

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 367

By: Jolley

4
5
6 AS INTRODUCED

7 An Act relating to business entities; providing for
8 the application of the Oklahoma General Corporation
9 Act to nonstock corporations; amending 18 O.S. 2011,
10 Sections 1006, 1007, 1008, 1013, 1021, 1022, 1027, as
11 amended by Section 1, Chapter 1, O.S.L. 2012, 1031,
12 1035, 1041, 1049, 1056, 1058, 1060, 1064, 1065, 1067,
13 1068, 1070, 1071, 1072, 1073, 1075.2, 1075.3, 1076,
14 1077, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087,
15 1090.2, 1090.3, 1090.4, 1090.5, 1091, 1092, 1095,
16 1096, 1097, 1099, 1100.1, 1100.2, 1119, 1120, 1130,
17 1133 and 1135 (18 O.S. Supp. 2014, Section 1027),
18 which relate to the Oklahoma General Corporation Act;
19 modifying content requirements and permissible
20 inclusions for certificate of incorporation;
21 modifying execution requirements for certain
22 documents; updating statutory references; authorizing
23 corporations to confer certain power upon
24 shareholders; authorizing nonstock corporations to
confer certain power upon members; providing
requirements to registered offices; modifying
entities required to have a registered agent in the
state; modifying duties of registered agent;
providing that certain information be given to
registered agent; providing for promulgation of rules
and enforcement; expanding certain voting power;
eliminating procedure and requirements for
classification of directors; providing for
interpretation of certain references; modifying
permissible indemnification; prohibiting elimination
or impairment of right to certain indemnification,
with exception; establishing capital of nonstock
corporation for certain purposes; providing for
nonstock corporation authority to redeem membership
interests; modifying information to be included in
certain court orders; modifying scope of record date;

1 providing for voting rights of nonstock corporation
2 members; modifying definitions; providing procedures
3 and requirements for merger of parent entity and
4 subsidiary corporation or corporations; modifying
5 meeting notice requirements; modifying sections of
6 law that govern elections; expanding authority to
7 request certain district court hearing; providing for
8 removal of certain directors from office; requiring
9 certain applicant for custodianship to provide copy
10 of application to the Attorney General; modifying
11 requirements for shareholder consent to taking of
12 action without meeting, notice or vote; modifying
13 information that may be included in certain merger or
14 consolidation agreements; providing when certain
15 certification is not required; authorizing certain
16 electronic service of process as prescribed by the
17 Secretary of State; authorizing promulgation of
18 rules; stating certain requirements for mergers and
19 surviving corporations; placing restrictions on
20 merger of corporations and nonstock corporations;
21 providing for access to proxy solicitation materials;
22 providing for certain reimbursement; modifying merger
23 or consolidation procedures for domestic nonstock
24 not-for-profit corporations; defining term; providing
for interpretation of references relating to
constituent nonstock corporations; providing for
merger or consolidation of corporations with other
entities; modifying definitions; modifying agreement
requirements; modifying contents of certificate of
merger or consolidation; providing for interpretation
of certain references; modifying exemption from
certain prohibition; requiring simultaneous filings
of certain certificates; modifying contents of
certain certificates of conversion; requiring
Secretary of State to retain certain information for
certain time; placing restrictions on merger of
charitable entity with other entity; modifying
definition; modifying scope of appraisal rights;
modifying procedure for perfecting appraisal rights;
establishing fair rate of interest; expanding who may
vote on certain sales, leases and exchanges;
modifying required contents for certificate of
dissolution; modifying procedure for dissolution of
nonstock corporation; providing for application of
law to corporation that expires by its own
limitation; providing for interpretation of
references; modifying notice requirements for

1 rejection of claims by a nonstock corporation;
2 providing that certain provisions relating to
3 distributions do not apply in certain circumstances;
4 modifying requirements for revocation of voluntary
5 dissolution; modifying requirements for revival,
6 extension and restoration of certificate of
7 incorporation; modifying requirement for foreign
8 corporation doing business in this state; modifying
9 requirements for successor registered agent for
10 foreign corporation; modifying requirements and
11 procedure for withdrawal of foreign corporation from
12 state; amending 18 O.S. 2011, Sections 2001, 2012.2,
13 2015, 2019, 2020, 2025, 2030, 2032, 2033, 2034, 2035,
14 2036, 2040, 2054, 2054.1, 2054.2 and 2054.4, which
15 relate to the Oklahoma Limited Liability Company Act;
16 modifying definitions; providing for member's capital
17 interest; providing for certain resigning member;
18 expanding limited liability company's right of
19 recovery from resigning member; clarifying statutory
20 reference; modifying member voting rights; modifying
21 allocation of profits and losses; modifying
22 distributions; modifying certain date for measurement
23 of effect of distribution; modifying member's power
24 to voluntarily withdraw; providing for wrongful
withdrawal; providing that member that withdraws is
considered assignee of interest; authorizing buyout
of expelled member's capital interest; modifying
distribution of assets upon the winding up of a
limited liability company; modifying definitions;
providing for certain interests; modifying required
contents for articles of merger or consolidation;
prohibiting merger of charitable entity into other
type of entity under certain circumstances; amending
54 O.S. 2011, Section 500-210A, which relates to the
Oklahoma Uniform Limited Partnership Act; permitting
the Secretary of State to send notices of annual
reports electronically; providing for codification;
and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1004.1 of Title 18, unless there
3 is created a duplication in numbering, reads as follows:

4 APPLICATION OF ACT TO NONSTOCK CORPORATIONS

5 A. Except as otherwise provided in subsections B and C of this
6 section, the provisions of this chapter shall apply to nonstock
7 corporations in the manner specified in paragraphs 1 through 4 of
8 this subsection:

9 1. All references to shareholders of the corporation shall be
10 deemed to refer to members of the corporation;

11 2. All references to the board of directors of the corporation
12 shall be deemed to refer to the governing body of the corporation;

13 3. All references to directors or to members of the board of
14 directors of the corporation shall be deemed to refer to members of
15 the governing body of the corporation; and

16 4. All references to stock, capital stock, or shares thereof of
17 a corporation authorized to issue capital stock shall be deemed to
18 refer to memberships of a nonprofit nonstock corporation and to
19 membership interests of any other nonstock corporation.

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

21 1. This subsection or to paragraph 4 of subsection A and
22 paragraphs 1 and 2 of subsection B of Section 1006, subsection A of
23 Section 1013, Sections 1027, 1035, 1060 and 1073, subsection B of
24 Section 1075, and Sections 1076, 1077, 1083, 1084, 1085, 1086, 1087,

1 1092, 1097, 1119 and 1120 of Title 18 of the Oklahoma Statutes,
2 which apply to nonstock corporations by their terms; and

3 2. Sections 1032, 1033, 1034, 1036, 1037, subsection D of 1038,
4 1039, 1042, 1043, 1044, 1045, 1046, 1047, 1056, 1057, 1058, 1059,
5 1061, 1064, 1067, 1075.1, 1078, 1079, 1081, 1082, 1090.3, 1095,
6 1096, 1130 through 1138, 1142, 1159 , subsection A of 1161 of Title
7 18 of the Oklahoma Statutes and Section 33 of this act.

8 C. In the case of a nonprofit, nonstock corporation, subsection
9 A of this section shall not apply to:

10 1. The sections listed in subsection B of this section; and

11 2. Paragraph 3 of subsection B of Section 1006, paragraph 2 of
12 subsection A of Section 1030, Sections 1032 through 1055, 1062,
13 subsections A and B of 1063, and 1091 of Title 18 of the Oklahoma
14 Statutes.

15 D. For purposes of the Oklahoma General Corporation Act:

16 1. A "charitable nonstock corporation" is any nonprofit
17 nonstock corporation that is exempt from taxation under Section
18 501(c) (3) of the United States Internal Revenue Code [26 U.S.C.
19 Section 501(c) (3)], or any successor provisions;

20 2. A "membership interest" is, unless otherwise provided in a
21 nonstock corporation's certificate of incorporation, a member's
22 share of the profits and losses of a nonstock corporation, or a
23 member's right to receive distributions of the nonstock
24 corporation's assets, or both;

1 3. A "nonprofit nonstock corporation" is a nonstock corporation
2 that does not have membership interests;

3 4. A "nonstock corporation" is any corporation organized under
4 this act that is not authorized to issue capital stock; and

5 5. The terms "not-for-profit" and "nonprofit" are synonymous.

6 SECTION 2. AMENDATORY 18 O.S. 2011, Section 1006, is
7 amended to read as follows:

8 Section 1006. CERTIFICATE OF INCORPORATION; CONTENTS

9 A. The certificate of incorporation shall set forth:

10 1. The name of the corporation which shall contain one of the
11 words "association", "company", "corporation", "club", "foundation",
12 "fund", "incorporated", "institute", "society", "union",
13 "syndicate", or "limited" or abbreviations thereof, with or without
14 punctuation, or words or abbreviations thereof, with or without
15 punctuation, of like import of foreign countries or jurisdictions;
16 provided that such abbreviations are written in Roman characters or
17 letters, and which shall be such as to distinguish it upon the
18 records in the Office of the Secretary of State from:

19 a. names of other corporations, whether domestic or
20 foreign, then existing or which existed at any time
21 during the preceding three (3) years,

22 b. names of partnerships whether general or limited, or
23 domestic or foreign, then in good standing or
24 registered or which were in good standing or

1 registered at any time during the preceding three (3)
2 years,

3 c. names of limited liability companies, whether domestic
4 or foreign, then in good standing or registered or
5 which were in good standing or registered at any time
6 during the preceding three (3) years,

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

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

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

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

23 4. If the corporation is to be authorized to issue only one
24 class of stock, the total number of shares of stock which the

1 corporation shall have authority to issue and the par value of each
2 of such shares, or a statement that all such shares are to be
3 without par value. If the corporation is to be authorized to issue
4 more than one class of stock, the certificate of incorporation shall
5 set forth the total number of shares of all classes of stock which
6 the corporation shall have authority to issue and the number of
7 shares of each class, and shall specify each class the shares of
8 which are to be without par value and each class the shares of which
9 are to have par value and the par value of the shares of each such
10 class. The provisions of this paragraph shall not apply to
11 corporations which are not organized for profit and which are not to
12 have authority to issue capital stock. In the case of such
13 corporations, the fact that they are not to have authority to issue
14 capital stock shall be stated in the certificate of incorporation.
15 The foregoing provisions of this paragraph shall not apply to
16 nonstock corporations. In the case of nonstock corporations, the
17 fact that they are not authorized to issue capital stock shall be
18 stated in the certificate of incorporation. The conditions of
19 membership, or other criteria for identifying members, of nonstock
20 corporations shall likewise be stated in the certificate of
21 incorporation or the bylaws. Nonstock corporations shall have
22 members, but the failure to have members shall not affect otherwise
23 valid corporate acts or work a forfeiture or dissolution of the
24 corporation. Nonstock corporations may provide for classes or

1 groups of members having relative rights, powers and duties, and may
2 make provision for the future creation of additional classes or
3 groups of members having such relative rights, powers and duties as
4 may from time to time be established, including rights, powers and
5 duties senior to existing classes and groups of members. Except as
6 otherwise provided in the Oklahoma General Corporation Act, nonstock
7 corporations may also provide that any member or class or group of
8 members shall have full, limited, or no voting rights or powers,
9 including that any member or class or group of members shall have
10 the right to vote on a specified transaction even if that member or
11 class or group of members does not have the right to vote for the
12 election of members of the governing body of the corporation.
13 Voting by members of a nonstock corporation may be on a per capita,
14 number, financial interest, class, group, or any other basis set
15 forth. The provisions referred to in the three preceding sentences
16 may be set forth in the certificate of incorporation or the bylaws.
17 If neither the certificate of incorporation nor the bylaws of a
18 nonstock corporation state the conditions of membership, or other
19 criteria for identifying members, the members of the corporation
20 shall be deemed to be those entitled to vote for the election of the
21 members of the governing body pursuant to the certificate of
22 incorporation or bylaws of such corporation or otherwise until
23 thereafter otherwise provided by the certificate of incorporation or
24 the bylaws;

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

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

8 7. If the corporation is not for profit:

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

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

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

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

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

20 B. In addition to the matters required to be set forth in the
21 certificate of incorporation pursuant to the provisions of
22 subsection A of this section, the certificate of incorporation may
23 also contain any or all of the following matters:

24

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

11 2. The following provisions, in substantially the following
12 form:

13 a. for a corporation, other than a nonstock corporation:
14 "Whenever a compromise or arrangement is proposed
15 between this corporation and its creditors or any
16 class of them and/or between this corporation and its
17 shareholders or any class of them, any court of
18 equitable jurisdiction within the State of Oklahoma,
19 on the application in a summary way of this
20 corporation or of any creditor or shareholder thereof
21 or on the application of any receiver or receivers
22 appointed for this corporation under the provisions of
23 Section 1106 of this title or on the application of
24 trustees in dissolution or of any receiver or

1 receivers appointed for this corporation under the
2 provisions of Section 1100 of this title, may order a
3 meeting of the creditors or class of creditors, and/or
4 of the shareholders or class of shareholders of this
5 corporation, as the case may be, to be summoned in
6 such manner as the court directs. If a majority in
7 number representing three-fourths (3/4) in value of
8 the creditors or class of creditors, and/or of the
9 shareholders or class of shareholders of this
10 corporation, as the case may be, agree to any
11 compromise or arrangement and to any reorganization of
12 this corporation as a consequence of such compromise
13 or arrangement, the compromise or arrangement and the
14 reorganization, if sanctioned by the court to which
15 the application has been made, shall be binding on all
16 the creditors or class of creditors, and/or on all the
17 shareholders or class of shareholders, of this
18 corporation, as the case may be, and also on this
19 corporation.", and

20 b. for a nonstock corporation:

21 "Whenever a compromise or arrangement is proposed
22 between this corporation and its creditors or any
23 class of them and/or between this corporation and its
24 members or any class of them, any court of equitable

1 jurisdiction within the State of Oklahoma may, on the
2 application in a summary way of this corporation or of
3 any creditor or member thereof or on the application
4 of any receiver or receivers appointed for this
5 corporation under the provisions of Section 1106 of
6 this title or on the application of trustees in
7 dissolution or of any receiver or receivers appointed
8 for this corporation under the provisions of Section
9 1100 of this title, order a meeting of the creditors
10 or class of creditors, and/or of the members or class
11 of members of this corporation, as the case may be, to
12 be summoned in such manner as the court directs. If a
13 majority in number representing three-fourths (3/4) in
14 value of the creditors or class of creditors, and/or
15 of the members or class of members of this
16 corporation, as the case may be, agree to any
17 compromise or arrangement and to any reorganization of
18 this corporation as a consequence of such compromise
19 or arrangement, the compromise or arrangement and the
20 reorganization, if sanctioned by the court to which
21 the application has been made, shall be binding on all
22 the creditors or class of creditors, and/or on all the
23 members or class of members, of this corporation, as
24 the case may be, and also on this corporation";

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

12 4. Provisions requiring, for any corporate action, the vote of
13 a larger portion of the stock or of any class or series thereof, or
14 of any other securities having voting power, or a larger number of
15 the directors, than is required by the provisions of this act;

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

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

1 7. A provision eliminating or limiting the personal liability
2 of a director to the corporation or its shareholders for monetary
3 damages for breach of fiduciary duty as a director, provided that
4 such provision shall not eliminate or limit the liability of a
5 director:

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

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

11 c. under Section 1053 of this title, or

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

14 No such provision shall eliminate or limit the liability of a
15 director for any act or omission occurring before the date when such
16 provision becomes effective.

17 C. It shall not be necessary to set forth in the certificate of
18 incorporation any of the powers conferred on corporations by the
19 provisions of this act.

20 D. Except for provisions included under paragraphs 1, 2, 5, 6
21 and 7 of subsection A of this section and paragraphs 2, 5 and 7 of
22 subsection B of this section, and provisions included under
23 paragraph 4 of subsection A of this section specifying the classes,
24 number of shares and par value of shares ~~the~~ a corporation other

1 than a nonstock corporation is authorized to issue, any provision of
2 the certificate of incorporation may be made dependent upon facts
3 ascertainable outside the instrument, provided that the manner in
4 which the facts shall operate upon the provision is clearly and
5 explicitly set forth therein. As used in this subsection, the term
6 "facts" includes, but is not limited to, the occurrence of any
7 event, including a determination or action by any person or body,
8 including the corporation.

9 SECTION 3. AMENDATORY 18 O.S. 2011, Section 1007, is
10 amended to read as follows:

11 Section 1007.

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

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

19 1. The certificate of incorporation and any other instrument to
20 be filed before the election of the initial board of directors, if
21 the initial directors were not named in the certificate of
22 incorporation, shall be signed by the incorporator or incorporators,
23 or in case of any other instrument, the incorporator's or
24 incorporators' successors and assigns. If any incorporator is not

1 available by reason of death, incapacity, unknown address, or
2 refusal or neglect to act, then any other instrument may be signed,
3 with the same effect as if the incorporator had signed it, by any
4 person for whom or on whose behalf the incorporator, in executing
5 the certificate of incorporation, was acting directly or indirectly
6 as employee or agent; provided that the other instrument shall state
7 that the incorporator is not available and the reason therefor, that
8 the incorporator in executing the certificate of incorporation was
9 acting directly or indirectly as employee or agent for or on behalf
10 of the person, and that the person's signature on the instrument is
11 otherwise authorized and not wrongful;

12 2. All other instruments shall be ~~executed~~ signed:

- 13 a. by the chair or vice-chair of the board of directors,
14 or by the president, or by a vice-president, and
15 attested by the secretary or an assistant secretary;
16 or by officers as may be duly authorized to exercise
17 the duties, respectively, ordinarily exercised by the
18 president or vice-president and by the secretary or an
19 assistant secretary of a any authorized officer of the
20 corporation,
- 21 b. if it appears from the instrument that there are no
22 such officers, then by a majority of the directors or
23 by those directors designated by the board,

24

- 1 c. if it appears from the instrument that there are no
2 such officers or directors, then by the holders of
3 record, or those designated by the holders of record,
4 of a majority of all outstanding shares of stock, or
5 d. by the holders of record of all outstanding shares of
6 stock.

7 B. Whenever any provision of this act requires any instrument
8 to be acknowledged, that requirement is satisfied by either:

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

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

22 C. Whenever any provision of this act requires any instrument
23 to be filed in accordance with the provisions of this section or
24 with the provisions of this act, the requirement means that:

1 1. One signed instrument shall be delivered to the Office of
2 the Secretary of State;

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

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

10 4. Upon delivery of the instrument, and upon tender of the
11 required taxes and fees, the Secretary of State shall certify that
12 the instrument has been filed in the Secretary of State's office by
13 endorsing upon the signed instrument the word "Filed", and the date
14 of its filing. This endorsement is the "filing date" of the
15 instrument, and is conclusive of the date of its filing in the
16 absence of actual fraud. Upon request, the Secretary of State shall
17 also endorse the hour that the instrument was filed, which
18 endorsement shall be conclusive of the hour of its filing in the
19 absence of actual fraud. The Secretary of State shall thereupon
20 file and index the endorsed instrument.

21 D. Any instrument filed in accordance with the provisions of
22 subsection C of this section shall be effective upon its filing
23 date. Any instrument may provide that it is not to become effective
24 until a specified time subsequent to the time it is filed, but that

1 date shall not be later than a time on the ninetieth day after the
2 date of its filing. If any instrument filed in accordance with
3 subsection C of this section provides for a future effective date or
4 time and if the transaction is terminated or its terms are amended
5 to change the future effective date or time prior to the future
6 effective date or time, the instrument shall be terminated or
7 amended by the filing, prior to the future effective date or time
8 set forth in the instrument, of a certificate of termination or
9 amendment of the original instrument, executed in accordance with
10 subsection A of this section, which shall identify the instrument
11 which has been terminated or amended and shall state that the
12 instrument has been terminated or the manner in which it has been
13 amended.

14 E. If another section of this act specifically prescribes a
15 manner of executing, acknowledging, or filing a specified instrument
16 or a time when an instrument shall become effective which differs
17 from the corresponding provisions of this section, then the
18 provisions of the other section shall govern.

19 F. Whenever any instrument authorized to be filed with the
20 Secretary of State under any provision of this title has been so
21 filed and is an inaccurate record of the corporate action therein
22 referred to, or was defectively or erroneously executed, sealed, or
23 acknowledged, the instrument may be corrected by filing with the
24 Secretary of State a certificate of correction of the instrument

1 which shall be executed, acknowledged and filed in accordance with
2 the provisions of this section. The certificate of correction shall
3 specify the inaccuracy or defect to be corrected and shall set forth
4 the portion of the instrument in corrected form. The corrected
5 instrument shall be effective as of the date the original instrument
6 was filed, except as to those persons who are substantially and
7 adversely affected by the correction and as to those persons the
8 corrected instrument shall be effective from the filing date of the
9 corrected instrument.

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

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

22 I. 1. If:

23 a. (1) together with the actual delivery of an
24 instrument and tender of the required taxes and

1 fees, there is delivered to the Secretary of
2 State a separate affidavit, which in its heading
3 shall be designated as an affidavit of
4 extraordinary condition, attesting, on the basis
5 of personal knowledge of the affiant or a
6 reliable source of knowledge identified in the
7 affidavit, that an earlier effort to deliver the
8 instrument and tender taxes and fees was made in
9 good faith, specifying the nature, date and time
10 of the good faith effort and requesting that the
11 Secretary of State establish the date and time as
12 the filing date of the instrument, or

13 (2) upon the actual delivery of an instrument and
14 tender of the required taxes and fees, the
15 Secretary of State in his or her discretion
16 provides a written waiver of the requirement for
17 an affidavit stating that it appears to the
18 Secretary of State that an earlier effort to
19 deliver the instrument and tender the taxes and
20 fees was made in good faith and specifying the
21 date and time of the effort, and

22 b. the Secretary of State determines that an
23 extraordinary condition existed at that date and time,
24 that the earlier effort was unsuccessful as a result

1 of the existence of an extraordinary condition, and
2 that the actual delivery and tender were made within a
3 reasonable period, not to exceed two (2) business
4 days, after the cessation of the extraordinary
5 condition,

6 then the Secretary of State may establish the date and time as
7 the filing date of the instrument. No fee shall be paid to the
8 Secretary of State for receiving an affidavit of extraordinary
9 condition.

10 2. For purposes of this subsection, an extraordinary condition
11 means: any emergency resulting from an attack on, invasion or
12 occupation by foreign military forces of, or disaster, catastrophe,
13 war or other armed conflict, revolution or insurrection, or rioting
14 or civil commotion in, the United States or a locality in which the
15 Secretary of State conducts its business or in which the good faith
16 effort to deliver the instrument and tender the required taxes and
17 fees is made, or the immediate threat of any of the foregoing; or
18 any malfunction or outage of the electrical or telephone service to
19 the Secretary of State's office, or weather or other condition in or
20 about a locality in which the Secretary of State conducts its
21 business, as a result of which the Secretary of State's office is
22 not open for the purpose of the filing of instruments under this act
23 or the filing cannot be effected without extraordinary effort. The
24 Secretary of State may require such proof as it deems necessary to

1 make the determination required under subparagraph b of paragraph 1
2 of this subsection, and any determination shall be conclusive in the
3 absence of actual fraud.

4 3. If the Secretary of State establishes the filing date of an
5 instrument pursuant to this subsection, the date and time of
6 delivery of the affidavit of extraordinary condition or the date and
7 time of the Secretary of State's written waiver of the affidavit
8 shall be endorsed on the affidavit or waiver and the affidavit or
9 waiver, so endorsed, shall be attached to the filed instrument to
10 which it relates. The filed instrument shall be effective as of the
11 date and time established as the filing date by the Secretary of
12 State pursuant to this subsection, except as to those persons who
13 are substantially and adversely affected by the establishment and,
14 as to those persons, the instrument shall be effective from the date
15 and time endorsed on the affidavit of extraordinary condition or
16 written waiver attached thereto.

17 SECTION 4. AMENDATORY 18 O.S. 2011, Section 1008, is
18 amended to read as follows:

19 Section 1008. CERTIFICATE OF INCORPORATION; DEFINITION

20 The term "certificate of incorporation", as used in the Oklahoma
21 General Corporation Act, unless the context requires otherwise,
22 includes not only the original certificate of incorporation filed to
23 create a corporation but also all other certificates, agreements of
24 merger or consolidation, plans of reorganization, or other

1 instruments, howsoever designated, which are filed pursuant to the
2 provisions of Sections ~~6, 23 through 26, 32, 76 through 80, 81~~
3 ~~through 87, or 118 of this act~~ 1006, 1023 through 1026, 1032, 1076
4 through 1087, or 1118 of this title, or any other section of ~~Title~~
5 ~~18 of the Oklahoma Statutes~~ this title, and which have the effect of
6 amending or supplementing in some respect a corporation's original
7 certificate of incorporation.

8 SECTION 5. AMENDATORY 18 O.S. 2011, Section 1013, is
9 amended to read as follows:

10 Section 1013. BYLAWS

11 A. The original or other bylaws of a corporation may be
12 adopted, amended or repealed by the incorporators, by the initial
13 directors of a corporation other than a nonstock corporation or
14 initial members of the governing body of a nonstock corporation if
15 they were named in the certificate of incorporation, or, before a
16 corporation other than a nonstock corporation has received any
17 payment for any of its stock, by its board of directors. After a
18 corporation other than a nonstock corporation has received any
19 payment for any of its stock, except as otherwise provided in its
20 certificate of incorporation, the power to adopt, amend or repeal
21 bylaws shall be in the board of directors, or, in the case of a
22 nonstock corporation, in its governing body. Notwithstanding the
23 foregoing, any corporation may, in its certificate of incorporation,
24 confer the power to adopt, amend or repeal bylaws upon the

1 shareholders or, in the case of a nonstock corporation, upon its
2 members. The fact that such power has been so conferred upon the
3 shareholders or members, as the case may be, shall not divest the
4 directors or governing body of the power, nor limit their power to
5 adopt, amend or repeal bylaws.

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

11 SECTION 6. AMENDATORY 18 O.S. 2011, Section 1021, is
12 amended to read as follows:

13 Section 1021. REGISTERED OFFICE IN STATE; PRINCIPAL OFFICE
14 OR PLACE OF BUSINESS IN STATE

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

18 B. Whenever the term "corporation's principal office or place
19 of business in this state" or "principal office or place of business
20 of the corporation in this state", or other term of like import, is
21 or has been used in a corporation's certificate of incorporation, or
22 in any other document, or in any statute, it shall be deemed to mean
23 and refer to, unless the context indicates otherwise, the
24 corporation's registered office required by this section. It shall

1 not be necessary for any corporation to amend its certificate of
2 incorporation or any other document to comply with the provisions of
3 this section.

4 C. As contained in any certificate of incorporation or other
5 document filed with the Secretary of State under this title, the
6 address of a registered office shall include the street, number,
7 city, state and postal code.

8 SECTION 7. AMENDATORY 18 O.S. 2011, Section 1022, is
9 amended to read as follows:

10 Section 1022. REGISTERED AGENT IN STATE; RESIDENT AGENT

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

14 1. The domestic corporation itself;

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

16 3. A domestic ~~or qualified foreign~~ corporation, ~~limited~~

17 ~~liability company, limited liability partnership, or limited~~

18 ~~partnership. Each registered agent shall maintain a business office~~

19 ~~identical with the registered office which is open during regular~~

20 ~~business hours to accept service of process and otherwise perform~~

21 ~~the functions of a registered agent. a domestic partnership whether~~

22 general or limited and including a limited liability partnership or

23 a limited liability limited partnership, or a domestic limited

24 liability company; or

1 4. A foreign corporation, a foreign partnership whether general
2 or limited and including a limited liability partnership or a
3 limited liability limited partnership, or a foreign limited
4 liability company, if authorized to transact business in this state.

5 B. Every foreign corporation transacting business in this state
6 shall have and maintain the Secretary of State as its registered
7 agent in this state. In addition, such foreign corporation may have
8 and maintain in this state a an additional registered agent, which
9 may be an individual or entity set forth in subsection A of this
10 section; provided, that the foreign corporation may not be its own
11 registered agent. agent may be either:

12 ~~1. An individual resident of this state; or~~

13 ~~2. A domestic or qualified foreign corporation, limited~~
14 ~~liability company, limited liability partnership, or limited~~
15 ~~partnership. Each registered agent shall maintain a business office~~
16 ~~identical with the registered office which is open during regular~~
17 ~~business hours to accept service of process and otherwise perform~~
18 ~~the functions of a registered agent. If such additional registered~~
19 ~~agent is designated, service of process shall be on such agent and~~
20 ~~not on the Secretary of State.~~

21 C. Each registered agent for a domestic corporation or foreign
22 corporation shall:

23 1. If an entity, maintain a business office identical with the
24 registered office which is open during regular business hours, or if

1 an individual, be generally present at the registered office to
2 accept service of process and otherwise perform the functions of a
3 registered agent;

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

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

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

1 E.C. Whenever the term "resident agent" or "resident agent in
2 charge of a corporation's principal office or place of business in
3 this state", or other term of like import which refers to a
4 corporation's agent required by statute to be located in this state,
5 is or has been used in a corporation's certificate of incorporation,
6 or in any other document, or in any statute, it shall be deemed to
7 mean and refer to, unless the context indicates otherwise, the
8 corporation's registered agent required by this section. It shall
9 not be necessary for any corporation to amend its certificate of
10 incorporation or any other document to comply with the provisions of
11 this section.

12 SECTION 8. AMENDATORY 18 O.S. 2011, Section 1027, as
13 amended by Section 1, Chapter 1, O.S.L. 2012 (18 O.S. Supp. 2014,
14 Section 1027), is amended to read as follows:

15 Section 1027.

16 BOARD OF DIRECTORS; POWERS; NUMBER; QUALIFICATIONS; TERMS
17 AND QUORUM; COMMITTEES; CLASSES OF DIRECTORS; ~~NOT FOR PROFIT~~
18 NONSTOCK CORPORATIONS; RELIANCE UPON BOOKS; ACTION WITHOUT
19 MEETING; ETC.

20 A. The business and affairs of every corporation organized in
21 accordance with the provisions of the Oklahoma General Corporation
22 Act shall be managed by or under the direction of a board of
23 directors, except as may be otherwise provided for in this act or in
24 the corporation's certificate of incorporation. If any provision is

1 made in the certificate of incorporation, the powers and duties
2 conferred or imposed upon the board of directors by the provisions
3 of this act shall be exercised or performed to the extent and by the
4 person or persons stated in the certificate of incorporation.

5 B. The board of directors of a corporation shall consist of one
6 or more members, each of whom shall be a natural person. The number
7 of directors shall be fixed by or in the manner provided for in the
8 bylaws, unless the certificate of incorporation fixes the number of
9 directors, in which case a change in the number of directors shall
10 be made only by amendment of the certificate. Directors need not be
11 shareholders unless so required by the certificate of incorporation
12 or the bylaws. The certificate of incorporation or bylaws may
13 prescribe other qualifications for directors. Each director shall
14 hold office until a successor is elected and qualified or until his
15 or her earlier resignation or removal. Any director may resign at
16 any time upon notice given in writing or by electronic transmission
17 to the corporation. A resignation is effective when the resignation
18 is delivered unless the resignation specifies a later effective date
19 or an effective date determined upon the happening of an event or
20 events. A resignation that is conditioned upon the director failing
21 to receive a specified vote for reelection as a director may provide
22 that it is irrevocable. A majority of the total number of directors
23 shall constitute a quorum for the transaction of business unless the
24 certificate of incorporation or the bylaws require a greater number.

1 Except as provided in subsection G of this section, neither the
2 certificate of incorporation nor the bylaws may provide that a
3 quorum may be less than one-third (1/3) of the total number of
4 directors. The vote of the majority of the directors present at a
5 meeting at which a quorum is present shall be the act of the board
6 of directors unless the certificate of incorporation or the bylaws
7 shall require a vote of a greater number.

8 C. 1. The board of directors may designate one or more
9 committees consisting of one or more of the directors of the
10 corporation. The board may designate one or more directors as
11 alternate members of any committee, who may replace any absent or
12 disqualified member at any meeting of the committee. The bylaws may
13 provide that in the absence or disqualification of a member of a
14 committee, the member or members present at a meeting and not
15 disqualified from voting, whether or not the member or members
16 constitute a quorum, may unanimously appoint another member of the
17 board of directors to act at the meeting in the place of any absent
18 or disqualified member. Any committee, to the extent provided in
19 the resolution of the board of directors, or in the bylaws of the
20 corporation, shall have and may exercise all the powers and
21 authority of the board of directors in the management of the
22 business and affairs of the corporation, and may authorize the seal
23 of the corporation to be affixed to all papers which may require it;
24 but no committee shall have the power or authority to:

- 1 a. approve, adopt, or recommend to the shareholders any
2 action or matter, other than the election or removal
3 of directors, expressly required by this act to be
4 submitted to shareholders for approval, or
5 b. adopt, amend, or repeal any bylaw of the corporation.

6 2. Unless otherwise provided in the certificate of
7 incorporation, the bylaws or the resolution of the board of
8 directors designating the committee, a committee may create one or
9 more subcommittees, each subcommittee to consist of one or more
10 members of the committee, and delegate to a subcommittee any or all
11 of the powers and authority of the committee.

12 D. The directors of any corporation organized under this act,
13 by the certificate of incorporation or by an initial bylaw, or by a
14 bylaw adopted by the board of directors and approved by a vote of
15 the shareholders, may be divided into one, two, or three classes;
16 the term of office of those of the first class to expire at the
17 first annual meeting held after the classification becomes
18 effective; of the second class one (1) year thereafter; of the third
19 class two (2) years thereafter; and at each annual election held
20 after the classification becomes effective, directors shall be
21 chosen for a full term, as the case may be, to succeed those whose
22 terms expire. The certificate of incorporation or bylaw provision
23 dividing the directors into classes may authorize the board of
24 directors to assign members of the board then in office to such

1 classes when the classification becomes effective. The certificate
2 of incorporation may confer upon holders of any class or series of
3 stock the right to elect one or more directors who shall serve for
4 the term, and have voting powers as shall be stated in the
5 certificate of incorporation. The terms of office and voting powers
6 of the directors elected in the manner so provided in the
7 certificate of incorporation may be greater than or less than those
8 of any other director or class of directors. In addition, the
9 certificate of incorporation may confer upon one or more directors,
10 whether or not elected separately by the holders of any class or
11 series of stock, voting powers greater than or less than those of
12 other directors. Any such provision conferring greater or lesser
13 voting power shall apply to voting in any committee or subcommittee,
14 unless otherwise provided in the certificate of incorporation or
15 bylaws. If the certificate of incorporation provides that directors
16 elected by the holders of a class or series of stock shall have more
17 or less than one vote per director on any matter, every reference in
18 this act to a majority or other proportion of directors shall refer
19 to a majority or other proportion of the votes of the directors.

20 E. A member of the board of directors, or a member of any
21 committee designated by the board of directors, in the performance
22 of the member's duties, shall be fully protected in relying in good
23 faith upon the records of the corporation and upon information,
24 opinions, reports, or statements presented to the corporation by any

1 of the corporation's officers or employees, or committees of the
2 board of directors, or by any other person as to matters the member
3 reasonably believes are within the officer's, employee's,
4 committee's or other person's competence and who have been selected
5 with reasonable care by or on behalf of the corporation.

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

8 1. Any action required or permitted to be taken at any meeting
9 of the board of directors, or of any committee thereof may be taken
10 without a meeting if all members of the board or committee, as the
11 case may be, consent thereto in writing or by electronic
12 transmission, and the writing or writings or electronic transmission
13 or transmissions are filed with the minutes of proceedings of the
14 board or committee; and the filing shall be in paper form if the
15 minutes are maintained in paper form and shall be in electronic form
16 if the minutes are maintained in electronic form;

17 2. The board of directors of any corporation organized in
18 accordance with the provisions of this act may hold its meetings,
19 and have an office or offices, outside of this state;

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

22 4. Members of the board of directors of any corporation, or any
23 committee designated by the board, may participate in a meeting of
24 the board or committee by means of conference telephone or other

1 communications equipment by means of which all persons participating
2 in the meeting can hear or otherwise communicate with each other.
3 Participation in a meeting pursuant to the provisions of this
4 subsection shall constitute presence in person at the meeting.

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

12 2. Except as may be otherwise provided by the certificate of
13 incorporation, the provisions of this section shall apply to such a
14 corporation, and when so applied, all references to the board of
15 directors, to members thereof, and to shareholders shall be deemed
16 to refer to the governing body of the corporation, the members
17 thereof and the members of the corporation, respectively; and all
18 references to stock, capital stock, or shares shall be deemed to
19 refer to memberships of a nonprofit nonstock corporation and to
20 membership interests of any other nonstock corporation.

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

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

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

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

22 I. A corporation may agree to submit a matter to a vote of its
23 shareholders regardless of whether the board of directors determines
24 at any time subsequent to approving the matter that the matter is no

1 longer advisable and recommends that the shareholders reject or vote
2 against the matter.

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

5 Section 1031. INDEMNIFICATION OF OFFICERS, DIRECTORS,
6 EMPLOYEES AND AGENTS; INSURANCE

7 A. A corporation shall have power to indemnify any person who
8 was or is a party or is threatened to be made a party to any
9 threatened, pending, or completed action, suit, or proceeding,
10 whether civil, criminal, administrative, or investigative, other
11 than an action by or in the right of the corporation, by reason of
12 the fact that the person is or was a director, officer, employee, or
13 agent of the corporation, or is or was serving at the request of the
14 corporation as a director, officer, employee, or agent of another
15 corporation, partnership, joint venture, trust, or other enterprise,
16 against expenses, including ~~attorneys'~~ attorney fees, judgments,
17 fines, and amounts paid in settlement actually and reasonably
18 incurred by the person in connection with the action, suit, or
19 proceeding if the person acted in good faith and in a manner the
20 person reasonably believed to be in or not opposed to the best
21 interests of the corporation, and, with respect to any criminal
22 action or proceeding, had no reasonable cause to believe the conduct
23 was unlawful. The termination of any action, suit, or proceeding by
24 judgment, order, settlement, conviction, or upon a plea of nolo

1 | contendere or its equivalent, shall not, of itself, create a
2 | presumption that the person did not act in good faith and in a
3 | manner which the person reasonably believed to be in or not opposed
4 | to the best interests of the corporation, and, with respect to any
5 | criminal action or proceeding, had reasonable cause to believe that
6 | the conduct was unlawful.

7 | B. A corporation shall have the power to indemnify any person
8 | who was or is a party or is threatened to be made a party to any
9 | threatened, pending, or completed action or suit by or in the right
10 | of the corporation to procure a judgment in its favor by reason of
11 | the fact that the person is or was a director, officer, employee, or
12 | agent of the corporation, or is or was serving at the request of the
13 | corporation as a director, officer, employee, or agent of another
14 | corporation, partnership, joint venture, trust, or other enterprise
15 | against expenses, including ~~attorneys'~~ attorney fees, actually and
16 | reasonably incurred by the person in connection with the defense or
17 | settlement of an action or suit if the person acted in good faith
18 | and in a manner the person reasonably believed to be in or not
19 | opposed to the best interests of the corporation and except that no
20 | indemnification shall be made in respect of any claim, issue, or
21 | matter as to which the person shall have been adjudged to be liable
22 | to the corporation unless and only to the extent that the court in
23 | which the action or suit was brought shall determine upon
24 | application that, despite the adjudication of liability but in view

1 of all the circumstances of the case, the person is fairly and
2 reasonably entitled to indemnity for expenses which the court shall
3 deem proper.

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

11 D. Any indemnification under the provisions of subsection A or
12 B of this section, unless ordered by a court, shall be made by the
13 corporation only as authorized in the specific case upon a
14 determination that indemnification of the present or former director
15 or officer is proper in the circumstances because the person has met
16 the applicable standard of conduct set forth in subsection A or B of
17 this section. This determination shall be made, with respect to a
18 person who is a director or officer of the corporation at the time
19 of the determination:

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

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

24

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

3 4. By the shareholders.

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

12 Expenses including attorney fees incurred by former directors or
13 officers or other employees and agents or persons serving at the
14 request of the corporation as directors, officers, employees or
15 agents of another corporation, partnership, joint venture, trust or
16 other enterprise may be paid upon the terms and conditions, if any,
17 as the corporation deems appropriate.

18 F. The indemnification and advancement of expenses provided by
19 or granted pursuant to the other subsections of this section shall
20 not be deemed exclusive of any other rights to which those seeking
21 indemnification or advancement of expenses may be entitled under any
22 bylaw, agreement, vote of shareholders or disinterested directors,
23 or otherwise, both as to action in the person's official capacity
24 and as to action in another capacity while holding an office. A

1 right to indemnification or to advancement of expenses arising under
2 a provision of the certificate of incorporation or a bylaw shall not
3 be eliminated or impaired by an amendment to the certificate or
4 incorporation or the bylaw after the occurrence of the act or
5 omission that is the subject of the civil, criminal, administrative
6 or investigative action, suit or proceeding for which
7 indemnification or advancement of expenses is sought, unless the
8 provision in effect at the time of such act or omission explicitly
9 authorizes such elimination or impairment after such action or
10 omission has occurred.

11 G. A corporation shall have power to purchase and maintain
12 insurance on behalf of any person who is or was a director, officer,
13 employee, or agent of the corporation, or is or was serving at the
14 request of the corporation as a director, officer, employee, or
15 agent of another corporation, partnership, joint venture, trust, or
16 other enterprise against any liability asserted against the person
17 and incurred by the person in any such capacity, or arising out of
18 the person's status as such, whether or not the corporation would
19 have the power to indemnify the person against liability under the
20 provisions of this section.

21 H. For purposes of this section, references to "the
22 corporation" shall include, in addition to the resulting
23 corporation, any constituent corporation, including any constituent
24 of a constituent, absorbed in a consolidation or merger which, if

1 its separate existence had continued, would have had power and
2 authority to indemnify its directors, officers, and employees, or
3 agents, so that any person who is or was a director, officer,
4 employee, or agent of a constituent corporation, or is or was
5 serving at the request of a constituent corporation as a director,
6 officer, employee, or agent of another corporation, partnership,
7 joint venture, trust, or other enterprise, shall stand in the same
8 position under the provisions of this section with respect to the
9 resulting or surviving corporation as the person would have with
10 respect to the constituent corporation if its separate existence had
11 continued.

12 I. For purposes of this section, references to "other
13 enterprises" shall include, but are not limited to, employee benefit
14 plans; references to "fines" shall include, but are not limited to,
15 any excise taxes assessed on a person with respect to an employee
16 benefit plan; and references to "serving at the request of the
17 corporation" shall include, but are not limited to, any service as a
18 director, officer, employee, or agent of the corporation which
19 imposes duties on, or involves services, by the director, officer,
20 employee, or agent with respect to an employee benefit plan, its
21 participants, or beneficiaries; and a person who acted in good faith
22 and in a manner the person reasonably believed to be in the interest
23 of the participants and beneficiaries of an employee benefit plan

24

1 shall be deemed to have acted in a manner "not opposed to the best
2 interests of the corporation" as referred to in this section.

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

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

14 SECTION 10. AMENDATORY 18 O.S. 2011, Section 1035, is
15 amended to read as follows:

16 Section 1035. DETERMINATION OF AMOUNT OF CAPITAL; CAPITAL,
17 SURPLUS AND NET ASSETS DEFINED

18 Any corporation, by resolution of its board of directors, may
19 determine that only a part of the consideration which shall be
20 received by the corporation for any of the shares of its capital
21 stock which it shall issue from time to time shall be capital; but,
22 in case any of the shares issued shall be shares having a par value,
23 the amount of the part of such consideration so determined to be
24 capital shall be in excess of the aggregate par value of the shares

1 issued for such consideration having a par value, unless all the
2 shares issued shall be shares having a par value, in which case the
3 amount of the part of such consideration so determined to be capital
4 need be only equal to the aggregate par value of such shares. In
5 each such case the board of directors shall specify in dollars the
6 part of such consideration which shall be capital. If the board of
7 directors shall not have determined, at the time of issue of any
8 shares of the capital stock of the corporation issued for cash or
9 within sixty (60) days after the issue of any shares of the capital
10 stock of the corporation issued for consideration other than cash,
11 what part of the consideration for such shares shall be capital, the
12 capital of the corporation in respect of such shares shall be an
13 amount equal to the aggregate par value of such shares having a par
14 value, plus the amount of the consideration for such shares without
15 par value. The amount of the consideration so determined to be
16 capital in respect of any shares without par value shall be the
17 stated capital of such shares. The capital of the corporation may
18 be increased from time to time by resolution of the board of
19 directors directing that a portion of the net assets of the
20 corporation in excess of the amount so determined to be capital be
21 transferred to the capital account. The board of directors may
22 direct that the portion of such net assets so transferred shall be
23 treated as capital in respect of any shares of the corporation of
24 any designated class or classes. The excess, if any, at any given

1 time, of the net assets of the corporation over the amount so
2 determined to be capital shall be surplus. "Net assets" means the
3 amount by which total assets exceed total liabilities. Capital and
4 surplus are not liabilities for this purpose. Notwithstanding
5 anything in this section to the contrary, for purposes of this
6 section and Sections 1041 and 1049 of this title, the capital of any
7 nonstock corporation shall be deemed to be zero.

8 SECTION 11. AMENDATORY 18 O.S. 2011, Section 1041, is
9 amended to read as follows:

10 Section 1041.

11 CORPORATION'S POWERS RESPECTING OWNERSHIP, VOTING, ETC. OF ITS
12 OWN STOCK; RIGHTS OF STOCK CALLED FOR REDEMPTION

13 A. Every corporation may purchase, redeem, receive, take, or
14 otherwise acquire, own, hold, sell, lend, exchange, transfer, or
15 otherwise dispose of, pledge, use and otherwise deal in and with its
16 own shares; provided, however, that no corporation shall:

17 1. Purchase or redeem its own shares of capital stock for cash
18 or other property when the capital of the corporation is impaired or
19 when the purchase or redemption would cause any impairment of the
20 capital of the corporation, except that a corporation other than a
21 nonstock corporation may purchase or redeem out of capital any of
22 its own shares which are entitled upon any distribution of its
23 assets, whether by dividend or in liquidation, to a preference over
24 another class or series of its stock, or, if no shares entitled to a

1 preference are outstanding, any of its own shares if such shares
2 will be retired upon their acquisition and the capital of the
3 corporation reduced in accordance with the provisions of Sections
4 1078 and 1079 of this title. Nothing in this subsection shall
5 invalidate or otherwise affect a note, debenture, or other
6 obligation of a corporation given by it as consideration for its
7 acquisition by purchase, redemption, or the exchange of its shares
8 of stock if at the time such note, debenture, or obligation was
9 delivered by the corporation its capital was not then impaired or
10 did not thereby become impaired;

11 2. Purchase, for more than the price at which they may then be
12 redeemed, any of its shares which are redeemable at the option of
13 the corporation; or

14 3. Redeem

15 a. In the case of a corporation other than a nonstock
16 corporation, redeem any of its shares unless their
17 redemption is authorized by subsection B of Section
18 1032 of this title and then only in accordance with
19 the provisions of that section and the certificate of
20 incorporation, or

21 b. In the case of a nonstock corporation, redeem any of
22 its membership interests, unless their redemption is
23 authorized by the certificate of incorporation and
24

1 then only in accordance with the certificate of
2 incorporation.

3 B. Nothing in this section shall be construed to limit or
4 affect a corporation's right to resell any of its shares theretofore
5 purchased or redeemed out of surplus and which have not been
6 retired, for consideration fixed by the board of directors or by the
7 shareholders if the certificate of incorporation so provides.

8 C. Shares of its own capital stock belonging to the corporation
9 or to another corporation, if a majority of the shares entitled to
10 vote in the election of directors of the other corporation is held,
11 directly or indirectly, by the corporation, shall neither be
12 entitled to vote nor be counted for quorum purposes. Nothing in
13 this section shall be construed as limiting the right of any
14 corporation to vote stock, including, but not limited to, its own
15 stock, held by it in a fiduciary capacity.

16 D. Shares which have been called for redemption shall not be
17 deemed to be outstanding shares for the purpose of voting or
18 determining the total number of shares entitled to vote on any
19 matter on and after the date on which written notice of redemption
20 has been sent to holders thereof and a sum sufficient to redeem
21 those shares has been irrevocably deposited or set aside to pay the
22 redemption price to the holders of the shares upon surrender of the
23 certificates.

1 SECTION 12. AMENDATORY 18 O.S. 2011, Section 1049, is
2 amended to read as follows:

3 Section 1049. DIVIDENDS; PAYMENT; WASTING ASSET CORPORATIONS

4 A. The directors of every corporation, subject to any
5 restrictions contained in its certificate of incorporation, may
6 declare and pay dividends upon the shares of its capital stock, ~~or~~
7 ~~to its members if the corporation is a nonstock corporation,~~ either
8 out of its surplus, as defined in and computed in accordance with
9 the provisions of Sections 1035 and 1079 of this title, or in case
10 there is no surplus, out of its net profits for the fiscal year in
11 which the dividend is declared or the preceding fiscal year. If the
12 capital of the corporation, computed in accordance with the
13 provisions of Sections 1035 and 1079 of this title, shall have been
14 diminished by depreciation in the value of its property, or by
15 losses, or otherwise, to an amount less than the aggregate amount of
16 the capital represented by the issued and outstanding stock of all
17 classes having a preference upon the distribution of assets, the
18 directors of the corporation shall not declare and pay out of the
19 net profits any dividends upon any shares of any classes of its
20 capital stock until the deficiency in the amount of capital
21 represented by the issued and outstanding stock of all classes
22 having a preference upon the distribution of assets shall have been
23 repaired. Nothing in this subsection shall invalidate or otherwise
24 affect a note, debenture, or other obligation of the corporation

1 paid by it as a dividend on shares of its stock, or any payment made
2 thereon, if at the time the note, debenture, or obligation was
3 delivered by the corporation, the corporation had either surplus or
4 net profits as provided in this subsection from which the dividend
5 could lawfully have been paid.

6 B. Subject to any restrictions contained in its certificate of
7 incorporation, the directors of any corporation engaged in the
8 exploitation of wasting assets including, but not limited to, a
9 corporation engaged in the exploitation of natural resources or
10 other wasting assets, including patents, or engaged primarily in the
11 liquidation of specific assets, may determine the net profits
12 derived from the exploitation of wasting assets or the net proceeds
13 derived from liquidation without taking into consideration the
14 depletion of such assets resulting from lapse of time, consumption,
15 liquidation, or exploitation.

16 SECTION 13. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1055.1 of Title 18, unless there
18 is created a duplication in numbering, which reads as follows:

19 Section 1055.1

20 RATIFICATION OF DEFECTIVE CORPORATE ACTS AND STOCK.

21 A. Subject to subsection F of this section, no defective
22 corporate act or putative stock shall be void or voidable solely as
23 a result of a failure of authorization if ratified as provided in
24

1 this section or validated by the District Court in a proceeding
2 brought under Section 1055.2 of this title.

3 B In order to ratify a defective corporate act pursuant to this
4 section, the board of directors of the corporation shall adopt a
5 resolution stating:

6 1. The defective corporate act to be ratified;

7 2. The time of the defective corporate act;

8 3. If such defective corporate act involved the issuance of
9 shares of putative stock, the number and type of shares of putative
10 stock issued and the date or dates upon which such putative shares
11 were purported to have been issued;

12 4. The nature of the failure of authorization in respect of the
13 defective corporate act to be ratified; and

14 5. That the board of directors approves the ratification of the
15 defective corporate act.

16 The resolution may also provide that, at any time before the
17 validation effective time, notwithstanding adoption of the
18 resolution by shareholders, the board of directors may abandon the
19 resolution without further action of the shareholders. The quorum
20 and voting requirements applicable to the adoption of such
21 resolution by the board of directors shall be the quorum and voting
22 requirements applicable at the time of such adoption for the type of
23 defective corporate act proposed to be ratified; provided that if
24 the certificate of incorporation or bylaws of the corporation, any

1 plan or agreement to which the corporation was a party or any
2 provision of this title, in each case as in effect as of the time of
3 the defective corporate act, would have required a larger number or
4 portion of directors or of specified directors for a quorum to be
5 present or to approve the defective corporate act, such larger
6 number or portion of such directors or such specified directors
7 shall be required for a quorum to be present or to adopt the
8 resolution, as applicable, except that the presence or approval of
9 any director elected, appointed or nominated by holders of any class
10 or series of which no shares are then outstanding, or by any person
11 that is no longer a shareholder, shall not be required.

12 C. The resolution adopted pursuant to subsection B of this
13 section shall be submitted to shareholders for adoption as provided
14 in subsection D of this section, unless (1) no other provision of
15 this title, and no provision of the certificate of incorporation or
16 bylaws of the corporation, or of any plan or agreement to which the
17 corporation is a party, would have required shareholder approval of
18 the defective corporate act to be ratified, either at the time of
19 the defective corporate act or at the time when the resolution
20 required by subsection B of this section is adopted, and (2) the
21 defective corporate act to be ratified did not result from a failure
22 to comply with Section 1090.3 of this title.

23 D. If subsection C of this section requires that the resolution
24 be submitted to shareholders, due notice of the time, place, if any,

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

21 1. If the certificate of incorporation or bylaws of the
22 corporation, any plan or agreement to which the corporation was a
23 party or any provision of this title in effect as of the time of the
24 defective corporate act would have required a larger number or

1 portion of stock or of any class or series thereof or of specified
2 shareholders for a quorum to be present or to approve the defective
3 corporate act, the presence or approval of such larger number or
4 portion of stock or of such class or series thereof or of such
5 specified shareholders shall be required for a quorum to be present
6 or to adopt the resolution, as applicable, except that the presence
7 or approval of shares of any class or series of which no shares are
8 then outstanding, or of any person that is no longer a shareholder,
9 shall not be required;

10 2. The adoption of a resolution to ratify the election of a
11 director shall require the affirmative vote of the majority of
12 shares present at the meeting and entitled to vote on the election
13 of such director, except that if the certificate of incorporation or
14 bylaws of the corporation then in effect or in effect at the time of
15 the defective election require or required a larger number or
16 portion of stock to elect such director, the affirmative vote of
17 such larger number or portion of stock shall be required to ratify
18 the election of such director; and

19 3. In the event of a failure of authorization resulting from
20 failure to comply with the provisions of Section 1090.3 of this
21 title, the ratification of the defective corporate act shall require
22 the vote set forth in paragraph 3 of subsection A of Section 1090.3
23 of this title, regardless of whether such vote would have otherwise
24 been required.

1 E. If the defective corporate act ratified pursuant to this
2 section would have required under any other section of this title
3 the filing of a certificate in accordance with Section 1007 of this
4 title, then, whether or not a certificate was previously filed in
5 respect of such defective corporate act and in lieu of filing the
6 certificate otherwise required by this title, the corporation shall
7 file a certificate of validation in accordance with Section 1007 of
8 this title. The certificate of validation shall set forth:

9 1. The resolution adopted in accordance with subsection B of
10 this section, the date of adoption of such resolution by the board
11 of directors and, if applicable, by the shareholders and a statement
12 that such resolution was duly adopted in accordance with this
13 section;

14 2. If a certificate was previously filed under Section 1007 of
15 this title in respect of the defective corporate act, the title and
16 date of filing of such prior certificate and any certificates of
17 correction thereto; and

18 3. Such provisions as would be required under any other section
19 of this title to be included in the certificate that otherwise would
20 have been required to be filed pursuant to this title with respect
21 to such defective corporate act.

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

1 1. Each defective corporate act set forth in the resolution
2 adopted pursuant to subsection B of this section shall no longer be
3 deemed void or voidable as a result of a failure of authorization
4 identified in such resolution and such effect shall be retroactive
5 to the time of the defective corporate act, and

6 2. Each share or fraction of a share of putative stock issued
7 or purportedly issued pursuant to such defective corporate act and
8 identified in the resolution required by subsection B of this
9 section shall no longer be deemed void or voidable as a result of a
10 failure of authorization identified in such resolution and, in the
11 absence of any failure of authorization not ratified, shall be
12 deemed to be an identical share or fraction of a share of
13 outstanding stock as of the time it was purportedly issued.

14 G. Prompt notice of the adoption of a resolution pursuant to
15 this section shall be given to all holders of valid stock and
16 putative stock, whether voting or nonvoting, as of the date of
17 adoption of such resolution by the board of directors, or as of a
18 date within sixty (60) days after the date of adoption of such
19 resolution, as established by the board of directors, at the address
20 of such holder as it appears or most recently appeared, as
21 appropriate, on the records of the corporation. The notice shall
22 also be given to the holders of record of valid stock and putative
23 stock, whether voting or nonvoting, as of the time of the defective
24 corporate act, other than holders whose identities or addresses

1 cannot be determined from the records of the corporation. The
2 notice shall contain a copy of the resolution and a statement that
3 any claim that the defective corporate act or putative stock
4 ratified hereunder is void or voidable due to the identified failure
5 of authorization, or that the District Court should declare in its
6 discretion that a ratification in accordance with this section not
7 be effective or be effective only on certain conditions must be
8 brought within one hundred twenty (120) days from the validation
9 effective time. Notwithstanding the foregoing, no such notice shall
10 be required if notice of the resolution is to be given in accordance
11 with subsection D of this section. Solely for purposes of
12 subsections D and G of this section, notice to holders of putative
13 stock, and notice to holders of valid stock and putative stock as of
14 the time of the defective corporate act, shall be treated as notice
15 to holders of valid stock for purposes of Sections 1067, 1074, 1075,
16 1075.2 and 1075.3 of this title.

17 H. As used in this section and in Section 1055.2 of this title
18 only, the term:

19 1. "Defective corporate act" means an overissue, an election or
20 appointment of directors that is void or voidable due to a failure
21 of authorization, or any act or transaction purportedly taken by or
22 on behalf of the corporation that is, and at the time such act or
23 transaction was purportedly taken would have been, within the power
24

1 of a corporation under subchapter II of this title, but is void or
2 voidable due to a failure of authorization;

3 2. "Failure of authorization" means the failure to authorize or
4 effect an act or transaction in compliance with the provisions of
5 this title, the certificate of incorporation or bylaws of the
6 corporation, or any plan or agreement to which the corporation is a
7 party, if and to the extent such failure would render such act or
8 transaction void or voidable;

9 3. "Overissue" means the purported issuance of (i) shares of
10 capital stock of a class or series in excess of the number of shares
11 of such class or series the corporation has the power to issue under
12 Section 1042 of this title at the time of such issuance, or (ii)
13 shares of any class or series of capital stock that is not then
14 authorized for issuance by the certificate of incorporation of the
15 corporation;

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

24

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

3 6. "Valid stock" means the shares of any class or series of
4 capital stock of the corporation that have been duly authorized and
5 validly issued in accordance with this title; and

6 7. "Validation effective time" with respect to any defective
7 corporate act ratified pursuant to this section means the later of
8 (i) the time at which the resolution submitted to the shareholders
9 for adoption pursuant to subsection C of this section is adopted by
10 such shareholders, or if no such vote of shareholders is required to
11 adopt the resolution, the time at which the notice required by
12 subsection G of this section is given, and (ii) the time at which
13 any certificate of validation filed pursuant to subsection E of this
14 section shall become effective in accordance with Section 1007 of
15 this title.

16 In the absence of actual fraud in the transaction, the judgment
17 of the board of directors that shares of stock are valid stock or
18 putative stock shall be conclusive, unless otherwise determined by
19 the District Court in a proceeding brought pursuant to Section
20 1055.2 of this title.

21 I. Ratification under this section or validation under Section
22 1055.2 of this title shall not be deemed to be the exclusive means
23 of ratifying or validating any act or transaction taken by or on
24 behalf of the corporation, including any defective corporate act, or

1 any issuance of stock, including any putative stock, and the absence
2 or failure of ratification in accordance with either this section or
3 validation under Section 1055.2 of this title shall not, of itself,
4 affect the validity or effectiveness of any act or transaction or
5 the issuance of any stock properly ratified under common law or
6 otherwise, nor shall it create a presumption that any such act or
7 transaction is or was a defective corporate act or that such stock
8 is void or voidable.

9 SECTION 14. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1055.2 of Title 18, unless there
11 is created a duplication in numbering, which reads as follows:

12 Section 1055.2

13 PROCEEDINGS REGARDING VALIDITY OF DEFECTIVE CORPORATE ACTS AND
14 STOCK.

15 A. Subject to subsection F of this section, upon application by
16 the corporation, any successor entity to the corporation, any member
17 of the board of directors, any record or beneficial holder of valid
18 stock or putative stock, any record or beneficial holder of valid or
19 putative stock as of the time of a defective corporate act ratified
20 pursuant to Section 1055.1 of this title, or any other person
21 claiming to be substantially and adversely affected by a
22 ratification pursuant to Section 1055.1 of this title, the District
23 Court may:

24

1 1. Determine the validity and effectiveness of any defective
2 corporate act ratified pursuant to Section 1055.1 of this title;

3 2. Determine the validity and effectiveness of the ratification
4 of any defective corporate act pursuant to Section 1055.1 of this
5 title;

6 3. Determine the validity and effectiveness of any defective
7 corporate act not ratified or not ratified effectively pursuant to
8 Section 1055.1 of this title;

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

11 5. Modify or waive any of the procedures set forth in Section
12 1055.1 of this title to ratify a defective corporate act.

13 B. In connection with an action under this section, the
14 District Court may:

15 1. Declare that a ratification in accordance with and pursuant
16 to Section 1055.1 of this title is not effective or shall only be
17 effective at a time or upon conditions established by the Court;

18 2. Validate and declare effective any defective corporate act
19 or putative stock and impose conditions upon such validation by the
20 Court;

21 3. Require measures to remedy or avoid harm to any person
22 substantially and adversely affected by a ratification pursuant to
23 Section 1055.1 of this title or from any order of the Court pursuant
24

1 to this section, excluding any harm that would have resulted if the
2 defective corporate act had been valid when approved or effectuated;

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

9 5. Approve a stock ledger for the corporation that includes any
10 stock ratified or validated in accordance with this section or with
11 Section 1055.1 of this title;

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

15 7. Order that a meeting of holders of valid stock or putative
16 stock be held and exercise the powers provided to the Court under
17 Section 1027 of this title with respect to such a meeting;

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

21 9. Declare that putative stock validated by the Court shall be
22 deemed to be an identical share or fraction of a share of valid
23 stock as of the time originally issued or purportedly issued or at
24 such other time as the Court shall determine; and

1 10. Make such other orders regarding such matters as it deems
2 proper under the circumstances.

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

10 D. In connection with the resolution of matters pursuant to
11 subsections A and B of this section, the District Court may consider
12 the following:

13 1. Whether the defective corporate act was originally approved
14 or effectuated with the belief that the approval or effectuation was
15 in compliance with the provisions of this title, the certificate of
16 incorporation or bylaws of the corporation;

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

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

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

3 5. Any other factors or considerations the Court deems just and
4 equitable.

5 E. The District Court is hereby vested with exclusive
6 jurisdiction to hear and determine all actions brought under this
7 section.

8 F. Notwithstanding any other provision of this section, no
9 action asserting:

10 (1) that a defective corporate act or putative stock
11 ratified in accordance with Section 1055.1 of
12 this title is void or voidable due to a failure
13 of authorization identified in the resolution
14 adopted in accordance with subsection B of
15 Section 1055.1, or

16 (2) that the District Court should declare in its
17 discretion that a ratification in accordance with
18 Section 1055.1 not be effective or be effective
19 only on certain conditions, may be brought after
20 the expiration of one hundred twenty (120) days
21 from the validation effective time, except that
22 this subsection shall not apply to an action
23 asserting that a ratification was not
24 accomplished in accordance with Section 1055.1 of

1 this title or to any person to whom notice of the
2 ratification was required to have been given
3 pursuant to subsections D or G of Section 1055.1
4 of this title, but to whom such notice was not
5 given.

6 SECTION 15. AMENDATORY 18 O.S. 2011, Section 1056, is
7 amended to read as follows:

8 Section 1056. MEETINGS OF SHAREHOLDERS

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

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

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

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

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

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

23 B. 1. Unless directors are elected by written consent in lieu
24 of an annual meeting as permitted by this subsection, an annual

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

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

13 C. A failure to hold the annual meeting at the designated time
14 or to elect a sufficient number of directors to conduct the business
15 of the corporation shall not affect otherwise valid corporate acts
16 or work a forfeiture or dissolution of the corporation except as may
17 be otherwise specifically provided for in this act. If the annual
18 meeting for election of directors is not held on the date designated
19 therefor or action by written consent to elect directors in lieu of
20 an annual meeting has not been taken, the directors shall cause the
21 meeting to be held as soon as is convenient. If there is a failure
22 to hold the annual meeting or action by written consent to elect
23 directors in lieu of an annual meeting for a period of thirty (30)
24 days after the date designated for the annual meeting, or if no date

1 has been designated, for a period of thirteen (13) months after the
2 latest to occur of the organization of the corporation, its last
3 annual meeting, or the last action by written consent to elect
4 directors in lieu of an annual meeting, the district court may
5 summarily order a meeting to be held upon the application of any
6 shareholder or director. The shares of stock represented at the
7 meeting, either in person or by proxy, and entitled to vote thereat,
8 shall constitute a quorum for the purpose of the meeting,
9 notwithstanding any provision of the certificate of incorporation or
10 bylaws to the contrary. The district court may issue orders as may
11 be appropriate, including, without limitation, orders designating
12 the time and place of the meeting, the record date or dates for
13 determination of shareholders entitled to notice of the meeting and
14 to vote, and the form of notice of the meeting.

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

18 E. All elections of directors shall be by written ballot,
19 unless otherwise provided for in the certificate of incorporation;
20 if authorized by the board of directors, the requirement of a
21 written ballot shall be satisfied by a ballot submitted by
22 electronic transmission; provided that the electronic transmission
23 must either set forth or be submitted with information from which it
24

1 can be determined that the electronic transmission was authorized by
2 the shareholder or proxyholder.

3 SECTION 16. AMENDATORY 18 O.S. 2011, Section 1058, is
4 amended to read as follows:

5 Section 1058. FIXING DATE FOR DETERMINATION OF SHAREHOLDERS OF
6 RECORD

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

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

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

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

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

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

1 of business on the day on which the board of directors adopts the
2 resolution relating thereto.

3 SECTION 17. AMENDATORY 18 O.S. 2011, Section 1060, is
4 amended to read as follows:

5 Section 1060. VOTING RIGHTS OF MEMBERS OF NONSTOCK
6 CORPORATIONS; QUORUM; PROXIES

7 A. The provisions of Sections 1056 through 1059 and 1061 of
8 this title shall not apply to nonstock corporations ~~not authorized~~
9 ~~to issue stock~~, except that ~~subsection~~ subsections A and D of
10 Section 1056 and subsections C ~~and~~, D and E of Section 1057 of this
11 title shall apply to nonstock corporations, and, when so applied,
12 all references therein to shareholders and to the board of directors
13 shall be deemed to refer to the members and the governing body of a
14 nonstock corporation, respectively; and all references to stock,
15 capital stock, or shares thereof shall be deemed to refer to
16 memberships of a nonprofit nonstock corporation and to membership
17 interests of any other nonstock corporation.

18 B. Unless otherwise provided for in the certificate of
19 incorporation or the bylaws of a nonstock corporation, and subject
20 to subsection F of this section, each member shall be entitled at
21 every meeting of members to one vote on each matter submitted to a
22 vote of members. A member may exercise such voting rights in person
23 or by proxy, but no proxy shall be voted on after three (3) years
24 from its date, unless the proxy provides for a longer period.

1 C. Unless otherwise provided for in the Oklahoma General
2 Corporation Act, the certificate of incorporation or bylaws of a
3 nonstock corporation may specify the number of members having voting
4 power who shall be present or represented by proxy at any meeting in
5 order to constitute a quorum for, and the votes that shall be
6 necessary for, the transaction of any business. In the absence of
7 such specification in the certificate of incorporation or bylaws of
8 a nonstock corporation:

9 1. One-third (1/3) of the members of the corporation shall
10 constitute a quorum at a meeting of the members;

11 2. In all matters other than the election of the governing body
12 of the corporation, the affirmative vote of a majority of the
13 members present in person or represented by proxy at the meeting and
14 entitled to vote on the subject matter shall be the act of the
15 members, unless the vote of a greater number is required by the
16 provisions of the Oklahoma General Corporation Act, the certificate
17 of incorporation or bylaws; ~~and~~

18 3. Members of the governing body shall be elected by a
19 plurality of the votes of the members of the corporation present in
20 person or represented by proxy at the meeting and entitled to vote;
21 and

22 4. When a separate vote by a class or group or classes or
23 groups is required, a majority of the members of such class or group
24 or classes or groups, present in person or represented by proxy,

1 shall constitute a quorum entitled to take action with respect to
2 that vote on that matter and, in all matters other than the election
3 of members of the governing body, the affirmative vote of the
4 majority of the members of such class or group or classes or groups
5 present in person or represented by proxy at the meeting shall be
6 the act of such class or group or classes or groups.

7 D. If the election of the governing body of any nonstock
8 corporation shall not be held on the day designated by the bylaws,
9 the governing body shall cause the election to be held as soon
10 thereafter as convenient. The failure to hold such an election at
11 the designated time shall not work any forfeiture or dissolution of
12 the corporation, but the district court may summarily order such an
13 election to be held upon the application of any member of the
14 corporation. At any election pursuant to such order the persons
15 entitled to vote in such election who shall be present at such
16 meeting, either in person or by proxy, shall constitute a quorum for
17 such meeting, notwithstanding any provision of the certificate of
18 incorporation or the bylaws of the corporation to the contrary.

19 E. If authorized by the governing body, any requirement of a
20 written ballot shall be satisfied by a ballot submitted by
21 electronic transmission, provided that the electronic transmission
22 shall either set forth or be submitted with information from which
23 it can be determined that the electronic transmission was authorized
24 by the member or proxy holder.

1 F. Except as otherwise provided in the certificate of
2 incorporation, in the bylaws, or by resolution of the governing
3 body, the record date for any meeting or corporate action shall be
4 deemed to be the date of such meeting or corporate action; provided,
5 however, that no record date may precede any action by the governing
6 body fixing such record date.

7 SECTION 18. AMENDATORY 18 O.S. 2011, Section 1064, is
8 amended to read as follows:

9 Section 1064. LIST OF SHAREHOLDERS ENTITLED TO VOTE;

10 PENALTY FOR REFUSAL TO PRODUCE STOCK LEDGER

11 A. The officer who has charge of the stock ledger of a
12 corporation shall prepare and make, at least ten (10) days before
13 every meeting of shareholders, a complete list of the shareholders
14 entitled to vote at the meeting; provided, however, if the record
15 date for determining the shareholders entitled to vote is less than
16 ten (10) days before the meeting date, the list shall reflect the
17 shareholders entitled to vote as of the tenth day before the meeting
18 date, arranged in alphabetical order, and showing the address of
19 each shareholder and the number of shares registered in the name of
20 each shareholder. Nothing contained in this section shall require
21 the corporation to include electronic mail addresses or other
22 electronic contact information on the list. The list shall be open
23 to the examination of any shareholder, for any purpose germane to
24

1 the meeting for a period of at least ten (10) days prior to the
2 meeting:

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

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

20 B. Upon the willful neglect or refusal of the directors to
21 produce such a list at any meeting for the election of directors
22 held at a place, or to open such a list to examination on a
23 reasonably accessible electronic network during any meeting for the
24

1 election of directors held solely by means of remote communication,
2 they shall be ineligible for election to any office at the meeting.

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

7 SECTION 19. AMENDATORY 18 O.S. 2011, Section 1065, is
8 amended to read as follows:

9 Section 1065. INSPECTION OF BOOKS AND RECORDS

10 A. As used in this section:

11 1. "Shareholder" means:

12 ~~a.~~ a shareholder of record in a stock corporation, or a
13 person who is the beneficial owner of shares of stock held either in
14 a voting trust or by a nominee on behalf of a person, ~~and~~

15 ~~b.~~ a member of a nonstock corporation as reflected on the
16 records of the nonstock corporation;

17 2. "List of shareholders" includes a list of members in a
18 nonstock corporation;

19 ~~3.~~ "Under oath" includes statements the declarant affirms to be
20 true under penalty of perjury under the laws of the United States or
21 any state; and

22 ~~4.~~ 3. "Subsidiary" means any entity directly or indirectly
23 owned, in whole or in part, by the corporation of which the
24 shareholder is a shareholder and over the affairs of which the

1 corporation directly or indirectly exercises control, and includes
2 but is not limited to corporations, partnerships, limited
3 partnerships, limited liability partnerships, limited liability
4 companies, statutory trusts and joint ventures.

5 B. Any shareholder, in person or by attorney or other agent,
6 upon written demand under oath stating the purpose thereof, shall
7 have the right during the usual hours for business to inspect for
8 any proper purpose, and to make copies and extracts from:

9 1. The corporation's stock ledger, a list of shareholders, and
10 its other books and records; and

11 2. A subsidiary's books and records, to the extent that:

12 a. the corporation has actual possession and control of
13 the records of the subsidiary, or

14 b. the corporation could obtain the records through the
15 exercise of control over the subsidiary,

16 provided that as of the date of the making of the demand:

17 (1) shareholder inspection of the books and records
18 of the subsidiary would not constitute a breach
19 of an agreement between the corporation or the
20 subsidiary and a person or person not affiliated
21 with the corporation, and

22 (2) the subsidiary would not have the right under the
23 law applicable to it to deny the corporation
24

1 access to the books and records upon demand by
2 the corporation.

3 In every instance where the shareholder is other than a ~~records~~
4 record holder of stock in a stock corporation, or a member of a
5 nonstock corporation, the demand under oath shall state the person's
6 status as a shareholder or member, be accompanied by documentary
7 evidence of beneficial ownership of the stock or beneficial
8 membership, and state that the documentary evidence is a true and
9 correct copy of what it purports to be. A proper purpose shall mean
10 a purpose reasonably related to a person's interest as a shareholder
11 or member. In every instance where an attorney or other agent shall
12 be the person who seeks the right to inspection, the demand under
13 oath shall be accompanied by a power of attorney or other writing
14 which authorizes the attorney or other agent to so act on behalf of
15 the shareholder. The demand under oath shall be directed to the
16 corporation at its registered office in this state or at its
17 principal place of business.

18 C. 1. If the corporation or an officer or agent thereof
19 refuses to permit an inspection sought by a shareholder or attorney
20 or other agent acting for the shareholder pursuant to the provisions
21 of subsection B of this section or does not reply to the demand
22 within five (5) business days after the demand has been made, the
23 shareholder may apply to the district court for an order to compel
24 an inspection. The court may summarily order the corporation to

1 permit the shareholder to inspect the corporation's stock ledger, an
2 existing list of shareholders, and its other books and records, and
3 to make copies or extracts therefrom; or the court may order the
4 corporation to furnish to the shareholder a list of its shareholders
5 as of a specific date on condition that the shareholder first pay to
6 the corporation the reasonable cost of obtaining and furnishing the
7 list and on other conditions as the court deems appropriate.

8 2. Where the shareholder seeks to inspect the corporation's
9 books and records, other than its stock ledger or list of
10 shareholders, the shareholder shall first establish that:

- 11 a. the shareholder is a shareholder,
- 12 b. the shareholder has complied with the provisions of
13 this section respecting the form and manner of making
14 demand for inspection of the documents, and
- 15 c. the inspection the shareholder seeks is for a proper
16 purpose.

17 3. Where the shareholder seeks to inspect the corporation's
18 stock ledger or list of shareholders and has complied with the
19 provisions of this section respecting the form and manner of making
20 demand for inspection of the documents, the burden of proof shall be
21 upon the corporation to establish that the inspection the
22 shareholder seeks is for an improper purpose. The court may, in its
23 discretion, prescribe any limitations or conditions upon the
24 inspection, or award other or further relief as the court may deem

1 just and proper. The court may order books, documents, and records,
2 pertinent extracts therefrom, or duly authenticated copies thereof,
3 to be brought within this state and kept in this state upon such
4 terms and conditions as the order may prescribe.

5 D. Any director, ~~including a member of the governing body of a~~
6 ~~nonstock corporation,~~ shall have the right to examine the
7 corporation's stock ledger, a list of its shareholders, and its
8 other books and records for a purpose reasonably related to his or
9 her position as a director. The district court may summarily order
10 the corporation to permit the director to inspect any and all books
11 and records, the stock ledger, and the list of shareholders and to
12 make copies or extracts therefrom. The court, in its discretion,
13 may prescribe any limitations or conditions with reference to the
14 inspection, or award other or further relief as the court may deem
15 just and proper. The burden of proof shall be upon the corporation
16 to establish that the inspection the director seeks is for an
17 improper purpose.

18 SECTION 20. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1065.1 of Title 18 unless there
20 is created a duplication in numbering, reads as follows:

21 ACCESS TO PROXY SOLICITATION MATERIALS; PROXY EXPENSE
22 REIMBURSEMENT

23 A. The bylaws may provide that if the corporation solicits
24 proxies with respect to an election of directors, it may be

1 required, to the extent and subject to such procedures or
2 conditions as may be provided in the bylaws, to include in its
3 proxy solicitation materials, including any form of proxy it
4 distributes, in addition to individuals nominated by the board of
5 directors, one or more individuals nominated by a shareholder.

6 Such procedures or conditions may include any of the following:

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

12 2. A provision requiring the nominating shareholder to submit
13 specified information concerning the shareholder and the
14 shareholder's nominees, including information concerning ownership
15 by such persons of shares of the corporation's capital stock, or
16 options or other rights in respect of or related to such stock;

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

21 4. A provision precluding nominations by any person if such
22 person, any nominee of such person, or any affiliate or associate
23 of such person or nominee, has acquired or publicly proposed to
24 acquire shares constituting a specified percentage of the voting

1 power of the corporation's outstanding voting stock within a
2 specified period before the election of directors;

3 5. A provision requiring that the nominating shareholder
4 undertake to indemnify the corporation in respect of any loss
5 arising as a result of any false or misleading information or
6 statement submitted by the nominating shareholder in connection
7 with a nomination; and

8 6. Any other lawful condition.

9 B. The bylaws may provide for the reimbursement by the
10 corporation of expenses incurred by a shareholder in soliciting
11 proxies in connection with an election of directors, subject to
12 such procedures or conditions as the bylaws may prescribe,
13 including:

14 1. Conditioning eligibility for reimbursement upon the number
15 or proportion of persons nominated by the shareholder seeking
16 reimbursement or whether such shareholder previously sought
17 reimbursement for similar expenses;

18 2. Limitations on the amount of reimbursement based upon the
19 proportion of votes cast in favor of one or more of the persons
20 nominated by the shareholder seeking reimbursement, or upon the
21 amount spent by the corporation in soliciting proxies in connection
22 with the election;

23

24

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 21. AMENDATORY 18 O.S. 2011, Section 1067, is
8 amended to read as follows:

9 Section 1067. NOTICE OF MEETINGS AND ADJOURNED MEETINGS

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

20 B. Unless otherwise provided for in the Oklahoma General
21 Corporation Act, the written notice of any meeting shall be given
22 not less than ten (10) nor more than sixty (60) days before the date
23 of the meeting to each shareholder entitled to vote at such meeting
24 as of the record date for determining the shareholders entitled to

1 notice of the meeting. If mailed, notice is given when deposited in
2 the United States mail, postage prepaid, directed to the shareholder
3 at his address as it appears on the records of the corporation. An
4 affidavit of the secretary or an assistant secretary or of the
5 transfer agent or other agent of the corporation that the notice has
6 been given, in the absence of fraud, shall be prima facie evidence
7 of the facts stated therein.

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

1 record entitled to vote at such adjourned meeting as of the record
2 date fixed for notice of such adjourned meeting.

3 SECTION 22. AMENDATORY 18 O.S. 2011, Section 1068, is
4 amended to read as follows:

5 Section 1068. VACANCIES AND NEWLY CREATED DIRECTORSHIPS

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

8 a. ~~Vacancies~~ vacancies and newly created directorships
9 resulting from any increase in the authorized number
10 of directors elected by all of the shareholders having
11 the right to vote as a single class may be filled by a
12 majority of the directors then in office, although
13 less than a quorum, or by a sole remaining director~~7,~~
14 and

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

24

1 2. If at any time, by reason of death or resignation or other
2 cause, a corporation should have no directors in office, then any
3 officer or any shareholder or an executor, administrator, trustee or
4 guardian of a shareholder, or other fiduciary entrusted with like
5 responsibility for the person or estate of a shareholder, may call a
6 special meeting of shareholders in accordance with the provisions of
7 the certificate of incorporation or the bylaws, or may apply to the
8 district court for a decree summarily ordering an election as
9 provided for in ~~Section~~ Sections 1056 and 1060 of this title.

10 B. In the case of a corporation the directors of which are
11 divided into classes, any directors chosen under subsection A of
12 this section shall hold office until the next election of the class
13 for which such directors shall have been chosen, and until their
14 successors shall be elected and qualified.

15 C. If, at the time of filling any vacancy or any newly created
16 directorship, the directors then in office shall constitute less
17 than a majority of the whole board, as constituted immediately prior
18 to any such increase, the district court, upon application of any
19 shareholder or shareholders holding at least ten percent (10%) of
20 the voting stock at the time outstanding having the right to vote
21 for such directors, may summarily order an election to be held to
22 fill any such vacancies or newly created directorships, or to
23 replace the directors chosen by the directors then in office, which
24

1 election shall be governed by the provisions of ~~Section~~ Sections
2 1056 and 1060 of this title as far as applicable.

3 D. Unless otherwise provided in the certificate of
4 incorporation or bylaws, when one or more directors shall resign
5 from the board, effective at a future date, a majority of the
6 directors then in office, including those who have so resigned,
7 shall have power to fill such vacancy or vacancies, the vote thereon
8 to take effect when such resignation or resignations shall become
9 effective, and each director so chosen shall hold office as provided
10 for in this section in the filling of other vacancies.

11 SECTION 23. AMENDATORY 18 O.S. 2011, Section 1070, is
12 amended to read as follows:

13 Section 1070. CONTESTED ELECTION OF DIRECTORS;
14 PROCEEDINGS TO DETERMINE VALIDITY

15 A. Upon application of any shareholder or director, or any
16 officer whose title to office is contested, ~~or any member of a~~
17 ~~corporation without capital stock,~~ the district court may hear and
18 determine the validity of any election, appointment, removal or
19 resignation of any director, ~~member of the governing body,~~ or
20 officer of any corporation, and the right of any person to hold, or
21 continue to hold, such office, and, in case any such office is
22 claimed by more than one person, may determine the person entitled
23 thereto; and to that end make such order or decree in any such case
24 as may be just and proper, with power to enforce the production of

1 any books, papers and records of the corporation relating to the
2 issue. In case it should be determined that no valid election has
3 been held, the district court may order an election to be held in
4 accordance with the provisions of Section 1056 or 1060 of this
5 title. In any such application, service of copies of the
6 application upon the registered agent of the corporation shall be
7 deemed to be service upon the corporation and upon the person whose
8 title to office is contested and upon the person, if any, claiming
9 such office; and the registered agent shall forward immediately a
10 copy of the application to the corporation and to the person whose
11 title to office is contested and to the person, if any, claiming
12 such office, in a postpaid, sealed, registered letter addressed to
13 such corporation and such person at their post office addresses last
14 known to the registered agent or furnished to the registered agent
15 by the applicant shareholder. The court may make such order
16 respecting further or other notice of such application as it deems
17 proper under the circumstances.

18 B. Upon application of any shareholder or ~~any member of a~~
19 ~~corporation without capital stock~~ upon application of the
20 corporation itself, the district court may hear and determine the
21 result of any vote of shareholders ~~or members, as the case may be,~~
22 upon matters other than the election of directors, or officers ~~or~~
23 ~~members of the governing body.~~ Service of the application upon the
24 registered agent of the corporation shall be deemed to be service

1 upon the corporation, and no other party need be joined in order for
2 the court to adjudicate the result of the vote. The court may make
3 such order respecting notice of the application as it deems proper
4 under the circumstances.

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

1 sealed, registered letter addressed to such corporation and such
2 director or directors at their post office addresses last known to
3 the registered agent or furnished to the registered agent by the
4 applicant. The court may make such order respecting further or
5 other notice of such application as it deems proper under the
6 circumstances.

7 SECTION 24. AMENDATORY 18 O.S. 2011, Section 1071, is
8 amended to read as follows:

9 Section 1071. APPOINTMENT OF CUSTODIAN OR RECEIVER OF
10 CORPORATION
11 ON DEADLOCK OR FOR OTHER CAUSE

12 A. The district court, upon application of any shareholder, may
13 appoint one or more persons to be custodians, and, if the
14 corporation is insolvent, to be receivers, of and for any
15 corporation when:

16 1. ~~at~~ At any meeting held for the election of directors the
17 shareholders are so divided that they have failed to elect
18 successors to directors whose terms have expired or would have
19 expired upon qualification of their successors; or

20 2. ~~the~~ The business of the corporation is suffering or is
21 threatened with irreparable injury because the directors are so
22 divided respecting the management of the affairs of the corporation
23 that the required vote for action by the board of directors cannot
24

1 be obtained and the shareholders are unable to terminate this
2 division; or

3 3. ~~the~~ The corporation has abandoned its business and has
4 failed within a reasonable time to take steps to dissolve, liquidate
5 or distribute its assets.

6 B. A custodian appointed pursuant to the provisions of this
7 section shall have all the powers and title of a receiver appointed
8 by the court under applicable law, but the authority of the
9 custodian is to continue the business of the corporation and not to
10 liquidate its affairs and distribute its assets, except when the
11 court shall otherwise order and except in cases arising pursuant to
12 paragraph 3 of subsection A of this section.

13 C. In the case of a charitable nonstock corporation, the
14 applicant shall provide a copy of any application referred to in
15 subsection A of this section to the Attorney General of the State of
16 Oklahoma within one (1) week of its filing with the district court.

17 SECTION 25. AMENDATORY 18 O.S. 2011, Section 1072, is
18 amended to read as follows:

19 Section 1072. POWERS OF COURT IN ELECTIONS OF DIRECTORS

20 A. The district court, in any proceeding instituted pursuant to
21 the provisions of Section ~~56, 60 or 70~~ 1056, 1060 or 1070 of this
22 ~~act~~ title, may determine the right and power of persons claiming to
23 own stock, or in the case of a corporation without capital stock, of
24

1 the persons claiming to be members, to vote at any meeting of the
2 shareholders ~~or members~~.

3 B. The district court may appoint a master to hold any election
4 provided for in Section ~~56, 60 or 70~~ 1056, 1060 or 1070 of this ~~act~~
5 title under such orders and powers as it deems proper; and it may
6 punish any officer or director for contempt in case of disobedience
7 of any order made by the court; and, in case of disobedience by a
8 corporation of any order made by the court, may enter a decree
9 against such corporation for a penalty of not more than Five
10 Thousand Dollars (\$5,000.00).

11 SECTION 26. AMENDATORY 18 O.S. 2011, Section 1073, is
12 amended to read as follows:

13 Section 1073. CONSENT OF SHAREHOLDERS IN LIEU OF MEETING

14 A. ~~Except as provided in subsection B of this section or unless~~
15 Unless otherwise provided for in the certificate of incorporation,
16 any action required by the provisions of the Oklahoma General
17 Corporation Act to be taken at any annual or special meeting of
18 shareholders of a corporation or any action which may be taken at
19 any annual or special meeting of shareholders, may be taken without
20 a meeting, without prior notice, and without a vote, if a consent or
21 consents in writing, setting forth the action so taken, shall be
22 signed by the holders of outstanding stock having not less than the
23 minimum number of votes that would be necessary to authorize or take
24 the action at a meeting at which all shares entitled to vote thereon

1 were present and voted and shall be delivered to the corporation by
2 delivery to its registered office in this state, its principal place
3 of business, or an officer or agent of the corporation having
4 custody of the book in which proceedings of meetings of shareholders
5 are recorded. Delivery made to a corporation's registered office
6 shall be by hand or by certified or registered mail, return receipt
7 requested.

8 B. 1. With respect to any domestic corporation with both:

9 a. a class of voting stock listed or traded on a national
10 securities exchange or registered under Section 12(g)
11 of the Securities Exchange Act of 1934, 15 U.S.C.
12 Section 78a et seq., as amended, and

13 b. one thousand (1,000) or more shareholders of record,
14 any action by shareholders of the corporation shall be taken at
15 an annual or special meeting of shareholders, and cannot be taken
16 without a meeting of the shareholders, unless such action is
17 approved by written consent, signed by all of the holders of all
18 outstanding stock entitled to vote thereon and delivered to the
19 corporation by delivery to its registered office in this state, its
20 principal place of business, or an officer or agent of the
21 corporation having custody of the book in which proceedings of
22 meetings of shareholders are recorded. Delivery made to a
23 corporation's registered office shall be by hand or by certified or
24 registered mail, return receipt requested. The provisions of this

1 subsection shall be effective with respect to corporate actions by
2 written consent, and to written consent or consents, as to which the
3 first written consent is executed or solicited after September 1,
4 2010.

5 2. This subsection shall cease to apply to any domestic
6 corporation after such corporation either:

- 7 a. ceases to have any class of voting stock listed or
8 traded on a national securities exchange or registered
9 under Section 12(g) of the Securities Exchange Act of
10 1934, 15 U.S.C. Section 78a et seq., as amended, or
- 11 b. ceases to have one thousand (1,000) or more
12 shareholders of record on the last business day of
13 each month for a consecutive twelve-month period.

14 ~~C.~~ Unless otherwise provided for in the certificate of
15 incorporation, any action required by the provisions of this act to
16 be taken at a meeting of the members of a nonstock corporation, or
17 any action which may be taken at any meeting of the members of a
18 nonstock corporation, may be taken without a meeting, without prior
19 notice and without a vote, if a consent or consents in writing,
20 setting forth the action taken, shall be signed by members having
21 not less than the minimum number of votes that would be necessary to
22 authorize or take such action at a meeting at which all members
23 having a right to vote thereon were present and voted and shall be
24 delivered to the corporation by delivery to its registered office in

1 this state, its principal place of business, or an officer or agent
2 of the corporation having custody of the book in which proceedings
3 of meetings of shareholders are recorded. Delivery made to a
4 corporation's registered office shall be by hand or by certified or
5 registered mail, return receipt requested.

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

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

19 b. the date on which the shareholder, member or
20 proxyholder or authorized person or persons
21 transmitted the telegram, cablegram or electronic
22 transmission.

23 The date on which the telegram, cablegram or electronic
24 transmission is transmitted shall be deemed to be the date on which

1 the consent was signed. No consent given by telegram, cablegram or
2 other electronic transmission shall be deemed to have been delivered
3 until the consent is reproduced in paper form and until the paper
4 form shall be delivered to the corporation by delivery to its
5 registered office in this state, its principal place of business or
6 an officer or agent of the corporation having custody of the book in
7 which proceedings of meetings of shareholders or members are
8 recorded. Delivery made to a corporation's registered office shall
9 be made by hand or by certified or registered mail, return receipt
10 requested. Notwithstanding the foregoing limitations on delivery,
11 consents given by telegram, cablegram or other electronic
12 transmission may be otherwise delivered to the principal place of
13 business of the corporation or to an officer or agent of the
14 corporation having custody of the book in which proceedings of
15 meetings of shareholders or members are recorded if, to the extent
16 and in the manner provided by resolution of the board of directors
17 or governing body of the corporation.

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

24

1 ~~E.~~ D. Every written consent shall bear the date of signature of
2 each shareholder or member who signs the consent and no written
3 consent shall be effective to take the corporate action referred to
4 therein unless, within sixty (60) days of the earliest dated consent
5 delivered in the manner required by this section to the corporation,
6 written consents signed by a sufficient number of holders or members
7 to take action are delivered to the corporation by delivery to its
8 registered office in this state, its principal place of business, or
9 an officer or agent of the corporation having custody of the book in
10 which proceedings of meetings of shareholders are recorded.

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

13 ~~F.~~ E. Prompt notice of the taking of the corporate action
14 without a meeting by less than unanimous written consent shall be
15 given to those shareholders or members, as the case may be, who have
16 not consented in writing and who, if the action had been taken at a
17 meeting, would have been entitled to notice of the meeting if the
18 record date for notice of the meeting had been the date that written
19 consents signed by a sufficient number of shareholders or members to
20 take the action were delivered to the corporation as provided in
21 subsection ~~E~~ B of this section. In the event that the action for
22 which consent is given is an action that would have required the
23 filing of a certificate under any other section of this title if the
24 action had been voted on by shareholders or by members at a meeting

1 thereof the certificate filed under the other section shall state,
2 in lieu of any statement required by the section concerning any vote
3 of shareholders or members, that written consent has been given in
4 accordance with the provisions of this section.

5 SECTION 27. AMENDATORY 18 O.S. 2011, Section 1075.2, is
6 amended to read as follows:

7 Section 1075.2

8 ELECTRONIC NOTICE; EFFECTIVENESS; REVOCATION OF CONSENT

9 A. Without limiting the manner of which notice otherwise may be
10 given effectively to shareholders, any notice to shareholders given
11 by the corporation under any provision of this act, the certificate
12 of incorporation, or the bylaws shall be effective if given by a
13 form of electronic transmission consented to by the shareholder to
14 whom the notice is given. The consent shall be revocable by the
15 shareholder by written notice to the corporation. The consent shall
16 be deemed revoked if:

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

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

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

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

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

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

10 a. the posting, and

11 b. the giving of the separate notice; and

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

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

19 C. For purposes of this act, "electronic transmission" means
20 any form of communication, not directly involving the physical
21 transmission of paper, that creates a record that may be retained,
22 retrieved, and reviewed by a recipient thereof, and that may be
23 directly reproduced in paper form by such a recipient through an
24 automated process.

1 D. This section shall apply to a domestic corporation that is
2 not authorized to issue capital stock, and when so applied, all
3 references to shareholders shall be deemed to refer to members of
4 such a corporation.

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

7 SECTION 28. AMENDATORY 18 O.S. 2011, Section 1075.3, is
8 amended to read as follows:

9 Section 1075.3

10 SINGLE WRITTEN NOTICE TO SHAREHOLDERS SHARING AN ADDRESS

11 A. Without limiting the manner by which notice otherwise may be
12 given effectively to shareholders, any notice to shareholders given
13 by the corporation under any provision of this act, the certificate
14 of incorporation, or the bylaws shall be effective if given by a
15 single written notice to shareholders who share an address if
16 consented to by the shareholders at that address to whom such notice
17 is given. Any such consent shall be revocable by the shareholder by
18 written notice to the corporation.

19 B. Any shareholder who fails to object in writing to the
20 corporation, within sixty (60) days of having been given written
21 notice by the corporation of its intention to send the single notice
22 permitted under subsection A of this section, shall be deemed to
23 have consented to receiving such single written notice.

24

1 C. This section shall apply to a corporation organized under
2 this act that is not authorized to issue capital stock, and when so
3 applied, all references to shareholders shall be deemed to refer to
4 members of such a corporation.

5 D. This section shall not apply to Section 1045, 1111, 1119 or
6 1120 of ~~Title 18 of the Oklahoma Statutes~~ this title.

7 SECTION 29. AMENDATORY 18 O.S. 2011, Section 1076, is
8 amended to read as follows:

9 Section 1076. AMENDMENT OF CERTIFICATE OF INCORPORATION BEFORE
10 RECEIPT

11 OF PAYMENT FOR STOCK

12 A. Before a corporation has received any payment for any of its
13 stock, or before it has any members, as applicable, it may amend its
14 certificate of incorporation at any time or times, in any and as
15 many respects as may be desired, so long as its certificate of
16 incorporation as amended would contain only such provisions as it
17 would be lawful and proper to insert in an original certificate of
18 incorporation filed at the time of filing the amendment.

19 B. The amendment of certificate of incorporation authorized by
20 the provisions of this section shall be adopted by a majority of the
21 incorporators, if directors were not named in the original
22 certificate of incorporation or have not yet been elected, or, if
23 directors were named in the original certificate of incorporation or
24 have been elected and have qualified, by a majority of the

1 directors. A certificate setting forth the amendment and certifying
2 that the corporation has not received any payment for any of its
3 stock, or that the corporation has no members, as applicable, and
4 that the amendment has been duly adopted in accordance with the
5 provisions of this section shall be executed, acknowledged and filed
6 in accordance with the provisions of Section 7 1007 of this ~~act~~
7 title. Upon such filing, the corporation's certificate of
8 incorporation shall be deemed to be amended accordingly as of the
9 date on which the original certificate of incorporation became
10 effective, except as to those persons who are substantially and
11 adversely affected by the amendment and as to those persons the
12 amendment shall be effective from the filing date.

13 C. This section shall apply to a nonstock corporation before
14 such a corporation has any members; provided, however, that all
15 references to directors shall be deemed to be references to members
16 of the governing body of the corporation.

17 SECTION 30. AMENDATORY 18 O.S. 2011, Section 1077, is
18 amended to read as follows:

19 Section 1077. AMENDMENT OF CERTIFICATE OF INCORPORATION AFTER
20 RECEIPT

21 OF 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 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, provisions as may be
8 necessary to effect the 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.

13 2. Any or all changes or alterations provided for in paragraph
14 1 of this subsection may be effected by one certificate of
15 amendment.

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

18 1. If the corporation has capital stock, its board of directors
19 shall adopt a resolution setting forth the amendment proposed,
20 declaring its advisability, and either calling a special meeting of
21 the shareholders entitled to vote in respect thereof for the
22 consideration of the amendment or directing that the amendment
23 proposed be considered at the next annual meeting of shareholders.
24 The special or annual meeting shall be called and held upon notice

1 in accordance with the provisions of Section 1067 of this title.
2 The notice shall set forth the amendment in full or a brief summary
3 of the changes to be effected thereby, ~~as the directors shall deem~~
4 ~~advisable~~. At the meeting, a vote of the shareholders entitled to
5 vote thereon shall be taken for and against the proposed amendment.
6 If a majority of the outstanding stock entitled to vote thereon, and
7 a majority of the outstanding stock of each class entitled to vote
8 thereon as a class, has been voted in favor of the amendment, a
9 certificate setting forth the amendment and certifying that the
10 amendment has been duly adopted in accordance with the provisions of
11 this section shall be executed, acknowledged, and filed and shall
12 become effective in accordance with the provisions of Section 1007
13 of this title.

14 2. The holders of the outstanding shares of a class shall be
15 entitled to vote as a class upon a proposed amendment, whether or
16 not entitled to vote thereon by the provisions of the certificate of
17 incorporation, if the amendment would increase or decrease the
18 aggregate number of authorized shares of the class, increase or
19 decrease the par value of the shares of the class, or alter or
20 change the powers, preferences, or special rights of the shares of
21 the class so as to affect them adversely. If any proposed amendment
22 would alter or change the powers, preferences, or special rights of
23 one or more series of any class so as to affect them adversely, but
24 shall not so affect the entire class, then only the shares of the

1 series so affected by the amendment shall be considered a separate
2 class for the purposes of this paragraph. The number of authorized
3 shares of any such class or classes of stock may be increased or
4 decreased, but not below the number of shares thereof then
5 outstanding, by the affirmative vote of the holders of a majority of
6 the stock of the corporation entitled to vote irrespective of the
7 provisions of this paragraph, if so provided in the original
8 certificate of incorporation, in any amendment thereto which created
9 the class or classes of stock or which was adopted prior to the
10 issuance of any shares of the class or classes of stock, or in any
11 amendment thereto which was authorized by a resolution or
12 resolutions adopted by the affirmative vote of the holders of a
13 majority of the class or classes of stock.

14 3. If the corporation ~~has no capital stock~~ is a nonstock
15 corporation, then the governing body thereof shall adopt a
16 resolution setting forth the amendment proposed and declaring its
17 advisability. If a majority of all the members of the governing
18 body shall vote in favor of the amendment, a certificate thereof
19 shall be executed, acknowledged, and filed and shall become
20 effective in accordance with the provisions of Section 1007 of this
21 title. The certificate of incorporation of ~~a~~ any nonstock
22 corporation ~~without capital stock~~ may contain a provision requiring
23 an amendment thereto to be approved by a specified number or
24 percentage of the members or of any specified class of members of

1 the corporation in which event the proposed amendment shall be
2 submitted to the members or to any specified class of members of the
3 corporation ~~without capital stock~~ in the same manner, so far as
4 applicable, as is provided for in this section for an amendment to
5 the certificate of incorporation of a stock corporation; and in the
6 event of the adoption thereof by the members, a certificate
7 evidencing the amendment shall be executed, acknowledged, and filed
8 and shall become effective in accordance with the provisions of
9 Section 1007 of this title.

10 4. Whenever the certificate of incorporation shall require
11 action by the board of directors of a corporation other than a
12 nonstock corporation or by the governing body of a nonstock
13 corporation, by the holders of any class or series of shares or by
14 the members, or by the holders of any other securities having voting
15 power, the vote of a greater number or proportion than is required
16 by the provisions of the Oklahoma General Corporation Act, the
17 provision of the certificate of incorporation requiring a greater
18 vote shall not be altered, amended, or repealed except by a greater
19 vote.

20 C. The resolution authorizing a proposed amendment to the
21 certificate of incorporation may provide that at any time prior to
22 the effectiveness of the filing of the amendment with the Secretary
23 of State, notwithstanding authorization of the proposed amendment by
24 the shareholders of the corporation or by the members of a nonstock

1 corporation, the board of directors or governing body may abandon
2 the proposed amendment without further action by the shareholders or
3 members.

4 SECTION 31. AMENDATORY 18 O.S. 2011, Section 1080, is
5 amended to read as follows:

6 Section 1080. RESTATED CERTIFICATE OF INCORPORATION

7 A. A corporation, whenever desired, may integrate into a single
8 instrument all of the provisions of its certificate of incorporation
9 which are then in effect and operative as a result of there having
10 up to that time been filed with the Secretary of State one or more
11 certificates or other instruments pursuant to any of the sections
12 referred to in Section 1008 of this title, and it may at the same
13 time also further amend its certificate of incorporation by adopting
14 a restated certificate of incorporation.

15 B. If the restated certificate of incorporation merely restates
16 and integrates but does not further amend the certificate of
17 incorporation, as up to that time amended or supplemented by any
18 instrument that was filed pursuant to any of the sections mentioned
19 in Section 1008 of this title, it may be adopted by the board of
20 directors without a vote of the shareholders, or it may be proposed
21 by the directors and submitted by them to the shareholders for
22 adoption, in which case the procedure and vote required, if any, by
23 Section 1077 of this title for amendment of the certificate of
24 incorporation shall be applicable. If the restated certificate of

1 incorporation restates and integrates and also further amends in any
2 respect the certificate of incorporation, as up to that time amended
3 or supplemented, it shall be proposed by the directors and adopted
4 by the shareholders in the manner and by the vote prescribed by
5 Section 1077 of this title or, if the corporation has not received
6 any payment for any of its stock, in the manner and by the vote
7 prescribed by Section 1076 of this title.

8 C. A restated certificate of incorporation shall be
9 specifically designated as such in its heading. It shall state,
10 either in its heading or in an introductory paragraph, the
11 corporation's present name, and, if it has been changed, the name
12 under which it was originally incorporated, and the date of filing
13 of its original certificate of incorporation with the Secretary of
14 State. If it was adopted by the board of directors without a vote
15 of the shareholders, unless it was adopted pursuant to the
16 provisions of Section 1076 of this title or without a vote of
17 members pursuant to paragraph 3 of subsection B of Section 1077 of
18 this title, it shall state that it only restates and integrates and
19 does not further amend the provisions of the corporation's
20 certificate of incorporation as up to that time amended or
21 supplemented, and that there is no discrepancy between those
22 provisions and the provisions of the restated certificate. A
23 restated certificate of incorporation may omit:
24

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

4 2. Such provisions contained in any amendment to the
5 certificate of incorporation as were necessary to effect a change,
6 exchange, reclassification, subdivision, combination or cancellation
7 of stock, if such change, exchange, reclassification, subdivision,
8 combination or cancellation has become effective.

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

10 D. A restated certificate of incorporation shall be executed,
11 acknowledged and filed in accordance with the provisions of Section
12 1007 of this title. Upon its filing with the Secretary of State,
13 the original certificate of incorporation, as up to that time
14 amended or supplemented, shall be superseded. From that time
15 forward, the restated certificate of incorporation, including any
16 further amendments or changes made thereby, shall be the certificate
17 of incorporation of the corporation, but the original date of
18 incorporation shall remain unchanged.

19 E. Any amendment or change effected in connection with the
20 restatement and integration of the certificate of incorporation
21 shall be subject to any other provision of the Oklahoma General
22 Corporation Act, not inconsistent with the provisions of this
23 section, which would apply if a separate certificate of amendment
24 were filed to effect such amendment or change.

1 SECTION 32. AMENDATORY 18 O.S. 2011, Section 1081, is
2 amended to read as follows:

3 Section 1081. MERGER OR CONSOLIDATION OF DOMESTIC CORPORATIONS

4 A. Any two or more corporations existing under the laws of this
5 state may merge into a single corporation, which may be any one of
6 the constituent corporations or may consolidate into a new
7 corporation formed by the consolidation, pursuant to an agreement of
8 merger or consolidation, as the case may be, complying and approved
9 in accordance with the provisions of this section.

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

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

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

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

24

1 4. 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 agreement;

4 5. The manner, if any, of converting the shares of each of the
5 constituent corporations into shares or other securities of the
6 corporation surviving or resulting from the merger or consolidation,
7 or of canceling some or all of the shares, and, if any shares of any
8 of the constituent corporations are not to remain outstanding, to be
9 converted solely into shares or other securities of the surviving or
10 resulting corporation or to be canceled, the cash, property, rights,
11 or securities of any other corporation or entity which the holders
12 of the shares are to receive in exchange for or upon conversion of
13 the shares and the surrender of any certificates evidencing them,
14 which cash, property, rights, or securities of any other corporation
15 or entity may be in addition to or in lieu of shares or other
16 securities of the surviving or resulting corporation; and

17 6. Other details or provisions as are deemed desirable,
18 including without limiting the generality of the foregoing, a
19 provision for the payment of cash in lieu of the issuance or
20 recognition of fractional shares, interests or rights, or for any
21 other arrangement with respect thereto, consistent with the
22 provisions of Section 1036 of this title. The agreement so adopted
23 shall be executed and acknowledged in accordance with the provisions
24 of Section 1007 of this title. Any of the terms of the agreement of

1 merger or consolidation may be made dependent upon facts
2 ascertainable outside of the agreement; provided, that the manner in
3 which these facts shall operate upon the terms of the agreement is
4 clearly and expressly set forth in the agreement of merger or
5 consolidation. The term "facts" as used in this paragraph,
6 includes, but is not limited to, the occurrence of any event,
7 including a determination or action by any person or body, including
8 the corporation.

9 C. The agreement required by the provisions of subsection B of
10 this section shall be submitted to the shareholders of each
11 constituent corporation at an annual or special meeting thereof for
12 the purpose of acting on the agreement. Due notice of the time,
13 place, and purpose of the meeting shall be mailed to each holder of
14 stock whether voting or nonvoting, of the corporation at the address
15 which appears on the records of the corporation, at least twenty
16 (20) days before the date of the meeting. The notice shall contain
17 a copy of the agreement or a brief summary thereof, ~~as the directors~~
18 ~~shall deem advisable~~; provided, however, the notice shall be
19 effective only with respect to mergers or consolidations for which
20 the notice of the shareholders meeting to vote thereon has been
21 mailed after November 1, 1988. At the meeting the agreement shall
22 be considered and a vote taken for its adoption or rejection. If a
23 majority of the outstanding stock of the corporation entitled to
24 vote thereon shall be voted for the adoption of the agreement, that

1 fact shall be certified on the agreement by the secretary or the
2 assistant secretary of the corporation; provided, that such
3 certification on the agreement shall not be required if a
4 certificate of merger or consolidation is filed in lieu of filing
5 the agreement. If the agreement shall be so adopted and certified
6 by each constituent corporation, it shall then be filed and shall
7 become effective in accordance with the provisions of Section 1007
8 of this title. In lieu of filing an agreement of merger or
9 consolidation required by this section, the surviving or resulting
10 corporation may file a certificate of merger or consolidation
11 executed in accordance with the provisions of Section 1007 of this
12 title and which states:

- 13 1. The name and state of incorporation of each of the
14 constituent corporations;
- 15 2. That an agreement of merger or consolidation has been
16 approved, adopted, ~~certified,~~ executed, and acknowledged by each of
17 the constituent corporations in accordance with the provisions of
18 this section;
- 19 3. The name of the surviving or resulting corporation;
- 20 4. In the case of a merger, the amendments or changes in the
21 certificate of incorporation of the surviving corporation, which may
22 be amended and restated, that are desired to be effected by the
23 merger, which amendments or changes may amend and restate the
24 certificate of incorporation of the surviving corporation in its

1 entirety, or, if no amendments or changes are desired, a statement
2 that the certificate of incorporation of the surviving corporation
3 shall be its certificate of incorporation;

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

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

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

15 D. Any agreement of merger or consolidation may contain a
16 provision that at any time prior to the time that the agreement, or
17 a certificate filed with the Secretary of State in lieu thereof,
18 becomes effective in accordance with Section 1007 of this title, the
19 agreement may be terminated by the board of directors of any
20 constituent corporation notwithstanding approval of the agreement by
21 the shareholders of all or any of the constituent corporations;
22 provided, if the agreement of merger or consolidation is terminated
23 after the filing of the agreement, or a certificate filed with the
24 Secretary of State in lieu thereof, but before the agreement or

1 certificate has become effective, a certificate of termination of
2 merger or consolidation shall be filed in accordance with Section
3 1007 of this title. Any agreement of merger or consolidation may
4 contain a provision that the boards of directors of the constituent
5 corporations may amend the agreement at any time prior to the time
6 that the agreement, or a certificate filed with the Secretary of
7 State in lieu thereof, becomes effective in accordance with Section
8 1007 of this title; provided, that an amendment made subsequent to
9 the adoption of the agreement by the shareholders of any constituent
10 corporation shall not:

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

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

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

22 If the agreement of merger or consolidation is amended after the
23 filing of the agreement, or a certificate in lieu thereof, with the
24 Secretary of State, but before the agreement or certificate has

1 become effective, a certificate of amendment of merger or
2 consolidation shall be filed in accordance with Section 1007 of this
3 title.

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

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

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

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

18 3. Either no shares of common stock of the surviving
19 corporation and no shares, securities, or obligations convertible
20 into such stock are to be issued or delivered under the plan of
21 merger, or the authorized unissued shares or the treasury shares of
22 common stock of the surviving corporation to be issued or delivered
23 under the plan of merger plus those initially issuable upon
24 conversion of any other shares, securities, or obligations to be

1 issued or delivered under the plan do not exceed twenty percent
2 (20%) of the shares of common stock of the constituent corporation
3 outstanding immediately prior to the effective date of the merger.
4 No vote of shareholders of a constituent corporation shall be
5 necessary to authorize a merger or consolidation if no shares of the
6 stock of the corporation shall have been issued prior to the
7 adoption by the board of directors of the resolution approving the
8 agreement of merger or consolidation. If an agreement of merger is
9 adopted by the constituent corporation surviving the merger, by
10 action of its board of directors and without any vote of its
11 shareholders pursuant to the provisions of this subsection, the
12 secretary or assistant secretary of that corporation shall certify
13 on the agreement that the agreement has been adopted pursuant to the
14 provisions of this subsection and:

- 15 a. if it has been adopted pursuant to paragraph 1 of this
16 subsection, that the conditions specified have been
17 satisfied, or
18 b. if it has been adopted pursuant to paragraph 2 of this
19 subsection, that no shares of stock of the corporation
20 were issued prior to the adoption by the board of
21 directors of the resolution approving the agreement of
22 merger or consolidation; provided, that such
23 certification on the agreement shall not be required

24

1 if a certificate of merger or consolidation is filed
2 in lieu of filing the agreement.

3 The agreement so adopted and certified shall then be filed and
4 shall become effective in accordance with the provisions of Section
5 1007 of this title. Filing shall constitute a representation by the
6 person who executes the certificate that the facts stated in the
7 certificate remain true immediately prior to filing.

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

- 14 a. the constituent corporation and the direct or indirect
15 wholly owned subsidiary of the constituent corporation
16 are the only constituent entities to the merger,
- 17 b. each share or fraction of a share of the capital stock
18 of the constituent corporation outstanding immediately
19 before the effective time of the merger is converted
20 in the merger into a share or equal fraction of share
21 of capital stock of a holding company having the same
22 designations, rights, powers, and preferences, and the
23 qualifications, limitations, and restrictions thereof,

1 as the share of stock of the constituent corporation
2 being converted in the merger,

3 c. the holding company and the constituent corporation
4 are corporations of this state and the direct or
5 indirect wholly owned subsidiary that is the other
6 constituent entity to the merger is a corporation or
7 limited liability company of this state,

8 d. the certificate of incorporation and bylaws of the
9 holding company immediately following the effective
10 time of the merger contain provisions identical to the
11 certificate of incorporation and bylaws of the
12 constituent corporation immediately before the
13 effective time of the merger, other than provisions,
14 if any, regarding the incorporator or incorporators,
15 the corporate name, the registered office and agent,
16 the initial board of directors, and the initial
17 subscribers of shares and provisions contained in any
18 amendment to the certificate of incorporation as were
19 necessary to effect a change, exchange,
20 reclassification, subdivision, combination or
21 cancellation of stock, if a change, exchange,
22 reclassification, or cancellation has become
23 effective,

24

- 1 e. as a result of the merger, the constituent corporation
2 or its successor corporation becomes or remains a
3 direct or indirect wholly owned subsidiary of the
4 holding company,
- 5 f. the directors of the constituent corporation become or
6 remain the directors of the holding company upon the
7 effective time of the merger,
- 8 g. the organizational documents of the surviving entity
9 immediately following the effective time of the merger
10 contain provisions identical to the certificate of
11 incorporation of the constituent corporation
12 immediately before the effective time of the merger,
13 other than provisions, if any, regarding the
14 incorporator or incorporators, the corporate or entity
15 name, the registered office and agent, the initial
16 board of directors and the initial subscribers for
17 shares, references to members rather than
18 shareholders, references to interests, units or the
19 like rather than stock or shares, references to
20 managers, managing members or other members of the
21 governing body rather than directors and such
22 provisions contained in any amendment to the
23 certificate of incorporation as were necessary to
24 effect a change, exchange, reclassification,

1 subdivision, combination or cancellation of stock, if
2 such change, exchange, reclassification, subdivision,
3 combination or cancellation has become effective;
4 provided, however, that:

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

9 (a) any act or transaction by or involving the
10 surviving entity, other than the election or
11 removal of directors or managers, managing
12 members or other members of the governing
13 body of the surviving entity, that requires
14 for its adoption under this act or its
15 organizational documents the approval of the
16 shareholders or members of the surviving
17 entity shall, by specific reference to this
18 subsection, require, in addition, the
19 approval of the shareholders of the holding
20 company (or any successor by merger), by the
21 same vote as is required by this act and/or
22 by the organizational documents of the
23 surviving entity; provided, however, that
24 for purposes of this subdivision, any

1 surviving entity that is not a corporation
2 shall include in such amendment a
3 requirement that the approval of the
4 shareholders of the holding company be
5 obtained for any act or transaction by or
6 involving the surviving entity, other than
7 the election or removal of directors or
8 managers, managing members or other members
9 of the governing body of the surviving
10 entity, which would require the approval of
11 the shareholders of the surviving entity if
12 the surviving entity were a corporation
13 subject to this act,

14 (b) any amendment of the organizational
15 documents of a surviving entity that is not
16 a corporation, which amendment would, if
17 adopted by a corporation subject to this
18 act, be required to be included in the
19 certificate of incorporation of such
20 corporation, shall, by specific reference to
21 this subsection, require, in addition, the
22 approval of the shareholders of the holding
23 company, or any successor by merger, by the
24 same vote as is required by this act and/or

1 by the organizational documents of the
2 surviving entity, and

3 (c) the business and affairs of a surviving
4 entity that is not a corporation shall be
5 managed by or under the direction of a board
6 of directors, board of managers or other
7 governing body consisting of individuals who
8 are subject to the same fiduciary duties
9 applicable to, and who are liable for breach
10 of such duties to the same extent as,
11 directors of a corporation subject to this
12 act, and

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

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

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

22 h. the shareholders of the constituent corporation do not
23 recognize gain or loss for federal income tax purposes
24

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

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

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

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

21 4. From and after the effective time of a merger adopted by a
22 constituent corporation by action of its board of directors and
23 without any vote of shareholders pursuant to this subsection:
24

1 a. to the extent the restriction of Section 1090.3 of
2 this title applied to the constituent corporation and
3 its shareholders at the effective time of the merger,
4 restrictions shall apply to the holding company and
5 its shareholders immediately after the effective time
6 of the merger as though it were the constituent
7 corporation, and all shareholders of stock of the
8 holding company acquired in the merger shall for
9 purposes of Section 1090.3 of this title be deemed to
10 have been acquired at the time that the shares of
11 stock of the constituent corporation converted in the
12 merger were acquired; provided, that any shareholder
13 who immediately before the effective time of the
14 merger was not an interested shareholder within the
15 meaning of Section 1090.3 of this title shall not
16 solely by reason of the merger become an interested
17 shareholder of the holding company,

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

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

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

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

1 SECTION 33. AMENDATORY 18 O.S. 2011, Section 1082, is
2 amended to read as follows:

3 Section 1082. MERGER OR CONSOLIDATION OF DOMESTIC AND FOREIGN
4 CORPORATIONS;

5 SERVICE OF PROCESS UPON SURVIVING OR RESULTING CORPORATION

6 A. Any one or more corporations of this state may merge or
7 consolidate with one or more other corporations of any other state
8 or states of the United States, or of the District of Columbia, if
9 the laws of the other state or states or of the District permit a
10 corporation of the jurisdiction to merge or consolidate with a
11 corporation of another jurisdiction. The constituent corporations
12 may merge into a single corporation, which may be any one of the
13 constituent corporations, or they may consolidate into a new
14 corporation formed by the consolidation, which may be a corporation
15 of the state of incorporation of any one of the constituent
16 corporations, pursuant to an agreement of merger or consolidation,
17 as the case may be, complying and approved in accordance with the
18 provisions of this section. In addition, any one or more
19 corporations organized under the laws of any jurisdiction other than
20 one of the United States may merge or consolidate with one or more
21 corporations existing under the laws of this state if the surviving
22 or resulting corporation will be a corporation of this state, and if
23 the laws under which the other corporation or corporations are

24

1 formed permit a corporation of that jurisdiction to merge or
2 consolidate with a corporation of another jurisdiction.

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

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

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

7 3. The manner, if any, of converting the shares of each of the
8 constituent corporations into shares or other securities of the
9 corporation surviving or resulting from the merger or consolidation,
10 or of canceling some or all of the shares, and, if any shares of any
11 of the constituent corporations are not to remain outstanding, to be
12 converted solely into shares or other securities of the surviving or
13 resulting corporation or to be canceled, the cash, property, rights,
14 or securities of any other corporation or entity which the holder of
15 the shares is to receive in exchange for, or upon conversion of, the
16 shares and the surrender of any certificates evidencing them, which
17 cash, property, rights, or securities of any other corporation or
18 entity may be in addition to or in lieu of the shares or other
19 securities of the surviving or resulting corporation;

20 4. Other details or provisions as are deemed desirable,
21 including, without limiting the generality of the foregoing, a
22 provision for the payment of cash in lieu of the issuance or
23 recognition of fractional shares of the surviving or resulting
24 corporation or of any other corporation the securities of which are

1 to be received in the merger or consolidation, or for some other
2 arrangement with respect thereto consistent with the provisions of
3 Section 1036 of this title; and

4 5. Other provisions or facts as shall be required to be set
5 forth in the certificate of incorporation by the laws of the state
6 which are stated in the agreement to be the laws that shall govern
7 the surviving or resulting corporation and that can be stated in the
8 case of a merger or consolidation. Any of the terms of the
9 agreement of merger or consolidation may be made dependent upon
10 facts ascertainable outside of the agreement; provided, that the
11 manner in which the facts shall operate upon the terms of the
12 agreement is clearly and expressly set forth in the agreement of
13 merger or consolidation. The term "facts" as used in this
14 paragraph, includes, but is not limited to, the occurrence of any
15 event, including a determination or action by any person or body,
16 including the corporation.

17 C. The agreement shall be adopted, approved, executed, and
18 acknowledged by each of the constituent corporations in accordance
19 with the laws under which it is formed, and, in the case of an
20 Oklahoma corporation, in the same manner as is provided for in
21 Section 1081 of this title. The agreement shall be filed and shall
22 become effective for all purposes of the laws of this state when and
23 as provided for in Section 1081 of this title with respect to the
24 merger or consolidation of corporations of this state. In lieu of

1 filing the agreement of merger or consolidation, the surviving or
2 resulting corporation may file a certificate of merger or
3 consolidation executed in accordance with the provisions of Section
4 1007 of this title, which states:

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

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

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

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

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

23

24

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

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

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

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

15 D. If the corporation surviving or resulting from the merger or
16 consolidation is to be governed by the laws of the District of
17 Columbia or any state other than this state, it shall agree that it
18 may be served with process in this state in any proceeding for
19 enforcement of any obligation of any constituent corporation of this
20 state, as well as for enforcement of any obligation of the surviving
21 or resulting corporation arising from the merger or consolidation,
22 including any suit or other proceeding to enforce the right of any
23 shareholders as determined in appraisal proceedings pursuant to the
24 provisions of Section 1091 of this title, and shall irrevocably

1 appoint the Secretary of State as its agent to accept service of
2 process in any suit or other proceedings and shall specify the
3 address to which a copy of process shall be mailed by the Secretary
4 of State. In the event of service upon the Secretary of State in
5 accordance with the provisions of ~~this subsection~~ Section 2004 of
6 Title 12 of the Oklahoma Statutes, the Secretary of State shall
7 immediately notify the surviving or resulting corporation thereof by
8 letter, certified mail, return receipt requested, directed to the
9 surviving or resulting corporation at the address specified unless
10 the surviving or resulting corporation shall have designated in
11 writing to the Secretary of State a different address for this
12 purpose, in which case it shall be mailed to the last address so
13 designated. The notice shall include a copy of the process and any
14 other papers served on the Secretary of State pursuant to the
15 provisions of this subsection. It shall be the duty of the
16 plaintiff in the event of such service to serve process and any
17 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 subsection A of Section 1142 of this title, which
21 fee shall be taxed as part of the costs in the proceeding. The
22 Secretary of State shall maintain an alphabetical record of any such
23 service setting forth the name of the plaintiff and the defendant,
24 the title, docket number, and nature of the proceeding in which

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

7 E. The provisions of subsections C and D of Section 1081 of
8 this title shall apply to any merger or consolidation pursuant to
9 the provisions of this section. The provisions of subsection E of
10 Section 1081 of this title shall apply to a merger pursuant to the
11 provisions of this section in which the surviving corporation is a
12 corporation of this state. The provisions of subsection F of
13 Section 1081 of this title shall apply to any merger pursuant to the
14 provisions of this section.

15 SECTION 34. AMENDATORY 18 O.S. 2011, Section 1083, is
16 amended to read as follows:

17 Section 1083. MERGER OF PARENT CORPORATION AND SUBSIDIARY OR
18 SUBSIDIARIES

19 A. In any case in which at least ninety percent (90%) of the
20 outstanding shares of each class of stock of a corporation or
21 corporations, other than a corporation which has in its certificate
22 of incorporation the provision required by division (1) of
23 subparagraph g of paragraph 1 of subsection G of Section 1081 of
24 this title of which class there are outstanding shares that, absent

1 this subsection, would be entitled to vote on such merger, is owned
2 by another corporation and one of the corporations is a corporation
3 of this state and the other or others are corporations of this state
4 or of any other state or states or of the District of Columbia, and
5 the laws of the other state or states or of the District of Columbia
6 permit a corporation of that jurisdiction to merge with a
7 corporation of another jurisdiction, the corporation having such
8 stock ownership may either merge the other corporation or
9 corporations into itself and assume all of its or their obligations,
10 or merge itself, or itself and one or more of the other
11 corporations, into one of the other corporations by executing,
12 acknowledging, and filing, in accordance with the provisions of
13 Section 1007 of this title, a certificate of ownership and merger
14 setting forth a copy of the resolution of its board of directors to
15 merge and the date of its adoption; provided, however, that in case
16 the parent corporation shall not own all the outstanding stock of
17 all the subsidiary corporations which are parties to the merger, the
18 resolution of the board of directors of the parent corporation shall
19 state the terms and conditions of the merger, including the
20 securities, cash, property, or rights to be issued, paid, delivered,
21 or granted by the surviving corporation upon surrender of each share
22 of the subsidiary corporation or corporations not owned by the
23 parent corporation or the cancellation of some or all of the shares.
24 Any of the terms of the resolution of the board of directors to so

1 merge may be made dependent upon facts ascertainable outside of such
2 resolution, provided that the manner in which such facts shall
3 operate upon the terms of the resolution is clearly and expressly
4 set forth in the resolution. The term "facts", as used in the
5 preceding sentence, includes, but is not limited to, the occurrence
6 of any event, including a determination or action by any person or
7 body, including the corporation. If the parent corporation is not
8 the surviving corporation, the resolution shall include provision
9 for the pro rata issuance of stock of the surviving corporation to
10 the holders of the stock of the parent corporation on surrender of
11 any certificates therefor, and the certificate of ownership and
12 merger shall state that the proposed merger has been approved by a
13 majority of the outstanding stock of the parent corporation entitled
14 to vote thereon at a meeting thereof duly called and held after
15 twenty (20) days' notice of the purpose of the meeting is mailed to
16 each shareholder at the shareholder's address as it appears on the
17 records of the corporation if the parent corporation is a
18 corporation of this state or state that the proposed merger has been
19 adopted, approved, certified, executed, and acknowledged by the
20 parent corporation in accordance with the laws under which it is
21 organized if the parent corporation is not a corporation of this
22 state. If the surviving corporation exists under the laws of the
23 District of Columbia or any state other than this state, the
24 provisions of subsection D of Section 1082 of this title or

1 subsection C of Section 1087 of this title, as applicable, shall
2 also apply to a merger pursuant to the provisions of this section,
3 and the terms and conditions of the merger shall obligate the
4 surviving corporation to provide the agreement, and take the
5 actions, required by subsection D of Section 1082 of this title or
6 subsection C of Section 1087 of the title, as applicable.

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

14 C. The provisions of subsection D of Section 1081 of this title
15 shall apply to a merger pursuant to the provisions of this section,
16 and the provisions of subsection E of Section 1081 of this title
17 shall apply to a merger pursuant to the provisions of this section
18 in which the surviving corporation is the subsidiary corporation and
19 is a corporation of this state. For purposes of this subsection,
20 references to "agreement of merger" in subsections D and E of
21 Section 1081 of this title shall mean the resolution of merger
22 adopted by the board of directors of the parent corporation. Any
23 merger which effects any changes other than those authorized by the
24 provisions of this section or made applicable by this subsection

1 shall be accomplished in accordance with the provisions of Section
2 1081 ~~or~~, 1082, 1085 or 1087 of this title. The provisions of
3 Section 1091 of this title shall not apply to any merger effected
4 pursuant to the provisions of this section, except as provided for
5 in subsection D of this section.

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

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

18 F. This section shall apply to nonstock corporations if the
19 parent corporation is such a corporation and is the surviving
20 corporation of the merger; provided, however, that references to the
21 directors of the parent corporation shall be deemed to be references
22 to members of the governing body of the parent corporation, and
23 references to the board of directors of the parent corporation shall
24

1 be deemed to be references to the governing body of the parent
2 corporation.

3 G. Nothing in this section shall be deemed to authorize the
4 merger of a corporation with a charitable nonstock corporation, if
5 the charitable status of such charitable nonstock corporation would
6 thereby be lost or impaired.

7 SECTION 35. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1083.1 of Title 18, unless there
9 is created a duplication in numbering, reads as follows:

10 MERGER OF PARENT ENTITY AND SUBSIDIARY

11 CORPORATION OR CORPORATIONS

12 A. In any case in which:

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

21 2. One or more of such corporations is a corporation of this
22 state; and

23 3. Any entity or corporation that is not an entity or
24 corporation of this state is an entity or corporation of any

1 other state or the District of Columbia, the laws of which do not
2 forbid such merger,

3 the entity having such stock ownership may either merge the
4 corporation or corporations into itself and assume all of its or
5 their obligations, or merge itself, or itself and one or more of
6 such corporations, into one of the other corporations by:

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

11 b. acknowledging and filing with the Secretary of
12 State, in accordance with Section 1007 of Title 18
13 of the Oklahoma Statutes, a certificate of such
14 ownership and merger certifying:

15 (1) that such merger was authorized in accordance
16 with such entity's governing documents and the
17 laws of the jurisdiction under which such
18 entity is formed or organized, such certificate
19 executed in accordance with such entity's
20 governing documents and in accordance with the
21 laws of the jurisdiction under which such
22 entity is formed or organized, and

23 (2) the type of entity of each constituent entity
24 to the merger; provided, however, that in case

1 the entity shall not own all the outstanding
2 stock of all the corporations, parties to a
3 merger as aforesaid:

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

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

21 Any of the terms of the merger may be made dependent upon facts
22 ascertainable outside of the certificate of ownership and merger,
23 provided that the manner in which such facts shall operate upon the
24 terms of the merger is clearly and expressly set forth in the

1 certificate of ownership and merger. The term "facts", as used in
2 the preceding sentence, includes, but is not limited to, the
3 occurrence of any event including a determination or action by any
4 person or body, including the entity. If the surviving constituent
5 party exists under the laws of the District of Columbia or any state
6 or jurisdiction other than this state, subsection D of Section 1082
7 of Title 18 of the Oklahoma Statutes shall also apply to a merger
8 under this section; if the surviving constituent party is the
9 entity, the word "corporation" where applicable, as used in
10 subsection D of Section 1082 of Title 18 of the Oklahoma Statutes,
11 shall be deemed to include an entity as defined herein; and the
12 terms and conditions of the merger shall obligate the surviving
13 constituent party to provide the agreement, and take the actions
14 required by subsection D of Section 1082 of Title 18 of the Oklahoma
15 Statutes.

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

1 and merger, and references to "corporation" in Sections 1088, 1089,
2 and 1090 of Title 18 of the Oklahoma Statutes and Section 1127 of
3 Title 18 of the Oklahoma Statutes shall be deemed to include the
4 entity, as applicable. Section 1091 of Title 18 of the Oklahoma
5 Statutes shall not apply to any merger effected under this section,
6 except as provided in subsection C of this section.

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

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

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

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

21 2. "Entity" means a partnership, whether general or limited,
22 and including a limited liability partnership and a limited
23 liability limited partnership, a limited liability company, and
24 any unincorporated nonprofit or for-profit association, trust or

1 enterprise having members or having outstanding shares of stock
2 or other evidences of financial, beneficial or membership
3 interest therein, whether formed by agreement or under statutory
4 authority or otherwise; and

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

9 SECTION 36. AMENDATORY 18 O.S. 2011, Section 1084, is
10 amended to read as follows:

11 Section 1084. MERGER OR CONSOLIDATION OF DOMESTIC NONSTOCK,
12 NOT FOR PROFIT CORPORATIONS

13 A. Any two or more nonstock corporations of this state, whether
14 or not organized for profit, may merge into a single corporation,
15 which may be any one of the constituent corporations, or they may
16 consolidate into a new nonstock corporation, whether or not
17 organized for profit, formed by the consolidation, pursuant to an
18 agreement of merger or consolidation, as the case may be, complying
19 and approved in accordance with the provisions of this section.

20 B. Subject to subsection D of this section:

21 1. The governing body of each corporation which desires to
22 merge or consolidate shall adopt a resolution approving an agreement
23 of merger or consolidation. The agreement shall state:

24

- 1 a. the terms and conditions of the merger or
2 consolidation,
3 b. the mode of carrying the same into effect,
4 c. other provisions or facts required or permitted by
5 this act to be stated in a certificate of
6 incorporation for nonstock corporations as can be
7 stated in the case of a merger or consolidation,
8 stated in an altered form as the circumstances of the
9 case require,
10 d. the manner, if any, of converting the memberships or
11 membership interests of each of the constituent
12 corporations into memberships or membership interests
13 of the corporation surviving or resulting from the
14 merger or consolidation, or of canceling some or all
15 of the memberships or membership interests, and
16 e. other details or provisions as are deemed desirable;
17 and

18 2. The agreement so adopted shall be executed and acknowledged
19 in accordance with Section 1007 of this title. Any of the terms of
20 the agreement of merger or consolidation may be made dependent upon
21 facts ascertainable outside of the agreement; provided, that the
22 manner in which the facts shall operate upon the terms of the
23 agreement is clearly and expressly set forth in the agreement of
24 merger or consolidation. The term "facts" as used in this

1 paragraph, includes, but is not limited to, the occurrence of any
2 event, including a determination or action by any person or body,
3 including the corporation.

4 C. The Subject to subsection D of this section, the agreement
5 shall be submitted to the members of each constituent corporation
6 ~~who have the right to vote for the election of the members of the~~
7 ~~governing body of their corporation,~~ at an annual or special meeting
8 for the purpose of acting on the agreement. ~~Notice~~ Due notice of
9 the time, place, and purpose of the meeting shall be mailed to each
10 member of each corporation who has the right to vote for the
11 election of the members of the governing body of the corporation and
12 to each other member who is entitled to vote on the merger under the
13 certificate of incorporation or the bylaws of such corporation, at
14 the member's address as it appears on the records of the corporation
15 at least twenty (20) days prior to the date of the meeting. The
16 notice shall contain a copy of the agreement or a brief summary
17 thereof, as the governing body shall deem advisable. At the
18 meeting, the agreement shall be considered and a vote ~~by ballot,~~ in
19 person or by proxy, taken for the adoption or rejection of the
20 agreement. If the agreement is adopted by a majority of the voting
21 ~~power of voting~~ members of each corporation ~~shall be for the~~
22 ~~adoption of the agreement~~ entitled to vote for the election of the
23 members of the governing body of the corporation and any other
24 members entitled to vote on the merger under the certificate of

1 incorporation or the bylaws of such corporation, then that fact
2 shall be certified on the agreement by the officer of each
3 corporation performing the duties ordinarily performed by the
4 secretary or assistant secretary of a corporation; provided, that
5 such certification on the agreement shall not be required if a
6 certificate of merger or consolidation is filed in lieu of filing
7 the agreement. The agreement shall be ~~executed, acknowledged and~~
8 ~~adopted and certified by each constituent corporation in accordance~~
9 ~~with this section, and it shall be filed,~~ and shall become
10 effective, in accordance with the provisions of Section 1007 of this
11 title. The provisions of paragraphs 1 through 6 of subsection C of
12 Section 1081 of this title shall apply to a merger or consolidation
13 under this section, and the reference therein to "shareholder" shall
14 be deemed to include "member" hereunder.

15 D. ~~If~~ Notwithstanding subsection B or C of this section, if,
16 under the provisions of the certificate of incorporation or the
17 bylaws of any one or more of the constituent corporations, there
18 shall be no members who have the right to vote for the election of
19 the members of the governing body of the corporation, or for the
20 merger, other than the members of that the governing body
21 themselves, the agreement duly entered into as provided for in
22 subsection B of this section shall be submitted to the members of
23 the governing body of the corporation or corporations at a meeting
24 thereof. Notice of the meeting shall be mailed to the members of

1 ~~the governing body in the same manner as is provided in the case of~~
2 ~~a meeting of the members of a corporation. If at the meeting two-~~
3 ~~thirds (2/3) of the total number of members of the governing body~~
4 ~~shall vote by ballot, in person, for the adoption of the agreement,~~
5 no further action by the governing body or the members of such
6 corporation shall be necessary if the resolution approving an
7 agreement of merger or consolidation has been adopted by a majority
8 of all the members of the governing body thereof, and that fact
9 shall be certified on the agreement in the same manner as is
10 provided in the case of the adoption of the agreement by the vote of
11 the members of a corporation; provided, that such certification on
12 the agreement shall not be required if a certificate of merger or
13 consolidation is filed in lieu of filing the agreement, and
14 thereafter the same procedure shall be followed to consummate the
15 merger or consolidation.

16 E. The provisions of subsection D of Section 1081 of this title
17 shall apply to a merger under this section; provided, however, that
18 references to the board of directors, to shareholders, and to shares
19 of a constituent corporation shall be deemed to be references to the
20 governing body of the corporation, to members of the corporation,
21 and to memberships or membership interests, as applicable,
22 respectively.

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

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

7 SECTION 37. AMENDATORY 18 O.S. 2011, Section 1085, is
8 amended to read as follows:

9 Section 1085. MERGER OR CONSOLIDATION OF DOMESTIC AND FOREIGN
10 NONSTOCK~~7~~

11 ~~NOT FOR PROFIT~~ CORPORATIONS; SERVICE OF PROCESS UPON
12 SURVIVING OR RESULTING CORPORATION

13 A. Any one or more nonstock~~7~~, ~~not for profit~~ corporations of
14 this state may merge or consolidate with one or more other nonstock~~7~~,
15 ~~not for profit~~ corporations of any other state or states of the
16 United States or of the District of Columbia, if the laws of such
17 other state or states or of the District of Columbia permit a
18 corporation of such jurisdiction to merge with a corporation of
19 another jurisdiction. The constituent corporations may merge into a
20 single corporation, which may be any one of the constituent
21 corporations, or they may consolidate into a new nonstock~~7~~, ~~not for~~
22 ~~profit~~ corporation formed by the consolidation, which may be a
23 corporation of the state of incorporation of any one of the
24 constituent corporations, pursuant to an agreement of merger or

1 consolidation, as the case may be, complying and approved in
2 accordance with the provisions of this section. In addition, any
3 one or more nonstock, ~~not for profit~~ corporations organized under
4 the laws of any jurisdiction other than one of the United States may
5 merge or consolidate with one or more nonstock, ~~not for profit~~
6 corporations of this state if the surviving or resulting corporation
7 will be a corporation of this state, and if the laws under which the
8 other corporation or corporations are formed permit a corporation of
9 such jurisdiction to merge with a corporation of another
10 jurisdiction.

11 B. 1. All the constituent corporations shall enter into an
12 agreement of merger or consolidation. The agreement shall state:

- 13 a. the terms and conditions of the merger or
14 consolidation,
- 15 b. the mode of carrying the same into effect,
- 16 c. the manner, if any, of converting the memberships or
17 membership interests of each of the constituent
18 corporations into ~~members~~ memberships or membership
19 interests of the corporation surviving or resulting
20 from such merger or consolidation, or of canceling
21 some or all of the memberships or membership
22 interests,
- 23 d. such other details and provisions as shall be deemed
24 desirable, and

1 e. such other provisions or facts as shall then be
2 required to be stated in a certificate of
3 incorporation by the laws of the state which are
4 stated in the agreement to be the laws that shall
5 govern the surviving or resulting corporation and that
6 can be stated in the case of a merger or
7 consolidation.

8 2. Any of the terms of the agreement of merger or consolidation
9 may be made dependent upon facts ascertainable outside of such
10 agreement, provided that the manner in which such facts shall
11 operate upon the terms of the agreement is clearly and expressly set
12 forth in the agreement of merger or consolidation.

13 C. The agreement shall be adopted, approved, certified,
14 executed and acknowledged by each of the constituent corporations in
15 accordance with the laws under which it is formed and, in the case
16 of an Oklahoma corporation, in the same manner as is provided for in
17 Section 1084 of this title. The agreement shall be filed and shall
18 become effective for all purposes of the laws of this state when and
19 as provided for in Section 1084 of this title with respect to the
20 merger of nonstock, ~~not for profit~~ corporations of this state.
21 Insofar as they may be applicable, the provisions of paragraphs 1
22 through 9 of subsection C of Section 1082 of this title shall apply
23 to a merger under this section.
24

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

1 provisions of this subsection, and to pay the Secretary of State the
2 fee prescribed by paragraph 7 of Section 1142 of this title, which
3 fee shall be taxed as part of the costs in the proceeding if the
4 plaintiff shall prevail therein. The Secretary of State shall
5 maintain an alphabetical record of any such service setting forth
6 the name of the plaintiff and defendant, the title, docket number
7 and nature of the proceeding in which process has been served upon
8 him, the fact that service has been effected pursuant to the
9 provisions of this subsection, the return date thereof, and the date
10 when the service was made. The Secretary of State shall not be
11 required to retain such information for a period longer than five
12 (5) years from his receipt of service of process.

13 E. The provisions of subsection E of Section 1081 of this title
14 shall apply to a merger pursuant to the provisions of this section
15 if the corporation surviving the merger is a corporation of this
16 state.

17 F. The provisions of subsection D of Section 1081 of this title
18 shall apply to a merger under this section; provided, however, that
19 references to the board of directors, to shareholders, and to shares
20 of a constituent corporation shall be deemed to be references to the
21 governing body of the corporation, to members of the corporation,
22 and to memberships or membership interests, as applicable,
23 respectively.

24

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

7 SECTION 38. AMENDATORY 18 O.S. 2011, Section 1086, is
8 amended to read as follows:

9 Section 1086. MERGER OR CONSOLIDATION OF DOMESTIC STOCK AND
10 NONSTOCK CORPORATIONS

11 A. Any one or more nonstock corporations of this state, whether
12 or not organized for profit, may merge or consolidate with one or
13 more stock corporations of this state, whether or not organized for
14 profit. The constituent corporations may merge into a single
15 corporation, which may be any one of the constituent corporations,
16 or they may consolidate into a new corporation formed by the
17 consolidation, pursuant to an agreement of merger or consolidation,
18 as the case may be, complying and approved in accordance with the
19 provisions of this section. The surviving constituent corporation
20 or a new corporation may be organized for profit or not organized
21 for profit and may be a stock corporation or a nonstock corporation.

22 B. The board of directors of each stock corporation which
23 desires to merge or consolidate and the governing body of each
24 nonstock corporation which desires to merge or consolidate shall

1 adopt a resolution approving an agreement of merger or
2 consolidation. The agreement shall state:

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

4 2. The mode carrying the same into effect;

5 3. Such other provisions or facts required or permitted by this
6 act to be stated in the certificate of incorporation as can be
7 stated in the case of a merger or consolidation, stated in such
8 altered form as the circumstances of the case require;

9 4. The manner, if any, of converting the shares of stock of a
10 stock corporation and the memberships or membership interests ~~of the~~
11 ~~members~~ of a nonstock corporation into shares or other securities of
12 a stock corporation or memberships or membership interests of a
13 nonstock corporation surviving or resulting from such merger or
14 consolidation, or of canceling some or all of the shares or
15 memberships or membership interests, and if any shares of any such
16 stock corporation or memberships or membership interests of any such
17 nonstock corporation are not to remain outstanding, to be converted
18 solely into shares or other securities of the stock corporation or
19 memberships or membership interests of the nonstock corporation
20 surviving or resulting from such merger or consolidation, or to be
21 canceled, the cash, property, rights or securities of any other
22 corporation or entity which the holders of shares of any such stock
23 corporation or memberships or membership interests of any such
24 nonstock corporation are to receive in exchange for, or upon

1 conversion of such shares or memberships or membership interests,
2 and the surrender of any certificates evidencing them, which cash,
3 property, rights or securities of any other corporation or entity
4 may be in addition to or in lieu of shares or other securities of
5 any stock corporation or memberships or membership interests of any
6 nonstock corporation surviving or resulting from such merger or
7 consolidation; and

8 5. Such other details or provisions as are deemed desirable.

9 C. In a merger or consolidation provided for in this section,
10 the memberships or membership interests ~~of members~~ of a constituent
11 nonstock corporation may be treated in various ways so as to convert
12 such memberships or membership interests into interests of value,
13 other than shares of stock, in the surviving or resulting stock
14 corporation or into shares of stock in the surviving or resulting
15 stock corporation, voting or nonvoting, or into creditor interests
16 or any other interests of value equivalent to their memberships or
17 membership interests in their nonstock corporation. The voting
18 rights of members of a constituent nonstock corporation need not be
19 considered an element of value in measuring the reasonable
20 equivalence of the value of the interests received in the surviving
21 or resulting stock corporation by members of a constituent nonstock
22 corporation, nor need the voting rights of shares of stock in a
23 constituent stock corporation be considered as an element of value
24 in measuring the reasonable equivalence of the value of the

1 interests in the surviving or resulting nonstock corporations
2 received by shareholders of a constituent stock corporation, and the
3 voting or nonvoting shares of a stock corporation may be converted
4 into ~~voting or nonvoting regular, life, general, special or other~~
5 ~~type of membership~~ any type of memberships or membership interests,
6 however designated, creditor interests or participating interests,
7 in the nonstock corporation surviving or resulting from such merger
8 or consolidation of a stock corporation and a nonstock corporation.
9 Any of the terms of the agreement of merger or consolidation may be
10 made dependent upon facts ascertainable outside of such agreement,
11 provided that the manner in which such facts shall operate upon the
12 terms of the agreement is clearly and expressly set forth in the
13 agreement of merger or consolidation. The term "facts", as used in
14 the preceding sentence, includes, but is not limited to, the
15 occurrence of any event, including a determination or action by any
16 person or body, including the corporation.

17 D. The agreement, required by subsection B of this section in
18 the case of each constituent stock corporation, shall be adopted,
19 approved, certified, executed and acknowledged by each constituent
20 corporation in the same manner as is provided for in Section 1081 of
21 this title and, in the case of each constituent nonstock
22 corporation, shall be adopted, approved, certified, executed and
23 acknowledged by each of said constituent corporations in the same
24 manner as is provided for in Section 1084 of this title. The

1 agreement shall be filed and shall become effective for all purposes
2 of the laws of this state when and as provided for in Section 1081
3 of this title with respect to the merger of stock corporations of
4 this state. Insofar as they may be applicable, the provisions of
5 paragraphs 1 through 7 of subsection C of Section 1081 of this title
6 shall apply to a merger under this section, and the reference
7 therein to "shareholder" shall be deemed to include "member"
8 hereunder.

9 E. The provisions of subsection E of Section 1081 of this title
10 shall apply to a merger pursuant to the provisions of this section,
11 if the surviving corporation is a corporation of this state. The
12 provisions of subsections C and D of Section 1081 of this title
13 shall apply to any constituent stock corporation participating in a
14 merger or consolidation pursuant to the provisions of this section.
15 The provisions of subsection F of Section 1081 of this title shall
16 apply to any constituent stock corporation participating in a merger
17 pursuant to the provisions of this section.

18 F. The provisions of subsection D of Section 1081 of this title
19 shall apply to a merger pursuant to the provisions of this section;
20 provided, however, that for purposes of a constituent nonstock
21 corporation, references to the board of directors, to shareholders,
22 and to shares of a constituent corporation shall be deemed to be
23 references to the governing body of the corporation, to members of
24

1 the corporation, and to memberships or membership interests, as
2 applicable, respectively.

3 G. Nothing in this section shall be construed to authorize the
4 merger of a charitable nonstock corporation into a stock
5 corporation, if the charitable status of such nonstock corporation
6 would thereby be lost or impaired; but a stock corporation may be
7 merged into a charitable nonstock corporation which shall continue
8 as the surviving corporation.

9 SECTION 39. AMENDATORY 18 O.S. 2011, Section 1087, is
10 amended to read as follows:

11 Section 1087. MERGER OR CONSOLIDATION OF DOMESTIC AND FOREIGN
12 STOCK

13 AND NONSTOCK CORPORATIONS

14 A. Any one or more corporations of this state, whether stock or
15 nonstock corporations and whether or not organized for profit, may
16 merge or consolidate with one or more other corporations of any
17 other state or states of the United States or of the District of
18 Columbia, whether stock or nonstock corporations and whether or not
19 organized for profit, if the laws under which the other corporation
20 or corporations are formed shall permit a corporation of such
21 jurisdiction to merge with a corporation of another jurisdiction.
22 The constituent corporations may merge into a single corporation,
23 which may be any one of the constituent corporations, or they may
24 consolidate into a new corporation formed by the consolidation,

1 which may be a corporation of the place of incorporation of any one
2 of the constituent corporations, pursuant to an agreement of merger
3 or consolidation, as the case may be, complying and approved in
4 accordance with the provisions of this section. The surviving or
5 new corporation may be either a stock corporation or a ~~membership~~
6 nonstock corporation, as shall be specified in the agreement of
7 merger required by the provisions of subsection B of this section.

8 B. The method and procedure to be followed by the constituent
9 corporations so merging or consolidating shall be as prescribed in
10 Section ~~86~~ 1086 of this ~~act~~ title in the case of Oklahoma
11 corporations. The agreement of merger or consolidation shall also
12 set forth such other matters or provisions as shall then be required
13 to be set forth in certificates of incorporation by the laws of the
14 state which are stated in the agreement to be the laws which shall
15 govern the surviving or resulting corporation and that can be stated
16 in the case of a merger or consolidation. The agreement, in the
17 case of foreign corporations, shall be adopted, approved, certified,
18 executed and acknowledged by each of the constituent foreign
19 corporations in accordance with the laws under which each is formed.

20 C. The requirements of the provisions of subsection D of
21 Section ~~82~~ 1082 of this ~~act~~ title as to the appointment of the
22 Secretary of State to receive process and the manner of serving the
23 same in the event the surviving or new corporation is to be governed
24 by the laws of any other state shall also apply to mergers or

1 consolidations effected pursuant to the provisions of this section.
2 The provisions of subsection E of Section ~~§1~~ 1081 of this ~~act~~ title
3 shall apply to mergers effected pursuant to the provisions of this
4 section if the surviving corporation is a corporation of this state.
5 The provisions of subsection D of Section ~~§1~~ 1081 of this ~~act~~ title
6 shall apply to any constituent stock corporation participating in a
7 merger of consolidation pursuant to the provisions of this section;
8 provided, however, that for purposes of a constituent nonstock
9 corporation, references to the board of directors, to shareholders,
10 and to shares shall be deemed to be references to the governing body
11 of the corporation, to members of the corporation, and to
12 memberships or membership interests of the corporation, as
13 applicable, respectively. The provisions of subsection F of Section
14 ~~§1~~ 1081 of this ~~act~~ title shall apply to any constituent stock
15 corporation participating in a merger pursuant to the provisions of
16 this section.

17 D. Nothing in this section shall be construed to authorize the
18 merger of a charitable nonstock corporation into a stock
19 corporation, if the charitable status of such nonstock corporation
20 would thereby be lost or impaired but a stock corporation may be
21 merged into a charitable nonstock corporation which shall continue
22 as the surviving corporation.

23 SECTION 40. AMENDATORY 18 O.S. 2011, Section 1090.2, is
24 amended to read as follows:

1 Section 1090.2 MERGER OR CONSOLIDATION OF A
2 DOMESTIC CORPORATION AND ~~BUSINESS~~ AN ENTITY

3 A. Any one or more corporations of this state may merge or
4 consolidate with one or more ~~business~~ entities, of this state or of
5 any other state or states of the United States, or of the District
6 of Columbia, unless the laws of the other state or states or the
7 District of Columbia forbid the merger or consolidation. A
8 corporation or corporations and one or more ~~business~~ entities may
9 merge with or into a corporation, which may be any one of the
10 corporations, or they may merge with or into a ~~business~~ an entity,
11 which may be any one of the ~~business~~ entities, or they may
12 consolidate into a new corporation or ~~business~~ entity formed by the
13 consolidation, which shall be a corporation or ~~business~~ entity of
14 this state or any other state of the United States, or the District
15 of Columbia, which permits the merger or consolidation, pursuant to
16 an agreement of merger or consolidation, as the case may be,
17 complying and approved in accordance with this section. In
18 addition, any one or more ~~business~~ entities formed under the laws of
19 any jurisdiction other than one of the United States may merge or
20 consolidate with one or more corporations existing under the laws of
21 this state if the surviving or resulting corporation will be a
22 corporation of this state and the laws under which the ~~business~~
23 entity or entities are formed permit a ~~business~~ an entity of such
24 jurisdiction to merge or consolidate with a corporation of another

1 jurisdiction. As used in this section, "~~business~~ entity" means a
2 domestic or foreign partnership whether general or limited, and
3 including a limited liability partnership and a limited liability
4 limited partnership, limited liability company, ~~business trust,~~
5 ~~common law trust, or other unincorporated business~~ and any
6 unincorporated nonprofit or for-profit association, trust or
7 enterprise having members or having outstanding shares of stock or
8 other evidences of financial, beneficial or membership interest
9 therein, whether formed by agreement or under statutory authority or
10 otherwise.

11 B. Each corporation and ~~business~~ entity merging or
12 consolidating shall enter into a written agreement of merger or
13 consolidation. The agreement shall state:

- 14 1. The terms and conditions of the merger or consolidation;
- 15 2. The mode of carrying the consolidation into effect;
- 16 3. The manner, if any, of converting the shares of stock or
17 memberships or membership interests of each such corporation and the
18 memberships, or membership, economic or ownership interests of each
19 ~~business~~ entity into shares, memberships, or membership, economic or
20 ownership interests, or other securities of the entity surviving or
21 resulting from the merger or consolidation, or of canceling some or
22 all of the shares or interests, and if any shares ~~of any corporation~~
23 ~~or any ownership,~~ memberships or interests of any business entity
24 are not to remain outstanding, to be converted solely into shares,

1 ~~ownership~~ memberships, interests, or other securities of the entity
2 surviving or resulting from the merger or consolidation or to be
3 canceled, the cash, property, rights, or securities of any other
4 rights or securities of any other corporation or entity which the
5 holders of such shares, memberships, or ~~ownership~~ interests are to
6 receive in exchange for, or upon conversion of, the shares,
7 memberships or ~~ownership~~ interests and the surrender of any
8 certificates evidencing them, which cash, property, rights, or
9 securities of any other corporation or entity may be in addition to
10 or in lieu of shares, ~~ownership~~ memberships, interests or other
11 securities of the entity surviving or resulting from the merger or
12 consolidation; and

13 4. Other details or provisions as are deemed desirable
14 including, but not limited to, a provision for the payment of cash
15 in lieu of the issuance of fractional shares or interests of the
16 surviving or resulting corporation or ~~business~~ entity. Any of the
17 terms of the agreement of merger or consolidation may be made
18 dependent upon facts ascertainable outside of the agreement;
19 provided, that the manner in which such facts shall operate upon the
20 terms of the agreement is clearly and expressly set forth in the
21 agreement of merger or consolidation. The term "facts" as used in
22 this paragraph, includes, but is not limited to, the occurrence of
23 any event, including a determination or action by any person or
24 body, including the corporation.

1 C. The agreement required by subsection B of this section shall
2 be adopted, approved, certified, executed, and acknowledged by each
3 of the corporations in the same manner as is provided in Section
4 1081 of this title and, in the case of the ~~business~~ entities, in
5 accordance with their constituent agreements and in accordance with
6 the laws of the jurisdiction under which they are formed, as the
7 case may be; provided that no holder of securities, membership or an
8 interest in a constituent entity who has not voted for or consented
9 to the merger or consolidation shall be required to accept ~~an~~ a
10 membership or interest in the surviving or resulting ~~business~~ entity
11 if acceptance would expose the holder to personal liability for the
12 debts of the surviving ~~business~~ entity. The agreement shall be
13 filed and recorded and shall become effective for all purposes of
14 the laws of this state when and as provided in Section 1081 or 1084
15 of this title with respect to the merger or consolidation of
16 corporations of this state. In lieu of filing and recording the
17 agreement of merger or consolidation, the surviving or resulting
18 corporation or ~~business~~ entity may file a certificate of merger or
19 consolidation, executed in accordance with Section 1007 of this
20 title if the surviving or resulting entity is a corporation, or by a
21 person authorized to act for the ~~business~~ entity, if the surviving
22 or resulting entity is ~~a business~~ an entity, which states:
23 1. The name ~~and~~, jurisdiction of formation, and type of entity
24 of each of the constituent entities;

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

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

6 4. In the case of a merger in which a corporation is the
7 surviving entity, any amendments or changes in the certificate of
8 incorporation of the surviving corporation, which may be amended and
9 restated, that are desired to be effected by the merger, which
10 amendments or changes may amend and restate the certificate of
11 incorporation of the surviving corporation in its entirety, or, if
12 no amendments or changes are desired, a statement that the
13 certificate of incorporation of the surviving corporation shall be
14 its certificate of incorporation;

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

19 6. In the case of a consolidation in which ~~a business~~ an entity
20 other than a corporation is the resulting entity, that the charter
21 of the resulting entity shall be as set forth in an attachment to
22 the certificate;

23

24

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

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

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

10 D. If the entity surviving or resulting from the merger or
11 consolidation is to be governed by the laws of the District of
12 Columbia or any state other than this state, the entity shall agree
13 that it may be served with process in this state in any proceeding
14 for enforcement of any obligation of any constituent corporation or
15 ~~business~~ entity of this state, as well as for enforcement of any
16 obligation of the surviving or resulting corporation or ~~business~~
17 entity arising from the merger or consolidation, including any suit
18 or other proceeding to enforce the right of any shareholders as
19 determined in appraisal proceedings pursuant to the provisions of
20 Section 1091 of this title, and shall irrevocably appoint the
21 Secretary of State as its agent to accept service of process in any
22 such suit or other proceedings and shall specify the address to
23 which a copy of any process shall be mailed by the Secretary of
24 State. In the event of service upon the Secretary of State pursuant

1 to ~~this subsection~~ Section 2004 of Title 12 of the Oklahoma
2 Statutes, the Secretary of State shall forthwith notify the
3 surviving or resulting corporation or ~~business~~ entity by a letter,
4 sent by certified mail with return receipt requested, directed to
5 the surviving or resulting corporation or ~~business~~ entity at its
6 specified address, unless the surviving or resulting corporation or
7 ~~business~~ entity shall have designated in writing to the Secretary of
8 State a different address for that purpose, in which case it shall
9 be mailed to the last address designated. Such letter shall enclose
10 a copy of the process and any other papers served on the Secretary
11 of State pursuant to this subsection. It shall be the duty of the
12 plaintiff in the event of any service to serve process and any other
13 papers in duplicate, to notify the Secretary of State that service
14 is being effected pursuant to this subsection and to pay the
15 Secretary of State the fee provided for in paragraph 7 of subsection
16 A of Section 1142 of this title, which fee shall be taxed as part of
17 the costs in the proceeding, if the plaintiff shall prevail therein.
18 The Secretary of State shall maintain an alphabetical record of any
19 such service, setting forth the name of the plaintiff and the
20 defendant, the title, docket number, and nature of the proceeding in
21 which process has been served upon the Secretary of State, the fact
22 that service has been served upon the Secretary of State, the fact
23 that service has been effected pursuant to this subsection, the
24 return date thereof, and the date service was made. The Secretary

1 of State shall not be required to retain this information longer
2 than five (5) years from the date of receipt of the service of
3 process by the Secretary of State.

4 E. Subsections C, D, E, and F ~~and G~~ of Section 1081 of this
5 title, subsections C, D, E, and F of Section 1084 of this title, and
6 Sections 1088 through 1090 and 1127 of this title, insofar as they
7 are applicable, shall apply to mergers or consolidations between
8 corporations and ~~business~~ entities; provided, however, that for
9 purposes of a nonstock corporation or entity, references to the
10 board of directors shall be deemed to be references to the person or
11 body having managerial responsibility for the corporation or entity,
12 references to shareholders shall be deemed to be references to the
13 members or owners of the corporation or entity, and references to
14 shares shall be deemed to be references to memberships or
15 membership, economic or ownership interests in the corporation or
16 entity, as applicable.

17 F. Nothing in this section shall be deemed to authorize the
18 merger of a charitable nonstock corporation into an entity, if the
19 charitable status of such nonstock corporation would thereby be lost
20 or impaired; but an entity may be merged into a charitable nonstock
21 corporation, which shall continue as the surviving corporation.

22 SECTION 41. AMENDATORY 18 O.S. 2011, Section 1090.3, is
23 amended to read as follows:

1 Section 1090.3 ~~USINESS~~ BUSINESS COMBINATIONS WITH INTERESTED
2 SHAREHOLDERS

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

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

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

- 18 a. persons who are directors and also officers, and
19 b. employee stock plans in which employee participants do
20 not have the right to determine confidentially whether
21 shares held subject to the plan will be tendered in a
22 tender or exchange offer; or

23 3. At or subsequent to such time, the business combination is
24 approved by the board of directors and authorized at an annual or

1 special meeting of shareholders, and not by written consent, by the
2 affirmative vote of at least two-thirds (2/3) of the outstanding
3 voting stock which is not owned by the interested shareholder.

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

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

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

13 3. a. The corporation, with the approval of its
14 shareholders, adopts an amendment to its certificate
15 of incorporation or bylaws expressly electing not to
16 be governed by this section; provided that, in
17 addition to any other vote required by law, an
18 amendment to the certificate of incorporation or
19 bylaws must be approved by the affirmative vote of a
20 majority of the outstanding voting stock of the
21 corporation.

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

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

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

7 c. In all other cases, an amendment adopted pursuant to
8 this paragraph shall not be effective until twelve
9 (12) months after the adoption of the amendment and
10 shall not apply to any business combination between a
11 corporation and any person who became an interested
12 shareholder of the corporation on or prior to the
13 adoption. A bylaw amendment adopted pursuant to this
14 paragraph shall not be further amended by the board of
15 directors;

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

- 18 a. listed on a national securities exchange, or
19 b. authorized for quotation on the NASDAQ Stock Market,
20 or
21 ~~e.~~ held of record by one thousand or more shareholders,
22 unless any of the foregoing results from action taken,
23 directly or indirectly, by an interested shareholder
24

1 or from a transaction in which a person becomes an
2 interested shareholder;

3 5. A person becomes an interested shareholder inadvertently
4 and:

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

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

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

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

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

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

22 (b) became an interested shareholder with the
23 approval of the corporation's board of
24

1 directors or during the period described in
2 paragraph 7 of this subsection, and

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

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

12 (1) a share acquisition pursuant to Section 1090.1 of
13 this title, or a merger or consolidation of the
14 corporation, except for a merger in respect of
15 which, pursuant to subsection F or G of Section
16 1081 of this title, no vote of the shareholders
17 of the corporation is required,

18 (2) a sale, lease, exchange, mortgage, pledge,
19 transfer, or other disposition, in one
20 transaction or a series of transactions, whether
21 as part of a dissolution or otherwise, of assets
22 of the corporation or of any direct or indirect
23 majority-owned subsidiary of the corporation,
24 other than to any direct or indirect wholly owned

1 subsidiary or to the corporation, having an
2 aggregate market value equal to fifty percent
3 (50%) or more of either the aggregate market
4 value of all of the assets of the corporation
5 determined on a consolidated basis or the
6 aggregate market value of all the outstanding
7 stock of the corporation, or

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

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

1 C. Notwithstanding paragraphs 1, 2, 3~~7~~ and 4 of subsection B of
2 this section, a corporation may elect by a provision of its original
3 certificate of incorporation or any amendment thereto to be governed
4 by this section; provided, that any amendment to the certificate of
5 incorporation shall not apply to restrict a business combination
6 between the corporation and an interested shareholder of the
7 corporation if the interested shareholder became an interested
8 shareholder prior to the effective date of the amendment.

9 D. As used in this section:

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

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

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

20 b. any trust or other estate in which the person has at
21 least a twenty-percent beneficial interest or as to
22 which such person serves as trustee or in a similar
23 fiduciary capacity, and
24

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

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

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

10 (1) the interested shareholder, or

11 (2) any other corporation, partnership,

12 unincorporated association, or other entity if

13 the merger or consolidation is caused by the

14 interested shareholder and, as a result of the

15 merger or consolidation subsection A of this

16 section is not applicable to the surviving

17 entity,

18 b. any sale, lease, exchange, mortgage, pledge, transfer,

19 or other disposition, in one transaction or a series

20 of transactions, except proportionately as a

21 shareholder of the corporation, to or with the

22 interested shareholder, whether as part of a

23 dissolution or otherwise, of assets of the corporation

24 or of any direct or indirect majority-owned subsidiary

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

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

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

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

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

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

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

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

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

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

- 5 e. any receipt by the interested shareholder of the
6 benefit, directly or indirectly, except
7 proportionately as a shareholder of the corporation,
8 of any loans, advances, guarantees, pledges, or other
9 financial benefits, other than those expressly
10 permitted in subparagraphs a through d of this
11 paragraph, provided by or through the corporation or
12 any direct or indirect majority-owned subsidiary, or
13 f. any share acquisition by the interested shareholder
14 from the corporation or any direct or indirect
15 majority-owned subsidiary of the corporation pursuant
16 to Section 1090.1 of this title;

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

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

7 5. a. "Interested shareholder" means:

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

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

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

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

23 b. "Interested shareholder" shall not mean:

24 (1) any person who:

1 (a) owned shares in excess of the fifteen
2 percent (15%) limitation set forth herein as
3 of, or acquired such shares pursuant to a
4 tender offer commenced prior to, September
5 1, 1991, or pursuant to an exchange offer
6 announced prior to September 1, 1991, and
7 commenced within ninety (90) days thereafter
8 and either:

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

13 ii. is an affiliate or associate of the
14 corporation and so continued, or so
15 would have continued but for action by
16 the corporation, to be the owner of
17 fifteen percent (15%) or more of the
18 outstanding voting stock of the
19 corporation at any time within the
20 three-year period immediately prior to
21 the date on which it is sought to be
22 determined whether the person is an
23 interested shareholder, or
24

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

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

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

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

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

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

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

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

18 b. has:

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

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

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

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

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

5 SECTION 42. AMENDATORY 18 O.S. 2011, Section 1090.4, is
6 amended to read as follows:

7 Section 1090.4 CONVERSION OF A DOMESTIC ~~BUSINESS~~
8 ENTITY TO A DOMESTIC CORPORATION

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

19 B. Any ~~business~~ entity may convert to a corporation
20 incorporated under the laws of this state by complying with
21 subsection G of this section and filing in the office of the
22 Secretary of State a certificate of conversion that has been
23 executed in accordance with subsection H of this section and filed
24 in accordance with Section 1007 of this title, to which shall be

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

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

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

7 2. The name ~~and~~, jurisdiction of formation, and type of entity

8 of the ~~business~~ entity when formed and, if changed, its name ~~and~~,

9 jurisdiction and type of entity immediately before the filing of the

10 certificate of conversion;

11 3. The name of the corporation as set forth in its certificate

12 of incorporation filed in accordance with subsection B of this

13 section; and

14 4. The future effective date or time, which shall be a date or

15 time certain not later than ninety (90) days after the filing, of

16 the conversion to a corporation if the conversion is not to be

17 effective upon the filing of the certificate of conversion and the

18 certificate of incorporation provides for the same future effective

19 date as authorized in subsection D of Section 1007 of this title.

20 D. Upon the effective date or time of the certificate of

21 conversion and the certificate of incorporation, the ~~business~~ entity

22 shall be converted to a domestic corporation and the corporation

23 shall thereafter be subject to all of the provisions of this title,

24 except that notwithstanding Section 1007 of this title, the

1 existence of the corporation shall be deemed to have commenced on
2 the date the ~~business~~ entity commenced its existence.

3 E. The conversion of any ~~business~~ entity to a domestic
4 corporation shall not be deemed to affect any obligations or
5 liabilities of the ~~business~~ entity incurred before its conversion to
6 a domestic corporation or the personal liability of any person
7 incurred before such conversion.

8 F. When a ~~business~~ an entity has converted to a domestic
9 corporation under this section, the domestic corporation shall be
10 deemed to be the same entity as the converting ~~business~~ entity. All
11 of the rights, privileges and powers of the ~~business~~ entity that has
12 converted, and all property, real, personal and mixed, and all debts
13 due to the ~~business~~ entity, as well as all other things and causes
14 of action belonging to the ~~business~~ entity, shall remain vested in
15 the domestic corporation to which the ~~business~~ entity has converted
16 and shall be the property of the domestic corporation and the title
17 to any real property vested by deed or otherwise in the ~~business~~
18 entity shall not revert or be in any way impaired by reason of the
19 conversion; but all rights of creditors and all liens upon any
20 property of the ~~business~~ entity shall be preserved unimpaired, and
21 all debts, liabilities and duties of the ~~business~~ entity that has
22 converted shall remain attached to the domestic corporation to which
23 the ~~business~~ entity has converted, and may be enforced against it to
24 the same extent as if said debts, liabilities and duties had

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

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

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

23 I. The certificate of conversion to a corporation shall be
24 signed by an officer, director, trustee, manager, partner, or other

1 person performing functions equivalent to those of an officer or
2 director of a domestic corporation, however named or described, and
3 who is authorized to sign the certificate of conversion on behalf of
4 the ~~business~~ entity.

5 J. In a conversion of ~~a business~~ an entity to a domestic
6 corporation under this section, rights or securities of, or
7 memberships or membership, economic or ownership interests in, the
8 ~~business~~ entity which is to be converted to a domestic corporation
9 may be exchanged for or converted into cash, property, or shares of
10 stock, rights or securities of the domestic corporation or, in
11 addition to or in lieu thereof, may be exchanged for or converted
12 into cash, property, or shares of stock, rights or securities of or
13 interests in another domestic corporation or ~~business~~ entity or may
14 be canceled.

15 SECTION 43. AMENDATORY 18 O.S. 2011, Section 1090.5, is
16 amended to read as follows:

17 Section 1090.5 CONVERSION OF DOMESTIC CORPORATION

18 TO ~~A BUSINESS~~ AN ENTITY

19 A. A domestic corporation may, upon the authorization of such
20 conversion in accordance with this section, convert to ~~a business~~ an
21 entity. As used in this section, the term "~~business~~ entity" means a
22 domestic or foreign partnership, whether general or limited, and
23 including a limited liability partnership and a limited liability
24 limited partnership, limited liability company, ~~business trust,~~

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

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

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

1 corporation is converting to a foreign ~~business~~ entity, the
2 corporation shall file with the Secretary of State a certificate of
3 conversion executed in accordance with Section 1007 of this title
4 which certifies:

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

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

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

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

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

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

24

1 ~~which a copy of the process shall be mailed to it by the Secretary~~
2 ~~of State; and;~~

3 7. The address to which a copy of the process referred to in
4 this subsection shall be mailed to it by the Secretary of State. In
5 the event of such service upon the Secretary of State in accordance
6 with the provisions of Section 2004 of Title 12 of the Oklahoma
7 Statutes, the Secretary of State shall immediately notify such
8 corporation that has converted out of the State of Oklahoma by
9 letter, certified mail, return receipt requested, directed to the
10 corporation at the address specified unless the corporation shall
11 have designated in writing to the Secretary of State a different
12 address for this purpose, in which case it shall be mailed to the
13 last address so designated. The notice shall include a copy of the
14 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 name 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; and

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

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

23 E. The conversion of a corporation under this section and the
24 resulting cessation of its existence as a domestic corporation shall

1 not be deemed to affect any obligations or liabilities of the
2 corporation incurred before such conversion or the personal
3 liability of any person incurred before the conversion, nor shall it
4 be deemed to affect the choice of law applicable to the corporation
5 with respect to matters arising before the conversion.

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

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

20 H. When a corporation has converted to ~~a business~~ an entity
21 under this section, the ~~business~~ entity shall be deemed to be the
22 same entity as the corporation. All of the rights, privileges and
23 powers of the corporation that has converted, and all property,
24 real, personal and mixed, and all debts due to the corporation, as

1 well as all other things and causes of action belonging to the
2 corporation, shall remain vested in the ~~business~~ entity to which the
3 corporation has converted and shall be the property of the ~~business~~
4 entity, and the title to any real property vested by deed or
5 otherwise in the corporation shall not revert or be in any way
6 impaired by reason of the conversion; but all rights of creditors
7 and all liens upon any property of the corporation shall be
8 preserved unimpaired, and all debts, liabilities and duties of the
9 corporation that has converted shall remain attached to the ~~business~~
10 entity to which the corporation has converted, and may be enforced
11 against it to the same extent as if said debts, liabilities and
12 duties had originally been incurred or contracted by it in its
13 capacity as the ~~business~~ entity. The rights, privileges, powers and
14 interest in property of the corporation that has converted, as well
15 as the debts, liabilities and duties of the corporation, shall not
16 be deemed, as a consequence of the conversion, to have been
17 transferred to the ~~business~~ entity to which the corporation has
18 converted for any purpose of the laws of this state.

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

23 J. Nothing in this section shall be deemed to authorize the
24 conversion of a charitable nonstock corporation into another entity,

1 if the charitable status of such charitable nonstock corporation
2 would thereby be lost or impaired.

3 SECTION 44. AMENDATORY 18 O.S. 2011, Section 1091, is
4 amended to read as follows:

5 Section 1091. APPRAISAL RIGHTS

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

1 ~~this subsection shall be effective only with respect to mergers or~~
2 ~~consolidations consummated pursuant to an agreement of merger or~~
3 ~~consolidation entered into after November 1, 1988.~~

4 B. 1. Except as otherwise provided for in this subsection,
5 appraisal rights shall be available for the shares of any class or
6 series of stock of a constituent corporation in a merger or
7 consolidation, or of the acquired corporation in a share
8 acquisition, to be effected pursuant to the provisions of Section
9 1081, other than a merger effected pursuant to subsection G of
10 Section 1081, or, subject to paragraph 3 of this subsection,
11 subsection H of Section 1081, and Section 1082, 1084, 1085, 1086,
12 1087, 1090.1 or 1090.2 of this title.

13 2. a. Except as expressly provided in subsection B of
14 Section 1158 of this title, ~~no~~ no appraisal rights
15 under this section shall be available for the shares
16 of any class or series of stock which stock, or
17 depository receipts in respect thereof, at the record
18 date fixed to determine the shareholders entitled to
19 receive notice of ~~and to vote at~~ the meeting of
20 shareholders to act upon the agreement of merger or
21 consolidation, were either:

22 (1) listed on a national securities exchange ~~or~~
23 ~~designated as a national market system security~~
24 ~~on an interdealer quotation system by the~~

1 ~~National Association of Securities Dealers, Inc.;~~

2 or

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

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

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

16 3. Notwithstanding the provisions of paragraph 2 of this
17 subsection, appraisal rights provided for in this section shall be
18 available for the shares of any class or series of stock of a
19 constituent corporation if the holders thereof are required by the
20 terms of an agreement of merger or consolidation pursuant to the
21 provisions of Section 1081, 1082, 1084, 1085, 1086, 1087, 1090.1 or
22 1090.2 of this title to accept for the stock anything except:

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

20 4. In the event all of the stock of a subsidiary Oklahoma
21 corporation party to a merger effected pursuant to the provisions of
22 subsection H of Section 1081 or Section 1083 of this title or
23 Section 33 of this act is not owned by the parent corporation
24

1 immediately prior to the merger, appraisal rights shall be available
2 for the shares of the subsidiary Oklahoma corporation.

3 5. In the event of an amendment to a corporation's certificate
4 of incorporation contemplated by subsection A of Section 1158 of
5 this title, appraisal rights shall be available as contemplated by
6 subsection B of Section 1158 of this title, and the procedures of
7 this section, including those set forth in subsections D and E,
8 shall apply as nearly as practicable, with the word "amendment"
9 substituted for the words "merger or consolidation", and the word
10 "corporation" substituted for the words "constituent corporation"
11 and/or "surviving or resulting corporation".

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

22 D. Appraisal rights shall be perfected as follows:

23 1. If a proposed merger or consolidation for which appraisal
24 rights are provided under this section is to be submitted for

1 approval at a meeting of shareholders, the corporation, not less
2 than twenty (20) days prior to the meeting, shall notify each of its
3 shareholders ~~entitled to appraisal rights~~ who was such on the record
4 date for notice of such meeting, or such members who received notice
5 in accordance with subsection C of Section 1084 of this title, with
6 respect to shares for which appraisal rights are available pursuant
7 to subsection B or C of this section that appraisal rights are
8 available for any or all of the shares of the constituent
9 corporations, and shall include in the notice a copy of this section
10 and, if one of the constituent corporations is a nonstock
11 corporation, a copy of Section 1 of this act. Each shareholder
12 electing to demand the appraisal of the shares of the shareholder
13 shall deliver to the corporation, before the taking of the vote on
14 the merger or consolidation, a written demand for appraisal of the
15 shares of the shareholder. The demand will be sufficient if it
16 reasonably informs the corporation of the identity of the
17 shareholder and that the shareholder intends thereby to demand the
18 appraisal of the shares of the shareholder. A proxy or vote against
19 the merger or consolidation shall not constitute such a demand. A
20 shareholder electing to take such action must do so by a separate
21 written demand as herein provided. Within ten (10) days after the
22 effective date of the merger or consolidation, the surviving or
23 resulting corporation shall notify each shareholder of each
24 constituent corporation who has complied with the provisions of this

1 subsection and has not voted in favor of or consented to the merger
2 or consolidation as of the date that the merger or consolidation has
3 become effective; or

4 2. If the merger or consolidation is approved pursuant to the
5 provisions of Section 1073, subsection H of Section 1081 or Section
6 1083 of this title or Section 33 of this act, either a constituent
7 corporation before the effective date of the merger or consolidation
8 or the surviving or resulting corporation within ten (10) days
9 thereafter shall notify each of the holders of any class or series
10 of stock of the constituent corporation who are entitled to
11 appraisal rights of the approval of the merger or consolidation and
12 that appraisal rights are available for any or all shares of such
13 class or series of stock of the constituent corporation, and shall
14 include in the notice a copy of this section and, if one of the
15 constituent corporations is a nonstock corporation, a copy of
16 Section 1 of this act. The notice may, and, if given on or after
17 the effective date of the merger or consolidation, shall, also
18 notify the shareholders of the effective date of the merger or
19 consolidation. Any shareholder entitled to appraisal rights may,
20 within twenty (20) days after the date of mailing of the notice or,
21 in the case of a merger approved pursuant to subsection H of Section
22 1081 of this title, within the later of the consummation of the
23 tender or exchange offer contemplated by subsection H of Section
24 1081 of this title and twenty (20) days after the date of mailing of

1 such notice, demand in writing from the surviving or resulting
2 corporation the appraisal of the holder's shares. The demand will
3 be sufficient if it reasonably informs the corporation of the
4 identity of the shareholder and that the shareholder intends to
5 demand the appraisal of the holder's shares. If the notice does not
6 notify shareholders of the effective date of the merger or
7 consolidation either:

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

14 b. the surviving or resulting corporation shall send a
15 second notice to all holders on or within ten (10)
16 days after the effective date of the merger or
17 consolidation; provided, however, that if the second
18 notice is sent more than twenty (20) days following
19 the mailing of the first notice or, in the case of a
20 merger approved pursuant to subsection H of Section
21 1081 of this title, later than the later of the
22 consummation of the tender or exchange offer
23 contemplated by subsection H of Section 1081 of this
24 title and twenty (20) days following the sending of

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

21 E. Within one hundred twenty (120) days after the effective
22 date of the merger or consolidation, the surviving or resulting
23 corporation or any shareholder who has complied with the provisions
24 of subsections A and D of this section and who is otherwise entitled

1 to appraisal rights, may file a petition in district court demanding
2 a determination of the value of the stock of all such shareholders,
3 ~~provided, however.~~ Notwithstanding the foregoing, at any time
4 within sixty (60) days after the effective date of the merger or
5 consolidation, any shareholder who has not commenced an appraisal
6 proceeding or joined that proceeding as a named party shall have the
7 right to withdraw the demand of the shareholder for appraisal and to
8 accept the terms offered upon the merger or consolidation. Within
9 one hundred twenty (120) days after the effective date of the merger
10 or consolidation, any shareholder who has complied with the
11 requirements of subsections A and D of this section, upon written
12 request, shall be entitled to receive from the corporation surviving
13 the merger or resulting from the consolidation a statement setting
14 forth the aggregate number of shares not voted in favor of the
15 merger or consolidation and with respect to which demands for
16 appraisal have been received and the aggregate number of holders of
17 the shares. The written statement shall be mailed to the
18 shareholder within ten (10) days after the shareholder's written
19 request for a statement is received by the surviving or resulting
20 corporation or within ten (10) days after expiration of the period
21 for delivery of demands for appraisal pursuant to the provisions of
22 subsection D of this section, whichever is later. Notwithstanding
23 subsection A of this section, a person who is the beneficial owner
24 of shares of such stock held either in a voting trust or by a

1 nominee on behalf of such person may, in such person's own name,
2 file a petition or request from the corporation the statement
3 described in this section.

4 F. Upon the filing of any such petition by a shareholder,
5 service of a copy thereof shall be made upon the surviving or
6 resulting corporation, which, within twenty (20) days after service,
7 shall file, in the office of the court clerk of the district court
8 in which the petition was filed, a duly verified list containing the
9 names and addresses of all shareholders who have demanded payment
10 for their shares and with whom agreements regarding the value of
11 their shares have not been reached by the surviving or resulting
12 corporation. If the petition shall be filed by the surviving or
13 resulting corporation, the petition shall be accompanied by such
14 duly verified list. The court clerk, if so ordered by the court,
15 shall give notice of the time and place fixed for the hearing on the
16 petition by registered or certified mail to the surviving or
17 resulting corporation and to the shareholders shown on the list at
18 the addresses therein stated. Notice shall also be given by one or
19 more publications at least one (1) week before the day of the
20 hearing, in a newspaper of general circulation published in the City
21 of Oklahoma City, Oklahoma, or other publication as the court deems
22 advisable. The forms of the notices by mail and by publication
23 shall be approved by the court, and the costs thereof shall be borne
24 by the surviving or resulting corporation.

1 G. At the hearing on the petition, the court shall determine
2 the shareholders who have complied with the provisions of this
3 section and who have become entitled to appraisal rights. The court
4 may require the shareholders who have demanded an appraisal of their
5 shares and who hold stock represented by certificates to submit
6 their certificates of stock to the court clerk for notation thereon
7 of the pendency of the appraisal proceedings; and if any shareholder
8 fails to comply with this direction, the court may dismiss the
9 proceedings as to that shareholder.

10 H. After determining the shareholders entitled to an appraisal,
11 the court shall appraise the shares, determining their fair value
12 exclusive of any element of value arising from the accomplishment or
13 expectation of the merger or consolidation, together with ~~a fair~~
14 ~~rate of~~ interest, if any, to be paid upon the amount determined to
15 be the fair value. In determining the fair value, the court shall
16 take into account all relevant factors. In determining the fair
17 rate of interest, the court may consider all relevant factors,
18 ~~including the rate of interest which the surviving or resulting~~
19 ~~corporation would have to pay to borrow money during the pendency of~~
20 ~~the proceeding.~~ Unless the court in its discretion determines
21 otherwise for good cause shown, interest from the effective date of
22 the merger through the date of payment of the judgment shall be
23 compounded quarterly and shall accrue at five percent (5%) over the
24 Federal Reserve discount rate, including any surcharge, as

1 established from time to time during the period between the
2 effective date of the merger and the date of payment of judgment.

3 Upon application by the surviving or resulting corporation or by any
4 shareholder entitled to participate in the appraisal proceeding, the
5 court may, in its discretion, ~~permit discovery or other pretrial~~
6 ~~proceedings and may~~ proceed to trial upon the appraisal prior to the
7 final determination of the shareholder entitled to an appraisal.

8 Any shareholder whose name appears on the list filed by the
9 surviving or resulting corporation pursuant to the provisions of
10 subsection F of this section and who has submitted the certificates
11 of stock of the shareholder to the court clerk, if required, may
12 participate fully in all proceedings until it is finally determined
13 that the shareholder is not entitled to appraisal rights pursuant to
14 the provisions of this section.

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

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

19 Payment shall be made to each shareholder, in the case of holders of
20 uncertificated stock immediately, and in the case of holders of
21 shares represented by certificates upon the surrender to the
22 corporation of the certificates representing the stock. The court's
23 decree may be enforced as other decrees in the district court may be

24

1 enforced, whether the surviving or resulting corporation be a
2 corporation of this state or of any other state.

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

11 K. From and after the effective date of the merger or
12 consolidation, no shareholder who has demanded appraisal rights as
13 provided for in subsection D of this section shall be entitled to
14 vote the stock for any purpose or to receive payment of dividends or
15 other distributions on the stock, except dividends or other
16 distributions payable to shareholders of record at a date which is
17 prior to the effective date of the merger or consolidation;
18 provided, however, that if no petition for an appraisal shall be
19 filed within the time provided for in subsection E of this section,
20 or if the shareholder shall deliver to the surviving or resulting
21 corporation a written withdrawal of the shareholder's demand for an
22 appraisal and an acceptance of the merger or consolidation, either
23 within sixty (60) days after the effective date of the merger or
24 consolidation as provided for in subsection E of this section or

1 thereafter with the written approval of the corporation, then the
2 right of the shareholder to an appraisal shall cease; provided
3 further, no appraisal proceeding in the district court shall be
4 dismissed as to any shareholder without the approval of the court,
5 and approval may be conditioned upon terms as the court deems just;
6 provided, however, that this provision shall not affect the right of
7 any shareholder who has not commenced an appraisal proceeding or
8 joined that proceeding as a named party to withdraw such
9 shareholder's demand for appraisal and to accept the terms offered
10 upon the merger or consolidation within sixty (60) days after the
11 effective date of the merger or consolidation, as set forth in
12 subsection E of this section.

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

18 SECTION 45. AMENDATORY 18 O.S. 2011, Section 1092, is
19 amended to read as follows:

20 Section 1092.

21 SALE, LEASE OR EXCHANGE OF ASSETS; CONSIDERATION; PROCEDURE

22 A. Every corporation, at any meeting of its board of directors
23 or governing body, may sell, lease, or exchange all or substantially
24 all of its property and assets, including its goodwill and its

1 corporate franchises, upon such terms and conditions and for such
2 consideration, which may consist in whole or in part of money or
3 other property, including shares of stock in, and/or other
4 securities of, any other corporation or corporations, as its board
5 of directors or governing body deems expedient and for the best
6 interests of the corporation, when and as authorized by a resolution
7 adopted by the holders of a majority of the outstanding stock of the
8 corporation entitled to vote thereon or, if the corporation is a
9 nonstock corporation, by a majority of the members having the right
10 to vote for the election of the members of the governing body and
11 any other members entitled to vote thereon under the certificate of
12 incorporation or the bylaws of such corporation, at a meeting duly
13 called upon at least twenty (20) days' notice. The notice of the
14 meeting shall state that such a resolution will be considered.

15 B. Notwithstanding authorization or consent to a proposed sale,
16 lease or exchange of a corporation's property and assets by the
17 shareholders or members, the board of directors or governing body
18 may abandon such proposed sale, lease or exchange without further
19 action by the shareholders or members, subject to the rights, if
20 any, of third parties under any contract relating thereto.

21 C. For purposes of this section only, the property and assets
22 of the corporation include the property and assets of any subsidiary
23 of the corporation. As used in this subsection, "subsidiary" means
24 any entity wholly owned and controlled, directly or indirectly, by

1 the corporation and includes, without limitation, corporations,
2 partnerships, limited partnerships, limited liability partnerships,
3 limited liability companies, and statutory trusts. Notwithstanding
4 subsection A of this section, except to the extent the certificate
5 of incorporation otherwise provides, no resolution by shareholders
6 or members shall be required for a sale, lease or exchange of
7 property and assets of the corporation to a subsidiary.

8 SECTION 46. AMENDATORY 18 O.S. 2011, Section 1095, is
9 amended to read as follows:

10 Section 1095.

11 DISSOLUTION BEFORE THE ISSUANCE OF SHARES OR BEGINNING BUSINESS;
12 PROCEDURE

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

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

24

1 shall cause notice to be mailed to each shareholder entitled to vote
2 thereon as of the record date for determining the shareholders
3 entitled to notice of the meeting of the adoption of the resolution
4 and of a meeting of shareholders to take action upon the resolution.

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

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

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

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

1 been authorized by all of the shareholders of the corporation
2 entitled to vote on a dissolution, in accordance with subsection C
3 of this section; ~~and~~

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

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

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

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

17 SECTION 48. AMENDATORY 18 O.S. 2011, Section 1097, is
18 amended to read as follows:

19 Section 1097.

20 DISSOLUTION OF NONSTOCK CORPORATION; PROCEDURE

21 A. Whenever it shall be desired to dissolve any corporation
22 having no capital stock, the governing body shall perform all the
23 acts necessary for dissolution which are required by the provisions
24 of Section 1096 of this title to be performed by the board of

1 directors of a corporation having capital stock. If the members of
2 a corporation having no capital stock are entitled to vote for the
3 election of members of its governing body or are entitled to vote
4 for dissolution under the certificate of incorporation or the bylaws
5 of such corporation, they shall perform all the acts necessary for
6 dissolution which are required by the provisions of Section 1096 of
7 this title to be performed by the shareholders of a corporation
8 having capital stock, including dissolution without action of the
9 members of the governing body if all the members of the corporation
10 entitled to vote thereon shall consent in writing and a certificate
11 of dissolution shall be filed with the Secretary of State pursuant
12 to subsection D of Section 1096 of this title. If there is no
13 member entitled to vote thereon, the dissolution of the corporation
14 shall be authorized at a meeting of the governing body, upon the
15 adoption of a resolution to dissolve by the vote of a majority of
16 members of its governing body then in office. ~~In the event of the~~
17 ~~dissolution of a not for profit corporation, a notice of dissolution~~
18 ~~shall be published one (1) time in a newspaper having general~~
19 ~~circulation in the county in which the principal place of business~~
20 ~~of such corporation is located.~~ In all other respects, the method
21 and proceedings for the dissolution of a corporation having no
22 capital stock shall conform as nearly as may be to the proceedings
23 prescribed by the provisions of Section 1096 of this title for the
24 dissolution of corporations having capital stock.

1 B. If a corporation having no capital stock has not commenced
2 the business for which the corporation was organized, a majority of
3 the governing body or, if none, a majority of the incorporators may
4 surrender all of the corporation rights and franchises by filing in
5 the Office of the Secretary of State a certificate, executed and
6 acknowledged by a majority of the incorporators or governing body,
7 conforming as nearly as may be to the certificate prescribed by
8 Section 1095 of this title.

9 SECTION 49. AMENDATORY 18 O.S. 2011, Section 1099, is
10 amended to read as follows:

11 Section 1099.

12 CONTINUATION OF CORPORATION AFTER DISSOLUTION FOR PURPOSES OF
13 SUIT AND WINDING UP AFFAIRS

14 All corporations, whether they expire by their own limitation or
15 are otherwise dissolved, nevertheless shall be continued, for the
16 term of three (3) years from such expiration or dissolution or for
17 such longer period as the district court shall in its discretion
18 direct, bodies corporate for the purpose of prosecuting and
19 defending suits, whether civil, criminal or administrative, by or
20 against them, and of enabling them gradually to settle and close
21 their business, to dispose of and convey their property, to
22 discharge their liabilities, and to distribute to their shareholders
23 any remaining assets, but not for the purpose of continuing the
24 business for which the corporation was organized. With respect to

1 any action, suit, or proceeding begun by or against the corporation
2 either prior to or within three (3) years after the date of its
3 expiration or dissolution, the action shall not abate by reason of
4 the expiration or dissolution of the corporation. The corporation,
5 solely for the purpose of such action, suit or proceeding, shall be
6 continued as a body corporate beyond the three-year period and until
7 any judgments, orders or decrees therein shall be fully executed,
8 without the necessity for any special direction to that effect by
9 the district court. Sections 1100 through 1100.3 of this title
10 shall apply to any corporation that has expired by its own
11 limitation, and when so applied, all references in those sections to
12 a dissolved corporation or dissolution shall include a corporation
13 that has expired by its own limitation and to such expiration
14 respectively.

15 SECTION 50. AMENDATORY 18 O.S. 2011, Section 1100.1, is
16 amended to read as follows:

17 Section 1100.1

18 NOTICE TO CLAIMANTS; FILING OF CLAIMS

19 A. 1. After a corporation has been dissolved in accordance
20 with the procedures set forth in the Oklahoma General Corporation
21 Act, the corporation or any successor entity may give notice of the
22 dissolution requiring all persons having a claim against the
23 corporation other than a claim against the corporation in a pending
24 action, suit, or proceeding to which the corporation is a party to

1 present their claims against the corporation in accordance with the
2 notice. The notice shall state:

3 a. that all such claims must be presented in writing and
4 must contain sufficient information reasonably to
5 inform the corporation or successor entity of the
6 identity of the claimant and the substance of the
7 claim,

8 b. the mailing address to which a claim must be sent,

9 c. the date by which a claim must be received by the
10 corporation or successor entity, which date shall be
11 no earlier than sixty (60) days from the date of the
12 notice,

13 d. that the claim will be barred if not received by the
14 date referred to in subparagraph c of this paragraph,

15 e. that the corporation or a successor entity may make
16 distributions to other claimants and the corporation's
17 shareholders or persons interested as having been such
18 without further notice to the claimant, and

19 f. the aggregate amount, on an annual basis, of all
20 distributions made by the corporation to its
21 shareholders for each of the three (3) years prior to
22 the date the corporation dissolved.

23 2. The notice shall also be published at least once a week for
24 two (2) consecutive weeks in a newspaper of general circulation in

1 the county in which the office of the corporation's last registered
2 agent in this state is located and in the corporation's principal
3 place of business and, in the case of a corporation having Ten
4 Million Dollars (\$10,000,000.00) or more in total assets at the time
5 of its dissolution, at least once in an Oklahoma newspaper having a
6 circulation of at least two hundred fifty thousand (250,000). On or
7 before the date of the first publication of the notice, the
8 corporation or successor entity shall mail a copy of the notice by
9 certified or registered mail, return receipt requested, to each
10 known claimant of the corporation, including persons with claims
11 asserted against the corporation in a pending action, suit, or
12 proceeding to which the corporation is a party.

13 3. Any claim against the corporation required to be presented
14 pursuant to this subsection is barred if a claimant who was given
15 actual notice under this subsection does not present the claim to
16 the dissolved corporation or successor entity by the date referred
17 to in subparagraph c of paragraph 1 of this subsection.

18 4. A corporation or successor entity may reject, in whole or in
19 part, any claim made by a claimant pursuant to this subsection by
20 mailing notice of rejection by certified or registered mail return
21 receipt requested to the claimant within ninety (90) days after
22 receipt of the claim and, in all events, at least one hundred fifty
23 (150) days before the expiration of the period described in Section
24 1099 of ~~Title 18 of the Oklahoma Statutes~~ this title; provided,

1 however, that in the case of a claim filed pursuant to Section 1110
2 of this title against a corporation or successor entity for which a
3 receiver or trustee has been appointed by the district court, the
4 time period shall be as provided in Section 1111 of this title, and
5 the thirty-day appeal period provided for in Section 1111 of this
6 title shall be applicable. A notice sent by a corporation or
7 successor entity pursuant to this subsection shall state that any
8 claim rejected will be barred if an action, suit, or proceeding with
9 respect to the claim is not commenced within one hundred twenty
10 (120) days of the date thereof, and shall be accompanied by a copy
11 of Sections 1099 through 1100.3 of this title, and, in the case of a
12 notice sent by a court-appointed receiver or trustee for a claim
13 filed pursuant to Section 1110 of this title, the notice shall be
14 accompanied by copies of Sections 1110 and 1111 of this title.

15 5. A claim against a corporation is barred if a claimant whose
16 claim is rejected pursuant to paragraph 4 of this subsection does
17 not commence an action, suit, or proceeding with respect to the
18 claim within one hundred twenty (120) days after the mailing of the
19 rejection notice.

20 B. 1. A corporation or successor entity electing to follow the
21 procedures described in subsection A of this section shall also give
22 notice of the dissolution of the corporation to persons with
23 contractual claims contingent upon the occurrence or nonoccurrence
24 of future events or otherwise conditional or unmatured, and request

1 that those persons present their claims in accordance with the terms
2 of the notice. As used in this section and Section 1100.2 of this
3 title, the term "contractual claims" shall not include any implied
4 warranty as to any product manufactured, sold, distributed, or
5 handled by the dissolved corporation. The notice shall be in
6 substantially the form, and sent and published in the same manner,
7 as described in paragraph 1 of subsection A of this section.

8 2. The corporation or successor entity shall offer any claimant
9 on a contract whose claim is contingent, conditional, or unmatured,
10 the security that the corporation or successor entity determines is
11 sufficient to provide compensation to the claimant if the claim
12 matures. The corporation or successor entity shall mail the offer
13 to the claimant by certified or registered mail, return receipt
14 requested, within ninety (90) days of receipt of the claim and, in
15 all events, at least one hundred fifty (150) days before the
16 expiration of the period described in Section 1099 of this title.
17 If the claimant offered the security does not deliver in writing to
18 the corporation or successor entity a notice rejecting the offer
19 within one hundred twenty (120) days after receipt of the offer for
20 security, the claimant shall be deemed to have accepted the security
21 as the sole source from which to satisfy his or her claim against
22 the corporation.

23 C. 1. A corporation or successor entity which has given notice
24 in accordance with subsection A of this section shall petition the

1 district court to determine the amount and form of security that
2 will be reasonable likely to be sufficient to provide compensation
3 for any claim against the corporation which is the subject of a
4 pending action, suit, or proceeding to which the corporation is a
5 party other than a claim barred pursuant to subsection A of this
6 section.

7 2. A corporation or successor entity which has given notice in
8 accordance with subsections A and B of this section shall petition
9 the district court to determine the amount and form of security that
10 will be sufficient to provide compensation to any claimant who has
11 rejected the offer for security made pursuant to paragraph 2 of
12 subsection B of this section.

13 3. A corporation or successor entity which has given notice in
14 accordance with subsection A of this section shall petition the
15 district court to determine the amount and form of security which
16 will be reasonably likely to be sufficient to provide compensation
17 for claims that have not been made known to the corporation or that
18 have not arisen but that, based on facts known to the corporation or
19 successor entity, are likely to arise or to become known to the
20 corporation or successor entity within five (5) years after the date
21 of dissolution or a longer period of time as the district court may
22 determine not to exceed ten (10) years after the date of
23 dissolution. The district court may appoint a guardian ad litem in
24 respect of any such proceeding brought under this subsection. The

1 reasonable fees and expenses of the guardian, including all
2 reasonable expert witness fees, shall be paid by the petitioner in
3 the proceeding.

4 D. The giving of any notice or making of any offer pursuant to
5 the provisions of this section shall not revive any claim then
6 barred or constitute acknowledgment by the corporation or successor
7 entity that any person to whom the notice is sent is a proper
8 claimant and shall not operate as a waiver of any defense or
9 counterclaim in respect of any claim asserted by any person to whom
10 the notice is sent.

11 E. As used in this section, the term "successor entity" shall
12 include any trust, receivership, or other legal entity governed by
13 the laws of this state to which the remaining assets and liabilities
14 of a dissolved corporation are transferred and which exists solely
15 for the purposes of prosecuting and defending suits, by or against
16 the dissolved corporation, enabling the dissolved corporation to
17 settle and close the business of the dissolved corporation, to
18 dispose of and convey the property of the dissolved corporation, to
19 discharge the liabilities of the dissolved corporation, and to
20 distribute to the dissolved corporation's shareholders any remaining
21 assets, but not for the purpose of continuing the business for which
22 the dissolved corporation was organized.

23 F. In the case of a nonstock corporation, any notice referred
24 to in the last sentence of paragraph 4 of subsection A of this

1 section shall include a copy of Section 1 of this act. In the case
2 of a nonprofit nonstock corporation, provisions of this section
3 regarding distributions to members shall not apply to the extent
4 that those provisions conflict with any other applicable law or with
5 that corporation's certificate of incorporation or bylaws.

6 SECTION 51. AMENDATORY 18 O.S. 2011, Section 1100.2, is
7 amended to read as follows:

8 Section 1100.2

9 PAYMENT AND DISTRIBUTION TO CLAIMANTS AND SHAREHOLDERS

10 A. 1. A dissolved corporation or successor entity which has
11 followed the procedures described in Section 1100.1 of this title
12 shall:

- 13 a. pay the claims made and not rejected in accordance
14 with subsection A of Section 1100.1 of this title~~†~~1
- 15 b. post the security offered and not rejected pursuant to
16 paragraph 2 of subsection B of Section 1100.1 of this
17 title~~†~~1
- 18 c. post any security ordered by the district court in any
19 proceeding under subsection C of Section 1100.1 of
20 this title~~†~~1 and
- 21 d. pay or make provision for all other claims that are
22 mature, known, and uncontested or that have been
23 finally determined to be owing by the corporation or
24 successor entity.

1 2. Claims or obligations shall be paid in full and any
2 provision for payment shall be made in full if there are sufficient
3 assets. If there are insufficient assets, the claims and
4 obligations shall be paid or provided for according to their
5 priority, and, among claims of equal priority, ratably to the extent
6 of assets legally available therefor. Any remaining assets shall be
7 distributed to the shareholders of the dissolved corporation;
8 provided, however, that distribution shall not be made before the
9 expiration of one hundred fifty (150) days from the date of the last
10 notice of rejections given pursuant to paragraph 3 of subsection A
11 of Section 1100.1 of this title. In the absence of actual fraud,
12 the judgment of the directors of the dissolved corporation or the
13 governing persons of the successor entity as to the provision made
14 for the payment of all obligations under subparagraph d of paragraph
15 4 1 of this subsection shall be conclusive.

16 B. A dissolved corporation or successor entity which has not
17 followed the procedures described in Section 1100.1 of this title
18 shall, prior to the expiration of the period described in Section
19 1099 of this title, adopt a plan of distribution pursuant to which
20 the dissolved corporation or successor entity:

21 1. Shall pay or make reasonable provision to pay all claims and
22 obligations, including all contingent, conditional, or unmatured
23 contractual claims known to the corporation or the successor entity;

24

1 2. Shall make provision as will be reasonably likely to be
2 sufficient to provide compensation for any claim against the
3 corporation which is the subject of a pending action, suit, or
4 proceeding to which the corporation is a party; and

5 3. Shall make provision as will be reasonably likely to be
6 sufficient to provide compensation for claims that have not been
7 made known to the corporation or successor entity or that have not
8 arisen but that, based on facts known to the corporation or
9 successor entity, are likely to arise or to become known to the
10 corporation or successor entity within ten (10) years after the date
11 of dissolution. The plan of distribution shall provide that the
12 claims shall be paid in full and any provision for payment made
13 shall be made in full if there are sufficient assets. If there are
14 insufficient assets, the plan shall provide that the claims and
15 obligations shall be paid or provided for according to their
16 priority and, among claims of equal priority, ratably to the extent
17 of assets legally available therefor. Any remaining assets shall be
18 distributed to the shareholders of the dissolved corporation.

19 C. Directors of a dissolved corporation or governing persons of
20 a successor entity which has complied with subsection A or B of this
21 section shall not be personally liable to the claimants of the
22 dissolved corporation.

23 D. As used in this section, the term "successor entity" has the
24 meaning set forth in subsection E of Section 1100.1 of this title.

1 E. As used in this section, the term "priority" does not refer
2 either to the order of payments set forth in ~~paragraphs 1 through 4~~
3 subparagraphs a through d of paragraph 1 of subsection A of this
4 section or to the relative times at which any claims mature or are
5 reduced to judgment.

6 F. In the case of a nonprofit nonstock corporation, provisions
7 of this section regarding distributions to members shall not apply
8 to the extent that those provisions conflict with any other
9 applicable law or with that corporation's certificate of
10 incorporation or bylaws.

11 SECTION 52. AMENDATORY 18 O.S. 2011, Section 1119, is
12 amended to read as follows:

13 Section 1119.

14 REVOCATION OF VOLUNTARY DISSOLUTION

15 A. At any time prior to the expiration of three (3) years
16 following the dissolution of a corporation pursuant to the
17 provisions of Section 1096 of this title, or, at any time prior to
18 the expiration of such longer period as the district court may have
19 directed pursuant to the provisions of Section 1099 of this title, a
20 corporation may revoke the dissolution up to that time effected by
21 it in the following manner:

22 1. For purposes of this section, "shareholders" means the
23 shareholders of record on the date the dissolution becomes
24 effective;

1 2. The board of directors shall adopt a resolution recommending
2 that the dissolution be revoked and directing that the question of
3 the revocation be submitted to a vote at a special meeting of
4 shareholders;

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

8 4. At the meeting a vote of the shareholders shall be taken on
9 a resolution to revoke the dissolution. If a majority of the stock
10 of the corporation which was outstanding and entitled to vote upon a
11 dissolution at the time of its dissolution shall be voted for the
12 resolution, a certificate of revocation of dissolution shall be
13 executed and acknowledged in accordance with the provisions of
14 Section 1007 of this title which shall state:

15 a. the name of the corporation;

16 b. the address of the corporation's registered office in
17 this state, which shall be stated in accordance with
18 subsection C of Section 1021 of this title, and the
19 name of its registered agent at such address;

20 c. the names and respective addresses of its officers;

21 ~~e.~~ d. the names and respective addresses of its directors;

22 and

23 ~~d.~~ e. that a majority of the stock of the corporation which
24 was outstanding and entitled to vote upon a

1 dissolution at the time of its dissolution have voted
2 in favor of a resolution to revoke the dissolution;
3 or, if it be the fact, that, in lieu of a meeting and
4 vote of shareholders, the shareholders have given
5 their written consent to the revocation in accordance
6 with the provisions of Section 1073 of this title.

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

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

1 meeting of shareholders for purposes of subsection C of Section 1056
2 of this title.

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

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

16 F. At any time prior to the expiration of three (3) years
17 following the dissolution of a nonstock corporation pursuant to
18 Section 1097 of this title, or at any time prior to the expiration
19 of such longer period as the district court may have directed
20 pursuant to Section 1099 of this title, a nonstock corporation may
21 revoke the dissolution theretofore effected by it in a manner
22 analogous to that by which the dissolution was authorized,
23 including:

24

1 may at any time procure an extension, restoration, renewal or
2 revival of its certificate of incorporation, together with all the
3 rights, franchises, privileges and immunities and subject to all of
4 its duties, debts and liabilities which had been secured or imposed
5 by its original certificate of incorporation and all amendments
6 thereto.

7 C. The extension, restoration, renewal or revival of the
8 certificate of incorporation may be procured by executing,
9 acknowledging and filing a certificate in accordance with the
10 provisions of Section 1007 of this title.

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

13 1. The name of the corporation, which shall be the existing
14 name of the corporation or the name it bore when its certificate of
15 incorporation expired, except as provided for in subsection F of
16 this section;

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

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

1 the renewal is to commence, which shall be prior to the date of the
2 expiration of the old certificate of incorporation which it is
3 desired to renew;

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

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

11 6. That the certificate for renewal or revival is filed by
12 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 directors or members of the governing
15 body of the corporation as provided for in subsection H of this
16 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 shall validate all
22 contracts, acts, matters and things made, done and performed within
23 the scope of its certificate of incorporation by the corporation,
24 its officers and agents during the time when its certificate of

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

17 F. If, after three (3) years from the date upon which the
18 certificate of incorporation became forfeited for nonpayment of
19 taxes, or expired by limitation, the name of the corporation is
20 unavailable upon the records of the Secretary of State, then in such
21 case the corporation to be renewed or revived shall not be renewed
22 under the same name which it bore when its certificate of
23 incorporation became forfeited, or expired but shall adopt or be
24 renewed under some other name and in such case the certificate to be

1 filed under the provisions of this section shall set forth the name
2 borne by the corporation at the time its certificate of
3 incorporation became forfeited, or expired and the new name under
4 which the corporation is to be renewed or revived.

5 G. Any corporation that renews or revives its certificate of
6 incorporation pursuant to the provisions of this section shall pay
7 to this state the amounts provided in Sections 1201 through 1214 of
8 Title 68 of the Oklahoma Statutes. No payment made pursuant to this
9 subsection shall reduce the amount of franchise tax due pursuant to
10 the provisions of Sections 1201 through 1214 of Title 68 of the
11 Oklahoma Statutes for the year in which the renewal or revival is
12 effected.

13 H. If a sufficient number of the last acting officers of any
14 corporation desiring to renew or revive its certificate of
15 incorporation are not available by reason of death, unknown address
16 or refusal or neglect to act, the directors of the corporation or
17 those remaining on the board, even if only one, may elect successors
18 to such officers. In any case where there shall be no directors of
19 the corporation available to renew or revive the certificate of
20 incorporation of the corporation, the shareholders may elect a full
21 board of directors, as provided by the bylaws of the corporation,
22 and the board shall then elect such officers as are provided by law,
23 by the certificate of incorporation or by the bylaws to carry on the
24 business and affairs of the corporation. A special meeting of the

1 shareholders for the purposes of electing directors may be called by
2 any officer, director or shareholder upon notice given in accordance
3 with the provisions of Section 1067 of this title.

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

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

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

12 SECTION 54. AMENDATORY 18 O.S. 2011, Section 1130, is
13 amended to read as follows:

14 Section 1130.

15 FOREIGN CORPORATIONS; DEFINITION; QUALIFICATION TO DO BUSINESS
16 IN STATE; PROCEDURE

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

20 B. No foreign corporation shall do any business in this state,
21 through or by branch offices, agents or representatives located in
22 this state, until it shall have paid to the Secretary of State of
23 this state the fees prescribed in Section 1142 of this title and
24 shall have filed with the Secretary of State:

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

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

- 10 a. the mailing address of the corporation's principal
11 place of business, wherever located,
- 12 b. the name and street address of its additional
13 registered agent in this state, if any, which agent
14 ~~shall be either~~ may be the foreign corporation itself,
15 an individual resident in this state ~~when appointed or~~
16 ~~another,~~ a domestic corporation, a domestic
17 partnership whether general or limited and including a
18 limited liability partnership or a limited liability
19 limited partnership, a domestic limited liability
20 company, or limited partnership a domestic statutory
21 trust, a foreign corporation other than the foreign
22 corporation itself, a foreign partnership whether
23 general or limited and including a limited liability
24 partnership or a limited liability limited

1 partnership, a foreign limited liability company or a
2 foreign statutory trust, if authorized to transact
3 business in this state,

- 4 c. the aggregate number of its authorized shares itemized
5 by classes, par value of shares, shares without par
6 value, and series, if any, within any classes
7 authorized, unless it has no authorized capital,
8 d. a statement, as of a date not earlier than six (6)
9 months prior to the filing date, of the assets and
10 liabilities of the corporation,
11 e. the business it proposes to do in this state and a
12 statement that it is authorized to do that business in
13 the jurisdiction of its incorporation, and
14 f. a statement of the maximum amount of capital such
15 corporation intends and expects to invest in the state
16 at any time during the current fiscal year. "Invested
17 capital" is defined as the value of the maximum amount
18 of funds, credits, securities and property of whatever
19 kind existing at any time during the fiscal year in
20 the State of Oklahoma and used or employed by such
21 corporation in its business carried on in this state.

22 C. The Secretary of State, upon payment to the Secretary of
23 State of the fees prescribed in Section 1142 of this title, shall
24 issue a sufficient number of certificates under the hand and

1 official seal of the Secretary of State, evidencing the filing of
2 the statement required by the provisions of subsection B of this
3 section. The certificate of the Secretary of State shall be prima
4 facie evidence of the right of the corporation to do business in
5 this state; provided that the Secretary of State shall not issue
6 such certificate unless the name of the corporation is such as to
7 distinguish it upon the records of the Office of the Secretary of
8 State in accordance with the provisions of Section 1141 of this
9 title.

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

20 SECTION 55. AMENDATORY 18 O.S. 2011, Section 1133, is
21 amended to read as follows:

22 Section 1133.

23 CHANGE OF REGISTERED AGENT UPON WHOM PROCESS MAY BE SERVED
24

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

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

9 b. a revocation of all previous appointments of agent for
10 such purposes.

11 2. The Such registered agent shall be either an individual
12 residing in this state when appointed or a corporation, limited
13 liability company, or limited partnership authorized to transact
14 business in this state comply with subparagraph b of paragraph 2 of
15 subsection B of Section 1130 of this title.

16 B. Any individual or ~~corporation~~ entity designated by a foreign
17 corporation as its registered agent for service of process may
18 resign by filing with the Secretary of State a signed statement that
19 the agent is unwilling to continue to act as the registered agent of
20 the corporation for service of process, including in the statement
21 the post office address of the main or headquarters office of the
22 foreign corporation, but the resignation shall not become effective
23 until thirty (30) days after the statement is filed. The statement
24 shall be acknowledged by the registered agent and shall contain a

1 representation that written notice of resignation was given to the
2 corporation at least thirty (30) days prior to the filing of the
3 statement by mailing or delivering the notice to the corporation at
4 its address given in the statement.

5 C. If any agent designated and certified as required by the
6 provisions of Section 1130 of this title shall die, remove himself
7 from this state or resign, then the foreign corporation for which
8 the agent had been so designated and certified, within ten (10) days
9 after the death, removal or resignation of its agent, shall
10 substitute, designate and certify to the Secretary of State, the
11 name of another registered agent for the purposes of the Oklahoma
12 General Corporation Act, and all process, orders, rules and notices
13 may be served on or given to the substituted agent with like effect.

14 D. Any individual, ~~corporation, limited liability company or~~
15 ~~limited partnership~~ or entity designated by a foreign corporation as
16 its registered agent for service of process may change the address
17 of the registered office of the corporation or corporations for
18 which he or she is the registered agent to another address in this
19 state by filing with the Secretary of State a certificate in the
20 name of each affected corporation, executed and acknowledged by the
21 registered agent, setting forth the address at which the registered
22 agent has maintained the registered office, and further certifying
23 to the new address to which the registered office will be changed on
24 a given day, and at which new address the registered agent will

1 thereafter maintain the registered office. Thereafter, or until
2 further change of address, as authorized by law, the registered
3 office in this state shall be located at the new address of the
4 registered agent thereof as given in the certificate.

5 E. In the event of a change of name of any individual or
6 ~~corporation~~ entity designated by a foreign corporation as its
7 registered agent for service of process, the registered agent shall
8 file with the Secretary of State a certificate in the name of each
9 affected corporation, executed and acknowledged by the registered
10 agent, setting forth the new name of the registered agent, the name
11 of the registered agent before it was changed, and the address at
12 which the registered agent has maintained the registered office for
13 the affected corporation. A change of name of any person or
14 ~~corporation~~ entity acting as registered agent as a result of a
15 merger or consolidation of the registered agent, with or into
16 another person or corporation which succeeds to its assets by
17 operation of law, shall be deemed a change of name for purposes of
18 this section.

19 SECTION 56. AMENDATORY 18 O.S. 2011, Section 1135, is
20 amended to read as follows:

21 Section 1135.

22 WITHDRAWAL OF FOREIGN CORPORATION FROM STATE; PROCEDURE; SERVICE
23 OF PROCESS ON SECRETARY OF STATE
24

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

5 1. A certificate, executed by an authorized officer of the
6 corporation and acknowledged in accordance with the provisions of
7 Section 1007 of this title, stating that it surrenders its authority
8 to transact business in Oklahoma and withdraws ~~therefrom~~; and
9 stating the address to which the Secretary of State may mail any
10 process against the corporation that may be served upon the
11 Secretary of State; or

12 2. A copy of a certificate of dissolution issued by the proper
13 official of the state or other jurisdiction of its incorporation,
14 together with a certificate, which shall be executed in accordance
15 with the provisions of paragraph 1 of this subsection, stating the
16 address to which the Secretary of State may mail any process against
17 the corporation that may be served upon the Secretary of State; ~~or~~

18 ~~3.~~ A or a copy of an order or decree of dissolution made by any
19 court of competent jurisdiction or other competent authority of the
20 state or other jurisdiction of its incorporation, certified to be a
21 true copy under the hand of the clerk of the court or other official
22 body, and the official seal of the court or official body or clerk
23 thereof, together with a certificate executed in accordance with the
24 provisions of paragraph 1 of this subsection, stating the address to

1 which the Secretary of State may mail any process against the
2 corporation that may be served upon the Secretary of State.

3 B. 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 surrender of
7 the authority of the corporation to do business in this state and
8 its withdrawal therefrom.

9 C. Upon the issuance of the certificates by the Secretary of
10 State, the appointment of the registered agent of the corporation in
11 this state, upon whom process against the corporation may be served,
12 shall be revoked, and service on the corporation may be made by
13 serving the Secretary of State as its agent as provided in Section
14 2004 of Title 12 of the Oklahoma Statutes.

15 D. In the event of service upon the Secretary of State in
16 accordance with the provisions of Section 2004 of Title 12 of the
17 Oklahoma Statutes, the Secretary of State shall immediately notify
18 the corporation by letter, certified mail, return receipt requested,
19 at the address stated in the certificate which was filed by the
20 corporation with the Secretary of State pursuant to subsection A of
21 this section. The letter shall include a copy of the process and
22 any other papers served on the Secretary of State pursuant to the
23 provisions of this subsection. It shall be the duty of the
24 plaintiff in the event of such service to serve process and any

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

15 SECTION 57. AMENDATORY 18 O.S. 2011, Section 1142, is
16 amended to read as follows:

17 Section 1142.

18 FILING AND OTHER SERVICE FEES

19 A. The Secretary of State, for services performed in the Office
20 of the Secretary of State and for expense of mailing, shall charge
21 and collect the following fees:

22 1. For any report, document, or other paper required to be
23 filed in the Office of the Secretary of State, a fee of Twenty-five
24 Dollars (\$25.00);

- 1 2. For reservation of corporate name, a fee of Ten Dollars
2 (\$10.00);
- 3 3. For issuing extra copies of any certificate not requiring
4 any extra filing of papers or documents of any kind, a fee of Ten
5 Dollars (\$10.00);
- 6 4. For issuing any other certificate, a fee of Ten Dollars
7 (\$10.00);
- 8 5. For receiving a filing or indexing the annual certificate of
9 a foreign corporation doing business in this state, or both when
10 filed together, a fee of Ten Dollars (\$10.00);
- 11 6. For preclearance of any document for filing, a fee of Fifty
12 Dollars (\$50.00);
- 13 7. For each service of process made upon and accepted by the
14 Secretary of State, a fee of Twenty-five Dollars (\$25.00);
- 15 8. For preparing and providing a report of a record search, a
16 fee of Five Dollars (\$5.00);
- 17 9. For filing and issuing certificates of incorporation, the fee
18 shall be one-tenth of one percent (1/10 of 1%) of the authorized
19 capital stock of such corporation; provided, that the minimum fee
20 for any such service shall be Fifty Dollars (\$50.00); provided
21 further, that not-for-profit corporations and public benefit
22 corporations shall only be required to pay a fee of Twenty-five
23 Dollars (\$25.00);
- 24

1 10. For filing and issuing amended certificates of incorporation
2 or certificates of restatement, reorganization, revival, extension
3 or dissolution, the fee shall be Fifty Dollars (\$50.00); provided,
4 however, not-for-profit corporations and public benefit corporations
5 shall only be required to pay a fee of Twenty-five Dollars (\$25.00).
6 If an amendment shall provide for an increase in authorized capital
7 in excess of Fifty Thousand Dollars (\$50,000.00), the filing fee
8 shall be an amount equal to one-tenth of one percent (1/10 of 1%) of
9 such increase;

10 11. For filing and issuing certificates of consolidation, if the
11 resulting corporation is a domestic corporation, or merger, if the
12 surviving corporation is a domestic corporation, the fee shall be
13 One Hundred Dollars (\$100.00); provided, however, not-for-profit
14 corporations and public benefit corporations shall only be required
15 to pay a fee of Twenty-five Dollars (\$25.00). If the merger or
16 consolidation shall increase the authorized capital of the surviving
17 or resulting corporation in excess of Fifty Thousand Dollars
18 (\$50,000.00), the filing fee shall be an amount equal to one-tenth
19 of one percent (1/10 of 1%) of such increase;

20 12. For filing and issuing a certificate of conversion,
21 whenever the resulting corporation is a domestic corporation, the
22 minimum fee shall be One Hundred Dollars (\$100.00); provided,
23 however, if the certificate of incorporation of the resulting
24 corporation authorizes capital stock in excess of Fifty Thousand

1 Dollars (\$50,000.00), the filing fee shall be an amount equal to
2 one-tenth of one percent (1/10 of 1%) of such authorized capital.
3 If the resulting domestic corporation is not for profit, it shall
4 only be required to pay a fee of Fifty Dollars (\$50.00);

5 13. For issuing a certificate to a foreign corporation to do
6 business in this state, and filing a certificate and statement of
7 such corporation required pursuant to the provisions of Section 1130
8 of this title, the fee shall be one-tenth of one percent (1/10 of
9 1%) of the maximum amount of capital invested by such corporation in
10 the state at any time during the fiscal year such certificate is
11 issued to any such foreign corporation; provided, that the minimum
12 fee for any such service shall be Three Hundred Dollars (\$300.00);
13 provided further, that no such corporation shall be required to pay
14 a fee on an amount in excess of its authorized capital;

15 14. For amended certificate of qualification of a foreign
16 corporation, a fee of Two Hundred Dollars (\$200.00); provided,
17 however, for a certificate solely reflecting a change of mailing
18 address, a fee of Ten Dollars (\$10.00);

19 15. For filing a certificate of consolidation, if the resulting
20 corporation is a foreign corporation, or merger, if the surviving
21 corporation is a foreign corporation, the fee shall be One Hundred
22 Dollars (\$100.00);

23

24

1 16. For filing a certificate of withdrawal of a foreign
2 corporation doing business in this state, a fee of One Hundred
3 Dollars (\$100.00);

4 17. Every foreign corporation on the anniversary of its
5 qualification in this state each year, shall cause to be filed with
6 the Secretary of State a certificate of its president,
7 vice-president or other managing officers, in which shall be stated
8 and shown the maximum amount of capital the corporation had invested
9 in the state at any time subsequent to the issuance to it of a
10 certificate to do business in this state and the amount of capital
11 previously paid upon. If the amount of capital so invested as shown
12 by said certificate exceeds the amount formerly paid upon, the
13 corporation, at the time of filing said certificate, shall pay to
14 the Secretary of State an additional fee equal to one-tenth of one
15 percent (1/10 of 1%) of the amount of such excess capital so
16 invested by the corporation in the state; provided, that no such
17 corporation shall be required to pay a filing fee on an amount in
18 excess of its authorized capital, or to file the certificate
19 provided for in this paragraph after it shall have paid a filing fee
20 on its total authorized capitalization;

21 18. For acting as the registered agent, a fee of One Hundred
22 Dollars (\$100.00) payable on the first day of July each year, and if
23 not paid before the next ensuing September 1st, the Oklahoma Tax
24 Commission shall suspend and forfeit the charter of the delinquent

1 corporation pursuant to the procedures prescribed in Section 1212 of
2 Title 68 of the Oklahoma Statutes. The Tax Commission shall collect
3 and audit the registered agent fee authorized pursuant to this
4 paragraph in conjunction with the collection and audit of franchise
5 taxes as provided for in Sections 1201 through 1214 of Title 68 of
6 the Oklahoma Statutes. All monies received by the Tax Commission
7 pursuant to the provisions of this paragraph shall be paid to the
8 State Treasurer for deposit in the General Revenue Fund;

9 19. For filing a change of address for any individual,
10 corporation, limited liability company or limited partnership
11 designated by a corporation as its registered agent for service of
12 process, or for the change of name or the resignation of a
13 registered agent, a fee of Twenty-five Dollars (\$25.00), for the
14 first forty corporations and Five Dollars (\$5.00) for each
15 additional corporation within any bulk filing; and

16 20. For any response by means of telecommunications to
17 inquiries regarding information required to be maintained by the
18 Secretary of State, a fee of Five Dollars (\$5.00), unless otherwise
19 provided. Fees collected pursuant to this paragraph shall be
20 deposited in the Revolving Fund for the Office of the Secretary of
21 State.

22 B. Except as otherwise provided by law, fees paid to the
23 Secretary of State in accordance with the provisions of the Oklahoma
24 General Corporation Act shall be properly accounted for and shall be

1 paid monthly to the State Treasurer for deposit in the General
2 Revenue Fund.

3 C. For any certificate supplied by the county clerk, such clerk
4 shall receive a fee of One Dollar (\$1.00). Such fees shall be
5 properly accounted for and shall be paid into the county treasury in
6 the same manner as other fees collected by the county clerk for the
7 filing and recording of mortgages and deeds.

8 D. In any court proceeding pursuant to the provisions of the
9 Oklahoma General Corporation Act requiring the filing of any decree,
10 order, report or other document in the Office of the Secretary of
11 State or in the office of any county clerk, in addition to the usual
12 court costs and the costs for filing in the office of the clerk of
13 the court, fees equal to the amounts provided for in this section
14 for such required filing shall be collected as costs in such
15 proceedings and such amount shall be forwarded to the Secretary of
16 State and the county clerk with the papers to be filed.

17 E. The provisions contained in this section relating to the
18 payment of incorporation fees by foreign corporations are not
19 intended and shall not be construed to relieve such corporations,
20 where applicable, of the payment of the annual corporate franchise
21 tax to the Tax Commission.

22 F. For the purposes of computing the fees to be collected by
23 the Secretary of State pursuant to the provisions of this section,
24 each share without par value shall be treated the same as a share

1 with a par value of Fifty Dollars (\$50.00), and the fees thereon
2 shall be collected accordingly.

3 G. Payments for any required fees except as otherwise provided
4 by law may be made as follows:

5 1. By the applicant's personal or company check, cash, or money
6 order; or

7 2. By a nationally recognized credit card issued to the
8 applicant. The Secretary of State may add a convenience fee, not to
9 exceed four percent (4%) of the amount of such payment for services
10 provided through telephonic or electronic media. For purposes of
11 this paragraph, "nationally recognized credit card" means any
12 instrument or device, whether known as a credit card, credit plate,
13 charge plate, or by any other name, issued with or without fee by an
14 issuer for the use of the cardholder in obtaining goods, services,
15 or anything else of value on credit which is accepted by over one
16 thousand merchants in this state. The Secretary of State shall
17 determine which nationally recognized credit cards will be accepted;
18 provided, however, the Secretary of State must ensure that no loss
19 of state revenue will occur by the use of such card. The
20 convenience fee collected pursuant to this paragraph shall be
21 credited to the Revolving Fund for the Office of the Secretary of
22 State, as established in Section 276.1 of Title 62 of the Oklahoma
23 Statutes.

24

1 SECTION 58. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1156 of Chapter 24 of Title 18,
3 unless there is created a duplication in numbering, which reads as
4 follows:

5 Section 1156.

6 LAW APPLICABLE TO PUBLIC BENEFIT CORPORATIONS; HOW FORMED

7 Sections 58 through 65 of this act apply to all public benefit
8 corporations, as defined in Section 59 of this act. If a
9 corporation elects to become a public benefit corporation under and
10 in the manner prescribed in Sections 58 through 65 of this act, it
11 shall be subject in all respects to the provisions of the Oklahoma
12 General Corporation Act, except to the extent Sections 58 through 65
13 of this act impose additional or different requirements, in which
14 case such requirements shall apply.

15 SECTION 59. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1157 of Title 18, unless there
17 is created a duplication in numbering, which reads as follows:

18 A. A public benefit corporation is a for-profit corporation
19 organized under and subject to the requirements of the Oklahoma
20 General Corporation Act that is intended to produce a public benefit
21 or public benefits and to operate in a responsible and sustainable
22 manner. To that end, a public benefit corporation shall be managed
23 in a manner that balances the shareholders' pecuniary interests, the
24 best interests of those materially affected by the corporation's

1 conduct, and the public benefit or public benefits identified in its
2 certificate of incorporation. In the certificate of incorporation,
3 a public benefit corporation shall:

4 1. Identify within its statement of business or purpose
5 pursuant to paragraph 3 of subsection A of Section 1006 of Title 18
6 of the Oklahoma Statutes, one or more specific public benefits to be
7 promoted by the corporation; and

8 2. State within its heading that it is a public benefit
9 corporation.

10 B. "Public benefit" means a positive effect (or reduction of
11 negative effects) on one or more categories of persons, entities,
12 communities or interests (other than shareholders in their
13 capacities as shareholders) including, but not limited to, effects
14 of an artistic, charitable, cultural, economic, educational,
15 environmental, literary, medical, religious, scientific or
16 technological nature. "Public benefit provisions" means the
17 provisions of a certificate of incorporation contemplated by
18 Sections 58 through 65 of this act.

19 C. The name of the public benefit corporation shall, without
20 exception, contain the words "public benefit corporation", the
21 abbreviation "P.B.C." or the designation "PBC", which shall be
22 deemed to satisfy the requirements of paragraph 1 of subsection A of
23 Section 1006 of Title 18 of the Oklahoma Statutes.

24

1 SECTION 60. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1158 of Title 18, unless there
3 is created a duplication in numbering, which reads as follows:

4 Section 1158.

5 CERTAIN AMENDMENTS AND MERGERS; VOTES REQUIRED; APPRAISAL
6 RIGHTS.

7 A. Notwithstanding any other provisions of the Oklahoma General
8 Corporation Act, a corporation that is not a public benefit
9 corporation may not, without the approval of ninety percent (90%) of
10 the outstanding shares of each class of the stock of the corporation
11 of which there are outstanding shares, whether voting or non-voting:

12 1. Amend its certificate of incorporation to include a
13 provision authorized by paragraph 1 of subsection A of Section 1157
14 of this title; or

15 2. Merge or consolidate with or into another entity if, as a
16 result of such merger or consolidation, the shares in such
17 corporation would become, or be converted into or exchanged for the
18 right to receive, shares or other equity interests in a domestic or
19 foreign public benefit corporation or similar entity.

20 The restrictions of this section shall not apply prior to the
21 time that the corporation has received payment for any of its
22 capital stock, or in the case of a nonstock corporation, prior to
23 the time that it has members.

24

1 B. Any shareholder of a corporation that is not a public
2 benefit corporation that holds shares of stock of such corporation
3 immediately prior to the effective time of:

4 1. An amendment to the corporation's certificate of
5 incorporation to include a provision authorized by paragraph 1 of
6 subsection A of Section 59 of this act; or

7 2. A merger or consolidation that would result in the
8 conversion of the corporation's stock into or exchange of the
9 corporation's stock for the right to receive shares or other equity
10 interests in a domestic or foreign public benefit corporation or
11 similar entity, and has neither voted in favor of such amendment or
12 such merger or consolidation nor consented thereto in writing
13 pursuant to Section 1073 of Title 18 of the Oklahoma Statutes, shall
14 be entitled to an appraisal by the District Court of the fair value
15 of the shareholder's shares of stock.

16 C. Notwithstanding any other provisions of the Oklahoma General
17 Corporation Act, a corporation that is a public benefit corporation
18 may not, without the approval of two-thirds (2/3) of the outstanding
19 shares of each class of the stock of the corporation of which there
20 are outstanding shares, whether voting or nonvoting:

21 1. Amend its certificate of incorporation to delete or amend a
22 provision authorized by paragraph 1 of subsection A of Section 59 or
23 subsection C of Section 63 of this act; or

24

1 2. Merge or consolidate with or into another entity if, as a
2 result of such merger or consolidation, the shares in such
3 corporation would become, be converted into or exchanged for the
4 right to receive, shares or other equity interests in a domestic or
5 foreign corporation that is not a public benefit corporation or
6 similar entity and the certificate of incorporation (or similar
7 governing instrument) of which does not contain the identical
8 provisions identifying the public benefit or public benefits
9 pursuant to subsection A of Section 59 of this act or imposing
10 requirements pursuant to subsection C of Section 63 of this act.

11 D. Notwithstanding the foregoing, a nonprofit, nonstock
12 corporation may not be a constituent corporation to any merger or
13 consolidation governed by this section.

14 SECTION 61. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1159 of Title 18, unless there
16 is created a duplication in numbering, which reads as follows:

17 STOCK CERTIFICATES; NOTICES REGARDING

18 UNCERTIFICATED STOCK

19 Any stock certificate issued by a public benefit corporation
20 shall note conspicuously that the corporation is a public benefit
21 corporation formed pursuant to Sections 58 through 65 of this act.
22 Any notice sent by a public benefit corporation pursuant to
23 subsection F of Section 1032 of Title 18 of the Oklahoma Statutes

24

1 shall state conspicuously that the corporation is a public benefit
2 corporation formed pursuant to Sections 58 through 65 of this act.

3 SECTION 62. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1160 of Title 18, unless there
5 is created a duplication in numbering, which reads as follows:

6 DUTIES OF DIRECTORS.

7 A. The board of directors shall manage or direct the business
8 and affairs of the public benefit corporation in a manner that
9 balances the pecuniary interests of the shareholders, the best
10 interests of those materially affected by the corporation's conduct,
11 and the specific public benefit or public benefits identified in its
12 certificate of incorporation.

13 B. A director of a public benefit corporation shall not, by
14 virtue of the public benefit provisions or subsection A of Section
15 59 of this act, have any duty to any person on account of any
16 interest of such person in the public benefit or public benefits
17 identified in the certificate of incorporation or on account of any
18 interest materially affected by the corporation's conduct and, with
19 respect to a decision implicating the balance requirement in
20 subsection A of this section, will be deemed to satisfy such
21 director's fiduciary duties to shareholders and the corporation if
22 such director's decision is both informed and disinterested and not
23 such that no person of ordinary, sound judgment would approve.

24

1 C. The certificate of incorporation of a public benefit
2 corporation may include a provision that any disinterested failure
3 to satisfy this section shall not, for the purposes of Section
4 paragraph 7 of subsection B of Section 1006 or Section 1031 of Title
5 18 of the Oklahoma Statutes, constitute an act or omission not in
6 good faith, or a breach of the duty of loyalty.

7 SECTION 63. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1161 of Title 18, unless there
9 is created a duplication in numbering, which reads as follows:

10 PERIODIC STATEMENTS AND THIRD PARTY CERTIFICATION

11 A. A public benefit corporation shall include in every notice
12 of a meeting of shareholders a statement to the effect that it is a
13 public benefit corporation formed pursuant to Sections 58 through 65
14 of this act.

15 B. A public benefit corporation shall, no less than biennially,
16 provide its shareholders with a statement as to the corporation's
17 promotion of the public benefit or public benefits identified in the
18 certificate of incorporation and of the best interests of those
19 materially affected by the corporation's conduct. The statement
20 shall include:

21 1. The objectives the board of directors has established to
22 promote such public benefit or public benefits and interests;

23
24

1 Shareholders of a public benefit corporation owning individually
2 or collectively, as of the date of instituting such derivative suit,
3 at least two percent (2%) of the corporation's outstanding shares
4 or, in the case of a corporation with shares listed on a national
5 securities exchange, the lesser of such percentage or shares of at
6 least Two Million Dollars (\$2,000,000.00) in market value, may
7 maintain a derivative lawsuit to enforce the requirements set forth
8 in subsection A of Section 62 of this act.

9 SECTION 65. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1163 of Title 18, unless there
11 is created a duplication in numbering, which reads as follows:

12 NO EFFECT ON OTHER CORPORATIONS.

13 Sections 58 through 65 of this act shall not affect a statute or
14 rule of law that is applicable to a corporation that is not a public
15 benefit corporation, except as provided in Section 60 of this act.

16 SECTION 66. AMENDATORY 18 O.S. 2011, Section 2001, is
17 amended to read as follows:

18 Section 2001.

19 DEFINITIONS

20 As used in this act, unless the context otherwise requires:

21 1. "Articles of organization" means documents filed ~~under~~
22 ~~Section 2019 of this title~~ for the purpose of forming a limited
23 liability company, and the articles as amended;
24

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

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

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

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

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

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

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

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

- 1 a. an unincorporated association,
2 b. organized under the laws of a state other than the
3 laws of this state or organized under the laws of any
4 foreign country,
5 c. organized under a statute pursuant to which an
6 association may be formed that affords to each of its
7 members limited liability with respect to the
8 liabilities of the entity, and

9 ~~d. not required to be registered or organized under any~~
10 ~~statute of this state other than this act~~ a limited liability
11 company formed under the laws of any state other than this state, or
12 under the laws of the District of Columbia or any foreign country;

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

16 11. "Limited liability company" or "domestic limited liability
17 company" means an entity ~~that is an unincorporated association or~~
18 ~~proprietorship having one or more members that is organized~~ formed
19 under the Oklahoma Limited Liability Company Act and existing under
20 the laws of this state;

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

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

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

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

16 16. "Operating agreement", regardless of whether referred to as
17 an operating agreement and whether oral, in a record, implied, or in
18 any combination thereof, means any agreement of the members,
19 including a sole member, as to the affairs of a limited liability
20 company and the conduct of its business, including the agreement as
21 amended or restated;

22 17. "Person" means an individual, a general partnership, a
23 limited partnership, a limited liability company, a trust, an
24

1 estate, an association, a corporation or any other legal or
2 commercial entity; ~~and~~

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

6 19. "Charitable entity" means any nonprofit limited liability
7 company or other entity that is exempt from taxation under Section
8 501(c)(3) of the United States Internal Revenue Code (26 U.S.C.,
9 Section 501(c)(3)), or any successor provisions.

10 SECTION 67. AMENDATORY 18 O.S. 2011, Section 2004, is
11 amended to read as follows:

12 Section 2004.

13 FILING THE ARTICLES OF ORGANIZATION

14 A. One or more persons may form a limited liability company upon
15 the filing of executed articles of organization with the Office of
16 the Secretary of State.

17 B. 1. When the articles of organization become effective, the
18 proposed organization becomes a limited liability company under the
19 name and subject to the purposes, conditions, and provisions stated
20 in the articles. A limited liability company formed under this act
21 is a separate legal entity, the existence of which as a separate
22 legal entity continues until cancellation of the limited liability
23 company's articles of organization and completion of its winding up,
24 if any.

1 B. A limited liability company is bound by its operating
2 agreement regardless of whether it executes the operating agreement.
3 A member or manager of a limited liability company or an assignee of
4 a ~~membership~~ capital interest is bound by the operating agreement
5 regardless of whether the member, manager or assignee executes the
6 operating agreement.

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

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

18 SECTION 69. AMENDATORY 18 O.S. 2011, Section 2015, is
19 amended to read as follows:

20 Section 2015.

21 MANAGEMENT OF COMPANY WITHOUT DESIGNATED MANAGERS; RESIGNATION
22 OF MEMBER

23 A. The articles of organization or operating agreement may
24 provide that the business of the limited liability company shall be

1 managed without designated managers. So long as such provision
2 continues in effect:

3 1. The members shall be deemed to be managers for purposes of
4 applying provisions of this act, unless the context clearly requires
5 otherwise;

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

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

10 B. A member of a member-managed limited liability company may
11 resign ~~as a member~~ from the member's management duties in accordance
12 with the operating agreement or, if the operating agreement does not
13 provide for the member's resignation, upon notice to the limited
14 liability company. ~~When~~ Unless otherwise provided in the operating
15 agreement, when a member of a member-managed limited liability
16 company resigns, the member shall cease to have the rights and
17 duties of a member and shall become an assignee; provided that the
18 profits and losses of the limited liability company shall continue
19 to be allocated to the member and any binding commitments for
20 contributions shall continue as if the member had not resigned. If
21 the resignation violates the operating agreement, in addition to any
22 remedies otherwise available under applicable law, a limited
23 liability company may recover from the resigning member damages for
24 breach of the operating agreement and damages for a prohibited

1 withdrawal under either the operating agreement or Section 2036 of
2 this title and offset the damages against the amount otherwise
3 distributable to the resigning member. ~~The member's resignation~~
4 ~~shall not constitute a withdrawal from the limited liability~~
5 ~~company.~~

6 SECTION 70. AMENDATORY 18 O.S. 2011, Section 2019, is
7 amended to read as follows:

8 Section 2019. A. Every manager is an agent of the limited
9 liability company for the purpose of its business, and the act of
10 every manager, including the execution in the limited liability
11 company name of any instrument for apparently carrying on the
12 business of the limited liability company of which he is a manager,
13 binds the limited liability company, unless the manager so acting
14 lacks the authority to act for the limited liability company in the
15 particular matter, and the person with whom he is dealing has
16 knowledge of the fact that he has no such authority. The
17 unauthorized acts of the manager shall bind the limited liability
18 company as to persons acting in good faith who have no knowledge of
19 the fact that the manager had no such authority.

20 B. Subject to the provisions of subsection A of this section
21 and Section ~~30~~ 2019.1 of this ~~act~~ title, instruments and documents
22 providing for the acquisition, mortgage, or disposition of real or
23 personal property of the limited liability company shall be valid
24

1 and binding upon the limited liability company if executed by one or
2 more of its managers.

3 SECTION 71. AMENDATORY 18 O.S. 2011, Section 2020, is
4 amended to read as follows:

5 Section 2020. A. Voting by members may be on a per capita,
6 number, financial interest, class, group or any other basis. Unless
7 otherwise provided in the articles of organization or operating
8 agreement, the members of a limited liability company vote in
9 proportion to their respective ~~capital~~ interests in the profits of
10 the limited liability company. Except as otherwise provided in
11 subsection D of this section or unless the context otherwise
12 requires, references in this act to a vote or the consent of the
13 members mean a vote or consent of the members holding a majority of
14 the ~~capital~~ interests in the profits of the limited liability
15 company. The vote or consent may be evidenced in the minutes of a
16 meeting of the members or by a written consent in lieu of a meeting.

17 B. Except as otherwise provided in subsection D of this section
18 or in the articles of organization or operating agreement, a
19 majority vote of the members shall be required to approve the
20 following matters:

21 1. The sale, exchange, lease, mortgage, pledge, or other
22 transfer of all or substantially all of the assets of the limited
23 liability company;

24

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

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

5 C. The articles of organization or operating agreement may
6 alter the above voting rights and provide for any other voting
7 rights of members.

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

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

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

15 a. which reduces the term of the existence of the limited
16 liability company,

17 b. which reduces the required vote of members to approve
18 a dissolution, merger or sale, exchange, lease,
19 mortgage, pledge, or other transfer of all or
20 substantially all of the assets of the limited
21 liability company,

22 c. which permits a member to voluntarily withdraw from
23 the limited liability company, or
24

1 d. which reduces the required vote of members to approve
2 an amendment to the articles of organization or
3 written operating agreement reducing the vote
4 previously required on the matters described in this
5 paragraph.

6 E. An operating agreement may grant to all or certain
7 identified members or a specified class or group of the members the
8 right to vote separately or with all or any class or group of the
9 members or managers, on any matter.

10 SECTION 72. AMENDATORY 18 O.S. 2011, Section 2025, is
11 amended to read as follows:

12 Section 2025. Except as otherwise provided in the operating
13 agreement:

14 1. The profits and losses of a limited liability company shall
15 be allocated among the members, and among classes or groups of
16 members, ~~in proportion to their respective capital interests on the~~
17 basis of the agreed value, as stated in the records of the limited
18 liability company, of the contributions made by each member to the
19 extent they have been received by the limited liability company and
20 have not been returned; and

21 2. Distributions of the limited liability company shall be made
22 to the members, and among classes or groups of members, in
23 proportion to their right to share in the profits and losses of the
24 limited liability company.

1 SECTION 73. AMENDATORY 18 O.S. 2011, Section 2030, is
2 amended to read as follows:

3 Section 2030. A. A distribution may not be made if, after
4 giving effect to 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 74. AMENDATORY 18 O.S. 2011, Section 2032, is
6 amended to read as follows:

7 Section 2032. A ~~membership~~ capital interest is personal
8 property. A member has no interest in specific limited liability
9 company property.

10 SECTION 75. AMENDATORY 18 O.S. 2011, Section 2033, is
11 amended to read as follows:

12 Section 2033. A. Unless otherwise provided in an operating
13 agreement:

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

17 2. An assignment of the ~~economic rights~~ capital interest
18 associated with a membership interest does not entitle the assignee
19 to participate in the management and affairs of the limited
20 liability company or to become or to exercise any rights or powers
21 of a member;

22 3. An assignment entitles the assignee to share in profits and
23 losses, to receive any distribution or distributions and to receive
24 the allocation of income, gain, loss, deduction, or credit or

1 similar item to which the assignor was entitled to the extent
2 assigned;

3 4. Unless the assignee of ~~an~~ a capital interest in a limited
4 liability company becomes a member ~~by virtue of that interest~~, the
5 assignor continues to be a member and to have the power to exercise
6 any rights of a member, unless the assignor is removed as a member
7 either in accordance with the operating agreement or, after having
8 assigned all of the ~~membership~~ capital interest, by an affirmative
9 vote of the members who have not assigned their interests. The
10 removal of an assignor shall not, by itself, cause the assignee to
11 become a member;

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

15 6. The assignor of a ~~membership~~ capital interest is not
16 released from liability as a member solely as a result of the
17 assignment.

18 B. The operating agreement may provide that a member's interest
19 in a limited liability company may be evidenced by a certificate of
20 membership interest issued by the limited liability company and also
21 may provide for the assignment or transfer of any membership
22 interest represented by such a certificate and may make other
23 provisions with respect to such certificates.

24

1 C. Unless otherwise provided in the operating agreement, the
2 pledge of, or granting of a security interest, lien, or other
3 encumbrance in or against any or all of the membership interest of a
4 member is not an assignment and shall not cause the member to cease
5 to be a member or cease to have the power to exercise any rights or
6 powers of a member.

7 SECTION 76. AMENDATORY 18 O.S. 2011, Section 2034, is
8 amended to read as follows:

9 Section 2034. On application to a court of competent
10 jurisdiction by any judgment creditor of a member, the court may
11 charge the ~~membership~~ capital interest of the member with payment of
12 the unsatisfied amount of the judgment with interest. To the extent
13 so charged, the judgment creditor has only the rights of an assignee
14 of the ~~membership~~ capital interest. A charging order entered by a
15 court pursuant to this section shall in no event be convertible into
16 a membership interest through foreclosure or other action. This act
17 does not deprive any member of the benefit of any exemption laws
18 applicable to his or her membership or capital interest. This
19 section shall be the sole and exclusive remedy of a judgment
20 creditor with respect to the judgment debtor's membership and
21 capital interest.

22 SECTION 77. AMENDATORY 18 O.S. 2011, Section 2035, is
23 amended to read as follows:

24

1 Section 2035. A. An assignee of ~~an~~ a capital interest in a
2 limited liability company may become a member if and to the extent
3 that:

4 1. The operating agreement provides; or

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

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

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

1 D. Except as otherwise provided in writing in the operating
2 agreement, a member who assigns the member's entire capital interest
3 in the limited liability company ceases to be a member or to have
4 the power to exercise any rights of a member when any assignee of
5 the capital interest becomes a member with respect to the assigned
6 interest.

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

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

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

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

19 SECTION 78. AMENDATORY 18 O.S. 2011, Section 2036, is
20 amended to read as follows:

21 Section 2036. A. Unless the operating agreement specifically
22 permits in writing the power to withdraw voluntarily, a member may
23 not withdraw at any time. If the operating agreement specifically
24 provides in writing the power to withdraw voluntarily, but the

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

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

1 member's interest. If a member is a corporation, trust or other
2 entity and is dissolved or terminated, the powers of that member may
3 be exercised by its personal representative.

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

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

15 SECTION 79. AMENDATORY 18 O.S. 2011, Section 2040, is
16 amended to read as follows:

17 Section 2040. A. Upon the winding up of a limited liability
18 company, the assets shall be distributed as follows:

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

23 2. Except as provided in writing in the articles of
24 organization ~~or~~, operating agreement or other binding agreement, to

1 members ~~or~~, any assignees, and any former members for the purchase,
2 redemption or other acquisition of capital interests in satisfaction
3 of liabilities for distributions authorized but not paid under
4 ~~Sections 2026 and 2027~~ Section 2030 of this title; and

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

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

1 liability of a member, assignee or former member under an agreement
2 or other applicable law for a distribution.

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

12 SECTION 80. AMENDATORY 18 O.S. 2011, Section 2054, is
13 amended to read as follows:

14 Section 2054. A. Pursuant to an agreement of merger or
15 consolidation, a domestic limited liability company may merge or
16 consolidate with or into one or more domestic or foreign limited
17 liability companies or other ~~business~~ entities. As used in this
18 section, "~~business~~ entity" means a domestic or foreign corporation,
19 ~~business trust, common law trust, or unincorporated business~~
20 ~~including a partnership, whether general or limited~~ a domestic or
21 foreign partnership whether general or limited, and including a
22 limited liability partnership and a limited liability limited
23 partnership, and any unincorporated nonprofit or for-profit
24 association, trust or enterprise having members or having

1 outstanding shares of stock or other evidences of financial,
2 beneficial or membership interest therein, whether formed by
3 agreement or under statutory authority or otherwise.

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

1 for such termination or amendment contained in the agreement of
2 merger or consolidation.

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

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

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

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

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

23 5. That the agreement of merger or consolidation is on file at
24 a place of business of the surviving or resulting domestic limited

1 liability company or other ~~business~~ entity, and shall state the
2 street address thereof;

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

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

15 8. In the case of a consolidation, that the articles of
16 organization of the resulting domestic limited liability company
17 shall be as set forth in an attachment to the articles of
18 consolidation; and

19 9. If the surviving or resulting entity is not a domestic
20 limited liability company or ~~business~~ entity formed or organized
21 pursuant to the laws of this state, a statement that the surviving
22 or resulting other ~~business~~ entity agrees to be served with process
23 in this state in any action, suit, or proceeding for the enforcement
24 of any obligation of any domestic limited liability company which is

1 to merge or consolidate; irrevocably appoints the Secretary of State
2 as its agent to accept service of process in any action, suit, or
3 proceeding; and specifies the street address to which process shall
4 be mailed to the entity by the Secretary of State.

5 D. Any failure to file the articles of merger or consolidation
6 in connection with a merger or consolidation which was effective
7 prior to September 1, 1992, shall not affect the validity or
8 effectiveness of any such merger or consolidation.

9 ~~E.~~ A merger or consolidation shall be effective upon the filing
10 with the Secretary of State of articles of merger or consolidation,
11 unless a future effective date or time is provided in the articles
12 of merger or consolidation.

13 ~~F.~~ E. Articles of merger or consolidation terminate the
14 separate existence of a domestic limited liability company which is
15 not the surviving or resulting entity in the merger or
16 consolidation.

17 ~~G.~~ F. Once any merger or consolidation is effective pursuant to
18 this section, for all purposes of the laws of this state, all of the
19 rights, privileges, and powers of each of the domestic limited
20 liability companies and other ~~business~~ entities that have merged or
21 consolidated and all property, real, personal, and mixed, and all
22 debts due to each domestic limited liability company or other
23 ~~business~~ entity, as well as all other things and causes of action
24 belonging to each domestic limited liability company or other

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

24

1 domestic limited liability company to wind up its affairs or pay its
2 liabilities and distribute its assets.

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

6 SECTION 81. AMENDATORY 18 O.S. 2011, Section 2054.1, is
7 amended to read as follows:

8 Section 2054.1

9 CONVERSION OF ~~A BUSINESS~~ AN ENTITY TO A LIMITED LIABILITY
10 COMPANY

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

21 B. Any ~~business~~ entity may convert to a domestic limited
22 liability company by complying with subsection H of this section and
23 filing with the Secretary of State in accordance with Section 2007
24 of this title articles of conversion to a limited liability company

1 that have been executed in accordance with Section 2006 of this
2 title, to which shall be attached articles of organization that
3 comply with Sections 2005 and 2008 of this title and have been
4 executed by one or more authorized persons in accordance with
5 Section 2006 of this title.

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

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

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

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

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

21 D. Upon the effective date or time of the articles of
22 conversion to limited liability company and the articles of
23 organization, the ~~business~~ entity shall be converted to a domestic
24 limited liability company and the limited liability company shall

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

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

11 F. When a ~~business~~ an entity has converted to a domestic
12 limited liability company under this section, the domestic limited
13 liability company shall be deemed to be the same entity as the
14 converting ~~business~~ entity. All of the rights, privileges and
15 powers of the ~~business~~ entity that has converted, and all property,
16 real, personal and mixed, and all debts due to the ~~business~~ entity,
17 as well as all other things and causes of action belonging to the
18 ~~business~~ entity, shall remain vested in the domestic limited
19 liability company and shall be the property of the domestic limited
20 liability company, and the title to any real property vested by deed
21 or otherwise in the ~~business~~ entity shall not revert or be in any
22 way impaired by reason of the conversion, but all rights of
23 creditors and all liens upon any property of the ~~business~~ entity
24 shall be preserved unimpaired, and all debts, liabilities and duties

1 of the ~~business~~ entity that has converted shall remain attached to
2 the domestic limited liability company and may be enforced against
3 it to the same extent as if the debts, liabilities and duties had
4 been incurred or contracted by it in its capacity as a domestic
5 limited liability company. The rights, privileges, powers and
6 interests in property of the ~~business~~ entity, as well as the debts,
7 liabilities and duties of the ~~business~~ entity, shall not be deemed,
8 as a consequence of the conversion, to have been transferred to the
9 domestic limited liability company to which the ~~business~~ entity has
10 converted for any purpose of the laws of this state.

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

19 H. Before filing the articles of conversion to a limited
20 liability company with the Office of the Secretary of State, the
21 conversion shall be approved in the manner provided for by the
22 document, instrument, agreement or other writing, as the case may
23 be, governing the internal affairs of the ~~business~~ entity and the
24 conduct of its business or by applicable law, as appropriate, and

1 articles of organization shall be approved by the same authorization
2 required to approve the conversion.

3 I. In a conversion of ~~a business~~ an entity to a domestic
4 limited liability company under this section, rights or securities
5 of or memberships or membership, economic or ownership interests in
6 the ~~business~~ entity that is to be converted to a domestic limited
7 liability company may be exchanged for or converted into cash,
8 property, or rights or securities of or interests in the domestic
9 limited liability company or, in addition to or in lieu thereof, may
10 be exchanged for or converted into cash, property, or rights or
11 securities of or memberships or membership, economic or ownership
12 interests in another domestic limited liability company or other
13 ~~business~~ entity.

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

20 K. Nothing in this section shall be deemed to authorize the
21 conversion of a charitable entity into a domestic limited liability
22 company, if the charitable status of such entity would thereby be
23 lost or impaired.
24

1 SECTION 82. AMENDATORY 18 O.S. 2011, Section 2054.2, is
2 amended to read as follows:

3 Section 2054.2

4 CONVERSION OF A LIMITED LIABILITY COMPANY TO ~~A BUSINESS~~ AN
5 ENTITY

6 A. A domestic limited liability company may convert to a
7 ~~business~~ an entity upon the authorization of such conversion in
8 accordance with this section. As used in this section, the term
9 "~~business~~ entity" means a domestic or foreign corporation,
10 ~~partnership, whether general or limited, business trust, common law~~
11 ~~trust, or other unincorporated association~~ a domestic or foreign
12 partnership whether general or limited, and including a limited
13 liability partnership and a limited liability limited partnership,
14 and any unincorporated nonprofit or for-profit association, trust or
15 enterprise having members or having outstanding shares of stock or
16 other evidences of financial, beneficial or membership interest
17 therein, whether formed by agreement or under statutory authority or
18 otherwise.

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

23 C. If the operating agreement does not specify the manner of
24 authorizing a conversion of the limited liability company and does

1 not prohibit a conversion of the limited liability company, the
2 conversion shall be authorized in the same manner as is specified in
3 the operating agreement for authorizing a merger or consolidation
4 that involves the limited liability company as a constituent party
5 to a merger or consolidation.

6 D. If the operating agreement does not specify the manner of
7 authorizing a conversion of the limited liability company or a
8 merger or consolidation that involves the limited liability company
9 as a constituent party and does not prohibit a conversion of the
10 limited liability company, the conversion shall be authorized by the
11 approval of a majority of the membership interest or, if there is
12 more than one class or group of members, then by a majority of the
13 membership interest in each class or group of members.

14 Notwithstanding the foregoing, in addition to any other
15 authorization required by this section, if the ~~business~~ entity into
16 which the limited liability company is to convert does not afford
17 all of its interest holders protection against personal liability
18 for the debts of the ~~business~~ entity, the conversion must be
19 authorized by any and all members who would be exposed to personal
20 liability.

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

1 the conversion shall not constitute a dissolution of the limited
2 liability company.

3 F. In a conversion of a domestic limited liability company to a
4 ~~business~~ an entity under this section, rights or securities of or
5 interests in the domestic limited liability company which are to be
6 converted may be exchanged for or converted into cash, property,
7 rights or securities of or memberships or membership, economic or
8 ownership interests in the ~~business~~ entity to which the domestic
9 limited liability company is being converted or, in addition to or
10 in lieu thereof, may be exchanged for or converted into cash,
11 property, rights or securities of or memberships or membership,
12 economic or ownership interests in another ~~business~~ entity or may be
13 canceled.

14 G. If the governing act of the domestic ~~business~~ entity to
15 which the limited liability company is converting does not provide
16 for the filing of a conversion notice with the Secretary of State or
17 the limited liability company is converting to a foreign ~~business~~
18 entity, articles of conversion executed in accordance with Section
19 2006 of this title, shall be filed in the Office of the Secretary of
20 State in accordance with Section 2007 of this title. The articles
21 of conversion shall state:

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

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

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

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

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

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

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

24

1 H. Upon the filing of a conversion notice with the Secretary of
2 State, whether under subsection G of this section or under the
3 governing act of the domestic ~~business~~ entity to which the limited
4 liability company is converting, the filing of any formation
5 document required by the governing act of the domestic ~~business~~
6 entity to which the limited liability company is converting, and
7 payment to the Secretary of State of all prescribed fees, the
8 Secretary of State shall certify that the limited liability company
9 has filed all documents and paid all required fees, and thereupon
10 the limited liability company shall cease to exist as a limited
11 liability company of this state. The Secretary of State's
12 certificate shall be prima facie evidence of the conversion by the
13 limited liability company.

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

23 J. When a limited liability company has converted to a ~~business~~
24 an entity under this section, the ~~business~~ entity shall be deemed to

1 be the same entity as the limited liability company. All of the
2 rights, privileges and powers of the limited liability company that
3 has converted, and all property, real, personal and mixed, and all
4 debts due to the limited liability company, as well as all other
5 things and causes of action belonging to the limited liability
6 company, shall remain vested in the ~~business~~ entity to which the
7 limited liability company has converted and shall be the property of
8 the ~~business~~ entity, and the title to any real property vested by
9 deed or otherwise in the limited liability company shall not revert
10 or be in any way impaired by reason of the conversion; but all
11 rights of creditors and all liens upon any property of the limited
12 liability company shall be preserved unimpaired, and all debts,
13 liabilities and duties of the limited liability company that has
14 converted shall remain attached to the ~~business~~ entity to which the
15 limited liability company has converted, and may be enforced against
16 it to the same extent as if said debts, liabilities and duties had
17 originally been incurred or contracted by it in its capacity as the
18 ~~business~~ entity. The rights, privileges, powers and interests in
19 property of the limited liability company that has converted, as
20 well as the debts, liabilities and duties of the limited liability
21 company, shall not be deemed, as a consequence of the conversion, to
22 have been transferred to the ~~business~~ entity to which the limited
23 liability company has converted for any purpose of the laws of this
24 state.

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

5 SECTION 83. AMENDATORY 18 O.S. 2011, Section 2054.4, is
6 amended to read as follows:

7 Section 2054.4 A. An operating agreement may establish or
8 provide for the establishment of one or more designated series of
9 members, managers, ~~or~~ membership interests or assets. Any such
10 series may have ~~having~~ separate rights, powers or duties with
11 respect to specified property or obligations of the limited
12 liability company or profits and losses associated with specified
13 property or obligations, and any such series may have a separate
14 business purpose or investment objective.

15 B. Notwithstanding anything to the contrary set forth in this
16 act or under other applicable law, if an operating agreement
17 establishes or provides for the establishment of one or more series,
18 and if ~~separate and distinct~~ the records ~~are~~ maintained for any such
19 series ~~and~~ account for the assets associated with ~~any~~ such series
20 ~~are held, directly or indirectly, including through a nominee or~~
21 ~~otherwise, and accounted for~~ separately from the other assets of the
22 limited liability company, or any other series thereof, and if the
23 operating agreement so provides, and if notice of the limitation on
24 liabilities of a series as referenced in this subsection is set

1 forth in the articles of organization of the limited liability
2 company, then the debts, liabilities, obligations and expenses
3 incurred, contracted for or otherwise existing with respect to a
4 particular series shall be enforceable against the assets of such
5 series only, and not against the assets of the limited liability
6 company generally or any other series thereof, and, unless otherwise
7 provided in the operating agreement, none of the debts, liabilities,
8 obligations and expenses incurred, contracted for or otherwise
9 existing with respect to the limited liability company generally or
10 any other series thereof shall be enforceable against the assets of
11 the series. Assets associated with a series may be held directly or
12 indirectly, including in the name of such series, in the name of the
13 limited liability company, through a nominee or otherwise. Records
14 maintained for a series that reasonably identify its assets,
15 including by specific listing, category, type, quantity,
16 computational or allocational formula or procedure (including a
17 percentage or share of any asset or assets) or by any other method
18 where the identity of such assets is objectively determinable, will
19 be deemed to account for the assets associated with such series
20 separately from the other assets of the limited liability company,
21 or any other series thereof. Notice in articles of organization of
22 the limitation on liabilities of a series as referenced in this
23 subsection shall be sufficient for all purposes regardless of
24 whether the limited liability company has established any series

1 when the notice is included in the articles of organization, and
2 there shall be no requirement that any specific series of the
3 limited liability company be referenced in the notice. The fact
4 that articles of organization containing the foregoing notice of the
5 limitation on liabilities of a series are on file in the office of
6 the Secretary of State shall constitute notice of the limitation on
7 liabilities of a series.

8 C. A series established in accordance with subsection B of this
9 section may carry on any lawful business, purpose or activity,
10 whether or not for profit, with the exception of the business of a
11 domestic insurer. Unless otherwise provided in the operating
12 agreement, a series established in accordance with subsection B of
13 this section shall have the power and capacity to, in its own name,
14 contract, hold title to assets, including real, personal and
15 intangible property, grant liens and security interests, and sue and
16 be sued.

17 D. Notwithstanding Section 2022 of this title, under an
18 operating agreement or under another agreement, a member or manager
19 may agree to be obligated personally for any or all of the debts,
20 obligations and liabilities of one or more series.

21 ~~D.~~ E. An operating agreement may provide for classes or groups
22 of members or managers associated with a series having such relative
23 rights, powers and duties as the operating agreement may provide,
24 and may make provision for the future creation in the manner

1 provided in the operating agreement of additional classes or groups
2 of members or managers associated with the series having such
3 relative rights, powers and duties as may from time to time be
4 established, including rights, powers and duties senior to existing
5 classes and groups of members or managers associated with the
6 series. An operating agreement may provide for the taking of an
7 action, including the amendment of the operating agreement, without
8 the vote or approval of any member or manager or class or group of
9 members or managers, including an action to create under the
10 provisions of the operating agreement a class or group of the series
11 of membership interests that was not previously outstanding. An
12 operating agreement may provide that any member or class or group of
13 members associated with a series shall have no voting rights.

14 ~~E.~~ F. An operating agreement may grant to all or certain
15 identified members or managers or a specified class or group of the
16 members or managers associated with a series the right to vote
17 separately or with all or any class or group of the members or
18 managers associated with the series, on any matter. Voting by
19 members or managers associated with a series may be on a per capita,
20 number, financial interest, class, group or any other basis.

21 ~~F.~~ G. Unless otherwise provided in an operating agreement, the
22 management of a series shall be vested in the members associated
23 with the series in proportion to their membership interest, with the
24 decision of members owning a majority of the membership interest

1 controlling; provided, however, that if an operating agreement
2 provides for the management of the series, in whole or in part, by a
3 manager, the management of the series, to the extent so provided,
4 shall be vested in the manager who shall be chosen in the manner
5 provided in the operating agreement. The manager of the series
6 shall also hold the offices and have the responsibilities accorded
7 to the manager as set forth in an operating agreement. A series may
8 have more than one manager. Subject to paragraph 3 of Section 2014
9 of this title, a manager shall cease to be a manager with respect to
10 a series as provided in an operating agreement. Except as otherwise
11 provided in an operating agreement, any event under this chapter or
12 in an operating agreement that causes a manager to cease to be a
13 manager with respect to a series shall not, in itself, cause the
14 manager to cease to be a manager of the limited liability company or
15 with respect to any other series thereof.

16 ~~G.~~ H. Subject to subsections ~~HI~~ and ~~KL~~ of this section, and
17 unless otherwise provided in an operating agreement, at the time a
18 member associated with a series that has been established in
19 accordance with subsection B of this section becomes entitled to
20 receive a distribution with respect to the series, the member has
21 the status of, and is entitled to all remedies available to, a
22 creditor of the series, with respect to the distribution. An
23 operating agreement may provide for the establishment of a record
24

1 date with respect to allocations and distributions with respect to a
2 series.

3 ~~H.~~ I. Notwithstanding Section 2040 of this title, a limited
4 liability company may make a distribution with respect to a series
5 that has been established in accordance with subsection B of this
6 section. A limited liability company shall not make a distribution
7 with respect to a series that has been established in accordance
8 with subsection B of this section to a member to the extent that at
9 the time of the distribution, after giving effect to the
10 distribution, all liabilities of the series, other than liabilities
11 to members on account of their membership interests with respect to
12 the series and liabilities for which the recourse of creditors is
13 limited to specified property of the series, exceed the fair value
14 of the assets associated with the series, except that the fair value
15 of property of the series that is subject to a liability for which
16 the recourse of creditors is limited shall be included in the assets
17 associated with the series only to the extent that the fair value of
18 that property exceeds that liability. For purposes of the
19 immediately preceding sentence, the term "distribution" shall not
20 include amounts constituting reasonable compensation for present or
21 past services or reasonable payments made in the ordinary course of
22 business pursuant to a bona fide retirement plan or other benefits
23 program. A member who receives a distribution in violation of this
24 subsection, and who knew or should have known at the time of the

1 distribution that the distribution violated this subsection, shall
2 be liable to a series for the amount of the distribution. A member
3 who receives a distribution in violation of this subsection, and who
4 did not know and had no reason to know at the time of the
5 distribution that the distribution violated this subsection, shall
6 not be liable for the amount of the distribution. Subject to
7 subsection C of Section 2040 of this title, which shall apply to any
8 distribution made with respect to a series under this subsection,
9 this subsection shall not affect any obligation or liability of a
10 member under an agreement or other applicable law for the amount of
11 a distribution.

12 ~~F.~~ J. Unless otherwise provided in the operating agreement, a
13 member shall cease to be associated with a series and to have the
14 power to exercise any rights or powers of a member with respect to
15 the series upon the assignment of all of the member's ~~membership~~
16 capital interest with respect to the series. Except as otherwise
17 provided in an operating agreement, any event under this chapter or
18 an operating agreement that causes a member to cease to be
19 associated with a series shall not, in itself, cause the member to
20 cease to be associated with any other series or terminate the
21 continued membership of a member in the limited liability company or
22 cause the termination of the series, regardless of whether the
23 member was the last remaining member associated with the series.

24

1 ~~J.~~ K. Subject to Section 2037 of this title, except to the
2 extent otherwise provided in the operating agreement, a series may
3 be terminated and its affairs wound up without causing the
4 dissolution of the limited liability company. The termination of a
5 series established in accordance with subsection B of this section
6 shall not affect the limitation on liabilities of the series
7 provided by subsection B of this section. A series is terminated
8 and its affairs shall be wound up upon the dissolution of the
9 limited liability company under Section 2037 of this title or
10 otherwise upon the first to occur of the following:

11 1. At the time specified in the operating agreement;

12 2. Upon the happening of events specified in the operating
13 agreement;

14 3. Unless otherwise provided in the operating agreement, upon
15 the affirmative vote or written consent of the members of the
16 limited liability company associated with the series or, if there is
17 more than one class or group of members associated with the series,
18 then by each class or group of members associated with the series,
19 in either case, by members associated with the series who own more
20 than two-thirds of the then-current membership interest owned by all
21 of the members associated with the series or by the members in each
22 class or group of the series, as appropriate; or

23 4. The termination of the series under subsection ~~L~~M of this
24 section.

1 ~~K.~~ L. Unless otherwise provided in the operating agreement, a
2 manager associated with a series who has not wrongfully terminated
3 the series or, if none, the members associated with the series or a
4 person approved by the members associated with the series or, if
5 there is more than one class or group of members associated with the
6 series, then by each class or group of members associated with the
7 series, in either case, by a majority of the membership interest
8 owned by all of the members associated with the series or by the
9 members in each class or group associated with the series, as
10 appropriate, may wind up the affairs of the series; but, if the
11 series has been established in accordance with subsection B of this
12 section, the district court, upon cause shown, may wind up the
13 affairs of the series upon application of any member or manager
14 associated with the series, or the member's personal representative
15 or assignee, and in connection therewith, may appoint a liquidating
16 trustee. The persons winding up the affairs of a series may, in the
17 name of the limited liability company and for and on behalf of the
18 limited liability company and the series, take all actions with
19 respect to the series as are permitted under subsection A of Section
20 2039 of this title. The persons winding up the affairs of a series
21 shall provide for the claims and obligations of the series and
22 distribute the assets of the series as provided in Section 2040 of
23 this title, which section shall apply to the winding up and
24 distribution of assets of a series. Actions taken in accordance

1 with this subsection shall not affect the liability of members and
2 shall not impose liability on a liquidating trustee.

3 ~~H.~~ M. On application by or for a member or manager associated
4 with a series established in accordance with subsection B of this
5 section, the district court may decree termination of the series
6 whenever it is not reasonably practicable to carry on the business
7 of the series in conformity with an operating agreement.

8 ~~M.~~ N. If a foreign limited liability company that is
9 registering to do business in this state in accordance with Section
10 2043 of this title is governed by an operating agreement that
11 establishes or provides for the establishment of designated series
12 of members, managers, ~~or~~ membership interests or assets having
13 separate rights, powers or duties with respect to specified property
14 or obligations of the foreign limited liability company or profits
15 and losses associated with specified property or obligations, that
16 fact shall be so stated on the application for registration as a
17 foreign limited liability company. In addition, the foreign limited
18 liability company shall state on the application whether the debts,
19 liabilities and obligations incurred, contracted for or otherwise
20 existing with respect to a particular series, if any, shall be
21 enforceable against the assets of the series only, and not against
22 the assets of the foreign limited liability company generally or any
23 other series thereof, and, ~~unless otherwise provided in the~~
24 ~~operating agreement, none~~ whether any of the debts, liabilities,

1 obligations and expenses incurred, contracted for or otherwise
2 existing with respect to the foreign limited liability company
3 generally or any other series thereof shall be enforceable against
4 the assets of the series.

5 SECTION 84. AMENDATORY 18 O.S. 2011, Section 2060, is
6 amended to read as follows:

7 Section 2060.

8 CASES NOT PROVIDED FOR IN ACT

9 In any case not provided for in this act, the rules of law and
10 equity, including the rules of law and equity relating to fiduciary
11 duties and the law merchant, shall govern.

12 SECTION 85. AMENDATORY 54 O.S. 2011, Section 500-210A,
13 is amended to read as follows:

14 Section 500-210A.

15 ANNUAL CERTIFICATE FOR SECRETARY OF STATE.

16 (a) A limited partnership or a foreign limited partnership
17 authorized to transact business in this state shall deliver to the
18 Secretary of State for filing an annual certificate that states:

19 (1) the name of the limited partnership or foreign limited
20 partnership;

21 (2) the street ~~and,~~ mailing address and electronic mail address
22 of its designated office and the name and street and mailing address
23 of its agent for service of process in this state; and
24

1 (3) in the case of a foreign limited partnership, the state or
2 other jurisdiction under whose law the foreign limited partnership
3 is formed and any fictitious name adopted under subsection (a) of
4 Section ~~79~~ 500-905A of this ~~act~~ title.

5 (b) Information in an annual certificate must be current as of
6 the date the annual certificate is delivered to the Secretary of
7 State for filing.

8 (c) The annual certificate is due on the anniversary date of
9 the filing of the certificate of limited partnership or certificate
10 of authority of a foreign limited partnership until cancellation of
11 the certificate of limited partnership or certificate of authority.

12 (d) The Secretary of State shall, at least sixty (60) days
13 before the anniversary date of each year, cause ~~to be mailed~~ a
14 notice of the annual certificate to be sent to each domestic limited
15 partnership and each foreign limited partnership required to comply
16 with the provisions of this section to the last known ~~office~~
17 electronic mail address of record with the Secretary of State.

18 SECTION 86. This act shall become effective November 1, 2015.

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