be the certificate  
4 of incorporation of the corporation, but the original date of  
5 incorporation shall remain unchanged.

6 E. Any amendment or change effected in connection with the  
7 restatement and integration of the certificate of incorporation  
8 shall be subject to any other provision of the Oklahoma General  
9 Corporation Act, not inconsistent with the provisions of this  
10 section, which would apply if a separate certificate of amendment  
11 were filed to effect such amendment or change.

12 SECTION 22. AMENDATORY 18 O.S. 2011, Section 1081, is  
13 amended to read as follows:

14 Section 1081.

15 MERGER OR CONSOLIDATION OF DOMESTIC CORPORATIONS

16 A. Any two or more corporations existing under the laws of this  
17 state may merge into a single corporation, which may be any one of  
18 the constituent corporations or may consolidate into a new  
19 corporation formed by the consolidation, pursuant to an agreement of  
20 merger or consolidation, as the case may be, complying and approved  
21 in accordance with the provisions of this section.

22 B. The board of directors of each corporation which desires to  
23 merge or consolidate shall adopt a resolution approving an agreement  
24

1 of merger or consolidation and declaring its advisability. The  
2 agreement shall state:

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

4 2. The mode of carrying the same into effect;

5 3. In the case of a merger, the amendments or changes in the

6 certificate of incorporation of the surviving corporation as are

7 desired to be effected by the merger, which amendments or changes

8 may amend and restate the certificate of incorporation of the

9 surviving corporation in its entirety, or, if no amendments or

10 changes are desired, a statement that the certificate of

11 incorporation of the surviving corporation shall be its certificate

12 of incorporation of the surviving or resulting corporation;

13 4. In the case of a consolidation, that the certificate of

14 incorporation of the resulting corporation shall be as is set forth

15 in an attachment to the agreement;

16 5. The manner, if any, of converting the shares of each of the

17 constituent corporations into shares or other securities of the

18 corporation surviving or resulting from the merger or consolidation,

19 or of canceling some or all of the shares, and, if any shares of any

20 of the constituent corporations are not to remain outstanding, to be

21 converted solely into shares or other securities of the surviving or

22 resulting corporation or to be canceled, the cash, property, rights,

23 or securities of any other corporation or entity which the holders

24 of the shares are to receive in exchange for or upon conversion of

1 the shares and the surrender of any certificates evidencing them,  
2 which cash, property, rights, or securities of any other corporation  
3 or entity may be in addition to or in lieu of shares or other  
4 securities of the surviving or resulting corporation; and

5 6. Other details or provisions as are deemed desirable,  
6 including without limiting the generality of the foregoing, a  
7 provision for the payment of cash in lieu of the issuance or  
8 recognition of fractional shares, interests or rights, or for any  
9 other arrangement with respect thereto, consistent with the  
10 provisions of Section 1036 of this title. The agreement so adopted  
11 shall be executed and acknowledged in accordance with the provisions  
12 of Section 1007 of this title. Any of the terms of the agreement of  
13 merger or consolidation may be made dependent upon facts  
14 ascertainable outside of the agreement; provided, that the manner in  
15 which these facts shall operate upon the terms of the agreement is  
16 clearly and expressly set forth in the agreement of merger or  
17 consolidation. The term "facts" as used in this paragraph,  
18 includes, but is not limited to, the occurrence of any event,  
19 including a determination or action by any person or body, including  
20 the corporation.

21 C. The agreement required by the provisions of subsection B of  
22 this section shall be submitted to the shareholders of each  
23 constituent corporation at an annual or special meeting thereof for  
24 the purpose of acting on the agreement. Due notice of the time,

1 place, and purpose of the meeting shall be mailed to each holder of  
2 stock whether voting or nonvoting, of the corporation at the address  
3 which appears on the records of the corporation, at least twenty  
4 (20) days before the date of the meeting. The notice shall contain  
5 a copy of the agreement or a brief summary thereof, ~~as the directors~~  
6 ~~shall deem advisable~~; provided, however, the notice shall be  
7 effective only with respect to mergers or consolidations for which  
8 the notice of the shareholders meeting to vote thereon has been  
9 mailed after November 1, 1988. At the meeting the agreement shall  
10 be considered and a vote taken for its adoption or rejection. If a  
11 majority of the outstanding stock of the corporation entitled to  
12 vote thereon shall be voted for the adoption of the agreement, that  
13 fact shall be certified on the agreement by the secretary or the  
14 assistant secretary of the corporation; provided, that such  
15 certification on the agreement shall not be required if a  
16 certificate of merger or consolidation is filed in lieu of filing  
17 the agreement. If the agreement shall be so adopted and certified  
18 by each constituent corporation, it shall then be filed and shall  
19 become effective in accordance with the provisions of Section 1007  
20 of this title. In lieu of filing an agreement of merger or  
21 consolidation required by this section, the surviving or resulting  
22 corporation may file a certificate of merger or consolidation  
23 executed in accordance with the provisions of Section 1007 of this  
24 title and which states:



- 1           1. The name and state of incorporation of each of the  
2 constituent corporations;
- 3           2. That an agreement of merger or consolidation has been  
4 approved, adopted, ~~certified~~, executed, and acknowledged by each of  
5 the constituent corporations in accordance with the provisions of  
6 this section;
- 7           3. The name of the surviving or resulting corporation;
- 8           4. In the case of a merger, the amendments or changes in the  
9 certificate of incorporation of the surviving corporation, which may  
10 be amended and restated, that are desired to be effected by the  
11 merger, which amendments or changes may amend and restate the  
12 certificate of incorporation of the surviving corporation in its  
13 entirety, or, if no amendments or changes are desired, a statement  
14 that the certificate of incorporation of the surviving corporation  
15 shall be its certificate of incorporation;
- 16           5. In the case of a consolidation, that the certificate of  
17 incorporation of the resulting corporation shall be as is set forth  
18 in an attachment to the certificate;
- 19           6. That the executed agreement of consolidation or merger is on  
20 file at the principal place of business of the surviving  
21 corporation, stating the address thereof; and
- 22           7. That a copy of the agreement of consolidation or merger will  
23 be furnished by the surviving corporation, on request and without  
24 cost, to any shareholder of any constituent corporation. For

1 purposes of Sections 1084 and 1086 of this title, the term  
2 "shareholder" shall be deemed to include "member".

3 D. Any agreement of merger or consolidation may contain a  
4 provision that at any time prior to the time that the agreement, or  
5 a certificate filed with the Secretary of State in lieu thereof,  
6 becomes effective in accordance with Section 1007 of this title, the  
7 agreement may be terminated by the board of directors of any  
8 constituent corporation notwithstanding approval of the agreement by  
9 the shareholders of all or any of the constituent corporations;  
10 provided, if the agreement of merger or consolidation is terminated  
11 after the filing of the agreement, or a certificate filed with the  
12 Secretary of State in lieu thereof, but before the agreement or  
13 certificate has become effective, a certificate of termination of  
14 merger or consolidation shall be filed in accordance with Section  
15 1007 of this title. Any agreement of merger or consolidation may  
16 contain a provision that the boards of directors of the constituent  
17 corporations may amend the agreement at any time prior to the time  
18 that the agreement, or a certificate filed with the Secretary of  
19 State in lieu thereof, becomes effective in accordance with Section  
20 1007 of this title; provided, that an amendment made subsequent to  
21 the adoption of the agreement by the shareholders of any constituent  
22 corporation shall not:

23 1. Alter or change the amount or kind of shares, securities,  
24 cash, property, or rights to be received in exchange for or on

1 conversion of all or any of the shares of any class or series  
2 thereof of the constituent corporation;

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

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

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

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

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

24

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

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

7           3. Either no shares of common stock of the surviving  
8 corporation and no shares, securities, or obligations convertible  
9 into such stock are to be issued or delivered under the plan of  
10 merger, or the authorized unissued shares or the treasury shares of  
11 common stock of the surviving corporation to be issued or delivered  
12 under the plan of merger plus those initially issuable upon  
13 conversion of any other shares, securities, or obligations to be  
14 issued or delivered under the plan do not exceed twenty percent  
15 (20%) of the shares of common stock of the constituent corporation  
16 outstanding immediately prior to the effective date of the merger.  
17 No vote of shareholders of a constituent corporation shall be  
18 necessary to authorize a merger or consolidation if no shares of the  
19 stock of the corporation shall have been issued prior to the  
20 adoption by the board of directors of the resolution approving the  
21 agreement of merger or consolidation. If an agreement of merger is  
22 adopted by the constituent corporation surviving the merger, by  
23 action of its board of directors and without any vote of its  
24 shareholders pursuant to the provisions of this subsection, the

1 secretary or assistant secretary of that corporation shall certify  
2 on the agreement that the agreement has been adopted pursuant to the  
3 provisions of this subsection and:

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

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

15 The agreement so adopted and certified shall then be filed and  
16 shall become effective in accordance with the provisions of Section  
17 1007 of this title. Filing shall constitute a representation by the  
18 person who executes the certificate that the facts stated in the  
19 certificate remain true immediately prior to filing.

20 G. 1. Notwithstanding the requirements of subsection C of this  
21 section, unless expressly required by its certificate of  
22 incorporation, no vote of shareholders of a constituent corporation  
23 shall be necessary to authorize a merger with or into a single  
24

1 direct or indirect wholly owned subsidiary of the constituent  
2 corporation if:

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

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

15 c. the holding company and the constituent corporation  
16 are corporations of this state and the direct or  
17 indirect wholly owned subsidiary that is the other  
18 constituent entity to the merger is a corporation or  
19 limited liability company of this state,

20 d. the certificate of incorporation and bylaws of the  
21 holding company immediately following the effective  
22 time of the merger contain provisions identical to the  
23 certificate of incorporation and bylaws of the  
24 constituent corporation immediately before the

1 effective time of the merger, other than provisions,  
2 if any, regarding the incorporator or incorporators,  
3 the corporate name, the registered office and agent,  
4 the initial board of directors, and the initial  
5 subscribers of shares and provisions contained in any  
6 amendment to the certificate of incorporation as were  
7 necessary to effect a change, exchange,  
8 reclassification, subdivision, combination or  
9 cancellation of stock, if a change, exchange,  
10 reclassification, or cancellation has become  
11 effective,

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

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

19 g. the organizational documents of the surviving entity  
20 immediately following the effective time of the merger  
21 contain provisions identical to the certificate of  
22 incorporation of the constituent corporation  
23 immediately before the effective time of the merger,  
24 other than provisions, if any, regarding the

1 incorporator or incorporators, the corporate or entity  
2 name, the registered office and agent, the initial  
3 board of directors and the initial subscribers for  
4 shares, references to members rather than  
5 shareholders, references to interests, units or the  
6 like rather than stock or shares, references to  
7 managers, managing members or other members of the  
8 governing body rather than directors and such  
9 provisions contained in any amendment to the  
10 certificate of incorporation as were necessary to  
11 effect a change, exchange, reclassification,  
12 subdivision, combination or cancellation of stock, if  
13 such change, exchange, reclassification, subdivision,  
14 combination or cancellation has become effective;  
15 provided, however, that:

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

20 (a) any act or transaction by or involving the  
21 surviving entity, other than the election or  
22 removal of directors or managers, managing  
23 members or other members of the governing  
24 body of the surviving entity, that requires



1 for its adoption under this act or its  
2 organizational documents the approval of the  
3 shareholders or members of the surviving  
4 entity shall, by specific reference to this  
5 subsection, require, in addition, the  
6 approval of the shareholders of the holding  
7 company (or any successor by merger), by the  
8 same vote as is required by this act and/or  
9 by the organizational documents of the  
10 surviving entity; provided, however, that  
11 for purposes of this subdivision, any  
12 surviving entity that is not a corporation  
13 shall include in such amendment a  
14 requirement that the approval of the  
15 shareholders of the holding company be  
16 obtained for any act or transaction by or  
17 involving the surviving entity, other than  
18 the election or removal of directors or  
19 managers, managing members or other members  
20 of the governing body of the surviving  
21 entity, which would require the approval of  
22 the shareholders of the surviving entity if  
23 the surviving entity were a corporation  
24 subject to this act,

1 (b) any amendment of the organizational  
2 documents of a surviving entity that is not  
3 a corporation, which amendment would, if  
4 adopted by a corporation subject to this  
5 act, be required to be included in the  
6 certificate of incorporation of such  
7 corporation, shall, by specific reference to  
8 this subsection, require, in addition, the  
9 approval of the shareholders of the holding  
10 company, or any successor by merger, by the  
11 same vote as is required by this act and/or  
12 by the organizational documents of the  
13 surviving entity, and

14 (c) the business and affairs of a surviving  
15 entity that is not a corporation shall be  
16 managed by or under the direction of a board  
17 of directors, board of managers or other  
18 governing body consisting of individuals who  
19 are subject to the same fiduciary duties  
20 applicable to, and who are liable for breach  
21 of such duties to the same extent as,  
22 directors of a corporation subject to this  
23 act, and  
24

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

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

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

10 h. the shareholders of the constituent corporation do not  
11 recognize gain or loss for federal income tax purposes  
12 as determined by the board of directors of the  
13 constituent corporation.

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

21 2. As used in this subsection, the term "holding company" means  
22 a corporation which, from its incorporation until consummation of a  
23 merger governed by this subsection, was at all times a direct or  
24

1 indirect wholly owned subsidiary of the constituent corporation and  
2 whose capital stock is issued in a merger.

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

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

12 a. to the extent the restriction of Section 1090.3 of  
13 this title applied to the constituent corporation and  
14 its shareholders at the effective time of the merger,  
15 restrictions shall apply to the holding company and  
16 its shareholders immediately after the effective time  
17 of the merger as though it were the constituent  
18 corporation, and all shareholders of stock of the  
19 holding company acquired in the merger shall for  
20 purposes of Section 1090.3 of this title be deemed to  
21 have been acquired at the time that the shares of  
22 stock of the constituent corporation converted in the  
23 merger were acquired; provided, that any shareholder  
24 who immediately before the effective time of the

1 merger was not an interested shareholder within the  
2 meaning of Section 1090.3 of this title shall not  
3 solely by reason of the merger become an interested  
4 shareholder of the holding company,

5 b. if the corporate name of the holding company  
6 immediately following the effective time of the merger  
7 is the same as the corporate name of the constituent  
8 corporation immediately before the effective time of  
9 the merger, the shares of capital stock of the holding  
10 company into which the shares of capital stock of the  
11 constituent corporation are converted in the merger  
12 shall be represented by the stock certificates that  
13 previously represented the shares of capital stock of  
14 the constituent corporation, and

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

21 5. If any agreement of merger is adopted by a constituent  
22 corporation by action of its board of directors and without any vote  
23 of shareholders pursuant to this subsection, the secretary or  
24 assistant secretary of the constituent corporation shall certify on

1 the agreement that the agreement has been adopted pursuant to this  
2 subsection and that the conditions specified in paragraph 1 of this  
3 subsection have been satisfied; provided, that such certification on  
4 the agreement shall not be required if a certificate of merger or  
5 consolidation is filed in lieu of filing the agreement. The  
6 agreement so adopted and certified shall then be filed and become  
7 effective in accordance with Section 1007 of this title. Filing  
8 shall constitute a representation by the person who executes the  
9 agreement that the facts stated in the certificate remain true  
10 immediately before the filing.

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

19 1. The agreement of merger expressly (a) permits or requires  
20 such merger to be effected under this subsection and (b) provides  
21 that such merger shall be effected as soon as practicable following  
22 the consummation of the offer referred to in paragraph 2 of this  
23 subsection if such merger is effected under this subsection;  
24

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

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

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

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

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

- 11       a. "affiliate" means, in respect of the corporation  
12 making the offer referred to in paragraph 2 of this  
13 subsection, any person that (1) owns, directly or  
14 indirectly, all of the outstanding stock of such  
15 corporation or (2) is a direct or indirect wholly  
16 owned subsidiary of such corporation or of any person  
17 referred to in proviso (1) of this subparagraph,
- 18       b. "consummates", and with correlative meaning,  
19 "consummation" and "consummating", means irrevocably  
20 accepts for purchase or exchange stock tendered  
21 pursuant to an offer,
- 22       c. "depository" means an agent, including a depository,  
23 appointed to facilitate consummation of the offer  
24 referred to in paragraph 2 of this subsection,



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

11       e. "person" means any individual, corporation,  
12       partnership, limited liability company, unincorporated  
13       association or other entity,

14       f. "received" solely for purposes of paragraph 3 of this  
15       subsection means (1) with respect to certificated  
16       shares, physical receipt of a stock certificate  
17       accompanied by an executed letter of transmittal, (2)  
18       with respect to uncertificated shares held of record  
19       by a clearing corporation as nominee, transfer into  
20       the depository's account by means of an agent's  
21       message, and (3) with respect to uncertificated shares  
22       held of record by a person other than a clearing  
23       corporation as nominee, physical receipt of an  
24       executed letter of transmittal by the depository;

1 provided, however, that shares shall cease to be  
2 "received" (4) with respect to certificated shares, if  
3 the certificate representing such shares was canceled  
4 prior to consummation of the offer referred to in  
5 paragraph 2 of this subsection, or (5) with respect  
6 to uncertificated shares, to the extent such  
7 uncertificated shares have been reduced or eliminated  
8 due to any sale of such shares prior to consummation  
9 of the offer referred to in paragraph 2 of this  
10 subsection, and

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

1       If an agreement of merger is adopted without the vote of  
2 shareholders of a corporation pursuant to this subsection, the  
3 secretary or assistant secretary of the surviving corporation shall  
4 certify on the agreement that the agreement has been adopted  
5 pursuant to this subsection and that the conditions specified in  
6 this subsection, other than the condition listed in paragraph 4 of  
7 this subsection, have been satisfied; provided, that such  
8 certification on the agreement shall not be required if a  
9 certificate of merger is filed in lieu of filing the agreement. The  
10 agreement so adopted and certified shall then be filed and shall  
11 become effective, in accordance with Section 1007 of this title.  
12 Such filing shall constitute a representation by the person who  
13 executes the agreement that the facts stated in the certificate  
14 remain true immediately prior to such filing.

15       SECTION 23.       AMENDATORY       18 O.S. 2011, Section 1082, is  
16 amended to read as follows:

17       Section 1082.

18       MERGER OR CONSOLIDATION OF DOMESTIC AND FOREIGN CORPORATIONS;

19       SERVICE OF PROCESS UPON SURVIVING OR RESULTING CORPORATION

20       A. Any one or more corporations of this state may merge or  
21 consolidate with one or more other corporations of any other state  
22 or states of the United States, or of the District of Columbia, if  
23 the laws of the other state or states or of the District permit a  
24 corporation of the jurisdiction to merge or consolidate with a

1 corporation of another jurisdiction. The constituent corporations  
2 may merge into a single corporation, which may be any one of the  
3 constituent corporations, or they may consolidate into a new  
4 corporation formed by the consolidation, which may be a corporation  
5 of the state of incorporation of any one of the constituent  
6 corporations, pursuant to an agreement of merger or consolidation,  
7 as the case may be, complying and approved in accordance with the  
8 provisions of this section. In addition, any one or more  
9 corporations organized under the laws of any jurisdiction other than  
10 one of the United States may merge or consolidate with one or more  
11 corporations existing under the laws of this state if the surviving  
12 or resulting corporation will be a corporation of this state, and if  
13 the laws under which the other corporation or corporations are  
14 formed permit a corporation of that jurisdiction to merge or  
15 consolidate with a corporation of another jurisdiction.

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

- 18 1. The terms and conditions of the merger or consolidation;
- 19 2. The mode of carrying the same into effect;
- 20 3. The manner, if any, of converting the shares of each of the  
21 constituent corporations into shares or other securities of the  
22 corporation surviving or resulting from the merger or consolidation,  
23 or of canceling some or all of the shares, and, if any shares of any  
24 of the constituent corporations are not to remain outstanding, to be

1 converted solely into shares or other securities of the surviving or  
2 resulting corporation or to be canceled, the cash, property, rights,  
3 or securities of any other corporation or entity which the holder of  
4 the shares is to receive in exchange for, or upon conversion of, the  
5 shares and the surrender of any certificates evidencing them, which  
6 cash, property, rights, or securities of any other corporation or  
7 entity may be in addition to or in lieu of the shares or other  
8 securities of the surviving or resulting corporation;

9 4. Other details or provisions as are deemed desirable,  
10 including, without limiting the generality of the foregoing, a  
11 provision for the payment of cash in lieu of the issuance or  
12 recognition of fractional shares of the surviving or resulting  
13 corporation or of any other corporation the securities of which are  
14 to be received in the merger or consolidation, or for some other  
15 arrangement with respect thereto consistent with the provisions of  
16 Section 1036 of this title; and

17 5. Other provisions or facts as shall be required to be set  
18 forth in the certificate of incorporation by the laws of the state  
19 which are stated in the agreement to be the laws that shall govern  
20 the surviving or resulting corporation and that can be stated in the  
21 case of a merger or consolidation. Any of the terms of the  
22 agreement of merger or consolidation may be made dependent upon  
23 facts ascertainable outside of the agreement; provided, that the  
24 manner in which the facts shall operate upon the terms of the

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

6 C. The agreement shall be adopted, approved, executed, and  
7 acknowledged by each of the constituent corporations in accordance  
8 with the laws under which it is formed, and, in the case of an  
9 Oklahoma corporation, in the same manner as is provided for in  
10 Section 1081 of this title. The agreement shall be filed and shall  
11 become effective for all purposes of the laws of this state when and  
12 as provided for in Section 1081 of this title with respect to the  
13 merger or consolidation of corporations of this state. In lieu of  
14 filing the agreement of merger or consolidation, the surviving or  
15 resulting corporation may file a certificate of merger or  
16 consolidation executed in accordance with the provisions of Section  
17 1007 of this title, which states:

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

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

24 3. The name of the surviving or resulting corporation;

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

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

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

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

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

22           9. The agreement, if any, required by the provisions of  
23 subsection D of this section. For purposes of Section 1085 of this  
24

1 title, the term "shareholder" in subsection D of this section shall  
2 be deemed to include "member".

3 D. If the corporation surviving or resulting from the merger or  
4 consolidation is to be governed by the laws of the District of  
5 Columbia or any state other than this state, it shall agree that it  
6 may be served with process in this state in any proceeding for  
7 enforcement of any obligation of any constituent corporation of this  
8 state, as well as for enforcement of any obligation of the surviving  
9 or resulting corporation arising from the merger or consolidation,  
10 including any suit or other proceeding to enforce the right of any  
11 shareholders as determined in appraisal proceedings pursuant to the  
12 provisions of Section 1091 of this title, and shall irrevocably  
13 appoint the Secretary of State as its agent to accept service of  
14 process in any suit or other proceedings and shall specify the  
15 address to which a copy of process shall be mailed by the Secretary  
16 of State. In the event of service upon the Secretary of State in  
17 accordance with the provisions of ~~this subsection~~ Section 2004 of  
18 Title 12 of the Oklahoma Statutes, the Secretary of State shall  
19 immediately notify the surviving or resulting corporation thereof by  
20 letter, certified mail, return receipt requested, directed to the  
21 surviving or resulting corporation at the address specified unless  
22 the surviving or resulting corporation shall have designated in  
23 writing to the Secretary of State a different address for this  
24 purpose, in which case it shall be mailed to the last address so



1 designated. The notice shall include a copy of the process and any  
2 other papers served on the Secretary of State pursuant to the  
3 provisions of this subsection. It shall be the duty of the  
4 plaintiff in the event of such service to serve process and any  
5 other papers in duplicate, to notify the Secretary of State that  
6 service is being effected pursuant to the provisions of this  
7 subsection, and to pay the Secretary of State the fee provided for  
8 in paragraph 7 of subsection A of Section 1142 of this title, which  
9 fee shall be taxed as part of the costs in the proceeding. The  
10 Secretary of State shall maintain an alphabetical record of any such  
11 service setting forth the name of the plaintiff and the defendant,  
12 the title, docket number, and nature of the proceeding in which  
13 process has been served upon the Secretary of State, the fact that  
14 service has been effected pursuant to the provisions of this  
15 subsection, the return date thereof, and the date service was made.  
16 The Secretary of State shall not be required to retain such  
17 information longer than five (5) years from receipt of the service  
18 of process by the Secretary of State.

19 E. The provisions of ~~subsections C and~~ subsection D of Section  
20 1081 of this title shall apply to any merger or consolidation  
21 pursuant to the provisions of this section. The provisions of  
22 subsection E of Section 1081 of this title shall apply to a merger  
23 pursuant to the provisions of this section in which the surviving  
24 corporation is a corporation of this state. The provisions of

1 ~~subsection~~ subsections F and H of Section 1081 of this title shall  
2 apply to any merger pursuant to the provisions of this section.

3 SECTION 24. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1083.1 of Title 18, unless there  
5 is created a duplication in numbering, reads as follows:

6 MERGER OF PARENT ENTITY AND SUBSIDIARY

7 CORPORATION OR CORPORATIONS

8 A. In any case in which:

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

17 2. One or more of such corporations is a corporation of this  
18 state; and

19 3. Any entity or corporation that is not an entity or  
20 corporation of this state is an entity or corporation of any  
21 other state or the District of Columbia, the laws of which do not  
22 forbid such merger, the entity having such stock ownership may  
23 either merge the corporation or corporations into itself and  
24 assume all of its or their obligations, or merge itself, or

1 | itself and one or more of such corporations, into one of the  
2 | other corporations by:

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

7 |         b.    acknowledging and filing with the Secretary of  
8 |               State, in accordance with Section 1007 of Title 18  
9 |               of the Oklahoma Statutes, a certificate of such  
10 |               ownership and merger certifying:

11 |               (1)   that such merger was authorized in accordance  
12 |                     with such entity's governing documents and the  
13 |                     laws of the jurisdiction under which such  
14 |                     entity is formed or organized, such certificate  
15 |                     executed in accordance with such entity's  
16 |                     governing documents and in accordance with the  
17 |                     laws of the jurisdiction under which such  
18 |                     entity is formed or organized, and

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

24 |

1 (a) the certificate of ownership and merger  
2 shall state the terms and conditions of  
3 the merger, including the securities,  
4 cash, property, or rights to be issued,  
5 paid, delivered or granted by the  
6 surviving constituent party upon  
7 surrender of each share of the  
8 corporation or corporations not owned by  
9 the entity, or the cancellation of some or  
10 all of such shares, and

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

18 Any of the terms of the merger may be made dependent upon facts  
19 ascertainable outside of the certificate of ownership and merger,  
20 provided that the manner in which such facts shall operate upon the  
21 terms of the merger is clearly and expressly set forth in the  
22 certificate of ownership and merger. The term "facts", as used in  
23 the preceding sentence, includes, but is not limited to, the  
24 occurrence of any event including a determination or action by any

1 person or body, including the entity. If the surviving constituent  
2 party exists under the laws of the District of Columbia or any state  
3 or jurisdiction other than this state, subsection D of Section 1082  
4 of Title 18 of the Oklahoma Statutes shall also apply to a merger  
5 under this section; if the surviving constituent party is the  
6 entity, the word "corporation" where applicable, as used in  
7 subsection D of Section 1082 of Title 18 of the Oklahoma Statutes,  
8 shall be deemed to include an entity as defined herein; and the  
9 terms and conditions of the merger shall obligate the surviving  
10 constituent party to provide the agreement, and take the actions  
11 required by subsection D of Section 1082 of Title 18 of the Oklahoma  
12 Statutes.

13 B. Sections 1088, 1090 and 1127 of Title 18 of the Oklahoma  
14 Statutes shall, insofar as they are applicable, apply to a merger  
15 under this section, and Section 1089 and subsection E of Section  
16 1081 of Title 18 of the Oklahoma Statutes shall apply to a merger  
17 under this section in which the surviving constituent party is a  
18 corporation of this state. For purposes of this subsection,  
19 references to "agreement of merger" in subsection F of Section 1081  
20 of Title 18 of the Oklahoma Statutes shall mean the terms and  
21 condition of the merger set forth in the certificate of ownership  
22 and merger, and references to "corporation" in Sections 1088, 1089,  
23 and 1090 of Title 18 of the Oklahoma Statutes and Section 1127 of  
24 Title 18 of the Oklahoma Statutes shall be deemed to include the

1 entity, as applicable. Section 1091 of Title 18 of the Oklahoma  
2 Statutes shall not apply to any merger effected under this section,  
3 except as provided in subsection C of this section.

4 C. In the event all of the stock of an Oklahoma corporation  
5 party to a merger effected under this section is not owned by the  
6 entity immediately prior to the merger, the shareholders of such  
7 Oklahoma corporation party to the merger shall have appraisal  
8 rights as set forth in Section 1091 of Title 18 of the Oklahoma  
9 Statutes.

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

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

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

18 2. "Entity" means a partnership, whether general or limited,  
19 and including a limited liability partnership and a limited  
20 liability limited partnership, a limited liability company, and  
21 any unincorporated nonprofit or for-profit association, trust or  
22 enterprise having members or having outstanding shares of stock  
23 or other evidences of financial, beneficial or membership  
24

1 interest therein, whether formed by agreement or under statutory  
2 authority or otherwise; and

3 3. "Governing documents" means a partnership agreement,  
4 operating agreement, articles of association or any other  
5 instrument containing the provisions by which an entity is  
6 formed or organized.

7 SECTION 25. AMENDATORY 18 O.S. 2011, Section 1090.3, is  
8 amended to read as follows:

9 Section 1090.3

10 BUSINESS COMBINATIONS WITH INTERESTED SHAREHOLDERS

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

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

19 2. Upon consummation of the transaction which resulted in the  
20 person becoming an interested shareholder, the interested  
21 shareholder owned at least eighty-five percent (85%) of the  
22 outstanding voting stock of the corporation at the time the  
23 transaction commenced, excluding for purposes of determining the  
24

1 outstanding voting stock, but not the outstanding voting stock owned  
2 by the interested shareholder, those shares owned by:

- 3 a. persons who are directors and also officers, and
- 4 b. employee stock plans in which employee participants do  
5 not have the right to determine confidentially whether  
6 shares held subject to the plan will be tendered in a  
7 tender or exchange offer; or

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

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

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

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

- 22 3. a. The corporation, with the approval of its shareholders,  
23 adopts an amendment to its certificate of incorporation  
24 or bylaws expressly electing not to be governed by this



1 section; provided that, in addition to any other vote  
2 required by law, an amendment to the certificate of  
3 incorporation or bylaws must be approved by the  
4 affirmative vote of a majority of the outstanding  
5 voting stock of the corporation.

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

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

12 (2) has not elected by a provision in its original  
13 certificate of incorporation or any amendment  
14 thereto to be governed by this section.

15 c. In all other cases, an amendment adopted pursuant to  
16 this paragraph shall not be effective until twelve  
17 (12) months after the adoption of the amendment and  
18 shall not apply to any business combination between a  
19 corporation and any person who became an interested  
20 shareholder of the corporation on or prior to the  
21 adoption. A bylaw amendment adopted pursuant to this  
22 paragraph shall not be further amended by the board of  
23 directors;

24

- 1 4. The corporation does not have a class of voting stock that  
2 is:
- 3 a. listed on a national securities exchange, or
  - 4 b. ~~authorized for quotation on the NASDAQ Stock Market,~~
  - 5 ~~or~~
  - 6 ~~e.~~ held of record by one thousand or more shareholders,  
7 unless any of the foregoing results from action taken,  
8 directly or indirectly, by an interested shareholder  
9 or from a transaction in which a person becomes an  
10 interested shareholder;
- 11 5. A person becomes an interested shareholder inadvertently  
12 and:
- 13 a. as soon as practicable divests itself of ownership of  
14 sufficient shares so that the person ceases to be an  
15 interested shareholder, and
  - 16 b. would not, at any time within the three-year period  
17 immediately prior to a business combination between  
18 the corporation and the person, have been an  
19 interested shareholder but for the inadvertent  
20 acquisition;
- 21 6. a. The business combination is proposed prior to the  
22 consummation or abandonment of, and subsequent to the  
23 earlier of the public announcement or the notice  
24 required hereunder of, a proposed transaction which:

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

3 (2) is with or by a person who:

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

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

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

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

19 (1) a share acquisition pursuant to Section 1090.1 of  
20 this title, or a merger or consolidation of the  
21 corporation, except for a merger in respect of  
22 which, pursuant to subsection F or G of Section  
23 1081 of this title, no vote of the shareholders  
24 of the corporation is required,

1 (2) a sale, lease, exchange, mortgage, pledge,  
2 transfer, or other disposition, in one  
3 transaction or a series of transactions, whether  
4 as part of a dissolution or otherwise, of assets  
5 of the corporation or of any direct or indirect  
6 majority-owned subsidiary of the corporation,  
7 other than to any direct or indirect wholly owned  
8 subsidiary or to the corporation, having an  
9 aggregate market value equal to fifty percent  
10 (50%) or more of either the aggregate market  
11 value of all of the assets of the corporation  
12 determined on a consolidated basis or the  
13 aggregate market value of all the outstanding  
14 stock of the corporation, or

15 (3) a proposed tender or exchange offer for  
16 outstanding stock of the corporation which  
17 represents fifty percent (50%) or more of the  
18 outstanding voting stock of the corporation. The  
19 corporation shall give not less than twenty (20)  
20 days' notice to all interested shareholders prior  
21 to the consummation of any of the transactions  
22 described in divisions (1) or (2) of this  
23 subparagraph; or  
24

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

9           C. Notwithstanding paragraphs 1, 2, 3, and 4 of subsection B of  
10 this section, a corporation may elect by a provision of its original  
11 certificate of incorporation or any amendment thereto to be governed  
12 by this section; provided, that any amendment to the certificate of  
13 incorporation shall not apply to restrict a business combination  
14 between the corporation and an interested shareholder of the  
15 corporation if the interested shareholder became an interested  
16 shareholder prior to the effective date of the amendment.

17           D. As used in this section:

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

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

23           a. any corporation, partnership, unincorporated  
24                 association, or other entity of which the person is a

1 director, officer, or partner or is the owner of  
2 twenty percent (20%) or more of any class of voting  
3 stock,

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

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

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

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

17 (1) the interested shareholder, or

18 (2) any other corporation, partnership,

19 unincorporated association, or other entity if

20 the merger or consolidation is caused by the

21 interested shareholder and, as a result of the

22 merger or consolidation subsection A of this

23 section is not applicable to the surviving

24 entity,

1           b. any sale, lease, exchange, mortgage, pledge, transfer,  
2           or other disposition, in one transaction or a series  
3           of transactions, except proportionately as a  
4           shareholder of the corporation, to or with the  
5           interested shareholder, whether as part of a  
6           dissolution or otherwise, of assets of the corporation  
7           or of any direct or indirect majority-owned subsidiary  
8           of the corporation which assets have an aggregate  
9           market value equal to ten percent (10%) or more of  
10          either the aggregate market value of all the assets of  
11          the corporation determined on a consolidated basis or  
12          the aggregate market value of all the outstanding  
13          stock of the corporation,

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

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

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

3 (3) pursuant to a dividend or distribution paid or  
4 made, or the exercise, exchange, or conversion of  
5 securities exercisable for, exchangeable for, or  
6 convertible into stock of the corporation or any  
7 subsidiary which security is distributed, pro  
8 rata, to all holders of a class or series of  
9 stock of the corporation subsequent to the time  
10 the interested shareholder became an interested  
11 shareholder,

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

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

23 d. any transaction involving the corporation or any  
24 direct or indirect majority-owned subsidiary of the



1 corporation which has the effect, directly or  
2 indirectly, of increasing the proportionate share of  
3 the stock of any class or series, or securities  
4 convertible into the stock of any class or series, or  
5 the outstanding voting stock, of the corporation or of  
6 any subsidiary which is owned by the interested  
7 shareholder, except as a result of immaterial changes  
8 due to fractional share adjustments or as a result of  
9 any purchase or redemption of any shares of stock not  
10 caused, directly or indirectly, by the interested  
11 shareholder,

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

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

24

1       4. "Control", including the terms "controlling", "controlled  
2 by" and "under common control with", means the possession, directly  
3 or indirectly, of the power to direct or cause the direction of the  
4 management and policies of a person, whether through the ownership  
5 of voting stock, by contract, or otherwise. A person who is the  
6 owner of twenty percent (20%) or more of the outstanding voting  
7 stock of any corporation, partnership, unincorporated association or  
8 other entity shall be presumed to have control of the entity, in the  
9 absence of proof by a preponderance of the evidence to the contrary.  
10 Notwithstanding the foregoing, a presumption of control shall not  
11 apply where the person holds stock, in good faith and not for the  
12 purpose of circumventing this section, as an agent, bank, broker,  
13 nominee, custodian, or trustee for one or more owners who do not  
14 individually or as a group have control of the entity;

15       5. a. "Interested shareholder" means:

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

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

22                       (b) is an affiliate or associate of the  
23                       corporation and was the owner of fifteen  
24                       percent (15%) or more of the outstanding

1 voting stock of the corporation at any time  
2 within the three-year period immediately  
3 prior to the date on which it is sought to  
4 be determined whether the person is an  
5 interested shareholder, and

6 (2) the affiliates and associates of the person.

7 b. "Interested shareholder" shall not mean:

8 (1) any person who:

9 (a) owned shares in excess of the fifteen  
10 percent (15%) limitation set forth herein as  
11 of, or acquired such shares pursuant to a  
12 tender offer commenced prior to, September  
13 1, 1991, or pursuant to an exchange offer  
14 announced prior to September 1, 1991, and  
15 commenced within ninety (90) days thereafter  
16 and either:

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

21 ii. is an affiliate or associate of the  
22 corporation and so continued, or so  
23 would have continued but for action by  
24 the corporation, to be the owner of

1 fifteen percent (15%) or more of the  
2 outstanding voting stock of the  
3 corporation at any time within the  
4 three-year period immediately prior to  
5 the date on which it is sought to be  
6 determined whether the person is an  
7 interested shareholder, or

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

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

21 c. For the purpose of determining whether a person is an  
22 interested shareholder, the stock of the corporation  
23 deemed to be outstanding shall include stock deemed to  
24 be owned by the person through application of

1 paragraph 9 of this subsection, but shall not include  
2 any other unissued stock of the corporation which may  
3 be issuable pursuant to any agreement, arrangement, or  
4 understanding, or upon exercise of conversion rights,  
5 warrants, or options, or otherwise;

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

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

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

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

- 21 a. beneficially owns the stock, directly or indirectly,
- 22 or
- 23 b. has:

1 (1) the right to acquire the stock, whether the right  
2 is exercisable immediately or only after the  
3 passage of time, pursuant to any agreement,  
4 arrangement, or understanding, or upon the  
5 exercise of conversion rights, exchange rights,  
6 warrants, or options, or otherwise; provided,  
7 however, that a person shall not be deemed the  
8 owner of stock tendered pursuant to a tender or  
9 exchange offer made by the person or any of the  
10 person's affiliates or associates until the  
11 tendered stock is accepted for purchase or  
12 exchange, or

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

22 c. has any agreement, arrangement, or understanding for  
23 the purpose of acquiring, holding, or voting, except  
24 voting pursuant to a revocable proxy or consent as

1 described in division (2) of subparagraph b of this  
2 paragraph, or disposing of the stock with any other  
3 person that beneficially owns, or whose affiliates or  
4 associates beneficially own, directly or indirectly,  
5 the stock.

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

10 SECTION 26. AMENDATORY 18 O.S. 2011, Section 1091, is  
11 amended to read as follows:

12 Section 1091.

13 APPRAISAL RIGHTS

14 A. Any shareholder of a corporation of this state who holds  
15 shares of stock on the date of the making of a demand pursuant to  
16 the provisions of subsection D of this section with respect to the  
17 shares, who continuously holds the shares through the effective date  
18 of the merger or consolidation, who has otherwise complied with the  
19 provisions of subsection D of this section and who has neither voted  
20 in favor of the merger or consolidation nor consented thereto in  
21 writing pursuant to the provisions of Section 1073 of this title  
22 shall be entitled to an appraisal by the district court of the fair  
23 value of the shares of stock under the circumstances described in  
24 subsections B and C of this section. As used in this section, the

1 word "shareholder" means a holder of record of stock in a stock  
2 corporation and ~~also a member of record of a nonstock corporation;~~  
3 the words "stock" and "share" mean and include what is ordinarily  
4 meant by those words and ~~also membership or membership interest of a~~  
5 ~~member of a nonstock corporation;~~ and "depository receipt" means an  
6 instrument issued by a depository representing an interest in one or  
7 more shares, or fractions thereof, solely of stock of a corporation,  
8 which stock is deposited with the depository. ~~The provisions of~~  
9 ~~this subsection shall be effective only with respect to mergers or~~  
10 ~~consolidations consummated pursuant to an agreement of merger or~~  
11 ~~consolidation entered into after November 1, 1988.~~

12 B. 1. Except as otherwise provided for in this subsection,  
13 appraisal rights shall be available for the shares of any class or  
14 series of stock of a constituent corporation in a merger or  
15 consolidation, or of the acquired corporation in a share  
16 acquisition, to be effected pursuant to the provisions of Section  
17 1081, other than a merger effected pursuant to subsection G of  
18 Section 1081, or, subject to paragraph 3 of this subsection,  
19 subsection H of Section 1081, and Section 1082, 1084, 1085, 1086,  
20 1087, 1090.1 or 1090.2 of this title.

21 2. a. No appraisal rights under this section shall be  
22 available for the shares of any class or series of  
23 stock which stock, or depository receipts in respect  
24 thereof, at the record date fixed to determine the



1           shareholders entitled to receive notice of ~~and to~~  
2           ~~vote at~~ the meeting of shareholders to act upon the  
3           agreement of merger or consolidation, were either:  
4           (1) listed on a national securities exchange ~~or~~  
5           ~~designated as a national market system security~~  
6           ~~on an interdealer quotation system by the~~  
7           ~~National Association of Securities Dealers, Inc.;~~  
8           or  
9           (2) held of record by more than two thousand holders.

10           No appraisal rights shall be available for any shares of stock  
11 of the constituent corporation surviving a merger if the merger did  
12 not require for its approval the vote of the shareholders of the  
13 surviving corporation as provided in subsection G of Section 1081 of  
14 this title.

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

22           3. Notwithstanding the provisions of paragraph 2 of this  
23 subsection, appraisal rights provided for in this section shall be  
24 available for the shares of any class or series of stock of a

1 constituent corporation if the holders thereof are required by the  
2 terms of an agreement of merger or consolidation pursuant to the  
3 provisions of Section 1081, 1082, 1084, 1085, 1086, 1087, 1090.1 or  
4 1090.2 of this title to accept for the stock anything except:

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

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

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

17           D. Appraisal rights shall be perfected as follows:

18           1. If a proposed merger or consolidation for which appraisal  
19 rights are provided under this section is to be submitted for  
20 approval at a meeting of shareholders, the corporation, not less  
21 than twenty (20) days prior to the meeting, shall notify each of its  
22 shareholders ~~entitled to appraisal rights~~ who was such on the record  
23 date for notice of such meeting, or such members who received notice  
24 in accordance with subsection C of Section 1081 of this title, with

1 respect to shares for which appraisal rights are available pursuant  
2 to subsection B or C of this section that appraisal rights are  
3 available for any or all of the shares of the constituent  
4 corporations, and shall include in the notice a copy of this section  
5 and, if one of the constituent corporations is a nonstock  
6 corporation, a copy of Section 1004.1 of this title. Each  
7 shareholder electing to demand the appraisal of the shares of the  
8 shareholder shall deliver to the corporation, before the taking of  
9 the vote on the merger or consolidation, a written demand for  
10 appraisal of the shares of the shareholder. The demand will be  
11 sufficient if it reasonably informs the corporation of the identity  
12 of the shareholder and that the shareholder intends thereby to  
13 demand the appraisal of the shares of the shareholder. A proxy or  
14 vote against the merger or consolidation shall not constitute such a  
15 demand. A shareholder electing to take such action must do so by a  
16 separate written demand as herein provided. Within ten (10) days  
17 after the effective date of the merger or consolidation, the  
18 surviving or resulting corporation shall notify each shareholder of  
19 each constituent corporation who has complied with the provisions of  
20 this subsection and has not voted in favor of or consented to the  
21 merger or consolidation as of the date that the merger or  
22 consolidation has become effective; or

23 2. If the merger or consolidation is approved pursuant to the  
24 provisions of Section 1073 ~~or~~, subsection H of Section 1081, Section

1 1083 or Section 1083.1 of this title, either a constituent  
2 corporation before the effective date of the merger or consolidation  
3 or the surviving or resulting corporation within ten (10) days  
4 thereafter shall notify each of the holders of any class or series  
5 of stock of the constituent corporation who are entitled to  
6 appraisal rights of the approval of the merger or consolidation and  
7 that appraisal rights are available for any or all shares of such  
8 class or series of stock of the constituent corporation, and shall  
9 include in the notice a copy of this section and, if one of the  
10 constituent corporations is a nonstock corporation, a copy of  
11 Section 1004.1 of this title. The notice may, and, if given on or  
12 after the effective date of the merger or consolidation, shall, also  
13 notify the shareholders of the effective date of the merger or  
14 consolidation. Any shareholder entitled to appraisal rights may,  
15 within twenty (20) days after the date of mailing of the notice or,  
16 in the case of a merger approved pursuant to subsection H of Section  
17 1081 of this title, within the later of the consummation of an offer  
18 contemplated by subsection H of Section 1081 of this title and  
19 twenty (20) days after the date of mailing of such notice, demand in  
20 writing from the surviving or resulting corporation the appraisal of  
21 the holder's shares. The demand will be sufficient if it reasonably  
22 informs the corporation of the identity of the shareholder and that  
23 the shareholder intends to demand the appraisal of the holder's

24

1 shares. If the notice does not notify shareholders of the effective  
2 date of the merger or consolidation either:

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

9 b. the surviving or resulting corporation shall send a  
10 second notice to all holders on or within ten (10)  
11 days after the effective date of the merger or  
12 consolidation; provided, however, that if the second  
13 notice is sent more than twenty (20) days following  
14 the mailing of the first notice or, in the case of a  
15 merger approved pursuant to subsection H of Section  
16 1081 of this title, later than the later of the  
17 consummation of the offer contemplated by subsection H  
18 of Section 1081 of this title and twenty (20) days  
19 following the sending of the first notice, the second  
20 notice need only be sent to each shareholder who is  
21 entitled to appraisal rights and who has demanded  
22 appraisal of the holder's shares in accordance with  
23 this subsection. An affidavit of the secretary or  
24 assistant secretary or of the transfer agent of the

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

15 E. Within one hundred twenty (120) days after the effective  
16 date of the merger or consolidation, the surviving or resulting  
17 corporation or any shareholder who has complied with the provisions  
18 of subsections A and D of this section and who is otherwise entitled  
19 to appraisal rights, may file a petition in district court demanding  
20 a determination of the value of the stock of all such shareholders;  
21 ~~provided, however.~~ Notwithstanding the foregoing, at any time  
22 within sixty (60) days after the effective date of the merger or  
23 consolidation, any shareholder who has not commenced an appraisal  
24 proceeding or joined that proceeding as a named party shall have the

1 right to withdraw the demand of the shareholder for appraisal and to  
2 accept the terms offered upon the merger or consolidation. Within  
3 one hundred twenty (120) days after the effective date of the merger  
4 or consolidation, any shareholder who has complied with the  
5 requirements of subsections A and D of this section, upon written  
6 request, shall be entitled to receive from the corporation surviving  
7 the merger or resulting from the consolidation a statement setting  
8 forth the aggregate number of shares not voted in favor of the  
9 merger or consolidation and with respect to which demands for  
10 appraisal have been received and the aggregate number of holders of  
11 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. Notwithstanding  
17 subsection A of this section, a person who is the beneficial owner  
18 of shares of such stock held either in a voting trust or by a  
19 nominee on behalf of such person may, in such person's own name,  
20 file a petition or request from the corporation the statement  
21 described in this section.

22 F. Upon the filing of any such petition by a shareholder,  
23 service of a copy thereof shall be made upon the surviving or  
24 resulting corporation, which, within twenty (20) days after service,



1 shall file, in the office of the court clerk of the district court  
2 in which the petition was filed, a duly verified list containing the  
3 names and addresses of all shareholders who have demanded payment  
4 for their shares and with whom agreements regarding the value of  
5 their shares have not been reached by the surviving or resulting  
6 corporation. If the petition shall be filed by the surviving or  
7 resulting corporation, the petition shall be accompanied by such  
8 duly verified list. The court clerk, if so ordered by the court,  
9 shall give notice of the time and place fixed for the hearing on the  
10 petition by registered or certified mail to the surviving or  
11 resulting corporation and to the shareholders shown on the list at  
12 the addresses therein stated. Notice shall also be given by one or  
13 more publications at least one (1) week before the day of the  
14 hearing, in a newspaper of general circulation published in the City  
15 of Oklahoma City, Oklahoma, or other publication as the court deems  
16 advisable. The forms of the notices by mail and by publication  
17 shall be approved by the court, and the costs thereof shall be borne  
18 by the surviving or resulting corporation.

19 G. At the hearing on the petition, the court shall determine  
20 the shareholders who have complied with the provisions of this  
21 section and who have become entitled to appraisal rights. The court  
22 may require the shareholders who have demanded an appraisal of their  
23 shares and who hold stock represented by certificates to submit  
24 their certificates of stock to the court clerk for notation thereon

1 of the pendency of the appraisal proceedings; and if any shareholder  
2 fails to comply with this direction, the court may dismiss the  
3 proceedings as to that shareholder. If immediately before the  
4 merger or consolidation the shares of the class or series of stock  
5 of the constituent corporation as to which appraisal rights are  
6 available were listed on a national securities exchange, the court  
7 shall dismiss the proceedings as to all holders of such shares who  
8 are otherwise entitled to appraisal rights unless (1) the total  
9 number of shares entitled to appraisal exceeds one percent (1%) of  
10 the outstanding shares of the class or series eligible for  
11 appraisal, (2) the value of the consideration provided in the merger  
12 or consolidation for such total number of shares exceeds One Million  
13 Dollars (\$1,000,000.00), or (3) the merger was approved pursuant to  
14 Section 1083 or Section 1083.1 of this title.

15 H. After determining the shareholders entitled to an appraisal,  
16 the court shall appraise the shares, determining their fair value  
17 exclusive of any element of value arising from the accomplishment or  
18 expectation of the merger or consolidation, together with ~~a fair~~  
19 ~~rate of interest~~, if any, to be paid upon the amount determined to  
20 be the fair value. In determining the fair value, the court shall  
21 take into account all relevant factors. In determining the fair  
22 rate of interest, the court may consider all relevant factors,  
23 ~~including the rate of interest which the surviving or resulting~~  
24 ~~corporation would have to pay to borrow money during the pendency of~~

1 ~~the proceeding.~~ Unless the court in its discretion determines  
2 otherwise for good cause shown, and except as provided in this  
3 subsection, interest from the effective date of the merger through  
4 the date of payment of the judgment shall be compounded quarterly  
5 and shall accrue at five percent (5%) over the Federal Reserve  
6 discount rate, including any surcharge, as established from time to  
7 time during the period between the effective date of the merger and  
8 the date of payment of judgment. At any time before the entry of  
9 judgment in the proceedings, the surviving corporation may pay to  
10 each shareholder entitled to appraisal an amount in cash, in which  
11 case interest shall accrue thereafter as provided herein only upon  
12 the sum of (1) the difference, if any, between the amount so paid  
13 and the fair value of the shares as determined by the court, and (2)  
14 interest theretofore accrued, unless paid at that time. Upon  
15 application by the surviving or resulting corporation or by any  
16 shareholder entitled to participate in the appraisal proceeding, the  
17 court may, in its discretion, ~~permit discovery or other pretrial~~  
18 ~~proceedings and may~~ proceed to trial upon the appraisal prior to the  
19 final determination of the shareholder entitled to an appraisal.  
20 Any shareholder whose name appears on the list filed by the  
21 surviving or resulting corporation pursuant to the provisions of  
22 subsection F of this section and who has submitted the certificates  
23 of stock of the shareholder to the court clerk, if required, may  
24 participate fully in all proceedings until it is finally determined

1 that the shareholder is not entitled to appraisal rights pursuant to  
2 the provisions of this section.

3 I. The court shall direct the payment of the fair value of the  
4 shares, together with interest, if any, by the surviving or  
5 resulting corporation to the shareholders entitled thereto.

6 ~~Interest may be simple or compound, as the court may direct.~~

7 Payment shall be made to each shareholder, in the case of holders of  
8 uncertificated stock immediately, and in the case of holders of  
9 shares represented by certificates upon the surrender to the  
10 corporation of the certificates representing the stock. The court's  
11 decree may be enforced as other decrees in the district court may be  
12 enforced, whether the surviving or resulting corporation be a  
13 corporation of this state or of any other state.

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

22 K. From and after the effective date of the merger or  
23 consolidation, no shareholder who has demanded appraisal rights as  
24 provided for in subsection D of this section shall be entitled to

1 vote the stock for any purpose or to receive payment of dividends or  
2 other distributions on the stock, except dividends or other  
3 distributions payable to shareholders of record at a date which is  
4 prior to the effective date of the merger or consolidation;  
5 provided, however, that if no petition for an appraisal shall be  
6 filed within the time provided for in subsection E of this section,  
7 or if the shareholder shall deliver to the surviving or resulting  
8 corporation a written withdrawal of the shareholder's demand for an  
9 appraisal and an acceptance of the merger or consolidation, either  
10 within sixty (60) days after the effective date of the merger or  
11 consolidation as provided for in subsection E of this section or  
12 thereafter with the written approval of the corporation, then the  
13 right of the shareholder to an appraisal shall cease; provided  
14 further, no appraisal proceeding in the district court shall be  
15 dismissed as to any shareholder without the approval of the court,  
16 and approval may be conditioned upon terms as the court deems just;  
17 provided, however, that this provision shall not affect the right of  
18 any shareholder who has not commenced an appraisal proceeding or  
19 joined that proceeding as a named party to withdraw such  
20 shareholder's demand for appraisal and to accept the terms offered  
21 upon the merger or consolidation within sixty (60) days after the  
22 effective date of the merger or consolidation, as set forth in  
23 subsection E of this section.  
24

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

6 SECTION 27. AMENDATORY 18 O.S. 2011, Section 1095, is  
7 amended to read as follows:

8 Section 1095.

9 DISSOLUTION BEFORE THE ISSUANCE OF SHARES OR  
10 BEGINNING BUSINESS; PROCEDURE

11 If a corporation has not issued shares or has not commenced the  
12 business for which the corporation was organized, a majority of the  
13 incorporators, or, if directors were named in the certificate of  
14 incorporation or have been elected, a majority of the directors, may  
15 surrender all of the corporation's rights and franchises by filing  
16 in the Office of the Secretary of State a certificate, executed and  
17 acknowledged by a majority of the incorporators or directors,  
18 stating ~~that~~:

19 1. That no shares of stock have been issued or that the  
20 business of activity for which the corporation was organized has not  
21 begun; ~~that~~

22 2. The date of filing of the corporation's original certificate  
23 of incorporation with the Secretary of State;

24

1       3. That no part of the capital of the corporation has been  
2 paid, or, if some capital has been paid, that the amount actually  
3 paid in for the corporation's shares, less any part thereof  
4 disbursed for necessary expenses, has been returned to those  
5 entitled thereto; ~~that~~

6       4. That if the corporation has begun business but it has not  
7 issued shares, all debts of the corporation have been paid; ~~that~~

8       5. That if the corporation has not begun business but has  
9 issued stock certificates, all issued stock certificates, if any,  
10 have been surrendered and canceled; and ~~that~~

11       6. That all rights and franchises of the corporation are  
12 surrendered. Upon such certificate becoming effective in accordance  
13 with the provisions of Section 1007 of this title, the corporation  
14 shall be dissolved.

15       SECTION 28.        AMENDATORY        18 O.S. 2011, Section 1096, is  
16 amended to read as follows:

17       Section 1096.

18                               DISSOLUTION; PROCEDURE

19       A. If it should be deemed advisable in the judgment of the  
20 board of directors of any corporation that it should be dissolved,  
21 the board, after the adoption of a resolution to that effect by a  
22 majority of the whole board at any meeting called for that purpose,  
23 shall cause notice to be mailed to each shareholder entitled to vote  
24 thereon as of the record date for determining the shareholders

1 entitled to notice of the meeting of the adoption of the resolution  
2 and of a meeting of shareholders to take action upon the resolution.

3 B. At the meeting a vote shall be taken upon the proposed  
4 dissolution. If a majority of the outstanding stock of the  
5 corporation entitled to vote thereon shall vote for the proposed  
6 dissolution, a certificate of dissolution shall be filed with the  
7 Secretary of State pursuant to subsection D of this section.

8 C. Dissolution of a corporation may also be authorized without  
9 action of the directors if all the shareholders entitled to vote  
10 thereon shall consent in writing and a certificate of dissolution  
11 shall be filed with the Secretary of State pursuant to subsection D  
12 of this section.

13 D. If dissolution is authorized in accordance with this  
14 section, a certificate of dissolution shall be executed,  
15 acknowledged and filed, and shall become effective, in accordance  
16 with Section 1007 of this title. Such certificate of dissolution  
17 shall set forth:

- 18 1. ~~the~~ The name of the corporation;
- 19 2. ~~the~~ The date dissolution was authorized;
- 20 3. ~~that~~ That the dissolution has been authorized by the board  
21 of directors and shareholders of the corporation, in accordance with  
22 subsections A and B of this section, or that the dissolution has  
23 been authorized by all of the shareholders of the corporation  
24



1 entitled to vote on a dissolution, in accordance with subsection C  
2 of this section; ~~and~~

3 4. ~~the~~ The names and addresses of the directors and officers of  
4 the corporation; and

5 5. The date of filing of the corporation's original certificate  
6 of incorporation with the Secretary of State.

7 E. The resolution authorizing a proposed dissolution may  
8 provide that notwithstanding authorization or consent to the  
9 proposed dissolution by the shareholders, or the members of a  
10 nonstock corporation pursuant to Section 1097 of this title, the  
11 board of directors or governing body may abandon such proposed  
12 dissolution without further action by the shareholders or members.

13 F. Upon a certificate of dissolution becoming effective in  
14 accordance with Section 1007 of this title, the corporation shall be  
15 dissolved.

16 SECTION 29. AMENDATORY 18 O.S. 2011, Section 1099, is  
17 amended to read as follows:

18 Section 1099.

19 CONTINUATION OF CORPORATION AFTER DISSOLUTION FOR PURPOSES OF SUIT  
20 AND WINDING UP AFFAIRS

21 All corporations, whether they expire by their own limitation or  
22 are otherwise dissolved, nevertheless shall be continued, for the  
23 term of three (3) years from such expiration or dissolution or for  
24 such longer period as the district court shall in its discretion

1 direct, bodies corporate for the purpose of prosecuting and  
2 defending suits, whether civil, criminal or administrative, by or  
3 against them, and of enabling them gradually to settle and close  
4 their business, to dispose of and convey their property, to  
5 discharge their liabilities, and to distribute to their shareholders  
6 any remaining assets, but not for the purpose of continuing the  
7 business for which the corporation was organized. With respect to  
8 any action, suit, or proceeding begun by or against the corporation  
9 either prior to or within three (3) years after the date of its  
10 expiration or dissolution, the action shall not abate by reason of  
11 the expiration or dissolution of the corporation. The corporation,  
12 solely for the purpose of such action, suit or proceeding, shall be  
13 continued as a body corporate beyond the three-year period and until  
14 any judgments, orders or decrees therein shall be fully executed,  
15 without the necessity for any special direction to that effect by  
16 the district court. Sections 1100 through 1100.3 of this title  
17 shall apply to any corporation that has expired by its own  
18 limitation, and when so applied, all references in those sections to  
19 a dissolved corporation or dissolution shall include a corporation  
20 that has expired by its own limitation and to such expiration  
21 respectively.

22 SECTION 30. AMENDATORY 18 O.S. 2011, Section 1119, is  
23 amended to read as follows:

24 Section 1119.

1           REVOCATION OF VOLUNTARY DISSOLUTION; RESTORATION OF EXPIRED  
 2                                 CERTIFICATE OF INCORPORATION

3           A. At any time prior to the expiration of three (3) years  
 4 following the dissolution of a corporation pursuant to the  
 5 provisions of Section 1096 of this title or such longer period as  
 6 the district court may have directed pursuant to Section 1099 of  
 7 this title, or, at any time prior to the expiration of three (3)  
 8 years following the expiration of the time limited for the  
 9 corporation's existence as provided in its certificate of  
 10 incorporation or such longer period as the district court may have  
 11 directed pursuant to the provisions of Section 1099 of this title, a  
 12 corporation may revoke the dissolution up to that time effected by  
 13 it or restore its certificate of incorporation after it has expired  
 14 by its own limitation in the following manner:

15           1. For purposes of this section, "shareholders" means the  
 16 shareholders of record on the date the dissolution becomes effective  
 17 or the date of expiration by limitation;

18           2. The board of directors shall adopt a resolution recommending  
 19 that the dissolution be revoked in the case of a dissolution or that  
 20 the certificate of incorporation be restored in the case of an  
 21 expiration by limitation and directing that the question of the  
 22 revocation or restoration be submitted to a vote at a special  
 23 meeting of shareholders;

1           3. Notice of the special meeting of shareholders shall be given  
2 in accordance with the provisions of Section 1067 of this title to  
3 each of the shareholders; and

4           4. At the meeting a vote of the shareholders shall be taken on  
5 a resolution to revoke the dissolution in the case of a dissolution  
6 or to restore the certificate of incorporation in the case of an  
7 expiration by limitation. If a majority of the stock of the  
8 corporation which was outstanding and entitled to vote upon a  
9 dissolution at the time of its dissolution, in the case of a  
10 revocation of dissolution, or which was outstanding and entitled to  
11 vote upon an amendment to the certificate of incorporation to change  
12 the period of the corporation's duration at the time of its  
13 expiration by limitation, in the case of a restoration, shall be  
14 voted for the resolution, a certificate of revocation of dissolution  
15 or a certificate of restoration shall be executed, and acknowledged  
16 and filed in accordance with the provisions of Section 1007 of this  
17 title which shall be specifically designated as a certificate of  
18 revocation of dissolution or a certificate of restoration in its  
19 heading and shall state:

- 20           a. the name of the corporation~~†~~,
- 21           b. the address of the corporation's registered office in  
22                 this state, which shall be stated in accordance with  
23                 subsection C of Section 1021 of this title, and the  
24                 name of its registered agent at such address,

1        c.    the names and respective addresses of its officers~~†~~‡

2        ~~e.~~

3        d.    the names and respective addresses of its directors~~†~~

4            and,

5        ~~d.~~

6        e.    that a majority of the stock of the corporation which

7            was outstanding and entitled to vote upon a

8            dissolution at the time of its dissolution have voted

9            in favor of a resolution to revoke the dissolution, in

10           the case of a revocation of dissolution, or that a

11           majority of the stock of the corporation which was

12           outstanding and entitled to vote upon an amendment to

13           the certificate of incorporation to change the period

14           of the corporation's duration at the time of its

15           expiration by limitation, in the case of a

16           restoration, have voted in favor of a resolution to

17           restore the certificate of incorporation; or, if it be

18           the fact, that, in lieu of a meeting and vote of

19           shareholders, the shareholders have given their

20           written consent to the revocation or restoration in

21           accordance with the provisions of Section 1073 of this

22           title, and

23        f.    in the case of a restoration, the new specified date

24           limiting the duration of the corporation's existence

1           or that the corporation shall have perpetual  
2           existence.

3           B. Upon the effective time of the filing in the Office of the  
4 Secretary of State of the certificate of revocation of dissolution  
5 or the certificate of restoration, the Secretary of State, upon  
6 ~~being satisfied that the requirements of this section have been~~  
7 ~~complied with, shall issue his certificate that the dissolution has~~  
8 ~~been revoked. Upon the issuance of such certificate by the~~  
9 ~~Secretary of State,~~ the revocation of the dissolution or the  
10 restoration of the corporation shall become effective and the  
11 corporation may again carry on its business.

12           C. Upon the ~~issuance of the certificate by the Secretary of~~  
13 ~~State to which~~ effectiveness of the revocation of the dissolution or  
14 the restoration of the corporation as provided in subsection B of  
15 this section ~~refers,~~ the provisions of Section 1056 of this title  
16 shall govern, and the period of time the corporation was in  
17 dissolution or was expired by limitation shall be included within  
18 the calculation of the thirty-day and thirteen-month periods to  
19 which subsection C of Section 1056 of this title refers. An  
20 election of directors, however, may be held at the special meeting  
21 of shareholders to which subsection A of this section refers, and in  
22 that event, that meeting of shareholders shall be deemed an annual  
23 meeting of shareholders for purposes of subsection C of Section 1056  
24 of this title.

1 D. If, after three (3) years from the date upon which the  
2 dissolution became effective or after the expiration by limitation,  
3 the name of the corporation is unavailable upon the records of the  
4 Secretary of State, then, in such case, the corporation shall not be  
5 reinstated under the same name which it bore when its dissolution  
6 became effective or it expired by limitation, but shall adopt and be  
7 reinstated or restored under some other name, and in such case the  
8 certificate to be filed pursuant to the provisions of this section  
9 shall set forth the name borne by the corporation at the time its  
10 dissolution became effective or it expired by limitation and the new  
11 name under which the corporation is to be reinstated or restored.

12 E. Nothing in this section shall be construed to affect the  
13 jurisdiction or power of the district court pursuant to the  
14 provisions of Section 1100 or 1101 of this title.

15 F. At any time prior to the expiration of three (3) years  
16 following the dissolution of a nonstock corporation pursuant to  
17 Section 1097 of this title, or such longer period as the district  
18 court may have directed pursuant to Section 1099 of this title, or  
19 at any time prior to the expiration of three (3) years following the  
20 expiration of the time limited for a nonstock corporation's  
21 existence as provided in its certificate of incorporation or such  
22 longer period as the district court may have directed pursuant to  
23 Section 1099 of this title, a nonstock corporation may revoke the  
24 dissolution theretofore effected by it or restore its certificate of

1 incorporation after it has expired by limitation in a manner  
2 analogous to that by which the dissolution was authorized or, in the  
3 case of a restoration, in the manner in which an amendment to the  
4 certificate of incorporation to change the period of the  
5 corporation's duration would have been authorized at the time of its  
6 expiration by limitation, including:

7 1. If applicable, a vote of the members entitled to vote, if  
8 any, on the dissolution or the amendment; and

9 2. The filing of a certificate of revocation of dissolution or  
10 a certificate of restoration containing information comparable to  
11 that required by paragraph 4 of subsection A of this section.

12 Notwithstanding the foregoing, only this subsection and subsections  
13 B, D and E of this section shall apply to nonstock corporations.

14 G. Any corporation that revokes its dissolution or restores its  
15 certificate of incorporation pursuant to this section shall file all  
16 annual franchise tax reports that the corporation would have had to  
17 file if it had not dissolved or expired and shall pay all franchise  
18 taxes that the corporation would have had to pay if it had not  
19 dissolved or expired. No payment made pursuant to this subsection  
20 shall reduce the amount of franchise tax due for the year in which  
21 such revocation or restoration is effected.

22 SECTION 31. AMENDATORY 18 O.S. 2011, Section 1120, is  
23 amended to read as follows:

24 Section 1120.



1         ~~RENEWAL, REVIVAL, EXTENSION AND RESTORATION~~ OF CERTIFICATE OF  
2   INCORPORATION

3         A. As used in this section, the term certificate of  
4 incorporation includes the charter of a corporation organized  
5 pursuant to the provisions of any law of this state.

6         B. ~~Any corporation, at any time before the expiration of the~~  
7 ~~time limited for its existence and any~~ corporation whose certificate  
8 of incorporation has become forfeited by law for nonpayment of taxes  
9 ~~and any corporation whose certificate of incorporation has expired~~  
10 ~~by reason of failure to renew it~~ or whose certificate of  
11 incorporation has been ~~renewed~~ revived, but, through failure to  
12 comply strictly with the provisions of the Oklahoma General  
13 Corporation Act, the validity of whose ~~renewal~~ revival has been  
14 brought into question, may at any time procure ~~an extension,~~  
15 ~~restoration, renewal or~~ a revival of its certificate of  
16 incorporation, together with all the rights, franchises, privileges  
17 and immunities and subject to all of its duties, debts and  
18 liabilities which had been secured or imposed by its original  
19 certificate of incorporation and all amendments thereto.

20 Notwithstanding the foregoing, this section shall not be applicable  
21 to a corporation whose certificate of incorporation has been revoked  
22 or forfeited pursuant to Section 1104 of this title.

23         C. The ~~extension, restoration, renewal or~~ revival of the  
24 certificate of incorporation may be procured as authorized by the

1 board of directors or members of the governing body of the  
2 corporation in accordance with subsection H and by executing,  
3 acknowledging and filing a certificate of revival in accordance with  
4 the provisions of Section 1007 of this title.

5 D. The certificate required by the provisions of subsection C  
6 of this section shall state:

7 1. The ~~name~~ date of filing of the ~~corporation, which shall be~~  
8 ~~the existing~~ corporation's original certificate of incorporation;  
9 the name under which the corporation was originally incorporated;  
10 the name of the corporation ~~or~~ at the name it bore when time its  
11 certificate of incorporation ~~expired, except as provided for in~~  
12 became forfeited or void pursuant to this title; and the new name  
13 under which the corporation is to be revived to the extent required  
14 by subsection F of this section;

15 2. The address, ~~including the street, city and county,~~ of the  
16 corporation's registered office in this state, which shall be stated  
17 in accordance with subsection C of Section 1021 of this title, and  
18 the name of its registered agent at such address;

19 3. ~~Whether or not the renewal, restoration or revival is to be~~  
20 ~~perpetual and if not perpetual the time for which the renewal,~~  
21 ~~restoration or revival is to continue and, in case of renewal before~~  
22 ~~the expiration of the time limited for its existence, the date when~~  
23 ~~the renewal is to commence, which shall be prior to the date of the~~  
24

1 ~~expiration of the old certificate of incorporation which it is~~  
2 ~~desired to renew;~~

3 4. That the corporation desiring to be ~~renewed or~~ revived and  
4 so ~~renewing or~~ reviving its certificate of incorporation was  
5 organized pursuant to the laws of this state;

6 ~~5.~~ 4. The date when the certificate of incorporation ~~would~~  
7 ~~expire, if such is the case, or such other facts as may show that~~  
8 ~~the certificate of incorporation has become~~ became forfeited or that  
9 the validity of any ~~renewal~~ revival has been brought into question;  
10 and

11 ~~6.~~ 5. That the certificate ~~for renewal or~~ of revival is filed  
12 by authority of ~~those who were directors or members of the governing~~  
13 ~~body of the corporation at the time its certificate of incorporation~~  
14 ~~expired or who were elected~~ the board of directors or members of the  
15 governing body of the corporation as provided for in subsection H of  
16 this section.

17 E. Upon the filing of the certificate in accordance with the  
18 provisions of Section 1007 of this title, the corporation shall be  
19 ~~renewed and~~ revived with the same force and effect as if its  
20 certificate of incorporation had not become forfeited, ~~or had not~~  
21 ~~expired by limitation.~~ Such ~~reinstatement~~ revival shall validate  
22 all contracts, acts, matters and things made, done and performed  
23 within the scope of its certificate of incorporation by the  
24 corporation, its directors or members of its governing body,

1 officers ~~and,~~ agents and shareholders or members during the time  
2 when its certificate of incorporation was forfeited ~~or after its~~  
3 ~~expiration by limitation,~~ with the same force and effect and to all  
4 intents and purposes as if the certificate of incorporation had at  
5 all times remained in full force and effect. All real and personal  
6 property, rights and credits, which belonged to the corporation at  
7 the time its certificate of incorporation became forfeited, ~~or~~  
8 ~~expired by limitation~~ and which were not disposed of prior to the  
9 time of its revival ~~or renewal shall be vested in the corporation~~  
10 ~~after the renewal or revival, as fully and amply as they were held~~  
11 ~~by the corporation at and before the time its certificate of~~  
12 ~~incorporation became forfeited, or expired by limitation,~~ and all  
13 real and personal property, rights and credits acquired by the  
14 corporation after its ~~renewal and~~ certificate of incorporation  
15 became forfeited pursuant to this title shall be vested in the  
16 corporation, after its revival, as if its certificate of  
17 incorporation had at all times remained in full force and effect,  
18 and the corporation after its revival shall be as exclusively liable  
19 for all contracts, acts, matters and things made, done or performed  
20 in its name and on its behalf by its directors or members of its  
21 governing body, officers ~~and,~~ agents and shareholders or members  
22 prior to its ~~reinstatement~~ revival, as if its certificate of  
23 incorporation had at all times remained in full force and effect.  
24

1 F. If, after three (3) years from the date upon which the  
2 certificate of incorporation became forfeited for nonpayment of  
3 taxes, ~~or expired by limitation,~~ the name of the corporation is  
4 unavailable upon the records of the Secretary of State, then in such  
5 case the corporation to be ~~renewed or~~ revived shall not be ~~renewed~~  
6 revived under the same name which it bore when its certificate of  
7 incorporation became forfeited, or expired but shall ~~adopt or be~~  
8 ~~renewed~~ be revived under some other name ~~and in such case as set~~  
9 forth in the certificate to be filed ~~under the provisions of this~~  
10 ~~section shall set forth the name borne by the corporation at the~~  
11 ~~time its certificate of incorporation became forfeited, or expired~~  
12 ~~and the new name under which the corporation is to be renewed or~~  
13 ~~revived~~ pursuant to subsection C of this section.

14 G. Any corporation that ~~renews or~~ revives its certificate of  
15 incorporation pursuant to the provisions of this section shall pay  
16 to this state the amounts provided in Sections 1201 through 1214 of  
17 Title 68 of the Oklahoma Statutes. No payment made pursuant to this  
18 subsection shall reduce the amount of franchise tax due pursuant to  
19 the provisions of Sections 1201 through 1214 of Title 68 of the  
20 Oklahoma Statutes for the year in which the ~~renewal or~~ revival is  
21 effected.

22 H. ~~If a sufficient number of the last acting officers of any~~  
23 ~~corporation desiring to renew or revive its certificate of~~  
24 ~~incorporation are not available by reason of death, unknown address~~

1 ~~or refusal or neglect to act, the directors of the corporation or~~  
2 ~~those remaining on the board, even if only one, may elect successors~~  
3 ~~to such officers~~ For purposes of this section, the board of  
4 directors or governing body of the corporation shall be comprised of  
5 the persons, who, but for the certificate of incorporation having  
6 become forfeited pursuant to this title, would be the duly elected  
7 or appointed directors or members of the governing body of the  
8 corporation. The requirement for authorization by the board of  
9 directors under subsection C of this section shall be satisfied if a  
10 majority of the directors or members of the governing body then in  
11 office, even though less than a quorum, or the sole director or  
12 member of the governing body then in office, authorizes the revival  
13 of the certificate of incorporation of the corporation and the  
14 filing of the certificate required by subsection C of this section.  
15 In any case where there shall be no directors of the corporation  
16 available to ~~renew or~~ revive the certificate of incorporation of the  
17 corporation, the shareholders may elect a full board of directors,  
18 as provided by the bylaws of the corporation, and the board ~~shall~~  
19 ~~then elect such officers as are provided by law, by~~ so elected may  
20 then authorize the revival of the certificate of incorporation or by  
21 the bylaws to carry on the business and affairs of the corporation  
22 and the filing of the certificate required by subsection C of this  
23 section. A special meeting of the shareholders for the ~~purposes~~  
24 purpose of electing directors may be called by any officer, ~~director~~

1 or shareholder upon notice given in accordance with the provisions  
2 of Section 1067 of this title. For purposes of this section, the  
3 bylaws shall be the bylaws of the corporation that, but for the  
4 certificate of incorporation having become forfeited, would be the  
5 duly adopted bylaws of the corporation.

6 I. After a ~~renewal or~~ revival of the certificate of  
7 incorporation of the corporation shall have been effected, the  
8 provisions of subsection C of Section 1056 of this title shall  
9 govern and the period of time during which the certificate of  
10 incorporation of the corporation was forfeited ~~or expired~~ shall be  
11 included within the calculation of the thirty-day and thirteen-month  
12 periods to which subsection C of Section 1056 of this title refers.  
13 A special meeting of shareholders held in accordance with subsection  
14 H of this section shall be deemed an annual meeting of shareholders  
15 for purposes of subsection C of Section 1056 of this title.

16 J. Whenever it shall be desired to ~~renew or~~ revive the  
17 certificate of incorporation of any nonstock corporation ~~organized~~  
18 ~~pursuant to the provisions of the Oklahoma General Corporation Act~~  
19 ~~not for profit and having no capital stock~~, the governing body shall  
20 perform all the acts necessary for the ~~renewal or~~ revival of the  
21 charter of the corporation which are performed by the board of  
22 directors in the case of a corporation having capital stock. The In  
23 addition, the members of any nonstock corporation ~~not for profit and~~  
24 ~~having no capital stock~~ who are entitled to vote for the election of

1 members of its governing body and any other members entitled to vote  
2 for dissolution under the certificate of incorporation or the bylaws  
3 of such corporation, shall perform all the acts necessary for the  
4 ~~renewal or~~ revival of the certificate of incorporation of the  
5 corporation which are performed by the shareholders in the case of a  
6 corporation having capital stock. In all other respects, the  
7 procedure for the ~~renewal or~~ revival of the certificate of  
8 incorporation of a nonstock corporation ~~not for profit or having no~~  
9 ~~capital stock~~ shall conform, as nearly as may be applicable, to the  
10 procedure prescribed in this section for the ~~renewal or~~ revival of  
11 the certificate of incorporation of a corporation having capital  
12 stock; provided, however, subsection I of this section shall not  
13 apply to nonstock corporations.

14 SECTION 32. AMENDATORY 18 O.S. 2011, Section 1121, is  
15 amended to read as follows:

16 Section 1121.

17 STATUS OF CORPORATION

18 Any corporation desiring to renew, extend and continue its  
19 corporate existence, upon complying with the provisions of ~~Section~~  
20 ~~120 of this act~~ Section 1120 of this title, shall be and continue  
21 ~~for the time stated as provided~~ in its certificate of renewal,  
22 effecting the renewal, extension or continuation as a corporation  
23 and, in addition to the rights, privileges and immunities conferred  
24 by its charter, shall possess and enjoy all the benefits of the



1 provisions of the Oklahoma General Corporation Act, which are  
2 applicable to the nature of its business, and shall be subject to  
3 the restrictions and liabilities prescribed by the provisions of the  
4 Oklahoma General Corporation Act imposed on such corporations.

5 SECTION 33. AMENDATORY 18 O.S. 2011, Section 1130, is  
6 amended to read as follows:

7 Section 1130.

8 FOREIGN CORPORATIONS; DEFINITION; QUALIFICATION TO DO BUSINESS IN  
9 STATE; PROCEDURE

10 A. As used in the Oklahoma General Corporation Act, the words  
11 "foreign corporation" mean a corporation organized pursuant to the  
12 laws of any jurisdiction other than this state.

13 B. No foreign corporation shall do any business in this state,  
14 through or by branch offices, agents or representatives located in  
15 this state, until it shall have paid to the Secretary of State of  
16 this state the fees prescribed in Section 1142 of this title and  
17 shall have filed with the Secretary of State:

18 1. A certificate as of a date not earlier than six (6) months  
19 prior to the filing date issued by an authorized officer of the  
20 jurisdiction of its incorporation evidencing its corporate  
21 existence. If such certificate is in a foreign language, a  
22 translation thereof, under oath of the translator, shall be attached  
23 thereto;

24

1           2. A statement executed by an authorized officer of the  
2 corporation and acknowledged in accordance with the provisions of  
3 Section 1007 of this title, setting forth:

4           a. the mailing address of the corporation's principal  
5 place of business, wherever located,

6           b. the name and street address of its additional  
7 registered agent in this state, if any, which agent  
8 ~~shall be either~~ may be an individual resident in this  
9 state ~~when appointed or another,~~ a domestic  
10 corporation, a domestic partnership whether general or  
11 limited and including a limited liability partnership  
12 or a limited liability limited partnership, a domestic  
13 limited liability company, or limited partnership a  
14 domestic statutory trust, a foreign corporation other  
15 than the foreign corporation itself, a foreign  
16 partnership whether general or limited and including a  
17 limited liability partnership or a limited liability  
18 limited partnership, a foreign limited liability  
19 company or a foreign statutory trust, if authorized to  
20 transact business in this state,

21           c. the aggregate number of its authorized shares itemized  
22 by classes, par value of shares, shares without par  
23 value, and series, if any, within any classes  
24 authorized, unless it has no authorized capital,

- 1           d. a statement, as of a date not earlier than six (6)  
2           months prior to the filing date, of the assets and  
3           liabilities of the corporation,  
4           e. the business it proposes to do in this state and a  
5           statement that it is authorized to do that business in  
6           the jurisdiction of its incorporation, and  
7           f. a statement of the maximum amount of capital such  
8           corporation intends and expects to invest in the state  
9           at any time during the current fiscal year. "Invested  
10          capital" is defined as the value of the maximum amount  
11          of funds, credits, securities and property of whatever  
12          kind existing at any time during the fiscal year in  
13          the State of Oklahoma and used or employed by such  
14          corporation in its business carried on in this state.

15          C. The Secretary of State, upon payment to the Secretary of  
16          State of the fees prescribed in Section 1142 of this title, shall  
17          issue a sufficient number of certificates under the hand and  
18          official seal of the Secretary of State, evidencing the filing of  
19          the statement required by the provisions of subsection B of this  
20          section. The certificate of the Secretary of State shall be prima  
21          facie evidence of the right of the corporation to do business in  
22          this state; provided that the Secretary of State shall not issue  
23          such certificate unless the name of the corporation is such as to  
24          distinguish it upon the records of the Office of the Secretary of

1 State in accordance with the provisions of Section 1141 of this  
2 title.

3 D. A foreign corporation, upon receiving a certificate from the  
4 Secretary of State, shall enjoy the same rights and privileges as,  
5 but not greater than, a corporation organized under the laws of this  
6 state for the purposes set forth in the statement filed by the  
7 corporation with the Secretary of State pursuant to which such  
8 certificate is issued and, except as otherwise provided in the  
9 Oklahoma General Corporation Act, shall be subject to the same  
10 duties, restrictions, penalties and liabilities now or hereafter  
11 imposed upon a corporation organized under the laws of this state  
12 with like purpose and of like character.

13 SECTION 34. AMENDATORY 18 O.S. 2011, Section 1133, is  
14 amended to read as follows:

15 Section 1133.

16 CHANGE OF REGISTERED AGENT UPON WHOM PROCESS MAY BE SERVED

17 A. 1. Any foreign corporation which has qualified to do  
18 business in this state may change its registered agent and  
19 substitute ~~therefor~~ another registered agent by filing a certificate  
20 with the Secretary of State, acknowledged in accordance with the  
21 provisions of Section 1007 of this title, setting forth:

22 a. the name and street address of its registered agent  
23 designated in this state upon whom process directed to  
24 the corporation may be served, and

1           b.    a revocation of all previous appointments of agent for  
2                   such purposes.

3           2.    ~~The~~ Such registered agent shall be either an individual  
4 residing in this state when appointed or a corporation, limited  
5 liability company, or limited partnership authorized to transact  
6 business in this state and in compliance with subparagraph b of  
7 paragraph 2 of subsection B of Section 1130 of this title.

8           B.    Any individual or ~~corporation~~ entity designated by a foreign  
9 corporation as its registered agent for service of process may  
10 resign by filing with the Secretary of State a signed statement that  
11 the agent is unwilling to continue to act as the registered agent of  
12 the corporation for service of process, including in the statement  
13 the post office address of the main or headquarters office of the  
14 foreign corporation, but the resignation shall not become effective  
15 until thirty (30) days after the statement is filed. The statement  
16 shall be acknowledged by the registered agent and shall contain a  
17 representation that written notice of resignation was given to the  
18 corporation at least thirty (30) days prior to the filing of the  
19 statement by mailing or delivering the notice to the corporation at  
20 its address given in the statement.

21           C.    If any agent designated and certified as required by the  
22 provisions of Section 1130 of this title shall die, remove himself  
23 or herself from this state or resign, then the foreign corporation  
24 for which the agent had been so designated and certified, within ten

1 (10) days after the death, removal or resignation of its agent,  
2 shall substitute, designate and certify to the Secretary of State,  
3 the name of another registered agent for the purposes of the  
4 Oklahoma General Corporation Act, and all process, orders, rules and  
5 notices may be served on or given to the substituted agent with like  
6 effect.

7 D. Any individual, ~~corporation, limited liability company or~~  
8 ~~limited partnership~~ or entity designated by a foreign corporation as  
9 its registered agent for service of process may change the address  
10 of the registered office of the corporation or corporations for  
11 which he or she is the registered agent to another address in this  
12 state by filing with the Secretary of State a certificate in the  
13 name of each affected corporation, executed and acknowledged by the  
14 registered agent, setting forth the address at which the registered  
15 agent has maintained the registered office, and further certifying  
16 to the new address to which the registered office will be changed on  
17 a given day, and at which new address the registered agent will  
18 thereafter maintain the registered office. Thereafter, or until  
19 further change of address, as authorized by law, the registered  
20 office in this state shall be located at the new address of the  
21 registered agent thereof as given in the certificate.

22 E. In the event of a change of name of any individual or  
23 ~~corporation~~ entity designated by a foreign corporation as its  
24 registered agent for service of process, the registered agent shall

1 file with the Secretary of State a certificate in the name of each  
2 affected corporation, executed and acknowledged by the registered  
3 agent, setting forth the new name of the registered agent, the name  
4 of the registered agent before it was changed, and the address at  
5 which the registered agent has maintained the registered office for  
6 the affected corporation. A change of name of any person or  
7 ~~corporation~~ entity acting as registered agent as a result of a  
8 merger or consolidation of the registered agent, with or into  
9 another person or corporation which succeeds to its assets by  
10 operation of law, shall be deemed a change of name for purposes of  
11 this section.

12 SECTION 35. AMENDATORY 18 O.S. 2011, Section 1135, is  
13 amended to read as follows:

14 Section 1135.

15 WITHDRAWAL OF FOREIGN CORPORATION FROM STATE; PROCEDURE; SERVICE OF  
16 PROCESS ON SECRETARY OF STATE

17 A. Any foreign corporation which shall have qualified to do  
18 business in this state pursuant to the provisions of Section 1130 of  
19 this title, may surrender its authority to do business in this state  
20 and may withdraw ~~therefrom~~ by filing with the Secretary of State:

21 1. A certificate, executed by an authorized officer of the  
22 corporation and acknowledged in accordance with the provisions of  
23 Section 1007 of this title, stating that it surrenders its authority  
24 to transact business in Oklahoma and withdraws ~~therefrom~~; and

1 stating the address to which the Secretary of State may mail any  
2 process against the corporation that may be served upon the  
3 Secretary of State; or

4 2. A copy of a certificate of dissolution issued by the proper  
5 official of the state or other jurisdiction of its incorporation,  
6 together with a certificate, which shall be executed in accordance  
7 with the provisions of paragraph 1 of this subsection, stating the  
8 address to which the Secretary of State may mail any process against  
9 the corporation that may be served upon the Secretary of State, ~~or~~

10 ~~3.~~ 3. A copy of an order or decree of dissolution made by any  
11 court of competent jurisdiction or other competent authority of the  
12 state or other jurisdiction of its incorporation, certified to be a  
13 true copy under the hand of the clerk of the court or other official  
14 body, and the official seal of the court or official body or clerk  
15 thereof, together with a certificate executed in accordance with the  
16 provisions of paragraph 1 of this subsection, stating the address to  
17 which the Secretary of State may mail any process against the  
18 corporation that may be served upon the Secretary of State.

19 B. The Secretary of State, upon payment to the Secretary of  
20 State of the fees prescribed in Section 1142 of this title, shall  
21 issue a sufficient number of certificates, under the hand and  
22 official seal of the Secretary of State, evidencing the surrender of  
23 the authority of the corporation to do business in this state and  
24 its withdrawal therefrom.



1 C. Upon the issuance of the certificates by the Secretary of  
2 State, the appointment of the registered agent of the corporation in  
3 this state, upon whom process against the corporation may be served,  
4 shall be revoked, and service on the corporation may be made by  
5 serving the Secretary of State as its agent as provided in Section  
6 2004 of Title 12 of the Oklahoma Statutes.

7 D. In the event of service upon the Secretary of State in  
8 accordance with the provisions of Section 2004 of Title 12 of the  
9 Oklahoma Statutes, the Secretary of State shall immediately notify  
10 the corporation by letter, certified mail or return receipt  
11 requested at the address stated in the certificate which was filed  
12 by the corporation with the Secretary of State pursuant to  
13 subsection A of this section. The letter shall include a copy of  
14 the process and any other papers served on the Secretary of State  
15 pursuant to the provisions of this subsection. It shall be the duty  
16 of the plaintiff in the event of such service to serve process and  
17 any other papers in duplicate, to notify the Secretary of State that  
18 service is being effected pursuant to the provisions of this  
19 subsection, and to pay the Secretary of State the fee provided for  
20 in paragraph 7 of Section 1142 of this title, which fee shall be  
21 taxed as part of the costs in the proceeding. The Secretary of  
22 State shall maintain an alphabetical record of any such service,  
23 setting forth the names of the plaintiff and the defendant, the  
24 title, docket number, and nature of the proceeding in which process

1 has been served upon the Secretary of State, the fact that service  
2 has been effected pursuant to the provisions of this subsection, the  
3 return date thereof, and the date service was made. The Secretary  
4 of State shall not be required to retain such information longer  
5 than five (5) years from receipt of the service of process by the  
6 Secretary of State.

7 SECTION 36. AMENDATORY 18 O.S. 2011, Section 1136, is  
8 amended to read as follows:

9 Section 1136.

10 SERVICE OF PROCESS ON NONQUALIFYING FOREIGN CORPORATIONS

11 A. If any foreign corporation shall transact business in this  
12 state without having qualified to do business in accordance with the  
13 provisions of Section 1130 of this title, service on the corporation  
14 may be made by serving the Secretary of State as its agent as  
15 provided in Section 2004 of Title 12 of the Oklahoma Statutes.

16 B. If any foreign corporation consents in writing to be subject  
17 to the jurisdiction of any state or federal court in this state for  
18 any civil action, suit or proceeding against it arising or growing  
19 out of any business or matter, and if the agreement or instrument  
20 setting forth such consent does not otherwise provide a manner of  
21 service of legal process in any such civil action, suit or  
22 proceeding against it, such foreign corporation shall be deemed to  
23 have thereby appointed and constituted the Secretary of State of  
24 this state its agent for the acceptance of legal process in any such

1 civil action, suit or proceeding against it. The transaction of  
2 business in this state by such corporation or such consent by such  
3 corporation to the jurisdiction of any state or federal court in  
4 this state without provision for a manner of service of legal  
5 process shall be a signification of the agreement of such  
6 corporation that any process served upon the Secretary of State when  
7 so served shall be of the same legal force and validity as if served  
8 upon an authorized officer or agent personally within this state.

9 C. The provisions of Section 1132 of this title shall not apply  
10 in determining whether any foreign corporation is transacting  
11 business in this state within the meaning of this section; and "the  
12 transaction of business" or "business transacted in this state", by  
13 any such foreign corporation, whenever those words are used in this  
14 section, shall mean the course or practice of carrying on any  
15 business activities in this state, including, without limiting the  
16 generality of the foregoing, the solicitation of business or orders  
17 in this state. The provisions of this section shall not apply to  
18 any insurance company doing business in this state.

19 SECTION 37. AMENDATORY 18 O.S. 2011, Section 2001, is  
20 amended to read as follows:

21 Section 2001.

22 DEFINITIONS

23 As used in ~~this act~~ the Oklahoma Limited Liability Company Act,  
24 unless the context otherwise requires:

1        1. "Articles of organization" means documents filed ~~under~~  
2 ~~Section 2019 of this title~~ for the purpose of forming a limited  
3 liability company, and the articles as amended;

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

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

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

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

20       6. "Corporation" means a corporation formed under the laws of  
21 this state or a foreign corporation as defined in this section;

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

24

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

4 9. "Foreign limited liability company" means ~~an entity that is:~~

5 a. an unincorporated association,

6 b. organized under the laws of a state other than the  
7 laws of this state or organized under the laws of any  
8 foreign country, and

9 c. organized under a statute pursuant to which an  
10 association may be formed that affords to each of its  
11 members limited liability with respect to the  
12 liabilities of the entity, and

13 ~~d. not required to be registered or organized under any~~  
14 ~~statute of this state other than this act~~ a limited  
15 liability company formed under the laws of any state  
16 other than this state, or under the laws of the  
17 District of Columbia or any foreign country;

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

21 11. "Limited liability company" or "domestic limited liability  
22 company" means an entity ~~that is an unincorporated association or~~  
23 ~~proprietorship having one or more members that is organized~~ formed  
24

1 under the Oklahoma Limited Liability Company Act and existing under  
2 the laws of this state;

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

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

10 14. "Member" means a person with an ownership interest in a  
11 limited liability company, with the rights and obligations specified  
12 under this act;

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

21 16. "Operating agreement", regardless of whether referred to as  
22 an operating agreement and whether oral, in a record, implied, or in  
23 any combination thereof, means any agreement of the members,  
24 including a sole member, as to the affairs of a limited liability

1 company and the conduct of its business, including the agreement as  
2 amended or restated;

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

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

10 19. "Charitable entity" means any nonprofit limited liability  
11 company or other entity that is exempt from taxation under Section  
12 501(c)(3) of the United States Internal Revenue Code (26 U.S.C.,  
13 Section 501(c)(3)), or any successor provisions.

14 SECTION 38. AMENDATORY 18 O.S. 2011, Section 2004, is  
15 amended to read as follows:

16 Section 2004.

17 FILING THE ARTICLES OF ORGANIZATION

18 A. One or more persons may form a limited liability company  
19 upon the filing of executed articles of organization with the Office  
20 of the Secretary of State.

21 B. 1. When the articles of organization become effective, the  
22 proposed organization becomes a limited liability company under the  
23 name and subject to the purposes, conditions, and provisions stated  
24 in the articles. A limited liability company formed under ~~this act~~

1 the Oklahoma Limited Liability Company Act is a separate legal  
2 entity, the existence of which as a separate legal entity continues  
3 until cancellation of the limited liability company's articles of  
4 organization and completion of its winding up, if any.

5 2. Filing of the articles by the Office of the Secretary of  
6 State is conclusive evidence of the formation of the limited  
7 liability company.

8 3. A limited liability company's status for tax purposes shall  
9 not affect its status as a separate legal entity formed under the  
10 Oklahoma Limited Liability Company Act.

11 SECTION 39. AMENDATORY 18 O.S. 2011, Section 2012.2, is  
12 amended to read as follows:

13 Section 2012.2

14 OPERATING AGREEMENT OF LLC

15 A. The operating agreement of the limited liability company  
16 governs generally:

17 1. Relations among the members as members and between the  
18 members and the limited liability company;

19 2. The rights and duties under ~~this act~~ the Oklahoma Limited  
20 Liability Company Act of a person in the capacity of manager;

21 3. The activities of the company and the conduct of those  
22 activities; and

23 4. The means and conditions for amending the operating  
24 agreement.



1 If the operating agreement does not otherwise provide, ~~this act~~  
2 the Oklahoma Limited Liability Company Act governs the matter. The  
3 operating agreement may not vary the rights, privileges, duties and  
4 obligations imposed specifically under ~~this act~~ the Oklahoma Limited  
5 Liability Company Act.

6 B. A limited liability company is bound by its operating  
7 agreement regardless of whether it executes the operating agreement.  
8 A member or manager of a limited liability company or an assignee of  
9 a ~~membership~~ capital interest is bound by the operating agreement  
10 regardless of whether the member, manager or assignee executes the  
11 operating agreement.

12 C. An operating agreement of a limited liability company having  
13 only one member is not unenforceable because there is only one  
14 person who is a party to the operating agreement.

15 D. The obligations of a limited liability company and its  
16 members to an assignee or dissociated member are governed by the  
17 operating agreement. Subject only to any court order to effectuate  
18 a charging order, an amendment to the operating agreement made after  
19 a person becomes an assignee or dissociated member is effective with  
20 regard to any debt, obligation, or other liability of the limited  
21 liability company or its members to the assignee or dissociated  
22 member.

23 SECTION 40. AMENDATORY 18 O.S. 2011, Section 2015, is  
24 amended to read as follows:

1 Section 2015.

2 MANAGEMENT OF COMPANY WITHOUT DESIGNATED MANAGERS;

3 RESIGNATION OF MEMBER

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

8 1. The members shall be deemed to be managers for purposes of  
9 applying provisions of ~~this act~~ the Oklahoma Limited Liability  
10 Company Act, unless the context clearly requires otherwise;

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

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

15 B. A member of a member-managed limited liability company may  
16 resign ~~as a member~~ from the member's management duties in accordance  
17 with the operating agreement or, if the operating agreement does not  
18 provide for the member's resignation, upon notice to the limited  
19 liability company. ~~When~~ Unless otherwise provided in the operating  
20 agreement, when a member of a member-managed limited liability  
21 company resigns, the member shall cease to have the rights and  
22 duties of a member and shall become an assignee; provided that the  
23 profits and losses of the limited liability company shall continue  
24 to be allocated to the member and any binding commitments for

1 contributions shall continue as if the member had not resigned. If  
2 the resignation violates the operating agreement, in addition to any  
3 remedies otherwise available under applicable law, a limited  
4 liability company may recover from the resigning member damages for  
5 breach of the operating agreement and damages for a prohibited  
6 withdrawal under either the operating agreement or Section 2036 of  
7 this title and offset the damages against the amount otherwise  
8 distributable to the resigning member. ~~The member's resignation~~  
9 ~~shall not constitute a withdrawal from the limited liability~~  
10 ~~company.~~

11 SECTION 41. AMENDATORY 18 O.S. 2011, Section 2019, is  
12 amended to read as follows:

13 Section 2019.

14 MANAGERS AS AGENTS

15 A. Every manager is an agent of the limited liability company  
16 for the purpose of its business, and the act of every manager,  
17 including the execution in the limited liability company name of any  
18 instrument for apparently carrying on the business of the limited  
19 liability company of which he is a manager, binds the limited  
20 liability company, unless the manager so acting lacks the authority  
21 to act for the limited liability company in the particular matter,  
22 and the person with whom he is dealing has knowledge of the fact  
23 that he has no such authority. The unauthorized acts of the manager  
24 shall bind the limited liability company as to persons acting in

1 good faith who have no knowledge of the fact that the manager had no  
2 such authority.

3 B. Subject to the provisions of subsection A of this section  
4 and Section ~~30~~ 2019.1 of this ~~act~~ title, instruments and documents  
5 providing for the acquisition, mortgage, or disposition of real or  
6 personal property of the limited liability company shall be valid  
7 and binding upon the limited liability company if executed by one or  
8 more of its managers.

9 SECTION 42. AMENDATORY 18 O.S. 2011, Section 2020, is  
10 amended to read as follows:

11 Section 2020.

12 VOTING RIGHTS OF MEMBERS

13 A. Voting by members may be on a per capita, number, financial  
14 interest, class, group or any other basis. Unless otherwise  
15 provided in the articles of organization or operating agreement, the  
16 members of a limited liability company vote in proportion to their  
17 respective ~~capital~~ interests in the profits of the limited liability  
18 company. Except as otherwise provided in subsection D of this  
19 section or unless the context otherwise requires, references in ~~this~~  
20 ~~act~~ the Oklahoma Limited Liability Company Act to a vote or the  
21 consent of the members mean a vote or consent of the members holding  
22 a majority of the ~~capital~~ interests in the profits of the limited  
23 liability company. The vote or consent may be evidenced in the  
24

1 minutes of a meeting of the members or by a written consent in lieu  
2 of a meeting.

3 B. Except as otherwise provided in subsection D of this section  
4 or in the articles of organization or operating agreement, a  
5 majority vote of the members shall be required to approve the  
6 following matters:

7 1. The sale, exchange, lease, mortgage, pledge, or other  
8 transfer of all or substantially all of the assets of the limited  
9 liability company;

10 2. Merger of the limited liability company with another limited  
11 liability company or other ~~business~~ entity; and

12 3. An amendment to the articles of organization or operating  
13 agreement.

14 C. The articles of organization or operating agreement may  
15 alter the above voting rights and provide for any other voting  
16 rights of members.

17 D. Unless otherwise provided in the articles of organization or  
18 a written operating agreement, the unanimous vote or consent of the  
19 members shall be required to approve the following matters:

20 1. The dissolution of the limited liability company pursuant to  
21 paragraph 3 of subsection A of Section 2037 of this title; or

22 2. An amendment to the articles of organization or an amendment  
23 to a written operating agreement:

24

- 1 a. which reduces the term of the existence of the limited  
2 liability company,
- 3 b. which reduces the required vote of members to approve  
4 a dissolution, merger or sale, exchange, lease,  
5 mortgage, pledge, or other transfer of all or  
6 substantially all of the assets of the limited  
7 liability company,
- 8 c. which permits a member to voluntarily withdraw from  
9 the limited liability company, or
- 10 d. which reduces the required vote of members to approve  
11 an amendment to the articles of organization or  
12 written operating agreement reducing the vote  
13 previously required on the matters described in this  
14 paragraph.

15 E. An operating agreement may grant to all or certain  
16 identified members or a specified class or group of the members the  
17 right to vote separately or with all or any class or group of the  
18 members or managers, on any matter.

19 SECTION 43. AMENDATORY 18 O.S. 2011, Section 2025, is  
20 amended to read as follows:

21 Section 2025.

22 PROFITS AND LOSSES; DISTRIBUTIONS

23 Except as otherwise provided in the operating agreement:  
24

1           1. The profits and losses of a limited liability company shall  
2 be allocated among the members, and among classes or groups of  
3 members, ~~in proportion to their respective capital interests~~ on the  
4 basis of the agreed value, as stated in the records of the limited  
5 liability company, of the contributions made by each member to the  
6 extent they have been received by the limited liability company and  
7 have not been returned; and

8           2. Distributions of the limited liability company shall be made  
9 to the members, and among classes or groups of members, in  
10 proportion to their right to share in the profits and losses of the  
11 limited liability company.

12           SECTION 44.           AMENDATORY           18 O.S. 2011, Section 2030, is  
13 amended to read as follows:

14           Section 2030.

15           RESTRICTIONS ON DISTRIBUTIONS; DETERMINATION OF PROHIBITED  
16           DISTRIBUTIONS; EFFECT OF DISTRIBUTION; INDEBTEDNESS

17           A. A distribution may not be made if, after giving effect to  
18 the distribution:

19           1. The limited liability company would not be able to pay its  
20 debts as they become due in the usual course of business; or

21           2. The limited liability company's total assets would be less  
22 than the sum of its total liabilities plus, unless the operating  
23 agreement permits otherwise, the amount that would be needed, if the  
24 limited liability company were to be dissolved at the time of the

1 distribution, to satisfy the preferential rights upon dissolution of  
2 members whose preferential rights are superior to the rights of  
3 members receiving the distribution.

4 B. The limited liability company may base a determination that  
5 a distribution is not prohibited under subsection A of this section  
6 on:

7 1. Financial statements prepared on the basis of accounting  
8 practices and principles that are reasonable in the circumstances;  
9 or

10 2. A fair valuation or other method that is reasonable in the  
11 circumstances.

12 C. Except as provided in subsection E of this section, the  
13 effect of a distribution under subsection A of this section is  
14 measured as of:

15 1. ~~The date~~ In the case of a distribution by purchase,  
16 redemption or other acquisition of a capital interest in the limited  
17 liability company, the date money or other property is transferred  
18 or debt incurred by the limited liability company; and

19 2. In all other cases, the date:

20 a. the distribution is authorized, if the payment occurs  
21 within one hundred twenty (120) days after the date of  
22 authorization; ~~or~~

23 ~~2. The date~~

24



1           b.     the payment is made if it occurs more than one hundred  
2                           twenty (120) days after the date of authorization.

3           D.   A limited liability company's indebtedness to a member,  
4 incurred by reason of a distribution made in accordance with this  
5 section, is at parity with the limited liability company's  
6 indebtedness to its general, unsecured creditors, except to the  
7 extent subordinated by agreement.

8           E.   1.  If the terms of the indebtedness provide that payment of  
9 principal and interest is to be made only if, and to the extent  
10 that, payment of a distribution to members could then be made under  
11 this section, indebtedness of a limited liability company, including  
12 indebtedness issued as a distribution, is not a liability for  
13 purposes of determinations made under subsection B of this section,  
14 ~~and.~~

15           2.  If the indebtedness is issued as a distribution, each  
16 payment of principal or interest on the indebtedness is treated as a  
17 distribution, the effect of which is measured on the date the  
18 payment is actually made.

19           SECTION 45.        AMENDATORY        18 O.S. 2011, Section 2032, is  
20 amended to read as follows:

21           Section 2032.

22                           MEMBERSHIP INTEREST AS PERSONAL PROPERTY

23           A ~~membership~~ capital interest is personal property. A member  
24 has no interest in specific limited liability company property.

1 SECTION 46. AMENDATORY 18 O.S. 2011, Section 2033, is  
2 amended to read as follows:

3 Section 2033.

4 ASSIGNABILITY OF MEMBERSHIP INTEREST

5 A. Unless otherwise provided in an operating agreement:

6 1. A membership interest is not transferable; provided,  
7 however, that a member may assign the ~~economic rights~~ capital  
8 interest associated with a membership interest in whole or in part;

9 2. An assignment of the ~~economic rights~~ capital interest  
10 associated with a membership interest does not entitle the assignee  
11 to participate in the management and affairs of the limited  
12 liability company or to become or to exercise any rights or powers  
13 of a member;

14 3. An assignment entitles the assignee to share in profits and  
15 losses, to receive any distribution or distributions and to receive  
16 the allocation of income, gain, loss, deduction, or credit or  
17 similar item to which the assignor was entitled to the extent  
18 assigned;

19 4. Unless the assignee of ~~an~~ a capital interest in a limited  
20 liability company becomes a member ~~by virtue of that interest~~, the  
21 assignor continues to be a member and to have the power to exercise  
22 any rights of a member, unless the assignor is removed as a member  
23 either in accordance with the operating agreement or, after having  
24 assigned all of the ~~membership~~ capital interest, by an affirmative

1 vote of the members who have not assigned their interests. The  
2 removal of an assignor shall not, by itself, cause the assignee to  
3 become a member;

4 5. Until an assignee of a ~~membership~~ capital interest becomes a  
5 member, the assignee has no liability as a member solely as a result  
6 of the assignment; and

7 6. The assignor of a ~~membership~~ capital interest is not  
8 released from liability as a member solely as a result of the  
9 assignment.

10 B. The operating agreement may provide that a member's interest  
11 in a limited liability company may be evidenced by a certificate of  
12 membership interest issued by the limited liability company and also  
13 may provide for the assignment or transfer of any membership  
14 interest represented by such a certificate and may make other  
15 provisions with respect to such certificates.

16 C. Unless otherwise provided in the operating agreement, the  
17 pledge of, or granting of a security interest, lien, or other  
18 encumbrance in or against any or all of the membership interest of a  
19 member is not an assignment and shall not cause the member to cease  
20 to be a member or cease to have the power to exercise any rights or  
21 powers of a member.

22 SECTION 47. AMENDATORY 18 O.S. 2011, Section 2034, is  
23 amended to read as follows:

24 Section 2034.

1                   JUDGMENT CREDITOR; RIGHTS; EXCLUSIVE REMEDY

2           On application to a court of competent jurisdiction by any  
3 judgment creditor of a member, the court may charge the ~~membership~~  
4 capital interest of the member with payment of the unsatisfied  
5 amount of the judgment with interest. To the extent so charged, the  
6 judgment creditor has only the rights of an assignee of the  
7 ~~membership~~ capital interest. A charging order entered by a court  
8 pursuant to this section shall in no event be convertible into a  
9 membership interest through foreclosure or other action. ~~This act~~  
10 The Oklahoma Limited Liability Company Act does not deprive any  
11 member of the benefit of any exemption laws applicable to his or her  
12 membership or capital interest. This section shall be the sole and  
13 exclusive remedy of a judgment creditor with respect to the judgment  
14 debtor's membership and capital interest, whether the limited  
15 liability company has one member or more than one member.

16           SECTION 48.           AMENDATORY           18 O.S. 2011, Section 2035, is  
17 amended to read as follows:

18           Section 2035.

19                   ASSIGNEE OF INTEREST BECOMING MEMBER; RIGHTS AND POWERS,  
20                   RESTRICTIONS AND LIABILITIES; ASSIGNOR'S LIABILITIES; TIME OF  
21                                   ADMISSION OF MEMBER

22           A. An assignee of ~~an~~ a capital interest in a limited liability  
23 company may become a member if and to the extent that:

- 24           1. The operating agreement provides; or

1        2. ~~The~~ Unless the operating agreement otherwise provides, the  
2 members representing a majority of the ~~capital interests~~ profits  
3 which are not the subject of the assignment consent in writing.

4        B. An assignee who becomes a member, to the extent assigned,  
5 has the rights and powers, and is subject to the restrictions and  
6 liabilities, of a member under the operating agreement and ~~this act,~~  
7 ~~Section 2000 et seq. of this title~~ the Oklahoma Limited Liability  
8 Company Act; however, unless otherwise provided in writing in the  
9 operating agreement or other written agreement, an assignee who  
10 becomes a member also is liable for any obligations of the assignor  
11 to make contributions as provided in Section 2024 of this title, but  
12 shall not be liable for the obligations of the assignor under  
13 Section 2031 of this title; however, the assignee is not obligated  
14 for liabilities of which the assignee had no knowledge at the time  
15 the assignee became a member and which could not be ascertained from  
16 a written operating agreement.

17        C. Regardless of whether an assignee of an interest becomes a  
18 member, the assignor is not released from liability to the limited  
19 liability company under Sections 2024, 2031~~7~~, and 2033 of this title.

20        D. Except as otherwise provided in writing in the operating  
21 agreement, a member who assigns the member's entire capital interest  
22 in the limited liability company ceases to be a member or to have  
23 the power to exercise any rights of a member when any assignee of  
24

1 the capital interest becomes a member with respect to the assigned  
2 interest.

3 E. Subject to subsection F of this section, a person acquiring  
4 a limited liability company interest directly from the limited  
5 liability company may become a member in a limited liability company  
6 upon compliance with the operating agreement or, if the operating  
7 agreement does not so provide in writing, upon the written consent  
8 of the members.

9 F. The effective time of admission of a member to a limited  
10 liability company shall be the later of:

11 1. The date the limited liability company is formed; or

12 2. The time provided in the operating agreement, or if no such  
13 time is provided therein, then when the person's admission is  
14 reflected in the records of the limited liability company.

15 SECTION 49. AMENDATORY 18 O.S. 2011, Section 2036, is  
16 amended to read as follows:

17 Section 2036.

18 EVENTS CAUSING CESSATION OF MEMBERSHIP; WITHDRAWAL;

19 DEATH OR INCAPACITY

20 A. ~~Unless the operating agreement specifically permits in~~  
21 ~~writing the power to withdraw voluntarily, a member may not withdraw~~  
22 ~~at any time. If the operating agreement specifically provides in~~  
23 ~~writing the power to withdraw voluntarily, but the withdrawal occurs~~  
24 ~~as a result of wrongful conduct of the member, a member's voluntary~~

1 ~~withdrawal~~ A member has the power to withdraw as a member at any  
2 time, rightfully or wrongfully. A withdrawal is wrongful if the  
3 operating agreement does not specifically grant to the member a  
4 right to withdraw or the member resigns from the member's managerial  
5 duties in a member-managed limited liability company. The wrongful  
6 withdrawal shall constitute a breach of the operating agreement and  
7 the limited liability company may recover from the withdrawing  
8 member damages, including the reasonable cost of replacing the  
9 services that the withdrawn member was obligated to perform. The  
10 limited liability company may offset its damages against the amount  
11 otherwise distributable to the member, in addition to pursuing any  
12 remedies provided for in the operating agreement or otherwise  
13 available under applicable law. The limited liability company shall  
14 not, however, be entitled to any equitable remedy that would prevent  
15 a member from exercising the power to withdraw if such power is  
16 permitted in the operating agreement withdrawing from the limited  
17 liability company. Unless the operating agreement otherwise  
18 provides, a member who has withdrawn shall be deemed an assignee  
19 with respect to the interest.

20 B. If a member who is an individual dies or a court of  
21 competent jurisdiction adjudges the member to be incompetent to  
22 manage the member's person or property, the member's personal  
23 representative shall have all of the rights of an assignee of the  
24 member's interest. If a member is a corporation, trust or other

1 entity and is dissolved or terminated, the powers of that member may  
2 be exercised by its personal representative.

3 C. If the sole member of a limited liability company dies or  
4 dissolves, or a court of competent jurisdiction adjudges the member  
5 to be incompetent or otherwise lacking legal capacity, the member's  
6 personal representative accedes to the membership interest and  
7 possesses all rights, powers and duties associated with the interest  
8 for the benefit of the incompetent member or the deceased member's  
9 estate.

10 D. The operating agreement may provide for the expulsion of a  
11 member, with or without cause, which shall include reasonable  
12 provision for the ~~distributable~~ buyout of the member's capital  
13 interest.

14 SECTION 50. AMENDATORY 18 O.S. 2011, Section 2040, is  
15 amended to read as follows:

16 Section 2040.

17 DISTRIBUTION OF ASSETS UPON WINDING UP

18 A. Upon the winding up of a limited liability company, the  
19 assets shall be distributed as follows:

20 1. Payment, or adequate provision for payment, shall be made to  
21 creditors, including to the extent permitted by law, members who are  
22 creditors, in satisfaction of liabilities of the limited liability  
23 company;

24



1           2. Except as provided in writing in the articles of  
2 organization ~~or~~, operating agreement or other binding agreement, to  
3 members ~~or~~, any assignees, and any former members for the purchase,  
4 redemption or other acquisition of capital interests in satisfaction  
5 of liabilities for distributions authorized but not paid under  
6 ~~Sections 2026 and 2027~~ Section 2030 of this title; and

7           3. Except as provided in writing in the articles of  
8 organization or operating agreement or other binding agreement, to  
9 members, any assignees, and any former members for the purchase,  
10 redemption or other acquisition of capital interests first for the  
11 return of their contributions in proportion to their respective  
12 contributions, and second respecting their ~~membership~~ capital  
13 interests or former capital interests, in proportions in which the  
14 members, assignees and former members would share in ~~distributions~~  
15 any profits.

16           B. A member, assignee or former member who receives a  
17 distribution in violation of subsection A of this section, and who  
18 knew or should have known at the time of the distribution that the  
19 distribution violated subsection A of this section, shall be liable  
20 to a limited liability company for the amount of the distribution.  
21 A member, assignee or former member who receives a distribution in  
22 violation of subsection A of this section, and who did not know and  
23 had no reason to know at the time of the distribution that the  
24 distribution violated subsection A of this section, shall not be

1 liable for the amount of the distribution. Subject to subsection C  
2 of this section, this subsection shall not affect any obligation or  
3 liability of a member, assignee or former member under an agreement  
4 or other applicable law for a distribution.

5 C. Unless otherwise agreed, a member, assignee or former member  
6 who receives a distribution from a limited liability company shall  
7 have no liability under ~~this act~~ the Oklahoma Limited Liability  
8 Company Act or other applicable law for the amount of the  
9 distribution after the expiration of three (3) years from the date  
10 of the distribution unless an action to recover the distribution  
11 from the member, assignee or former member is commenced before the  
12 expiration of the three-year period and an adjudication of liability  
13 against the member, assignee or former member is made in the action.

14 SECTION 51. AMENDATORY 18 O.S. 2011, Section 2054, is  
15 amended to read as follows:

16 Section 2054.

17 AGREEMENT OF MERGER OF CONSOLIDATION

18 A. Pursuant to an agreement of merger or consolidation, a  
19 domestic limited liability company may merge or consolidate with or  
20 into one or more domestic or foreign limited liability companies or  
21 other ~~business~~ entities. As used in this section, "~~business~~ entity"  
22 means a domestic or foreign corporation, ~~business trust, common law~~  
23 ~~trust, or unincorporated business including a partnership, whether~~  
24 ~~general or limited~~ a domestic or foreign partnership whether general

1 or limited, and including a limited liability partnership and a  
2 limited liability limited partnership, and any unincorporated  
3 nonprofit or for-profit association, trust or enterprise having  
4 members or having outstanding shares of stock or other evidences of  
5 financial, beneficial or membership interest therein, whether formed  
6 by agreement or under statutory authority or otherwise.

7 B. Unless otherwise provided in the articles of organization or  
8 the operating agreement, a merger or consolidation shall be approved  
9 by each domestic limited liability company which is to merge or  
10 consolidate by a majority of the membership interest or, if there is  
11 more than one class or group of members, then by a majority of the  
12 membership interest of each class or group. In connection with a  
13 merger or consolidation hereunder, rights or securities of, or  
14 memberships or membership, economic or ownership interests in, a  
15 domestic limited liability company or other ~~business~~ entity which is  
16 a constituent party to the merger or consolidation may be exchanged  
17 for or converted into cash, property, rights or securities of, or  
18 memberships or membership, economic or ownership interests in, the  
19 surviving or resulting domestic limited liability company or other  
20 ~~business~~ entity or, in addition to or in lieu thereof, may be  
21 exchanged for or converted into cash, property, rights or securities  
22 of, or memberships or membership, economic or ownership interests  
23 in, a domestic limited liability company or other ~~business~~ entity  
24 which is not the surviving or resulting limited liability company or

1 other ~~business~~ entity in the merger or consolidation.

2 Notwithstanding prior approval, an agreement of merger or  
3 consolidation may be terminated or amended pursuant to a provision  
4 for such termination or amendment contained in the agreement of  
5 merger or consolidation.

6 C. If a domestic limited liability company is merging or  
7 consolidating pursuant to this section, the domestic limited  
8 liability company or other ~~business~~ entity surviving or resulting in  
9 or from the merger or consolidation shall file articles of merger or  
10 consolidation with the Office of the Secretary of State. The  
11 articles of merger or consolidation shall state:

12 1. The name ~~and~~, jurisdiction of formation or organization, and  
13 type of entity of each of the limited liability companies or other  
14 ~~business~~ entities which are to merge or consolidate;

15 2. That an agreement of merger or consolidation has been  
16 approved and executed by each of the domestic limited liability  
17 companies or other ~~business~~ entities which is to merge or  
18 consolidate;

19 3. The name of the surviving or resulting domestic limited  
20 liability company or other ~~business~~ entity;

21 4. The future effective date or time, which shall be a specific  
22 date or time not later than a time on the ~~nineteenth~~ ninetieth day  
23 after the filing, of the merger or consolidation if it is not to be  
24

1 effective upon the filing of the articles of merger or  
2 consolidation;

3 5. That the agreement of merger or consolidation is on file at  
4 a place of business of the surviving or resulting domestic limited  
5 liability company or other ~~business~~ entity, and shall state the  
6 street address thereof;

7 6. That a copy of the agreement of merger or consolidation  
8 shall be furnished by the surviving or resulting domestic limited  
9 liability company or other ~~business~~ entity, upon request and without  
10 cost, to any member of any domestic limited liability company or any  
11 person holding ~~an~~ a membership or membership, economic or ownership  
12 interest in any other ~~business~~ entity which is to merge or  
13 consolidate;

14 7. In the case of a merger, any amendments or changes in the  
15 articles of organization of the surviving domestic limited liability  
16 company that are to be effected by the merger, which amendments or  
17 changes may amend and restate the articles of organization of the  
18 surviving domestic limited liability company in its entirety;

19 8. In the case of a consolidation, that the articles of  
20 organization of the resulting domestic limited liability company  
21 shall be as set forth in an attachment to the articles of  
22 consolidation; and

23 9. If the surviving or resulting entity is not a domestic  
24 limited liability company or ~~business~~ entity formed or organized

1 pursuant to the laws of this state, a statement that the surviving  
2 or resulting other ~~business~~ entity agrees to be served with process  
3 in this state in any action, suit, or proceeding for the enforcement  
4 of any obligation of any domestic limited liability company which is  
5 to merge or consolidate; irrevocably appoints the Secretary of State  
6 as its agent to accept service of process in any action, suit, or  
7 proceeding; and specifies the street address to which process shall  
8 be mailed to the entity by the Secretary of State.

9 D. Any failure to file the articles of merger or consolidation  
10 in connection with a merger or consolidation which was effective  
11 prior to September 1, 1992, shall not affect the validity or  
12 effectiveness of any such merger or consolidation.

13 ~~E.~~ A merger or consolidation shall be effective upon the filing  
14 with the Secretary of State of articles of merger or consolidation,  
15 unless a future effective date or time is provided in the articles  
16 of merger or consolidation.

17 ~~F.~~ E. Articles of merger or consolidation terminate the  
18 separate existence of a domestic limited liability company which is  
19 not the surviving or resulting entity in the merger or  
20 consolidation.

21 ~~G.~~ F. Once any merger or consolidation is effective pursuant to  
22 this section, for all purposes of the laws of this state, all of the  
23 rights, privileges, and powers of each of the domestic limited  
24 liability companies and other ~~business~~ entities that have merged or

1 consolidated and all property, real, personal, and mixed, and all  
2 debts due to each domestic limited liability company or other  
3 ~~business~~ entity, as well as all other things and causes of action  
4 belonging to each domestic limited liability company or other  
5 ~~business~~ entity shall be vested in the surviving or resulting  
6 domestic limited liability company or other ~~business~~ entity, and  
7 shall thereafter be the property of the surviving or resulting  
8 domestic limited liability company or other ~~business~~ entity as they  
9 were of each domestic limited liability company or other ~~business~~  
10 entity that has merged or consolidated, and the title to any real  
11 property vested by deed or otherwise, under the laws of this state,  
12 in any domestic limited liability company or other ~~business~~ entity  
13 shall not revert or be in any way impaired by reason of this  
14 section, but all rights of creditors and all liens upon any property  
15 of each domestic limited liability company or other ~~business~~ entity  
16 shall be preserved unimpaired. All debts, liabilities and duties of  
17 each domestic limited liability company or other ~~business~~ entity  
18 that has merged or consolidated shall thereafter attach to the  
19 surviving or resulting domestic limited liability company or other  
20 ~~business~~ entity, and may be enforced against the surviving or  
21 resulting limited liability company or other entity to the same  
22 extent as if the debts, liabilities, and duties had been incurred or  
23 contracted by the surviving or resulting limited liability company  
24 or other entity. Unless otherwise agreed, a merger or consolidation

1 of a domestic limited liability company, including a domestic  
2 limited liability company which is not the surviving or resulting  
3 entity in the merger or consolidation, shall not require the  
4 domestic limited liability company to wind up its affairs or pay its  
5 liabilities and distribute its assets.

6 G. Nothing in this section shall be deemed to authorize the  
7 merger of a charitable entity into another entity, if the charitable  
8 status of such entity would thereby be lost or impaired.

9 SECTION 52. AMENDATORY 18 O.S. 2011, Section 2054.1, is  
10 amended to read as follows:

11 Section 2054.1

12 CONVERSION OF ~~A BUSINESS~~ AN ENTITY TO A LIMITED LIABILITY COMPANY

13 A. As used in this section, the term "~~business~~ entity" means a  
14 domestic or foreign corporation, ~~partnership, whether general or~~  
15 ~~limited, business trust, common law trust, or other unincorporated~~  
16 ~~association~~ a domestic or foreign partnership whether general or  
17 limited, and including a limited liability partnership and a limited  
18 liability limited partnership, and any unincorporated nonprofit or  
19 for-profit association, trust or enterprise having members or having  
20 outstanding shares of stock or other evidences of financial,  
21 beneficial or membership interest therein, whether formed by  
22 agreement or under statutory authority or otherwise.

23 B. Any ~~business~~ entity may convert to a domestic limited  
24 liability company by complying with subsection H of this section and



1 filing with the Secretary of State in accordance with Section 2007  
2 of this title articles of conversion to a limited liability company  
3 that have been executed in accordance with Section 2006 of this  
4 title, to which shall be attached articles of organization that  
5 comply with Sections 2005 and 2008 of this title and have been  
6 executed by one or more authorized persons in accordance with  
7 Section 2006 of this title.

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

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

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

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

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

23 D. Upon the effective date or time of the articles of  
24 conversion to limited liability company and the articles of

1 organization, the ~~business~~ entity shall be converted to a domestic  
2 limited liability company and the limited liability company shall  
3 thereafter be subject to all of the provisions of ~~this act~~ the  
4 Oklahoma Limited Liability Company Act, except that notwithstanding  
5 Section 2004 of this title, the existence of the limited liability  
6 company shall be deemed to have commenced on the date the ~~business~~  
7 entity was formed.

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

13 F. When a ~~business~~ an entity has converted to a domestic  
14 limited liability company under this section, the domestic limited  
15 liability company shall be deemed to be the same entity as the  
16 converting ~~business~~ entity. All of the rights, privileges and  
17 powers of the ~~business~~ entity that has converted, and all property,  
18 real, personal and mixed, and all debts due to the ~~business~~ entity,  
19 as well as all other things and causes of action belonging to the  
20 ~~business~~ entity, shall remain vested in the domestic limited  
21 liability company and shall be the property of the domestic limited  
22 liability company, and the title to any real property vested by deed  
23 or otherwise in the ~~business~~ entity shall not revert or be in any  
24 way impaired by reason of the conversion, but all rights of

1 creditors and all liens upon any property of the ~~business~~ entity  
2 shall be preserved unimpaired, and all debts, liabilities and duties  
3 of the ~~business~~ entity that has converted shall remain attached to  
4 the domestic limited liability company and may be enforced against  
5 it to the same extent as if the debts, liabilities and duties had  
6 been incurred or contracted by it in its capacity as a domestic  
7 limited liability company. The rights, privileges, powers and  
8 interests in property of the ~~business~~ entity, as well as the debts,  
9 liabilities and duties of the ~~business~~ entity, shall not be deemed,  
10 as a consequence of the conversion, to have been transferred to the  
11 domestic limited liability company to which the ~~business~~ entity has  
12 converted for any purpose of the laws of this state.

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

21 H. Before filing the articles of conversion to a limited  
22 liability company with the Office of the Secretary of State, the  
23 conversion shall be approved in the manner provided for by the  
24 document, instrument, agreement or other writing, as the case may

1 be, governing the internal affairs of the ~~business~~ entity and the  
2 conduct of its business or by applicable law, as appropriate, and  
3 articles of organization shall be approved by the same authorization  
4 required to approve the conversion.

5 I. In a conversion of a ~~business~~ an entity to a domestic  
6 limited liability company under this section, rights or securities  
7 of or memberships or membership, economic or ownership interests in  
8 the ~~business~~ entity that is to be converted to a domestic limited  
9 liability company may be exchanged for or converted into cash,  
10 property, or rights or securities of or interests in the domestic  
11 limited liability company or, in addition to or in lieu thereof, may  
12 be exchanged for or converted into cash, property, or rights or  
13 securities of or memberships or membership, economic or ownership  
14 interests in another domestic limited liability company or other  
15 ~~business~~ entity.

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

22 K. Nothing in this section shall be deemed to authorize the  
23 conversion of a charitable entity into a domestic limited liability  
24

1 company, if the charitable status of such entity would thereby be  
2 lost or impaired.

3 SECTION 53. AMENDATORY 18 O.S. 2011, Section 2054.2, is  
4 amended to read as follows:

5 Section 2054.2

6 CONVERSION OF A LIMITED LIABILITY COMPANY TO ~~A BUSINESS~~ AN ENTITY

7 A. A domestic limited liability company may convert to a  
8 ~~business~~ an entity upon the authorization of such conversion in  
9 accordance with this section. As used in this section, the term  
10 "~~business~~ entity" means a domestic or foreign corporation,  
11 ~~partnership, whether general or limited, business trust, common law~~  
12 ~~trust, or other unincorporated association~~ a domestic or foreign  
13 partnership whether general or limited, and including a limited  
14 liability partnership and a limited liability limited partnership,  
15 and any unincorporated nonprofit or for-profit association, trust or  
16 enterprise having members or having outstanding shares of stock or  
17 other evidences of financial, beneficial or membership interest  
18 therein, whether formed by agreement or under statutory authority or  
19 otherwise.

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

24

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

8 D. If the operating agreement does not specify the manner of  
9 authorizing a conversion of the limited liability company or a  
10 merger or consolidation that involves the limited liability company  
11 as a constituent party and does not prohibit a conversion of the  
12 limited liability company, the conversion shall be authorized by the  
13 approval of a majority of the membership interest or, if there is  
14 more than one class or group of members, then by a majority of the  
15 membership interest in each class or group of members.

16 Notwithstanding the foregoing, in addition to any other  
17 authorization required by this section, if the ~~business~~ entity into  
18 which the limited liability company is to convert does not afford  
19 all of its interest holders protection against personal liability  
20 for the debts of the ~~business~~ entity, the conversion must be  
21 authorized by any and all members who would be exposed to personal  
22 liability.

23 E. Unless otherwise agreed, the conversion of a domestic  
24 limited liability company to another ~~business~~ entity pursuant to

1 this section shall not require the limited liability company to wind  
2 up its affairs or pay its liabilities and distribute its assets, and  
3 the conversion shall not constitute a dissolution of the limited  
4 liability company.

5 F. In a conversion of a domestic limited liability company to a  
6 ~~business~~ an entity under this section, rights or securities of or  
7 interests in the domestic limited liability company which are to be  
8 converted may be exchanged for or converted into cash, property,  
9 rights or securities of or memberships or membership, economic or  
10 ownership interests in the ~~business~~ entity to which the domestic  
11 limited liability company is being converted or, in addition to or  
12 in lieu thereof, may be exchanged for or converted into cash,  
13 property, rights or securities of or memberships or membership,  
14 economic or ownership interests in another ~~business~~ entity or may be  
15 canceled.

16 G. If the governing act of the domestic ~~business~~ entity to  
17 which the limited liability company is converting does not provide  
18 for the filing of a conversion notice with the Secretary of State or  
19 the limited liability company is converting to a foreign ~~business~~  
20 entity, articles of conversion executed in accordance with Section  
21 2006 of this title, shall be filed in the Office of the Secretary of  
22 State in accordance with Section 2007 of this title. The articles  
23 of conversion shall state:

24

- 1        1. The name of the limited liability company and, if it has  
2 been changed, the name under which its articles of organization were  
3 originally filed;
- 4        2. The date of filing of its original articles of organization  
5 with the Secretary of State;
- 6        3. The name ~~the business~~ and type of entity to which the  
7 limited liability company is converting and its jurisdiction of  
8 formation, if a foreign ~~business~~ entity;
- 9        4. The future effective date or time of the conversion, which  
10 shall be a date or time certain not later than ninety (90) days  
11 after the filing, if it is not to be effective upon the filing of  
12 the articles of conversion;
- 13        5. That the conversion has been approved in accordance with  
14 this section;
- 15        6. The agreement of the foreign ~~business~~ entity that it may be  
16 served with process in this state in any action, suit or proceeding  
17 for enforcement of any obligation of the foreign ~~business~~ entity  
18 arising while it was a domestic limited liability company, and that  
19 it irrevocably appoints the Secretary of State as its agent to  
20 accept service of process in any such action, suit or proceeding,  
21 and its street address to which a copy of the process shall be  
22 mailed to it by the Secretary of State; and
- 23        7. If the domestic ~~business~~ entity to which the domestic  
24 limited liability company is converting was required to make a



1 filing with the Secretary of State as a condition of its formation,  
2 the type and date of such filing.

3 H. Upon the filing of a conversion notice with the Secretary of  
4 State, whether under subsection G of this section or under the  
5 governing act of the domestic ~~business~~ entity to which the limited  
6 liability company is converting, the filing of any formation  
7 document required by the governing act of the domestic ~~business~~  
8 entity to which the limited liability company is converting, and  
9 payment to the Secretary of State of all prescribed fees, the  
10 Secretary of State shall certify that the limited liability company  
11 has filed all documents and paid all required fees, and thereupon  
12 the limited liability company shall cease to exist as a limited  
13 liability company of this state. The Secretary of State's  
14 certificate shall be prima facie evidence of the conversion by the  
15 limited liability company.

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

1 J. When a limited liability company has converted to a ~~business~~  
2 an entity under this section, the ~~business~~ entity shall be deemed to  
3 be the same entity as the limited liability company. All of the  
4 rights, privileges and powers of the limited liability company that  
5 has converted, and all property, real, personal and mixed, and all  
6 debts due to the limited liability company, as well as all other  
7 things and causes of action belonging to the limited liability  
8 company, shall remain vested in the ~~business~~ entity to which the  
9 limited liability company has converted and shall be the property of  
10 the ~~business~~ entity, and the title to any real property vested by  
11 deed or otherwise in the limited liability company shall not revert  
12 or be in any way impaired by reason of the conversion; but all  
13 rights of creditors and all liens upon any property of the limited  
14 liability company shall be preserved unimpaired, and all debts,  
15 liabilities and duties of the limited liability company that has  
16 converted shall remain attached to the ~~business~~ entity to which the  
17 limited liability company has converted, and may be enforced against  
18 it to the same extent as if said debts, liabilities and duties had  
19 originally been incurred or contracted by it in its capacity as the  
20 ~~business~~ entity. The rights, privileges, powers and interests in  
21 property of the limited liability company that has converted, as  
22 well as the debts, liabilities and duties of the limited liability  
23 company, shall not be deemed, as a consequence of the conversion, to  
24 have been transferred to the ~~business~~ entity to which the limited

1 liability company has converted for any purpose of the laws of this  
2 state.

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

7 SECTION 54. AMENDATORY 18 O.S. 2011, Section 2054.4, is  
8 amended to read as follows:

9 Section 2054.4

10 SERIES OF MEMBERS, MANAGERS, OR MEMBERSHIP INTERESTS HAVING SEPARATE  
11 RIGHTS - PERSONAL OBLIGATION OF MEMBER OR MANAGER

12 A. An operating agreement may establish or provide for the  
13 establishment of one or more designated series of members, managers  
14 ~~or~~, membership interests ~~having~~ or assets. Any such series may have  
15 separate rights, powers or duties with respect to specified property  
16 or obligations of the limited liability company or profits and  
17 losses associated with specified property or obligations, and any  
18 such series may have a separate business purpose or investment  
19 objective.

20 B. Notwithstanding anything to the contrary set forth in ~~this~~  
21 ~~act~~ the Oklahoma Limited Liability Company Act or under other  
22 applicable law, if an operating agreement establishes or provides  
23 for the establishment of one or more series, and if ~~separate and~~  
24 ~~distinct~~ the records are maintained for any such series and account

1 ~~for~~ the assets associated with ~~any~~ such series ~~are held, directly or~~  
2 ~~indirectly, including through a nominee or otherwise, and accounted~~  
3 ~~for~~ separately from the other assets of the limited liability  
4 company, or any other series thereof, and if the operating agreement  
5 so provides, and if notice of the limitation on liabilities of a  
6 series as referenced in this subsection is set forth in the articles  
7 of organization of the limited liability company, then the debts,  
8 liabilities, obligations and expenses incurred, contracted for or  
9 otherwise existing with respect to a particular series shall be  
10 enforceable against the assets of such series only, and not against  
11 the assets of the limited liability company generally or any other  
12 series thereof, and, unless otherwise provided in the operating  
13 agreement, none of the debts, liabilities, obligations and expenses  
14 incurred, contracted for or otherwise existing with respect to the  
15 limited liability company generally or any other series thereof  
16 shall be enforceable against the assets of the series. Assets  
17 associated with a series may be held directly or indirectly,  
18 including in the name of such series, in the name of the limited  
19 liability company, through a nominee or otherwise. Records  
20 maintained for a series that reasonably identify its assets,  
21 including by specific listing, category, type, quantity,  
22 computational or allocational formula or procedure, including a  
23 percentage or share of any asset or assets, or by any other method  
24 where the identity of such assets is objectively determinable, will

1 be deemed to account for the assets associated with such series  
2 separately from the other assets of the limited liability company,  
3 or any other series thereof. Notice in articles of organization of  
4 the limitation on liabilities of a series as referenced in this  
5 subsection shall be sufficient for all purposes regardless of  
6 whether the limited liability company has established any series  
7 when the notice is included in the articles of organization, and  
8 there shall be no requirement that any specific series of the  
9 limited liability company be referenced in the notice. The fact  
10 that articles of organization containing the foregoing notice of the  
11 limitation on liabilities of a series are on file in the office of  
12 the Secretary of State shall constitute notice of the limitation on  
13 liabilities of a series.

14 C. A series established in accordance with subsection B of this  
15 section may carry on any lawful business, purpose or activity,  
16 whether or not for profit, with the exception of the business of a  
17 domestic insurer. Unless otherwise provided in the operating  
18 agreement, a series established in accordance with subsection B of  
19 this section shall have the power and capacity to, in its own name,  
20 contract, hold title to assets, including real, personal and  
21 intangible property, grant liens and security interests, and sue and  
22 be sued.

23 D. Notwithstanding Section 2022 of this title, under an  
24 operating agreement or under another agreement, a member or manager

1 may agree to be obligated personally for any or all of the debts,  
2 obligations and liabilities of one or more series.

3 ~~D.~~ E. An operating agreement may provide for classes or groups  
4 of members or managers associated with a series having such relative  
5 rights, powers and duties as the operating agreement may provide,  
6 and may make provision for the future creation in the manner  
7 provided in the operating agreement of additional classes or groups  
8 of members or managers associated with the series having such  
9 relative rights, powers and duties as may from time to time be  
10 established, including rights, powers and duties senior to existing  
11 classes and groups of members or managers associated with the  
12 series. An operating agreement may provide for the taking of an  
13 action, including the amendment of the operating agreement, without  
14 the vote or approval of any member or manager or class or group of  
15 members or managers, including an action to create under the  
16 provisions of the operating agreement a class or group of the series  
17 of membership interests that was not previously outstanding. An  
18 operating agreement may provide that any member or class or group of  
19 members associated with a series shall have no voting rights.

20 ~~E.~~ F. An operating agreement may grant to all or certain  
21 identified members or managers or a specified class or group of the  
22 members or managers associated with a series the right to vote  
23 separately or with all or any class or group of the members or  
24 managers associated with the series, on any matter. Voting by

1 members or managers associated with a series may be on a per capita,  
2 number, financial interest, class, group or any other basis.

3 ~~F.~~ G. Unless otherwise provided in an operating agreement, the  
4 management of a series shall be vested in the members associated  
5 with the series in proportion to their membership interest, with the  
6 decision of members owning a majority of the membership interest  
7 controlling; provided, however, that if an operating agreement  
8 provides for the management of the series, in whole or in part, by a  
9 manager, the management of the series, to the extent so provided,  
10 shall be vested in the manager who shall be chosen in the manner  
11 provided in the operating agreement. The manager of the series  
12 shall also hold the offices and have the responsibilities accorded  
13 to the manager as set forth in an operating agreement. A series may  
14 have more than one manager. Subject to paragraph 3 of Section 2014  
15 of this title, a manager shall cease to be a manager with respect to  
16 a series as provided in an operating agreement. Except as otherwise  
17 provided in an operating agreement, any event under this chapter or  
18 in an operating agreement that causes a manager to cease to be a  
19 manager with respect to a series shall not, in itself, cause the  
20 manager to cease to be a manager of the limited liability company or  
21 with respect to any other series thereof.

22 ~~G.~~ H. Subject to subsections ~~H.~~ I. and ~~K.~~ L. of this section, and  
23 unless otherwise provided in an operating agreement, at the time a  
24 member associated with a series that has been established in

1 accordance with subsection B of this section becomes entitled to  
2 receive a distribution with respect to the series, the member has  
3 the status of, and is entitled to all remedies available to, a  
4 creditor of the series, with respect to the distribution. An  
5 operating agreement may provide for the establishment of a record  
6 date with respect to allocations and distributions with respect to a  
7 series.

8 ~~H.~~ I. Notwithstanding Section 2040 of this title, a limited  
9 liability company may make a distribution with respect to a series  
10 that has been established in accordance with subsection B of this  
11 section. A limited liability company shall not make a distribution  
12 with respect to a series that has been established in accordance  
13 with subsection B of this section to a member to the extent that at  
14 the time of the distribution, after giving effect to the  
15 distribution, all liabilities of the series, other than liabilities  
16 to members on account of their membership interests with respect to  
17 the series and liabilities for which the recourse of creditors is  
18 limited to specified property of the series, exceed the fair value  
19 of the assets associated with the series, except that the fair value  
20 of property of the series that is subject to a liability for which  
21 the recourse of creditors is limited shall be included in the assets  
22 associated with the series only to the extent that the fair value of  
23 that property exceeds that liability. For purposes of the  
24 immediately preceding sentence, the term "distribution" shall not



1 include amounts constituting reasonable compensation for present or  
2 past services or reasonable payments made in the ordinary course of  
3 business pursuant to a bona fide retirement plan or other benefits  
4 program. A member who receives a distribution in violation of this  
5 subsection, and who knew or should have known at the time of the  
6 distribution that the distribution violated this subsection, shall  
7 be liable to a series for the amount of the distribution. A member  
8 who receives a distribution in violation of this subsection, and who  
9 did not know and had no reason to know at the time of the  
10 distribution that the distribution violated this subsection, shall  
11 not be liable for the amount of the distribution. Subject to  
12 subsection C of Section 2040 of this title, which shall apply to any  
13 distribution made with respect to a series under this subsection,  
14 this subsection shall not affect any obligation or liability of a  
15 member under an agreement or other applicable law for the amount of  
16 a distribution.

17 ~~F.~~ J. Unless otherwise provided in the operating agreement, a  
18 member shall cease to be associated with a series and to have the  
19 power to exercise any rights or powers of a member with respect to  
20 the series upon the assignment of all of the member's ~~membership~~  
21 capital interest with respect to the series. Except as otherwise  
22 provided in an operating agreement, any event under this chapter or  
23 an operating agreement that causes a member to cease to be  
24 associated with a series shall not, in itself, cause the member to

1 cease to be associated with any other series or terminate the  
2 continued membership of a member in the limited liability company or  
3 cause the termination of the series, regardless of whether the  
4 member was the last remaining member associated with the series.

5 ~~J.~~ K. Subject to Section 2037 of this title, except to the  
6 extent otherwise provided in the operating agreement, a series may  
7 be terminated and its affairs wound up without causing the  
8 dissolution of the limited liability company. The termination of a  
9 series established in accordance with subsection B of this section  
10 shall not affect the limitation on liabilities of the series  
11 provided by subsection B of this section. A series is terminated  
12 and its affairs shall be wound up upon the dissolution of the  
13 limited liability company under Section 2037 of this title or  
14 otherwise upon the first to occur of the following:

15 1. At the time specified in the operating agreement;

16 2. Upon the happening of events specified in the operating  
17 agreement;

18 3. Unless otherwise provided in the operating agreement, upon  
19 the affirmative vote or written consent of the members of the  
20 limited liability company associated with the series or, if there is  
21 more than one class or group of members associated with the series,  
22 then by each class or group of members associated with the series,  
23 in either case, by members associated with the series who own more  
24

1 than two-thirds 2/3 of the then-current membership interest owned by  
2 all of the members associated with the series or by the members in  
3 each class or group of the series, as appropriate; or

4 4. The termination of the series under subsection ~~L~~ M of this  
5 section.

6 ~~K~~ L. Unless otherwise provided in the operating agreement, a  
7 manager associated with a series who has not wrongfully terminated  
8 the series or, if none, the members associated with the series or a  
9 person approved by the members associated with the series or, if  
10 there is more than one class or group of members associated with the  
11 series, then by each class or group of members associated with the  
12 series, in either case, by a majority of the membership interest  
13 owned by all of the members associated with the series or by the  
14 members in each class or group associated with the series, as  
15 appropriate, may wind up the affairs of the series; but, if the  
16 series has been established in accordance with subsection B of this  
17 section, the district court, upon cause shown, may wind up the  
18 affairs of the series upon application of any member or manager  
19 associated with the series, or the member's personal representative  
20 or assignee, and in connection therewith, may appoint a liquidating  
21 trustee. The persons winding up the affairs of a series may, in the  
22 name of the limited liability company and for and on behalf of the  
23 limited liability company and the series, take all actions with  
24 respect to the series as are permitted under subsection A of Section

1 2039 of this title. The persons winding up the affairs of a series  
2 shall provide for the claims and obligations of the series and  
3 distribute the assets of the series as provided in Section 2040 of  
4 this title, which section shall apply to the winding up and  
5 distribution of assets of a series. Actions taken in accordance  
6 with this subsection shall not affect the liability of members and  
7 shall not impose liability on a liquidating trustee.

8 ~~L.~~ M. On application by or for a member or manager associated  
9 with a series established in accordance with subsection B of this  
10 section, the district court may decree termination of the series  
11 whenever it is not reasonably practicable to carry on the business  
12 of the series in conformity with an operating agreement.

13 ~~M.~~ N. If a foreign limited liability company that is  
14 registering to do business in this state in accordance with Section  
15 2043 of this title is governed by an operating agreement that  
16 establishes or provides for the establishment of designated series  
17 of members, managers, ~~or~~ membership interests or assets having  
18 separate rights, powers or duties with respect to specified property  
19 or obligations of the foreign limited liability company or profits  
20 and losses associated with specified property or obligations, that  
21 fact shall be so stated on the application for registration as a  
22 foreign limited liability company. In addition, the foreign limited  
23 liability company shall state on the application whether the debts,  
24 liabilities and obligations incurred, contracted for or otherwise

1 existing with respect to a particular series, if any, shall be  
2 enforceable against the assets of the series only, and not against  
3 the assets of the foreign limited liability company generally or any  
4 other series thereof, and, ~~unless otherwise provided in the~~  
5 ~~operating agreement, none~~ whether any of the debts, liabilities,  
6 obligations and expenses incurred, contracted for or otherwise  
7 existing with respect to the foreign limited liability company  
8 generally or any other series thereof shall be enforceable against  
9 the assets of the series.

10 SECTION 55. AMENDATORY 18 O.S. 2011, Section 2055.2, as  
11 amended by Section 1, Chapter 245, O.S.L. 2012 (18 O.S. Supp. 2016,  
12 Section 2055.2), is amended to read as follows:

13 Section 2055.2

14 ANNUAL CERTIFICATE FOR DOMESTIC LIMITED LIABILITY

15 COMPANY AND FOREIGN LIMITED LIABILITY COMPANY

16 A. Every domestic limited liability company and every foreign  
17 limited liability company registered to do business in this state  
18 shall file a certificate each year in the Office of the Secretary of  
19 State, which confirms it is an active business and includes its  
20 principal place of business address, and shall pay an annual  
21 certificate fee of Twenty-five Dollars (\$25.00).

22 B. The annual certificate shall be due on the anniversary date  
23 of filing the articles of organization or registration, as the case  
24

1 may be, until cancellation of the articles of organization or  
2 withdrawal of the registration.

3 C. The Secretary of State shall, at least sixty (60) days  
4 before the anniversary date of each year, cause a notice of the  
5 annual certificate to be sent to each domestic limited liability  
6 company and each foreign limited liability company required to  
7 comply with the provisions of this section to its last known  
8 electronic mail address of record with the Secretary of State.

9 D. A domestic limited liability company or foreign limited  
10 liability company that fails to file the annual certificate and pay  
11 the annual certificate fee within sixty (60) days after the date due  
12 shall cease to be in good standing as a domestic limited liability  
13 company or registered as a foreign limited liability company in this  
14 state.

15 E. Except for accepting a resignation of a registered agent  
16 when a successor registered agent is not being appointed or an  
17 application for reinstatement, the Secretary of State shall not  
18 accept for filing any certificate or articles, or issue any  
19 certificate of good standing, in respect to any domestic limited  
20 liability company that has ceased to be in good standing or foreign  
21 limited liability company that has ceased to be registered, unless  
22 or until the domestic limited liability company has been reinstated  
23 as a domestic limited liability company in good standing or the

24

1 foreign limited liability company has been reinstated as a foreign  
2 limited liability company duly registered in this state.

3 F. A domestic limited liability company that has ceased to be  
4 in good standing or a foreign limited liability company that has  
5 ceased to be registered in this state may not maintain any action,  
6 suit or proceeding in any court of this state until the domestic  
7 limited liability company has been reinstated as a domestic limited  
8 liability company in good standing or the foreign limited liability  
9 company has been reinstated as a foreign limited liability company  
10 duly registered in this state. An action, suit or proceeding may  
11 not be maintained in any court of this state by any successor or  
12 assignee of the domestic limited liability company or foreign  
13 limited liability company on any right, claim or demand arising out  
14 of the transaction of business by the domestic limited liability  
15 company after it has ceased to be in good standing or a foreign  
16 limited liability company that has ceased to be registered in this  
17 state until the domestic limited liability company or foreign  
18 limited liability company, or any person that has acquired all or  
19 substantially all of its assets, has caused the limited liability  
20 company to be reinstated as a domestic limited liability company in  
21 good standing or as a foreign limited liability company duly  
22 registered in this state, as applicable.

23 ~~G. A domestic limited liability company not in good standing~~  
24 ~~for failure to file an annual certificate and pay the annual~~

~~certificate fees or registered agent fees, including a domestic limited liability company whose articles of organization have been canceled under subsection B of Section 2012.1 of this title, or a foreign limited liability company whose registration was withdrawn for failure to file an annual certificate and pay the annual certificate fees or registered agent fees may apply to the Secretary of State for reinstatement by:~~

~~1. Filing all delinquent annual certificates with the Secretary of State and paying all delinquent annual certificate fees or paying all delinquent registered agent fees to the Secretary of State; and~~

~~2. Filing an application for reinstatement with the Secretary of State stating its name at the time it ceased to be in good standing or was withdrawn, the date it ceased to be in good standing or was withdrawn, and its current name, if its name at the time it ceased to be in good standing or was withdrawn is no longer available under Section 2008 or 2045 of this title.~~

~~If the Secretary of State determines that the application contains the required information, the information is correct, all delinquent certificates or other filings are submitted, all delinquent fees are paid, and the name satisfies the requirements of Section 2008 or 2045 of this title, the Secretary of State shall accept the application for reinstatement and issue a certificate of reinstatement in the manner provided in Section 2007 of this title for domestic limited liability companies or Section 2044 of this~~



1 ~~title for foreign limited liability companies. If the limited~~  
2 ~~liability company is required to change its name because its name at~~  
3 ~~the time it ceased to be in good standing or was withdrawn is no~~  
4 ~~longer available, acceptance of the reinstatement shall constitute~~  
5 ~~an amendment to the domestic limited liability company's articles of~~  
6 ~~organization to change its name or the adoption of a fictitious name~~  
7 ~~by the foreign limited liability company, as applicable. The~~  
8 ~~application for reinstatement may amend the articles of organization~~  
9 ~~of the domestic limited liability company or the application for~~  
10 ~~registration of the foreign limited liability company, subject in~~  
11 ~~either case to the payment of the additional fee required in Section~~  
12 ~~2055 of this title for amendments; provided, that the application~~  
13 ~~may not extend the term of a limited liability company that had~~  
14 ~~expired before the application for reinstatement. For purposes of~~  
15 ~~this section, a foreign limited liability company applying for~~  
16 ~~reinstatement is deemed to have done business continually in the~~  
17 ~~state following the administrative withdrawal.~~

18 ~~H. The failure of a domestic limited liability company or~~  
19 ~~foreign limited liability company to file an annual certificate and~~  
20 ~~pay an annual certificate fee or a registered agent fee to the~~  
21 ~~Secretary of State shall not impair the validity on any contract,~~  
22 ~~deed, mortgage, security interest, lien or act of the domestic~~  
23 ~~limited liability company or foreign limited liability company or~~  
24 ~~prevent the domestic limited liability company or foreign limited~~

1 ~~liability company from defending any action, suit or proceeding with~~  
2 ~~any court of this state.~~

3 ~~I. A member or manager of a domestic limited liability company~~  
4 ~~or foreign limited liability company is not liable for the debts,~~  
5 ~~obligations or liabilities of the domestic limited liability company~~  
6 ~~or foreign limited liability company solely by reason of the failure~~  
7 ~~of the domestic limited liability company or foreign limited~~  
8 ~~liability company to file an annual certificate and pay an annual~~  
9 ~~certificate fee or a registered agent fee to the Secretary of State~~  
10 ~~or by reason of the domestic limited liability company or foreign~~  
11 ~~limited liability company ceasing to be in good standing or duly~~  
12 ~~registered.~~

13 SECTION 56. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 2055.3 of Title 18 unless there  
15 is created a duplication in numbering, reads as follows:

16 REINSTATEMENT OF A LIMITED LIABILITY COMPANY

17 A. A domestic limited liability company not in good standing  
18 for failure to file an annual certificate and pay the annual  
19 certificate fees or registered agent fees, including a domestic  
20 limited liability company whose articles of organization have been  
21 canceled under subsection B of Section 2012.1 of Title 18 of the  
22 Oklahoma Statutes, or a foreign limited liability company whose  
23 registration was withdrawn for failure to file an annual certificate  
24

1 and pay the annual certificate fees or registered agent fees may  
2 apply to the Secretary of State for reinstatement by:

3 1. Filing all delinquent annual certificates with the Secretary  
4 of State and paying all delinquent annual certificate fees or paying  
5 all delinquent registered agent fees to the Secretary of State; and

6 2. Filing an application for reinstatement with the Secretary  
7 of State stating its name at the time it ceased to be in good  
8 standing or was withdrawn, the date it ceased to be in good standing  
9 or was withdrawn, and its current name, if its name at the time it  
10 ceased to be in good standing or was withdrawn is no longer  
11 available under Section 2008 or 2045 of Title 18 of the Oklahoma  
12 Statutes.

13 If the Secretary of State determines that the application  
14 contains the required information, the information is correct, all  
15 delinquent certificates or other filings are submitted, all  
16 delinquent fees are paid, and the name satisfies the requirements of  
17 Section 2008 or 2045 of Title 18 of the Oklahoma Statutes, the  
18 Secretary of State shall accept the application for reinstatement  
19 and issue a certificate of reinstatement in the manner provided in  
20 Section 2007 of Title 18 of the Oklahoma Statutes for domestic  
21 limited liability companies or Section 2044 of Title 18 of the  
22 Oklahoma Statutes for foreign limited liability companies. If the  
23 limited liability company is required to change its name because its  
24 name at the time it ceased to be in good standing or was withdrawn

1 is no longer available, acceptance of the reinstatement shall  
2 constitute an amendment to the domestic limited liability company's  
3 articles of organization to change its name or the adoption of a  
4 fictitious name by the foreign limited liability company, as  
5 applicable. The application for reinstatement may amend the  
6 articles of organization of the domestic limited liability company  
7 or the application for registration of the foreign limited liability  
8 company, subject in either case to the payment of the additional fee  
9 required in Section 2055 of Title 18 of the Oklahoma Statutes for  
10 amendments; provided, that the application may not extend the term  
11 of a limited liability company that had expired before the  
12 application for reinstatement. For purposes of this section, a  
13 foreign limited liability company applying for reinstatement is  
14 deemed to have done business continually in the state following the  
15 administrative withdrawal.

16 B. When reinstatement under this section has become effective,  
17 the reinstatement relates back to and takes effect as if the  
18 domestic limited liability company had never ceased to be in good  
19 standing and as if its articles of organization had never been  
20 canceled, or as if the foreign limited liability company's  
21 registration was never withdrawn.

22 C. The failure of a domestic limited liability company or  
23 foreign limited liability company to file an annual certificate and  
24 pay an annual certificate fee or a registered agent fee to the

1 Secretary of State shall not impair the validity on any contract,  
2 deed, mortgage, security interest, lien or act of the domestic  
3 limited liability company or foreign limited liability company or  
4 prevent the domestic limited liability company or foreign limited  
5 liability company from defending any action, suit or proceeding with  
6 any court of this state.

7 D. All real and personal property, and all rights and  
8 interests, which belonged to the domestic limited liability company  
9 at the time its articles of organization were canceled or which were  
10 acquired by the limited liability company after cancellation, and  
11 which were not disposed of before its reinstatement, shall be vested  
12 in the limited liability company after its reinstatement as fully as  
13 they were held by the limited liability company at, and after, as  
14 the case may be, the time its articles of organization were  
15 canceled.

16 E. A member or manager of a domestic limited liability company  
17 or foreign limited liability company is not liable for the debts,  
18 obligations or liabilities of the domestic limited liability company  
19 or foreign limited liability company solely by reason of the failure  
20 of the domestic limited liability company or foreign limited  
21 liability company to file an annual certificate and pay an annual  
22 certificate fee or a registered agent fee to the Secretary of State  
23 or by reason of the domestic limited liability company ceasing to be  
24

1 in good standing or its articles of organization being canceled or  
2 the foreign limited liability company ceasing to be duly registered.

3 SECTION 57. AMENDATORY 18 O.S. 2011, Section 2060, is  
4 amended to read as follows:

5 Section 2060.

6 CASES NOT PROVIDED FOR IN ACT

7 In any case not provided for in ~~this act~~ the Oklahoma Limited  
8 Liability Company Act, the rules of law and equity, including the  
9 rules of law and equity relating to fiduciary duties and the law  
10 merchant, shall govern.

11 SECTION 58. AMENDATORY 54 O.S. 2011, Section 500-210A,  
12 is amended to read as follows:

13 Section 500-210A.

14 ANNUAL CERTIFICATE FOR SECRETARY OF STATE.

15 (a) A limited partnership or a foreign limited partnership  
16 authorized to transact business in this state shall deliver to the  
17 Secretary of State for filing an annual certificate that states:

18 (1) the name of the limited partnership or foreign limited  
19 partnership;

20 (2) the street ~~and~~, mailing address and electronic mail address  
21 of its designated office and the name and street and mailing address  
22 of its agent for service of process in this state; and

23 (3) in the case of a foreign limited partnership, the state or  
24 other jurisdiction under whose law the foreign limited partnership

1 is formed and any fictitious name adopted under subsection (a) of  
2 Section ~~79~~ 500-905A of this ~~act~~ title.

3 (b) Information in an annual certificate must be current as of  
4 the date the annual certificate is delivered to the Secretary of  
5 State for filing.

6 (c) The annual certificate is due on the anniversary date of  
7 the filing of the certificate of limited partnership or certificate  
8 of authority of a foreign limited partnership until cancellation of  
9 the certificate of limited partnership or certificate of authority.

10 (d) The Secretary of State shall, at least sixty (60) days  
11 before the anniversary date of each year, cause ~~to be mailed~~ a  
12 notice of the annual certificate to be sent to each domestic limited  
13 partnership and each foreign limited partnership required to comply  
14 with the provisions of this section to the last known ~~office~~  
15 electronic mail address of record with the Secretary of State.

16 SECTION 59. This act shall become effective November 1, 2017."  
17  
18  
19  
20  
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23  
24

1 Passed the House of Representatives the 27th day of April, 2017.

2  
3  
4 Presiding Officer of the House of  
5 Representatives

6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2017.

7  
8  
9 Presiding Officer of the Senate



1 ENGROSSED SENATE  
2 BILL NO. 769

By: Leewright of the Senate

3 and

4 Montgomery and Murdock of  
5 the House

6  
7 [ business entities - organization meeting and  
8 enforcement of corporate instruments - requirements  
9 for person acting on behalf of incorporator -  
10 registered office and agent, indemnification,  
11 issuance of stock and stock certificates - defective  
12 acts - shareholders and voting agreements - proxy  
13 solicitation materials - Oklahoma General Corporation  
14 Act - Oklahoma Limited Liability Company Act - cases  
15 not covered by act - annual certificates -  
16 codification - effective date ]

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

18 SECTION 60. AMENDATORY 18 O.S. 2011, Section 1012, is  
19 amended to read as follows:

20 Section 1012.

21 ORGANIZATION MEETING OF INCORPORATORS OR DIRECTORS NAMED IN  
22 CERTIFICATE OF INCORPORATION

23 A. After the filing of the certificate of incorporation, an  
24 organization meeting of the incorporator or incorporators, or of the  
board of directors if the initial directors were named in the  
certificate of incorporation, shall be held either within or without  
this state at the call of a majority of the incorporators or

1 directors, as the case may be, for the purposes of adopting bylaws,  
2 electing directors if the meeting is of the incorporators, to serve  
3 or hold office until the first annual meeting of shareholders or  
4 until their successors are elected and qualify, electing officers if  
5 the meeting is of the directors, doing any other or further acts to  
6 perfect the organization of the corporation, and transacting such  
7 other business as may come before the meeting.

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

15 C. Any action permitted to be taken at the organization meeting  
16 of the incorporators or directors, as the case may be, may be taken  
17 without a meeting if each incorporator or director, where there is  
18 more than one, or the sole incorporator or director where there is  
19 only one, signs an instrument which states the action so taken.

20 D. If any incorporator is not available to act, then any person  
21 for whom or on whose behalf the incorporator was acting directly or  
22 indirectly as employee or agent, may take any action that such  
23 incorporator would have been authorized to take under this section  
24 or Section 1011 of this title; provided that any instrument signed

1 by such other person, or any record of the proceedings of a meeting  
2 in which such person participated, shall state that such  
3 incorporator is not available and the reason therefor, that such  
4 incorporator was acting directly or indirectly as employee or agent  
5 for or on behalf of such person, and that such person's signature on  
6 such instrument or participation in such meeting is otherwise  
7 authorized and not wrongful.

8 SECTION 61. AMENDATORY 18 O.S. 2011, Section 1014.1, is  
9 amended to read as follows:

10 Section 1014.1.

11 INTERPRETATION AND ENFORCEMENT OF ~~THE CERTIFICATE OF~~  
12 ~~INCORPORATION AND BYLAWS~~ CORPORATE INSTRUMENTS AND PROVISIONS OF  
13 THIS TITLE

14 A. Any shareholder, member or director may bring an action to  
15 interpret, apply or enforce ~~the~~ or determine the validity of:

16 1. The provisions of the certificate of incorporation or the  
17 bylaws of a domestic corporation;

18 2. Any instrument, document or agreement (a) by which a  
19 corporation creates or sells, or offers to create or sell, any of  
20 its stock, or any rights or options respecting its stock, or (b) to  
21 which a corporation and one or more holders of its stock are  
22 parties, and pursuant to which any such holder or holders sell or  
23 offer to sell any of such stock, or (c) by which a corporation  
24 agrees to sell, lease or exchange any of its property or assets, and

1 which by its terms provides that one or more holders of its stock  
2 approve of or consent to such sale, lease or exchange;

3 3. Any written restrictions on the transfer, registration of  
4 transfer or ownership of securities under Section 1055 of this  
5 title;

6 4. Any proxy under Section 1057 or Section 1060 of this title;

7 5. Any voting trust or other voting agreement under Section  
8 1063 of this title;

9 6. Any agreement, certificate of merger or consolidation, or  
10 certificate of ownership and merger governed by Sections 1081  
11 through 1087, or Section 1090.2 of this title;

12 7. Any certificate of conversion under Section 1090.4 or  
13 Section 1090.5 of this title; or

14 8. Any other instrument, document, agreement or certificate  
15 required by any provision of this title;

16 may be brought in the district court, except to the extent that a  
17 statute confers exclusive jurisdiction on a court, agency or  
18 tribunal other than the district court.

19 B. Any civil action to interpret, apply or enforce any  
20 provision of this title may be brought in the district court.

21 SECTION 62. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 1014.2 of Title 18 unless there  
23 is created a duplication in numbering, reads as follows:

24 FORUM SELECTION PROVISIONS

1 The certificate of incorporation or the bylaws may require,  
2 consistent with applicable jurisdictional requirements, that any or  
3 all internal corporate claims shall be brought solely and  
4 exclusively in any or all of the courts in this state, and no  
5 provision of the certificate of incorporation or the bylaws may  
6 prohibit bringing such claims in the courts of this state.

7 "Internal corporate claims" means claims, including claims in the  
8 right of the corporation, (a) that are based upon a violation of a  
9 duty by a current or former director or officer or shareholder in  
10 such capacity, or (b) as to which this title confers jurisdiction  
11 upon the district court.

12 SECTION 63. AMENDATORY 18 O.S. 2011, Section 1021, is  
13 amended to read as follows:

14 Section 1021.

15 REGISTERED OFFICE IN STATE; PRINCIPAL OFFICE

16 OR PLACE OF BUSINESS IN STATE

17 A. Every corporation shall have and maintain in this state a  
18 registered office which may, but need not be, the same as its place  
19 of business.

20 B. Whenever the term "corporation's principal office or place  
21 of business in this state" or "principal office or place of business  
22 of the corporation in this state", or other term of like import, is  
23 or has been used in a corporation's certificate of incorporation, or  
24 in any other document, or in any statute, it shall be deemed to mean

1 and refer to, unless the context indicates otherwise, the  
2 corporation's registered office required by this section. It shall  
3 not be necessary for any corporation to amend its certificate of  
4 incorporation or any other document to comply with the provisions of  
5 this section.

6 C. As contained in any certificate of incorporation or other  
7 document filed with the Secretary of State under this title, the  
8 address of a registered office shall include the street, number,  
9 city, state and postal code.

10 SECTION 64. AMENDATORY 18 O.S. 2011, Section 1022, is  
11 amended to read as follows:

12 Section 1022.

13 REGISTERED AGENT IN STATE; RESIDENT AGENT

14 A. Every domestic corporation shall have and maintain in this  
15 state a registered agent, which agent may be ~~either~~ any of the  
16 following:

17 1. The domestic corporation itself;

18 2. An individual resident of this state; ~~or~~

19 3. A domestic ~~or qualified foreign~~ corporation, limited

20 ~~liability company, limited liability partnership, or limited~~

21 ~~partnership. Each registered agent shall maintain a business office~~

22 ~~identical with the registered office which is open during regular~~

23 ~~business hours to accept service of process and otherwise perform~~

24 ~~the functions of a registered agent~~ a domestic partnership whether

1 general or limited and including a limited liability partnership or  
2 a limited liability limited partnership or a domestic limited  
3 liability company; or

4 4. A foreign corporation, a foreign partnership whether general  
5 or limited and including a limited liability partnership or a  
6 limited liability limited partnership or a foreign limited liability  
7 company, if authorized to transact business in this state.

8 B. Every foreign corporation transacting business in this state  
9 shall have and maintain the Secretary of State as its registered  
10 agent in this state. In addition, such foreign corporation may have  
11 and maintain in this state a an additional registered agent, which  
12 ~~agent may be either:~~

13 ~~1. An individual resident of this state; or~~

14 ~~2. A domestic or qualified foreign corporation, limited~~  
15 ~~liability company, limited liability partnership, or limited~~  
16 ~~partnership. Each registered agent shall maintain a business office~~  
17 ~~identical with the registered office which is open during regular~~  
18 ~~business hours to accept service of process and otherwise perform~~  
19 ~~the functions of a registered agent~~ may be an individual or entity  
20 set forth in subsection A of this section; provided, that the  
21 foreign corporation may not be its own registered agent. If such  
22 additional registered agent is designated, service of process shall  
23 be on such agent and not on the Secretary of State.

24

1        C. Each registered agent for a domestic corporation or foreign  
2 corporation shall:

3        1. If an entity, maintain a business office identical with the  
4 registered office which is open during regular business hours, or if  
5 an individual, be generally present at the registered office to  
6 accept service of process and otherwise perform the functions of a  
7 registered agent;

8        2. If a foreign entity, be authorized to transact business in  
9 this state; and

10       3. Accept service of process and other communications directed  
11 to the corporations for which it serves as registered agent and  
12 forward same to the corporation to which the service or  
13 communication is directed.

14       D. Every corporation formed under the laws of this state or  
15 qualified to do business in this state shall provide to its  
16 registered agent, and update from time to time as necessary, the  
17 name, business address and business telephone number of a natural  
18 person who is an officer, director, employee or designated agent of  
19 the corporation, who is then authorized to receive communications  
20 from the registered agent. Such person shall be deemed the  
21 communications contact for the corporation. Every registered agent  
22 shall retain, in paper or electronic form, the information required  
23 by this subsection concerning the current communications contact for  
24 each corporation for which he, she or it serves as a registered



1 agent. If the corporation fails to provide the registered agent  
2 with a current communications contact, the registered agent may  
3 resign as the registered agent for such corporation pursuant to  
4 Section 1026 of this title.

5 ~~C.~~ E. Whenever the term "resident agent" or "resident agent in  
6 charge of a corporation's principal office or place of business in  
7 this state", or other term of like import which refers to a  
8 corporation's agent required by statute to be located in this state,  
9 is or has been used in a corporation's certificate of incorporation,  
10 or in any other document, or in any statute, it shall be deemed to  
11 mean and refer to, unless the context indicates otherwise, the  
12 corporation's registered agent required by this section. It shall  
13 not be necessary for any corporation to amend its certificate of  
14 incorporation or any other document to comply with the provisions of  
15 this section.

16 SECTION 65. AMENDATORY 18 O.S. 2011, Section 1031, is  
17 amended to read as follows:

18 Section 1031.

19 INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS;  
20 INSURANCE

21 A. A corporation shall have power to indemnify any person who  
22 was or is a party or is threatened to be made a party to any  
23 threatened, pending, or completed action, suit, or proceeding,  
24 whether civil, criminal, administrative, or investigative, other

1 than an action by or in the right of the corporation, by reason of  
2 the fact that the person is or was a director, officer, employee, or  
3 agent of the corporation, or is or was serving at the request of the  
4 corporation as a director, officer, employee, or agent of another  
5 corporation, partnership, joint venture, trust, or other enterprise,  
6 against expenses, including ~~attorneys'~~ attorney fees, judgments,  
7 fines, and amounts paid in settlement actually and reasonably  
8 incurred by the person in connection with the action, suit, or  
9 proceeding if the person acted in good faith and in a manner the  
10 person reasonably believed to be in or not opposed to the best  
11 interests of the corporation, and, with respect to any criminal  
12 action or proceeding, had no reasonable cause to believe the conduct  
13 was unlawful. The termination of any action, suit, or proceeding by  
14 judgment, order, settlement, conviction, or upon a plea of nolo  
15 contendere or its equivalent, shall not, of itself, create a  
16 presumption that the person did not act in good faith and in a  
17 manner which the person reasonably believed to be in or not opposed  
18 to the best interests of the corporation, and, with respect to any  
19 criminal action or proceeding, had reasonable cause to believe that  
20 the conduct was unlawful.

21 B. A corporation shall have the power to indemnify any person  
22 who was or is a party or is threatened to be made a party to any  
23 threatened, pending, or completed action or suit by or in the right  
24 of the corporation to procure a judgment in its favor by reason of

1 the fact that the person is or was a director, officer, employee, or  
2 agent of the corporation, or is or was serving at the request of the  
3 corporation as a director, officer, employee, or agent of another  
4 corporation, partnership, joint venture, trust, or other enterprise  
5 against expenses, including ~~attorneys'~~ attorney fees, actually and  
6 reasonably incurred by the person in connection with the defense or  
7 settlement of an action or suit if the person acted in good faith  
8 and in a manner the person reasonably believed to be in or not  
9 opposed to the best interests of the corporation and except that no  
10 indemnification shall be made in respect of any claim, issue, or  
11 matter as to which the person shall have been adjudged to be liable  
12 to the corporation unless and only to the extent that the court in  
13 which the action or suit was brought shall determine upon  
14 application that, despite the adjudication of liability but in view  
15 of all the circumstances of the case, the person is fairly and  
16 reasonably entitled to indemnity for expenses which the court shall  
17 deem proper.

18 C. To the extent that a present or former director or officer  
19 of a corporation has been successful on the merits or otherwise in  
20 defense of any action, suit, or proceeding referred to in subsection  
21 A or B of this section, or in defense of any claim, issue, or matter  
22 therein, the person shall be indemnified against expenses, including  
23 ~~attorneys'~~ attorney fees, actually and reasonably incurred by the  
24 person in connection therewith.

1 D. Any indemnification under the provisions of subsection A or  
2 B of this section, unless ordered by a court, shall be made by the  
3 corporation only as authorized in the specific case upon a  
4 determination that indemnification of the present or former director  
5 or officer is proper in the circumstances because the person has met  
6 the applicable standard of conduct set forth in subsection A or B of  
7 this section. This determination shall be made, with respect to a  
8 person who is a director or officer of the corporation at the time  
9 of the determination:

10 1. By a majority vote of the directors who are not parties to  
11 the action, suit, or proceeding, even though less than a quorum;

12 2. By a committee of directors designated by a majority vote of  
13 directors, even though less than a quorum;

14 3. If there are no such directors, or if such directors so  
15 direct, by independent legal counsel in a written opinion; or

16 4. By the shareholders.

17 E. Expenses including attorney fees incurred by an officer or  
18 director in defending a civil ~~or~~, criminal, administrative or  
19 investigative action, suit, or proceeding may be paid by the  
20 corporation in advance of the final disposition of the action, suit,  
21 or proceeding upon receipt of an undertaking by or on behalf of the  
22 director or officer to repay the amount if it shall ultimately be  
23 determined that the person is not entitled to be indemnified by the  
24 corporation as authorized by the provisions of this section.

1 Expenses including attorney fees incurred by former directors or  
2 officers or other employees and agents or persons serving at the  
3 request of the corporation as directors, officers, employees or  
4 agents of another corporation, partnership, joint venture, trust or  
5 other enterprise may be paid upon the terms and conditions, if any,  
6 as the corporation deems appropriate.

7 F. The indemnification and advancement of expenses provided by  
8 or granted pursuant to the other subsections of this section shall  
9 not be deemed exclusive of any other rights to which those seeking  
10 indemnification or advancement of expenses may be entitled under any  
11 bylaw, agreement, vote of shareholders or disinterested directors,  
12 or otherwise, both as to action in the person's official capacity  
13 and as to action in another capacity while holding an office. A  
14 right to indemnification or to advancement of expenses arising under  
15 a provision of the certificate of incorporation or a bylaw shall not  
16 be eliminated or impaired by an amendment to the certificate of  
17 incorporation or the bylaw after the occurrence of the act or  
18 omission that is the subject of the civil, criminal, administrative  
19 or investigative action, suit or proceeding for which  
20 indemnification or advancement of expenses is sought, unless the  
21 provision in effect at the time of such act or omission explicitly  
22 authorizes such elimination or impairment after such action or  
23 omission has occurred.

24

1 G. A corporation shall have power to purchase and maintain  
2 insurance on behalf of any person who is or was a director, officer,  
3 employee, or agent of the corporation, or is or was serving at the  
4 request of the corporation as a director, officer, employee, or  
5 agent of another corporation, partnership, joint venture, trust, or  
6 other enterprise against any liability asserted against the person  
7 and incurred by the person in any such capacity, or arising out of  
8 the person's status as such, whether or not the corporation would  
9 have the power to indemnify the person against liability under the  
10 provisions of this section.

11 H. For purposes of this section, references to "the  
12 corporation" shall include, in addition to the resulting  
13 corporation, any constituent corporation, including any constituent  
14 of a constituent, absorbed in a consolidation or merger which, if  
15 its separate existence had continued, would have had power and  
16 authority to indemnify its directors, officers, and employees, or  
17 agents, so that any person who is or was a director, officer,  
18 employee, or agent of a constituent corporation, or is or was  
19 serving at the request of a constituent corporation as a director,  
20 officer, employee, or agent of another corporation, partnership,  
21 joint venture, trust, or other enterprise, shall stand in the same  
22 position under the provisions of this section with respect to the  
23 resulting or surviving corporation as the person would have with  
24

1 respect to the constituent corporation if its separate existence had  
2 continued.

3 I. For purposes of this section, references to "other  
4 enterprises" shall include, but are not limited to, employee benefit  
5 plans; references to "fines" shall include, but are not limited to,  
6 any excise taxes assessed on a person with respect to an employee  
7 benefit plan; and references to "serving at the request of the  
8 corporation" shall include, but are not limited to, any service as a  
9 director, officer, employee, or agent of the corporation which  
10 imposes duties on, or involves services, by the director, officer,  
11 employee, or agent with respect to an employee benefit plan, its  
12 participants, or beneficiaries; and a person who acted in good faith  
13 and in a manner the person reasonably believed to be in the interest  
14 of the participants and beneficiaries of an employee benefit plan  
15 shall be deemed to have acted in a manner "not opposed to the best  
16 interests of the corporation" as referred to in this section.

17 J. The indemnification and advancement of expenses provided by  
18 or granted pursuant to this section, unless otherwise provided when  
19 authorized or ratified, shall continue as to a person who has ceased  
20 to be a director, officer, employee, or agent and shall inure to the  
21 benefit of the heirs, executors, and administrators of the person.

22 K. The district court is vested with exclusive jurisdiction to  
23 hear and determine all actions for advancement of expenses or  
24 indemnification brought under this section or under any bylaw,

1 agreement, vote of shareholders or disinterested directors, or  
2 otherwise. The court may summarily determine a corporation's  
3 obligation to advance expenses including ~~attorneys'~~ attorney fees.

4 SECTION 66. AMENDATORY 18 O.S. 2011, Section 1033, is  
5 amended to read as follows:

6 Section 1033.

7 ISSUANCE OF STOCK, LAWFUL CONSIDERATION, ~~+~~ = FULLY PAID STOCK

8 A. The consideration, as determined pursuant to the provisions  
9 of subsections A and B of Section 1034 of this title, for  
10 subscriptions to, or the purchase of, the capital stock to be issued  
11 by a corporation shall be paid in such form and in such manner as  
12 the board of directors shall determine. The board of directors may  
13 authorize capital stock to be issued for consideration consisting of  
14 cash, any tangible or intangible property or any benefit to the  
15 corporation, or any combination thereof, except for services to be  
16 performed. The board of directors may determine the amount of such  
17 consideration by approving a formula by which the amount of  
18 consideration is determined. In the absence of actual fraud in the  
19 transaction, the judgment of the directors as to the value of such  
20 consideration shall be conclusive. The capital stock so issued  
21 shall be deemed to be fully paid and nonassessable stock upon  
22 receipt by the corporation of the authorized consideration.

23 B. The provisions of subsection A of this section shall not be  
24 construed to prevent the board of directors from issuing partly paid



1 shares in accordance with the provisions of Section 1037 of this  
2 title.

3 SECTION 67. AMENDATORY 18 O.S. 2011, Section 1039, is  
4 amended to read as follows:

5 Section 1039.

6 STOCK CERTIFICATES, ~~7;~~ UNCERTIFICATED SHARES

7 The shares of a corporation shall be represented by  
8 certificates, provided that the board of directors of the  
9 corporation may provide by resolution or resolutions that some or  
10 all of any or all classes or series of its stock shall be  
11 uncertificated shares. Any such resolution shall not apply to  
12 shares represented by a certificate until the certificate is  
13 surrendered to the corporation. Every holder of stock represented  
14 by certificates shall be entitled to have a certificate signed by,  
15 or in the name of, the corporation by ~~the chairman or vice chairman~~  
16 ~~of the board of directors, or the president or vice president, and~~  
17 ~~by the treasurer or an assistant treasurer or the secretary or an~~  
18 ~~assistant secretary~~ any two authorized officers of the corporation  
19 representing the number of shares registered in certificate form.  
20 Any or all the signatures on the certificate may be a facsimile. In  
21 case any officer, transfer agent, or registrar who has signed or  
22 whose facsimile signature has been placed upon a certificate shall  
23 have ceased to be such officer, transfer agent, or registrar before  
24 the certificate is issued, it may be issued by the corporation with

1 the same effect as if he were such officer, transfer agent or  
2 registrar at the date of issue. A corporation shall not have the  
3 power to issue a certificate in bearer form.

4 SECTION 68. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 1055.1 of Title 18, unless there  
6 is created a duplication in numbering, which reads as follows:

7 RATIFICATION OF DEFECTIVE CORPORATE ACTS AND STOCK

8 A. Subject to subsection F of this section, no defective  
9 corporate act or putative stock shall be void or voidable solely as  
10 a result of a failure of authorization if ratified as provided in  
11 this section or validated by the District Court in a proceeding  
12 brought under Section 10 of this act.

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

- 18 a. the defective corporate act or acts to be ratified,
- 19 b. the date of each defective corporate act or act,
- 20 c. if such defective corporate act or acts involved the  
21 issuance of shares of putative stock, the number and  
22 type of shares of putative stock issued and the date  
23 or dates upon which such putative shares were  
24 purported to have been issued,

- 1           d.    the nature of the failure of authorization in respect  
2                   of each defective corporate act to be ratified, and  
3           e.    that the board of directors approves the ratification  
4                   of the defective corporate act or acts.

5           The resolutions may also provide that, at any time before the  
6 validation effective time for the defective act or acts,  
7 notwithstanding approval of the ratification by shareholders, the  
8 board of directors may abandon the ratification without further  
9 action of the shareholders. The quorum and voting requirements  
10 applicable to the ratification by the board of directors shall be  
11 the quorum and voting requirements applicable at the time to the  
12 type of defective corporate act proposed to be ratified when the  
13 board adopts the resolutions ratifying the defective corporate act;  
14 provided that if the certificate of incorporation or bylaws of the  
15 corporation, any plan or agreement to which the corporation was a  
16 party or any provision of Title 18 of the Oklahoma Statutes, in each  
17 case as in effect as of the time of the defective corporate act,  
18 would have required a larger number or portion of directors or of  
19 specified directors for a quorum to be present or to approve the  
20 defective corporate act, such larger number or portion of such  
21 directors or such specified directors shall be required for a quorum  
22 to be present or to adopt the ratifying resolutions, as applicable,  
23 except that the presence or approval of any director elected,  
24 appointed or nominated by holders of any class or series of which no

1 shares are then outstanding, or by any person that is no longer a  
2 shareholder, shall not be required.

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

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

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

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

18 C. Each defective corporate act ratified pursuant to paragraph  
19 1 of subsection B of this section shall be submitted to shareholders  
20 for approval as provided in subsection D of this section, unless (1)  
21 no other provision of Title 18 of the Oklahoma Statutes, and no  
22 provision of the certificate of incorporation or bylaws of the  
23 corporation, or of any plan or agreement to which the corporation is  
24 a party, would have required shareholder approval of the defective

1 corporate act to be ratified, either at the time of the defective  
2 corporate act or at the time the board of directors adopts the  
3 resolutions ratifying the defective corporate act pursuant to  
4 paragraph 1 of subsection B of this section, and (2) the defective  
5 corporate act did not result from a failure to comply with Section  
6 1090.3 of Title 18 of the Oklahoma Statutes.

7 D. If ratification of a defective corporate act is required to  
8 be submitted to shareholders for approval pursuant to subsection C  
9 of this section, due notice of the time, place, if any, and purpose  
10 of the meeting shall be given at least twenty (20) days before the  
11 date of the meeting to each holder of valid stock and putative  
12 stock, whether voting or nonvoting, at the address of such holder as  
13 it appears or most recently appeared, as appropriate, on the records  
14 of the corporation. The notice shall also be given to the holders  
15 of record of valid stock and putative stock, whether voting or  
16 nonvoting, as of the time of the defective corporate act, other than  
17 holders whose identities or addresses cannot be determined from the  
18 records of the corporation. The notice shall contain a copy of the  
19 resolutions adopted by the board of directors pursuant to paragraph  
20 1 of subsection B of this section or the information required by  
21 paragraphs a through e of paragraph 1 of subsection B of this  
22 section and a statement that any claim that the defective corporate  
23 act or putative stock ratified hereunder is void or voidable due to  
24 the failure of authorization, or that the District Court should

1 declare in its discretion that a ratification in accordance with  
2 this section not be effective or be effective only on certain  
3 conditions must be brought within one hundred twenty (120) days from  
4 the validation effective time. At such meeting the quorum and  
5 voting requirements applicable to the ratification of such defective  
6 corporate act shall be the quorum and voting requirements applicable  
7 to the type of defective corporate act proposed to be ratified at  
8 the time of the approval of the ratification, except that:

9 1. If the certificate of incorporation or bylaws of the  
10 corporation, any plan or agreement to which the corporation was a  
11 party or any provision of this title in effect as of the time of the  
12 defective corporate act would have required a larger number or  
13 portion of stock or of any class or series thereof or of specified  
14 shareholders for a quorum to be present or to approve the defective  
15 corporate act, the presence or approval of such larger number or  
16 portion of stock or of such class or series thereof or of such  
17 specified shareholders shall be required for a quorum to be present  
18 or to approve the ratification of the defective corporate act, as  
19 applicable, except that the presence or approval of shares of any  
20 class or series of which no shares are then outstanding, or of any  
21 person that is no longer a shareholder, shall not be required;

22 2. The approval by shareholders of the ratification of the  
23 election of a director shall require the affirmative vote of the  
24 majority of shares present at the meeting and entitled to vote on

1 the election of such director, except that if the certificate of  
2 incorporation or bylaws of the corporation then in effect or in  
3 effect at the time of the defective election require or required a  
4 larger number or portion of stock or of any class or series thereof  
5 or of specified shareholders to elect such director, the affirmative  
6 vote of such larger number or portion of stock or of any class or  
7 series thereof or of specified shareholders shall be required to  
8 ratify the election of such director, except that the presence or  
9 approval of shares of any class or series of which no shares are  
10 then outstanding, or of any person that is no longer a shareholder,  
11 shall not be required; and

12 3. In the event of a failure of authorization resulting from  
13 failure to comply with the provisions of Section 1090.3 of Title 18  
14 of the Oklahoma Statutes, the ratification of the defective  
15 corporate act shall require the vote set forth in paragraph 3 of  
16 subsection A of Section 1090.3 of Title 18 of the Oklahoma Statutes,  
17 regardless of whether such vote would have otherwise been required.

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

24

1 E. If a defective corporate act ratified pursuant to this  
2 section would have required under any other section of Title 18 of  
3 the Oklahoma Statutes the filing of a certificate in accordance with  
4 Section 1007 of Title 18 of the Oklahoma Statutes, then, whether or  
5 not a certificate was previously filed in respect of such defective  
6 corporate act and in lieu of filing the certificate otherwise  
7 required by Title 18 of the Oklahoma Statutes, the corporation shall  
8 file a certificate of validation with respect to such defective  
9 corporate act in accordance with Section 1007 of Title 18 of the  
10 Oklahoma Statutes. A separate certificate of validation shall be  
11 required for each defective corporate act requiring the filing of a  
12 certificate of validation under this section, except that (i) two or  
13 more defective corporate acts may be included in a single  
14 certificate of validation if the corporation filed, or to comply  
15 with Title 18 of the Oklahoma Statutes would have filed, a single  
16 certificate under another provision of Title 18 of the Oklahoma  
17 Statutes to effect such acts, and (ii) two or more overissues of  
18 shares of any class, classes or series of stock may be included in a  
19 single certificate of validation, provided that the increase in the  
20 number of authorized shares of each such class or series set forth  
21 in the certificate of validation shall be effective as of the date  
22 of the first such overissue. The certificate of validation shall  
23 set forth:

24



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

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

14           3. The information required by one of the following paragraphs:  
15           a. if a certificate was previously filed under Section  
16           1007 of Title 18 of the Oklahoma Statutes in respect  
17           of such defective corporate act and no changes to such  
18           certificate are required to give effect to such  
19           defective corporate act in accordance with this  
20           section, the certificate of validation shall set forth  
21           (1) the name, title and filing date of the certificate  
22           previously filed and of any certificate of correction  
23           thereto and (2) a statement that a copy of the  
24           certificate previously filed, together with any

1 certificate of correction thereto, is attached as an  
2 exhibit to the certificate of validation,

3 b. if a certificate was previously filed under Section  
4 1007 of Title 18 of the Oklahoma Statutes in respect  
5 of the defective corporate act and such certificate  
6 requires any change to give effect to the defective  
7 corporate act in accordance with this section,  
8 including a change to the date and time of the  
9 effectiveness of such certificate, the certificate of  
10 validation shall set forth (1) the name, title and  
11 filing date of the certificate so previously filed and  
12 of any certificate of correction thereto, (2) a  
13 statement that a certificate containing all of the  
14 information required to be included under the  
15 applicable section or sections of Title 18 of the  
16 Oklahoma Statutes to give effect to the defective  
17 corporate act is attached as an exhibit to the  
18 certificate of validation, and (3) the date and time  
19 that such certificate shall be deemed to have become  
20 effective pursuant to this section, or

21 c. if a certificate was not previously filed under  
22 Section 1007 of Title 18 of the Oklahoma Statutes in  
23 respect of the defective corporate act and the  
24 defective corporate act ratified pursuant to this

1 section would have required under any other section of  
2 Title 18 of the Oklahoma Statutes the filing of a  
3 certificate in accordance with Section 1007 of Title  
4 18 of the Oklahoma Statutes, the certificate of  
5 validation shall set forth (1) a statement that a  
6 certificate containing all of the information required  
7 to be included under the applicable section or  
8 sections of Title 18 of the Oklahoma Statutes to give  
9 effect to the defective corporate act is attached as  
10 an exhibit to the certificate of validation, and (2)  
11 the date and time that such certificate shall be  
12 deemed to have become effective pursuant to this  
13 section.

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

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

23 1. Subject to the last sentence of subsection D of this  
24 section, each defective corporate act ratified in accordance with

1 this section shall no longer be deemed void or voidable as a result  
2 of the failure of authorization described in the adopted resolutions  
3 and such effect shall be retroactive to the time of the defective  
4 corporate act, and

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

11 G. In respect of each defective corporate act ratified by the  
12 board of directors pursuant to subsection B of this section, prompt  
13 notice of the ratification shall be given to all holders of valid  
14 stock and putative stock, whether voting or nonvoting, as of the  
15 date the board of directors adopts the resolutions approving such  
16 defective corporate act, or as of a date within sixty (60) days  
17 after the date of adoption, as established by the board of  
18 directors, at the address of such holder as it appears or most  
19 recently appeared, as appropriate, on the records of the  
20 corporation. The notice shall also be given to the holders of  
21 record of valid stock and putative stock, whether voting or  
22 nonvoting, as of the time of the defective corporate act, other than  
23 holders whose identities or addresses cannot be determined from the  
24 records of the corporation. The notice shall contain a copy of the

1 resolutions adopted pursuant to subsection B of this section or the  
2 information specified in subparagraphs a through e of paragraph 1 of  
3 subsection B of this section or subparagraphs a through c of  
4 paragraph 2 of subsection B of this section, as applicable, and a  
5 statement that any claim that the defective corporate act or  
6 putative stock ratified hereunder is void or voidable due to the  
7 failure of authorization, or that the District Court should declare  
8 in its discretion that a ratification in accordance with this  
9 section not be effective or be effective only on certain conditions  
10 must be brought within one hundred twenty (120) days from the later  
11 of the validation effective time or the time at which the notice  
12 required by this subsection is given. Notwithstanding the  
13 foregoing, no such notice shall be required if notice of the  
14 ratification of the defective corporate act is to be given in  
15 accordance with subsection D of this section, and in the case of a  
16 corporation that has a class of stock listed on a national  
17 securities exchange, the notice required by this subsection may be  
18 deemed given if disclosed in a document publicly filed by the  
19 corporation with the Securities and Exchange Commission pursuant to  
20 Sections 13, 14 or 15(d) of the Securities Exchange Act of 1934, as  
21 amended, and the rules and regulations promulgated thereunder, or  
22 the corresponding provisions of any subsequent United States federal  
23 securities laws, rules or regulations. If any defective corporate  
24 act has been approved by shareholders acting pursuant to Section

1 1073 of Title 18 of the Oklahoma Statutes, the notice required by  
2 this subsection may be included in any notice required to be given  
3 pursuant to subsection F of Section 1073 of Title 18 of the Oklahoma  
4 Statutes and, if so given, shall be sent to the shareholders  
5 entitled to notice under subsection F of Section 1073 of Title 18 of  
6 the Oklahoma Statutes and to all holders of valid and putative stock  
7 to whom notice would be required under this subsection if the  
8 defective corporate act had been approved at a meeting other than  
9 any shareholder who approved the action by consent in lieu of a  
10 meeting pursuant to Section 1073 of Title 18 of the Oklahoma  
11 Statutes or any holder of putative stock who otherwise consented  
12 thereto in writing. Solely for purposes of subsection D of this  
13 section and this subsection, notice to holders of putative stock,  
14 and notice to holders of valid stock and putative stock as of the  
15 time of the defective corporate act, shall be treated as notice to  
16 holders of valid stock for purposes of Sections 1067, 1073, 1074,  
17 1075, 1075.2 and 1075.3 of Title 18 of the Oklahoma Statutes.

18 H. As used in this section and in Section 10 of this act only,  
19 the term:

20 1. "Defective corporate act" means an overissue, an election or  
21 appointment of directors that is void or voidable due to a failure  
22 of authorization, or any act or transaction purportedly taken by or  
23 on behalf of the corporation that is, and at the time such act or  
24 transaction was purportedly taken would have been, within the power

1 of a corporation under subchapter II of Title 18 of the Oklahoma  
2 Statutes, but is void or voidable due to a failure of authorization;

3 2. "Failure of authorization" means (a) the failure to  
4 authorize or effect an act or transaction in compliance with the  
5 provisions of Title 18 of the Oklahoma Statutes, the certificate of  
6 incorporation or bylaws of the corporation, or any plan or agreement  
7 to which the corporation is a party, if and to the extent such  
8 failure would render such act or transaction void or voidable, or  
9 (b) the failure of the board of directors or any officer of the  
10 corporation to authorize or approve any act or transaction taken by  
11 or on behalf of the corporation that would have required for its due  
12 authorization the approval of the board of directors or such  
13 officer;

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

21 4. "Putative stock" means the shares of any class or series of  
22 capital stock of the corporation, including shares issued upon  
23 exercise of options, rights, warrants or other securities  
24 convertible into shares of capital stock of the corporation, or

1 interests with respect thereto that were created or issued pursuant  
2 to a defective corporate act, that: (a) but for any failure of  
3 authorization, would constitute valid stock, or (b) cannot be  
4 determined by the board of directors to be valid stock;

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

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

11 7. "Validation effective time" with respect to any defective  
12 corporate act ratified pursuant to this section means the latest of  
13 (a) the time at which the defective act submitted to the  
14 shareholders for approval pursuant to subsection C of this section  
15 is approved by such shareholders, or if no such vote of shareholders  
16 is required to approve the ratification, the time at which the board  
17 of directors adopts the resolutions required by paragraphs 1 or 2 of  
18 subsection B of this section, (b) where no certificate of validation  
19 is required to be filed pursuant to subsection E of this section,  
20 the time, if any, specified by the board of directors in the  
21 resolutions adopted pursuant to paragraphs 1 or 2 of subsection B of  
22 this section, which time shall not precede the time at which such  
23 resolutions are adopted; and (c) the time at which any certificate  
24 of validation filed pursuant to subsection E of this section shall



1 become effective in accordance with Section 1007 of Title 18 of the  
2 Oklahoma Statutes.

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

8 I. Ratification under this section or validation under Section  
9 10 of this act shall not be deemed to be the exclusive means of  
10 ratifying or validating any act or transaction taken by or on behalf  
11 of the corporation, including any defective corporate act, or any  
12 issuance of stock, including any putative stock, or of adopting or  
13 endorsing any act or transaction taken by or in the name of the  
14 corporation prior to the commencement of its existence, and the  
15 absence or failure of ratification in accordance with either this  
16 section or validation under Section 10 of this act shall not, of  
17 itself, affect the validity or effectiveness of any act or  
18 transaction or the issuance of any stock properly ratified under  
19 common law or otherwise, nor shall it create a presumption that any  
20 such act or transaction is or was a defective corporate act or that  
21 such stock is void or voidable.

22 SECTION 69. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1055.2 of Title 18, unless there  
24 is created a duplication in numbering, which reads as follows:

1 PROCEEDINGS REGARDING VALIDITY OF DEFECTIVE CORPORATE ACTS AND  
2 STOCK

3 A. Subject to subsection F of this section, upon application by  
4 the corporation, any successor entity to the corporation, any member  
5 of the board of directors, any record or beneficial holder of valid  
6 stock or putative stock, any record or beneficial holder of valid or  
7 putative stock as of the time of a defective corporate act ratified  
8 pursuant to Section 9 of this act, or any other person claiming to  
9 be substantially and adversely affected by a ratification pursuant  
10 to Section 9 of this act, the district court may:

11 1. Determine the validity and effectiveness of any defective  
12 corporate act ratified pursuant to Section 9 of this act;

13 2. Determine the validity and effectiveness of the ratification  
14 of any defective corporate act pursuant to Section 9 of this act;

15 3. Determine the validity and effectiveness of any defective  
16 corporate act not ratified or not ratified effectively pursuant to  
17 Section 9 of this act;

18 4. Determine the validity of any corporate act or transaction  
19 and any stock, rights or options to acquire stock; and

20 5. Modify or waive any of the procedures set forth in Section 9  
21 of this act to ratify a defective corporate act.

22 B. In connection with an action under this section, the  
23 district court may:

24

1           1. Declare that a ratification in accordance with and pursuant  
2 to Section 9 of this act is not effective or shall only be effective  
3 at a time or upon conditions established by the court;

4           2. Validate and declare effective any defective corporate act  
5 or putative stock and impose conditions upon such validation by the  
6 court;

7           3. Require measures to remedy or avoid harm to any person  
8 substantially and adversely affected by a ratification pursuant to  
9 Section 9 of this act or from any order of the court pursuant to  
10 this section, excluding any harm that would have resulted if the  
11 defective corporate act had been valid when approved or effectuated;

12           4. Order the Secretary of State to accept an instrument for  
13 filing with an effective time specified by the court, which  
14 effective time may be prior or subsequent to the time of such order,  
15 provided that the filing date of such instrument shall be determined  
16 in accordance with paragraph 4 of subsection C of Section 1007 of  
17 Title 18 of the Oklahoma Statutes;

18           5. Approve a stock ledger for the corporation that includes any  
19 stock ratified or validated in accordance with this section or with  
20 Section 9 of this act;

21           6. Declare that shares of putative stock are shares of valid  
22 stock or require a corporation to issue and deliver shares of valid  
23 stock in place of any shares of putative stock;

24

1           7. Order that a meeting of holders of valid stock or putative  
2 stock be held and exercise the powers provided to the court under  
3 Section 1027 of Title 18 of the Oklahoma Statutes with respect to  
4 such a meeting;

5           8. Declare that a defective corporate act validated by the  
6 court shall be effective as of the time of the defective corporate  
7 act or at such other time as the court shall determine;

8           9. Declare that putative stock validated by the court shall be  
9 deemed to be an identical share or fraction of a share of valid  
10 stock as of the time originally issued or purportedly issued or at  
11 such other time as the court shall determine; and

12          10. Make such other orders regarding such matters as it deems  
13 proper under the circumstances.

14          C. Service of the application under subsection A of this  
15 section upon the registered agent of the corporation shall be deemed  
16 to be service upon the corporation, and no other party need be  
17 joined in order for the district court to adjudicate the matter. In  
18 an action filed by the corporation, the court may require notice of  
19 the action be provided to other persons specified by the court and  
20 permit such other persons to intervene in the action.

21          D. In connection with the resolution of matters pursuant to  
22 subsections A and B of this section, the district court may consider  
23 the following:  
24

1           1. Whether the defective corporate act was originally approved  
2 or effectuated with the belief that the approval or effectuation was  
3 in compliance with the provisions of Title 18 of the Oklahoma  
4 Statutes, the certificate of incorporation or bylaws of the  
5 corporation;

6           2. Whether the corporation and board of directors has treated  
7 the defective corporate act as a valid act or transaction and  
8 whether any person has acted in reliance on the public record that  
9 such defective corporate act was valid;

10          3. Whether any person will be or was harmed by the ratification  
11 or validation of the defective corporate act, excluding any harm  
12 that would have resulted if the defective corporate act had been  
13 valid when approved or effectuated;

14          4. Whether any person will be harmed by the failure to ratify  
15 or validate the defective corporate act; and

16          5. Any other factors or considerations the court deems just and  
17 equitable.

18          E. The district court is hereby vested with exclusive  
19 jurisdiction to hear and determine all actions brought under this  
20 section.

21          F. Notwithstanding any other provision of this section, no  
22 action asserting:

23           1. That a defective corporate act or putative stock ratified  
24 in accordance with Section 9 of this act is void or voidable due to

1 a failure of authorization identified in the resolution adopted in  
2 accordance with subsection B of Section 9 of this act; or

3 2. That the district court should declare in its discretion  
4 that a ratification in accordance with Section 9 of this act not be  
5 effective or be effective only on certain conditions,

6 may be brought after the expiration of one hundred twenty (120) days  
7 from the later of the validation effective time and the time notice,

8 if any, that is required to be given pursuant to subsection G of  
9 Section 9 of this act is given with respect to such ratification,

10 except that this subsection shall not apply to an action asserting  
11 that a ratification was not accomplished in accordance with Section

12 9 of this act or to any person to whom notice of the ratification  
13 was required to have been given pursuant to subsections D or G of

14 Section 9 of this act, but to whom such notice was not given.  
15 SECTION 70. AMENDATORY 18 O.S. 2011, Section 1056, is

16 amended to read as follows:

17 Section 1056.

18 MEETINGS OF SHAREHOLDERS

19 A. 1. Meetings of shareholders may be held at such place,  
20 either within or without this state, as may be designated by or in

21 the manner provided in the certificate of incorporation or bylaws  
22 or, if not so designated, as determined by the board of directors.

23 If, pursuant to this paragraph or the certificate of incorporation  
24 or the bylaws of the corporation, the board of directors is

1 authorized to determine the place of a meeting of shareholders, the  
2 board of directors may, in its sole discretion, determine that the  
3 meeting shall not be held at any place, but may instead be held  
4 solely by means of remote communication as authorized by paragraph 2  
5 of this subsection.

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

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

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

- 21 (2) the corporation shall implement reasonable  
22 measures to provide such shareholders and  
23 proxyholders a reasonable opportunity to  
24 participate in the meeting and to vote on matters

1 submitted to the shareholders, including an  
2 opportunity to read or hear the proceedings of  
3 the meeting substantially concurrently with the  
4 proceedings, and

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

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

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

23 C. A failure to hold the annual meeting at the designated time  
24 or to elect a sufficient number of directors to conduct the business



1 of the corporation shall not affect otherwise valid corporate acts  
2 or work a forfeiture or dissolution of the corporation except as may  
3 be otherwise specifically provided for in this act. If the annual  
4 meeting for election of directors is not held on the date designated  
5 therefor or action by written consent to elect directors in lieu of  
6 an annual meeting has not been taken, the directors shall cause the  
7 meeting to be held as soon as is convenient. If there is a failure  
8 to hold the annual meeting or action by written consent to elect  
9 directors in lieu of an annual meeting for a period of thirty (30)  
10 days after the date designated for the annual meeting, or if no date  
11 has been designated, for a period of thirteen (13) months after the  
12 latest to occur of the organization of the corporation, its last  
13 annual meeting, or the last action by written consent to elect  
14 directors in lieu of an annual meeting, the district court may  
15 summarily order a meeting to be held upon the application of any  
16 shareholder or director. The shares of stock represented at the  
17 meeting, either in person or by proxy, and entitled to vote thereat,  
18 shall constitute a quorum for the purpose of the meeting,  
19 notwithstanding any provision of the certificate of incorporation or  
20 bylaws to the contrary. The district court may issue orders as may  
21 be appropriate, including, without limitation, orders designating  
22 the time and place of the meeting, the record date or dates for  
23 determination of shareholders entitled to notice of the meeting and  
24 to vote, and the form of notice of the meeting.

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

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

12 SECTION 71. AMENDATORY 18 O.S. 2011, Section 1058, is  
13 amended to read as follows:

14 Section 1058.

15 FIXING DATE FOR DETERMINATION OF SHAREHOLDERS OF RECORD

16 A. In order that the corporation may determine the shareholders  
17 entitled to notice of or to vote at any meeting of shareholders or  
18 any adjournment thereof, the board of directors may fix a record  
19 date, which record date shall not precede the date upon which the  
20 resolution fixing the record date is adopted by the board of  
21 directors, and which record date shall not be more than sixty (60)  
22 nor less than ten (10) days before the date of such meeting. If the  
23 board of directors so fixes a date, such date shall also be the  
24 record date for determining the shareholders entitled to vote at

1 such meeting unless the board of directors determines, at the time  
2 it fixes such record date, that a later date on or before the date  
3 of the meeting shall be the date for making such determination. If  
4 no record date is fixed by the board of directors, the record date  
5 for determining shareholders entitled to notice of or to vote at a  
6 meeting of shareholders shall be at the close of business on the day  
7 next preceding the day on which notice is given, or, if notice is  
8 waived, at the close of business on the day next preceding the day  
9 on which the meeting is held. A determination of shareholders of  
10 record entitled to notice of or to vote at a meeting of shareholders  
11 shall apply to any adjournment of the meeting; provided, however,  
12 that the board of directors may fix a new record date for the  
13 adjourned meeting and in such case shall also fix as the record date  
14 for shareholders entitled to notice of such adjourned meeting the  
15 same or an earlier date as that fixed for determination of  
16 shareholders entitled to vote in accordance with the foregoing  
17 provisions of this section at the adjourned meeting.

18 B. 1. In order that the corporation may determine the  
19 shareholders entitled to consent to corporate action in writing  
20 without a meeting, the board of directors may fix a record date,  
21 which record date shall not precede the date upon which the  
22 resolution fixing the record date is adopted by the board of  
23 directors, and which date shall not be more than ten (10) days after  
24 the date upon which the resolution fixing the record date is adopted

1 by the board of directors. If no record date has been fixed by the  
2 board of directors, the record date for determining shareholders  
3 entitled to consent to corporate action in writing without a  
4 meeting, when no prior action by the board of directors is required  
5 by the Oklahoma General Corporation Act, shall be the first date on  
6 which a signed written consent setting forth the action taken or  
7 proposed to be taken is delivered to the corporation by delivery to  
8 its registered office in this state, its principal place of  
9 business, or an officer or agent of the corporation having custody  
10 of the book in which proceedings of meetings of shareholders are  
11 recorded. Delivery made to a corporation's registered office shall  
12 be by hand or by certified or registered mail, return receipt  
13 requested. If no record date has been fixed by the board of  
14 directors and prior action by the board of directors is required by  
15 the Oklahoma General Corporation Act, the record date for  
16 determining shareholders entitled to consent to corporate action in  
17 writing without a meeting shall be at the close of business on the  
18 day on which the board of directors adopts the resolution taking  
19 such prior action.

20 2. The provisions of this subsection shall be effective with  
21 respect to corporate actions taken by written consent, and to such  
22 written consent or consents, as to which the first written consent  
23 is executed or solicited after November 1, 1988.

24

1 C. In order that the corporation may determine the shareholders  
2 entitled to receive payment of any dividend or other distribution or  
3 allotment of any rights or the shareholders entitled to exercise any  
4 rights in respect of any change, conversion or exchange of stock, or  
5 for the purpose of any other lawful action, the board of directors  
6 may fix a record date, which record date shall not precede the date  
7 upon which the resolution fixing the record date is adopted, and  
8 which record date shall be not more than sixty (60) days prior to  
9 such action. If no record date is fixed, the record date for  
10 determining shareholders for any such purpose shall be at the close  
11 of business on the day on which the board of directors adopts the  
12 resolution relating thereto.

13 SECTION 72. AMENDATORY 18 O.S. 2011, Section 1063, is  
14 amended to read as follows:

15 Section 1063.

16 VOTING TRUSTS AND OTHER VOTING AGREEMENTS

17 A. One (1) or more shareholders, by agreement in writing, may  
18 deposit capital stock of an original issue with or transfer capital  
19 stock to any person or persons, or entity or entities, authorized to  
20 act as trustee, for the purpose of vesting in the person or persons,  
21 or entity or entities, who may be designated voting trustee, or  
22 voting trustees, the right to vote thereon for any period of time  
23 determined by the agreement upon the terms and conditions stated in  
24 the agreement. The agreement may contain any other lawful

1 provisions not inconsistent with its purpose. After ~~the filing~~  
2 delivery of a copy of the agreement ~~in~~ to the registered office of  
3 the corporation in this state or the principal place of business of  
4 the corporation, which copy shall be open to the inspection of any  
5 shareholder of the corporation or any beneficiary of the trust under  
6 the agreement daily during business hours, certificates of stock or  
7 uncertificated stock shall be issued to the voting trustee or  
8 trustees to represent any stock of an original issue so deposited  
9 with the trustee or trustees, and any certificates of stock or  
10 uncertificated stock so transferred to the voting trustee or  
11 trustees shall be surrendered and canceled and new certificates or  
12 uncertificated stock shall be issued therefor to the voting trustee  
13 or trustees. In the certificate so issued, if any, it shall be  
14 stated that it is issued pursuant to the agreement and that fact  
15 shall also be stated in the stock ledger of the corporation. The  
16 voting trustee or trustees may vote the stock so issued or  
17 transferred during the period specified in the agreement. Stock  
18 standing in the name of the voting trustee or trustees may be voted  
19 either in person or by proxy. In voting the stock, the voting  
20 trustee or trustees shall incur no responsibility as shareholder,  
21 trustee, or otherwise, except for the trustee's or trustees' own  
22 individual malfeasance. In any case where two (2) or more persons  
23 or entities are designated as voting trustees, and the right and  
24 method of voting any stock standing in their names at any meeting of

1 the corporation are not fixed by the agreement appointing the  
2 trustees, the right to vote the stock and the manner of voting it at  
3 the meeting shall be determined by a majority of the trustees, or if  
4 they be equally divided or the right and manner of voting the stock  
5 in any particular case, the vote of the stock shall be divided  
6 equally among the trustees.

7 B. Any amendment to a voting trust agreement shall be made by a  
8 written agreement, a copy of which shall be ~~filed in~~ delivered to  
9 the registered office of the corporation in this state or the  
10 principal place of business of the corporation.

11 C. An agreement between two (2) or more shareholders, if in  
12 writing and signed by the parties thereto, may provide that in  
13 exercising any voting rights, the shares held by them shall be voted  
14 as provided by the agreement, or as the parties may agree, or as  
15 determined in accordance with a procedure agreed upon by them.

16 D. This section shall not be construed to invalidate any voting  
17 or other agreement among shareholders or any irrevocable proxy which  
18 is not otherwise illegal.

19 SECTION 73. AMENDATORY 18 O.S. 2011, Section 1064, is  
20 amended to read as follows:

21 Section 1064.

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

24

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

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

19       2. During ordinary business hours, at the principal place of  
20 business of the corporation. In the event that the corporation  
21 determines to make the list available on an electronic network, the  
22 corporation may take reasonable steps to ensure that the information  
23 is available only to shareholders of the corporation. If the  
24 meeting is to be held at a place, then the list shall also be



1 produced and kept at the time and place of the meeting during the  
2 whole time thereof, and may be inspected by any shareholder who is  
3 present. If the meeting is to be held solely by means of remote  
4 communication, then the list shall also be open to the examination  
5 of any shareholder during the whole time of the meeting on a  
6 reasonably accessible electronic network, and the information  
7 required to access the list shall be provided with the notice of the  
8 meeting.

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

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

19 SECTION 74. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 1065.1 of Title 18 unless there  
21 is created a duplication in numbering, reads as follows:

22 ACCESS TO PROXY SOLICITATION MATERIALS; PROXY EXPENSE

23 REIMBURSEMENT

24

1       A. The bylaws may provide that if the corporation solicits  
2 proxies with respect to an election of directors, it may be  
3 required, to the extent and subject to such procedures or  
4 conditions as may be provided in the bylaws, to include in its  
5 proxy solicitation materials, including any form of proxy it  
6 distributes, in addition to individuals nominated by the board of  
7 directors, one or more individuals nominated by a shareholder.  
8 Such procedures or conditions may include any of the following:

9       1. A provision requiring a minimum record or beneficial  
10 ownership, or duration of ownership, of shares of the  
11 corporation's capital stock, by the nominating shareholder, and  
12 defining beneficial ownership to take into account options or other  
13 rights in respect of or related to such stock;

14       2. A provision requiring the nominating shareholder to submit  
15 specified information concerning the shareholder and the  
16 shareholder's nominees, including information concerning ownership  
17 by such persons of shares of the corporation's capital stock, or  
18 options or other rights in respect of or related to such stock;

19       3. A provision conditioning eligibility to require inclusion  
20 in the corporation's proxy solicitation materials upon the number  
21 or proportion of directors nominated by shareholders or whether the  
22 shareholder previously sought to require such inclusion;

23       4. A provision precluding nominations by any person if such  
24 person, any nominee of such person, or any affiliate or associate

1 of such person or nominee, has acquired or publicly proposed to  
2 acquire shares constituting a specified percentage of the voting  
3 power of the corporation's outstanding voting stock within a  
4 specified period before the election of directors;

5 5. A provision requiring that the nominating shareholder  
6 undertake to indemnify the corporation in respect of any loss  
7 arising as a result of any false or misleading information or  
8 statement submitted by the nominating shareholder in connection  
9 with a nomination; and

10 6. Any other lawful condition.

11 B. The bylaws may provide for the reimbursement by the  
12 corporation of expenses incurred by a shareholder in soliciting  
13 proxies in connection with an election of directors, subject to  
14 such procedures or conditions as the bylaws may prescribe,  
15 including:

16 1. Conditioning eligibility for reimbursement upon the number  
17 or proportion of persons nominated by the shareholder seeking  
18 reimbursement or whether such shareholder previously sought  
19 reimbursement for similar expenses;

20 2. Limitations on the amount of reimbursement based upon the  
21 proportion of votes cast in favor of one or more of the persons  
22 nominated by the shareholder seeking reimbursement, or upon the  
23 amount spent by the corporation in soliciting proxies in connection  
24 with the election;

1 3. Limitations concerning elections of directors by cumulative  
2 voting pursuant to Section 1059 of Title 18 of the Oklahoma  
3 Statutes; or

4 4. Any other lawful condition.

5 C. No bylaw so adopted shall apply to elections for which any  
6 record date precedes its adoption.

7 SECTION 75. AMENDATORY 18 O.S. 2011, Section 1067, is  
8 amended to read as follows:

9 Section 1067.

10 NOTICE OF MEETINGS AND ADJOURNED MEETINGS

11 A. Whenever shareholders are required or permitted to take any  
12 action at a meeting, a written notice of the meeting shall be given  
13 which shall state the place, if any, date and hour of the meeting,  
14 the means of remote communications, if any, by which shareholders  
15 and proxyholders may be deemed to be present in person and vote at  
16 the meetings, the record date for determining the shareholders  
17 entitled to vote at the meeting, if such date is different from the  
18 record date for determining shareholders entitled to notice of the  
19 meeting and, in the case of a special meeting, the purpose or  
20 purposes for which the meeting is called.

21 B. Unless otherwise provided for in the Oklahoma General  
22 Corporation Act, the written notice of any meeting shall be given  
23 not less than ten (10) nor more than sixty (60) days before the date  
24 of the meeting to each shareholder entitled to vote at such meeting

1 as of the record date for determining the shareholders entitled to  
2 notice of the meeting. If mailed, notice is given when deposited in  
3 the United States mail, postage prepaid, directed to the shareholder  
4 at his address as it appears on the records of the corporation. An  
5 affidavit of the secretary or an assistant secretary or of the  
6 transfer agent or other agent of the corporation that the notice has  
7 been given, in the absence of fraud, shall be prima facie evidence  
8 of the facts stated therein.

9 C. When a meeting is adjourned to another time or place, unless  
10 the bylaws otherwise require, notice need not be given of the  
11 adjourned meeting if the time, place, if any, thereof, and the means  
12 of remote communications, if any, by which shareholders and  
13 proxyholders may be deemed to be present in person and vote at the  
14 adjourned meeting are announced at the meeting at which the  
15 adjournment is taken. At the adjourned meeting the corporation may  
16 transact any business which might have been transacted at the  
17 original meeting. If the adjournment is for more than thirty (30)  
18 days, ~~or if after the adjournment a new record date is fixed for the~~  
19 ~~adjourned meeting,~~ a notice of the adjourned meeting shall be given  
20 to each shareholder of record entitled to vote at the meeting. If  
21 after the adjournment a new record date for shareholders entitled to  
22 vote is fixed for the adjourned meeting, the board of directors  
23 shall fix a new record date for notice of such adjourned meeting in  
24 accordance with subsection A of Section 1058 of this title, and

1 shall give notice of the adjourned meeting to each shareholder of  
2 record entitled to vote at such adjourned meeting as of the record  
3 date fixed for notice of such adjourned meeting.

4 SECTION 76. AMENDATORY 18 O.S. 2011, Section 1068, is  
5 amended to read as follows:

6 Section 1068.

7 VACANCIES AND NEWLY CREATED DIRECTORSHIPS

8 A. 1. Unless otherwise provided in the certificate of  
9 incorporation or bylaws:

10 a. ~~Vacancies~~ vacancies and newly created directorships  
11 resulting from any increase in the authorized number  
12 of directors elected by all of the shareholders having  
13 the right to vote as a single class may be filled by a  
14 majority of the directors then in office, although  
15 less than a quorum, or by a sole remaining director~~7,~~  
16 and

17 b. ~~Whenever~~ whenever the holders of any class or classes  
18 of stock or series thereof are entitled to elect one  
19 ~~(1)~~ or more directors by the provisions of the  
20 certificate of incorporation, vacancies and newly  
21 created directorships of such class or classes or  
22 series may be filled by a majority of the directors  
23 elected by such class or classes or series thereof

1           then in office, or by a sole remaining director so  
2           elected.

3           2. If at any time, by reason of death or resignation or other  
4 cause, a corporation should have no directors in office, then any  
5 officer or any shareholder or an executor, administrator, trustee or  
6 guardian of a shareholder, or other fiduciary entrusted with like  
7 responsibility for the person or estate of a shareholder, may call a  
8 special meeting of shareholders in accordance with the provisions of  
9 the certificate of incorporation or the bylaws, or may apply to the  
10 district court for a decree summarily ordering an election as  
11 provided for in ~~Section~~ Sections 1056 and 1060 of this title.

12           B. In the case of a corporation the directors of which are  
13 divided into classes, any directors chosen under subsection A of  
14 this section shall hold office until the next election of the class  
15 for which such directors shall have been chosen, and until their  
16 successors shall be elected and qualified.

17           C. If, at the time of filling any vacancy or any newly created  
18 directorship, the directors then in office shall constitute less  
19 than a majority of the whole board, as constituted immediately prior  
20 to any such increase, the district court, upon application of any  
21 shareholder or shareholders holding at least ten percent (10%) of  
22 the voting stock at the time outstanding having the right to vote  
23 for such directors, may summarily order an election to be held to  
24 fill any such vacancies or newly created directorships, or to

1 replace the directors chosen by the directors then in office, which  
2 election shall be governed by the provisions of ~~Section~~ Sections  
3 1056 and 1060 of this title as far as applicable.

4 D. Unless otherwise provided in the certificate of  
5 incorporation or bylaws, when one or more directors shall resign  
6 from the board, effective at a future date, a majority of the  
7 directors then in office, including those who have so resigned,  
8 shall have power to fill such vacancy or vacancies, the vote thereon  
9 to take effect when such resignation or resignations shall become  
10 effective, and each director so chosen shall hold office as provided  
11 for in this section in the filling of other vacancies.

12 SECTION 77. AMENDATORY 18 O.S. 2011, Section 1070, is  
13 amended to read as follows:

14 Section 1070.

15 CONTESTED ELECTION OF DIRECTORS; PROCEEDINGS TO DETERMINE  
16 VALIDITY

17 A. Upon application of any shareholder or director, or any  
18 officer whose title to office is contested, ~~or any member of a~~  
19 ~~corporation without capital stock,~~ the district court may hear and  
20 determine the validity of any election, appointment, removal or  
21 resignation of any director, ~~member of the governing body,~~ or  
22 officer of any corporation, and the right of any person to hold, or  
23 continue to hold, such office, and, in case any such office is  
24 claimed by more than one person, may determine the person entitled



1 thereto; and to that end make such order or decree in any such case  
2 as may be just and proper, with power to enforce the production of  
3 any books, papers and records of the corporation relating to the  
4 issue. In case it should be determined that no valid election has  
5 been held, the district court may order an election to be held in  
6 accordance with the provisions of Section 1056 or 1060 of this  
7 title. In any such application, service of copies of the  
8 application upon the registered agent of the corporation shall be  
9 deemed to be service upon the corporation and upon the person whose  
10 title to office is contested and upon the person, if any, claiming  
11 such office; and the registered agent shall forward immediately a  
12 copy of the application to the corporation and to the person whose  
13 title to office is contested and to the person, if any, claiming  
14 such office, in a postpaid, sealed, registered letter addressed to  
15 such corporation and such person at their post office addresses last  
16 known to the registered agent or furnished to the registered agent  
17 by the applicant shareholder. The court may make such order  
18 respecting further or other notice of such application as it deems  
19 proper under the circumstances.

20 B. Upon application of any shareholder or ~~any member of a~~  
21 ~~corporation without capital stock~~ upon application of the  
22 corporation itself, the district court may hear and determine the  
23 result of any vote of shareholders ~~or members, as the case may be,~~  
24 upon matters other than the election of directors, or officers ~~or~~

1 ~~members of the governing body.~~ Service of the application upon the  
2 registered agent of the corporation shall be deemed to be service  
3 upon the corporation, and no other party need be joined in order for  
4 the court to adjudicate the result of the vote. The court may make  
5 such order respecting notice of the application as it deems proper  
6 under the circumstances.

7 C. If one or more directors has been convicted of a felony in  
8 connection with the duties of such director or directors to the  
9 corporation, or if there has been a prior judgment on the merits by  
10 a court of competent jurisdiction that one or more directors has  
11 committed a breach of the duty of loyalty in connection with the  
12 duties of such director or directors to that corporation, then, upon  
13 application by the corporation, or derivatively in the right of the  
14 corporation by any shareholder, in a subsequent action brought for  
15 such purpose, the district court may remove from office such  
16 director or directors if the court determines that the director or  
17 directors did not act in good faith in performing the acts resulting  
18 in the prior conviction or judgment and judicial removal is  
19 necessary to avoid irreparable harm to the corporation. In  
20 connection with such removal, the court may make such orders as are  
21 necessary to effect such removal. In any such application, service  
22 of copies of the application upon the registered agent of the  
23 corporation shall be deemed to be service upon the corporation and  
24 upon the director or directors whose removal is sought; and the

1 registered agent shall forward immediately a copy of the application  
2 to the corporation and to such director or directors, in a postpaid,  
3 sealed, registered letter addressed to such corporation and such  
4 director or directors at their post office addresses last known to  
5 the registered agent or furnished to the registered agent by the  
6 applicant. The court may make such order respecting further or  
7 other notice of such application as it deems proper under the  
8 circumstances.

9 SECTION 78. AMENDATORY 18 O.S. 2011, Section 1073, is  
10 amended to read as follows:

11 Section 1073.

12 CONSENT OF SHAREHOLDERS IN LIEU OF MEETING

13 A. ~~Except as provided in subsection B of this section or unless~~  
14 Unless otherwise provided for in the certificate of incorporation,  
15 any action required by the provisions of the Oklahoma General  
16 Corporation Act to be taken at any annual or special meeting of  
17 shareholders of a corporation or any action which may be taken at  
18 any annual or special meeting of shareholders, may be taken without  
19 a meeting, without prior notice, and without a vote, if a consent or  
20 consents in writing, setting forth the action so taken, shall be  
21 signed by the holders of outstanding stock having not less than the  
22 minimum number of votes that would be necessary to authorize or take  
23 the action at a meeting at which all shares entitled to vote thereon  
24 were present and voted and shall be delivered to the corporation by

1 delivery to its registered office in this state, its principal place  
2 of business, or an officer or agent of the corporation having  
3 custody of the book in which proceedings of meetings of shareholders  
4 are recorded. Delivery made to a corporation's registered office  
5 shall be by hand or by certified or registered mail, return receipt  
6 requested.

7 B. ~~1. With respect to any domestic corporation with both:~~

8 a. ~~a class of voting stock listed or traded on a national~~  
9 ~~securities exchange or registered under Section 12(g)~~  
10 ~~of the Securities Exchange Act of 1934, 15 U.S.C.~~  
11 ~~Section 78a et seq., as amended, and~~

12 b. ~~one thousand (1,000) or more shareholders of record,~~  
13 ~~any action by shareholders of the corporation shall be~~  
14 ~~taken at an annual or special meeting of shareholders,~~  
15 ~~and cannot be taken without a meeting of the~~  
16 ~~shareholders, unless such action is approved by~~  
17 ~~written consent, signed by all of the holders of all~~  
18 ~~outstanding stock entitled to vote thereon and~~  
19 ~~delivered to the corporation by delivery to its~~  
20 ~~registered office in this state, its principal place~~  
21 ~~of business, or an officer or agent of the corporation~~  
22 ~~having custody of the book in which proceedings of~~  
23 ~~meetings of shareholders are recorded. Delivery made~~  
24 ~~to a corporation's registered office shall be by hand~~

1 ~~or by certified or registered mail, return receipt~~  
2 ~~requested. The provisions of this subsection shall be~~  
3 ~~effective with respect to corporate actions by written~~  
4 ~~consent, and to written consent or consents, as to~~  
5 ~~which the first written consent is executed or~~  
6 ~~solicited after September 1, 2010.~~

7 ~~2. This subsection shall cease to apply to any domestic~~  
8 ~~corporation after such corporation either:~~

- 9 ~~a. ceases to have any class of voting stock listed or~~  
10 ~~traded on a national securities exchange or registered~~  
11 ~~under Section 12(g) of the Securities Exchange Act of~~  
12 ~~1934, 15 U.S.C. Section 78a et seq., as amended, or~~  
13 ~~b. ceases to have one thousand (1,000) or more~~  
14 ~~shareholders of record on the last business day of~~  
15 ~~each month for a consecutive twelve-month period.~~

16 ~~c. Unless otherwise provided for in the certificate of~~  
17 ~~incorporation, any action required by the provisions of this act the~~  
18 ~~Oklahoma General Corporation Act to be taken at a meeting of the~~  
19 ~~members of a nonstock corporation, or any action which may be taken~~  
20 ~~at any meeting of the members of a nonstock corporation, may be~~  
21 ~~taken without a meeting, without prior notice and without a vote, if~~  
22 ~~a consent or consents in writing, setting forth the action taken,~~  
23 ~~shall be signed by members having not less than the minimum number~~  
24 ~~of votes that would be necessary to authorize or take such action at~~

1 a meeting at which all members having a right to vote thereon were  
2 present and voted and shall be delivered to the corporation by  
3 delivery to its registered office in this state, its principal place  
4 of business, or an officer or agent of the corporation having  
5 custody of the book in which proceedings of meetings of shareholders  
6 are recorded. Delivery made to a corporation's registered office  
7 shall be by hand or by certified or registered mail, return receipt  
8 requested.

9 ~~D.~~ C. 1. A telegram, cablegram or other electronic  
10 transmission consenting to an action to be taken and transmitted by  
11 a shareholder, member or proxyholder, or by a person or persons  
12 authorized to act for a shareholder, member or proxyholder, shall be  
13 deemed to be written, signed and dated for the purposes of this  
14 section; provided that any telegram, cablegram or other electronic  
15 transmission sets forth or is delivered with information from which  
16 the corporation can determine:

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

22 b. the date on which the shareholder, member or  
23 proxyholder or authorized person or persons  
24

1 transmitted the telegram, cablegram or electronic  
2 transmission.

3 The date on which the telegram, cablegram or electronic  
4 transmission is transmitted shall be deemed to be the date on which  
5 the consent was signed. No consent given by telegram, cablegram or  
6 other electronic transmission shall be deemed to have been delivered  
7 until the consent is reproduced in paper form and until the paper  
8 form shall be delivered to the corporation by delivery to its  
9 registered office in this state, its principal place of business or  
10 an officer or agent of the corporation having custody of the book in  
11 which proceedings of meetings of shareholders or members are  
12 recorded. Delivery made to a corporation's registered office shall  
13 be made by hand or by certified or registered mail, return receipt  
14 requested. Notwithstanding the foregoing limitations on delivery,  
15 consents given by telegram, cablegram or other electronic  
16 transmission may be otherwise delivered to the principal place of  
17 business of the corporation or to an officer or agent of the  
18 corporation having custody of the book in which proceedings of  
19 meetings of shareholders or members are recorded if, to the extent  
20 and in the manner provided by resolution of the board of directors  
21 or governing body of the corporation.

22 2. Any copy, facsimile or other reliable reproduction of a  
23 consent in writing may be substituted or used in lieu of the  
24 original writing for any and all purposes for which the original

1 writing could be used; provided that the copy, facsimile or other  
2 reliable reproduction shall be a complete reproduction of the entire  
3 original writing.

4 ~~E.~~ D. Every written consent shall bear the date of signature of  
5 each shareholder or member who signs the consent and no written  
6 consent shall be effective to take the corporate action referred to  
7 therein unless, within sixty (60) days of the earliest dated consent  
8 delivered in the manner required by this section to the corporation,  
9 written consents signed by a sufficient number of holders or members  
10 to take action are delivered to the corporation by delivery to its  
11 registered office in this state, its principal place of business, or  
12 an officer or agent of the corporation having custody of the book in  
13 which proceedings of meetings of shareholders are recorded.  
14 Delivery made to a corporation's registered office shall be by hand  
15 or by certified or registered mail, return receipt requested. Any  
16 person executing a consent may provide, whether through instruction  
17 to an agent or otherwise, that such a consent will be effective at a  
18 future time, including a time determined upon the happening of an  
19 event, no later than sixty (60) days after such instruction is given  
20 or such provision is made and, for the purposes of this section, if  
21 evidence of such instruction or provision is provided to the  
22 corporation, such later effective time shall serve as the date of  
23 signature. Unless otherwise provided, any such consent shall be  
24 revocable prior to its becoming effective.



1       ~~F.~~ E. Prompt notice of the taking of the corporate action  
2 without a meeting by less than unanimous written consent shall be  
3 given to those shareholders or members, as the case may be, who have  
4 not consented in writing and who, if the action had been taken at a  
5 meeting, would have been entitled to notice of the meeting if the  
6 record date for notice of the meeting had been the date that written  
7 consents signed by a sufficient number of shareholders or members to  
8 take the action were delivered to the corporation as provided in  
9 subsection ~~€~~ B of this section. In the event that the action for  
10 which consent is given is an action that would have required the  
11 filing of a certificate under any other section of this title if the  
12 action had been voted on by shareholders or by members at a meeting  
13 thereof the certificate filed under the other section shall state,  
14 in lieu of any statement required by the section concerning any vote  
15 of shareholders or members, that written consent has been given in  
16 accordance with the provisions of this section.

17       SECTION 79.        AMENDATORY        18 O.S. 2011, Section 1077, is  
18 amended to read as follows:

19       Section 1077.

20                AMENDMENT OF CERTIFICATE OF INCORPORATION AFTER RECEIPT OF  
21                PAYMENT FOR STOCK~~+~~ - NONSTOCK CORPORATIONS

22        A. 1. After a corporation has received payment for any of its  
23 capital stock, or after a nonstock corporation has members, it may  
24 amend its certificate of incorporation, from time to time, in any

1 and as many respects as may be desired, so long as its certificate  
2 of incorporation as amended would contain only such provisions as it  
3 would be lawful and proper to insert in an original certificate of  
4 incorporation filed at the time of the filing of the amendment; and  
5 if a change in stock or the rights of shareholders, or an exchange,  
6 reclassification, subdivision, combination, or cancellation of stock  
7 or rights of shareholders is to be made, such provisions as may be  
8 necessary to effect ~~the~~ such change, exchange, reclassification,  
9 subdivision, combination, or cancellation. In particular, and  
10 without limitation upon the general power of amendment, a  
11 corporation may amend its certificate of incorporation, from time to  
12 time, so as:

- 13 a. to change its corporate name,
- 14 b. to change, substitute, enlarge, or diminish the nature  
15 of its business or its corporate powers and purposes,
- 16 c. to increase or decrease its authorized capital stock  
17 or to reclassify the same, by changing the number, par  
18 value, designations, preferences, or relative,  
19 participating, optional, or other special rights of  
20 the shares, or the qualifications, limitations, or  
21 restrictions of such rights, or by changing shares  
22 with par value into shares without par value, or  
23 shares without par value into shares with par value  
24 either with or without increasing or decreasing the

1 number of shares or by subdividing or combining the  
2 outstanding shares of any class or series of a class  
3 of shares into a greater or lesser number of  
4 outstanding shares,

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

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

12 f. to change the period of its duration; or

13 g. to delete (1) such provisions of the original  
14 certificate of incorporation which named the  
15 incorporator or incorporators, the initial board of  
16 directors and the original subscribers for shares, and  
17 (2) such provisions contained in any amendment to the  
18 certificate of incorporation as were necessary to  
19 effect a change, exchange, reclassification,  
20 subdivision, combination or cancellation of stock, if  
21 such change, exchange, reclassification, subdivision,  
22 combination or cancellation has become effective.

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

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

6           1. If the corporation has capital stock, its board of directors  
7 shall adopt a resolution setting forth the amendment proposed,  
8 declaring its advisability, and either calling a special meeting of  
9 the shareholders entitled to vote in respect thereof for the  
10 consideration of the amendment or directing that the amendment  
11 proposed be considered at the next annual meeting of shareholders;  
12 provided, however, that unless otherwise expressly required by the  
13 certificate of incorporation, no meeting or vote of shareholders  
14 shall be required to adopt an amendment that effects only changes  
15 described in paragraph (a) or (g) of subsection A of this section.

16 The special or annual meeting shall be called and held upon notice  
17 in accordance with the provisions of Section 1067 of this title.

18 The notice shall set forth the amendment in full or a brief summary  
19 of the changes to be effected thereby, ~~as the directors shall deem~~

20 ~~advisable~~ unless such notice constitutes a notice of internet

21 availability of proxy materials under the rules promulgated under

22 the Securities Exchange Act of 1934. At the meeting, a vote of the

23 shareholders entitled to vote thereon shall be taken for and against

24 ~~the~~ any proposed amendment that requires adoption by shareholders.

1 If no vote of shareholders is required to effect such amendment, or  
2 if a majority of the outstanding stock entitled to vote thereon, and  
3 a majority of the outstanding stock of each class entitled to vote  
4 thereon as a class, has been voted in favor of the amendment, a  
5 certificate setting forth the amendment and certifying that the  
6 amendment has been duly adopted in accordance with the provisions of  
7 this section shall be executed, acknowledged, and filed and shall  
8 become effective in accordance with the provisions of Section 1007  
9 of this title.

10 2. The holders of the outstanding shares of a class shall be  
11 entitled to vote as a class upon a proposed amendment, whether or  
12 not entitled to vote thereon by the provisions of the certificate of  
13 incorporation, if the amendment would increase or decrease the  
14 aggregate number of authorized shares of the class, increase or  
15 decrease the par value of the shares of the class, or alter or  
16 change the powers, preferences, or special rights of the shares of  
17 the class so as to affect them adversely. If any proposed amendment  
18 would alter or change the powers, preferences, or special rights of  
19 one or more series of any class so as to affect them adversely, but  
20 shall not so affect the entire class, then only the shares of the  
21 series so affected by the amendment shall be considered a separate  
22 class for the purposes of this paragraph. The number of authorized  
23 shares of any such class or classes of stock may be increased or  
24 decreased, but not below the number of shares thereof then

1 outstanding, by the affirmative vote of the holders of a majority of  
2 the stock of the corporation entitled to vote irrespective of the  
3 provisions of this paragraph, if so provided in the original  
4 certificate of incorporation, in any amendment thereto which created  
5 the class or classes of stock or which was adopted prior to the  
6 issuance of any shares of the class or classes of stock, or in any  
7 amendment thereto which was authorized by a resolution or  
8 resolutions adopted by the affirmative vote of the holders of a  
9 majority of the class or classes of stock.

10 3. If the corporation ~~has no capital stock~~ is a nonstock  
11 corporation, then the governing body thereof shall adopt a  
12 resolution setting forth the amendment proposed and declaring its  
13 advisability. If a majority of all the members of the governing  
14 body shall vote in favor of the amendment, a certificate thereof  
15 shall be executed, acknowledged, and filed and shall become  
16 effective in accordance with the provisions of Section 1007 of this  
17 title. The certificate of incorporation of ~~a~~ any nonstock  
18 corporation without capital stock may contain a provision requiring  
19 an amendment thereto to be approved by a specified number or  
20 percentage of the members or of any specified class of members of  
21 the corporation in which event the proposed amendment shall be  
22 submitted to the members or to any specified class of members of the  
23 corporation ~~without capital stock~~ in the same manner, so far as  
24 applicable, as is provided for in this section for an amendment to

1 the certificate of incorporation of a stock corporation; and in the  
2 event of the adoption thereof by the members, a certificate  
3 evidencing the amendment shall be executed, acknowledged, and filed  
4 and shall become effective in accordance with the provisions of  
5 Section 1007 of this title.

6 4. Whenever the certificate of incorporation shall require  
7 action by the board of directors of a corporation other than a  
8 nonstock corporation or by the governing body of a nonstock  
9 corporation, by the holders of any class or series of shares or by  
10 the members, or by the holders of any other securities having voting  
11 power, the vote of a greater number or proportion than is required  
12 by the provisions of the Oklahoma General Corporation Act, the  
13 provision of the certificate of incorporation requiring a greater  
14 vote shall not be altered, amended, or repealed except by a greater  
15 vote.

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

24

1 SECTION 80. AMENDATORY 18 O.S. 2011, Section 1080, is  
2 amended to read as follows:

3 Section 1080.

4 RESTATED CERTIFICATE OF INCORPORATION

5 A. A corporation, whenever desired, may integrate into a single  
6 instrument all of the provisions of its certificate of incorporation  
7 which are then in effect and operative as a result of there having  
8 up to that time been filed with the Secretary of State one or more  
9 certificates or other instruments pursuant to any of the sections  
10 referred to in Section 1008 of this title, and it may at the same  
11 time also further amend its certificate of incorporation by adopting  
12 a restated certificate of incorporation.

13 B. If the restated certificate of incorporation merely restates  
14 and integrates but does not further amend the certificate of  
15 incorporation, as up to that time amended or supplemented by any  
16 instrument that was filed pursuant to any of the sections mentioned  
17 in Section 1008 of this title, it may be adopted by the board of  
18 directors without a vote of the shareholders, or it may be proposed  
19 by the directors and submitted by them to the shareholders for  
20 adoption, in which case the procedure and vote required, if any, by  
21 Section 1077 of this title for amendment of the certificate of  
22 incorporation shall be applicable. If the restated certificate of  
23 incorporation restates and integrates and also further amends in any  
24 respect the certificate of incorporation, as up to that time amended



1 or supplemented, it shall be proposed by the directors and adopted  
2 by the shareholders in the manner and by the vote prescribed by  
3 Section 1077 of this title or, if the corporation has not received  
4 any payment for any of its stock, in the manner and by the vote  
5 prescribed by Section 1076 of this title.

6 C. A restated certificate of incorporation shall be  
7 specifically designated as such in its heading. It shall state,  
8 either in its heading or in an introductory paragraph, the  
9 corporation's present name, and, if it has been changed, the name  
10 under which it was originally incorporated, and the date of filing  
11 of its original certificate of incorporation with the Secretary of  
12 State. If it was adopted by the board of directors without a vote  
13 of the shareholders, unless it was adopted pursuant to the  
14 provisions of Section 1076 of this title or without a vote of  
15 members pursuant to paragraph 3 of subsection B of Section 1077 of  
16 this title, it shall state that it only restates and integrates and  
17 does not further amend the provisions of the corporation's  
18 certificate of incorporation as up to that time amended or  
19 supplemented, and that there is no discrepancy between those  
20 provisions and the provisions of the restated certificate. A  
21 restated certificate of incorporation may omit:

22 1. Such provisions of the original certificate of incorporation  
23 which named the incorporator or incorporators, the initial board of  
24 directors, and the original subscribers for shares; and

1        2. Such provisions contained in any amendment to the  
2 certificate of incorporation as were necessary to effect a change,  
3 exchange, reclassification, subdivision, combination or cancellation  
4 of stock, if such change, exchange, reclassification, subdivision,  
5 combination or cancellation has become effective.

6        Any such omissions shall not be deemed a further amendment.

7        D. A restated certificate of incorporation shall be executed,  
8 acknowledged and filed in accordance with the provisions of Section  
9 1007 of this title. Upon its filing with the Secretary of State,  
10 the original certificate of incorporation, as up to that time  
11 amended or supplemented, shall be superseded. From that time  
12 forward, the restated certificate of incorporation, including any  
13 further amendments or changes made thereby, shall be the certificate  
14 of incorporation of the corporation, but the original date of  
15 incorporation shall remain unchanged.

16        E. Any amendment or change effected in connection with the  
17 restatement and integration of the certificate of incorporation  
18 shall be subject to any other provision of the Oklahoma General  
19 Corporation Act, not inconsistent with the provisions of this  
20 section, which would apply if a separate certificate of amendment  
21 were filed to effect such amendment or change.

22        SECTION 81.        AMENDATORY        18 O.S. 2011, Section 1081, is  
23 amended to read as follows:

24        Section 1081.

1 MERGER OR CONSOLIDATION OF DOMESTIC CORPORATIONS

2 A. Any two or more corporations existing under the laws of this  
3 state may merge into a single corporation, which may be any one of  
4 the constituent corporations or may consolidate into a new  
5 corporation formed by the consolidation, pursuant to an agreement of  
6 merger or consolidation, as the case may be, complying and approved  
7 in accordance with the provisions of this section.

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

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

13 2. The mode of carrying the same into effect;

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

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

1           5. The manner, if any, of converting the shares of each of the  
2 constituent corporations into shares or other securities of the  
3 corporation surviving or resulting from the merger or consolidation,  
4 or of canceling some or all of the shares, and, if any shares of any  
5 of the constituent corporations are not to remain outstanding, to be  
6 converted solely into shares or other securities of the surviving or  
7 resulting corporation or to be canceled, the cash, property, rights,  
8 or securities of any other corporation or entity which the holders  
9 of the shares are to receive in exchange for or upon conversion of  
10 the shares and the surrender of any certificates evidencing them,  
11 which cash, property, rights, or securities of any other corporation  
12 or entity may be in addition to or in lieu of shares or other  
13 securities of the surviving or resulting corporation; and

14           6. Other details or provisions as are deemed desirable,  
15 including without limiting the generality of the foregoing, a  
16 provision for the payment of cash in lieu of the issuance or  
17 recognition of fractional shares, interests or rights, or for any  
18 other arrangement with respect thereto, consistent with the  
19 provisions of Section 1036 of this title. The agreement so adopted  
20 shall be executed and acknowledged in accordance with the provisions  
21 of Section 1007 of this title. Any of the terms of the agreement of  
22 merger or consolidation may be made dependent upon facts  
23 ascertainable outside of the agreement; provided, that the manner in  
24 which these facts shall operate upon the terms of the agreement is

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

6 C. The agreement required by the provisions of subsection B of  
7 this section shall be submitted to the shareholders of each  
8 constituent corporation at an annual or special meeting thereof for  
9 the purpose of acting on the agreement. Due notice of the time,  
10 place, and purpose of the meeting shall be mailed to each holder of  
11 stock whether voting or nonvoting, of the corporation at the address  
12 which appears on the records of the corporation, at least twenty  
13 (20) days before the date of the meeting. The notice shall contain  
14 a copy of the agreement or a brief summary thereof, ~~as the directors~~  
15 ~~shall deem advisable~~; provided, however, the notice shall be  
16 effective only with respect to mergers or consolidations for which  
17 the notice of the shareholders meeting to vote thereon has been  
18 mailed after November 1, 1988. At the meeting the agreement shall  
19 be considered and a vote taken for its adoption or rejection. If a  
20 majority of the outstanding stock of the corporation entitled to  
21 vote thereon shall be voted for the adoption of the agreement, that  
22 fact shall be certified on the agreement by the secretary or the  
23 assistant secretary of the corporation; provided, that such  
24 certification on the agreement shall not be required if a

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

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

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

16 3. The name of the surviving or resulting corporation;

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

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

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

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

12           D. Any agreement of merger or consolidation may contain a  
13 provision that at any time prior to the time that the agreement, or  
14 a certificate filed with the Secretary of State in lieu thereof,  
15 becomes effective in accordance with Section 1007 of this title, the  
16 agreement may be terminated by the board of directors of any  
17 constituent corporation notwithstanding approval of the agreement by  
18 the shareholders of all or any of the constituent corporations;  
19 provided, if the agreement of merger or consolidation is terminated  
20 after the filing of the agreement, or a certificate filed with the  
21 Secretary of State in lieu thereof, but before the agreement or  
22 certificate has become effective, a certificate of termination of  
23 merger or consolidation shall be filed in accordance with Section  
24 1007 of this title. Any agreement of merger or consolidation may

1 contain a provision that the boards of directors of the constituent  
2 corporations may amend the agreement at any time prior to the time  
3 that the agreement, or a certificate filed with the Secretary of  
4 State in lieu thereof, becomes effective in accordance with Section  
5 1007 of this title; provided, that an amendment made subsequent to  
6 the adoption of the agreement by the shareholders of any constituent  
7 corporation shall not:

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

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

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

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



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

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

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

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

15 3. Either no shares of common stock of the surviving  
16 corporation and no shares, securities, or obligations convertible  
17 into such stock are to be issued or delivered under the plan of  
18 merger, or the authorized unissued shares or the treasury shares of  
19 common stock of the surviving corporation to be issued or delivered  
20 under the plan of merger plus those initially issuable upon  
21 conversion of any other shares, securities, or obligations to be  
22 issued or delivered under the plan do not exceed twenty percent  
23 (20%) of the shares of common stock of the constituent corporation  
24 outstanding immediately prior to the effective date of the merger.

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

- 12           a. if it has been adopted pursuant to paragraph 1 of this  
13           subsection, that the conditions specified have been  
14           satisfied, or
- 15           b. if it has been adopted pursuant to paragraph 2 of this  
16           subsection, that no shares of stock of the corporation  
17           were issued prior to the adoption by the board of  
18           directors of the resolution approving the agreement of  
19           merger or consolidation; provided, that such  
20           certification on the agreement shall not be required  
21           if a certificate of merger or consolidation is filed  
22           in lieu of filing the agreement.

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

1 1007 of this title. Filing shall constitute a representation by the  
2 person who executes the certificate that the facts stated in the  
3 certificate remain true immediately prior to filing.

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

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

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

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

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

3 d. the certificate of incorporation and bylaws of the  
4 holding company immediately following the effective  
5 time of the merger contain provisions identical to the  
6 certificate of incorporation and bylaws of the  
7 constituent corporation immediately before the  
8 effective time of the merger, other than provisions,  
9 if any, regarding the incorporator or incorporators,  
10 the corporate name, the registered office and agent,  
11 the initial board of directors, and the initial  
12 subscribers of shares and provisions contained in any  
13 amendment to the certificate of incorporation as were  
14 necessary to effect a change, exchange,  
15 reclassification, subdivision, combination or  
16 cancellation of stock, if a change, exchange,  
17 reclassification, or cancellation has become  
18 effective,

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

- 1 f. the directors of the constituent corporation become or  
2 remain the directors of the holding company upon the  
3 effective time of the merger,
- 4 g. the organizational documents of the surviving entity  
5 immediately following the effective time of the merger  
6 contain provisions identical to the certificate of  
7 incorporation of the constituent corporation  
8 immediately before the effective time of the merger,  
9 other than provisions, if any, regarding the  
10 incorporator or incorporators, the corporate or entity  
11 name, the registered office and agent, the initial  
12 board of directors and the initial subscribers for  
13 shares, references to members rather than  
14 shareholders, references to interests, units or the  
15 like rather than stock or shares, references to  
16 managers, managing members or other members of the  
17 governing body rather than directors and such  
18 provisions contained in any amendment to the  
19 certificate of incorporation as were necessary to  
20 effect a change, exchange, reclassification,  
21 subdivision, combination or cancellation of stock, if  
22 such change, exchange, reclassification, subdivision,  
23 combination or cancellation has become effective;  
24 provided, however, that:

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

5 (a) any act or transaction by or involving the  
6 surviving entity, other than the election or  
7 removal of directors or managers, managing  
8 members or other members of the governing  
9 body of the surviving entity, that requires  
10 for its adoption under this act or its  
11 organizational documents the approval of the  
12 shareholders or members of the surviving  
13 entity shall, by specific reference to this  
14 subsection, require, in addition, the  
15 approval of the shareholders of the holding  
16 company (or any successor by merger), by the  
17 same vote as is required by this act and/or  
18 by the organizational documents of the  
19 surviving entity; provided, however, that  
20 for purposes of this subdivision, any  
21 surviving entity that is not a corporation  
22 shall include in such amendment a  
23 requirement that the approval of the  
24 shareholders of the holding company be

1 obtained for any act or transaction by or  
2 involving the surviving entity, other than  
3 the election or removal of directors or  
4 managers, managing members or other members  
5 of the governing body of the surviving  
6 entity, which would require the approval of  
7 the shareholders of the surviving entity if  
8 the surviving entity were a corporation  
9 subject to this act,

10 (b) any amendment of the organizational  
11 documents of a surviving entity that is not  
12 a corporation, which amendment would, if  
13 adopted by a corporation subject to this  
14 act, be required to be included in the  
15 certificate of incorporation of such  
16 corporation, shall, by specific reference to  
17 this subsection, require, in addition, the  
18 approval of the shareholders of the holding  
19 company, or any successor by merger, by the  
20 same vote as is required by this act and/or  
21 by the organizational documents of the  
22 surviving entity, and

23 (c) the business and affairs of a surviving  
24 entity that is not a corporation shall be

1 managed by or under the direction of a board  
2 of directors, board of managers or other  
3 governing body consisting of individuals who  
4 are subject to the same fiduciary duties  
5 applicable to, and who are liable for breach  
6 of such duties to the same extent as,  
7 directors of a corporation subject to this  
8 act, and

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

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

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

18 h. the shareholders of the constituent corporation do not  
19 recognize gain or loss for federal income tax purposes  
20 as determined by the board of directors of the  
21 constituent corporation.

22 Neither division (1) of subparagraph g of paragraph 1 of this  
23 subsection nor any provision of a surviving entity's organizational  
24 documents required by division (1) of subparagraph g of paragraph 1



1 of this subsection shall be deemed or construed to require approval  
2 of the shareholders of the holding company to elect or remove  
3 directors or managers, managing members or other members of the  
4 governing body of the surviving entity.

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

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

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

19 a. to the extent the restriction of Section 1090.3 of  
20 this title applied to the constituent corporation and  
21 its shareholders at the effective time of the merger,  
22 restrictions shall apply to the holding company and  
23 its shareholders immediately after the effective time  
24 of the merger as though it were the constituent

1 corporation, and all shareholders of stock of the  
2 holding company acquired in the merger shall for  
3 purposes of Section 1090.3 of this title be deemed to  
4 have been acquired at the time that the shares of  
5 stock of the constituent corporation converted in the  
6 merger were acquired; provided, that any shareholder  
7 who immediately before the effective time of the  
8 merger was not an interested shareholder within the  
9 meaning of Section 1090.3 of this title shall not  
10 solely by reason of the merger become an interested  
11 shareholder of the holding company,

12 b. if the corporate name of the holding company  
13 immediately following the effective time of the merger  
14 is the same as the corporate name of the constituent  
15 corporation immediately before the effective time of  
16 the merger, the shares of capital stock of the holding  
17 company into which the shares of capital stock of the  
18 constituent corporation are converted in the merger  
19 shall be represented by the stock certificates that  
20 previously represented the shares of capital stock of  
21 the constituent corporation, and

22 c. to the extent a shareholder of the constituent  
23 corporation immediately before the merger had standing  
24 to institute or maintain derivative litigation on

1           behalf of the constituent corporation, nothing in this  
2           section shall be deemed to limit or extinguish such  
3           standing.

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

18           H. Notwithstanding the requirements of subsection C of this  
19 section, unless expressly required by its certificate of  
20 incorporation, no vote of shareholders of a constituent corporation  
21 that has a class or series of stock that is listed on a national  
22 securities exchange or held of record by more than two thousand  
23 holders immediately prior to the execution of the agreement of  
24

1 merger by such constituent corporation shall be necessary to  
2 authorize a merger if:

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

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

19 3. Immediately following the consummation of the offer referred  
20 to in paragraph 2 of this subsection, the stock irrevocably accepted  
21 for purchase or exchange pursuant to such offer and received by the  
22 depository prior to expiration of such offer, together with the  
23 stock otherwise owned by the consummating corporation or its  
24 affiliates and any rollover stock, equals at least such percentage

1 of the shares of stock of such constituent corporation, and of each  
2 class or series thereof, that, absent this subsection, would be  
3 required to adopt the agreement of merger by this chapter and by the  
4 certificate of incorporation of such constituent corporation;

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

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

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

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

- 1        b. "consummates", and with correlative meaning,  
2        "consummation" and "consummating", means irrevocably  
3        accepts for purchase or exchange stock tendered  
4        pursuant to an offer,
- 5        c. "depository" means an agent, including a depository,  
6        appointed to facilitate consummation of the offer  
7        referred to in paragraph 2 of this subsection,
- 8        d. "excluded stock" means (1) stock of such constituent  
9        corporation that is owned at the commencement of the  
10       offer referred to in paragraph 2 of this subsection by  
11       such constituent corporation, the corporation making  
12       the offer referred to in paragraph 2 of this  
13       subsection, any person that owns, directly or  
14       indirectly, all of the outstanding stock of the  
15       corporation making such offer, or any direct or  
16       indirect wholly-owned subsidiary of any of the  
17       foregoing and (2) rollover stock,
- 18       e. "person" means any individual, corporation,  
19       partnership, limited liability company, unincorporated  
20       association or other entity,
- 21       f. "received" solely for purposes of paragraph 3 of this  
22       subsection means (1) with respect to certificated  
23       shares, physical receipt of a stock certificate  
24       accompanied by an executed letter of transmittal, (2)

1 with respect to uncertificated shares held of record  
2 by a clearing corporation as nominee, transfer into  
3 the depository's account by means of an agent's  
4 message, and (3) with respect to uncertificated shares  
5 held of record by a person other than a clearing  
6 corporation as nominee, physical receipt of an  
7 executed letter of transmittal by the depository;  
8 provided, however, that shares shall cease to be  
9 "received" (4) with respect to certificated shares, if  
10 the certificate representing such shares was canceled  
11 prior to consummation of the offer referred to in  
12 paragraph 2 of this subsection, or (5) with respect  
13 to uncertificated shares, to the extent such  
14 uncertificated shares have been reduced or eliminated  
15 due to any sale of such shares prior to consummation  
16 of the offer referred to in paragraph 2 of this  
17 subsection, and

18 g. "rollover stock" means any shares of stock of such  
19 constituent corporation that are the subject of a  
20 written agreement requiring such shares to be  
21 transferred, contributed or delivered to the  
22 consummating corporation or any of its affiliates in  
23 exchange for stock or other equity interests in such  
24 consummating corporation or an affiliate thereof;

1 provided, however, that such shares of stock shall  
2 cease to be rollover stock for purposes of paragraph 3  
3 of this subsection if, immediately prior to the time  
4 the merger becomes effective under this chapter, such  
5 shares have not been transferred, contributed or  
6 delivered to the consummating corporation or any of  
7 its affiliates pursuant to such written agreement.

8 If an agreement of merger is adopted without the vote of  
9 shareholders of a corporation pursuant to this subsection, the  
10 secretary or assistant secretary of the surviving corporation shall  
11 certify on the agreement that the agreement has been adopted  
12 pursuant to this subsection and that the conditions specified in  
13 this subsection, other than the condition listed in paragraph 4 of  
14 this subsection, have been satisfied; provided that such  
15 certification on the agreement shall not be required if a  
16 certificate of merger is filed in lieu of filing the agreement. The  
17 agreement so adopted and certified shall then be filed and shall  
18 become effective, in accordance with Section 1007 of this title.  
19 Such filing shall constitute a representation by the person who  
20 executes the agreement that the facts stated in the certificate  
21 remain true immediately prior to such filing.

22 SECTION 82. AMENDATORY 18 O.S. 2011, Section 1082, is  
23 amended to read as follows:

24 Section 1082.



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

3 A. Any one or more corporations of this state may merge or  
4 consolidate with one or more other corporations of any other state  
5 or states of the United States, or of the District of Columbia, if  
6 the laws of the other state or states or of the District permit a  
7 corporation of the jurisdiction to merge or consolidate with a  
8 corporation of another jurisdiction. The constituent corporations  
9 may merge into a single corporation, which may be any one of the  
10 constituent corporations, or they may consolidate into a new  
11 corporation formed by the consolidation, which may be a corporation  
12 of the state of incorporation of any one of the constituent  
13 corporations, pursuant to an agreement of merger or consolidation,  
14 as the case may be, complying and approved in accordance with the  
15 provisions of this section. In addition, any one or more  
16 corporations organized under the laws of any jurisdiction other than  
17 one of the United States may merge or consolidate with one or more  
18 corporations existing under the laws of this state if the surviving  
19 or resulting corporation will be a corporation of this state, and if  
20 the laws under which the other corporation or corporations are  
21 formed permit a corporation of that jurisdiction to merge or  
22 consolidate with a corporation of another jurisdiction.

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

- 1        1. The terms and conditions of the merger or consolidation;
- 2        2. The mode of carrying the same into effect;
- 3        3. The manner, if any, of converting the shares of each of the
- 4        constituent corporations into shares or other securities of the
- 5        corporation surviving or resulting from the merger or consolidation,
- 6        or of canceling some or all of the shares, and, if any shares of any
- 7        of the constituent corporations are not to remain outstanding, to be
- 8        converted solely into shares or other securities of the surviving or
- 9        resulting corporation or to be canceled, the cash, property, rights,
- 10       or securities of any other corporation or entity which the holder of
- 11       the shares is to receive in exchange for, or upon conversion of, the
- 12       shares and the surrender of any certificates evidencing them, which
- 13       cash, property, rights, or securities of any other corporation or
- 14       entity may be in addition to or in lieu of the shares or other
- 15       securities of the surviving or resulting corporation;
- 16       4. Other details or provisions as are deemed desirable,
- 17       including, without limiting the generality of the foregoing, a
- 18       provision for the payment of cash in lieu of the issuance or
- 19       recognition of fractional shares of the surviving or resulting
- 20       corporation or of any other corporation the securities of which are
- 21       to be received in the merger or consolidation, or for some other
- 22       arrangement with respect thereto consistent with the provisions of
- 23       Section 1036 of this title; and

24

1           5. Other provisions or facts as shall be required to be set  
2 forth in the certificate of incorporation by the laws of the state  
3 which are stated in the agreement to be the laws that shall govern  
4 the surviving or resulting corporation and that can be stated in the  
5 case of a merger or consolidation. Any of the terms of the  
6 agreement of merger or consolidation may be made dependent upon  
7 facts ascertainable outside of the agreement; provided, that the  
8 manner in which the facts shall operate upon the terms of the  
9 agreement is clearly and expressly set forth in the agreement of  
10 merger or consolidation. The term "facts" as used in this  
11 paragraph, includes, but is not limited to, the occurrence of any  
12 event, including a determination or action by any person or body,  
13 including the corporation.

14           C. The agreement shall be adopted, approved, executed, and  
15 acknowledged by each of the constituent corporations in accordance  
16 with the laws under which it is formed, and, in the case of an  
17 Oklahoma corporation, in the same manner as is provided for in  
18 Section 1081 of this title. The agreement shall be filed and shall  
19 become effective for all purposes of the laws of this state when and  
20 as provided for in Section 1081 of this title with respect to the  
21 merger or consolidation of corporations of this state. In lieu of  
22 filing the agreement of merger or consolidation, the surviving or  
23 resulting corporation may file a certificate of merger or  
24

1 consolidation executed in accordance with the provisions of Section  
2 1007 of this title, which states:

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

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

9 3. The name of the surviving or resulting corporation;

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

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

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

24

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

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

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

12           D. If the corporation surviving or resulting from the merger or  
13 consolidation is to be governed by the laws of the District of  
14 Columbia or any state other than this state, it shall agree that it  
15 may be served with process in this state in any proceeding for  
16 enforcement of any obligation of any constituent corporation of this  
17 state, as well as for enforcement of any obligation of the surviving  
18 or resulting corporation arising from the merger or consolidation,  
19 including any suit or other proceeding to enforce the right of any  
20 shareholders as determined in appraisal proceedings pursuant to the  
21 provisions of Section 1091 of this title, and shall irrevocably  
22 appoint the Secretary of State as its agent to accept service of  
23 process in any suit or other proceedings and shall specify the  
24 address to which a copy of process shall be mailed by the Secretary

1 of State. In the event of service upon the Secretary of State in  
2 accordance with the provisions of ~~this subsection~~ Section 2004 of  
3 Title 12 of the Oklahoma Statutes, the Secretary of State shall  
4 immediately notify the surviving or resulting corporation thereof by  
5 letter, certified mail, return receipt requested, directed to the  
6 surviving or resulting corporation at the address specified unless  
7 the surviving or resulting corporation shall have designated in  
8 writing to the Secretary of State a different address for this  
9 purpose, in which case it shall be mailed to the last address so  
10 designated. The notice shall include a copy of the process and any  
11 other papers served on the Secretary of State pursuant to the  
12 provisions of this subsection. It shall be the duty of the  
13 plaintiff in the event of such service to serve process and any  
14 other papers in duplicate, to notify the Secretary of State that  
15 service is being effected pursuant to the provisions of this  
16 subsection, and to pay the Secretary of State the fee provided for  
17 in paragraph 7 of subsection A of Section 1142 of this title, which  
18 fee shall be taxed as part of the costs in the proceeding. The  
19 Secretary of State shall maintain an alphabetical record of any such  
20 service setting forth the name of the plaintiff and the defendant,  
21 the title, docket number, and nature of the proceeding in which  
22 process has been served upon the Secretary of State, the fact that  
23 service has been effected pursuant to the provisions of this  
24 subsection, the return date thereof, and the date service was made.

1 The Secretary of State shall not be required to retain such  
2 information longer than five (5) years from receipt of the service  
3 of process by the Secretary of State.

4 E. The provisions of ~~subsections C and~~ subsection D of Section  
5 1081 of this title shall apply to any merger or consolidation  
6 pursuant to the provisions of this section. The provisions of  
7 subsection E of Section 1081 of this title shall apply to a merger  
8 pursuant to the provisions of this section in which the surviving  
9 corporation is a corporation of this state. The provisions of  
10 ~~subsection~~ subsections F and H of Section 1081 of this title shall  
11 apply to any merger pursuant to the provisions of this section.

12 SECTION 83. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1083.1 of Title 18, unless there  
14 is created a duplication in numbering, reads as follows:

15 MERGER OF PARENT ENTITY AND SUBSIDIARY

16 CORPORATION OR CORPORATIONS

17 A. In any case in which:

18 1. At least ninety percent (90%) of the outstanding shares of  
19 each class of the stock of a corporation or corporations, other  
20 than a corporation which has in its certificate of incorporation  
21 the provision required by division (1) of subparagraph g of  
22 paragraph 1 of subsection G of Section 1081 of Title 18 of the  
23 Oklahoma Statutes, of which class there are outstanding shares  
24

1 that, absent this subsection, would be entitled to vote on such  
2 merger, is owned by an entity;

3 2. One or more of such corporations is a corporation of this  
4 state; and

5 3. Any entity or corporation that is not an entity or  
6 corporation of this state is an entity or corporation of any  
7 other state or the District of Columbia, the laws of which do not  
8 forbid such merger, the entity having such stock ownership may  
9 either merge the corporation or corporations into itself and  
10 assume all of its or their obligations, or merge itself, or  
11 itself and one or more of such corporations, into one of the  
12 other corporations by:

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

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

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



1           executed in accordance with such entity's  
2           governing documents and in accordance with the  
3           laws of the jurisdiction under which such  
4           entity is formed or organized, and

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

10           (a) the certificate of ownership and merger  
11           shall state the terms and conditions of  
12           the merger, including the securities,  
13           cash, property, or rights to be issued,  
14           paid, delivered or granted by the  
15           surviving constituent party upon  
16           surrender of each share of the  
17           corporation or corporations not owned by  
18           the entity, or the cancellation of some or  
19           all of such shares, and

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

1 or a limited liability limited  
2 partnership.

3 Any of the terms of the merger may be made dependent upon facts  
4 ascertainable outside of the certificate of ownership and merger,  
5 provided that the manner in which such facts shall operate upon the  
6 terms of the merger is clearly and expressly set forth in the  
7 certificate of ownership and merger. The term "facts", as used in  
8 the preceding sentence, includes, but is not limited to, the  
9 occurrence of any event including a determination or action by any  
10 person or body, including the entity. If the surviving constituent  
11 party exists under the laws of the District of Columbia or any state  
12 or jurisdiction other than this state, subsection D of Section 1082  
13 of Title 18 of the Oklahoma Statutes shall also apply to a merger  
14 under this section; if the surviving constituent party is the  
15 entity, the word "corporation" where applicable, as used in  
16 subsection D of Section 1082 of Title 18 of the Oklahoma Statutes,  
17 shall be deemed to include an entity as defined herein; and the  
18 terms and conditions of the merger shall obligate the surviving  
19 constituent party to provide the agreement, and take the actions  
20 required by subsection D of Section 1082 of Title 18 of the Oklahoma  
21 Statutes.

22 B. Sections 1088, 1090 and 1127 of Title 18 of the Oklahoma  
23 Statutes shall, insofar as they are applicable, apply to a merger  
24 under this section, and Section 1089 and subsection E of Section

1 1081 of Title 18 of the Oklahoma Statutes shall apply to a merger  
2 under this section in which the surviving constituent party is a  
3 corporation of this state. For purposes of this subsection,  
4 references to "agreement of merger" in subsection F of Section 1081  
5 of Title 18 of the Oklahoma Statutes shall mean the terms and  
6 condition of the merger set forth in the certificate of ownership  
7 and merger, and references to "corporation" in Sections 1088, 1089,  
8 and 1090 of Title 18 of the Oklahoma Statutes and Section 1127 of  
9 Title 18 of the Oklahoma Statutes shall be deemed to include the  
10 entity, as applicable. Section 1091 of Title 18 of the Oklahoma  
11 Statutes shall not apply to any merger effected under this section,  
12 except as provided in subsection C of this section.

13 C. In the event all of the stock of an Oklahoma corporation  
14 party to a merger effected under this section is not owned by the  
15 entity immediately prior to the merger, the shareholders of such  
16 Oklahoma corporation party to the merger shall have appraisal  
17 rights as set forth in Section 1091 of Title 18 of the Oklahoma  
18 Statutes.

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

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

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

3        2. "Entity" means a partnership, whether general or limited,  
4 and including a limited liability partnership and a limited  
5 liability limited partnership, a limited liability company, and  
6 any unincorporated nonprofit or for-profit association, trust or  
7 enterprise having members or having outstanding shares of stock  
8 or other evidences of financial, beneficial or membership  
9 interest therein, whether formed by agreement or under statutory  
10 authority or otherwise; and

11       3. "Governing documents" means a partnership agreement,  
12 operating agreement, articles of association or any other  
13 instrument containing the provisions by which an entity is  
14 formed or organized.

15       SECTION 84.        AMENDATORY        18 O.S. 2011, Section 1090.3, is  
16 amended to read as follows:

17       Section 1090.3.

18                    BUSINESS COMBINATIONS WITH INTERESTED SHAREHOLDERS

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

23       1. Prior to that time, the board of directors of the  
24 corporation approved either the business combination or the

1 transaction which resulted in the person becoming an interested  
2 shareholder;

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

- 10 a. persons who are directors and also officers, and
- 11 b. employee stock plans in which employee participants do  
12 not have the right to determine confidentially whether  
13 shares held subject to the plan will be tendered in a  
14 tender or exchange offer; or

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

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

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

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

5        3. a. ~~The~~ the corporation, with the approval of its  
6 shareholders, adopts an amendment to its certificate of  
7 incorporation or bylaws expressly electing not to be  
8 governed by this section; provided that, in addition to  
9 any other vote required by law, an amendment to the  
10 certificate of incorporation or bylaws must be approved  
11 by the affirmative vote of a majority of the  
12 outstanding voting stock of the corporation.

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

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

19            (2) has not elected by a provision in its original  
20            certificate of incorporation or any amendment  
21            thereto to be governed by this section~~.,~~ and

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

1 shall not apply to any business combination between a  
2 corporation and any person who became an interested  
3 shareholder of the corporation on or prior to the  
4 adoption. A bylaw amendment adopted pursuant to this  
5 paragraph shall not be further amended by the board of  
6 directors;

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

- 9 a. listed on a national securities exchange, or
- 10 b. ~~authorized for quotation on the NASDAQ Stock Market,~~
- 11 ~~or~~
- 12 ~~e.~~ held of record by one thousand or more shareholders,  
13 unless any of the foregoing results from action taken,  
14 directly or indirectly, by an interested shareholder  
15 or from a transaction in which a person becomes an  
16 interested shareholder;

17 5. A person becomes an interested shareholder inadvertently  
18 and:

- 19 a. as soon as practicable divests itself of ownership of  
20 sufficient shares so that the person ceases to be an  
21 interested shareholder, and
- 22 b. would not, at any time within the three-year period  
23 immediately prior to a business combination between  
24 the corporation and the person, have been an

1 interested shareholder but for the inadvertent  
2 acquisition;

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

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

9 (2) is with or by a person who:

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

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

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

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



1 (1) a share acquisition pursuant to Section 1090.1 of  
2 this title, or a merger or consolidation of the  
3 corporation, except for a merger in respect of  
4 which, pursuant to subsection F or G of Section  
5 1081 of this title, no vote of the shareholders  
6 of the corporation is required,

7 (2) a sale, lease, exchange, mortgage, pledge,  
8 transfer, or other disposition, in one  
9 transaction or a series of transactions, whether  
10 as part of a dissolution or otherwise, of assets  
11 of the corporation or of any direct or indirect  
12 majority-owned subsidiary of the corporation,  
13 other than to any direct or indirect wholly owned  
14 subsidiary or to the corporation, having an  
15 aggregate market value equal to fifty percent  
16 (50%) or more of either the aggregate market  
17 value of all of the assets of the corporation  
18 determined on a consolidated basis or the  
19 aggregate market value of all the outstanding  
20 stock of the corporation, or

21 (3) a proposed tender or exchange offer for  
22 outstanding stock of the corporation which  
23 represents fifty percent (50%) or more of the  
24 outstanding voting stock of the corporation. The

1 corporation shall give not less than twenty (20)  
2 days' notice to all interested shareholders prior  
3 to the consummation of any of the transactions  
4 described in divisions (1) or (2) of this  
5 subparagraph; or

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

14 C. Notwithstanding paragraphs 1, 2, 3, and 4 of subsection B of  
15 this section, a corporation may elect by a provision of its original  
16 certificate of incorporation or any amendment thereto to be governed  
17 by this section; provided, that any amendment to the certificate of  
18 incorporation shall not apply to restrict a business combination  
19 between the corporation and an interested shareholder of the  
20 corporation if the interested shareholder became an interested  
21 shareholder prior to the effective date of the amendment.

22 D. As used in this section:  
23  
24

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

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

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

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

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

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

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

24 (1) the interested shareholder, or

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

8           b. any sale, lease, exchange, mortgage, pledge, transfer,  
9           or other disposition, in one transaction or a series  
10          of transactions, except proportionately as a  
11          shareholder of the corporation, to or with the  
12          interested shareholder, whether as part of a  
13          dissolution or otherwise, of assets of the corporation  
14          or of any direct or indirect majority-owned subsidiary  
15          of the corporation which assets have an aggregate  
16          market value equal to ten percent (10%) or more of  
17          either the aggregate market value of all the assets of  
18          the corporation determined on a consolidated basis or  
19          the aggregate market value of all the outstanding  
20          stock of the corporation,

21          c. any transaction which results in the issuance or  
22          transfer by the corporation or by any direct or  
23          indirect majority-owned subsidiary of the corporation  
24

1 of any stock of the corporation or of the subsidiary  
2 to the interested shareholder, except:

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

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

11 (3) pursuant to a dividend or distribution paid or  
12 made, or the exercise, exchange, or conversion of  
13 securities exercisable for, exchangeable for, or  
14 convertible into stock of the corporation or any  
15 subsidiary which security is distributed, pro  
16 rata, to all holders of a class or series of  
17 stock of the corporation subsequent to the time  
18 the interested shareholder became an interested  
19 shareholder,

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

23 (5) any issuance or transfer of stock by the  
24 corporation; provided, however, that in no case

1 under divisions (3) through (5) of this  
2 subparagraph shall there be an increase in the  
3 interested shareholder's proportionate share of  
4 the stock of any class or series of the  
5 corporation or of the voting stock of the  
6 corporation,

7 d. any transaction involving the corporation or any  
8 direct or indirect majority-owned subsidiary of the  
9 corporation which has the effect, directly or  
10 indirectly, of increasing the proportionate share of  
11 the stock of any class or series, or securities  
12 convertible into the stock of any class or series, or  
13 the outstanding voting stock, of the corporation or of  
14 any subsidiary which is owned by the interested  
15 shareholder, except as a result of immaterial changes  
16 due to fractional share adjustments or as a result of  
17 any purchase or redemption of any shares of stock not  
18 caused, directly or indirectly, by the interested  
19 shareholder,

20 e. any receipt by the interested shareholder of the  
21 benefit, directly or indirectly, except  
22 proportionately as a shareholder of the corporation,  
23 of any loans, advances, guarantees, pledges, or other  
24 financial benefits, other than those expressly

1 permitted in subparagraphs a through d of this  
2 paragraph, provided by or through the corporation or  
3 any direct or indirect majority-owned subsidiary, or  
4 f. any share acquisition by the interested shareholder  
5 from the corporation or any direct or indirect  
6 majority-owned subsidiary of the corporation pursuant  
7 to Section 1090.1 of this title;

8 4. "Control", including the terms "controlling", "controlled  
9 by" and "under common control with", means the possession, directly  
10 or indirectly, of the power to direct or cause the direction of the  
11 management and policies of a person, whether through the ownership  
12 of voting stock, by contract, or otherwise. A person who is the  
13 owner of twenty percent (20%) or more of the outstanding voting  
14 stock of any corporation, partnership, unincorporated association or  
15 other entity shall be presumed to have control of the entity, in the  
16 absence of proof by a preponderance of the evidence to the contrary.  
17 Notwithstanding the foregoing, a presumption of control shall not  
18 apply where the person holds stock, in good faith and not for the  
19 purpose of circumventing this section, as an agent, bank, broker,  
20 nominee, custodian, or trustee for one or more owners who do not  
21 individually or as a group have control of the entity;

22 5. a. "Interested shareholder" means:  
23  
24

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

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

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

15 (2) the affiliates and associates of the person.

16 b. "Interested shareholder" shall not mean:

17 (1) any person who:

18 (a) owned shares in excess of the fifteen  
19 percent (15%) limitation set forth herein as  
20 of, or acquired such shares pursuant to a  
21 tender offer commenced prior to, September  
22 1, 1991, or pursuant to an exchange offer  
23 announced prior to September 1, 1991, and  
24



1 commenced within ninety (90) days thereafter  
2 and either:

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

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

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

22 (2) any person whose ownership of shares in excess of  
23 the fifteen percent (15%) limitation set forth  
24 herein is the result of action taken solely by

1 the corporation; provided, that the person shall  
2 be an interested shareholder if thereafter the  
3 person acquires additional shares of voting stock  
4 of the corporation, except as a result of further  
5 corporate action not caused, directly or  
6 indirectly, by the person.

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

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

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

21 8. "Voting stock" means, with respect to any corporation, stock  
22 of any class or series entitled to vote generally in the election of  
23 directors and, with respect to any entity that is not a corporation,  
24 any equity interest entitled to vote generally in the election of

1 the governing body of the entity. Every reference to a percentage  
2 of voting stock refers to the percentage of the votes of the voting  
3 stock; and

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

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

9 b. has:

10 (1) the right to acquire the stock, whether the right  
11 is exercisable immediately or only after the  
12 passage of time, pursuant to any agreement,  
13 arrangement, or understanding, or upon the  
14 exercise of conversion rights, exchange rights,  
15 warrants, or options, or otherwise; provided,  
16 however, that a person shall not be deemed the  
17 owner of stock tendered pursuant to a tender or  
18 exchange offer made by the person or any of the  
19 person's affiliates or associates until the  
20 tendered stock is accepted for purchase or  
21 exchange, or

22 (2) the right to vote the stock pursuant to any  
23 agreement, arrangement, or understanding;  
24 provided, however, that a person shall not be

1 deemed the owner of any stock because of the  
2 person's right to vote the stock if the  
3 agreement, arrangement, or understanding to vote  
4 the stock arises solely from a revocable proxy or  
5 consent given in response to a proxy or consent  
6 solicitation made to ten or more persons, or

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

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

19 SECTION 85. AMENDATORY 18 O.S. 2011, Section 1091, is  
20 amended to read as follows:

21 Section 1091.

#### 22 APPRAISAL RIGHTS

23 A. Any shareholder of a corporation of this state who holds  
24 shares of stock on the date of the making of a demand pursuant to

1 the provisions of subsection D of this section with respect to the  
2 shares, who continuously holds the shares through the effective date  
3 of the merger or consolidation, who has otherwise complied with the  
4 provisions of subsection D of this section and who has neither voted  
5 in favor of the merger or consolidation nor consented thereto in  
6 writing pursuant to the provisions of Section 1073 of this title  
7 shall be entitled to an appraisal by the district court of the fair  
8 value of the shares of stock under the circumstances described in  
9 subsections B and C of this section. As used in this section, the  
10 word "shareholder" means a holder of record of stock in a stock  
11 corporation and ~~also a member of record of a nonstock corporation;~~  
12 the words "stock" and "share" mean and include what is ordinarily  
13 meant by those words and ~~also membership or membership interest of a~~  
14 ~~member of a nonstock corporation;~~ and "depository receipt" means an  
15 instrument issued by a depository representing an interest in one or  
16 more shares, or fractions thereof, solely of stock of a corporation,  
17 which stock is deposited with the depository. ~~The provisions of~~  
18 ~~this subsection shall be effective only with respect to mergers or~~  
19 ~~consolidations consummated pursuant to an agreement of merger or~~  
20 ~~consolidation entered into after November 1, 1988.~~

21 B. 1. Except as otherwise provided for in this subsection,  
22 appraisal rights shall be available for the shares of any class or  
23 series of stock of a constituent corporation in a merger or  
24 consolidation, or of the acquired corporation in a share

1 acquisition, to be effected pursuant to the provisions of Section  
2 1081, other than a merger effected pursuant to subsection G of  
3 Section 1081, or, subject to paragraph 3 of this subsection,  
4 subsection H of Section 1081, and Section 1082, 1084, 1085, 1086,  
5 1087, 1090.1 or 1090.2 of this title.

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

13 (1) listed on a national securities exchange ~~or~~  
14 ~~designated as a national market system security~~  
15 ~~on an interdealer quotation system by the~~  
16 ~~National Association of Securities Dealers, Inc.;~~

17 or

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

19 No appraisal rights shall be available for any shares of stock  
20 of the constituent corporation surviving a merger if the merger did  
21 not require for its approval the vote of the shareholders of the  
22 surviving corporation as provided in subsection G of Section 1081 of  
23 this title.

24

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

8           3. Notwithstanding the provisions of paragraph 2 of this  
9           subsection, appraisal rights provided for in this section shall be  
10          available for the shares of any class or series of stock of a  
11          constituent corporation if the holders thereof are required by the  
12          terms of an agreement of merger or consolidation pursuant to the  
13          provisions of Section 1081, 1082, 1084, 1085, 1086, 1087, 1090.1 or  
14          1090.2 of this title to accept for the stock anything except:

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

18           b. shares of stock of any other corporation, or  
19           depository receipts in respect thereof, which shares  
20           of stock or depository receipts at the effective date  
21           of the merger or consolidation will be either listed  
22           on a national securities exchange ~~or designated as a~~  
23           ~~national market system security on an interdealer~~  
24           ~~quotation system by the National Association of~~

1           ~~Securities Dealers, Inc.~~ or held of record by more  
2           than two thousand holders, or

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

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

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

16          C.    Any corporation may provide in its certificate of  
17          incorporation that appraisal rights under this section shall be  
18          available for the shares of any class or series of its stock as a  
19          result of an amendment to its certificate of incorporation, any  
20          merger or consolidation in which the corporation is a constituent  
21          corporation or the sale of all or substantially all of the assets of  
22          the corporation. If the certificate of incorporation contains such  
23          a provision, the procedures of this section, including those set  
24



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

3 D. Appraisal rights shall be perfected as follows:

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

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

9 2. If the merger or consolidation is approved pursuant to the  
10 provisions of Section 1073 ~~or~~, subsection H of Section 1081, Section  
11 1083 or Section 1083.1 of this title, either a constituent  
12 corporation before the effective date of the merger or consolidation  
13 or the surviving or resulting corporation within ten (10) days  
14 thereafter shall notify each of the holders of any class or series  
15 of stock of the constituent corporation who are entitled to  
16 appraisal rights of the approval of the merger or consolidation and  
17 that appraisal rights are available for any or all shares of such  
18 class or series of stock of the constituent corporation, and shall  
19 include in the notice a copy of this section and, if one of the  
20 constituent corporations is a nonstock corporation, a copy of  
21 Section 1004.1 of this title. The notice may, and, if given on or  
22 after the effective date of the merger or consolidation, shall, also  
23 notify the shareholders of the effective date of the merger or  
24 consolidation. Any shareholder entitled to appraisal rights may,

1 within twenty (20) days after the date of mailing of the notice or,  
2 in the case of a merger approved pursuant to subsection H of Section  
3 1081 of this title, within the later of the consummation of an offer  
4 contemplated by subsection H of Section 1081 of this title and  
5 twenty (20) days after the date of mailing of such notice, demand in  
6 writing from the surviving or resulting corporation the appraisal of  
7 the holder's shares. The demand will be sufficient if it reasonably  
8 informs the corporation of the identity of the shareholder and that  
9 the shareholder intends to demand the appraisal of the holder's  
10 shares. If the notice does not notify shareholders of the effective  
11 date of the merger or consolidation either:

- 12 a. each constituent corporation shall send a second  
13 notice before the effective date of the merger or  
14 consolidation notifying each of the holders of any  
15 class or series of stock of the constituent  
16 corporation that are entitled to appraisal rights of  
17 the effective date of the merger or consolidation, or
- 18 b. the surviving or resulting corporation shall send a  
19 second notice to all holders on or within ten (10)  
20 days after the effective date of the merger or  
21 consolidation; provided, however, that if the second  
22 notice is sent more than twenty (20) days following  
23 the mailing of the first notice or, in the case of a  
24 merger approved pursuant to subsection H of Section

1                   1081 of this title, later than the later of the  
2                   consummation of the offer contemplated by subsection H  
3                   of Section 1081 of this title and twenty (20) days  
4                   following the sending of the first notice, the second  
5                   notice need only be sent to each shareholder who is  
6                   entitled to appraisal rights and who has demanded  
7                   appraisal of the holder's shares in accordance with  
8                   this subsection. An affidavit of the secretary or  
9                   assistant secretary or of the transfer agent of the  
10                  corporation that is required to give either notice  
11                  that the notice has been given shall, in the absence  
12                  of fraud, be prima facie evidence of the facts stated  
13                  therein. For purposes of determining the shareholders  
14                  entitled to receive either notice, each constituent  
15                  corporation may fix, in advance, a record date that  
16                  shall be not more than ten (10) days prior to the date  
17                  the notice is given; provided, if the notice is given  
18                  on or after the effective date of the merger or  
19                  consolidation, the record date shall be the effective  
20                  date. If no record date is fixed and the notice is  
21                  given prior to the effective date, the record date  
22                  shall be the close of business on the day next  
23                  preceding the day on which the notice is given.

1 E. Within one hundred twenty (120) days after the effective  
2 date of the merger or consolidation, the surviving or resulting  
3 corporation or any shareholder who has complied with the provisions  
4 of subsections A and D of this section and who is otherwise entitled  
5 to appraisal rights, may file a petition in district court demanding  
6 a determination of the value of the stock of all such shareholders;  
7 ~~provided, however.~~ Notwithstanding the foregoing, at any time  
8 within sixty (60) days after the effective date of the merger or  
9 consolidation, any shareholder who has not commenced an appraisal  
10 proceeding or joined that proceeding as a named party shall have the  
11 right to withdraw the demand of the shareholder for appraisal and to  
12 accept the terms offered upon the merger or consolidation. Within  
13 one hundred twenty (120) days after the effective date of the merger  
14 or consolidation, any shareholder who has complied with the  
15 requirements of subsections A and D of this section, upon written  
16 request, shall be entitled to receive from the corporation surviving  
17 the merger or resulting from the consolidation a statement setting  
18 forth the aggregate number of shares not voted in favor of the  
19 merger or consolidation and with respect to which demands for  
20 appraisal have been received and the aggregate number of holders of  
21 the shares. The written statement shall be mailed to the  
22 shareholder within ten (10) days after the shareholder's written  
23 request for a statement is received by the surviving or resulting  
24 corporation or within ten (10) days after expiration of the period

1 for delivery of demands for appraisal pursuant to the provisions of  
2 subsection D of this section, whichever is later. Notwithstanding  
3 subsection A of this section, a person who is the beneficial owner  
4 of shares of such stock held either in a voting trust or by a  
5 nominee on behalf of such person may, in such person's own name,  
6 file a petition or request from the corporation the statement  
7 described in this section.

8 F. Upon the filing of any such petition by a shareholder,  
9 service of a copy thereof shall be made upon the surviving or  
10 resulting corporation, which, within twenty (20) days after service,  
11 shall file, in the office of the court clerk of the district court  
12 in which the petition was filed, a duly verified list containing the  
13 names and addresses of all shareholders who have demanded payment  
14 for their shares and with whom agreements regarding the value of  
15 their shares have not been reached by the surviving or resulting  
16 corporation. If the petition shall be filed by the surviving or  
17 resulting corporation, the petition shall be accompanied by such  
18 duly verified list. The court clerk, if so ordered by the court,  
19 shall give notice of the time and place fixed for the hearing on the  
20 petition by registered or certified mail to the surviving or  
21 resulting corporation and to the shareholders shown on the list at  
22 the addresses therein stated. Notice shall also be given by one or  
23 more publications at least one (1) week before the day of the  
24 hearing, in a newspaper of general circulation published in the City

1 of Oklahoma City, Oklahoma, or other publication as the court deems  
2 advisable. The forms of the notices by mail and by publication  
3 shall be approved by the court, and the costs thereof shall be borne  
4 by the surviving or resulting corporation.

5 G. At the hearing on the petition, the court shall determine  
6 the shareholders who have complied with the provisions of this  
7 section and who have become entitled to appraisal rights. The court  
8 may require the shareholders who have demanded an appraisal of their  
9 shares and who hold stock represented by certificates to submit  
10 their certificates of stock to the court clerk for notation thereon  
11 of the pendency of the appraisal proceedings; and if any shareholder  
12 fails to comply with this direction, the court may dismiss the  
13 proceedings as to that shareholder. If immediately before the  
14 merger or consolidation the shares of the class or series of stock  
15 of the constituent corporation as to which appraisal rights are  
16 available were listed on a national securities exchange, the court  
17 shall dismiss the proceedings as to all holders of such shares who  
18 are otherwise entitled to appraisal rights unless (1) the total  
19 number of shares entitled to appraisal exceeds one percent (1%) of  
20 the outstanding shares of the class or series eligible for  
21 appraisal, (2) the value of the consideration provided in the merger  
22 or consolidation for such total number of shares exceeds One Million  
23 Dollars (\$1,000,000.00), or (3) the merger was approved pursuant to  
24 Section 1083 or Section 1083.1 of this title.

1 H. After determining the shareholders entitled to an appraisal,  
2 the court shall appraise the shares, determining their fair value  
3 exclusive of any element of value arising from the accomplishment or  
4 expectation of the merger or consolidation, together with ~~a fair~~  
5 ~~rate of interest~~, if any, to be paid upon the amount determined to  
6 be the fair value. In determining the fair value, the court shall  
7 take into account all relevant factors. In determining the fair  
8 rate of interest, the court may consider all relevant factors,  
9 ~~including the rate of interest which the surviving or resulting~~  
10 ~~corporation would have to pay to borrow money during the pendency of~~  
11 ~~the proceeding.~~ Unless the court in its discretion determines  
12 otherwise for good cause shown, and except as provided in this  
13 subsection, interest from the effective date of the merger through  
14 the date of payment of the judgment shall be compounded quarterly  
15 and shall accrue at five percent (5%) over the Federal Reserve  
16 discount rate, including any surcharge, as established from time to  
17 time during the period between the effective date of the merger and  
18 the date of payment of judgment. At any time before the entry of  
19 judgment in the proceedings, the surviving corporation may pay to  
20 each shareholder entitled to appraisal an amount in cash, in which  
21 case interest shall accrue thereafter as provided herein only upon  
22 the sum of (1) the difference, if any, between the amount so paid  
23 and the fair value of the shares as determined by the court, and (2)  
24 interest theretofore accrued, unless paid at that time. Upon



1 application by the surviving or resulting corporation or by any  
2 shareholder entitled to participate in the appraisal proceeding, the  
3 court may, in its discretion, ~~permit discovery or other pretrial~~  
4 ~~proceedings and may~~ proceed to trial upon the appraisal prior to the  
5 final determination of the shareholder entitled to an appraisal.  
6 Any shareholder whose name appears on the list filed by the  
7 surviving or resulting corporation pursuant to the provisions of  
8 subsection F of this section and who has submitted the certificates  
9 of stock of the shareholder to the court clerk, if required, may  
10 participate fully in all proceedings until it is finally determined  
11 that the shareholder is not entitled to appraisal rights pursuant to  
12 the provisions of this section.

13 I. The court shall direct the payment of the fair value of the  
14 shares, together with interest, if any, by the surviving or  
15 resulting corporation to the shareholders entitled thereto.  
16 ~~Interest may be simple or compound, as the court may direct.~~  
17 Payment shall be made to each shareholder, in the case of holders of  
18 uncertificated stock immediately, and in the case of holders of  
19 shares represented by certificates upon the surrender to the  
20 corporation of the certificates representing the stock. The court's  
21 decree may be enforced as other decrees in the district court may be  
22 enforced, whether the surviving or resulting corporation be a  
23 corporation of this state or of any other state.

24

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

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

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

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 86. AMENDATORY 18 O.S. 2011, Section 1095, is  
17 amended to read as follows:

18 Section 1095.

19 DISSOLUTION BEFORE THE ISSUANCE OF SHARES OR BEGINNING BUSINESS;  
20 PROCEDURE

21 If a corporation has not issued shares or has not commenced the  
22 business for which the corporation was organized, a majority of the  
23 incorporators, or, if directors were named in the certificate of  
24 incorporation or have been elected, a majority of the directors, may

1 surrender all of the corporation's rights and franchises by filing  
2 in the Office of the Secretary of State a certificate, executed and  
3 acknowledged by a majority of the incorporators or directors,  
4 stating ~~that~~:

5 1. That no shares of stock have been issued or that the  
6 business of activity for which the corporation was organized has not  
7 begun; ~~that~~

8 2. The date of filing of the corporation's original certificate  
9 of incorporation with the Secretary of State;

10 3. That no part of the capital of the corporation has been  
11 paid, or, if some capital has been paid, that the amount actually  
12 paid in for the corporation's shares, less any part thereof  
13 disbursed for necessary expenses, has been returned to those  
14 entitled thereto; ~~that~~

15 4. That if the corporation has begun business but it has not  
16 issued shares, all debts of the corporation have been paid; ~~that~~

17 5. That if the corporation has not begun business but has  
18 issued stock certificates all issued stock certificates, if any,  
19 have been surrendered and canceled; and ~~that~~

20 6. That all rights and franchises of the corporation are  
21 surrendered. Upon such certificate becoming effective in accordance  
22 with the provisions of Section 1007 of this title, the corporation  
23 shall be dissolved.

24

1 SECTION 87. AMENDATORY 18 O.S. 2011, Section 1096, is  
2 amended to read as follows:

3 Section 1096.

4 DISSOLUTION; PROCEDURE

5 A. If it should be deemed advisable in the judgment of the  
6 board of directors of any corporation that it should be dissolved,  
7 the board, after the adoption of a resolution to that effect by a  
8 majority of the whole board at any meeting called for that purpose,  
9 shall cause notice to be mailed to each shareholder entitled to vote  
10 thereon as of the record date for determining the shareholders  
11 entitled to notice of the meeting of the adoption of the resolution  
12 and of a meeting of shareholders to take action upon the resolution.

13 B. At the meeting a vote shall be taken upon the proposed  
14 dissolution. If a majority of the outstanding stock of the  
15 corporation entitled to vote thereon shall vote for the proposed  
16 dissolution, a certificate of dissolution shall be filed with the  
17 Secretary of State pursuant to subsection D of this section.

18 C. Dissolution of a corporation may also be authorized without  
19 action of the directors if all the shareholders entitled to vote  
20 thereon shall consent in writing and a certificate of dissolution  
21 shall be filed with the Secretary of State pursuant to subsection D  
22 of this section.

23 D. If dissolution is authorized in accordance with this  
24 section, a certificate of dissolution shall be executed,

1 acknowledged and filed, and shall become effective, in accordance  
2 with Section 1007 of this title. Such certificate of dissolution  
3 shall set forth:

4 1. ~~the~~ The name of the corporation;

5 2. ~~the~~ The date dissolution was authorized;

6 3. ~~that~~ That the dissolution has been authorized by the board  
7 of directors and shareholders of the corporation, in accordance with  
8 subsections A and B of this section, or that the dissolution has  
9 been authorized by all of the shareholders of the corporation  
10 entitled to vote on a dissolution, in accordance with subsection C  
11 of this section; ~~and~~

12 4. ~~the~~ The names and addresses of the directors and officers of  
13 the corporation; and

14 5. The date of filing of the corporation's original certificate  
15 of incorporation with the Secretary of State.

16 E. The resolution authorizing a proposed dissolution may  
17 provide that notwithstanding authorization or consent to the  
18 proposed dissolution by the shareholders, or the members of a  
19 nonstock corporation pursuant to Section 1097 of this title, the  
20 board of directors or governing body may abandon such proposed  
21 dissolution without further action by the shareholders or members.

22 F. Upon a certificate of dissolution becoming effective in  
23 accordance with Section 1007 of this title, the corporation shall be  
24 dissolved.

1 SECTION 88. AMENDATORY 18 O.S. 2011, Section 1099, is  
2 amended to read as follows:

3 Section 1099.

4 CONTINUATION OF CORPORATION AFTER DISSOLUTION FOR PURPOSES OF SUIT  
5 AND WINDING UP AFFAIRS

6 All corporations, whether they expire by their own limitation or  
7 are otherwise dissolved, nevertheless shall be continued, for the  
8 term of three (3) years from such expiration or dissolution or for  
9 such longer period as the district court shall in its discretion  
10 direct, bodies corporate for the purpose of prosecuting and  
11 defending suits, whether civil, criminal or administrative, by or  
12 against them, and of enabling them gradually to settle and close  
13 their business, to dispose of and convey their property, to  
14 discharge their liabilities, and to distribute to their shareholders  
15 any remaining assets, but not for the purpose of continuing the  
16 business for which the corporation was organized. With respect to  
17 any action, suit, or proceeding begun by or against the corporation  
18 either prior to or within three (3) years after the date of its  
19 expiration or dissolution, the action shall not abate by reason of  
20 the expiration or dissolution of the corporation. The corporation,  
21 solely for the purpose of such action, suit or proceeding, shall be  
22 continued as a body corporate beyond the three-year period and until  
23 any judgments, orders or decrees therein shall be fully executed,  
24 without the necessity for any special direction to that effect by

1 the district court. Sections 1100 through 1100.3 of this title  
2 shall apply to any corporation that has expired by its own  
3 limitation, and when so applied, all references in those sections to  
4 a dissolved corporation or dissolution shall include a corporation  
5 that has expired by its own limitation and to such expiration  
6 respectively.

7 SECTION 89. AMENDATORY 18 O.S. 2011, Section 1119, is  
8 amended to read as follows:

9 Section 1119.

10 REVOCATION OF VOLUNTARY DISSOLUTION; RESTORATION OF EXPIRED  
11 CERTIFICATE OF INCORPORATION

12 A. At any time prior to the expiration of three (3) years  
13 following the dissolution of a corporation pursuant to the  
14 provisions of Section 1096 of this title or such longer period as  
15 the district court may have directed pursuant to Section 1099 of  
16 this title, or, at any time prior to the expiration of three (3)  
17 years following the expiration of the time limited for the  
18 corporation's existence as provided in its certificate of  
19 incorporation or such longer period as the district court may have  
20 directed pursuant to the provisions of Section 1099 of this title, a  
21 corporation may revoke the dissolution up to that time effected by  
22 it or restore its certificate of incorporation after it has expired  
23 by its own limitation in the following manner:

24



1 1. For purposes of this section, "shareholders" means the  
2 shareholders of record on the date the dissolution becomes effective  
3 or the date of expiration by limitation;

4 2. The board of directors shall adopt a resolution recommending  
5 that the dissolution be revoked in the case of a dissolution or that  
6 the certificate of incorporation be restored in the case of an  
7 expiration by limitation and directing that the question of the  
8 revocation or restoration be submitted to a vote at a special  
9 meeting of shareholders;

10 3. Notice of the special meeting of shareholders shall be given  
11 in accordance with the provisions of Section 1067 of this title to  
12 each of the shareholders; and

13 4. At the meeting a vote of the shareholders shall be taken on  
14 a resolution to revoke the dissolution in the case of a dissolution  
15 or to restore the certificate of incorporation in the case of an  
16 expiration by limitation. If a majority of the stock of the  
17 corporation which was outstanding and entitled to vote upon a  
18 dissolution at the time of its dissolution, in the case of a  
19 revocation of dissolution, or which was outstanding and entitled to  
20 vote upon an amendment to the certificate of incorporation to change  
21 the period of the corporation's duration at the time of its  
22 expiration by limitation, in the case of a restoration, shall be  
23 voted for the resolution, a certificate of revocation of dissolution  
24 or a certificate of restoration shall be executed, and acknowledged

1 and filed in accordance with the provisions of Section 1007 of this  
2 title which shall be specifically designated as a certificate of  
3 revocation of dissolution or a certificate of restoration in its  
4 heading and shall state:

5 a. the name of the corporation~~†~~†

6 b. the address of the corporation's registered office in  
7 this State, which shall be stated in accordance with  
8 subsection C of Section 1021 of this title, and the  
9 name of its registered agent at such address,

10 c. the names and respective addresses of its officers~~†~~†

11 ~~e.~~

12 d. the names and respective addresses of its directors~~†~~†  
13 and

14 ~~d.~~

15 e. that a majority of the stock of the corporation which  
16 was outstanding and entitled to vote upon a  
17 dissolution at the time of its dissolution have voted  
18 in favor of a resolution to revoke the dissolution, in  
19 the case of a revocation of dissolution, or that a  
20 majority of the stock of the corporation which was  
21 outstanding and entitled to vote upon an amendment to  
22 the certificate of incorporation to change the period  
23 of the corporation's duration at the time of its  
24 expiration by limitation, in the case of a

1           restoration, have voted in favor of a resolution to  
2           restore the certificate of incorporation; or, if it be  
3           the fact, that, in lieu of a meeting and vote of  
4           shareholders, the shareholders have given their  
5           written consent to the revocation or restoration in  
6           accordance with the provisions of Section 1073 of this  
7           title, and

8           f. in the case of a restoration, the new specified date  
9           limiting the duration of the corporation's existence  
10           or that the corporation shall have perpetual  
11           existence.

12           B. Upon the effective time of the filing in the Office of the  
13           Secretary of State of the certificate of revocation of dissolution  
14           or the certificate of restoration, the Secretary of State, upon  
15           ~~being satisfied that the requirements of this section have been~~  
16           ~~complied with, shall issue his certificate that the dissolution has~~  
17           ~~been revoked. Upon the issuance of such certificate by the~~  
18           ~~Secretary of State,~~ the revocation of the dissolution or the  
19           restoration of the corporation shall become effective and the  
20           corporation may again carry on its business.

21           C. ~~Upon the issuance of the certificate by the Secretary of~~  
22           ~~State to which~~ effectiveness of the revocation of the dissolution or  
23           the restoration of the corporation as provided in subsection B of  
24           this section refers, the provisions of Section 1056 of this title

1 shall govern, and the period of time the corporation was in  
2 dissolution or was expired by limitation shall be included within  
3 the calculation of the thirty-day and thirteen-month periods to  
4 which subsection C of Section 1056 of this title refers. An  
5 election of directors, however, may be held at the special meeting  
6 of shareholders to which subsection A of this section refers, and in  
7 that event, that meeting of shareholders shall be deemed an annual  
8 meeting of shareholders for purposes of subsection C of Section 1056  
9 of this title.

10 D. If, after three (3) years from the date upon which the  
11 dissolution became effective or after the expiration by limitation,  
12 the name of the corporation is unavailable upon the records of the  
13 Secretary of State, then, in such case, the corporation shall not be  
14 reinstated under the same name which it bore when its dissolution  
15 became effective or it expired by limitation, but shall adopt and be  
16 reinstated or restored under some other name, and in such case the  
17 certificate to be filed pursuant to the provisions of this section  
18 shall set forth the name borne by the corporation at the time its  
19 dissolution became effective or it expired by limitation and the new  
20 name under which the corporation is to be reinstated or restored.

21 E. Nothing in this section shall be construed to affect the  
22 jurisdiction or power of the district court pursuant to the  
23 provisions of Section 1100 or 1101 of this title.

24

1       F. At any time prior to the expiration of three (3) years  
2 following the dissolution of a nonstock corporation pursuant to  
3 Section 1097 of this title, or such longer period as the district  
4 court may have directed pursuant to Section 1099 of this title, or  
5 at any time prior to the expiration of three (3) years following the  
6 expiration of the time limited for a nonstock corporation's  
7 existence as provided in its certificate of incorporation or such  
8 longer period as the district court may have directed pursuant to  
9 Section 1099 of this title, a nonstock corporation may revoke the  
10 dissolution theretofore effected by it or restore its certificate of  
11 incorporation after it has expired by limitation in a manner  
12 analogous to that by which the dissolution was authorized or, in the  
13 case of a restoration, in the manner in which an amendment to the  
14 certificate of incorporation to change the period of the  
15 corporation's duration would have been authorized at the time of its  
16 expiration by limitation, including:

17       1. If applicable, a vote of the members entitled to vote, if  
18 any, on the dissolution or the amendment; and

19       2. The filing of a certificate of revocation of dissolution or  
20 a certificate of restoration containing information comparable to  
21 that required by paragraph 4 of subsection A of this section.

22 Notwithstanding the foregoing, only this subsection and subsections  
23 B, D and E of this section shall apply to nonstock corporations.

24



1 brought into question, may at any time procure ~~an extension,~~  
2 ~~restoration, renewal or~~ a revival of its certificate of  
3 incorporation, together with all the rights, franchises, privileges  
4 and immunities and subject to all of its duties, debts and  
5 liabilities which had been secured or imposed by its original  
6 certificate of incorporation and all amendments thereto.

7 Notwithstanding the foregoing, this section shall not be applicable  
8 to a corporation whose certificate of incorporation has been revoked  
9 or forfeited pursuant to Section 1104 of this title.

10 C. The ~~extension, restoration, renewal or~~ revival of the  
11 certificate of incorporation may be procured as authorized by the  
12 board of directors or members of the governing body of the  
13 corporation in accordance with subsection H and by executing,  
14 acknowledging and filing a certificate of revival in accordance with  
15 the provisions of Section 1007 of this title.

16 D. The certificate required by the provisions of subsection C  
17 of this section shall state:

18 1. The ~~name~~ date of filing of the corporation, which shall be  
19 the existing corporation's original certificate of incorporation;  
20 the name under which the corporation was originally incorporated;  
21 the name of the corporation or at the name it bore when time its  
22 certificate of incorporation expired, except as provided for in  
23 became forfeited or void pursuant to this title; and the new name

24

1 under which the corporation is to be revived to the extent required  
2 by subsection F of this section;

3 2. The address, ~~including the street, city and county,~~ of the  
4 corporation's registered office in this state, which shall be stated  
5 in accordance with subsection C of Section 1021 of this title, and  
6 the name of its registered agent at such address;

7 3. ~~Whether or not the renewal, restoration or revival is to be~~  
8 ~~perpetual and if not perpetual the time for which the renewal,~~  
9 ~~restoration or revival is to continue and, in case of renewal before~~  
10 ~~the expiration of the time limited for its existence, the date when~~  
11 ~~the renewal is to commence, which shall be prior to the date of the~~  
12 ~~expiration of the old certificate of incorporation which it is~~  
13 ~~desired to renew;~~

14 4. That the corporation desiring to be ~~renewed or~~ revived and  
15 so ~~renewing or~~ reviving its certificate of incorporation was  
16 organized pursuant to the laws of this state;

17 ~~5.~~ 4. The date when the certificate of incorporation would  
18 ~~expire, if such is the case, or such other facts as may show that~~  
19 ~~the certificate of incorporation has become~~ became forfeited or that  
20 the validity of any ~~renewal~~ revival has been brought into question;  
21 and

22 ~~6.~~ 5. That the certificate ~~for renewal or~~ of revival is filed  
23 by authority of ~~those who were directors or members of the governing~~  
24 ~~body of the corporation at the time its certificate of incorporation~~



1 ~~expired or who were elected~~ the board of directors or members of the  
2 governing body of the corporation as provided for in subsection H of  
3 this section.

4 E. Upon the filing of the certificate in accordance with the  
5 provisions of Section 1007 of this title, the corporation shall be  
6 ~~renewed and~~ revived with the same force and effect as if its  
7 certificate of incorporation had not become forfeited, ~~or had not~~  
8 ~~expired by limitation~~. Such ~~reinstatement~~ revival shall validate  
9 all contracts, acts, matters and things made, done and performed  
10 within the scope of its certificate of incorporation by the  
11 corporation, its directors or members of its governing body,  
12 officers, and agents and shareholders or members during the time  
13 when its certificate of incorporation was forfeited ~~or after its~~  
14 ~~expiration by limitation~~, with the same force and effect and to all  
15 intents and purposes as if the certificate of incorporation had at  
16 all times remained in full force and effect. All real and personal  
17 property, rights and credits, which belonged to the corporation at  
18 the time its certificate of incorporation became forfeited, ~~or~~  
19 ~~expired by limitation~~ and which were not disposed of prior to the  
20 time of its revival ~~or renewal shall be vested in the corporation~~  
21 ~~after the renewal or revival, as fully and amply as they were held~~  
22 ~~by the corporation at and before the time its certificate of~~  
23 ~~incorporation became forfeited, or expired by limitation, and all~~  
24 real and personal property, rights and credits acquired by the

1 corporation after its ~~renewal and~~ certificate of incorporation  
2 became forfeited pursuant to this title shall be vested in the  
3 corporation, after its revival, as if its certificate of  
4 incorporation had at all times remained in full force and effect,  
5 and the corporation after its revival shall be as exclusively liable  
6 for all contracts, acts, matters and things made, done or performed  
7 in its name and on its behalf by its directors or members of its  
8 governing body, officers and, agents and shareholders or members  
9 prior to its reinstatement revival, as if its certificate of  
10 incorporation had at all times remained in full force and effect.

11 F. If, after three (3) years from the date upon which the  
12 certificate of incorporation became forfeited for nonpayment of  
13 taxes, ~~or expired by limitation,~~ the name of the corporation is  
14 unavailable upon the records of the Secretary of State, then in such  
15 case the corporation to be ~~renewed or~~ revived shall not be ~~renewed~~  
16 revived under the same name which it bore when its certificate of  
17 incorporation became forfeited, or expired but shall ~~adopt or be~~  
18 ~~renewed~~ be revived under some other name ~~and in such case as set~~  
19 forth in the certificate to be filed ~~under the provisions of this~~  
20 ~~section shall set forth the name borne by the corporation at the~~  
21 ~~time its certificate of incorporation became forfeited, or expired~~  
22 ~~and the new name under which the corporation is to be renewed or~~  
23 ~~revived~~ pursuant to subsection C of this section.

24

1 G. Any corporation that ~~renews or~~ revives its certificate of  
2 incorporation pursuant to the provisions of this section shall pay  
3 to this state the amounts provided in Sections 1201 through 1214 of  
4 Title 68 of the Oklahoma Statutes. No payment made pursuant to this  
5 subsection shall reduce the amount of franchise tax due pursuant to  
6 the provisions of Sections 1201 through 1214 of Title 68 of the  
7 Oklahoma Statutes for the year in which the ~~renewal or~~ revival is  
8 effected.

9 H. ~~If a sufficient number of the last acting officers of any~~  
10 ~~corporation desiring to renew or revive its certificate of~~  
11 ~~incorporation are not available by reason of death, unknown address~~  
12 ~~or refusal or neglect to act, the directors of the corporation or~~  
13 ~~those remaining on the board, even if only one, may elect successors~~  
14 ~~to such officers~~ For purposes of this section, the board of  
15 directors or governing body of the corporation shall be comprised of  
16 the persons, who, but for the certificate of incorporation having  
17 become forfeited pursuant to this title, would be the duly elected  
18 or appointed directors or members of the governing body of the  
19 corporation. The requirement for authorization by the board of  
20 directors under subsection C of this section shall be satisfied if a  
21 majority of the directors or members of the governing body then in  
22 office, even though less than a quorum, or the sole director or  
23 member of the governing body then in office, authorizes the revival  
24 of the certificate of incorporation of the corporation and the

1 filing of the certificate required by subsection C of this section.  
2 In any case where there shall be no directors of the corporation  
3 available to renew or revive the certificate of incorporation of the  
4 corporation, the shareholders may elect a full board of directors,  
5 as provided by the bylaws of the corporation, and the board ~~shall~~  
6 ~~then elect such officers as are provided by law, by~~ so elected may  
7 then authorize the revival of the certificate of incorporation ~~or by~~  
8 ~~the bylaws to carry on the business and affairs~~ of the corporation  
9 and the filing of the certificate required by subsection C of this  
10 section. A special meeting of the shareholders for the ~~purposes~~  
11 purpose of electing directors may be called by any officer, ~~director~~  
12 or shareholder upon notice given in accordance with the provisions  
13 of Section 1067 of this title. For purposes of this section, the  
14 bylaws shall be the bylaws of the corporation that, but for the  
15 certificate of incorporation having become forfeited, would be the  
16 duly adopted bylaws of the corporation.

17 I. After a ~~renewal or~~ revival of the certificate of  
18 incorporation of the corporation shall have been effected, the  
19 provisions of subsection C of Section 1056 of this title shall  
20 govern and the period of time during which the certificate of  
21 incorporation of the corporation was forfeited ~~or expired~~ shall be  
22 included within the calculation of the thirty-day and thirteen-month  
23 periods to which subsection C of Section 1056 of this title refers.  
24 A special meeting of shareholders held in accordance with subsection

1 H of this section shall be deemed an annual meeting of shareholders  
2 for purposes of subsection C of Section 1056 of this title.

3 J. Whenever it shall be desired to ~~renew or~~ revive the  
4 certificate of incorporation of any nonstock corporation ~~organized~~  
5 ~~pursuant to the provisions of the Oklahoma General Corporation Act~~  
6 ~~not for profit and having no capital stock~~, the governing body shall  
7 perform all the acts necessary for the ~~renewal or~~ revival of the  
8 charter of the corporation which are performed by the board of  
9 directors in the case of a corporation having capital stock. The In  
10 addition, the members of any nonstock corporation not for profit and  
11 having no capital stock who are entitled to vote for the election of  
12 members of its governing body and any other members entitled to vote  
13 for dissolution under the certificate of incorporation or the bylaws  
14 of such corporation, shall perform all the acts necessary for the  
15 ~~renewal or~~ revival of the certificate of incorporation of the  
16 corporation which are performed by the shareholders in the case of a  
17 corporation having capital stock. In all other respects, the  
18 procedure for the ~~renewal or~~ revival of the certificate of  
19 incorporation of a nonstock corporation ~~not for profit or having no~~  
20 ~~capital stock~~ shall conform, as nearly as may be applicable, to the  
21 procedure prescribed in this section for the ~~renewal or~~ revival of  
22 the certificate of incorporation of a corporation having capital  
23 stock; provided, however, subsection I of this section shall not  
24 apply to nonstock corporations.

1 SECTION 91. AMENDATORY 18 O.S. 2011, Section 1121, is  
2 amended to read as follows:

3 Section 1121.

4 STATUS OF CORPORATION

5 Any corporation desiring to renew, extend and continue its  
6 corporate existence, upon complying with the provisions of ~~Section~~  
7 ~~120 of this act~~ Section 1120 of this title, shall be and continue  
8 ~~for the time stated as provided in its certificate of renewal,~~  
9 effecting the renewal, extension or continuation as a corporation  
10 and, in addition to the rights, privileges and immunities conferred  
11 by its charter, shall possess and enjoy all the benefits of the  
12 provisions of the Oklahoma General Corporation Act, which are  
13 applicable to the nature of its business, and shall be subject to  
14 the restrictions and liabilities prescribed by the provisions of the  
15 Oklahoma General Corporation Act imposed on such corporations.

16 SECTION 92. AMENDATORY 18 O.S. 2011, Section 1130, is  
17 amended to read as follows:

18 Section 1130.

19 FOREIGN CORPORATIONS; DEFINITION; QUALIFICATION TO DO BUSINESS IN

20 STATE; PROCEDURE

21 A. As used in the Oklahoma General Corporation Act, the words  
22 "foreign corporation" mean a corporation organized pursuant to the  
23 laws of any jurisdiction other than this state.

24

1 B. No foreign corporation shall do any business in this state,  
2 through or by branch offices, agents or representatives located in  
3 this state, until it shall have paid to the Secretary of State of  
4 this state the fees prescribed in Section 1142 of this title and  
5 shall have filed with the Secretary of State:

6 1. A certificate as of a date not earlier than six (6) months  
7 prior to the filing date issued by an authorized officer of the  
8 jurisdiction of its incorporation evidencing its corporate  
9 existence. If such certificate is in a foreign language, a  
10 translation thereof, under oath of the translator, shall be attached  
11 thereto;

12 2. A statement executed by an authorized officer of the  
13 corporation and acknowledged in accordance with the provisions of  
14 Section 1007 of this title, setting forth:

- 15 a. the mailing address of the corporation's principal  
16 place of business, wherever located,
- 17 b. the name and street address of its additional  
18 registered agent in this state, if any, which agent  
19 ~~shall be either~~ may be the foreign corporation itself,  
20 an individual resident in this state ~~when appointed or~~  
21 ~~another,~~ a domestic corporation, a domestic  
22 partnership whether general or limited and including a  
23 limited liability partnership or a limited liability  
24 limited partnership, a domestic limited liability

1            company, ~~or limited partnership~~ a domestic statutory  
2            trust, a foreign corporation other than the foreign  
3            corporation itself, a foreign partnership whether  
4            general or limited and including a limited liability  
5            partnership or a limited liability limited  
6            partnership, a foreign limited liability company or a  
7            foreign statutory trust, if authorized to transact  
8            business in this state,

9            c.    the aggregate number of its authorized shares itemized  
10            by classes, par value of shares, shares without par  
11            value, and series, if any, within any classes  
12            authorized, unless it has no authorized capital,

13            d.    a statement, as of a date not earlier than six (6)  
14            months prior to the filing date, of the assets and  
15            liabilities of the corporation,

16            e.    the business it proposes to do in this state and a  
17            statement that it is authorized to do that business in  
18            the jurisdiction of its incorporation, and

19            f.    a statement of the maximum amount of capital such  
20            corporation intends and expects to invest in the state  
21            at any time during the current fiscal year. "Invested  
22            capital" is defined as the value of the maximum amount  
23            of funds, credits, securities and property of whatever  
24            kind existing at any time during the fiscal year in



1           the State of Oklahoma and used or employed by such  
2           corporation in its business carried on in this state.

3           C. The Secretary of State, upon payment to the Secretary of  
4 State of the fees prescribed in Section 1142 of this title, shall  
5 issue a sufficient number of certificates under the hand and  
6 official seal of the Secretary of State, evidencing the filing of  
7 the statement required by the provisions of subsection B of this  
8 section. The certificate of the Secretary of State shall be prima  
9 facie evidence of the right of the corporation to do business in  
10 this state; provided that the Secretary of State shall not issue  
11 such certificate unless the name of the corporation is such as to  
12 distinguish it upon the records of the Office of the Secretary of  
13 State in accordance with the provisions of Section 1141 of this  
14 title.

15           D. A foreign corporation, upon receiving a certificate from the  
16 Secretary of State, shall enjoy the same rights and privileges as,  
17 but not greater than, a corporation organized under the laws of this  
18 state for the purposes set forth in the statement filed by the  
19 corporation with the Secretary of State pursuant to which such  
20 certificate is issued and, except as otherwise provided in the  
21 Oklahoma General Corporation Act, shall be subject to the same  
22 duties, restrictions, penalties and liabilities now or hereafter  
23 imposed upon a corporation organized under the laws of this state  
24 with like purpose and of like character.

1 SECTION 93. AMENDATORY 18 O.S. 2011, Section 1133, is  
2 amended to read as follows:

3 Section 1133.

4 CHANGE OF REGISTERED AGENT UPON WHOM PROCESS MAY BE SERVED

5 A. 1. Any foreign corporation which has qualified to do  
6 business in this state may change its registered agent and  
7 substitute ~~therefor~~ another registered agent by filing a certificate  
8 with the Secretary of State, acknowledged in accordance with the  
9 provisions of Section 1007 of this title, setting forth:

10 a. the name and street address of its registered agent  
11 designated in this state upon whom process directed to  
12 the corporation may be served, and

13 b. a revocation of all previous appointments of agent for  
14 such purposes.

15 2. ~~The~~ Such registered agent shall be either an individual  
16 residing in this state when appointed or a corporation, limited  
17 liability company, or limited partnership authorized to transact  
18 business in this state and in compliance with subparagraph b of  
19 paragraph 2 of subsection B of Section 1130 of this title.

20 B. Any individual or ~~corporation~~ entity designated by a foreign  
21 corporation as its registered agent for service of process may  
22 resign by filing with the Secretary of State a signed statement that  
23 the agent is unwilling to continue to act as the registered agent of  
24 the corporation for service of process, including in the statement

1 the post office address of the main or headquarters office of the  
2 foreign corporation, but the resignation shall not become effective  
3 until thirty (30) days after the statement is filed. The statement  
4 shall be acknowledged by the registered agent and shall contain a  
5 representation that written notice of resignation was given to the  
6 corporation at least thirty (30) days prior to the filing of the  
7 statement by mailing or delivering the notice to the corporation at  
8 its address given in the statement.

9 C. If any agent designated and certified as required by the  
10 provisions of Section 1130 of this title shall die, remove himself  
11 from this state or resign, then the foreign corporation for which  
12 the agent had been so designated and certified, within ten (10) days  
13 after the death, removal or resignation of its agent, shall  
14 substitute, designate and certify to the Secretary of State, the  
15 name of another registered agent for the purposes of the Oklahoma  
16 General Corporation Act, and all process, orders, rules and notices  
17 may be served on or given to the substituted agent with like effect.

18 D. Any individual, ~~corporation, limited liability company or~~  
19 ~~limited partnership~~ or entity designated by a foreign corporation as  
20 its registered agent for service of process may change the address  
21 of the registered office of the corporation or corporations for  
22 which he or she is the registered agent to another address in this  
23 state by filing with the Secretary of State a certificate in the  
24 name of each affected corporation, executed and acknowledged by the

1 registered agent, setting forth the address at which the registered  
2 agent has maintained the registered office, and further certifying  
3 to the new address to which the registered office will be changed on  
4 a given day, and at which new address the registered agent will  
5 thereafter maintain the registered office. Thereafter, or until  
6 further change of address, as authorized by law, the registered  
7 office in this state shall be located at the new address of the  
8 registered agent thereof as given in the certificate.

9 E. In the event of a change of name of any individual or  
10 ~~corporation~~ entity designated by a foreign corporation as its  
11 registered agent for service of process, the registered agent shall  
12 file with the Secretary of State a certificate in the name of each  
13 affected corporation, executed and acknowledged by the registered  
14 agent, setting forth the new name of the registered agent, the name  
15 of the registered agent before it was changed, and the address at  
16 which the registered agent has maintained the registered office for  
17 the affected corporation. A change of name of any person or  
18 ~~corporation~~ entity acting as registered agent as a result of a  
19 merger or consolidation of the registered agent, with or into  
20 another person or corporation which succeeds to its assets by  
21 operation of law, shall be deemed a change of name for purposes of  
22 this section.

23 SECTION 94. AMENDATORY 18 O.S. 2011, Section 1135, is  
24 amended to read as follows:

1 Section 1135.

2 WITHDRAWAL OF FOREIGN CORPORATION FROM STATE; PROCEDURE; SERVICE OF  
3 PROCESS ON SECRETARY OF STATE

4 A. Any foreign corporation which shall have qualified to do  
5 business in this state pursuant to the provisions of Section 1130 of  
6 this title, may surrender its authority to do business in this state  
7 and may withdraw ~~therefrom~~ by filing with the Secretary of State:

8 1. A certificate, executed by an authorized officer of the  
9 corporation and acknowledged in accordance with the provisions of  
10 Section 1007 of this title, stating that it surrenders its authority  
11 to transact business in Oklahoma and withdraws ~~therefrom~~; and  
12 stating the address to which the Secretary of State may mail any  
13 process against the corporation that may be served upon the  
14 Secretary of State; or

15 2. A copy of a certificate of dissolution issued by the proper  
16 official of the state or other jurisdiction of its incorporation,  
17 together with a certificate, which shall be executed in accordance  
18 with the provisions of paragraph 1 of this subsection, stating the  
19 address to which the Secretary of State may mail any process against  
20 the corporation that may be served upon the Secretary of State; ~~or~~

21 ~~3. A~~ or a copy of an order or decree of dissolution made by any  
22 court of competent jurisdiction or other competent authority of the  
23 state or other jurisdiction of its incorporation, certified to be a  
24 true copy under the hand of the clerk of the court or other official

1 body, and the official seal of the court or official body or clerk  
2 thereof, together with a certificate executed in accordance with the  
3 provisions of paragraph 1 of this subsection, stating the address to  
4 which the Secretary of State may mail any process against the  
5 corporation that may be served upon the Secretary of State.

6 B. The Secretary of State, upon payment to the Secretary of  
7 State of the fees prescribed in Section 1142 of this title, shall  
8 issue a sufficient number of certificates, under the hand and  
9 official seal of the Secretary of State, evidencing the surrender of  
10 the authority of the corporation to do business in this state and  
11 its withdrawal therefrom.

12 C. Upon the issuance of the certificates by the Secretary of  
13 State, the appointment of the registered agent of the corporation in  
14 this state, upon whom process against the corporation may be served,  
15 shall be revoked, and service on the corporation may be made by  
16 serving the Secretary of State as its agent as provided in Section  
17 2004 of Title 12 of the Oklahoma Statutes.

18 D. In the event of service upon the Secretary of State in  
19 accordance with the provisions of Section 2004 of Title 12 of the  
20 Oklahoma Statutes, the Secretary of State shall immediately notify  
21 the corporation by letter, certified mail or return receipt  
22 requested at the address stated in the certificate which was filed  
23 by the corporation with the Secretary of State pursuant to  
24 subsection A of this section. The letter shall include a copy of

1 the process and any other papers served on the Secretary of State  
2 pursuant to the provisions of this subsection. It shall be the duty  
3 of the plaintiff in the event of such service to serve process and  
4 any other papers in duplicate, to notify the Secretary of State that  
5 service is being effected pursuant to the provisions of this  
6 subsection, and to pay the Secretary of State the fee provided for  
7 in paragraph 7 of Section 1142 of this title, which fee shall be  
8 taxed as part of the costs in the proceeding. The Secretary of  
9 State shall maintain an alphabetical record of any such service,  
10 setting forth the names of the plaintiff and the defendant, the  
11 title, docket number, and nature of the proceeding in which process  
12 has been served upon the Secretary of State, the fact that service  
13 has been effected pursuant to the provisions of this subsection, the  
14 return date thereof, and the date service was made. The Secretary  
15 of State shall not be required to retain such information longer  
16 than five (5) years from receipt of the service of process by the  
17 Secretary of State.

18 SECTION 95. AMENDATORY 18 O.S. 2011, Section 1136, is  
19 amended to read as follows:

20 Section 1136.

21 SERVICE OF PROCESS ON NONQUALIFYING FOREIGN CORPORATIONS

22 A. If any foreign corporation shall transact business in this  
23 state without having qualified to do business in accordance with the  
24 provisions of Section 1130 of this title, service on the corporation

1 may be made by serving the Secretary of State as its agent as  
2 provided in Section 2004 of Title 12 of the Oklahoma Statutes.

3       B. If any foreign corporation consents in writing to be subject  
4 to the jurisdiction of any state or federal court in this state for  
5 any civil action, suit or proceeding against it arising or growing  
6 out of any business or matter, and if the agreement or instrument  
7 setting forth such consent does not otherwise provide a manner of  
8 service of legal process in any such civil action, suit or  
9 proceeding against it, such foreign corporation shall be deemed to  
10 have thereby appointed and constituted the Secretary of State of  
11 this state its agent for the acceptance of legal process in any such  
12 civil action, suit or proceeding against it. The transaction of  
13 business in this state by such corporation or such consent by such  
14 corporation to the jurisdiction of any state or federal court in  
15 this state without provision for a manner of service of legal  
16 process shall be a signification of the agreement of such  
17 corporation that any process served upon the Secretary of State when  
18 so served shall be of the same legal force and validity as if served  
19 upon an authorized officer or agent personally within this state.

20       C. The provisions of Section 1132 of this title shall not apply  
21 in determining whether any foreign corporation is transacting  
22 business in this state within the meaning of this section; and "the  
23 transaction of business" or "business transacted in this state", by  
24 any such foreign corporation, whenever those words are used in this



1 section, shall mean the course or practice of carrying on any  
2 business activities in this state, including, without limiting the  
3 generality of the foregoing, the solicitation of business or orders  
4 in this state. The provisions of this section shall not apply to  
5 any insurance company doing business in this state.

6 SECTION 96. AMENDATORY 18 O.S. 2011, Section 2001, is  
7 amended to read as follows:

8 Section 2001.

9 DEFINITIONS

10 As used in ~~this act~~ the Oklahoma Limited Liability Company Act,  
11 unless the context otherwise requires:

12 1. "Articles of organization" means documents filed ~~under~~  
13 ~~Section 2019 of this title~~ for the purpose of forming a limited  
14 liability company, and the articles as amended;

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

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

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

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

7       6. "Corporation" means a corporation formed under the laws of  
8 this state or a foreign corporation as defined in this section;

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

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

14       9. "Foreign limited liability company" means ~~an entity that is:~~

- 15       a. an unincorporated association,
- 16       b. organized under the laws of a state other than the  
17 laws of this state or organized under the laws of any  
18 foreign country, and
- 19       c. organized under a statute pursuant to which an  
20 association may be formed that affords to each of its  
21 members limited liability with respect to the  
22 liabilities of the entity, and
- 23       d. ~~not required to be registered or organized under any~~  
24 ~~statute of this state other than this act~~ a limited

1           liability company formed under the laws of any state  
2           other than this state, or under the laws of the  
3           District of Columbia or any foreign country;

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

7           11. "Limited liability company" or "domestic limited liability  
8 company" means an entity ~~that is an unincorporated association or~~  
9 ~~proprietorship having one or more members that is organized~~ formed  
10 under the Oklahoma Limited Liability Company Act and existing under  
11 the laws of this state;

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

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

19           14. "Member" means a person with an ownership interest in a  
20 limited liability company, with the rights and obligations specified  
21 under this act;

22           15. "Membership interest" or "interest" means a member's rights  
23 in the limited liability company, collectively, including the  
24 member's share of the profits and losses of the limited liability

1 company, the right to receive distributions of the limited liability  
2 company's assets, and capital interest, any right to vote or  
3 participate in management, and such other rights accorded to members  
4 under the articles of organization, operating agreement, or the  
5 Oklahoma Limited Liability Company Act;

6 16. "Operating agreement", regardless of whether referred to as  
7 an operating agreement and whether oral, in a record, implied, or in  
8 any combination thereof, means any agreement of the members,  
9 including a sole member, as to the affairs of a limited liability  
10 company and the conduct of its business, including the agreement as  
11 amended or restated;

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

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

19 19. "Charitable entity" means any nonprofit limited liability  
20 company or other entity that is exempt from taxation under Section  
21 501(c)(3) of the United States Internal Revenue Code (26 U.S.C.,  
22 Section 501(c)(3)), or any successor provisions.

23 SECTION 97. AMENDATORY 18 O.S. 2011, Section 2004, is  
24 amended to read as follows:

1 Section 2004.

2 FILING THE ARTICLES OF ORGANIZATION

3 A. One or more persons may form a limited liability company  
4 upon the filing of executed articles of organization with the Office  
5 of the Secretary of State.

6 B. 1. When the articles of organization become effective, the  
7 proposed organization becomes a limited liability company under the  
8 name and subject to the purposes, conditions, and provisions stated  
9 in the articles. A limited liability company formed under ~~this act~~  
10 the Oklahoma Limited Liability Company Act is a separate legal  
11 entity, the existence of which as a separate legal entity continues  
12 until cancellation of the limited liability company's articles of  
13 organization and completion of its winding up, if any.

14 2. Filing of the articles by the Office of the Secretary of  
15 State is conclusive evidence of the formation of the limited  
16 liability company.

17 3. A limited liability company's status for tax purposes shall  
18 not affect its status as a separate legal entity formed under the  
19 Oklahoma Limited Liability Company Act.

20 SECTION 98. AMENDATORY 18 O.S. 2011, Section 2012.2, is  
21 amended to read as follows:

22 Section 2012.2.

23 OPERATING AGREEMENT OF LLC

1 A. The operating agreement of the limited liability company  
2 governs generally:

3 1. Relations among the members as members and between the  
4 members and the limited liability company;

5 2. The rights and duties under ~~this act~~ the Oklahoma Limited  
6 Liability Company Act of a person in the capacity of manager;

7 3. The activities of the company and the conduct of those  
8 activities; and

9 4. The means and conditions for amending the operating  
10 agreement.

11 If the operating agreement does not otherwise provide, ~~this act~~  
12 the Oklahoma Limited Liability Company Act governs the matter. The  
13 operating agreement may not vary the rights, privileges, duties and  
14 obligations imposed specifically under ~~this act~~ the Oklahoma Limited  
15 Liability Company Act.

16 B. A limited liability company is bound by its operating  
17 agreement regardless of whether it executes the operating agreement.  
18 A member or manager of a limited liability company or an assignee of  
19 a ~~membership~~ capital interest is bound by the operating agreement  
20 regardless of whether the member, manager or assignee executes the  
21 operating agreement.

22 C. An operating agreement of a limited liability company having  
23 only one member is not unenforceable because there is only one  
24 person who is a party to the operating agreement.

1 D. The obligations of a limited liability company and its  
2 members to an assignee or dissociated member are governed by the  
3 operating agreement. Subject only to any court order to effectuate  
4 a charging order, an amendment to the operating agreement made after  
5 a person becomes an assignee or dissociated member is effective with  
6 regard to any debt, obligation, or other liability of the limited  
7 liability company or its members to the assignee or dissociated  
8 member.

9 SECTION 99. AMENDATORY 18 O.S. 2011, Section 2015, is  
10 amended to read as follows:

11 Section 2015.

12 MANAGEMENT OF COMPANY WITHOUT DESIGNATED MANAGERS; RESIGNATION OF  
13 MEMBER

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

18 1. The members shall be deemed to be managers for purposes of  
19 applying provisions of ~~this act~~ the Oklahoma Limited Liability  
20 Company Act, unless the context clearly requires otherwise;

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

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

1 B. A member of a member-managed limited liability company may  
2 resign ~~as a member~~ from the member's management duties in accordance  
3 with the operating agreement or, if the operating agreement does not  
4 provide for the member's resignation, upon notice to the limited  
5 liability company. ~~When~~ Unless otherwise provided in the operating  
6 agreement, when a member of a member-managed limited liability  
7 company resigns, the member shall cease to have the rights and  
8 duties of a member and shall become an assignee; provided that the  
9 profits and losses of the limited liability company shall continue  
10 to be allocated to the member and any binding commitments for  
11 contributions shall continue as if the member had not resigned. If  
12 the resignation violates the operating agreement, in addition to any  
13 remedies otherwise available under applicable law, a limited  
14 liability company may recover from the resigning member damages for  
15 breach of the operating agreement and damages for a prohibited  
16 withdrawal under either the operating agreement or Section 2036 of  
17 this title and offset the damages against the amount otherwise  
18 distributable to the resigning member. ~~The member's resignation~~  
19 ~~shall not constitute a withdrawal from the limited liability~~  
20 ~~company.~~

21 SECTION 100. AMENDATORY 18 O.S. 2011, Section 2019, is  
22 amended to read as follows:

23 Section 2019.

24 MANAGERS AS AGENTS



1 A. Every manager is an agent of the limited liability company  
2 for the purpose of its business, and the act of every manager,  
3 including the execution in the limited liability company name of any  
4 instrument for apparently carrying on the business of the limited  
5 liability company of which he is a manager, binds the limited  
6 liability company, unless the manager so acting lacks the authority  
7 to act for the limited liability company in the particular matter,  
8 and the person with whom he is dealing has knowledge of the fact  
9 that he has no such authority. The unauthorized acts of the manager  
10 shall bind the limited liability company as to persons acting in  
11 good faith who have no knowledge of the fact that the manager had no  
12 such authority.

13 B. Subject to the provisions of subsection A of this section  
14 and Section ~~30~~ 2019.1 of this ~~act~~ title, instruments and documents  
15 providing for the acquisition, mortgage, or disposition of real or  
16 personal property of the limited liability company shall be valid  
17 and binding upon the limited liability company if executed by one or  
18 more of its managers.

19 SECTION 101. AMENDATORY 18 O.S. 2011, Section 2020, is  
20 amended to read as follows:

21 Section 2020.

22 VOTING RIGHTS OF MEMBERS

23 A. Voting by members may be on a per capita, number, financial  
24 interest, class, group or any other basis. Unless otherwise

1 provided in the articles of organization or operating agreement, the  
2 members of a limited liability company vote in proportion to their  
3 respective ~~capital~~ interests in the profits of the limited liability  
4 company. Except as otherwise provided in subsection D of this  
5 section or unless the context otherwise requires, references in ~~this~~  
6 ~~act~~ the Oklahoma Limited Liability Company Act to a vote or the  
7 consent of the members mean a vote or consent of the members holding  
8 a majority of the ~~capital~~ interests in the profits of the limited  
9 liability company. The vote or consent may be evidenced in the  
10 minutes of a meeting of the members or by a written consent in lieu  
11 of a meeting.

12 B. Except as otherwise provided in subsection D of this section  
13 or in the articles of organization or operating agreement, a  
14 majority vote of the members shall be required to approve the  
15 following matters:

16 1. The sale, exchange, lease, mortgage, pledge, or other  
17 transfer of all or substantially all of the assets of the limited  
18 liability company;

19 2. Merger of the limited liability company with another limited  
20 liability company or other ~~business~~ entity; and

21 3. An amendment to the articles of organization or operating  
22 agreement.

23

24

1 C. The articles of organization or operating agreement may  
2 alter the above voting rights and provide for any other voting  
3 rights of members.

4 D. Unless otherwise provided in the articles of organization or  
5 a written operating agreement, the unanimous vote or consent of the  
6 members shall be required to approve the following matters:

7 1. The dissolution of the limited liability company pursuant to  
8 paragraph 3 of subsection A of Section 2037 of this title; or

9 2. An amendment to the articles of organization or an amendment  
10 to a written operating agreement:

11 a. which reduces the term of the existence of the limited  
12 liability company,

13 b. which reduces the required vote of members to approve  
14 a dissolution, merger or sale, exchange, lease,  
15 mortgage, pledge, or other transfer of all or  
16 substantially all of the assets of the limited  
17 liability company,

18 c. which permits a member to voluntarily withdraw from  
19 the limited liability company, or

20 d. which reduces the required vote of members to approve  
21 an amendment to the articles of organization or  
22 written operating agreement reducing the vote  
23 previously required on the matters described in this  
24 paragraph.

1 E. An operating agreement may grant to all or certain  
2 identified members or a specified class or group of the members the  
3 right to vote separately or with all or any class or group of the  
4 members or managers, on any matter.

5 SECTION 102. AMENDATORY 18 O.S. 2011, Section 2025, is  
6 amended to read as follows:

7 Section 2025.

8 PROFITS AND LOSSES; DISTRIBUTIONS

9 Except as otherwise provided in the operating agreement:

10 1. The profits and losses of a limited liability company shall  
11 be allocated among the members, and among classes or groups of  
12 members, ~~in proportion to their respective capital interests on the~~  
13 basis of the agreed value, as stated in the records of the limited  
14 liability company, of the contributions made by each member to the  
15 extent they have been received by the limited liability company and  
16 have not been returned; and

17 2. Distributions of the limited liability company shall be made  
18 to the members, and among classes or groups of members, in  
19 proportion to their right to share in the profits and losses of the  
20 limited liability company.

21 SECTION 103. AMENDATORY 18 O.S. 2011, Section 2030, is  
22 amended to read as follows:

23 Section 2030.  
24

1           RESTRICTIONS ON DISTRIBUTIONS; DETERMINATION OF PROHIBITED  
2           DISTRIBUTIONS; EFFECT OF DISTRIBUTION; INDEBTEDNESS

3           A. A distribution may not be made if, after giving effect to  
4 the distribution:

5           1. The limited liability company would not be able to pay its  
6 debts as they become due in the usual course of business; or

7           2. The limited liability company's total assets would be less  
8 than the sum of its total liabilities plus, unless the operating  
9 agreement permits otherwise, the amount that would be needed, if the  
10 limited liability company were to be dissolved at the time of the  
11 distribution, to satisfy the preferential rights upon dissolution of  
12 members whose preferential rights are superior to the rights of  
13 members receiving the distribution.

14          B. The limited liability company may base a determination that  
15 a distribution is not prohibited under subsection A of this section  
16 on:

17          1. Financial statements prepared on the basis of accounting  
18 practices and principles that are reasonable in the circumstances;  
19 or

20          2. A fair valuation or other method that is reasonable in the  
21 circumstances.

22          C. Except as provided in subsection E of this section, the  
23 effect of a distribution under subsection A of this section is  
24 measured as of:

1       1. ~~The date~~ In the case of a distribution by purchase,  
2 redemption or other acquisition of a capital interest in the limited  
3 liability company, as of the date money or other property is  
4 transferred or debt incurred by the limited liability company; and

5       2. In all other cases, as of the date:

6           a.   the distribution is authorized, if the payment occurs  
7                    within one hundred twenty (120) days after the date of  
8                    authorization~~;~~, or

9           ~~2. The date~~

10          b.   the payment is made if it occurs more than one hundred  
11                    twenty (120) days after the date of authorization.

12       D. A limited liability company's indebtedness to a member,  
13 incurred by reason of a distribution made in accordance with this  
14 section, is at parity with the limited liability company's  
15 indebtedness to its general, unsecured creditors, except to the  
16 extent subordinated by agreement.

17       E. 1. If the terms of the indebtedness provide that payment of  
18 principal and interest is to be made only if, and to the extent  
19 that, payment of a distribution to members could then be made under  
20 this section, indebtedness of a limited liability company, including  
21 indebtedness issued as a distribution, is not a liability for  
22 purposes of determinations made under subsection B of this section~~;~~  
23 and.

1           2. If the indebtedness is issued as a distribution, each  
2 payment of principal or interest on the indebtedness is treated as a  
3 distribution, the effect of which is measured on the date the  
4 payment is actually made.

5           SECTION 104.           AMENDATORY           18 O.S. 2011, Section 2032, is  
6 amended to read as follows:

7           Section 2032.

8                           MEMBERSHIP INTEREST AS PERSONAL PROPERTY

9           A ~~membership~~ capital interest is personal property. A member  
10 has no interest in specific limited liability company property.

11           SECTION 105.           AMENDATORY           18 O.S. 2011, Section 2033, is  
12 amended to read as follows:

13           Section 2033.

14                           ASSIGNABILITY OF MEMBERSHIP INTEREST

15           A. Unless otherwise provided in an operating agreement:

16           1. A membership interest is not transferable; provided,  
17 however, that a member may assign the ~~economic rights~~ capital  
18 interest associated with a membership interest in whole or in part;

19           2. An assignment of the ~~economic rights~~ capital interest  
20 associated with a membership interest does not entitle the assignee  
21 to participate in the management and affairs of the limited  
22 liability company or to become or to exercise any rights or powers  
23 of a member;

24

1           3. An assignment entitles the assignee to share in profits and  
2 losses, to receive any distribution or distributions and to receive  
3 the allocation of income, gain, loss, deduction, or credit or  
4 similar item to which the assignor was entitled to the extent  
5 assigned;

6           4. Unless the assignee of ~~an~~ a capital interest in a limited  
7 liability company becomes a member ~~by virtue of that interest~~, the  
8 assignor continues to be a member and to have the power to exercise  
9 any rights of a member, unless the assignor is removed as a member  
10 either in accordance with the operating agreement or, after having  
11 assigned all of the ~~membership~~ capital interest, by an affirmative  
12 vote of the members who have not assigned their interests. The  
13 removal of an assignor shall not, by itself, cause the assignee to  
14 become a member;

15           5. Until an assignee of a ~~membership~~ capital interest becomes a  
16 member, the assignee has no liability as a member solely as a result  
17 of the assignment; and

18           6. The assignor of a ~~membership~~ capital interest is not  
19 released from liability as a member solely as a result of the  
20 assignment.

21           B. The operating agreement may provide that a member's interest  
22 in a limited liability company may be evidenced by a certificate of  
23 membership interest issued by the limited liability company and also  
24 may provide for the assignment or transfer of any membership



1 interest represented by such a certificate and may make other  
2 provisions with respect to such certificates.

3 C. Unless otherwise provided in the operating agreement, the  
4 pledge of, or granting of a security interest, lien, or other  
5 encumbrance in or against any or all of the membership interest of a  
6 member is not an assignment and shall not cause the member to cease  
7 to be a member or cease to have the power to exercise any rights or  
8 powers of a member.

9 SECTION 106. AMENDATORY 18 O.S. 2011, Section 2034, is  
10 amended to read as follows:

11 Section 2034.

12 JUDGMENT CREDITOR; RIGHTS; EXCLUSIVE REMEDY

13 On application to a court of competent jurisdiction by any  
14 judgment creditor of a member, the court may charge the ~~membership~~  
15 capital interest of the member with payment of the unsatisfied  
16 amount of the judgment with interest. To the extent so charged, the  
17 judgment creditor has only the rights of an assignee of the  
18 ~~membership~~ capital interest. A charging order entered by a court  
19 pursuant to this section shall in no event be convertible into a  
20 membership interest through foreclosure or other action. ~~This act~~  
21 the Oklahoma Limited Liability Company Act does not deprive any  
22 member of the benefit of any exemption laws applicable to his or her  
23 membership or capital interest. This section shall be the sole and  
24 exclusive remedy of a judgment creditor with respect to the judgment

1 debtor's membership and capital interest, whether the limited  
2 liability company has one member or more than one member.

3 SECTION 107. AMENDATORY 18 O.S. 2011, Section 2035, is  
4 amended to read as follows:

5 Section 2035.

6 ASSIGNEE OF INTEREST BECOMING MEMBER; RIGHTS AND POWERS,  
7 RESTRICTIONS AND LIABILITIES; ASSIGNOR'S LIABILITIES; TIME OF  
8 ADMISSION OF MEMBER

9 A. An assignee of ~~an~~ a capital interest in a limited liability  
10 company may become a member if and to the extent that:

11 1. The operating agreement provides; or

12 2. ~~The~~ Unless the operating agreement otherwise provides, the  
13 members representing a majority of the ~~capital interests~~ profits  
14 which are not the subject of the assignment consent in writing.

15 B. An assignee who becomes a member, to the extent assigned,  
16 has the rights and powers, and is subject to the restrictions and  
17 liabilities, of a member under the operating agreement and ~~this act,~~  
18 ~~Section 2000 et seq. of this title~~ the Oklahoma Limited Liability  
19 Company Act; however, unless otherwise provided in writing in the  
20 operating agreement or other written agreement, an assignee who  
21 becomes a member also is liable for any obligations of the assignor  
22 to make contributions as provided in Section 2024 of this title, but  
23 shall not be liable for the obligations of the assignor under  
24 Section 2031 of this title; however, the assignee is not obligated

1 for liabilities of which the assignee had no knowledge at the time  
2 the assignee became a member and which could not be ascertained from  
3 a written operating agreement.

4 C. Regardless of whether an assignee of an interest becomes a  
5 member, the assignor is not released from liability to the limited  
6 liability company under Sections 2024, 2031~~7~~, and 2033 of this title.

7 D. Except as otherwise provided in writing in the operating  
8 agreement, a member who assigns the member's entire capital interest  
9 in the limited liability company ceases to be a member or to have  
10 the power to exercise any rights of a member when any assignee of  
11 the capital interest becomes a member with respect to the assigned  
12 interest.

13 E. Subject to subsection F of this section, a person acquiring  
14 a limited liability company interest directly from the limited  
15 liability company may become a member in a limited liability company  
16 upon compliance with the operating agreement or, if the operating  
17 agreement does not so provide in writing, upon the written consent  
18 of the members.

19 F. The effective time of admission of a member to a limited  
20 liability company shall be the later of:

21 1. The date the limited liability company is formed; or

22 2. The time provided in the operating agreement, or if no such  
23 time is provided therein, then when the person's admission is  
24 reflected in the records of the limited liability company.

1 SECTION 108. AMENDATORY 18 O.S. 2011, Section 2036, is  
2 amended to read as follows:

3 Section 2036.

4 EVENTS CAUSING CESSATION OF MEMBERSHIP; WITHDRAWAL; DEATH OR  
5 INCAPACITY

6 A. ~~Unless the operating agreement specifically permits in~~  
7 ~~writing the power to withdraw voluntarily, a member may not withdraw~~  
8 ~~at any time. If the operating agreement specifically provides in~~  
9 ~~writing the power to withdraw voluntarily, but the withdrawal occurs~~  
10 ~~as a result of wrongful conduct of the member, a member's voluntary~~  
11 ~~withdrawal~~ A member has the power to withdraw as a member at any  
12 time, rightfully or wrongfully. A withdrawal is wrongful if the  
13 operating agreement does not specifically grant to the member a  
14 right to withdraw or the member resigns from the member's managerial  
15 duties in a member-managed limited liability company. The wrongful  
16 withdrawal shall constitute a breach of the operating agreement and  
17 the limited liability company may recover from the withdrawing  
18 member damages, including the reasonable cost of replacing the  
19 services that the withdrawn member was obligated to perform. The  
20 limited liability company may offset its damages against the amount  
21 otherwise distributable to the member, in addition to pursuing any  
22 remedies provided for in the operating agreement or otherwise  
23 available under applicable law. The limited liability company shall  
24 not, however, be entitled to any equitable remedy that would prevent

1 a member from exercising the power to withdraw if such power is  
2 permitted in the operating agreement withdrawing from the limited  
3 liability company. Unless the operating agreement otherwise  
4 provides, a member who has withdrawn shall be deemed an assignee  
5 with respect to the interest.

6 B. If a member who is an individual dies or a court of  
7 competent jurisdiction adjudges the member to be incompetent to  
8 manage the member's person or property, the member's personal  
9 representative shall have all of the rights of an assignee of the  
10 member's interest. If a member is a corporation, trust or other  
11 entity and is dissolved or terminated, the powers of that member may  
12 be exercised by its personal representative.

13 C. If the sole member of a limited liability company dies or  
14 dissolves, or a court of competent jurisdiction adjudges the member  
15 to be incompetent or otherwise lacking legal capacity, the member's  
16 personal representative accedes to the membership interest and  
17 possesses all rights, powers and duties associated with the interest  
18 for the benefit of the incompetent member or the deceased member's  
19 estate.

20 D. The operating agreement may provide for the expulsion of a  
21 member, with or without cause, which shall include reasonable  
22 provision for the ~~distributable~~ buyout of the member's capital  
23 interest.

1 SECTION 109. AMENDATORY 18 O.S. 2011, Section 2040, is  
2 amended to read as follows:

3 Section 2040.

4 DISTRIBUTION OF ASSETS UPON WINDING UP

5 A. Upon the winding up of a limited liability company, the  
6 assets shall be distributed as follows:

7 1. Payment, or adequate provision for payment, shall be made to  
8 creditors, including to the extent permitted by law, members who are  
9 creditors, in satisfaction of liabilities of the limited liability  
10 company;

11 2. Except as provided in writing in the articles of  
12 organization ~~or~~, operating agreement or other binding agreement, to  
13 members ~~or~~, any assignees, and any former members for the purchase,  
14 redemption or other acquisition of capital interests in satisfaction  
15 of liabilities for distributions authorized but not paid under  
16 ~~Sections 2026 and 2027~~ Section 2030 of this title; and

17 3. Except as provided in writing in the articles of  
18 organization or operating agreement or other binding agreement, to  
19 members, any assignees, and any former members for the purchase,  
20 redemption or other acquisition of capital interests first for the  
21 return of their contributions in proportion to their respective  
22 contributions, and second respecting their ~~membership~~ capital  
23 interests or former capital interests, in proportions in which the  
24

1 members, assignees and former members would share in distributions  
2 any profits.

3 B. A member, assignee or former member who receives a  
4 distribution in violation of subsection A of this section, and who  
5 knew or should have known at the time of the distribution that the  
6 distribution violated subsection A of this section, shall be liable  
7 to a limited liability company for the amount of the distribution.  
8 A member, assignee or former member who receives a distribution in  
9 violation of subsection A of this section, and who did not know and  
10 had no reason to know at the time of the distribution that the  
11 distribution violated subsection A of this section, shall not be  
12 liable for the amount of the distribution. Subject to subsection C  
13 of this section, this subsection shall not affect any obligation or  
14 liability of a member, assignee or former member under an agreement  
15 or other applicable law for a distribution.

16 C. Unless otherwise agreed, a member, assignee or former member  
17 who receives a distribution from a limited liability company shall  
18 have no liability under ~~this act~~ the Oklahoma Limited Liability  
19 Company Act or other applicable law for the amount of the  
20 distribution after the expiration of three (3) years from the date  
21 of the distribution unless an action to recover the distribution  
22 from the member, assignee or former member is commenced before the  
23 expiration of the three-year period and an adjudication of liability  
24 against the member, assignee or former member is made in the action.

1 SECTION 110. AMENDATORY 18 O.S. 2011, Section 2054, is  
2 amended to read as follows:

3 Section 2054.

4 AGREEMENT OF MERGER OF CONSOLIDATION

5 A. Pursuant to an agreement of merger or consolidation, a  
6 domestic limited liability company may merge or consolidate with or  
7 into one or more domestic or foreign limited liability companies or  
8 other ~~business~~ entities. As used in this section, "~~business~~ entity"  
9 means a domestic or foreign corporation, ~~business trust, common law~~  
10 ~~trust, or unincorporated business including a partnership, whether~~  
11 ~~general or limited~~ a domestic or foreign partnership whether general  
12 or limited, and including a limited liability partnership and a  
13 limited liability limited partnership, and any unincorporated  
14 nonprofit or for-profit association, trust or enterprise having  
15 members or having outstanding shares of stock or other evidences of  
16 financial, beneficial or membership interest therein, whether formed  
17 by agreement or under statutory authority or otherwise.

18 B. Unless otherwise provided in the articles of organization or  
19 the operating agreement, a merger or consolidation shall be approved  
20 by each domestic limited liability company which is to merge or  
21 consolidate by a majority of the membership interest or, if there is  
22 more than one class or group of members, then by a majority of the  
23 membership interest of each class or group. In connection with a  
24 merger or consolidation hereunder, rights or securities of, or



1 memberships or membership, economic or ownership interests in, a  
2 domestic limited liability company or other ~~business~~ entity which is  
3 a constituent party to the merger or consolidation may be exchanged  
4 for or converted into cash, property, rights or securities of, or  
5 memberships or membership, economic or ownership interests in, the  
6 surviving or resulting domestic limited liability company or other  
7 ~~business~~ entity or, in addition to or in lieu thereof, may be  
8 exchanged for or converted into cash, property, rights or securities  
9 of, or memberships or membership, economic or ownership interests  
10 in, a domestic limited liability company or other ~~business~~ entity  
11 which is not the surviving or resulting limited liability company or  
12 other ~~business~~ entity in the merger or consolidation.

13 Notwithstanding prior approval, an agreement of merger or  
14 consolidation may be terminated or amended pursuant to a provision  
15 for such termination or amendment contained in the agreement of  
16 merger or consolidation.

17 C. If a domestic limited liability company is merging or  
18 consolidating pursuant to this section, the domestic limited  
19 liability company or other ~~business~~ entity surviving or resulting in  
20 or from the merger or consolidation shall file articles of merger or  
21 consolidation with the Office of the Secretary of State. The  
22 articles of merger or consolidation shall state:

23

24

1        1. The name ~~and~~, jurisdiction of formation or organization, and  
2 type of entity of each of the limited liability companies or other  
3 ~~business~~ entities which are to merge or consolidate;

4        2. That an agreement of merger or consolidation has been  
5 approved and executed by each of the domestic limited liability  
6 companies or other ~~business~~ entities which is to merge or  
7 consolidate;

8        3. The name of the surviving or resulting domestic limited  
9 liability company or other ~~business~~ entity;

10       4. The future effective date or time, which shall be a specific  
11 date or time not later than a time on the ~~nineteenth~~ ninetieth day  
12 after the filing, of the merger or consolidation if it is not to be  
13 effective upon the filing of the articles of merger or  
14 consolidation;

15       5. That the agreement of merger or consolidation is on file at  
16 a place of business of the surviving or resulting domestic limited  
17 liability company or other ~~business~~ entity, and shall state the  
18 street address thereof;

19       6. That a copy of the agreement of merger or consolidation  
20 shall be furnished by the surviving or resulting domestic limited  
21 liability company or other ~~business~~ entity, upon request and without  
22 cost, to any member of any domestic limited liability company or any  
23 person holding ~~an~~ a membership or membership, economic or ownership  
24

1 interest in any other ~~business~~ entity which is to merge or  
2 consolidate;

3 7. In the case of a merger, any amendments or changes in the  
4 articles of organization of the surviving domestic limited liability  
5 company that are to be effected by the merger, which amendments or  
6 changes may amend and restate the articles of organization of the  
7 surviving domestic limited liability company in its entirety;

8 8. In the case of a consolidation, that the articles of  
9 organization of the resulting domestic limited liability company  
10 shall be as set forth in an attachment to the articles of  
11 consolidation; and

12 9. If the surviving or resulting entity is not a domestic  
13 limited liability company or ~~business~~ entity formed or organized  
14 pursuant to the laws of this state, a statement that the surviving  
15 or resulting other ~~business~~ entity agrees to be served with process  
16 in this state in any action, suit, or proceeding for the enforcement  
17 of any obligation of any domestic limited liability company which is  
18 to merge or consolidate; irrevocably appoints the Secretary of State  
19 as its agent to accept service of process in any action, suit, or  
20 proceeding; and specifies the street address to which process shall  
21 be mailed to the entity by the Secretary of State.

22 D. Any failure to file the articles of merger or consolidation  
23 in connection with a merger or consolidation which was effective  
24

1 prior to September 1, 1992, shall not affect the validity or  
2 effectiveness of any such merger or consolidation.

3 ~~E.~~ A merger or consolidation shall be effective upon the filing  
4 with the Secretary of State of articles of merger or consolidation,  
5 unless a future effective date or time is provided in the articles  
6 of merger or consolidation.

7 ~~F.~~ E. Articles of merger or consolidation terminate the  
8 separate existence of a domestic limited liability company which is  
9 not the surviving or resulting entity in the merger or  
10 consolidation.

11 ~~G.~~ F. Once any merger or consolidation is effective pursuant to  
12 this section, for all purposes of the laws of this state, all of the  
13 rights, privileges, and powers of each of the domestic limited  
14 liability companies and other ~~business~~ entities that have merged or  
15 consolidated and all property, real, personal, and mixed, and all  
16 debts due to each domestic limited liability company or other  
17 ~~business~~ entity, as well as all other things and causes of action  
18 belonging to each domestic limited liability company or other  
19 ~~business~~ entity shall be vested in the surviving or resulting  
20 domestic limited liability company or other ~~business~~ entity, and  
21 shall thereafter be the property of the surviving or resulting  
22 domestic limited liability company or other ~~business~~ entity as they  
23 were of each domestic limited liability company or other ~~business~~  
24 entity that has merged or consolidated, and the title to any real

1 property vested by deed or otherwise, under the laws of this state,  
2 in any domestic limited liability company or other ~~business~~ entity  
3 shall not revert or be in any way impaired by reason of this  
4 section, but all rights of creditors and all liens upon any property  
5 of each domestic limited liability company or other ~~business~~ entity  
6 shall be preserved unimpaired. All debts, liabilities and duties of  
7 each domestic limited liability company or other ~~business~~ entity  
8 that has merged or consolidated shall thereafter attach to the  
9 surviving or resulting domestic limited liability company or other  
10 ~~business~~ entity, and may be enforced against the surviving or  
11 resulting limited liability company or other entity to the same  
12 extent as if the debts, liabilities, and duties had been incurred or  
13 contracted by the surviving or resulting limited liability company  
14 or other entity. Unless otherwise agreed, a merger or consolidation  
15 of a domestic limited liability company, including a domestic  
16 limited liability company which is not the surviving or resulting  
17 entity in the merger or consolidation, shall not require the  
18 domestic limited liability company to wind up its affairs or pay its  
19 liabilities and distribute its assets.

20 G. Nothing in this section shall be deemed to authorize the  
21 merger of a charitable entity into another entity, if the charitable  
22 status of such entity would thereby be lost or impaired.

23 SECTION 111. AMENDATORY 18 O.S. 2011, Section 2054.1, is  
24 amended to read as follows:

1 Section 2054.1.

2 CONVERSION OF ~~A BUSINESS~~ AN ENTITY TO A LIMITED LIABILITY COMPANY

3 A. As used in this section, the term "~~business~~ entity" means a  
4 domestic or foreign corporation, ~~partnership, whether general or~~  
5 ~~limited, business trust, common law trust, or other unincorporated~~  
6 ~~association~~ a domestic or foreign partnership whether general or  
7 limited, and including a limited liability partnership and a limited  
8 liability limited partnership, and any unincorporated nonprofit or  
9 for-profit association, trust or enterprise having members or having  
10 outstanding shares of stock or other evidences of financial,  
11 beneficial or membership interest therein, whether formed by  
12 agreement or under statutory authority or otherwise.

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

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

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

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

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

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

13           D. Upon the effective date or time of the articles of  
14 conversion to limited liability company and the articles of  
15 organization, the ~~business~~ entity shall be converted to a domestic  
16 limited liability company and the limited liability company shall  
17 thereafter be subject to all of the provisions of ~~this act~~ the  
18 Oklahoma Limited Liability Company Act, except that notwithstanding  
19 Section 2004 of this title, the existence of the limited liability  
20 company shall be deemed to have commenced on the date the ~~business~~  
21 entity was formed.

22           E. The conversion of any ~~business~~ entity into a domestic  
23 limited liability company shall not be deemed to affect any  
24 obligations or liabilities of the ~~business~~ entity incurred before

1 its conversion to a domestic limited liability company or the  
2 personal liability of any person incurred before the conversion.

3 F. When a ~~business~~ an entity has converted to a domestic  
4 limited liability company under this section, the domestic limited  
5 liability company shall be deemed to be the same entity as the  
6 converting ~~business~~ entity. All of the rights, privileges and  
7 powers of the ~~business~~ entity that has converted, and all property,  
8 real, personal and mixed, and all debts due to the ~~business~~ entity,  
9 as well as all other things and causes of action belonging to the  
10 ~~business~~ entity, shall remain vested in the domestic limited  
11 liability company and shall be the property of the domestic limited  
12 liability company, and the title to any real property vested by deed  
13 or otherwise in the ~~business~~ entity shall not revert or be in any  
14 way impaired by reason of the conversion, but all rights of  
15 creditors and all liens upon any property of the ~~business~~ entity  
16 shall be preserved unimpaired, and all debts, liabilities and duties  
17 of the ~~business~~ entity that has converted shall remain attached to  
18 the domestic limited liability company and may be enforced against  
19 it to the same extent as if the debts, liabilities and duties had  
20 been incurred or contracted by it in its capacity as a domestic  
21 limited liability company. The rights, privileges, powers and  
22 interests in property of the ~~business~~ entity, as well as the debts,  
23 liabilities and duties of the ~~business~~ entity, shall not be deemed,  
24 as a consequence of the conversion, to have been transferred to the



1 domestic limited liability company to which the ~~business~~ entity has  
2 converted for any purpose of the laws of this state.

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

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

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

1 limited liability company or, in addition to or in lieu thereof, may  
2 be exchanged for or converted into cash, property, or rights or  
3 securities of or memberships or membership, economic or ownership  
4 interests in another domestic limited liability company or other  
5 ~~business~~ entity.

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

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

16 SECTION 112. AMENDATORY 18 O.S. 2011, Section 2054.2, is  
17 amended to read as follows:

18 Section 2054.2

19 CONVERSION OF A LIMITED LIABILITY COMPANY TO ~~A BUSINESS~~ AN ENTITY

20 A. A domestic limited liability company may convert to a  
21 ~~business~~ an entity upon the authorization of such conversion in  
22 accordance with this section. As used in this section, the term  
23 "~~business~~ entity" means a domestic or foreign corporation,  
24 ~~partnership, whether general or limited, business trust, common law~~

1 ~~trust, or other unincorporated association~~ a domestic or foreign  
2 partnership whether general or limited, and including a limited  
3 liability partnership and a limited liability limited partnership,  
4 and any unincorporated nonprofit or for-profit association, trust or  
5 enterprise having members or having outstanding shares of stock or  
6 other evidences of financial, beneficial or membership interest  
7 therein, whether formed by agreement or under statutory authority or  
8 otherwise.

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

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

20 D. If the operating agreement does not specify the manner of  
21 authorizing a conversion of the limited liability company or a  
22 merger or consolidation that involves the limited liability company  
23 as a constituent party and does not prohibit a conversion of the  
24 limited liability company, the conversion shall be authorized by the

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

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

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

1 property, rights or securities of or memberships or membership,  
2 economic or ownership interests in another ~~business~~ entity or may be  
3 canceled.

4 G. If the governing act of the domestic ~~business~~ entity to  
5 which the limited liability company is converting does not provide  
6 for the filing of a conversion notice with the Secretary of State or  
7 the limited liability company is converting to a foreign ~~business~~  
8 entity, articles of conversion executed in accordance with Section  
9 2006 of this title, shall be filed in the Office of the Secretary of  
10 State in accordance with Section 2007 of this title. The articles  
11 of conversion shall state:

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

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

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

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

24

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

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

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

15           H. Upon the filing of a conversion notice with the Secretary of  
16 State, whether under subsection G of this section or under the  
17 governing act of the domestic ~~business~~ entity to which the limited  
18 liability company is converting, the filing of any formation  
19 document required by the governing act of the domestic ~~business~~  
20 entity to which the limited liability company is converting, and  
21 payment to the Secretary of State of all prescribed fees, the  
22 Secretary of State shall certify that the limited liability company  
23 has filed all documents and paid all required fees, and thereupon  
24 the limited liability company shall cease to exist as a limited

1 liability company of this state. The Secretary of State's  
2 certificate shall be prima facie evidence of the conversion by the  
3 limited liability company.

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

13 J. When a limited liability company has converted to ~~a business~~  
14 an entity under this section, the ~~business~~ entity shall be deemed to  
15 be the same entity as the limited liability company. All of the  
16 rights, privileges and powers of the limited liability company that  
17 has converted, and all property, real, personal and mixed, and all  
18 debts due to the limited liability company, as well as all other  
19 things and causes of action belonging to the limited liability  
20 company, shall remain vested in the ~~business~~ entity to which the  
21 limited liability company has converted and shall be the property of  
22 the ~~business~~ entity, and the title to any real property vested by  
23 deed or otherwise in the limited liability company shall not revert  
24 or be in any way impaired by reason of the conversion; but all

1 rights of creditors and all liens upon any property of the limited  
2 liability company shall be preserved unimpaired, and all debts,  
3 liabilities and duties of the limited liability company that has  
4 converted shall remain attached to the ~~business~~ entity to which the  
5 limited liability company has converted, and may be enforced against  
6 it to the same extent as if said debts, liabilities and duties had  
7 originally been incurred or contracted by it in its capacity as the  
8 ~~business~~ entity. The rights, privileges, powers and interests in  
9 property of the limited liability company that has converted, as  
10 well as the debts, liabilities and duties of the limited liability  
11 company, shall not be deemed, as a consequence of the conversion, to  
12 have been transferred to the ~~business~~ entity to which the limited  
13 liability company has converted for any purpose of the laws of this  
14 state.

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

19 SECTION 113. AMENDATORY 18 O.S. 2011, Section 2054.4, is  
20 amended to read as follows:

21 Section 2054.4

22 SERIES OF MEMBERS, MANAGERS, OR MEMBERSHIP INTERESTS HAVING SEPARATE

23 RIGHTS - PERSONAL OBLIGATION OF MEMBER OF MANAGER

24



1       A. An operating agreement may establish or provide for the  
2 establishment of one or more designated series of members, managers  
3 ~~or~~, membership interests ~~having~~ or assets. Any such series may have  
4 separate rights, powers or duties with respect to specified property  
5 or obligations of the limited liability company or profits and  
6 losses associated with specified property or obligations, and any  
7 such series may have a separate business purpose or investment  
8 objective.

9       B. Notwithstanding anything to the contrary set forth in ~~this~~  
10 ~~act~~ the Oklahoma Limited Liability Company Act or under other  
11 applicable law, if an operating agreement establishes or provides  
12 for the establishment of one or more series, and if ~~separate and~~  
13 ~~distinct~~ the records are maintained for any such series and account  
14 for the assets associated with ~~any such series are held, directly or~~  
15 ~~indirectly, including through a nominee or otherwise, and accounted~~  
16 ~~for~~ separately from the other assets of the limited liability  
17 company, or any other series thereof, and if the operating agreement  
18 so provides, and if notice of the limitation on liabilities of a  
19 series as referenced in this subsection is set forth in the articles  
20 of organization of the limited liability company, then the debts,  
21 liabilities, obligations and expenses incurred, contracted for or  
22 otherwise existing with respect to a particular series shall be  
23 enforceable against the assets of such series only, and not against  
24 the assets of the limited liability company generally or any other

1 series thereof, and, unless otherwise provided in the operating  
2 agreement, none of the debts, liabilities, obligations and expenses  
3 incurred, contracted for or otherwise existing with respect to the  
4 limited liability company generally or any other series thereof  
5 shall be enforceable against the assets of the series. Assets  
6 associated with a series may be held directly or indirectly,  
7 including in the name of such series, in the name of the limited  
8 liability company, through a nominee or otherwise. Records  
9 maintained for a series that reasonably identify its assets,  
10 including by specific listing, category, type, quantity,  
11 computational or allocational formula or procedure, including a  
12 percentage or share of any asset or assets, or by any other method  
13 where the identity of such assets is objectively determinable, will  
14 be deemed to account for the assets associated with such series  
15 separately from the other assets of the limited liability company,  
16 or any other series thereof. Notice in articles of organization of  
17 the limitation on liabilities of a series as referenced in this  
18 subsection shall be sufficient for all purposes regardless of  
19 whether the limited liability company has established any series  
20 when the notice is included in the articles of organization, and  
21 there shall be no requirement that any specific series of the  
22 limited liability company be referenced in the notice. The fact  
23 that articles of organization containing the foregoing notice of the  
24 limitation on liabilities of a series are on file in the office of

1 the Secretary of State shall constitute notice of the limitation on  
2 liabilities of a series.

3 C. A series established in accordance with subsection B of this  
4 section may carry on any lawful business, purpose or activity,  
5 whether or not for profit, with the exception of the business of a  
6 domestic insurer. Unless otherwise provided in the operating  
7 agreement, a series established in accordance with subsection B of  
8 this section shall have the power and capacity to, in its own name,  
9 contract, hold title to assets, including real, personal and  
10 intangible property, grant liens and security interests, and sue and  
11 be sued.

12 D. Notwithstanding Section 2022 of this title, under an  
13 operating agreement or under another agreement, a member or manager  
14 may agree to be obligated personally for any or all of the debts,  
15 obligations and liabilities of one or more series.

16 ~~D.~~ E. An operating agreement may provide for classes or groups  
17 of members or managers associated with a series having such relative  
18 rights, powers and duties as the operating agreement may provide,  
19 and may make provision for the future creation in the manner  
20 provided in the operating agreement of additional classes or groups  
21 of members or managers associated with the series having such  
22 relative rights, powers and duties as may from time to time be  
23 established, including rights, powers and duties senior to existing  
24 classes and groups of members or managers associated with the

1 series. An operating agreement may provide for the taking of an  
2 action, including the amendment of the operating agreement, without  
3 the vote or approval of any member or manager or class or group of  
4 members or managers, including an action to create under the  
5 provisions of the operating agreement a class or group of the series  
6 of membership interests that was not previously outstanding. An  
7 operating agreement may provide that any member or class or group of  
8 members associated with a series shall have no voting rights.

9 ~~E.~~ F. An operating agreement may grant to all or certain  
10 identified members or managers or a specified class or group of the  
11 members or managers associated with a series the right to vote  
12 separately or with all or any class or group of the members or  
13 managers associated with the series, on any matter. Voting by  
14 members or managers associated with a series may be on a per capita,  
15 number, financial interest, class, group or any other basis.

16 ~~F.~~ G. Unless otherwise provided in an operating agreement, the  
17 management of a series shall be vested in the members associated  
18 with the series in proportion to their membership interest, with the  
19 decision of members owning a majority of the membership interest  
20 controlling; provided, however, that if an operating agreement  
21 provides for the management of the series, in whole or in part, by a  
22 manager, the management of the series, to the extent so provided,  
23 shall be vested in the manager who shall be chosen in the manner  
24 provided in the operating agreement. The manager of the series

1 shall also hold the offices and have the responsibilities accorded  
2 to the manager as set forth in an operating agreement. A series may  
3 have more than one manager. Subject to paragraph 3 of Section 2014  
4 of this title, a manager shall cease to be a manager with respect to  
5 a series as provided in an operating agreement. Except as otherwise  
6 provided in an operating agreement, any event under this chapter or  
7 in an operating agreement that causes a manager to cease to be a  
8 manager with respect to a series shall not, in itself, cause the  
9 manager to cease to be a manager of the limited liability company or  
10 with respect to any other series thereof.

11 ~~G.~~ H. Subject to subsections ~~H.~~ I. and ~~K.~~ L. of this section, and  
12 unless otherwise provided in an operating agreement, at the time a  
13 member associated with a series that has been established in  
14 accordance with subsection B of this section becomes entitled to  
15 receive a distribution with respect to the series, the member has  
16 the status of, and is entitled to all remedies available to, a  
17 creditor of the series, with respect to the distribution. An  
18 operating agreement may provide for the establishment of a record  
19 date with respect to allocations and distributions with respect to a  
20 series.

21 ~~H.~~ I. Notwithstanding Section 2040 of this title, a limited  
22 liability company may make a distribution with respect to a series  
23 that has been established in accordance with subsection B of this  
24 section. A limited liability company shall not make a distribution

1 with respect to a series that has been established in accordance  
2 with subsection B of this section to a member to the extent that at  
3 the time of the distribution, after giving effect to the  
4 distribution, all liabilities of the series, other than liabilities  
5 to members on account of their membership interests with respect to  
6 the series and liabilities for which the recourse of creditors is  
7 limited to specified property of the series, exceed the fair value  
8 of the assets associated with the series, except that the fair value  
9 of property of the series that is subject to a liability for which  
10 the recourse of creditors is limited shall be included in the assets  
11 associated with the series only to the extent that the fair value of  
12 that property exceeds that liability. For purposes of the  
13 immediately preceding sentence, the term "distribution" shall not  
14 include amounts constituting reasonable compensation for present or  
15 past services or reasonable payments made in the ordinary course of  
16 business pursuant to a bona fide retirement plan or other benefits  
17 program. A member who receives a distribution in violation of this  
18 subsection, and who knew or should have known at the time of the  
19 distribution that the distribution violated this subsection, shall  
20 be liable to a series for the amount of the distribution. A member  
21 who receives a distribution in violation of this subsection, and who  
22 did not know and had no reason to know at the time of the  
23 distribution that the distribution violated this subsection, shall  
24 not be liable for the amount of the distribution. Subject to

1 subsection C of Section 2040 of this title, which shall apply to any  
2 distribution made with respect to a series under this subsection,  
3 this subsection shall not affect any obligation or liability of a  
4 member under an agreement or other applicable law for the amount of  
5 a distribution.

6 ~~I.~~ J. Unless otherwise provided in the operating agreement, a  
7 member shall cease to be associated with a series and to have the  
8 power to exercise any rights or powers of a member with respect to  
9 the series upon the assignment of all of the member's ~~membership~~  
10 capital interest with respect to the series. Except as otherwise  
11 provided in an operating agreement, any event under this chapter or  
12 an operating agreement that causes a member to cease to be  
13 associated with a series shall not, in itself, cause the member to  
14 cease to be associated with any other series or terminate the  
15 continued membership of a member in the limited liability company or  
16 cause the termination of the series, regardless of whether the  
17 member was the last remaining member associated with the series.

18 ~~J.~~ K. Subject to Section 2037 of this title, except to the  
19 extent otherwise provided in the operating agreement, a series may  
20 be terminated and its affairs wound up without causing the  
21 dissolution of the limited liability company. The termination of a  
22 series established in accordance with subsection B of this section  
23 shall not affect the limitation on liabilities of the series  
24 provided by subsection B of this section. A series is terminated

1 and its affairs shall be wound up upon the dissolution of the  
2 limited liability company under Section 2037 of this title or  
3 otherwise upon the first to occur of the following:

4 1. At the time specified in the operating agreement;

5 2. Upon the happening of events specified in the operating  
6 agreement;

7 3. Unless otherwise provided in the operating agreement, upon  
8 the affirmative vote or written consent of the members of the  
9 limited liability company associated with the series or, if there is  
10 more than one class or group of members associated with the series,  
11 then by each class or group of members associated with the series,  
12 in either case, by members associated with the series who own more  
13 than two-thirds of the then-current membership interest owned by all  
14 of the members associated with the series or by the members in each  
15 class or group of the series, as appropriate; or

16 4. The termination of the series under subsection ~~⊖~~ M of this  
17 section.

18 ~~K.~~ L. Unless otherwise provided in the operating agreement, a  
19 manager associated with a series who has not wrongfully terminated  
20 the series or, if none, the members associated with the series or a  
21 person approved by the members associated with the series or, if  
22 there is more than one class or group of members associated with the  
23 series, then by each class or group of members associated with the  
24 series, in either case, by a majority of the membership interest



1 owned by all of the members associated with the series or by the  
2 members in each class or group associated with the series, as  
3 appropriate, may wind up the affairs of the series; but, if the  
4 series has been established in accordance with subsection B of this  
5 section, the district court, upon cause shown, may wind up the  
6 affairs of the series upon application of any member or manager  
7 associated with the series, or the member's personal representative  
8 or assignee, and in connection therewith, may appoint a liquidating  
9 trustee. The persons winding up the affairs of a series may, in the  
10 name of the limited liability company and for and on behalf of the  
11 limited liability company and the series, take all actions with  
12 respect to the series as are permitted under subsection A of Section  
13 2039 of this title. The persons winding up the affairs of a series  
14 shall provide for the claims and obligations of the series and  
15 distribute the assets of the series as provided in Section 2040 of  
16 this title, which section shall apply to the winding up and  
17 distribution of assets of a series. Actions taken in accordance  
18 with this subsection shall not affect the liability of members and  
19 shall not impose liability on a liquidating trustee.

20 H. M. On application by or for a member or manager associated  
21 with a series established in accordance with subsection B of this  
22 section, the district court may decree termination of the series  
23 whenever it is not reasonably practicable to carry on the business  
24 of the series in conformity with an operating agreement.

1        ~~M.~~ N. If a foreign limited liability company that is  
2 registering to do business in this state in accordance with Section  
3 2043 of this title is governed by an operating agreement that  
4 establishes or provides for the establishment of designated series  
5 of members, managers, ~~or~~ membership interests or assets having  
6 separate rights, powers or duties with respect to specified property  
7 or obligations of the foreign limited liability company or profits  
8 and losses associated with specified property or obligations, that  
9 fact shall be so stated on the application for registration as a  
10 foreign limited liability company. In addition, the foreign limited  
11 liability company shall state on the application whether the debts,  
12 liabilities and obligations incurred, contracted for or otherwise  
13 existing with respect to a particular series, if any, shall be  
14 enforceable against the assets of the series only, and not against  
15 the assets of the foreign limited liability company generally or any  
16 other series thereof, and, ~~unless otherwise provided in the~~  
17 ~~operating agreement, none~~ whether any of the debts, liabilities,  
18 obligations and expenses incurred, contracted for or otherwise  
19 existing with respect to the foreign limited liability company  
20 generally or any other series thereof shall be enforceable against  
21 the assets of the series.

22        SECTION 114.        AMENDATORY        18 O.S. 2011, Section 2055.2, as  
23 amended by Section 1, Chapter 245, O.S.L. 2012 (18 O.S. Supp. 2016,  
24 Section 2055.2), is amended to read as follows:

1 Section 2055.2.

2 ANNUAL CERTIFICATE FOR DOMESTIC LIMITED LIABILITY

3 COMPANY AND FOREIGN LIMITED LIABILITY COMPANY

4 A. Every domestic limited liability company and every foreign  
5 limited liability company registered to do business in this state  
6 shall file a certificate each year in the Office of the Secretary of  
7 State, which confirms it is an active business and includes its  
8 principal place of business address, and shall pay an annual  
9 certificate fee of Twenty-five Dollars (\$25.00).

10 B. The annual certificate shall be due on the anniversary date  
11 of filing the articles of organization or registration, as the case  
12 may be, until cancellation of the articles of organization or  
13 withdrawal of the registration.

14 C. The Secretary of State shall, at least sixty (60) days  
15 before the anniversary date of each year, cause a notice of the  
16 annual certificate to be sent to each domestic limited liability  
17 company and each foreign limited liability company required to  
18 comply with the provisions of this section to its last known  
19 electronic mail address of record with the Secretary of State.

20 D. A domestic limited liability company or foreign limited  
21 liability company that fails to file the annual certificate and pay  
22 the annual certificate fee within sixty (60) days after the date due  
23 shall cease to be in good standing as a domestic limited liability  
24

1 company or registered as a foreign limited liability company in this  
2 state.

3 E. Except for accepting a resignation of a registered agent  
4 when a successor registered agent is not being appointed or an  
5 application for reinstatement, the Secretary of State shall not  
6 accept for filing any certificate or articles, or issue any  
7 certificate of good standing, in respect to any domestic limited  
8 liability company that has ceased to be in good standing or foreign  
9 limited liability company that has ceased to be registered, unless  
10 or until the domestic limited liability company has been reinstated  
11 as a domestic limited liability company in good standing or the  
12 foreign limited liability company has been reinstated as a foreign  
13 limited liability company duly registered in this state.

14 F. A domestic limited liability company that has ceased to be  
15 in good standing or a foreign limited liability company that has  
16 ceased to be registered in this state may not maintain any action,  
17 suit or proceeding in any court of this state until the domestic  
18 limited liability company has been reinstated as a domestic limited  
19 liability company in good standing or the foreign limited liability  
20 company has been reinstated as a foreign limited liability company  
21 duly registered in this state. An action, suit or proceeding may  
22 not be maintained in any court of this state by any successor or  
23 assignee of the domestic limited liability company or foreign  
24 limited liability company on any right, claim or demand arising out

1 of the transaction of business by the domestic limited liability  
2 company after it has ceased to be in good standing or a foreign  
3 limited liability company that has ceased to be registered in this  
4 state until the domestic limited liability company or foreign  
5 limited liability company, or any person that has acquired all or  
6 substantially all of its assets, has caused the limited liability  
7 company to be reinstated as a domestic limited liability company in  
8 good standing or as a foreign limited liability company duly  
9 registered in this state, as applicable.

10 ~~G. A domestic limited liability company not in good standing~~  
11 ~~for failure to file an annual certificate and pay the annual~~  
12 ~~certificate fees or registered agent fees, including a domestic~~  
13 ~~limited liability company whose articles of organization have been~~  
14 ~~canceled under subsection B of Section 2012.1 of this title, or a~~  
15 ~~foreign limited liability company whose registration was withdrawn~~  
16 ~~for failure to file an annual certificate and pay the annual~~  
17 ~~certificate fees or registered agent fees may apply to the Secretary~~  
18 ~~of State for reinstatement by:~~

19 ~~1. Filing all delinquent annual certificates with the Secretary~~  
20 ~~of State and paying all delinquent annual certificate fees or paying~~  
21 ~~all delinquent registered agent fees to the Secretary of State; and~~

22 ~~2. Filing an application for reinstatement with the Secretary~~  
23 ~~of State stating its name at the time it ceased to be in good~~  
24 ~~standing or was withdrawn, the date it ceased to be in good standing~~

1 ~~or was withdrawn, and its current name, if its name at the time it~~  
2 ~~ceased to be in good standing or was withdrawn is no longer~~  
3 ~~available under Section 2008 or 2045 of this title.~~

4 ~~If the Secretary of State determines that the application~~  
5 ~~contains the required information, the information is correct, all~~  
6 ~~delinquent certificates or other filings are submitted, all~~  
7 ~~delinquent fees are paid, and the name satisfies the requirements of~~  
8 ~~Section 2008 or 2045 of this title, the Secretary of State shall~~  
9 ~~accept the application for reinstatement and issue a certificate of~~  
10 ~~reinstatement in the manner provided in Section 2007 of this title~~  
11 ~~for domestic limited liability companies or Section 2044 of this~~  
12 ~~title for foreign limited liability companies. If the limited~~  
13 ~~liability company is required to change its name because its name at~~  
14 ~~the time it ceased to be in good standing or was withdrawn is no~~  
15 ~~longer available, acceptance of the reinstatement shall constitute~~  
16 ~~an amendment to the domestic limited liability company's articles of~~  
17 ~~organization to change its name or the adoption of a fictitious name~~  
18 ~~by the foreign limited liability company, as applicable. The~~  
19 ~~application for reinstatement may amend the articles of organization~~  
20 ~~of the domestic limited liability company or the application for~~  
21 ~~registration of the foreign limited liability company, subject in~~  
22 ~~either case to the payment of the additional fee required in Section~~  
23 ~~2055 of this title for amendments; provided, that the application~~  
24 ~~may not extend the term of a limited liability company that had~~

1 ~~expired before the application for reinstatement. For purposes of~~  
2 ~~this section, a foreign limited liability company applying for~~  
3 ~~reinstatement is deemed to have done business continually in the~~  
4 ~~state following the administrative withdrawal.~~

5 ~~H. The failure of a domestic limited liability company or~~  
6 ~~foreign limited liability company to file an annual certificate and~~  
7 ~~pay an annual certificate fee or a registered agent fee to the~~  
8 ~~Secretary of State shall not impair the validity on any contract,~~  
9 ~~deed, mortgage, security interest, lien or act of the domestic~~  
10 ~~limited liability company or foreign limited liability company or~~  
11 ~~prevent the domestic limited liability company or foreign limited~~  
12 ~~liability company from defending any action, suit or proceeding with~~  
13 ~~any court of this state.~~

14 ~~I. A member or manager of a domestic limited liability company~~  
15 ~~or foreign limited liability company is not liable for the debts,~~  
16 ~~obligations or liabilities of the domestic limited liability company~~  
17 ~~or foreign limited liability company solely by reason of the failure~~  
18 ~~of the domestic limited liability company or foreign limited~~  
19 ~~liability company to file an annual certificate and pay an annual~~  
20 ~~certificate fee or a registered agent fee to the Secretary of State~~  
21 ~~or by reason of the domestic limited liability company or foreign~~  
22 ~~limited liability company ceasing to be in good standing or duly~~  
23 ~~registered.~~

24

1 SECTION 115. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 2055.3 of Title 18 unless there  
3 is created a duplication in numbering, reads as follows:

4 REINSTATEMENT OF A LIMITED LIABILITY COMPANY

5 A. A domestic limited liability company not in good standing  
6 for failure to file an annual certificate and pay the annual  
7 certificate fees or registered agent fees, including a domestic  
8 limited liability company whose articles of organization have been  
9 canceled under subsection B of Section 2012.1 of Title 18 of the  
10 Oklahoma Statutes, or a foreign limited liability company whose  
11 registration was withdrawn for failure to file an annual certificate  
12 and pay the annual certificate fees or registered agent fees may  
13 apply to the Secretary of State for reinstatement by:

14 1. Filing all delinquent annual certificates with the Secretary  
15 of State and paying all delinquent annual certificate fees or paying  
16 all delinquent registered agent fees to the Secretary of State; and

17 2. Filing an application for reinstatement with the Secretary  
18 of State stating its name at the time it ceased to be in good  
19 standing or was withdrawn, the date it ceased to be in good standing  
20 or was withdrawn, and its current name, if its name at the time it  
21 ceased to be in good standing or was withdrawn is no longer  
22 available under Section 2008 or 2045 of Title 18 of the Oklahoma  
23 Statutes.

24



1        If the Secretary of State determines that the application  
2 contains the required information, the information is correct, all  
3 delinquent certificates or other filings are submitted, all  
4 delinquent fees are paid, and the name satisfies the requirements of  
5 Section 2008 or 2045 of Title 18 of the Oklahoma Statutes, the  
6 Secretary of State shall accept the application for reinstatement  
7 and issue a certificate of reinstatement in the manner provided in  
8 Section 2007 of Title 18 of the Oklahoma Statutes for domestic  
9 limited liability companies or Section 2044 of Title 18 of the  
10 Oklahoma Statutes for foreign limited liability companies. If the  
11 limited liability company is required to change its name because its  
12 name at the time it ceased to be in good standing or was withdrawn  
13 is no longer available, acceptance of the reinstatement shall  
14 constitute an amendment to the domestic limited liability company's  
15 articles of organization to change its name or the adoption of a  
16 fictitious name by the foreign limited liability company, as  
17 applicable. The application for reinstatement may amend the  
18 articles of organization of the domestic limited liability company  
19 or the application for registration of the foreign limited liability  
20 company, subject in either case to the payment of the additional fee  
21 required in Section 2055 of Title 18 of the Oklahoma Statutes for  
22 amendments; provided, that the application may not extend the term  
23 of a limited liability company that had expired before the  
24 application for reinstatement. For purposes of this section, a

1 foreign limited liability company applying for reinstatement is  
2 deemed to have done business continually in the state following the  
3 administrative withdrawal.

4 B. When reinstatement under this section has become effective,  
5 the reinstatement relates back to and takes effect as if the  
6 domestic limited liability company had never ceased to be in good  
7 standing and as if its articles of organization had never been  
8 canceled, or as if the foreign limited liability company's  
9 registration was never withdrawn.

10 C. The failure of a domestic limited liability company or  
11 foreign limited liability company to file an annual certificate and  
12 pay an annual certificate fee or a registered agent fee to the  
13 Secretary of State shall not impair the validity on any contract,  
14 deed, mortgage, security interest, lien or act of the domestic  
15 limited liability company or foreign limited liability company or  
16 prevent the domestic limited liability company or foreign limited  
17 liability company from defending any action, suit or proceeding with  
18 any court of this state.

19 D. All real and personal property, and all rights and  
20 interests, which belonged to the domestic limited liability company  
21 at the time its articles of organization were canceled or which were  
22 acquired by the limited liability company after cancellation, and  
23 which were not disposed of before its reinstatement, shall be vested  
24 in the limited liability company after its reinstatement as fully as

1 they were held by the limited liability company at, and after, as  
2 the case may be, the time its articles of organization were  
3 canceled.

4 E. A member or manager of a domestic limited liability company  
5 or foreign limited liability company is not liable for the debts,  
6 obligations or liabilities of the domestic limited liability company  
7 or foreign limited liability company solely by reason of the failure  
8 of the domestic limited liability company or foreign limited  
9 liability company to file an annual certificate and pay an annual  
10 certificate fee or a registered agent fee to the Secretary of State  
11 or by reason of the domestic limited liability company ceasing to be  
12 in good standing or its articles of organization being canceled or  
13 the foreign limited liability company ceasing to be duly registered.

14 SECTION 116. AMENDATORY 18 O.S. 2011, Section 2060, is  
15 amended to read as follows:

16 Section 2060.

17 CASES NOT PROVIDED FOR IN ACT

18 In any case not provided for in ~~this act~~ the Oklahoma Limited  
19 Liability Company Act, the rules of law and equity, including the  
20 rules of law and equity relating to fiduciary duties and the law  
21 merchant, shall govern.

22 SECTION 117. AMENDATORY 54 O.S. 2011, Section 500-210A,  
23 is amended to read as follows:

24 Section 500-210A.

1 ANNUAL CERTIFICATE FOR SECRETARY OF STATE.

2 (a) A limited partnership or a foreign limited partnership  
3 authorized to transact business in this state shall deliver to the  
4 Secretary of State for filing an annual certificate that states:

5 (1) the name of the limited partnership or foreign limited  
6 partnership;

7 (2) the street ~~and~~, mailing address and electronic mail address  
8 of its designated office and the name and street and mailing address  
9 of its agent for service of process in this state; and

10 (3) in the case of a foreign limited partnership, the state or  
11 other jurisdiction under whose law the foreign limited partnership  
12 is formed and any fictitious name adopted under subsection (a) of  
13 Section ~~79~~ 500-905A of this ~~act~~ title.

14 (b) Information in an annual certificate must be current as of  
15 the date the annual certificate is delivered to the Secretary of  
16 State for filing.

17 (c) The annual certificate is due on the anniversary date of  
18 the filing of the certificate of limited partnership or certificate  
19 of authority of a foreign limited partnership until cancellation of  
20 the certificate of limited partnership or certificate of authority.

21 (d) The Secretary of State shall, at least sixty (60) days  
22 before the anniversary date of each year, cause ~~to be mailed~~ a  
23 notice of the annual certificate to be sent to each domestic limited  
24 partnership and each foreign limited partnership required to comply

1 with the provisions of this section to the last known ~~office~~  
2 electronic mail address of record with the Secretary of State.

3 SECTION 118. This act shall become effective November 1, 2017.  
4 Passed the Senate the 21st day of March, 2017.

5

6

\_\_\_\_\_  
Presiding Officer of the Senate

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8 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
9 2017.

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Presiding Officer of the House  
of Representatives

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