

1-1 By: Hughes, Hagenbuch S.B. No. 29
1-2 (In the Senate - Filed February 27, 2025; February 28, 2025,
1-3 read first time and referred to Committee on State Affairs;
1-4 March 31, 2025, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0; March 31, 2025,
1-6 sent to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Hughes	X			
1-10	Paxton	X			
1-11	Bettencourt	X			
1-12	Birdwell	X			
1-13	Hall	X			
1-14	Hinojosa of Nueces	X			
1-15	Middleton	X			
1-16	Parker	X			
1-17	Perry	X			
1-18	Schwertner			X	
1-19	Zaffirini	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 29 By: Hall

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to business entities.
1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-25 SECTION 1. Section 1.002(55-a), Business Organizations
1-26 Code, is amended to read as follows:
1-27 (55-a) "National securities exchange" means:
1-28 (A) an exchange registered as a national
1-29 securities exchange under Section 6, Securities Exchange Act of
1-30 1934 (15 U.S.C. Section 78f); or
1-31 (B) a stock exchange that:
1-32 (i) has its principal office in this state;
1-33 and
1-34 (ii) has received approval by the
1-35 securities commissioner under Subchapter C, Chapter 4005,
1-36 Government Code.
1-37 SECTION 2. Subchapter B, Chapter 1, Business Organizations
1-38 Code, is amended by adding Section 1.056 to read as follows:
1-39 Sec. 1.056. LAWS GOVERNING FORMATION, INTERNAL AFFAIRS, AND
1-40 GOVERNANCE OF DOMESTIC ENTITY. (a) The plain meaning of the text
1-41 of this code may not be supplanted, contravened, or modified by the
1-42 laws or judicial decisions of any other state.
1-43 (b) The managerial officials of a domestic entity, in
1-44 exercising their powers with respect to the domestic entity, may
1-45 consider the laws and judicial decisions of other states and the
1-46 practices observed by entities formed in those other states. The
1-47 failure or refusal of a managerial official to consider, or to
1-48 conform the exercise of the managerial official's powers to, the
1-49 laws, judicial decisions, or practices of another state does not
1-50 constitute or imply a breach of this code or of any duty existing
1-51 under the laws of this state.
1-52 SECTION 3. Section 2.115(b), Business Organizations Code,
1-53 is amended to read as follows:
1-54 (b) The governing documents of a domestic entity ~~may~~
1-55 ~~require~~, consistent with applicable state and federal
1-56 jurisdictional requirements, may require:
1-57 (1) that any internal entity claims shall be brought
1-58 only in a court in this state; and
1-59 (2) that one or more courts in this state having
1-60 jurisdiction shall serve as the exclusive forum and venue for any

internal entity claims.

SECTION 4. Subchapter B, Chapter 2, Business Organizations Code, is amended by adding Section 2.116 to read as follows:

Sec. 2.116. WAIVER OF TRIAL BY JURY. (a) In this section, "internal entity claim" has the meaning assigned by Section 2.115.

(b) The governing documents of a domestic entity may contain a waiver of the right to a jury trial concerning any internal entity claim.

(c) In a lawsuit asserting an internal entity claim, a waiver of the right to a jury trial contained in the governing documents of a domestic entity is enforceable, regardless of whether the applicable governing document is signed by the members, owners, officers, or governing persons.

(d) A person asserting an internal entity claim is considered to have been informed of the waiver of the right to a jury trial contained in the governing documents and to have knowingly waived the right in the action if the person:

(1) voted for or affirmatively ratified the governing document containing the waiver; or

(2) acquired an equity security of the domestic entity or any predecessor to the entity at, or continued to hold an equity security of a domestic entity that has one or more classes of equity securities listed on a national securities exchange after, a time at which the waiver was included in the governing documents.

(e) Nothing in this section prevents an entity from showing that a person asserting an internal entity claim knowingly and informedly waived the right to a jury trial by any evidence satisfactory to the court having jurisdiction, including by the person's consent or acquiescence to the waiver contained in the governing documents.

SECTION 5. Section 21.218, Business Organizations Code, is amended by amending Subsection (b) and adding Subsections (b-2) and (b-3) to read as follows:

(b) On written demand stating a proper purpose, a holder of shares of a corporation for at least six months immediately preceding the holder's demand, or a holder of at least five percent of all of the outstanding shares of a corporation, is entitled to examine and copy, at a reasonable time at the corporation's principal place of business or other location approved by the corporation and the holder, the corporation's books, records of account, minutes, share transfer records, and other records, whether in written or other tangible form, if the records are ~~[record is]~~ reasonably related to and appropriate to examine and copy for that proper purpose. For purposes of this subsection, the records of the corporation shall not include e-mails, text messages or similar electronic communications, or information from social media accounts unless the particular e-mail, communication, or social media information effectuates an action by the corporation.

(b-2) This subsection applies only to a corporation that has a class or series of voting shares listed on a national securities exchange or that has made an affirmative election to be governed by Section 21.419. For purposes of Subsection (b), a written demand shall not be for a proper purpose if the corporation reasonably determines that the demand is in connection with:

(1) an active or pending derivative proceeding in the right of the corporation under Subchapter L that is or is expected to be instituted or maintained by the holder or the holder's affiliate; or

(2) an active or pending civil lawsuit to which the corporation, or its affiliate, and the holder, or the holder's affiliate, are or are expected to be adversarial named parties.

(b-3) Subsection (b-2) does not impair any rights of:

(1) the holder or the holder's affiliate to obtain discovery of records from the corporation in:

(A) a civil lawsuit described by Subsection (b-2)(2); or

(B) the derivative proceeding subject to Section 21.556; or

(2) the holder to obtain a court order to compel

production of records of the corporation for examination by the holder as provided by Subsection (c).

SECTION 6. Section 21.364, Business Organizations Code, is amended by amending Subsections (d) and (e) and adding Subsection (e-1) to read as follows:

(d) Unless an amendment to the certificate of formation is undertaken by the board of directors under Section 21.155, separate voting by a class or series of shares of a corporation is required for approval of an amendment to the certificate of formation that would result in:

(1) the increase or decrease of the aggregate number of authorized shares of the class or series, except that the number of authorized shares of any class or series may be increased or decreased, but not below the number of shares of the class or series then outstanding, by the affirmative vote of the holders of a majority of the stock of the corporation entitled to vote, as provided by:

(A) the certificate of formation; or

(B) an amendment of the certificate of formation

that:

(i) authorized the shares of the class or series;

(ii) was adopted before the issuance of any shares of the class or series; or

(iii) was authorized by one or more resolutions adopted by the affirmative vote of the holders of a majority of the shares of the class or series;

(2) the increase or decrease of the par value of the shares of the class or series, including changing shares with par value into shares without par value or changing shares without par value into shares with par value;

(3) effecting an exchange, reclassification, or cancellation of all or part of the shares of the class or series;

(4) effecting an exchange or creating a right of exchange of all or part of the shares of another class or series into the shares of the class or series;

(5) the change of the designations, preferences, limitations, or relative rights of the shares of the class or series;

(6) the change of the shares of the class or series, with or without par value, into the same or a different number of shares, with or without par value, of the same class or series or another class or series;

(7) the creation of a new class or series of shares with rights and preferences equal, prior, or superior to the shares of the class or series;

(8) increasing the rights and preferences of a class or series with rights and preferences equal, prior, or superior to the shares of the class or series;

(9) increasing the rights and preferences of a class or series with rights or preferences later or inferior to the shares of the class or series in such a manner that the rights or preferences will be equal, prior, or superior to the shares of the class or series;

(10) dividing the shares of the class into series and setting and determining the designation of the series and the variations in the relative rights and preferences between the shares of the series;

(11) the limitation or denial of existing preemptive rights or cumulative voting rights of the shares of the class or series;

(12) canceling or otherwise affecting the dividends on the shares of the class or series that have accrued but have not been declared; or

(13) the inclusion or deletion from the certificate of formation of provisions required or permitted to be included in the certificate of formation of a close corporation under Subchapter O.

(e) Except as provided by Subsection (e-1), the [The] vote required under Subsection (d) by a class or series of shares of a

corporation is required notwithstanding that shares of that class or series do not otherwise have a right to vote under the certificate of formation.

(e-1) If the certificate of formation provides that any vote required by Subsection (d) shall be as a single class and without separate voting by class or series, then shares of a class or series that do not otherwise have a right to vote under the certificate of formation shall be treated as having no votes in the vote as a single class.

SECTION 7. Section 21.365(b), Business Organizations Code, is amended to read as follows:

(b) With respect to a matter for which the affirmative vote of the holders of a specified portion of the shares of a class or series is required by this code, the certificate of formation may provide that:

(1) the affirmative vote of the holders of a specified portion, but not less than the majority, of the shares of that class or series is required for action of the holders of shares of that class or series on that matter; and

(2) notwithstanding any other provision of this code, all classes or series of stock shall only be entitled to vote as a single class or series, and separate voting by class or series is not required, for the purpose of approving any matter, including in connection with any fundamental action or fundamental business transaction.

SECTION 8. Section 21.416, Business Organizations Code, is amended by adding Subsection (g) to read as follows:

(g) This subsection applies only to a corporation that has a class or series of voting shares listed on a national securities exchange or that has made an affirmative election to be governed by Section 21.419. The board of directors may adopt resolutions that authorize the formation of a committee of independent and disinterested directors to review and approve transactions, whether or not contemplated at the time of the committee's formation or a petition under Section 21.4161, involving the corporation or any of its subsidiaries and a controlling shareholder, director, or officer.

SECTION 9. Subchapter I, Chapter 21, Business Organizations Code, is amended by adding Section 21.4161 to read as follows:

Sec. 21.4161. DETERMINATION OF INDEPENDENT AND DISINTERESTED DIRECTORS. (a) A corporation that adopts a resolution to authorize the formation of a committee of independent and disinterested directors under Section 21.416(g) may petition a court having jurisdiction to hold an evidentiary hearing to determine whether the directors appointed to the committee are independent and disinterested with respect to any transactions involving the corporation or any of its subsidiaries and a controlling shareholder, director, or officer.

(b) A petition under Subsection (a) shall be filed in the business court unless the corporation's principal place of business in this state is located in a county not contained within an operating division of the business court, in which case the petition may be filed in a district court in the county in which the corporation's principal place of business in this state is located.

(c) In the petition, the corporation shall designate legal counsel to act on behalf of the corporation and its shareholders, other than the controlling shareholder, director, or officer involved in the transaction.

(d) The corporation shall give notice to the corporation's shareholders that:

(1) a petition has been filed under this section;

(2) identifies the court in which the petition is filed and provides the case number for the proceeding;

(3) identifies counsel designated to act on behalf of the corporation and its shareholders, other than the controlling shareholder, director, or officer involved in the transaction; and

(4) the shareholders, other than the controlling shareholder, director, or officer involved in the transaction, have the right to participate in the proceeding in person or through

counsel.

(e) If the corporation has a class of its shares listed on a national securities exchange, the notice required by Subsection (d) may be provided through the filing of a current report with the United States Securities and Exchange Commission in accordance with the requirements of the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.), and any rules promulgated under that Act.

(f) Not earlier than the 10th day after the date the notice required under Subsection (d) is given, the court shall hold a preliminary hearing to determine the appropriate legal counsel to represent the corporation and its shareholders, other than the controlling shareholder, director, or officer involved in the transaction, whether or not the same as the legal counsel identified in the petition. Any other legal counsel representing a shareholder, other than the controlling shareholder, director, or officer involved in the transaction, may participate in the hearing to:

(1) object to counsel designated by the corporation in the petition on the ground that the designated counsel is insufficiently independent and disinterested; or

(2) request designation by the court as the appropriate legal counsel.

(g) After the court determines the appropriate legal counsel under Subsection (f), the court shall promptly hold an evidentiary hearing as to whether the directors on the committee are independent and disinterested with respect to transactions involving the corporation or any of its subsidiaries and a controlling shareholder, director, or officer. The appropriate legal counsel determined under Subsection (f) and legal counsel for the corporation may participate in the hearing. After hearing and reviewing the evidence presented, the court shall make its determination as to whether the directors on the committee are independent and disinterested.

(h) The court's determination that the directors are independent and disinterested under Subsection (g) shall be dispositive in the absence of facts, not presented to the court, constituting evidence sufficient to prove that one or more of those directors is not independent and disinterested with respect to a particular transaction involving the corporation or any of its subsidiaries and a controlling shareholder, director, or officer.

SECTION 10. Section 21.418, Business Organizations Code, is amended by adding Subsection (f) to read as follows:

(f) This subsection applies only to a corporation that has a class or series of voting shares listed on a national securities exchange or has made an affirmative election to be governed by Section 21.419. Regardless of whether the conditions of Subsection (b) are satisfied, neither the corporation nor any of the corporation's shareholders will have a cause of action against any director or officer for breach of duty with respect to the making, authorization, or performance of the contract or transaction because the director or officer had the relationship or interest described by Subsection (a) or took any of the actions authorized by Subsection (d) unless the cause of action is permitted by Section 21.419.

SECTION 11. Subchapter I, Chapter 21, Business Organizations Code, is amended by adding Section 21.419 to read as follows:

Sec. 21.419. PRESUMPTIONS FOR DIRECTORS AND OFFICERS OF CERTAIN CORPORATIONS. (a) This section applies only to a corporation that has:

(1) a class or series of voting shares listed on a national securities exchange; or

(2) included in its governing documents a statement affirmatively electing to be governed by this section.

(b) In taking or declining to take any action on any matters of a corporation's business, a director or officer is presumed to act:

(1) in good faith;

(2) on an informed basis;

(3) in furtherance of the interests of the corporation; and

(4) in obedience to the law and the corporation's governing documents.

(c) Neither a corporation nor any of the corporation's shareholders has a cause of action against a director or officer of the corporation as a result of any act or omission in the person's capacity as a director or officer unless:

(1) the claimant rebuts one or more of the presumptions established by Subsection (b); and

(2) it is proven by the claimant that:

(A) the director's or officer's act or omission constituted a breach of one or more of the person's duties as a director or officer; and

(B) the breach involved fraud, intentional misconduct, an ultra vires act, or a knowing violation of law.

(d) The presumptions established by this section:

(1) are in addition to any legal presumption arising under common law or this code, in favor of any managerial official of a corporation to which this section applies; and

(2) do not abrogate, preempt, or lessen any other defense, presumption, immunity, or privilege under other constitutional, statutory, case, or common law or rule provisions, in favor of any managerial official of any domestic entity, including any corporation to which this section does not apply.

(e) In alleging fraud, intentional misconduct, an ultra vires act, or a knowing violation of the law under Subsection (c)(2)(B), a party must state with particularity the circumstances constituting the fraud, intentional misconduct, ultra vires act, or knowing violation of law.

(f) This section does not limit the effectiveness or applicability of a provision contained in the certificate of formation or similar instrument of a corporation limiting monetary liability of a governing person.

SECTION 12. Section 21.551(2), Business Organizations Code, is amended to read as follows:

(2) "Shareholder" includes:

(A) a shareholder as defined by Section 1.002;

(B) ~~or~~ a beneficial owner whose shares are held in a voting trust or by a nominee on the beneficial owner's behalf; or

(C) two or more shareholders acting in concert under an informal or formal agreement or understanding with respect to a derivative proceeding.

SECTION 13. Section 21.552(a), Business Organizations Code, is amended to read as follows:

(a) Subject to Subsection (b), a shareholder may not institute or maintain a derivative proceeding unless:

(1) the shareholder:

(A) was a shareholder of the corporation at the time of the act or omission complained of; or

(B) became a shareholder by operation of law originating from a person that was a shareholder at the time of the act or omission complained of; ~~and~~

(2) the shareholder fairly and adequately represents the interests of the corporation in enforcing the right of the corporation; and

(3) for a corporation with common shares listed on a national securities exchange or a corporation that has made an affirmative election to be governed by Section 21.419 and has 500 or more shareholders, at the time the derivative proceeding is instituted, the shareholder beneficially owns a number of the common shares sufficient to meet the required ownership threshold to institute a derivative proceeding in the right of the corporation identified in the corporation's certificate of formation or bylaws, provided that the required ownership threshold does not exceed three percent of the outstanding shares of the corporation.

SECTION 14. Section 21.554, Business Organizations Code, is

amended by amending Subsection (b) and adding Subsections (c), (d), (e), (f), (g), (h), and (i) to read as follows:

(b) The court shall appoint a panel under Subsection (a)(3) if the court finds that the individuals recommended by the corporation are independent and disinterested and are otherwise qualified with respect to expertise, experience, independent judgment, and other factors considered appropriate by the court under the circumstances to make the determinations. An individual appointed by the court to a panel under this section may be a director. An individual appointed by the court to a panel under this section may not be held liable to the corporation or the corporation's shareholders for an action taken or omission made by the individual in that capacity, except for an act or omission constituting fraud or wilful misconduct.

(c) Before the corporation's determination of how to proceed on the allegations under Subsection (a), the corporation may petition the court having jurisdiction to make a finding as to whether the directors identified or appointed under Subsection (a)(1) or (2) are independent and disinterested with respect to the allegations made in the demand.

(d) If a derivative proceeding has been instituted, a petition under Subsection (c) shall be filed in the court in which the proceeding was instituted. If no derivative proceeding has been instituted, a petition under Subsection (c) shall be filed in the business court unless the corporation's principal place of business in this state is located in a county not contained within an operating division of the business court, in which case the petition may be filed in a district court in the county in which the corporation's principal place of business in this state is located.

(e) The corporation must serve a copy of the petition on the shareholder filing the derivative proceeding or making the demand.

(f) Unless extended for good cause, a court in which a petition under Subsection (c) is filed must conduct an evidentiary hearing on the petition on or before the 45th day after the date the petition is filed.

(g) A shareholder on whom a petition is served under Subsection (e) is entitled to be served with all notices and papers filed in the action and to intervene in the action to challenge the petition. Unless good cause is shown, a shareholder who is not already a party to the action must intervene not later than the seventh day before the date the petition is heard by the court.

(h) Unless extended for good cause, not later than the 75th day after the date the petition is filed, the court shall sign an order stating whether the directors are independent and disinterested.

(i) A court's finding that the directors or individuals are independent and disinterested under this section shall be dispositive in the absence of discovery of facts, not presented to the court, constituting evidence sufficient to prove that one or more of those directors or individuals are not independent and disinterested.

SECTION 15. Section 21.561, Business Organizations Code, is amended by adding Subsection (c) to read as follows:

(c) For purposes of Subsection (b), a substantial benefit to the corporation does not include additional or amended disclosures made to the shareholders, regardless of materiality.

SECTION 16. Section 21.562(a), Business Organizations Code, is amended to read as follows:

(a) In a derivative proceeding brought in the right of a foreign corporation, the matters covered by this subchapter are governed by the laws of the jurisdiction of formation of the foreign corporation, except for Sections 21.555, 21.560, and 21.561, which with respect to foreign corporations are procedural provisions and do not relate to the internal affairs of the foreign corporation, unless applying the laws of the jurisdiction of formation of the foreign corporation requires otherwise with respect to Section 21.555.

SECTION 17. Subchapter F, Chapter 101, Business Organizations Code, is amended by adding Section 101.256 to read as

follows:

Sec. 101.256. PRESUMPTIONS FOR GOVERNING PERSONS OF CERTAIN LIMITED LIABILITY COMPANIES. (a) This section applies only to a limited liability company that has:

(1) a class or series of voting membership interests listed on a national securities exchange; or

(2) included in its company agreement a statement affirmatively electing to be governed by this section.

(b) In taking or declining to take any action on any matters of a limited liability company's business, a governing person or officer, and each affiliate or associate of a governing person or officer, is presumed to act in good faith and in compliance with:

(1) the person's or officer's duties required under the governing documents of the limited liability company or common law; and

(2) the governing documents of the limited liability company.

(c) Neither a limited liability company nor any of the company's members has a cause of action against a governing person or officer or any affiliate or associate of a governing person or officer of the company as a result of any act or omission in the person's capacity as a governing person or officer of the company unless:

(1) the claimant rebuts one or more of the presumptions established by Subsection (b); and

(2) it is proven by the claimant that:

(A) the act or omission of the governing person or officer or affiliate or associate of a governing person or officer constituted a breach of one or more of the person's duties as a governing person or officer to the extent the duty has not been modified or eliminated through an affirmative election contained in the governing documents as permitted by this chapter; and

(B) the breach involved fraud, intentional misconduct, an ultra vires act, or a knowing violation of law.

(d) The presumptions established by this section:

(1) are in addition to any legal presumption arising under common law or this code, in favor of any governing person or officer to which this section applies; and

(2) do not abrogate, preempt, or lessen any other defense, presumption, immunity, or privilege under other constitutional, statutory, case, or common law or rule provisions, in favor of any governing person or officer of any domestic entity, including any limited liability company to which this section does not apply.

(e) In alleging fraud, intentional misconduct, an ultra vires act, or a knowing violation of the law under Subsection (c)(2)(B), a party must state with particularity the circumstances constituting the fraud, intentional misconduct, ultra vires act, or knowing violation of law.

(f) This section does not limit the effectiveness or applicability of a provision contained in the certificate of formation or company agreement or similar instrument of a limited liability company limiting monetary liability of a governing person or officer.

SECTION 18. Section 101.401, Business Organizations Code, is amended to read as follows:

Sec. 101.401. EXPANSION, [OR] RESTRICTION, OR ELIMINATION OF DUTIES AND LIABILITIES. The company agreement of a limited liability company may expand, [or] restrict, or eliminate any duties, including fiduciary duties, and related liabilities that a member, manager, officer, or other person has to the company or to a member or manager of the company.

SECTION 19. Section 101.451(3), Business Organizations Code, is amended to read as follows:

(3) "Member" includes:

(A) a person who is a member or is an assignee of a membership interest or a person who beneficially owns a membership interest through a voting trust or a nominee on the person's behalf; and

(B) two or more members described by Paragraph (A) acting in concert under an informal or formal agreement or understanding with respect to a derivative proceeding.

SECTION 20. Section 101.452(a), Business Organizations Code, is amended to read as follows:

(a) Subject to Subsection (b), a member may not institute or maintain a derivative proceeding unless:

(1) the member:

(A) was a member of the limited liability company at the time of the act or omission complained of; or

(B) became a member by operation of law originating from a person that was a member at the time of the act or omission complained of; ~~and~~

(2) the member fairly and adequately represents the interests of the limited liability company in enforcing the right of the limited liability company; and

(3) for a limited liability company with membership interests listed on a national securities exchange or that has made an affirmative election to be governed by Section 101.256 and has 500 or more members, at the time the derivative proceeding is instituted, the member beneficially owns a number of the membership interests sufficient to meet the required ownership threshold to institute a derivative proceeding in the right of the limited liability company identified in the limited liability company's certificate of formation or company agreement, provided that the required ownership threshold does not exceed three percent of the outstanding membership interests of the limited liability company.

SECTION 21. Section 101.461, Business Organizations Code, is amended by adding Subsection (c) to read as follows:

(c) For purposes of Subsection (b), a substantial benefit to the limited liability company does not include additional or amended disclosures made to the members, regardless of materiality.

SECTION 22. Section 101.502, Business Organizations Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a) Unless otherwise provided by the governing documents of a limited liability company, a [A] member of a limited liability company or an assignee of a membership interest in a limited liability company, on written demand stating a proper purpose, is entitled to examine and copy at a reasonable time at the limited liability company's principal office identified under Section 101.501(c) or another location approved by the limited liability company and the member or assignee, any records of the limited liability company, whether in written or other tangible form, which are reasonably related to and appropriate to examine and copy for that proper purpose. For purposes of this subsection, the records of the limited liability company shall not include e-mails, text messages or similar electronic communications, or information from social media accounts unless the particular e-mail, communication, or social media information effectuates an action by the limited liability company.

(a-1) This subsection applies only to a limited liability company that has a class or series of voting membership interests listed on a national securities exchange or that has made an affirmative election to be governed by Section 101.256. For purposes of Subsection (a), a written demand may be made only by a member or an assignee that has held the membership interest for at least six months immediately preceding the member's or assignee's demand.

(a-2) This subsection applies only to a limited liability company that has a class or series of voting membership interests listed on a national securities exchange or that has made an affirmative election to be governed by Section 101.256 or Section 101.401. For purposes of Subsection (a), a written demand shall not be for a proper purpose if the limited liability company reasonably determines that the demand is in connection with:

(1) an active or pending derivative proceeding in the right of the limited liability company under Subchapter J that is or is expected to be instituted or maintained by the member or assignee

or the member's or assignee's affiliate; or

(2) an active or pending civil lawsuit to which the company, or its affiliate, and the member or assignee, or the member's or assignee's affiliate, are or are expected to be adversarial named parties.

(a-3) Subsection (a-2) does not impair any rights of the member or assignee or the member's or assignee's affiliate to obtain discovery of records from the limited liability company in:

(1) a civil lawsuit described by Subsection (a-2)(2); or

(2) the derivative proceeding subject to Section 101.456.

SECTION 23. Section 152.002, Business Organizations Code, is amended by adding Subsection (e) to read as follows:

(e) This subsection applies only to a limited partnership that has a class or series of voting limited partnership interests listed on a national securities exchange or that has included in its governing documents a statement affirmatively electing to be governed by this subsection. Notwithstanding Subsection (b)(2), (3), or (4), a partnership agreement may eliminate any or all of the duty of loyalty under Section 152.205, the duty of care under Section 152.206, and the obligation of good faith under Section 152.204(b), to the extent the governing documents of the partnership include a statement affirmatively electing to do so under this subsection.

SECTION 24. Subchapter D, Chapter 153, Business Organizations Code, is amended by adding Section 153.163 to read as follows:

Sec. 153.163. PRESUMPTIONS FOR GENERAL PARTNERS AND OFFICERS OF CERTAIN LIMITED PARTNERSHIPS. (a) This section applies only to a limited partnership that has:

(1) a class or series of voting limited partnership interests listed on a national securities exchange; or

(2) included in its governing documents a statement affirmatively electing to be governed by this section.

(b) In taking or declining to take any action on any matters of a limited partnership's business, any general partner of the limited partnership, including any director, officer, member, or other affiliate of the general partner, is presumed to act in good faith and in compliance with:

(1) the person's duties required under this code, common law, and the partnership agreement of the partnership; and

(2) the partnership agreement of such limited partnership.

(c) Neither a limited partnership nor any of the limited partnership's partners has a cause of action against a general partner of the limited partnership, including any director, officer, member, or other affiliate of the general partner, as a result of any act or omission in the person's capacity as a general partner or as an officer or director of the general partner unless:

(1) the claimant rebuts one or more of the presumptions established by Subsection (b); and

(2) it is proven by the claimant that:

(A) the general partner's or any director, officer, member, or other affiliate of the general partner's act or omission constituted a breach of one or more of the person's duties as a general partner, director, or officer to the extent the duty has not been modified or eliminated through an affirmative election contained in the governing documents as permitted by this chapter; and

(B) the breach involved fraud, intentional misconduct, an ultra vires act, or a knowing violation of law.

(d) The presumptions established by this section:

(1) are in addition to any legal presumption arising under common law or this code, in favor of any general partner or member or managerial official of a general partner to which this section applies; and

(2) do not abrogate, preempt, or lessen any other defense, presumption, immunity, or privilege under other

constitutional, statutory, case, or common law or rule provisions, in favor of any managerial official of any domestic entity, including any limited partnership to which this section does not apply.

(e) In alleging fraud, intentional misconduct, an ultra vires act, or a knowing violation of the law under Subsection (c)(2)(B), a party must state with particularity the circumstances constituting the fraud, intentional misconduct, ultra vires act, or knowing violation of law.

(f) This section does not limit the effectiveness or applicability of a provision contained in the certificate of formation or partnership agreement or similar instrument of a partnership limiting monetary liability of a governing person.

SECTION 25. Section 153.401(2), Business Organizations Code, is amended to read as follows:

(2) "Limited partner" means:

(A) a person who is a limited partner or is an assignee of a partnership interest, including the partnership interest of a general partner; and

(B) two or more limited partners described by Paragraph (A) acting in concert under an informal or formal agreement or understanding with respect to a derivative proceeding.

SECTION 26. Section 153.402(a), Business Organizations Code, is amended to read as follows:

(a) Subject to Subsection (b), a limited partner may not institute or maintain a derivative proceeding unless:

(1) the limited partner:

(A) was a limited partner of the limited partnership at the time of the act or omission complained of; or

(B) became a limited partner by operation of law originating from a person that was a limited partner or general partner at the time of the act or omission complained of; ~~and~~

(2) the limited partner fairly and adequately represents the interests of the limited partnership in enforcing the right of the limited partnership; and

(3) for a limited partnership with limited partnership interests listed on a national securities exchange or that has made an affirmative election to be governed by Section 152.002(e) or Section 153.163 and has 500 or more limited partners, at the time the derivative proceeding is instituted, the partner beneficially owns a number of limited partnership interests sufficient to meet the required ownership threshold to institute a derivative proceeding in the right of the limited partnership identified in the limited partnership's certificate of formation or partnership agreement, provided that the required ownership threshold does not exceed three percent of the outstanding limited partnership interests of the limited partnership.

SECTION 27. Section 153.411, Business Organizations Code, is amended by adding Subsection (c) to read as follows:

(c) For purposes of Subsection (b), a substantial benefit to the limited partnership does not include additional or amended disclosures made to the limited partners, regardless of materiality.

SECTION 28. Section 153.552, Business Organizations Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Unless otherwise provided by the governing documents of a limited partnership, on ~~on~~ written demand stating a proper purpose, a partner or an assignee of a partnership interest in a limited partnership is entitled to examine and copy, at a reasonable time at the partnership's principal office identified under Section 153.551 or other location approved by the partnership and the partner or assignee, any records of the partnership, whether in written or other tangible form, which are reasonably related to and appropriate to examine and copy for that proper purpose. For purposes of this subsection, the records of the limited partnership shall not include e-mails, text messages or similar electronic communications, or information from social media accounts unless the particular e-mail, communication, or

social media information effectuates an action by the limited partnership.

(a-1) This subsection applies only to a limited partnership that has a class or series of voting limited partnership interests listed on a national securities exchange or that has made an affirmative election to be governed by Section 152.002(e) or 153.163. For purposes of Subsection (a), a written demand:

(1) may be made only by a limited partner or an assignee that has held the limited partnership interest for at least six months immediately preceding the limited partner's or assignee's demand; and

(2) shall not be for a proper purpose if the limited partnership reasonably determines that the demand is in connection with:

(A) an active or pending derivative proceeding in the right of the limited partnership under Subchapter I that is or is expected to be instituted or maintained by the limited partner or assignee or the limited partner's or assignee's affiliate; or

(B) an active or pending civil lawsuit to which the partnership, or its affiliate, and the limited partner or assignee, or the limited partner's or assignee's affiliate, are or are expected to be adversarial named parties.

(a-2) Subsection (a-1) does not impair any rights of the limited partner or assignee or the limited partner's or assignee's affiliate to obtain discovery of records from the limited partnership in:

(1) a civil lawsuit described by Subsection (a-1)(2)(B); or

(2) the derivative proceeding subject to Section 153.406.

SECTION 29. Sections 21.552(a), 21.561, 101.452(a), 101.461, 153.402(a), and 153.411, Business Organizations Code, as amended by this Act, apply only to a derivative proceeding instituted on or after the effective date of this Act. A derivative proceeding instituted before the effective date of this Act is governed by the law in effect on the date the proceeding was instituted, and the former law is continued in effect for that purpose.

SECTION 30. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2025.

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