

1-1 By: Eltife S.B. No. 860  
 1-2 (In the Senate - Filed March 2, 2015; March 4, 2015, read  
 1-3 first time and referred to Committee on Business and Commerce;  
 1-4 March 23, 2015, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 7, Nays 0; March 23, 2015,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Eltife	X			
1-9 Creighton	X			
1-10 Ellis	X			
1-11 Huffines			X	
1-12 Schwertner	X			
1-13 Seliger	X			
1-14 Taylor of Galveston			X	
1-15 Watson	X			
1-16 Whitmire	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 860 By: Eltife

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to corporations and fundamental business transactions.  
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-23 SECTION 1. Section 1.002, Business Organizations Code, is  
 1-24 amended by adding Subdivision (63-a) to read as follows:  
 1-25 (63-a) "Owner liability" means personal liability for a  
 1-26 liability or other obligation of an organization that is imposed on  
 1-27 a person:  
 1-28 (A) by statute solely because of the person's  
 1-29 status as an owner or member of the organization; or  
 1-30 (B) by a governing document of an organization  
 1-31 under a provision of this code or the law of the organization's  
 1-32 jurisdiction of formation that authorizes the governing document to  
 1-33 make one or more specified owners or members of the organization  
 1-34 liable in their capacity as owners or members for all or specified  
 1-35 liabilities or other obligations of the organization.  
 1-36 SECTION 2. Section 3.054, Business Organizations Code, is  
 1-37 amended to read as follows:  
 1-38 Sec. 3.054. EXECUTION OF CERTIFICATE OF AMENDMENT OF  
 1-39 FOR-PROFIT CORPORATION. Except as provided by Title 2 or this  
 1-40 section, an [An] officer shall sign the certificate of amendment on  
 1-41 behalf of the for-profit corporation. If shares of the for-profit  
 1-42 corporation have not been issued and the certificate of amendment  
 1-43 is adopted by the board of directors, one or more [a majority]  
 1-44 of the directors may sign the certificate of amendment on behalf of the  
 1-45 for-profit corporation.  
 1-46 SECTION 3. Section 3.060(b), Business Organizations Code,  
 1-47 is amended to read as follows:  
 1-48 (b) Except as provided by Title 2 or this subsection, an  
 1-49 [An] officer shall sign the restated certificate of formation on  
 1-50 behalf of the corporation. If shares of the corporation have not  
 1-51 been issued and the restated certificate of formation is adopted by  
 1-52 the board of directors, one or more [the majority]  
 1-53 of the directors may sign the restated certificate of formation on behalf of the  
 1-54 corporation.  
 1-55 SECTION 4. Section 3.201(b), Business Organizations Code,  
 1-56 is amended to read as follows:  
 1-57 (b) The ownership interests in a for-profit corporation,  
 1-58 real estate investment trust, or professional corporation must be  
 1-59 certificated, except to the extent a [unless the] governing  
 1-60 document [documents] of the entity or a resolution adopted by the

2-1 governing authority of the entity provides that some or all of the  
 2-2 classes or series of [states that] the ownership interests are  
 2-3 uncertificated or that some or all of the ownership interests in any  
 2-4 class or series of the ownership interests are uncertificated. The  
 2-5 entity may have outstanding both certificated and uncertificated  
 2-6 ownership interests of the same class or series. If a domestic  
 2-7 entity changes the form of its ownership interests from  
 2-8 certificated to uncertificated, a certificated ownership interest  
 2-9 subject to the change becomes an uncertificated ownership interest  
 2-10 only after the certificate is surrendered to the domestic entity.

2-11 SECTION 5. Section 10.001(e), Business Organizations Code,  
 2-12 is amended to read as follows:

2-13 (e) A domestic entity may not merge under this subchapter if  
 2-14 an owner or member of that entity that is a party to the merger will,  
 2-15 as a result of the merger, become subject to owner liability  
 2-16 [personally liable], without that owner's or member's consent, for  
 2-17 a liability or other obligation of any other person.

2-18 SECTION 6. Section 10.002, Business Organizations Code, is  
 2-19 amended by amending Subsection (a) and adding Subsection (d) to  
 2-20 read as follows:

2-21 (a) A plan of merger must be in writing and must include:

2-22 (1) the name of each organization that is a party to  
 2-23 the merger;

2-24 (2) the name of each organization that will survive  
 2-25 the merger;

2-26 (3) the name of each new organization that is to be  
 2-27 created by the plan of merger;

2-28 (4) a description of the organizational form of each  
 2-29 organization that is a party to the merger or that is to be created  
 2-30 by the plan of merger and its jurisdiction of formation;

2-31 (5) the manner and basis, including use of a formula,  
 2-32 of converting or exchanging any of the ownership or membership  
 2-33 interests of each organization that is a party to the merger into:

2-34 (A) ownership interests, membership interests,  
 2-35 obligations, rights to purchase securities, or other securities of  
 2-36 one or more of the surviving or new organizations;

2-37 (B) cash;

2-38 (C) other property, including ownership  
 2-39 interests, membership interests, obligations, rights to purchase  
 2-40 securities, or other securities of any other person or entity; or

2-41 (D) any combination of the items described by  
 2-42 Paragraphs (A)-(C);

2-43 (6) the identification of any of the ownership or  
 2-44 membership interests of an organization that is a party to the  
 2-45 merger that are:

2-46 (A) to be canceled rather than converted or  
 2-47 exchanged; or

2-48 (B) to remain outstanding rather than converted  
 2-49 or exchanged if the organization survives the merger;

2-50 (7) the certificate of formation of each new domestic  
 2-51 filing entity to be created by the plan of merger;

2-52 (8) the governing documents of each new domestic  
 2-53 nonfiling entity to be created by the plan of merger; and

2-54 (9) the governing documents of each non-code  
 2-55 organization that:

2-56 (A) is to survive the merger or to be created by  
 2-57 the plan of merger; and

2-58 (B) is an entity that is not:

2-59 (i) organized under the laws of any state or  
 2-60 the United States; or

2-61 (ii) required to file its certificate of  
 2-62 formation or similar document under which the entity is organized  
 2-63 with the appropriate governmental authority.

2-64 (d) Any of the terms of the plan of merger may be made  
 2-65 dependent on facts ascertainable outside of the plan if the manner  
 2-66 in which those facts will operate on the terms of the merger is  
 2-67 clearly and expressly stated in the plan. In this subsection,  
 2-68 "facts" includes the occurrence of any event, including a  
 2-69 determination or action by any person.

3-1 SECTION 7. Section 10.004, Business Organizations Code, is  
3-2 amended to read as follows:

3-3 Sec. 10.004. PLAN OF MERGER: PERMISSIVE PROVISIONS. A plan  
3-4 of merger may include:

3-5 (1) amendments to, restatements of, or amendments and  
3-6 restatements of the governing documents of any surviving  
3-7 organization, including a certificate of amendment, a restated  
3-8 certificate of formation without amendment, or a restated  
3-9 certificate of formation containing amendments;

3-10 (2) provisions relating to an interest exchange,  
3-11 including a plan of exchange; and

3-12 (3) any other provisions relating to the merger that  
3-13 are not required by this chapter.

3-14 SECTION 8. Section 10.008(a), Business Organizations Code,  
3-15 is amended to read as follows:

3-16 (a) When a merger takes effect:

3-17 (1) the separate existence of each domestic entity  
3-18 that is a party to the merger, other than a surviving or new  
3-19 domestic entity, ceases;

3-20 (2) all rights, title, and interests to all real  
3-21 estate and other property owned by each organization that is a party  
3-22 to the merger is allocated to and vested, subject to any existing  
3-23 liens or other encumbrances on the property, in one or more of the  
3-24 surviving or new organizations as provided in the plan of merger  
3-25 without:

3-26 (A) reversion or impairment;

3-27 (B) any further act or deed; or

3-28 (C) any transfer or assignment having occurred;

3-29 (3) all liabilities and obligations of each  
3-30 organization that is a party to the merger are allocated to one or  
3-31 more of the surviving or new organizations in the manner provided by  
3-32 the plan of merger;

3-33 (4) each surviving or new domestic organization to  
3-34 which a liability or obligation is allocated under the plan of  
3-35 merger is the primary obligor for the liability or obligation, and,  
3-36 except as otherwise provided by the plan of merger or by law or  
3-37 contract, no other party to the merger, other than a surviving  
3-38 domestic entity or non-code organization liable or otherwise  
3-39 obligated at the time of the merger, and no other new domestic  
3-40 entity or non-code organization created under the plan of merger is  
3-41 liable for the debt or other obligation;

3-42 (5) any proceeding pending by or against any domestic  
3-43 entity or by or against any non-code organization that is a party to  
3-44 the merger may be continued as if the merger did not occur, or the  
3-45 surviving or new domestic entity or entities or the surviving or new  
3-46 non-code organization or non-code organizations to which the  
3-47 liability, obligation, asset, or right associated with that  
3-48 proceeding is allocated to and vested in under the plan of merger  
3-49 may be substituted in the proceeding;

3-50 (6) the governing documents of each surviving domestic  
3-51 entity are amended, restated, or amended and restated to the extent  
3-52 provided by the plan of merger, and a certificate of amendment, a  
3-53 restated certificate of formation without amendment, or a restated  
3-54 certificate of formation containing amendments of a surviving  
3-55 filing entity shall have the effect stated in Section 3.063;

3-56 (7) each new filing entity whose certificate of  
3-57 formation is included in the plan of merger under this chapter, on  
3-58 meeting any additional requirements, if any, of this code for its  
3-59 formation, is formed as a domestic entity under this code as  
3-60 provided by the plan of merger;

3-61 (8) the ownership or membership interests of each  
3-62 organization that is a party to the merger and that are to be  
3-63 converted or exchanged, in whole or part, into ownership or  
3-64 membership interests, obligations, rights to purchase securities,  
3-65 or other securities of one or more of the surviving or new  
3-66 organizations, into cash or other property, including ownership or  
3-67 membership interests, obligations, rights to purchase securities,  
3-68 or other securities of any organization, or into any combination of  
3-69 these, or that are to be canceled or remain outstanding, are

4-1 converted, exchanged, [~~or~~] canceled, or remain outstanding as  
 4-2 provided in the plan of merger, and the former owners or members who  
 4-3 held ownership or membership interests of each domestic entity that  
 4-4 is a party to the merger are entitled only to the rights provided by  
 4-5 the plan of merger or, if applicable, any rights to receive the fair  
 4-6 value for the ownership interests provided under Subchapter H; and  
 4-7 (9) notwithstanding Subdivision (4), the surviving or  
 4-8 new organization named in the plan of merger as primarily obligated  
 4-9 to pay the fair value of an ownership or membership interest under  
 4-10 Section 10.003(2) is the primary obligor for that payment and all  
 4-11 other surviving or new organizations are secondarily liable for  
 4-12 that payment.

4-13 SECTION 9. Section 10.051(f), Business Organizations Code,  
 4-14 is amended to read as follows:

4-15 (f) A plan of exchange may not be effected if any owner or  
 4-16 member of a domestic entity that is a party to the interest exchange  
 4-17 will, as a result of the interest exchange, become subject to owner  
 4-18 liability [~~personally liable~~], without the consent of the owner or  
 4-19 member, for the liabilities or obligations of any other person or  
 4-20 organization.

4-21 SECTION 10. Section 10.052, Business Organizations Code, is  
 4-22 amended by amending Subsection (a) and adding Subsection (c) to  
 4-23 read as follows:

4-24 (a) A plan of exchange must be in writing and must include:  
 4-25 (1) the name of each domestic entity the ownership or  
 4-26 membership interests of which are to be acquired;  
 4-27 (2) the name of each acquiring organization;  
 4-28 (3) if there is more than one acquiring organization,  
 4-29 the ownership or membership interests to be acquired by each  
 4-30 organization;  
 4-31 (4) the terms and conditions of the exchange; and  
 4-32 (5) the manner and basis, including use of a formula,  
 4-33 of exchanging the ownership or membership interests to be acquired  
 4-34 for:

4-35 (A) ownership or membership interests,  
 4-36 obligations, rights to purchase securities, or other securities of  
 4-37 one or more of the acquiring organizations that is a party to the  
 4-38 plan of exchange;

4-39 (B) cash;

4-40 (C) other property, including ownership or  
 4-41 membership interests, obligations, rights to purchase securities,  
 4-42 or other securities of any other person or entity; or

4-43 (D) any combination of those items.

4-44 (c) Any of the terms of the plan of exchange may be made  
 4-45 dependent on facts ascertainable outside of the plan if the manner  
 4-46 in which those facts will operate on the terms of the interest  
 4-47 exchange is clearly and expressly stated in the plan. In this  
 4-48 subsection, "facts" includes the occurrence of any event, including  
 4-49 a determination or action by any person.

4-50 SECTION 11. Section 10.101(f), Business Organizations  
 4-51 Code, is amended to read as follows:

4-52 (f) A domestic entity may not convert under this section if  
 4-53 an owner or member of the domestic entity, as a result of the  
 4-54 conversion, becomes subject to owner liability [~~personally~~  
 4-55 ~~liable~~], without the consent of the owner or member, for a liability  
 4-56 or other obligation of the converted entity.

4-57 SECTION 12. Section 10.103, Business Organizations Code, is  
 4-58 amended by amending Subsection (a) and adding Subsection (c) to  
 4-59 read as follows:

4-60 (a) A plan of conversion must be in writing and must  
 4-61 include:

4-62 (1) the name of the converting entity;

4-63 (2) the name of the converted entity;

4-64 (3) a statement that the converting entity is  
 4-65 continuing its existence in the organizational form of the  
 4-66 converted entity;

4-67 (4) a statement of the type of entity that the  
 4-68 converted entity is to be and the converted entity's jurisdiction  
 4-69 of formation;

5-1 (5) if Sections 10.1025 and 10.109 do not apply, the  
 5-2 manner and basis, including use of a formula, of converting the  
 5-3 ownership or membership interests of the converting entity into  
 5-4 ownership or membership interests of the converted entity;

5-5 (6) any certificate of formation required to be filed  
 5-6 under this code if the converted entity is a filing entity;

5-7 (7) the certificate of formation or similar  
 5-8 organizational document of the converted entity if the converted  
 5-9 entity is not a filing entity; and

5-10 (8) if Sections 10.1025 and 10.109 apply, a statement  
 5-11 that the converting entity is electing to continue its existence in  
 5-12 its current organizational form and jurisdiction of formation after  
 5-13 the conversion takes effect.

5-14 (c) Any of the terms of the plan of conversion may be made  
 5-15 dependent on facts ascertainable outside of the plan if the manner  
 5-16 in which those facts will operate on the terms of the conversion is  
 5-17 clearly and expressly stated in the plan. In this subsection,  
 5-18 "facts" includes the occurrence of any event, including a  
 5-19 determination or action by any person.

5-20 SECTION 13. Section 10.151, Business Organizations Code, is  
 5-21 amended by amending Subsection (b) and adding Subsection (d) to  
 5-22 read as follows:

5-23 (b) If a certificate of merger or exchange is required to be  
 5-24 filed in connection with an interest exchange or a merger, other  
 5-25 than a merger under Section 10.006, the certificate must be signed  
 5-26 on behalf of each domestic entity and non-code organization that is  
 5-27 a party to the merger or exchange by an officer or other authorized  
 5-28 representative and must include:

5-29 (1) the plan of merger or exchange or a statement  
 5-30 certifying:

5-31 (A) the name and organizational form of each  
 5-32 domestic entity or non-code organization that is a party to the  
 5-33 merger or exchange;

5-34 (B) for a merger, the name and organizational  
 5-35 form of each domestic entity or non-code organization that is to be  
 5-36 created by the plan of merger;

5-37 (C) the name of the jurisdiction in which each  
 5-38 domestic entity or non-code organization named under Paragraph (A)  
 5-39 or (B) is incorporated or organized;

5-40 (D) for a merger, the amendments or changes to  
 5-41 the certificate of formation of any ~~each~~ filing entity that is a  
 5-42 party to the merger, or a statement that amendments or changes are  
 5-43 being made to the certificate of formation of any filing entity that  
 5-44 is a party to the merger as set forth in a restated certificate of  
 5-45 formation containing amendments or a certificate of amendment  
 5-46 attached to the certificate of merger under Subsection (d) [if no  
 5-47 amendments are desired to be effected by the merger, a statement to  
 5-48 that effect];

5-49 (E) for a merger, if no amendments or changes to  
 5-50 the certificate of formation of a filing entity are made under  
 5-51 Paragraph (D), a statement to that effect, which may also refer to a  
 5-52 restated certificate of formation attached to the certificate of  
 5-53 merger under Subsection (d);

5-54 (F) for a merger, that the certificate of  
 5-55 formation of each new filing entity to be created under the plan of  
 5-56 merger is being filed with the certificate of merger;

5-57 (G) ~~[(F)]~~ that a ~~signed~~ plan of merger or  
 5-58 exchange is on file at the principal place of business of each  
 5-59 surviving, acquiring, or new domestic entity or non-code  
 5-60 organization, and the address of each principal place of business;  
 5-61 and

5-62 (H) ~~[(G)]~~ that a copy of the plan of merger or  
 5-63 exchange will be on written request furnished without cost by each  
 5-64 surviving, acquiring, or new domestic entity or non-code  
 5-65 organization to any owner or member of any domestic entity that is a  
 5-66 party to or created by the plan of merger or exchange and, for a  
 5-67 merger with multiple surviving domestic entities or non-code  
 5-68 organizations, to any creditor or obligee of the parties to the  
 5-69 merger at the time of the merger if a liability or obligation is

6-1 then outstanding;

6-2 (2) if approval of the owners or members of any  
6-3 domestic entity that was a party to the plan of merger or exchange  
6-4 is not required by this code, a statement to that effect; and

6-5 (3) a statement that the plan of merger or exchange has  
6-6 been approved as required by the laws of the jurisdiction of  
6-7 formation of each organization that is a party to the merger or  
6-8 exchange and by the governing documents of those organizations.

6-9 (d) As provided by Subsections (b)(1)(D) and (E), a  
6-10 certificate of merger filed under this section may include as an  
6-11 attachment a certificate of amendment, a restated certificate of  
6-12 formation without amendment, or a restated certificate of formation  
6-13 containing amendments for any filing entity that is a party to the  
6-14 merger.

6-15 SECTION 14. Section 10.154(b), Business Organizations  
6-16 Code, is amended to read as follows:

6-17 (b) If a certificate of conversion is required to be filed  
6-18 in connection with a conversion, the certificate must be signed on  
6-19 behalf of the converting entity and must include:

6-20 (1) the plan of conversion or a statement certifying  
6-21 the following:

6-22 (A) the name, organizational form, and  
6-23 jurisdiction of formation of the converting entity;

6-24 (B) the name, organizational form, and  
6-25 jurisdiction of formation of the converted entity;

6-26 (C) that a ~~signed~~ plan of conversion is on file  
6-27 at the principal place of business of the converting entity, and the  
6-28 address of the principal place of business;

6-29 (D) that a ~~signed~~ plan of conversion will be on  
6-30 file after the conversion at the principal place of business of the  
6-31 converted entity, and the address of the principal place of  
6-32 business; and

6-33 (E) that a copy of the plan of conversion will be  
6-34 on written request furnished without cost by the converting entity  
6-35 before the conversion or by the converted entity after the  
6-36 conversion to any owner or member of the converting entity or the  
6-37 converted entity; and

6-38 (2) a statement that the plan of conversion has been  
6-39 approved as required by the laws of the jurisdiction of formation  
6-40 and the governing documents of the converting entity.

6-41 SECTION 15. Sections 10.354(a) and (c), Business  
6-42 Organizations Code, are amended to read as follows:

6-43 (a) Subject to Subsection (b), an owner of an ownership  
6-44 interest in a domestic entity subject to dissenters' rights is  
6-45 entitled to:

6-46 (1) dissent from:

6-47 (A) a plan of merger to which the domestic entity  
6-48 is a party if owner approval is required by this code and the owner  
6-49 owns in the domestic entity an ownership interest that was entitled  
6-50 to vote on the plan of merger;

6-51 (B) a sale of all or substantially all of the  
6-52 assets of the domestic entity if owner approval is required by this  
6-53 code and the owner owns in the domestic entity an ownership interest  
6-54 that was entitled to vote on the sale;

6-55 (C) a plan of exchange in which the ownership  
6-56 interest of the owner is to be acquired;

6-57 (D) a plan of conversion in which the domestic  
6-58 entity is the converting entity if owner approval is required by  
6-59 this code and the owner owns in the domestic entity an ownership  
6-60 interest that was entitled to vote on the plan of conversion; ~~or~~

6-61 (E) a merger effected under Section 10.006 in  
6-62 which:

6-63 (i) the owner is entitled to vote on the  
6-64 merger; or

6-65 (ii) the ownership interest of the owner is  
6-66 converted or exchanged; or

6-67 (F) a merger effected under Section 21.459(c) in  
6-68 which the shares of the shareholders are converted or exchanged;  
6-69 and

7-1 (2) subject to compliance with the procedures set  
7-2 forth in this subchapter, obtain the fair value of that ownership  
7-3 interest through an appraisal.

7-4 (c) Subsection (b) shall not apply either to a domestic  
7-5 entity that is a subsidiary with respect to a merger under Section  
7-6 10.006 or to a corporation with respect to a merger under Section  
7-7 21.459(c).

7-8 SECTION 16. Section 10.355, Business Organizations Code, is  
7-9 amended by adding Subsections (b-1) and (f) and amending  
7-10 Subsections (c) and (d) to read as follows:

7-11 (b-1) If a corporation effects a merger under Section  
7-12 21.459(c), the responsible organization shall notify the  
7-13 shareholders of that corporation who have a right to dissent to the  
7-14 plan of merger under Section 10.354 of their rights under this  
7-15 subchapter not later than the 10th day after the effective date of  
7-16 the merger. Notice required under this subsection that is given to  
7-17 shareholders before the effective date of the merger may, but is not  
7-18 required to, contain a statement of the merger's effective date. If  
7-19 the notice is not given to the shareholders until on or after the  
7-20 effective date of the merger, the notice must contain a statement of  
7-21 the merger's effective date.

7-22 (c) A notice required to be provided under Subsection (a),  
7-23 ~~or~~ (b), or (b-1) must:

7-24 (1) be accompanied by a copy of this subchapter; and  
7-25 (2) advise the owner of the location of the  
7-26 responsible organization's principal executive offices to which a  
7-27 notice required under Section 10.356(b)(1) or a demand under  
7-28 Section 10.356(b)(3), or both, ~~[(3)]~~ may be provided.

7-29 (d) In addition to the requirements prescribed by  
7-30 Subsection (c), a notice required to be provided:

7-31 (1) under Subsection (a)(1) must accompany the notice  
7-32 of the meeting to consider the action;

7-33 (2) ~~[, and a notice required]~~ under Subsection (a)(2)  
7-34 must be provided to:

7-35 (A) ~~[(1)]~~ each owner who consents in writing to  
7-36 the action before the owner delivers the written consent; and

7-37 (B) ~~[(2)]~~ each owner who is entitled to vote on  
7-38 the action and does not consent in writing to the action before the  
7-39 11th day after the date the action takes effect; and

7-40 (3) under Subsection (b-1) must be provided:

7-41 (A) if given before the consummation of the  
7-42 tender or exchange offer described by Section 21.459(c)(2), to each  
7-43 shareholder to whom that offer is made; or

7-44 (B) if given after the consummation of the tender  
7-45 or exchange offer described by Section 21.459(c)(2), to each  
7-46 shareholder who did not tender the shareholder's shares in that  
7-47 offer.

7-48 (f) If the notice given under Subsection (b-1) did not  
7-49 include a statement of the effective date of the merger, the  
7-50 responsible organization shall, not later than the 10th day after  
7-51 the effective date, give a second notice to the shareholders  
7-52 notifying them of the merger's effective date. If the second notice  
7-53 is given after the later of the date on which the tender or exchange  
7-54 offer described by Section 21.459(c)(2) is consummated or the 20th  
7-55 day after the date notice under Subsection (b-1) is given, then the  
7-56 second notice is required to be given to only those shareholders who  
7-57 have made a demand under Section 10.356(b)(3).

7-58 SECTION 17. Section 10.356(b), Business Organizations  
7-59 Code, is amended to read as follows:

7-60 (b) To perfect the owner's rights of dissent and appraisal  
7-61 under Section 10.354, an owner:

7-62 (1) if the proposed action is to be submitted to a vote  
7-63 of the owners at a meeting, must give to the domestic entity a  
7-64 written notice of objection to the action that:

7-65 (A) is addressed to the entity's president and  
7-66 secretary;

7-67 (B) states that the owner's right to dissent will  
7-68 be exercised if the action takes effect;

7-69 (C) provides an address to which notice of

8-1 effectiveness of the action should be delivered or mailed; and  
 8-2 (D) is delivered to the entity's principal  
 8-3 executive offices before the meeting;  
 8-4 (2) with respect to the ownership interest for which  
 8-5 the rights of dissent and appraisal are sought:  
 8-6 (A) must vote against the action if the owner is  
 8-7 entitled to vote on the action and the action is approved at a  
 8-8 meeting of the owners; and  
 8-9 (B) may not consent to the action if the action is  
 8-10 approved by written consent; and  
 8-11 (3) must give to the responsible organization a demand  
 8-12 in writing that:  
 8-13 (A) is addressed to the president and secretary  
 8-14 of the responsible organization;  
 8-15 (B) demands payment of the fair value of the  
 8-16 ownership interests for which the rights of dissent and appraisal  
 8-17 are sought;  
 8-18 (C) provides to the responsible organization an  
 8-19 address to which a notice relating to the dissent and appraisal  
 8-20 procedures under this subchapter may be sent;  
 8-21 (D) states the number and class of the ownership  
 8-22 interests of the domestic entity owned by the owner and the fair  
 8-23 value of the ownership interests as estimated by the owner; and  
 8-24 (E) is delivered to the responsible organization  
 8-25 at its principal executive offices at the following time:  
 8-26 (i) not later than the 20th day after the  
 8-27 date the responsible organization sends to the owner the notice  
 8-28 required by Section 10.355(e) that the action has taken effect, if  
 8-29 the action was approved by a vote of the owners at a meeting;  
 8-30 (ii) not later than the 20th day after the  
 8-31 date the responsible organization sends to the owner the notice  
 8-32 required by Section 10.355(d)(2) that the action has taken effect,  
 8-33 if the action was approved by the written consent of the owners;  
 8-34 [~~or~~]  
 8-35 (iii) not later than the 20th day after the  
 8-36 date the responsible organization sends to the owner a notice that  
 8-37 the merger was effected, if the action is a merger effected under  
 8-38 Section 10.006; or  
 8-39 (iv) not later than the 20th day after the  
 8-40 date the responsible organization gives to the shareholder the  
 8-41 notice required by Section 10.355(b-1) or the date of the  
 8-42 consummation of the tender or exchange offer described by Section  
 8-43 21.459(c)(2), whichever is later, if the action is a merger  
 8-44 effected under Section 21.459(c).  
 8-45 SECTION 18. Section 11.001(3), Business Organizations  
 8-46 Code, is amended to read as follows:  
 8-47 (3) "Existing claim" with respect to an entity means:  
 8-48 (A) a claim [~~against the entity~~] that existed  
 8-49 before the entity's termination and is not barred by limitations;  
 8-50 or  
 8-51 (B) a contractual obligation incurred after  
 8-52 termination.  
 8-53 SECTION 19. Section 20.001, Business Organizations Code, is  
 8-54 amended to read as follows:  
 8-55 Sec. 20.001. SIGNATURE REQUIREMENTS FOR FILING INSTRUMENTS  
 8-56 [REQUIREMENT THAT FILING INSTRUMENT BE SIGNED BY OFFICER].  
 8-57 (a) Unless otherwise provided by Section 3.054 or 3.060(b) or this  
 8-58 title, a filing instrument of a corporation must be signed by an  
 8-59 officer of the corporation.  
 8-60 (b) A certificate of termination, a certificate of  
 8-61 reinstatement, a certificate of amendment to cancel an event  
 8-62 requiring winding up, or a restated certificate of formation that  
 8-63 contains an amendment to cancel an event requiring winding up may be  
 8-64 signed by:  
 8-65 (1) one of the organizers if the winding up, the  
 8-66 reinstatement, or the cancellation of an event requiring winding up  
 8-67 was authorized by the organizers under Section 21.502(2) or  
 8-68 22.302(1)(B); or  
 8-69 (2) one of the directors if the winding up, the

9-1 reinstatement, or the cancellation of an event requiring winding up  
9-2 was authorized by the board of directors under Section 21.502(2) or  
9-3 22.302(1)(B).

9-4 SECTION 20. Section 21.052, Business Organizations Code, is  
9-5 amended by adding Subsection (d) to read as follows:

9-6 (d) This section does not affect:

9-7 (1) the authority of the shareholders of a corporation  
9-8 to consent in writing to the cancellation of an event requiring  
9-9 winding up in accordance with Section 21.502(1); or

9-10 (2) the authority of the organizers of a corporation  
9-11 to adopt a resolution to cancel an event requiring winding up in  
9-12 accordance with Section 21.502(2).

9-13 SECTION 21. Section 21.053, Business Organizations Code, is  
9-14 amended by amending Subsection (a) and adding Subsection (c) to  
9-15 read as follows:

9-16 (a) If a corporation does not have any issued and  
9-17 outstanding shares, or in the case of an amendment under Subsection  
9-18 (b) or (c), the board of directors may adopt a proposed amendment to  
9-19 the corporation's certificate of formation by resolution without  
9-20 shareholder approval.

9-21 (c) Notwithstanding Section 21.054 and except as otherwise  
9-22 provided by the certificate of formation, the board of directors of  
9-23 a corporation that has outstanding shares may, without shareholder  
9-24 approval, adopt an amendment to the corporation's certificate of  
9-25 formation to change the word or abbreviation in its corporate name  
9-26 as required by Section 5.054(a) to be a different word or  
9-27 abbreviation required by that section.

9-28 SECTION 22. Section 21.056(a), Business Organizations  
9-29 Code, is amended to read as follows:

9-30 (a) A corporation may adopt a restated certificate of  
9-31 formation as provided by Subchapter B, Chapter 3, by following the  
9-32 same procedures to amend its certificate of formation under  
9-33 Sections 21.052-21.055, except that:

9-34 (1) shareholder approval is not required if an  
9-35 amendment is not adopted; and

9-36 (2) the shareholders of a corporation may consent in  
9-37 writing, or the organizers of a corporation may adopt a resolution,  
9-38 to authorize a restated certificate of formation that contains an  
9-39 amendment to cancel an event requiring winding up in accordance  
9-40 with Section 21.502(1) or (2).

9-41 SECTION 23. Section 21.102, Business Organizations Code, is  
9-42 amended to read as follows:

9-43 Sec. 21.102. TERM OF AGREEMENT. Any limit on the term or  
9-44 duration of a shareholders' agreement under this subchapter must be  
9-45 set forth in the agreement. A shareholders' agreement under this  
9-46 subchapter that was in effect before September 1, 2015, remains in  
9-47 effect for 10 years, unless the agreement provides otherwise. [A  
9-48 shareholders' agreement under this subchapter is valid for 10  
9-49 years, unless the agreement provides otherwise.]

9-50 SECTION 24. Section 21.160, Business Organizations Code, is  
9-51 amended by adding Subsection (d) to read as follows:

9-52 (d) The amount of the consideration to be received for  
9-53 shares may be determined in accordance with Subsection (a) by the  
9-54 approval of a formula to determine that amount.

9-55 SECTION 25. Section 21.371, Business Organizations Code, is  
9-56 amended to read as follows:

9-57 Sec. 21.371. PROCEDURES IN BYLAWS RELATING TO PROXIES.

9-58 (a) A corporation may establish in the corporation's bylaws  
9-59 procedures consistent with this code for determining the validity  
9-60 of proxies and determining whether shares that are held of record by  
9-61 a bank, broker, or other nominee are represented at a meeting of  
9-62 shareholders. The procedures may incorporate rules of and  
9-63 determinations made by a stock exchange or self-regulatory  
9-64 organization regulating the corporation or that bank, broker, or  
9-65 other nominee.

9-66 (b) The bylaws may contain one or both of the following:

9-67 (1) a provision requiring that, when soliciting  
9-68 proxies or consents with respect to an election of directors, the  
9-69 corporation include in both its proxy statement and any form of its

10-1 proxy or consent, in addition to individuals nominated by the board  
 10-2 of directors, one or more individuals nominated by a shareholder,  
 10-3 subject to any procedures or conditions as may be provided in the  
 10-4 bylaws; and

10-5 (2) a provision requiring that the corporation  
 10-6 reimburse expenses incurred by a shareholder in soliciting proxies  
 10-7 or consents with respect to an election of directors so long as the  
 10-8 provision does not apply to any election for which the record date  
 10-9 precedes the adoption of the bylaw provision, but subject to any  
 10-10 procedures or conditions as may be provided in the bylaws.

10-11 SECTION 26. Section 21.459, Business Organizations Code, is  
 10-12 amended by adding Subsections (c), (d), and (e) to read as follows:

10-13 (c) This subsection applies only to a corporation that is a  
 10-14 party to the merger and whose shares are, immediately before the  
 10-15 date its board of directors approves the plan of merger, either  
 10-16 listed on a national securities exchange or held of record by at  
 10-17 least 2,000 shareholders. Unless required by the corporation's  
 10-18 certificate of formation, a plan of merger is not required to be  
 10-19 approved by the shareholders of the corporation if:

10-20 (1) the plan of merger expressly:

10-21 (A) permits or requires the merger to be effected  
 10-22 under this subsection; and

10-23 (B) provides that any merger effected under this  
 10-24 subsection shall be effected as soon as practicable following the  
 10-25 consummation of the offer described by Subdivision (2);

10-26 (2) an organization consummates a tender or exchange  
 10-27 offer for all of the outstanding shares of the corporation on the  
 10-28 terms provided in the plan of merger that, absent this subsection,  
 10-29 would be entitled to vote on the approval of the plan of merger,  
 10-30 except that the offer may exclude shares of the corporation owned at  
 10-31 the time of the commencement of the offer by:

10-32 (A) the corporation;

10-33 (B) the organization making the offer;

10-34 (C) any person who owns, directly or indirectly,  
 10-35 all of the ownership interests in the organization making the  
 10-36 offer; or

10-37 (D) any direct or indirect wholly owned  
 10-38 subsidiary of a person described by Paragraph (A), (B), or (C);

10-39 (3) shares that are irrevocably accepted for purchase  
 10-40 or exchange pursuant to the consummation of the offer described by  
 10-41 Subdivision (2) and that are received by the depository before the  
 10-42 expiration of the offer in addition to the shares that are otherwise  
 10-43 owned by the consummating organization equal at least the  
 10-44 percentage of the shares, and of each class or series of those  
 10-45 shares, of the corporation that, absent this subsection, would be  
 10-46 required to approve the plan of merger by:

10-47 (A) Section 21.457 and, if applicable, Section  
 10-48 21.458; and

10-49 (B) the certificate of formation of the  
 10-50 corporation;

10-51 (4) the organization consummating the offer described  
 10-52 by Subdivision (2) merges with or into the corporation pursuant to  
 10-53 the plan of merger; and

10-54 (5) each outstanding share of each class or series of  
 10-55 the corporation that is the subject of and not irrevocably accepted  
 10-56 for purchase or exchange in the offer described by Subdivision (2)  
 10-57 is to be converted or exchanged in the merger into, or into the  
 10-58 right to receive, the same amount and kind of consideration, as  
 10-59 described by Section 10.002(a)(5), as to be paid or delivered for  
 10-60 shares of such class or series of the corporation irrevocably  
 10-61 accepted for purchase or exchange in the offer.

10-62 (d) In Subsection (c) and this subsection and, as  
 10-63 applicable, in Sections 10.355(d)(3)(B), 10.355(f), and  
 10-64 10.356(b)(3)(E)(iv):

10-65 (1) "Consummates," "consummation," or "consummating"  
 10-66 means irrevocably accepts for purchase or exchange shares tendered  
 10-67 pursuant to a tender or exchange offer.

10-68 (2) "Depository" means an agent appointed to  
 10-69 facilitate consummation of the offer described by Subsection

11-1 (c)(2).

11-2 (e) For purposes of Subsection (c)(3), "received," with  
 11-3 respect to shares, means:

11-4 (1) physical receipt of a certificate representing  
 11-5 shares, in the case of certificated shares; and

11-6 (2) transfer into the depository's account or an  
 11-7 agent's message being received by the depository, in the case of  
 11-8 uncertificated shares.

11-9 SECTION 27. Section 22.109(a), Business Organizations  
 11-10 Code, is amended to read as follows:

11-11 (a) A [The board of directors of a] corporation may adopt a  
 11-12 restated certificate of formation as provided by Subchapter B,  
 11-13 Chapter 3, by following the same procedure to amend its [the  
 11-14 corporation's] certificate of formation provided by Sections  
 11-15 22.104-22.107, except that:

11-16 (1) member approval is required only if the restated  
 11-17 certificate of formation contains an amendment; and

11-18 (2) the members may consent in writing, or the  
 11-19 organizers of a corporation may adopt a resolution, to authorize a  
 11-20 restated certificate of formation that contains an amendment to  
 11-21 cancel an event requiring winding up in accordance with Section  
 11-22 22.302(1)(B) or 22.302(2), as applicable.

11-23 SECTION 28. Section 22.164, Business Organizations Code, is  
 11-24 amended by amending Subsection (b) and adding Subsection (d) to  
 11-25 read as follows:

11-26 (b) Except as otherwise provided by Subsection (c) or (d) or  
 11-27 the certificate of formation in accordance with Section 22.162, the  
 11-28 vote required for approval of a fundamental action is:

11-29 (1) at least two-thirds of the votes that members  
 11-30 present in person or by proxy are entitled to cast at the meeting at  
 11-31 which the action is submitted for a vote, if the corporation has  
 11-32 members with voting rights;

11-33 (2) at least two-thirds of the votes of members  
 11-34 present at the meeting at which the action is submitted for a vote,  
 11-35 if the management of the affairs of the corporation is vested in the  
 11-36 corporation's members under Section 22.202; or

11-37 (3) the affirmative vote of the majority of the  
 11-38 directors in office, if the corporation has no members or has no  
 11-39 members with voting rights.

11-40 (d) If the corporation has no members or has no members with  
 11-41 voting rights and the corporation does not hold any assets and has  
 11-42 not solicited any assets or otherwise engaged in activities, the  
 11-43 vote required for approval of a fundamental action consisting of an  
 11-44 amendment to the certificate of formation to cancel an event  
 11-45 requiring winding up or any of the actions described by Subsections  
 11-46 (a)(2) through (a)(6) is the affirmative vote of a majority of the  
 11-47 organizers or a majority of the directors in office.

11-48 SECTION 29. Section 22.302, Business Organizations Code, is  
 11-49 amended to read as follows:

11-50 Sec. 22.302. CERTAIN PROCEDURES FOR APPROVAL. To approve a  
 11-51 voluntary winding up, a reinstatement, a cancellation of an event  
 11-52 requiring winding up, a revocation of a voluntary decision to wind  
 11-53 up, or a distribution plan, a corporation must follow the following  
 11-54 procedures:

11-55 (1) if the corporation has no members or has no members  
 11-56 with voting rights and the corporation:

11-57 (A) holds any assets or has solicited any assets  
 11-58 or otherwise engaged in activities, the corporation's board of  
 11-59 directors must adopt a resolution to wind up, to reinstate, to  
 11-60 cancel the event requiring winding up, to revoke a voluntary  
 11-61 decision to wind up, or to effect the distribution plan by the vote  
 11-62 of directors required by Section 22.164(b)(3) [22.164]; or

11-63 (B) does not hold any assets and has not  
 11-64 solicited any assets or otherwise engaged in activities, a majority  
 11-65 of the organizers or the board of directors of the corporation must  
 11-66 adopt a resolution to wind up, to reinstate, to cancel an event  
 11-67 requiring winding up, to revoke a voluntary decision to wind up, or  
 11-68 to effect the distribution plan by the vote required by Section  
 11-69 22.164(d);

12-1 (2) if the management of the affairs of the  
 12-2 corporation is vested in the corporation's members under Section  
 12-3 22.202, the winding up, reinstatement, cancellation of event  
 12-4 requiring winding up, revocation of voluntary decision to wind up,  
 12-5 or distribution plan:

12-6 (A) must be submitted to a vote at an annual,  
 12-7 regular, or special meeting of members; and

12-8 (B) must be approved by the members by the vote  
 12-9 required by Section 22.164(b)(2) [~~22.164~~]; or

12-10 (3) if the corporation has members with voting rights:

12-11 (A) the corporation's board of directors must  
 12-12 approve a resolution:

12-13 (i) recommending the winding up,  
 12-14 reinstatement, cancellation of event requiring winding up,  
 12-15 revocation of a voluntary decision to wind up, or distribution  
 12-16 plan; and

12-17 (ii) directing that the winding up,  
 12-18 reinstatement, cancellation of event requiring winding up,  
 12-19 revocation of a voluntary decision to wind up, or distribution plan  
 12-20 of the corporation be submitted to a vote at an annual or special  
 12-21 meeting of members; and

12-22 (B) the members must approve the action described  
 12-23 by Paragraph (A) in accordance with Section 22.303.

12-24 SECTION 30. Chapter 21, Business Organizations Code, is  
 12-25 amended by adding Subchapter R to read as follows:

12-26 SUBCHAPTER R. RATIFICATION OF DEFECTIVE CORPORATE ACTS OR SHARES;  
 12-27 PROCEEDINGS

12-28 Sec. 21.901. DEFINITIONS. In this subchapter:

12-29 (1) "Corporate statute," with respect to an action or  
 12-30 filing, means this code, the former Texas Business Corporation Act,  
 12-31 or any predecessor statute of this state that governed the action or  
 12-32 the filing.

12-33 (2) "Defective corporate act" means:

12-34 (A) an overissue;

12-35 (B) an election or appointment of directors that  
 12-36 is void or voidable due to a failure of authorization; or

12-37 (C) any act or transaction purportedly taken by  
 12-38 or on behalf of the corporation that is, and at the time the act or  
 12-39 transaction was purportedly taken would have been, within the power  
 12-40 of a corporation to take under the corporate statute, but is void or  
 12-41 voidable due to a failure of authorization.

12-42 (3) "District court" means a district court in:

12-43 (A) the county in which the corporation's  
 12-44 principal office in this state is located; or

12-45 (B) the county in which the corporation's  
 12-46 registered office in this state is located, if the corporation does  
 12-47 not have a principal office in this state.

12-48 (4) "Failure of authorization" means the failure to  
 12-49 authorize or effect an act or transaction in compliance with the  
 12-50 provisions of the corporate statute, the governing documents of the  
 12-51 corporation, or any plan or agreement to which the corporation is a  
 12-52 party, if and to the extent the failure would render the act or  
 12-53 transaction void or voidable.

12-54 (5) "Overissue" means the purported issuance of:

12-55 (A) shares of a class or series in excess of the  
 12-56 number of shares of that class or series that the corporation has  
 12-57 the power to issue under the corporate statute at the time of  
 12-58 issuance; or

12-59 (B) shares of any class or series that are not at  
 12-60 the time authorized for issuance by the governing documents of the  
 12-61 corporation.

12-62 (6) "Putative shares" means the shares of any class or  
 12-63 series of the corporation, including shares issued on exercise of  
 12-64 options, rights, warrants, or other securities convertible into  
 12-65 shares of the corporation, or interests with respect to the shares  
 12-66 that were created or issued pursuant to a defective corporate act,  
 12-67 that:

12-68 (A) would constitute valid shares, if not for a  
 12-69 failure of authorization; or

13-1 (B) cannot be determined by the board of  
13-2 directors to be valid shares.

13-3 (7) "Time of the defective corporate act" means the  
13-4 date and time the defective corporate act was purported to have been  
13-5 taken.

13-6 (8) "Validation effective time" or "effective time of  
13-7 the validation," with respect to any defective corporate act  
13-8 ratified under this subchapter, means the later of:

13-9 (A) the time at which the resolution submitted to  
13-10 the shareholders for adoption under Section 21.905 is adopted by  
13-11 the shareholders or, if no shareholder approval is required for  
13-12 adoption, the time at which the notice required by Section 21.911 is  
13-13 given; or

13-14 (B) the time at which any certificate of  
13-15 validation filed under Section 21.908 takes effect in accordance  
13-16 with Chapter 4.

13-17 (9) "Valid shares" means the shares of any class or  
13-18 series of the corporation that have been authorized and validly  
13-19 issued in accordance with the corporate statute.

13-20 Sec. 21.902. RATIFICATION OF DEFECTIVE CORPORATE ACT AND  
13-21 PUTATIVE SHARES. Subject to Section 21.909 or 21.910, a defective  
13-22 corporate act or putative shares are not void or voidable solely as  
13-23 a result of a failure of authorization if the act or shares are:

13-24 (1) ratified in accordance with this subchapter; or

13-25 (2) validated by the district court in a proceeding  
13-26 brought under Section 21.914.

13-27 Sec. 21.903. RATIFICATION OF DEFECTIVE CORPORATE ACT;  
13-28 ADOPTION OF RESOLUTION. (a) To ratify a defective corporate act,  
13-29 the board of directors of the corporation shall adopt a resolution  
13-30 stating:

13-31 (1) the defective corporate act to be ratified;

13-32 (2) the time of the defective corporate act;

13-33 (3) if the defective corporate act involved the  
13-34 issuance of putative shares, the number and type of putative shares  
13-35 issued and the date or dates on which the putative shares were  
13-36 purportedly issued;

13-37 (4) the nature of the failure of authorization with  
13-38 respect to the defective corporate act to be ratified; and

13-39 (5) that the board of directors approves the  
13-40 ratification of the defective corporate act.

13-41 (b) The resolution may also state that, notwithstanding the  
13-42 adoption of the resolution by the shareholders, the board of  
13-43 directors may, at any time before the validation effective time,  
13-44 abandon the resolution without further shareholder action.

13-45 Sec. 21.904. QUORUM AND VOTING REQUIREMENTS FOR ADOPTION OF  
13-46 RESOLUTION. (a) The quorum and voting requirements applicable to  
13-47 the adoption of a resolution under Section 21.903 are the same as  
13-48 the quorum and voting requirements applicable at the time of the  
13-49 adoption of a resolution for the type of defective corporate act  
13-50 proposed to be ratified.

13-51 (b) Notwithstanding Subsection (a) and except as provided  
13-52 by Subsection (c), if in order for a quorum to be present or to  
13-53 approve the defective corporate act, the presence or approval of a  
13-54 larger number or portion of directors or of specified directors  
13-55 would have been required by the governing documents of the  
13-56 corporation, any plan or agreement to which the corporation was a  
13-57 party, or any provision of the corporate statute, each as in effect  
13-58 at the time of the defective corporate act, then the presence or  
13-59 approval of the larger number or portion of such directors or of  
13-60 such specified directors must be required for a quorum to be present  
13-61 or to adopt the resolution, as applicable.

13-62 (c) The presence or approval of any director elected,  
13-63 appointed, or nominated by holders of any class or series of which  
13-64 no shares are then outstanding, or by any person that is no longer a  
13-65 shareholder, shall not be required for a quorum to be present or to  
13-66 adopt the resolution.

13-67 Sec. 21.905. SHAREHOLDER ADOPTION OF RESOLUTION REQUIRED.  
13-68 The resolution adopted under Section 21.903 must be submitted to  
13-69 shareholders for adoption as provided by Sections 21.906 and

14-1 21.907, unless:

14-2 (1) no other provision of the corporate statute, no  
 14-3 provision of the corporation's governing documents, and no  
 14-4 provision of any plan or agreement to which the corporation is a  
 14-5 party would have required shareholder approval of the defective  
 14-6 corporate act to be ratified, either at the time of the act or at the  
 14-7 time when the resolution required by Section 21.903 is adopted; and

14-8 (2) the defective corporate act to be ratified did not  
 14-9 result from a failure to comply with Subchapter M.

14-10 Sec. 21.906. NOTICE REQUIREMENTS FOR RESOLUTION SUBMITTED  
 14-11 FOR SHAREHOLDER APPROVAL. (a) If Section 21.905 requires that the  
 14-12 resolution be submitted to the shareholders for approval, notice of  
 14-13 the time, place, if any, and purpose of the meeting shall be given  
 14-14 at least 20 days before the date of the meeting to each holder of  
 14-15 valid shares and putative shares, whether voting or nonvoting, at  
 14-16 the address of the holder as it appears or most recently appeared,  
 14-17 as appropriate, on the corporation's records.

14-18 (b) Notice under this section shall be given to each holder  
 14-19 of record of valid shares and putative shares, regardless of  
 14-20 whether the shares are voting or nonvoting, as of the time of the  
 14-21 defective corporate act, except that notice is not required to be  
 14-22 given to a holder whose identity or address cannot be ascertained  
 14-23 from the corporation's records.

14-24 (c) The notice must contain:

14-25 (1) a copy of the resolution; and

14-26 (2) a statement that the following must be brought not  
 14-27 later than the 120th day of the validation effective time:

14-28 (A) any claim that the defective corporate act or  
 14-29 putative shares ratified under this subchapter are void or voidable  
 14-30 due to the identified failure of authorization; or

14-31 (B) any claim that the district court, in its  
 14-32 discretion, should declare that a ratification made in accordance  
 14-33 with this subchapter not take effect or that it take effect only on  
 14-34 certain conditions.

14-35 Sec. 21.907. SHAREHOLDER MEETING; QUORUM AND VOTING.

14-36 (a) At the shareholder meeting, the quorum and voting requirements  
 14-37 applicable to the adoption of the resolution under Section 21.905  
 14-38 shall be the same as the quorum and voting requirements applicable  
 14-39 at the time of such adoption by the shareholders for the type of  
 14-40 defective corporate act to be ratified, except as provided by this  
 14-41 section.

14-42 (b) If the presence or approval of a larger number or  
 14-43 portion of shares or of any class or series of shares or of  
 14-44 specified shareholders would have been required for a quorum to be  
 14-45 present or to approve the defective corporate act, as applicable,  
 14-46 by the corporation's governing documents, any plan or agreement to  
 14-47 which the corporation was a party, or any provision of the corporate  
 14-48 statute, each as in effect at the time of the defective corporate  
 14-49 act, then the presence or approval of the larger number or portion  
 14-50 of shares or of the class or series of shares or of such specified  
 14-51 shareholders shall be required for a quorum to be present or to  
 14-52 adopt the resolution, as applicable, except that the presence or  
 14-53 approval of shares of any class or series of which no shares are  
 14-54 then outstanding, or of any person that is no longer a shareholder,  
 14-55 shall not be required.

14-56 (c) The adoption of a resolution to ratify the election of a  
 14-57 director requires the affirmative vote of the majority of shares  
 14-58 present at the meeting and entitled to vote on the election of the  
 14-59 director, unless the governing documents of the corporation then in  
 14-60 effect or in effect at the time of the defective election require or  
 14-61 required a larger number or portion of shares to elect the director,  
 14-62 in which case the affirmative vote of the larger number or portion  
 14-63 of shares is required to ratify the election of the director.

14-64 (d) If a failure of authorization results from the failure  
 14-65 to comply with Subchapter M, the ratification of the defective  
 14-66 corporate act requires the vote set forth by Section 21.606(2),  
 14-67 regardless of whether that vote would have otherwise been required.

14-68 Sec. 21.908. CERTIFICATE OF VALIDATION. (a) If the  
 14-69 defective corporate act ratified under this subchapter would have

15-1 required under any other provision of the corporate statute the  
 15-2 filing of a filing instrument or other document with the filing  
 15-3 officer, the corporation, instead of filing the filing instrument  
 15-4 or other document otherwise required by this code, shall file a  
 15-5 certificate of validation in accordance with Chapter 4, regardless  
 15-6 of whether a filing instrument or other document was previously  
 15-7 filed with respect to the defective corporate act.

15-8 (b) The certificate of validation must set forth:

15-9 (1) a copy of the resolution adopted in accordance  
 15-10 with Sections 21.903 and 21.904, the date of adoption of the  
 15-11 resolution by the board of directors and, if applicable, the date of  
 15-12 adoption by the shareholders, and a statement that the resolution  
 15-13 was adopted in accordance with this subchapter;

15-14 (2) if a filing instrument or document was previously  
 15-15 filed with a filing officer under the corporate statute in respect  
 15-16 of the defective corporate act, the title and date of filing of the  
 15-17 prior filing instrument or document and any articles or certificate  
 15-18 of correction to the filing instrument; and

15-19 (3) the provisions that would be required under any  
 15-20 other section of this code to be included in the filing instrument  
 15-21 that otherwise would have been required to be filed with respect to  
 15-22 the defective corporate act under this code.

15-23 Sec. 21.909. ADOPTION OF RESOLUTION; EFFECT ON DEFECTIVE  
 15-24 CORPORATE ACT. On or after the validation effective time, unless  
 15-25 determined otherwise in an action brought under Section 21.914,  
 15-26 each defective corporate act set forth in the resolution adopted  
 15-27 under Sections 21.903 and 21.904 may not be considered void or  
 15-28 voidable as a result of a failure of authorization identified in the  
 15-29 resolution, and the effect shall be retroactive to the time of the  
 15-30 defective corporate act.

15-31 Sec. 21.910. ADOPTION OF RESOLUTION; EFFECT ON PUTATIVE  
 15-32 SHARES. On or after the validation effective time, unless  
 15-33 determined otherwise in an action brought under Section 21.914,  
 15-34 each putative share or fraction of a putative share issued or  
 15-35 purportedly issued pursuant to the defective corporate act and  
 15-36 identified in the resolution adopted under Sections 21.903 and  
 15-37 21.904 may not be considered void or voidable as a result of a  
 15-38 failure of authorization identified in the resolution and, in the  
 15-39 absence of any failure of authorization not ratified, is considered  
 15-40 to be an identical share or fraction of a share outstanding as of  
 15-41 the time it was purportedly issued.

15-42 Sec. 21.911. NOTICE TO SHAREHOLDERS FOLLOWING ADOPTION OF  
 15-43 RESOLUTION. (a) Notice of the adoption of a resolution under this  
 15-44 subchapter shall be given promptly to:

15-45 (1) each holder of valid shares and putative shares,  
 15-46 regardless of whether the shares are voting or nonvoting, as of the  
 15-47 date the board of directors adopted the resolution; or

15-48 (2) each holder of valid shares and putative shares,  
 15-49 regardless of whether the shares are voting or nonvoting, as of a  
 15-50 date not later than the 60th day after the date on which the  
 15-51 resolution is adopted, as established by the board of directors.

15-52 (b) Notice under this section shall be sent to the address  
 15-53 of a holder of shares described by Subsection (a)(1) or (a)(2) as  
 15-54 the address appears or most recently appeared, as appropriate, on  
 15-55 the records of the corporation.

15-56 (c) Notice under this section shall also be given to each  
 15-57 holder of record of valid shares and putative shares, regardless of  
 15-58 whether the shares are voting or nonvoting, as of the time of the  
 15-59 defective corporate act, except that notice is not required to be  
 15-60 given to a holder whose identity or address cannot be ascertained  
 15-61 from the corporation's records.

15-62 (d) The notice must contain:

15-63 (1) a copy of the resolution; and

15-64 (2) a statement that the following must be brought not  
 15-65 later than the 120th day of the validation effective time:

15-66 (A) any claim that the defective corporate act or  
 15-67 putative shares ratified under this subchapter are void or voidable  
 15-68 due to the identified failure of authorization; or

15-69 (B) any claim that the district court, in its

16-1 discretion, should declare that a ratification made in accordance  
 16-2 with this subchapter not take effect or that it take effect only on  
 16-3 certain conditions.

16-4 (e) Notwithstanding Subsections (a)-(d), notice is not  
 16-5 required to be given under this section if notice of the resolution  
 16-6 is given in accordance with Section 21.906.

16-7 (f) For purposes of Section 21.906 and this section, notice  
 16-8 to holders of putative shares and notice to holders of valid shares  
 16-9 and putative shares as of the time of the defective corporate act  
 16-10 shall be treated as notice to holders of valid shares for purposes  
 16-11 of Sections 6.051, 6.052, 6.053, 21.353, and 21.3531.

16-12 Sec. 21.912. VALID SHARES OR PUTATIVE SHARES. In the  
 16-13 absence of actual fraud in the transaction, the judgment of the  
 16-14 board of directors of a corporation that shares of the corporation  
 16-15 are valid shares or putative shares is conclusive, unless otherwise  
 16-16 determined by the district court in a proceeding brought under  
 16-17 Section 21.914.

16-18 Sec. 21.913. RATIFICATION PROCEDURES OR COURT PROCEEDINGS  
 16-19 CONCERNING VALIDATION NOT EXCLUSIVE. (a) Ratification of an act  
 16-20 or transaction under this subchapter or validation of an act or  
 16-21 transaction as provided by Sections 21.914 through 21.917 is not  
 16-22 the exclusive means of ratifying or validating any act or  
 16-23 transaction taken by or on behalf of the corporation, including any  
 16-24 defective corporate act or any issuance of putative shares or other  
 16-25 shares.

16-26 (b) The absence or failure of ratification of an act or  
 16-27 transaction in accordance with this subchapter or of validation of  
 16-28 an act or transaction as provided by Sections 21.914 through 21.917  
 16-29 does not, of itself, affect the validity or effectiveness of any act  
 16-30 or transaction or the issuance of any shares properly ratified  
 16-31 under common law or otherwise, nor does it create a presumption that  
 16-32 any such act or transaction is or was a defective corporate act or  
 16-33 that those shares are void or voidable.

16-34 Sec. 21.914. PROCEEDING REGARDING VALIDITY OF DEFECTIVE  
 16-35 CORPORATE ACTS AND SHARES. (a) The following may bring an action  
 16-36 under this section:

16-37 (1) the corporation;  
 16-38 (2) any successor entity to the corporation;  
 16-39 (3) any member of the corporation's board of  
 16-40 directors;

16-41 (4) any record or beneficial holder of valid shares or  
 16-42 putative shares of the corporation;

16-43 (5) any record or beneficial holder of valid shares or  
 16-44 putative shares as of the time a defective corporate act was  
 16-45 ratified in accordance with this subchapter; or

16-46 (6) any other person claiming to be substantially and  
 16-47 adversely affected by a ratification under this subchapter.

16-48 (b) Subject to Section 21.917, the district court, on  
 16-49 application by a person described by Subsection (a), may:

16-50 (1) determine the validity and effectiveness of any  
 16-51 defective corporate act ratified in accordance with this  
 16-52 subchapter;

16-53 (2) determine the validity and effectiveness of the  
 16-54 ratification of any defective corporate act in accordance with this  
 16-55 subchapter;

16-56 (3) determine the validity and effectiveness of:  
 16-57 (A) any defective corporate act not ratified  
 16-58 under this subchapter; or

16-59 (B) any defective corporate act not ratified  
 16-60 effectively under this subchapter;

16-61 (4) determine the validity of any corporate act or  
 16-62 transaction and of any shares, rights, or options to acquire  
 16-63 shares; and

16-64 (5) modify or waive any of the procedures set forth in  
 16-65 Sections 21.901 through 21.913 to ratify a defective corporate act.

16-66 (c) In connection with an action brought under this section,  
 16-67 the district court may:

16-68 (1) declare that a ratification in accordance with and  
 16-69 pursuant to this subchapter is not effective or that the

17-1 ratification is effective only at a time or on conditions as  
17-2 specified by the district court;  
17-3 (2) validate and declare effective any defective  
17-4 corporate act or putative shares and impose conditions on such a  
17-5 validation;  
17-6 (3) require measures to remedy or avoid harm to any  
17-7 person substantially and adversely affected by a ratification under  
17-8 this subchapter or from any order of the district court pursuant to  
17-9 this section, excluding any harm that would have resulted had the  
17-10 defective corporate act been valid when approved or effectuated;  
17-11 (4) order the filing officer to accept for filing an  
17-12 instrument with an effective date and time as specified by the  
17-13 court, which may be before or subsequent to the time of the order;  
17-14 (5) approve share records for the corporation that  
17-15 include any shares ratified in accordance with this subchapter or  
17-16 validated in accordance with this section and Sections 21.915  
17-17 through 21.917;  
17-18 (6) declare that putative shares are valid shares or  
17-19 require a corporation to issue and deliver valid shares in place of  
17-20 any putative shares;  
17-21 (7) order that a meeting of holders of valid shares or  
17-22 putative shares be held and determine the right and power of persons  
17-23 to vote at the meeting;  
17-24 (8) declare that a defective corporate act validated  
17-25 by the court is effective as of the time of the defective corporate  
17-26 act or at such other time as determined by the court;  
17-27 (9) declare that putative shares validated by the  
17-28 district court are considered to be an identical valid share or a  
17-29 fraction of a valid share as of the time the shares were originally  
17-30 or purportedly issued or at such other time as determined by the  
17-31 district court; and  
17-32 (10) make any other order regarding such matters as  
17-33 the court considers appropriate under the circumstances.  
17-34 (d) In connection with the resolution of matters under  
17-35 Subsections (b) and (c), the district court may consider:  
17-36 (1) whether the defective corporate act was originally  
17-37 approved or effectuated with the belief that the approval or  
17-38 effectuation was in compliance with the provisions of the corporate  
17-39 statute or the governing documents of the corporation;  
17-40 (2) whether the corporation and the corporation's  
17-41 board of directors have treated the defective corporate act as a  
17-42 valid act or transaction and whether any person has acted in  
17-43 reliance on the public record that the defective corporate act was  
17-44 valid;  
17-45 (3) whether any person will be or was harmed by the  
17-46 ratification or validation of the defective corporate act,  
17-47 excluding any harm that would have resulted had the defective  
17-48 corporate act been valid when it was approved or took effect;  
17-49 (4) whether any person will be harmed by the failure to  
17-50 ratify or validate the defective corporate act; and  
17-51 (5) any other factors or considerations the district  
17-52 court considers just and equitable.  
17-53 Sec. 21.915. EXCLUSIVE JURISDICTION. The district court  
17-54 has exclusive jurisdiction to hear and determine any action brought  
17-55 under Section 21.914.  
17-56 Sec. 21.916. SERVICE. (a) Service of an application filed  
17-57 under Section 21.914 on the registered agent of a corporation or in  
17-58 any other manner permitted by applicable law is considered to be  
17-59 service on the corporation, and no other party need be joined in  
17-60 order for the district court to adjudicate the matter.  
17-61 (b) If an action is brought by a corporation under Section  
17-62 21.914, the district court may require that notice of the action be  
17-63 provided to other persons identified by the court and permit those  
17-64 other persons to intervene in the action.  
17-65 Sec. 21.917. STATUTE OF LIMITATIONS. (a) This section  
17-66 does not apply to:  
17-67 (1) an action asserting that a ratification was not  
17-68 accomplished in accordance with this subchapter; or  
17-69 (2) any person to whom notice of the ratification was

18-1 not given as required by Sections 21.906 and 21.911.

18-2 (b) Notwithstanding any other provision of this subchapter,  
18-3 the following may not be brought after the expiration of the 120th  
18-4 day of the validation effective time:

18-5 (1) an action asserting that a defective corporate act  
18-6 or putative shares ratified in accordance with this subchapter are  
18-7 void or voidable due to a failure of authorization identified in the  
18-8 resolution adopted in accordance with Section 21.903; or

18-9 (2) an action asserting that the district court, in  
18-10 its discretion, should declare that a ratification in accordance  
18-11 with this subchapter not take effect or that the ratification take  
18-12 effect only on certain conditions.

18-13 SECTION 31. This Act takes effect September 1, 2015.

18-14 \* \* \* \* \*