

SENATE FILE **2374**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3235)

Passed Senate, Date 3-13-06 Passed House, Date _____
Vote: Ayes 50 Nays 0 Vote: Ayes _____ Nays _____
Approved April 26, 2006

A BILL FOR

1 An Act containing various provisions relating to business
2 entities, including limited partnerships, corporations,
3 limited liability companies, cooperatives, and nonprofit
4 corporations.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

6 [REDACTED]

7

8

SENATE FILE 2374

S-5052

9

1 Amend Senate File 2374 as follows:

10

2 1. Title page, by striking lines 2 and 3 and
3 inserting the following: "entities, including
4 corporations, limited liability companies, and
5 nonprofit".

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By BRIAN SCHOENJAHN

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S-5052 FILED MARCH 13, 2006
ADOPTED

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SC 2374

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DIVISION I

BUSINESS CORPORATIONS

Section 1. Section 490.401, subsection 2, paragraph b, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001 or 486A.1002.

(2) For a limited partnership, section 488.108, 488.109, or 488.810.

(3) For a business corporation, this section, or section 490.402, 490.403, or 490.1422.

(4) For a limited liability company, section 490A.401 or 490A.402.

(5) For a nonprofit corporation, section 504.401, 504.402, 504.403, or 504.1423.

Sec. 2. Section 490.401, subsection 5, Code Supplement 2005, is amended to read as follows:

5. This chapter does not control the use of fictitious names; however, if a corporation or a foreign corporation uses a fictitious name in this state it shall deliver to the secretary of state for filing a certified copy of the resolution of-its-board-of-directors,-certified-by-its secretary filed and executed according to section 490.120, adopting the fictitious name.

Sec. 3. Section 490.630, subsection 1, Code 2005, is amended to read as follows:

~~1. Unless-section-490.1704-is-applicable-to-the corporation,-the~~ The shareholders of a corporation do not have a preemptive right to acquire the corporation's unissued shares except to the extent the articles of incorporation so provide.

Sec. 4. Section 490.704, subsection 1, Code 2005, is amended to read as follows:

1. Unless otherwise provided in the articles of

1 incorporation, any action required or permitted by this
2 chapter to be taken at a shareholders' meeting may be taken
3 without a meeting or vote, and, except as provided in
4 subsection 5, without prior notice, if one or more written
5 consents describing the action taken are signed by the holders
6 of outstanding shares having not less than ~~ninety-percent-of~~
7 the-votes-entitled-to-be-cast the minimum number of votes that
8 would be necessary to authorize or take such action at a
9 meeting at which all shares entitled to vote on the action
10 were present and voted, and are delivered to the corporation
11 for inclusion in the minutes or filing with the corporate
12 records.

13 Sec. 5. Section 490.1422, subsection 1, paragraph c, Code
14 2005, is amended to read as follows:

15 c. State If the application is received more than five
16 years after the effective date of dissolution, state a
17 corporate name that satisfies the requirements of section
18 490.401.

19 Sec. 6. Section 490.1506, subsection 2, paragraph b, Code
20 2005, is amended to read as follows:

21 b. A corporate name reserved or, registered under, or
22 protected as provided in section 490.402 or 490.403.

23 Sec. 7. Section 534.508, subsection 1, Code 2005, is
24 amended to read as follows:

25 1. IN GENERAL. Sections 490.601 through 490.604, 490.620
26 through 490.628, and 490.630~~7~~~~-and-490-1704~~ apply to stock
27 associations.

28 Sec. 8. Sections 490.1704 and 490.1705, Code 2005, are
29 repealed.

30 DIVISION II

31 LIMITED LIABILITY COMPANIES

32 Sec. 9. Section 490A.131, subsection 4, Code Supplement
33 2005, is amended to read as follows:

34 4. If a filed biennial report contains an address of a
35 designated registered office or the name or address of an a

1 registered agent ~~for-service-of-process~~ which differs from the
2 information shown in the records of the secretary of state
3 immediately before the filing, the differing information in
4 the biennial report is considered a statement of change under
5 section 490A.502.

6 Sec. 10. Section 490A.201, Code 2005, is amended to read
7 as follows:

8 490A.201 PURPOSES.

9 1. A limited liability company organized under this
10 chapter has the purpose of engaging in any lawful ~~business~~
11 activity unless a more limited purpose is set forth in the
12 articles of organization.

13 2. A limited liability company engaging in a ~~business~~ an
14 activity that is subject to regulation under another statute
15 of this state may organize under this chapter only if
16 permitted by, and subject to all limitations of, the other
17 statute.

18 Sec. 11. Section 490A.305, subsection 2, paragraph b, Code
19 2005, is amended to read as follows:

20 b. Separate and distinct records are maintained for ~~the~~
21 that series and separate and distinct records account for the
22 assets associated with ~~the that series are-held-and.~~ The
23 assets associated with a series must be accounted for
24 separately from the other assets of the limited liability
25 company, ~~or-from-any-other-series-of-the-limited-liability~~
26 company including another series.

27 Sec. 12. Section 490A.305, subsection 13, Code 2005, is
28 amended to read as follows:

29 13. A foreign limited liability company that is
30 registering authorized to do business in this state under ~~this~~
31 chapter subchapter XIV which is governed by an operating
32 agreement that establishes or provides for the establishment
33 of designated series of members, managers, or membership
34 interests having separate rights, powers, or duties with
35 respect to specified property or obligations of the foreign

1 limited liability company, or profits and losses associated
2 with the specified property or obligations, shall indicate
3 that fact on the application for registration a certificate of
4 authority as a foreign limited liability company. In
5 addition, the foreign limited liability company shall state on
6 the application whether the debts, liabilities, and
7 obligations incurred, contracted for, or otherwise existing
8 with respect to a particular series, if any, are enforceable
9 against the assets of such series only, and not against the
10 assets of the foreign limited liability company generally.

11 Sec. 13. Section 490A.1401, Code 2005, is amended to read
12 as follows:

13 490A.1401 LAW GOVERNING.

14 The law of the state or other jurisdiction under which a
15 foreign limited liability company is formed governs its
16 formation and internal affairs and the liability of its
17 members and managers. A foreign limited liability company
18 shall not be denied registration a certificate of authority by
19 reason of any difference between those laws and the laws of
20 this state. A foreign limited liability company holding a
21 valid registration certificate of authority in this state
22 shall have no greater rights and privileges than a domestic
23 limited liability company. The registration certificate of
24 authority shall not be deemed to authorize the foreign limited
25 liability company to exercise any of its powers or purposes
26 that a domestic limited liability company is forbidden by law
27 to exercise in this state.

28 Sec. 14. Section 490A.1404, unnumbered paragraph 1, Code
29 2005, is amended to read as follows:

30 A certificate of registration authority shall not be issued
31 to a foreign limited liability company unless the name of the
32 limited liability company satisfies the requirements of
33 section 490A.401. To obtain or maintain a certificate of
34 registration authority, the company shall comply with the
35 following:

1 Sec. 15. Section 490A.1405, Code 2005, is amended to read
2 as follows:

3 490A.1405 CHANGE AND AMENDMENT.

4 If any statement in the application for registration a
5 certificate of authority of a foreign limited liability
6 company was false when made or any arrangements or other facts
7 described have changed, making the application inaccurate in
8 any respect, the foreign limited liability company shall
9 promptly deliver to the secretary of state for filing articles
10 of correction correcting such statement as required by section
11 490A.123.

12 Sec. 16. Section 490A.1406, subsection 1, paragraph b,
13 Code 2005, is amended to read as follows:

14 b. That the foreign limited liability company is not
15 transacting business in this state and that it surrenders its
16 registration certificate of authority to transact business in
17 this state.

18 Sec. 17. Section 490A.1406, subsection 2, Code 2005, is
19 amended to read as follows:

20 2. The certificate of registration authority shall be
21 canceled upon the filing of the certificate of cancellation by
22 the secretary of state.

23 Sec. 18. Section 490A.1410, subsection 2, unnumbered
24 paragraph 1, Code 2005, is amended to read as follows:

25 A certificate of registration authority of a foreign
26 limited liability company shall not be revoked by the
27 secretary of state, unless both of the following apply:

28 DIVISION III

29 NONPROFIT CORPORATIONS

30 Sec. 19. Section 504.403, subsection 1, paragraph b, Code
31 Supplement 2005, is amended by striking the paragraph and
32 inserting in lieu thereof the following:

33 b. A name reserved, registered, or protected as follows:

34 (1) For a limited liability partnership, section 486A.1001
35 or 486A.1002.

1 (2) For a limited partnership, section 488.108, 488.109,
2 or 488.810.

3 (3) For a business corporation, section 490.401, 490.402,
4 490.403, or 490.1422.

5 (4) For a limited liability company, section 490A.401 or
6 490A.402.

7 (5) For a nonprofit corporation, this section or section
8 501.401, 501.402, or 504.1423.

9 Sec. 20. Section 504.702, subsection 1, paragraph b, Code
10 2005, is amended to read as follows:

11 b. Except as provided in the articles or bylaws of a
12 ~~religious~~ corporation, if the holders of at least five percent
13 of the voting power of any corporation sign, date, and deliver
14 to any corporate officer one or more written demands for the
15 meeting describing the purpose for which it is to be held.
16 Unless otherwise provided in the articles of incorporation, a
17 written demand for a special meeting may be revoked by a
18 writing to that effect received by the corporation prior to
19 the receipt by the corporation of demands sufficient in number
20 to require the holding of a special meeting.

21 Sec. 21. Section 504.808, subsection 10, unnumbered
22 paragraph 1, Code 2005, is amended to read as follows:

23 The articles or bylaws of a ~~religious~~ corporation may do
24 both of the following:

25 Sec. 22. Section 504.901, Code Supplement 2005, is amended
26 to read as follows:

27 504.901 PERSONAL LIABILITY.

28 1. Except as otherwise provided in this chapter, a
29 director, officer, employee, or member of a corporation is not
30 liable for the corporation's debts or obligations and a
31 director, officer, member, or other volunteer is not
32 personally liable in that capacity to any person for any
33 action taken or failure to take any action in the discharge of
34 the person's duties except liability for any of the following:

35 ± a. The amount of any financial benefit to which the

1 person is not entitled.

2 ~~2-~~ b. An intentional infliction of harm on the
3 corporation or the members.

4 ~~3-~~ c. A violation of section 504.835.

5 ~~4-~~ d. An intentional violation of criminal law.

6 2. A provision set forth in the articles of incorporation
7 eliminating or limiting the liability of a director to the
8 corporation or its members for money damages for any action
9 taken, or any failure to take any action, pursuant to section
10 504.202, subsection 2, paragraph "d", shall not affect the
11 applicability of this section.

12 Sec. 23. Section 504.1001, Code 2005, is amended to read
13 as follows:

14 504.1001 AUTHORITY TO AMEND.

15 A corporation may amend its articles of incorporation at
16 any time to add or change a provision that is required or
17 permitted in the articles as of the effective date of the
18 amendment or to delete a provision that is not required to be
19 contained in the articles of incorporation. ~~Whether-a~~
20 ~~provision-is-required-or-permitted-in-the-articles-is~~
21 ~~determined-as-of-the-effective-date-of-the-amendment-~~

22 Sec. 24. Section 504.1002, subsection 1, Code 2005, is
23 amended to read as follows:

24 1. Unless the articles of incorporation provide otherwise,
25 a corporation's board of directors may adopt ~~one-or-more~~
26 amendments to the corporation's articles of incorporation
27 without member approval ~~to-do~~ for any of the following
28 purposes:

29 a. ~~Extend~~ To extend the duration of the corporation if it
30 was incorporated at a time when limited duration was required
31 by law.

32 b. ~~Delete~~ To delete the names and addresses of the initial
33 directors.

34 c. ~~Delete~~ To delete the name and address of the initial
35 registered agent or registered office, if a statement of

1 change is on file with the secretary of state.

2 d. Change To change the corporate name by substituting the
3 word "corporation", "incorporated", "company", "limited", or
4 the abbreviation "corp.", "inc.", "co.", or "ltd.", for a
5 similar word or abbreviation in the name, or by adding,
6 deleting, or changing a geographical attribution to the name.

7 e. Make To make any other change expressly permitted by
8 this subchapter to be made by director action.

9 Sec. 25. Section 504.1005, unnumbered paragraph 1, Code
10 2005, is amended to read as follows:

11 A After an amendment to the articles of incorporation has
12 been adopted and approved in the manner required by this
13 chapter and by the articles of incorporation or bylaws, the
14 corporation amending its articles shall deliver to the
15 secretary of state, for filing, articles of amendment setting
16 forth:

17 Sec. 26. Section 504.1005, subsections 4 and 5, Code 2005,
18 are amended to read as follows:

19 4. If approval by members was not required, ~~a-statement-to~~
20 ~~that-effect-and~~ a statement that the amendment was duly
21 approved by ~~a-sufficient-vote-of~~ the incorporators or by the
22 board of directors ~~or-incorporators,~~ as the case may be, and
23 that member approval was not required.

24 5. If approval by members was required, ~~both-of-the~~
25 ~~following:~~

26 ~~a--The-designation, number-of-memberships-outstanding,~~
27 ~~number-of-votes-entitled-to-be-cast-by-each-class-entitled-to~~
28 ~~vote-separately-on-the-amendment, and-number-of-votes-of-each~~
29 ~~class-indisputably-voting-on-the-amendment.~~

30 ~~b--Either-the-total-number-of-votes-cast-for-and-against~~
31 ~~the-amendment-by-each-class-entitled-to-vote-separately-on-the~~
32 ~~amendment-or-the-total-number-of-undisputed-votes-cast-for-the~~
33 ~~amendment-by-each-class-and~~ a statement that the number-of
34 votes-cast-for-the amendment by-each-class was sufficient-for
35 approval-by-that-class duly approved by the members in the

1 manner required by this chapter, the articles of
2 incorporation, and bylaws.

3 Sec. 27. Section 504.1006, Code 2005, is amended to read
4 as follows:

5 504.1006 RESTATED ARTICLES OF INCORPORATION.

6 1. A corporation's board of directors may restate the
7 corporation's articles of incorporation at any time with or
8 without approval by members or any other person, to
9 consolidate all amendments into a single document.

10 2. ~~The restatement may~~ If the restated articles include
11 one or more new amendments ~~to the articles.---If the~~
12 ~~restatement includes an amendment requiring~~ that require
13 approval by the members or any other person, it the amendments
14 must be adopted as provided in section 504.1003.

15 3. ~~---If the restatement includes an amendment requiring~~
16 ~~approval by members, the board must submit the restatement to~~
17 ~~the members for their approval.~~

18 4. ~~---If the board seeks to have the restatement approved by~~
19 ~~the members at a membership meeting, the corporation shall~~
20 ~~notify each of its members of the proposed membership meeting~~
21 ~~in writing in accordance with section 504.705.---The notice~~
22 ~~must also state that the purpose, or one of the purposes, of~~
23 ~~the meeting is to consider the proposed restatement and must~~
24 ~~contain or be accompanied by a copy or summary of the~~
25 ~~restatement that identifies any amendments or other changes~~
26 ~~the restatement would make in the articles.~~

27 5. ~~---If the board seeks to have the restatement approved by~~
28 ~~the members by written ballot or written consent, the material~~
29 ~~soliciting the approval shall contain or be accompanied by a~~
30 ~~copy or summary of the restatement that identifies any~~
31 ~~amendments or other changes the restatement would make in the~~
32 ~~articles.~~

33 6. ~~A restatement requiring approval by the members must be~~
34 ~~approved by the same vote as an amendment to articles under~~
35 ~~section 504.1003.~~

1 7- 3. If the restatement includes an amendment requiring
2 approval pursuant to section 504.1031, the board must submit
3 the restatement for such approval.

4 8- 4. A corporation ~~restating that restates~~ its articles
5 of incorporation shall deliver to the secretary of state for
6 filing articles of restatement setting forth the name of the
7 corporation and the text of the restated articles of
8 incorporation together with a certificate ~~setting-forth-all-of~~
9 ~~the-following:~~

10 a. ~~Whether the restatement contains an amendment to the~~
11 ~~articles requiring approval by the members or any other person~~
12 ~~other than the board of directors and, if it does not, that~~
13 ~~the board of directors adopted the restatement.~~

14 b. ~~If the restatement contains an amendment to the~~
15 ~~articles requiring approval by the members, the information~~
16 ~~required by section 504.1005.~~

17 c. ~~If the restatement contains an amendment to the~~
18 ~~articles requiring approval by a person whose approval is~~
19 ~~required pursuant to section 504.1031, a statement that such~~
20 ~~approval was obtained~~ stating that the restated articles
21 consolidate all amendments into a single document. If a new
22 amendment is included in the restated articles, the
23 corporation shall include the statement required in section
24 504.1005.

25 9- 5. Duly adopted restated articles of incorporation
26 supersede the original articles of incorporation and all
27 amendments to the original articles of incorporation.

28 10- 6. The secretary of state may certify restated
29 articles of incorporation as the articles of incorporation
30 currently in effect without including the certificate
31 information required by subsection 8 4.

32 Sec. 28. Section 504.1007, subsection 1, Code 2005, is
33 amended to read as follows:

34 1. A corporation's articles may be amended without board
35 approval or approval by the members or approval required

1 pursuant to section 504.1031 to carry out a plan of
2 reorganization ordered or decreed by a court of competent
3 jurisdiction under ~~federal statute if the articles after~~
4 ~~amendment contain only provisions required or permitted by~~
5 section 504.202 the authority of law of the United States.

6 Sec. 29. Section 504.1008, Code Supplement 2005, is
7 amended to read as follows:

8 504.1008 EFFECT OF AMENDMENT AND RESTATEMENT.

9 An amendment to the articles of incorporation does not
10 affect a cause of action existing against or in favor of the
11 corporation, a proceeding to which the corporation is a party,
12 any requirement or limitation imposed upon the corporation, or
13 any property held by it by virtue of any trust upon which such
14 property is held by the corporation, or the existing rights of
15 persons other than members of the corporation. An amendment
16 changing a corporation's name does not abate a proceeding
17 brought by or against the corporation in its former name.

18 Sec. 30. Section 504.1506, subsection 2, paragraph b, Code
19 Supplement 2005, is amended to read as follows:

20 b. A corporate name reserved, or registered under, or
21 protected as provided in section 490.402 or 490.403 or section
22 504.402 or 504.403.

23 Sec. 31. NEW SECTION. 504.1607 EXCEPTION TO NOTICE
24 REQUIREMENT.

25 1. Whenever notice is required to be given under any
26 provision of this chapter to any member, such notice shall not
27 be required to be given if notice of two consecutive annual
28 meetings, and all notices of meetings during the period
29 between such two consecutive annual meetings, have been sent
30 to the member at the member's address as shown on the records
31 of the corporation and have been returned as undeliverable.

32 2. If the member delivers to the corporation a written
33 notice setting forth the member's then-current address, the
34 requirement that notice be given to the member shall be
35 reinstated.

EXPLANATION

1

2 This bill is divided into a number of divisions
3 corresponding to Code chapters governing different forms of
4 business entities, including division I which amends
5 provisions in Code chapter 490 governing business
6 corporations, division II which amends provisions in Code
7 chapter 490A governing limited liability companies, and
8 division III amending provisions in Code chapter 504 governing
9 nonprofit corporations.

10 DIVISION I -- BUSINESS CORPORATIONS. Code section 490.401
11 restricts how a business corporation may name itself. The
12 division provides that the name must be distinguished from
13 names of other business entities in existence or which may be
14 reinstated following administrative dissolution, including a
15 limited liability partnership (Code chapter 486A), a limited
16 partnership (Code chapter 488), another business corporation,
17 a limited liability company (Code chapter 490A), or a
18 nonprofit corporation (Code chapter 504).

19 Code section 490.401 is amended to allow a business
20 corporation to file a certified copy of a resolution with the
21 secretary of state to use a fictitious name.

22 Code section 490.704 is amended to allow a business
23 corporation to take action without a meeting with the consent
24 of shareholders having the minimum number of votes required to
25 authorize the action at a meeting.

26 Code section 490.1422 provides procedures for reinstatement
27 by the secretary of state. The division provides that a
28 corporation does not relinquish the right to retain its
29 corporate name if the reinstatement is effective within five
30 years of the effective date of the corporation's dissolution.

31 DIVISION II -- LIMITED LIABILITY COMPANIES. Code section
32 490A.131 requires a limited liability company to deliver a
33 biennial report to the secretary of state. The division
34 provides that the report must include the name and address of
35 the limited liability company's registered office and agent.

1 Code section 490A.201 is amended to provide that a limited
2 liability company may have as its purpose any lawful activity,
3 not just a lawful business activity.

4 Code section 490A.305 is amended to further describe the
5 requirements for maintenance of separate and distinct records
6 associated with a series of members, managers, or membership
7 interests of a limited liability company.

8 In addition, the division amends Code sections 490A.305,
9 490A.1401, 409A.1405, 490A.1406, and 490A.1410 by making
10 terminology changes in Code chapter 490A relating to the
11 issuance of certificates of authority to foreign limited
12 liability companies.

13 DIVISION III -- NONPROFIT CORPORATIONS. Code section
14 504.401 restricts how a nonprofit corporation may name itself.
15 The division amends Code section 504.403 to provide that the
16 registered name must be distinguished from names of other
17 business entities in existence or which may be reinstated
18 following dissolution, in the same manner as the business
19 entities described in division I.

20 Code section 504.702 is amended to provide that any
21 nonprofit corporation, not just a religious corporation, can
22 alter the statutory demand requirements for holding a special
23 meeting of the corporation in its corporate articles or
24 bylaws.

25 Code section 504.808 is amended to provide that any
26 nonprofit corporation, not just a religious corporation, can
27 alter the statutory requirements for removal of elected
28 corporate directors in its corporate articles or bylaws.

29 Code section 504.901 provides personal liability for
30 directors. The division amends the section by providing that
31 a provision in a nonprofit corporation's articles of
32 incorporation limiting personal liability of a director does
33 not affect provisions in the Code section which shield a
34 director or member from assuming debts of the nonprofit
35 corporation.

1 Code section 504.1001 is amended to make the language
2 consistent with Code section 490.1001, relating to business
3 corporations, by providing that a nonprofit corporation has
4 the authority to amend its articles of incorporation by adding
5 or changing a provision that is required or permitted in the
6 articles of incorporation as of the effective date of the
7 amendment, or to delete a provision not required in the
8 articles of incorporation.

9 Code section 504.1002 is amended to make the language
10 consistent with Code section 490.1005 relating to business
11 corporations, providing for amendments of articles of
12 incorporation by corporate directors.

13 Code section 504.1005 is amended to make the language
14 consistent with Code section 490.1006 relating to business
15 corporations, and provides that articles of amendment of a
16 nonprofit corporation be adopted and approved as required by
17 law and by the corporate articles or bylaws before being
18 delivered to the secretary of state for filing.

19 Code section 504.1005 is amended to make the language
20 consistent with Code section 490.1006 relating to business
21 corporations, and provides that the articles of amendment of a
22 nonprofit corporation must include a statement that member
23 approval was not required and the amendment was approved by
24 the incorporators or directors, or a statement that member
25 approval was required and was approved as required by law and
26 by the corporate articles or bylaws.

27 Code section 504.1006 is also amended to make the language
28 consistent with Code section 490.1007 relating to business
29 corporations, and provides that a nonprofit corporation's
30 board of directors may consolidate all amendments into a
31 single restated article of incorporation, any new amendments
32 included in the restated articles that require approval must
33 meet the requirements for amendments contained in Code section
34 504.1003, and restated articles of incorporation must be
35 delivered to the secretary of state for filing accompanied by

1 a certificate stating that the restated articles consolidate
2 all amendments into one document and, if new amendments are
3 included, the statement required under Code section 504.1005.

4 Code section 504.1007 is amended to make the language
5 consistent with Code section 490.1008 relating to business
6 corporations, and provides that a nonprofit corporation's
7 articles may be amended without board or member approval or
8 approval by a third person under Code section 504.1031 to
9 carry out a plan of reorganization ordered by a court of
10 competent jurisdiction under the authority of United States
11 law.

12 Code section 504.1008 is amended to make the language
13 consistent with Code section 490.1009, relating to business
14 corporations, and is a technical correction.

15 New Code section 504.1607 provides that notice to a member
16 of a nonprofit corporation is no longer required if notice of
17 two consecutive annual meetings and all notices of meetings
18 between the two consecutive annual meetings have been sent to
19 the member at the address of record and returned as
20 undeliverable. The notice requirement can be reinstated if
21 the member delivers written notice of the member's current
22 address to the corporation.

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SENATE FILE **2374**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3235)

(AS AMENDED AND PASSED BY THE SENATE MARCH 13, 2006)

* - Language Stricken by the Senate

Re-Passed Senate, Date 4-10-06 Passed House, Date 3-29-06
Vote: Ayes 50 Nays 0 Vote: Ayes 99 Nays 0
Approved _____

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4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2374

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Section 1. Section 490.401, subsection 2, paragraph b, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001 or 486A.1002.

(2) For a limited partnership, section 488.108, 488.109, or 488.810.

(3) For a business corporation, this section, or section 490.402, 490.403, or 490.1422.

(4) For a limited liability company, section 490A.401 or 490A.402.

(5) For a nonprofit corporation, section 504.401, 504.402, 504.403, or 504.1423.

Sec. 2. Section 490.401, subsection 5, Code Supplement 2005, is amended to read as follows:

5. This chapter does not control the use of fictitious names; however, if a corporation or a foreign corporation uses a fictitious name in this state it shall deliver to the secretary of state for filing a certified copy of the resolution ~~of its board of directors, certified by its secretary~~ filed and executed according to section 490.120, adopting the fictitious name.

Sec. 3. Section 490.630, subsection 1, Code 2005, is amended to read as follows:

~~1. Unless section 490.1704 is applicable to the corporation, the~~ The shareholders of a corporation do not have a preemptive right to acquire the corporation's unissued shares except to the extent the articles of incorporation so provide.

Sec. 4. Section 490.704, subsection 1, Code 2005, is amended to read as follows:

1. Unless otherwise provided in the articles of

1 incorporation, any action required or permitted by this
2 chapter to be taken at a shareholders' meeting may be taken
3 without a meeting or vote, and, except as provided in
4 subsection 5, without prior notice, if one or more written
5 consents describing the action taken are signed by the holders
6 of outstanding shares having not less than ~~ninety-percent-of~~
7 the-votes-entitled-to-be-cast the minimum number of votes that
8 would be necessary to authorize or take such action at a
9 meeting at which all shares entitled to vote on the action
10 were present and voted, and are delivered to the corporation
11 for inclusion in the minutes or filing with the corporate
12 records.

13 Sec. 5. Section 490.1422, subsection 1, paragraph c, Code
14 2005, is amended to read as follows:

15 c. State If the application is received more than five
16 years after the effective date of dissolution, state a
17 corporate name that satisfies the requirements of section
18 490.401.

19 Sec. 6. Section 490.1506, subsection 2, paragraph b, Code
20 2005, is amended to read as follows:

21 b. A corporate name reserved or, registered under, or
22 protected as provided in section 490.402 or 490.403.

23 Sec. 7. Section 534.508, subsection 1, Code 2005, is
24 amended to read as follows:

25 1. IN GENERAL. Sections 490.601 through 490.604, 490.620
26 through 490.628, and ~~490.630~~~~-and-490.1704~~ apply to stock
27 associations.

28 Sec. 8. Sections 490.1704 and 490.1705, Code 2005, are
29 repealed.

30 DIVISION II

31 LIMITED LIABILITY COMPANIES

32 Sec. 9. Section 490A.131, subsection 4, Code Supplement
33 2005, is amended to read as follows:

34 4. If a filed biennial report contains an address of a
35 designated registered office or the name or address of an a

1 registered agent ~~for-service-of-process~~ which differs from the
2 information shown in the records of the secretary of state
3 immediately before the filing, the differing information in
4 the biennial report is considered a statement of change under
5 section 490A.502.

6 Sec. 10. Section 490A.201, Code 2005, is amended to read
7 as follows:

8 490A.201 PURPOSES.

9 1. A limited liability company organized under this
10 chapter has the purpose of engaging in any lawful **business**
11 activity unless a more limited purpose is set forth in the
12 articles of organization.

13 2. A limited liability company engaging in ~~a-business~~ an
14 activity that is subject to regulation under another statute
15 of this state may organize under this chapter only if
16 permitted by, and subject to all limitations of, the other
17 statute.

18 Sec. 11. Section 490A.305, subsection 2, paragraph b, Code
19 2005, is amended to read as follows:

20 b. Separate and distinct records are maintained for the
21 that series and separate and distinct records account for the
22 assets associated with the that series are-held-and. The
23 assets associated with a series must be accounted for
24 separately from the other assets of the limited liability
25 company, ~~or-from-any-other-series-of-the-limited-liability~~
26 company including another series.

27 Sec. 12. Section 490A.305, subsection 13, Code 2005, is
28 amended to read as follows:

29 13. A foreign limited liability company that is
30 ~~registering~~ authorized to do business in this state under ~~this~~
31 ~~chapter~~ subchapter XIV which is governed by an operating
32 agreement that establishes or provides for the establishment
33 of designated series of members, managers, or membership
34 interests having separate rights, powers, or duties with
35 respect to specified property or obligations of the foreign

1 limited liability company, or profits and losses associated
2 with the specified property or obligations, shall indicate
3 that fact on the application for registration a certificate of
4 authority as a foreign limited liability company. In
5 addition, the foreign limited liability company shall state on
6 the application whether the debts, liabilities, and
7 obligations incurred, contracted for, or otherwise existing
8 with respect to a particular series, if any, are enforceable
9 against the assets of such series only, and not against the
10 assets of the foreign limited liability company generally.

11 Sec. 13. Section 490A.1401, Code 2005, is amended to read
12 as follows:

13 490A.1401 LAW GOVERNING.

14 The law of the state or other jurisdiction under which a
15 foreign limited liability company is formed governs its
16 formation and internal affairs and the liability of its
17 members and managers. A foreign limited liability company
18 shall not be denied registration a certificate of authority by
19 reason of any difference between those laws and the laws of
20 this state. A foreign limited liability company holding a
21 valid registration certificate of authority in this state
22 shall have no greater rights and privileges than a domestic
23 limited liability company. The registration certificate of
24 authority shall not be deemed to authorize the foreign limited
25 liability company to exercise any of its powers or purposes
26 that a domestic limited liability company is forbidden by law
27 to exercise in this state.

28 Sec. 14. Section 490A.1404, unnumbered paragraph 1, Code
29 2005, is amended to read as follows:

30 A certificate of registration authority shall not be issued
31 to a foreign limited liability company unless the name of the
32 limited liability company satisfies the requirements of
33 section 490A.401. To obtain or maintain a certificate of
34 registration authority, the company shall comply with the
35 following:

1 Sec. 15. Section 490A.1405, Code 2005, is amended to read
2 as follows:

3 490A.1405 CHANGE AND AMENDMENT.

4 If any statement in the application for registration a
5 certificate of authority of a foreign limited liability
6 company was false when made or any arrangements or other facts
7 described have changed, making the application inaccurate in
8 any respect, the foreign limited liability company shall
9 promptly deliver to the secretary of state for filing articles
10 of correction correcting such statement as required by section
11 490A.123.

12 Sec. 16. Section 490A.1406, subsection 1, paragraph b,
13 Code 2005, is amended to read as follows:

14 b. That the foreign limited liability company is not
15 transacting business in this state and that it surrenders its
16 registration certificate of authority to transact business in
17 this state.

18 Sec. 17. Section 490A.1406, subsection 2, Code 2005, is
19 amended to read as follows:

20 2. The certificate of registration authority shall be
21 canceled upon the filing of the certificate of cancellation by
22 the secretary of state.

23 Sec. 18. Section 490A.1410, subsection 2, unnumbered
24 paragraph 1, Code 2005, is amended to read as follows:

25 A certificate of registration authority of a foreign
26 limited liability company shall not be revoked by the
27 secretary of state, unless both of the following apply:

28 DIVISION III

29 NONPROFIT CORPORATIONS

30 Sec. 19. Section 504.403, subsection 1, paragraph b, Code
31 Supplement 2005, is amended by striking the paragraph and
32 inserting in lieu thereof the following:

33 b. A name reserved, registered, or protected as follows:

34 (1) For a limited liability partnership, section 486A.1001
35 or 486A.1002.

1 (2) For a limited partnership, section 488.108, 488.109,
2 or 488.810.

3 (3) For a business corporation, section 490.401, 490.402,
4 490.403, or 490.1422.

5 (4) For a limited liability company, section 490A.401 or
6 490A.402.

7 (5) For a nonprofit corporation, this section or section
8 501.401, 501.402, or 504.1423.

9 Sec. 20. Section 504.702, subsection 1, paragraph b, Code
10 2005, is amended to read as follows:

11 b. Except as provided in the articles or bylaws of a
12 ~~religious~~ corporation, if the holders of at least five percent
13 of the voting power of any corporation sign, date, and deliver
14 to any corporate officer one or more written demands for the
15 meeting describing the purpose for which it is to be held.

16 Unless otherwise provided in the articles of incorporation, a
17 written demand for a special meeting may be revoked by a
18 writing to that effect received by the corporation prior to
19 the receipt by the corporation of demands sufficient in number
20 to require the holding of a special meeting.

21 Sec. 21. Section 504.808, subsection 10, unnumbered
22 paragraph 1, Code 2005, is amended to read as follows:

23 The articles or bylaws of a ~~religious~~ corporation may do
24 both of the following:

25 Sec. 22. Section 504.901, Code Supplement 2005, is amended
26 to read as follows:

27 504.901 PERSONAL LIABILITY.

28 1. Except as otherwise provided in this chapter, a
29 director, officer, employee, or member of a corporation is not
30 liable for the corporation's debts or obligations and a
31 director, officer, member, or other volunteer is not
32 personally liable in that capacity to any person for any
33 action taken or failure to take any action in the discharge of
34 the person's duties except liability for any of the following:

35 ± a. The amount of any financial benefit to which the

1 person is not entitled.

2 2- b. An intentional infliction of harm on the
3 corporation or the members.

4 3- c. A violation of section 504.835.

5 4- d. An intentional violation of criminal law.

6 2. A provision set forth in the articles of incorporation
7 eliminating or limiting the liability of a director to the
8 corporation or its members for money damages for any action
9 taken, or any failure to take any action, pursuant to section
10 504.202, subsection 2, paragraph "d", shall not affect the
11 applicability of this section.

12 Sec. 23. Section 504.1001, Code 2005, is amended to read
13 as follows:

14 504.1001 AUTHORITY TO AMEND.

15 A corporation may amend its articles of incorporation at
16 any time to add or change a provision that is required or
17 permitted in the articles as of the effective date of the
18 amendment or to delete a provision that is not required to be
19 contained in the articles of incorporation. ~~Whether-a~~
20 ~~provision-is-required-or-permitted-in-the-articles-is~~
21 ~~determined-as-of-the-effective-date-of-the-amendment.~~

22 Sec. 24. Section 504.1002, subsection 1, Code 2005, is
23 amended to read as follows:

24 1. Unless the articles of incorporation provide otherwise,
25 a corporation's board of directors may adopt ~~one-or-more~~
26 amendments to the corporation's articles of incorporation
27 without member approval ~~to-do~~ for any of the following
28 purposes:

29 a. ~~Extend~~ To extend the duration of the corporation if it
30 was incorporated at a time when limited duration was required
31 by law.

32 b. ~~Delete~~ To delete the names and addresses of the initial
33 directors.

34 c. ~~Delete~~ To delete the name and address of the initial
35 registered agent or registered office, if a statement of

1 change is on file with the secretary of state.

2 d. Change To change the corporate name by substituting the
3 word "corporation", "incorporated", "company", "limited", or
4 the abbreviation "corp.", "inc.", "co.", or "ltd.", for a
5 similar word or abbreviation in the name, or by adding,
6 deleting, or changing a geographical attribution to the name.

7 e. Make To make any other change expressly permitted by
8 this subchapter to be made by director action.

9 Sec. 25. Section 504.1005, unnumbered paragraph 1, Code
10 2005, is amended to read as follows:

11 A After an amendment to the articles of incorporation has
12 been adopted and approved in the manner required by this
13 chapter and by the articles of incorporation or bylaws, the
14 corporation amending its articles shall deliver to the
15 secretary of state, for filing, articles of amendment setting
16 forth:

17 Sec. 26. Section 504.1005, subsections 4 and 5, Code 2005,
18 are amended to read as follows:

19 4. If approval by members was not required, ~~a-statement-to~~
20 ~~that-effect-and~~ a statement that the amendment was duly
21 approved by ~~a-sufficient-vote-of~~ the incorporators or by the
22 board of directors ~~or-incorporators,~~ as the case may be, and
23 that member approval was not required.

24 5. If approval by members was required, ~~both-of-the~~
25 ~~following:~~

26 ~~a.--The-designation,-number-of-memberships-outstanding,~~
27 ~~number-of-votes-entitled-to-be-cast-by-each-class-entitled-to~~
28 ~~vote-separately-on-the-amendment,-and-number-of-votes-of-each~~
29 ~~class-indisputably-voting-on-the-amendment.~~

30 ~~b.--Either-the-total-number-of-votes-cast-for-and-against~~
31 ~~the-amendment-by-each-class-entitled-to-vote-separately-on-the~~
32 ~~amendment-or-the-total-number-of-undisputed-votes-cast-for-the~~
33 amendment-by-each-class and a statement that the number-of
34 votes-cast-for-the amendment by-each-class was sufficient-for
35 approval-by-that-class duly approved by the members in the

1 manner required by this chapter, the articles of
2 incorporation, and bylaws.

3 Sec. 27. Section 504.1006, Code 2005, is amended to read
4 as follows:

5 504.1006 RESTATED ARTICLES OF INCORPORATION.

6 1. A corporation's board of directors may restate the
7 corporation's articles of incorporation at any time with or
8 without approval by members or any other person, to
9 consolidate all amendments into a single document.

10 2. ~~The restatement may~~ If the restated articles include
11 one or more new amendments to the articles.--If the
12 ~~restatement includes an amendment requiring that require~~
13 approval by the members or any other person, it the amendments
14 must be adopted as provided in section 504.1003.

15 ~~3.--If the restatement includes an amendment requiring~~
16 ~~approval by members, the board must submit the restatement to~~
17 ~~the members for their approval.~~

18 ~~4.--If the board seeks to have the restatement approved by~~
19 ~~the members at a membership meeting, the corporation shall~~
20 ~~notify each of its members of the proposed membership meeting~~
21 ~~in writing in accordance with section 504.705.--The notice~~
22 ~~must also state that the purpose, or one of the purposes, of~~
23 ~~the meeting is to consider the proposed restatement and must~~
24 ~~contain or be accompanied by a copy or summary of the~~
25 ~~restatement that identifies any amendments or other changes~~
26 ~~the restatement would make in the articles.~~

27 ~~5.--If the board seeks to have the restatement approved by~~
28 ~~the members by written ballot or written consent, the material~~
29 ~~soliciting the approval shall contain or be accompanied by a~~
30 ~~copy or summary of the restatement that identifies any~~
31 ~~amendments or other changes the restatement would make in the~~
32 ~~articles.~~

33 ~~6.--A restatement requiring approval by the members must be~~
34 ~~approved by the same vote as an amendment to articles under~~
35 ~~section 504.1003.~~

1 7. 3. If the restatement includes an amendment requiring
2 approval pursuant to section 504.1031, the board must submit
3 the restatement for such approval.

4 8. 4. A corporation ~~restating that restates~~ its articles
5 of incorporation shall deliver to the secretary of state for
6 filing articles of restatement setting forth the name of the
7 corporation and the text of the restated articles of
8 incorporation together with a certificate ~~setting forth all of~~
9 ~~the following:~~

10 a. ~~---Whether the restatement contains an amendment to the~~
11 ~~articles requiring approval by the members or any other person~~
12 ~~other than the board of directors and, if it does not, that~~
13 ~~the board of directors adopted the restatement.~~

14 b. ~~---If the restatement contains an amendment to the~~
15 ~~articles requiring approval by the members, the information~~
16 ~~required by section 504.1005.~~

17 c. ~~---If the restatement contains an amendment to the~~
18 ~~articles requiring approval by a person whose approval is~~
19 ~~required pursuant to section 504.1031, a statement that such~~
20 ~~approval was obtained stating that the restated articles~~
21 consolidate all amendments into a single document. If a new
22 amendment is included in the restated articles, the
23 corporation shall include the statement required in section
24 504.1005.

25 9. 5. Duly adopted restated articles of incorporation
26 supersede the original articles of incorporation and all
27 amendments to the original articles of incorporation.

28 10. 6. The secretary of state may certify restated
29 articles of incorporation as the articles of incorporation
30 currently in effect without including the certificate
31 information required by subsection 8 4.

32 Sec. 28. Section 504.1007, subsection 1, Code 2005, is
33 amended to read as follows:

34 1. A corporation's articles may be amended without board
35 approval or approval by the members or approval required

1 pursuant to section 504.1031 to carry out a plan of
2 reorganization ordered or decreed by a court of competent
3 jurisdiction under ~~federal statute if the articles after~~
4 ~~amendment contain only provisions required or permitted by~~
5 ~~section 504-202~~ the authority of law of the United States.

6 Sec. 29. Section 504.1008, Code Supplement 2005, is
7 amended to read as follows:

8 504.1008 EFFECT OF AMENDMENT AND RESTATEMENT.

9 An amendment to the articles of incorporation does not
10 affect a cause of action existing against or in favor of the
11 corporation, a proceeding to which the corporation is a party,
12 any requirement or limitation imposed upon the corporation, or
13 any property held by it by virtue of any trust upon which such
14 property is held by the corporation, or the existing rights of
15 persons other than members of the corporation. An amendment
16 changing a corporation's name does not abate a proceeding
17 brought by or against the corporation in its former name.

18 Sec. 30. Section 504.1506, subsection 2, paragraph b, Code
19 Supplement 2005, is amended to read as follows:

20 b. A corporate name reserved, or registered under, or
21 protected as provided in section 490.402 or 490.403 or section
22 504.402 or 504.403.

23 Sec. 31. NEW SECTION. 504.1607 EXCEPTION TO NOTICE
24 REQUIREMENT.

25 1. Whenever notice is required to be given under any
26 provision of this chapter to any member, such notice shall not
27 be required to be given if notice of two consecutive annual
28 meetings, and all notices of meetings during the period
29 between such two consecutive annual meetings, have been sent
30 to the member at the member's address as shown on the records
31 of the corporation and have been returned as undeliverable.

32 2. If the member delivers to the corporation a written
33 notice setting forth the member's then-current address, the
34 requirement that notice be given to the member shall be
35 reinstated.

1 EXPLANATION

2 This bill is divided into a number of divisions
3 corresponding to Code chapters governing different forms of
4 business entities, including division I which amends
5 provisions in Code chapter 490 governing business
6 corporations, division II which amends provisions in Code
7 chapter 490A governing limited liability companies, and
8 division III amending provisions in Code chapter 504 governing
9 nonprofit corporations.

10 DIVISION I -- BUSINESS CORPORATIONS. Code section 490.401
11 restricts how a business corporation may name itself. The
12 division provides that the name must be distinguished from
13 names of other business entities in existence or which may be
14 reinstated following administrative dissolution, including a
15 limited liability partnership (Code chapter 486A), a limited
16 partnership (Code chapter 488), another business corporation,
17 a limited liability company (Code chapter 490A), or a
18 nonprofit corporation (Code chapter 504).

19 Code section 490.401 is amended to allow a business
20 corporation to file a certified copy of a resolution with the
21 secretary of state to use a fictitious name.

22 Code section 490.704 is amended to allow a business
23 corporation to take action without a meeting with the consent
24 of shareholders having the minimum number of votes required to
25 authorize the action at a meeting.

26 Code section 490.1422 provides procedures for reinstatement
27 by the secretary of state. The division provides that a
28 corporation does not relinquish the right to retain its
29 corporate name if the reinstatement is effective within five
30 years of the effective date of the corporation's dissolution.

31 DIVISION II -- LIMITED LIABILITY COMPANIES. Code section
32 490A.131 requires a limited liability company to deliver a
33 biennial report to the secretary of state. The division
34 provides that the report must include the name and address of
35 the limited liability company's registered office and agent.

1 Code section 490A.201 is amended to provide that a limited
2 liability company may have as its purpose any lawful activity,
3 not just a lawful business activity.

4 Code section 490A.305 is amended to further describe the
5 requirements for maintenance of separate and distinct records
6 associated with a series of members, managers, or membership
7 interests of a limited liability company.

8 In addition, the division amends Code sections 490A.305,
9 490A.1401, 409A.1405, 490A.1406, and 490A.1410 by making
10 terminology changes in Code chapter 490A relating to the
11 issuance of certificates of authority to foreign limited
12 liability companies.

13 DIVISION III -- NONPROFIT CORPORATIONS. Code section
14 504.401 restricts how a nonprofit corporation may name itself.
15 The division amends Code section 504.403 to provide that the
16 registered name must be distinguished from names of other
17 business entities in existence or which may be reinstated
18 following dissolution, in the same manner as the business
19 entities described in division I.

20 Code section 504.702 is amended to provide that any
21 nonprofit corporation, not just a religious corporation, can
22 alter the statutory demand requirements for holding a special
23 meeting of the corporation in its corporate articles or
24 bylaws.

25 Code section 504.808 is amended to provide that any
26 nonprofit corporation, not just a religious corporation, can
27 alter the statutory requirements for removal of elected
28 corporate directors in its corporate articles or bylaws.

29 Code section 504.901 provides personal liability for
30 directors. The division amends the section by providing that
31 a provision in a nonprofit corporation's articles of
32 incorporation limiting personal liability of a director does
33 not affect provisions in the Code section which shield a
34 director or member from assuming debts of the nonprofit
35 corporation.

1 Code section 504.1001 is amended to make the language
2 consistent with Code section 490.1001, relating to business
3 corporations, by providing that a nonprofit corporation has
4 the authority to amend its articles of incorporation by adding
5 or changing a provision that is required or permitted in the
6 articles of incorporation as of the effective date of the
7 amendment, or to delete a provision not required in the
8 articles of incorporation.

9 Code section 504.1002 is amended to make the language
10 consistent with Code section 490.1005 relating to business
11 corporations, providing for amendments of articles of
12 incorporation by corporate directors.

13 Code section 504.1005 is amended to make the language
14 consistent with Code section 490.1006 relating to business
15 corporations, and provides that articles of amendment of a
16 nonprofit corporation be adopted and approved as required by
17 law and by the corporate articles or bylaws before being
18 delivered to the secretary of state for filing.

19 Code section 504.1005 is amended to make the language
20 consistent with Code section 490.1006 relating to business
21 corporations, and provides that the articles of amendment of a
22 nonprofit corporation must include a statement that member
23 approval was not required and the amendment was approved by
24 the incorporators or directors, or a statement that member
25 approval was required and was approved as required by law and
26 by the corporate articles or bylaws.

27 Code section 504.1006 is also amended to make the language
28 consistent with Code section 490.1007 relating to business
29 corporations, and provides that a nonprofit corporation's
30 board of directors may consolidate all amendments into a
31 single restated article of incorporation, any new amendments
32 included in the restated articles that require approval must
33 meet the requirements for amendments contained in Code section
34 504.1003, and restated articles of incorporation must be
35 delivered to the secretary of state for filing accompanied by

1 a certificate stating that the restated articles consolidate
2 all amendments into one document and, if new amendments are
3 included, the statement required under Code section 504.1005.
4 Code section 504.1007 is amended to make the language
5 consistent with Code section 490.1008 relating to business
6 corporations, and provides that a nonprofit corporation's
7 articles may be amended without board or member approval or
8 approval by a third person under Code section 504.1031 to
9 carry out a plan of reorganization ordered by a court of
10 competent jurisdiction under the authority of United States
11 law.

12 Code section 504.1008 is amended to make the language
13 consistent with Code section 490.1009, relating to business
14 corporations, and is a technical correction.

15 New Code section 504.1607 provides that notice to a member
16 of a nonprofit corporation is no longer required if notice of
17 two consecutive annual meetings and all notices of meetings
18 between the two consecutive annual meetings have been sent to
19 the member at the address of record and returned as
20 undeliverable. The notice requirement can be reinstated if
21 the member delivers written notice of the member's current
22 address to the corporation.

23
24
25

SENATE FILE 2374

H-8332

- 1 Amend Senate File 2374, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. By striking page 1, line 33, through page 2,
4 line 12.
5 2. By renumbering as necessary.

By PAULSEN of Linn

H-8332 FILED MARCH 21, 2006

H-8400

1 Amend Senate File 2374, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "DIVISION

6 LIMITED PARTNERSHIPS

7 Section 1. Section 488.108, subsection 4,
8 paragraph b, Code Supplement 2005, is amended by
9 striking the paragraph and inserting in lieu thereof
10 the following:

11 b. A name reserved, registered, or protected as
12 follows:

13 (1) For a limited liability partnership, section
14 486A.1001 or 486A.1002.

15 (2) For a limited partnership, this section,
16 section 488.109, or section 488.810.

17 (3) For a business corporation, section 490.401,
18 490.402, 490.403, or 490.1422.

19 (4) For a limited liability company, section
20 490A.401, 490A.402, or 490A.1313.

21 (5) For a nonprofit corporation, section 504.401,
22 504.402, 504.403, or 504.1423.

23 Sec. 2. Section 488.810, subsection 1, unnumbered
24 paragraph 1, Code 2005, is amended to read as follows:

25 A limited partnership that has been
26 administratively dissolved may apply to the secretary
27 of state for reinstatement within two years at any
28 time after the effective date of dissolution. The
29 application must be delivered to the secretary of
30 state for filing and state all of the following:

31 Sec. 3. Section 488.810, subsection 1, paragraph
32 c, Code 2005, is amended to read as follows:

33 c. That If the application is received more than
34 five years after the effective date of the
35 dissolution, that the limited partnership's name
36 satisfies the requirements of section 488.108.

37 Sec. 4. Section 488.810, subsection 2, Code 2005,
38 is amended to read as follows:

39 2. If the secretary of state determines that an
40 application contains the information required by
41 subsection 2 and that the information is correct, the
42 secretary of state shall prepare a declaration of
43 reinstatement that states this determination, sign,
44 and file the original of the declaration of
45 reinstatement, and ~~serve~~ deliver a copy to the limited
46 partnership ~~with a copy~~.

47 Sec. 5. Section 488.810, Code 2005, is amended by
48 adding the following new subsection:

49 NEW SUBSECTION. 4. A limited partnership shall
50 not relinquish the right to retain its name if the

H-8400

1 reinstatement is effective within five years of the
2 effective date of the limited partnership's
3 dissolution."

4 2. Page 1, lines 13 and 14, by striking the word
5 and figure "or 490A.402" and inserting the following:
6 ", 490A.402, or 490A.1313".

7 3. Page 1, by striking lines 17 through 25.

8 4. Page 1, by inserting before line 26 the
9 following:

10 "Sec. _____. Section 490.502, subsection 3, Code
11 2005, is amended to read as follows:

12 3. If a registered agent changes the registered
13 agent's business address to another place, the
14 registered agent may change the business address and
15 the address of the registered agent by filing a
16 statement as required in subsection 2 for each
17 corporation, or a single statement for all
18 corporations named in the notice, except that it need
19 be signed only by the registered agent ~~or agents~~ and
20 need not be responsive to subsection 1, paragraph "c",
21 and must recite that a copy of the statement has been
22 mailed to each corporation named in the notice."

23 5. Page 2, by inserting after line 12 the
24 following:

25 "Sec. _____. Section 490.1422, subsection 1,
26 unnumbered paragraph 1, Code 2005, is amended to read
27 as follows:

28 A corporation administratively dissolved under
29 section 490.1421 may apply to the secretary of state
30 for reinstatement ~~within two years~~ at any time after
31 the effective date of dissolution. The application
32 must meet all of the following requirements:"

33 6. Page 2, by inserting after line 18 the
34 following:

35 "Sec. _____. Section 490.1422, subsection 2,
36 paragraph b, Code 2005, is amended to read as follows:

37 b. (1) If the secretary of state determines that
38 the application contains the information required by
39 subsection 1, and that a delinquency or liability
40 reported pursuant to paragraph "a" ~~of this subsection~~
41 has been satisfied, and that the information is
42 correct, the secretary of state shall cancel the
43 certificate of dissolution and prepare a certificate
44 of reinstatement that recites the secretary of state's
45 determination and the effective date of reinstatement,
46 file the ~~original of the~~ certificate of reinstatement,
47 and ~~serve~~ deliver a copy ~~on~~ to the corporation under
48 section 490.504.

49 (2) If the corporate name in subsection 1,
50 paragraph "c", is different than the corporate name in

1 subsection 1, paragraph "a", the certificate of
2 reinstatement shall constitute an amendment to the
3 articles of incorporation insofar as it pertains to
4 the corporate name. A corporation shall not
5 relinquish the right to retain its corporate name if
6 the reinstatement is effective within five years of
7 the effective date of the corporation's dissolution.

8 Sec. ____ . Section 490.1422, subsection 4, Code
9 2005, is amended by striking the subsection."

10 7. Page 2, by inserting after line 22 the
11 following:

12 "Sec. ____ . Section 490.1701, subsection 3,
13 paragraph a, Code Supplement 2005, is amended to read
14 as follows:

15 a. The corporation shall amend or restate its
16 articles of incorporation to indicate that the
17 corporation adopts this chapter and to designate the
18 address of its initial registered office and the name
19 of its registered agent ~~or agents~~ at that office and,
20 if the name of the corporation is not in compliance
21 with the requirements of this chapter, to change the
22 name of the corporation to one complying with the
23 requirements of this chapter."

24 8. Page 2, by inserting after line 31 the
25 following:

26 "Sec. ____ . Section 490A.121, subsections 2 and 3,
27 Code 2005, are amended to read as follows:

28 2. The secretary of state files a document by
29 ~~stamping or otherwise endorsing recording it as~~
30 ~~"filed", together with the secretary of state's name~~
31 ~~and official title and acknowledging the date and time~~
32 ~~of its receipt, on both the document and the receipt~~
33 ~~for the filing fee, and recording the document in the~~
34 ~~records of the secretary of state. After filing a~~
35 ~~document, and except as provided in section 490A.503,~~
36 ~~the secretary of state shall deliver a copy of the~~
37 ~~filed document, with the filing fee receipt, or an~~
38 ~~acknowledgment of receipt if no fee is required,~~
39 ~~attached, the date and time of filing to the domestic~~
40 ~~or foreign limited liability company or its~~
41 ~~representative.~~

42 3. If the secretary of state refuses to file a
43 document, the secretary of state shall return it to
44 the domestic or foreign limited liability company or
45 its representative ~~within ten days after the document~~
46 ~~was received by the secretary of state, together with~~
47 ~~a brief, written explanation of the reason for the~~
48 ~~refusal.~~

49 Sec. ____ . Section 490A.124, subsection 1,
50 paragraphs e and f, Code 2005, are amended to read as

1 follows:

2 e. Application for registered name per month or
3 part thereof \$

2
No fee

4
5 f. Application for renewal of registered name
6 \$

20
No fee

7
8 Sec. ____ . Section 490A.131, subsection 1,
9 paragraph b, Code Supplement 2005, is amended to read
10 as follows:

11 b. The street ~~and mailing~~ address of its
12 ~~designated registered~~ office and the name and ~~street-~~
13 ~~and mailing~~ address of its registered agent for
14 ~~service of process in this state.~~"

15 9. Page 3, by inserting after line 5 the
16 following:

17 "Sec. ____ . Section 490A.131, subsection 5, Code
18 Supplement 2005, is amended by striking the
19 subsection."

20 10. Page 4, by inserting after line 10 the
21 following:

22 "Sec. ____ . Section 490A.401, subsection 3,
23 paragraph b, Code 2005, is amended by striking the
24 paragraph and inserting in lieu thereof the following:

25 b. A name reserved, registered, or protected as
26 follows:

27 (1) For a limited liability partnership, section
28 486A.1001 or 486A.1002.

29 (2) For a limited partnership, section 488.108,
30 488.109, or 488.810.

31 (3) For a business corporation, section 490.401,
32 490.402, 490.403, or 490.1422.

33 (4) For a limited liability company, this section
34 or section 490A.402 or 490A.1313.

35 (5) For a nonprofit corporation, section 504.401,
36 504.402, 504.403, or 504.1423.

37 Sec. ____ . Section 490A.401, subsection 6, Code
38 2005, is amended to read as follows:

39 6. This chapter does not control the use of
40 fictitious names; however, if a limited liability
41 company uses a fictitious name in this state it shall
42 deliver to the secretary of state for filing a
43 certified copy of the resolution ~~of the limited-~~
44 ~~liability company~~ filed and executed according to
45 section 490A.120 adopting the fictitious name.

46 Sec. ____ . Section 490A.1301, Code 2005, is amended
47 by adding the following new subsection:

48 NEW SUBSECTION. 4. The administrative dissolution
49 of the limited liability company under section
50 490A.1312.

1 Sec. ____ . NEW SECTION. 490A.1308 REVOCATION OF
2 DISSOLUTION.

3 1. A limited liability company may revoke its
4 dissolution within one hundred twenty days of the
5 effective date of its articles of dissolution.

6 2. Revocation of dissolution must be authorized in
7 the same manner as the dissolution was authorized
8 unless that authorization permitted revocation by
9 action of the managers of the limited liability
10 company alone, in which event the managers may revoke
11 the dissolution without member action.

12 3. After the revocation of dissolution is
13 authorized, the limited liability company may revoke
14 the dissolution by delivering to the secretary of
15 state for filing articles of revocation of
16 dissolution, together with a copy of its articles of
17 dissolution, that set forth all of the following:

- 18 a. The name of the limited liability company.
- 19 b. The effective date of the dissolution that was
- 20 revoked.
- 21 c. The date that the revocation of dissolution was
- 22 authorized.

23 d. If members of the limited liability company
24 unanimously revoked the dissolution, a statement to
25 that effect.

26 e. If the managers of the limited liability
27 company revoked a dissolution authorized by its
28 members, a statement that revocation was permitted by
29 action by the managers alone pursuant to that
30 authorization.

31 4. Revocation of dissolution is effective upon the
32 effective date of the articles of revocation of
33 dissolution.

34 5. When the revocation of dissolution is
35 effective, it relates back to and takes effect as of
36 the effective date of the dissolution as if the
37 dissolution had never occurred.

38 PART B

39 ADMINISTRATIVE DISSOLUTION

40 Sec. ____ . NEW SECTION. 490A.1311 GROUNDS FOR
41 ADMINISTRATIVE DISSOLUTION.

42 The secretary of state may commence a proceeding
43 under section 490A.1312 to administratively dissolve a
44 limited liability company if any of the following
45 apply:

46 1. The limited liability company has not delivered
47 a biennial report to the secretary of state in a form
48 that meets the requirements of section 490A.131,
49 within sixty days after it is due, or has not paid the
50 filing fee as determined by the secretary of state,

1 within sixty days after it is due.

2 2. The limited liability company is without a
3 registered office or registered agent in this state as
4 required in subchapter V for sixty days or more.

5 3. The limited liability company does not notify
6 the secretary of state within sixty days that its
7 registered office or registered agent as required in
8 subchapter V has been changed, its registered office
9 has been discontinued, or that its registered agent
10 has resigned.

11 4. The limited liability company's period of
12 duration stated in its articles of organization
13 expires.

14 Sec. ____ . NEW SECTION. 490A.1312 PROCEDURE FOR
15 AND EFFECT OF ADMINISTRATIVE DISSOLUTION.

16 1. If the secretary of state determines that one
17 or more grounds exist under section 490A.1311 for
18 dissolving a limited liability company, the secretary
19 of state shall serve the limited liability company
20 with written notice of the secretary of state's
21 determination under section 490A.504.

22 2. If the limited liability company does not
23 correct each ground for dissolution or demonstrate to
24 the reasonable satisfaction of the secretary of state
25 that each ground determined by the secretary of state
26 does not exist within sixty days after service of the
27 notice is perfected under section 490A.504, the
28 secretary of state shall administratively dissolve the
29 limited liability company by signing a certificate of
30 dissolution that recites the ground or grounds for
31 dissolution and its effective date. The secretary of
32 state shall file the original of the certificate and
33 serve a copy on the limited liability company under
34 section 490A.504.

35 3. A limited liability company administratively
36 dissolved continues its existence but shall not carry
37 on any business except that necessary to wind up and
38 liquidate its business and affairs under part A of
39 this subchapter and notify claimants under sections
40 490A.1306 and 490A.1307.

41 4. The administrative dissolution of a limited
42 liability company does not terminate the authority of
43 its registered agent as provided in subchapter V.

44 5. The secretary of state's administrative
45 dissolution of a limited liability company pursuant to
46 this section appoints the secretary of state the
47 limited liability company's agent for service of
48 process in any proceeding based on a cause of action
49 which arose during the time the limited liability
50 company was authorized to transact business in this

1 state. Service of process on the secretary of state
2 under this subsection is service on the limited
3 liability company. Upon receipt of process, the
4 secretary of state shall serve a copy of the process
5 on the limited liability company as provided in
6 section 490A.504. This subsection does not preclude
7 service on the limited liability company's registered
8 agent, if any.

9 Sec. ____ . NEW SECTION. 490A.1313 REINSTATEMENT
10 FOLLOWING ADMINISTRATIVE DISSOLUTION.

11 1. A limited liability company administratively
12 dissolved under section 490A.1312 may apply to the
13 secretary of state for reinstatement at any time after
14 the effective date of dissolution. The application
15 must meet all of the following requirements:

16 a. Recite the name of the limited liability
17 company at its date of dissolution and the effective
18 date of its administrative dissolution.

19 b. State that the ground or grounds for
20 dissolution as provided in section 490A.1311 have been
21 eliminated.

22 c. If the application is received more than five
23 years after the effective date of the administrative
24 dissolution, state a name that satisfies the
25 requirements of section 490A.401.

26 d. State the federal tax identification number of
27 the limited liability company.

28 2. a. The secretary of state shall refer the
29 federal tax identification number contained in the
30 application for reinstatement to the department of
31 revenue. The department of revenue shall report to
32 the secretary of state the tax status of the limited
33 liability company. If the department reports to the
34 secretary of state that a filing delinquency or
35 liability exists against the limited liability
36 company, the secretary of state shall not cancel the
37 certificate of dissolution until the filing
38 delinquency or liability is satisfied.

39 b. If the secretary of state determines that the
40 application contains the information required by
41 subsection 1, and that a delinquency or liability
42 reported pursuant to paragraph "a" of this subsection
43 has been satisfied, and that the information is
44 correct, the secretary of state shall cancel the
45 certificate of dissolution and prepare a certificate
46 of reinstatement that recites the secretary of state's
47 determination and the effective date of reinstatement,
48 file the original of the certificate, and serve a copy
49 on the limited liability company under section
50 490A.504. If the limited liability company's name in

1 subsection 1, paragraph "c", is different than the
2 name in subsection 1, paragraph "a", the certificate
3 of reinstatement shall constitute an amendment to the
4 limited liability company's articles of organization
5 insofar as it pertains to its name. A limited
6 liability company shall not relinquish the right to
7 retain its name as provided in section 490A.401, if
8 the reinstatement is effective within five years of
9 the effective date of the limited liability company's
10 dissolution.

11 3. When the reinstatement is effective, it relates
12 back to and takes effect as of the effective date of
13 the administrative dissolution as if the
14 administrative dissolution had never occurred.

15 Sec. ____ . NEW SECTION. 490A.1314 APPEAL FROM
16 DENIAL OF REINSTATEMENT.

17 1. If the secretary of state denies a limited
18 liability company's application for reinstatement
19 following administrative dissolution pursuant to
20 section 490A.1312, the secretary of state shall serve
21 the limited liability company under section 490A.504
22 with a written notice that explains the reason or
23 reasons for denial.

24 2. The limited liability company may appeal the
25 denial of reinstatement to the district court within
26 thirty days after service of the notice of denial is
27 perfected. The limited liability company appeals by
28 petitioning the court to set aside the dissolution and
29 attaching to the petition copies of the secretary of
30 state's certificate of dissolution, the limited
31 liability company's application for reinstatement, and
32 the secretary of state's notice of denial.

33 3. The court may summarily order the secretary of
34 state to reinstate the dissolved limited liability
35 company or may take other action the court considers
36 appropriate.

37 4. The court's final decision may be appealed as
38 in other civil proceedings."

39 11. Page 4, by inserting after line 27 the
40 following:

41 "Sec. ____ . Section 490A.1402, Code 2005, is
42 amended by striking the section and inserting in lieu
43 thereof the following:

44 490A.1402 APPLICATION FOR CERTIFICATE OF
45 AUTHORITY.

46 1. A foreign limited liability company may apply
47 for a certificate of authority to transact business in
48 this state by delivering an application to the
49 secretary of state for filing. The application must
50 set forth all of the following:

1 a. The name of the foreign limited liability
2 company or, if its name is unavailable for use in this
3 state, a name that satisfies the requirements of
4 section 490A.401.

5 b. The name of the state or country under whose
6 law it is organized.

7 c. Its date of formation and period of duration.

8 d. The street address of its principal office.

9 e. The address of its registered office in this
10 state and the name of its registered agent at that
11 address as provided in subchapter V.

12 2. The foreign limited liability company shall
13 deliver the completed application to the secretary of
14 state, and also deliver to the secretary of state a
15 certificate of existence or a document of similar
16 import duly authenticated by the secretary of state or
17 proper officer of the state or other jurisdiction of
18 its formation which is dated no earlier than ninety
19 days prior to the date the application is filed with
20 the secretary of state."

21 12. Page 5, by inserting after line 22 the
22 following:

23 "Sec. _____. Section 490A.1410, subsection 1,
24 paragraph a, Code 2005, is amended by adding the
25 following new subparagraph:

26 NEW SUBPARAGRAPH. (5) Deliver for filing to the
27 secretary of state a biennial report as required by
28 section 490A.131."

29 13. Page 5, by inserting after line 27 the
30 following:

31 "DIVISION
32 TRADITIONAL COOPERATIVES
33 Sec. _____. Section 499.78, subsection 1, unnumbered
34 paragraph 1, Code 2005, is amended to read as follows:
35 An association administratively dissolved under
36 section 499.77 may apply to the secretary of state for
37 reinstatement ~~within two years~~ at any time after the
38 effective date of dissolution. The application must
39 meet all of the following requirements:

40 DIVISION
41 CLOSED COOPERATIVES

42 Sec. _____. Section 501.104, Code 2005, is amended
43 to read as follows:

44 501.104 NAME.

45 The name of a cooperative organized under this
46 chapter must comply with all of the following:

47 1. The name must contain the word "cooperative",
48 "coop", or "co-op", and the

49 2. The name must be distinguishable from ~~the names~~
50 all of the following:

- 1 a. The name of ~~cooperatives~~ a cooperative
- 2 organized under this chapter ~~or~~.
- 3 b. The name of a cooperative or cooperative
- 4 association organized under another chapter, including
- 5 chapter 497, 498, 499, or 501A.
- 6 c. The name of a foreign ~~cooperatives~~ cooperative,
- 7 cooperative association, or corporation authorized to
- 8 do business in this state, including as provided in
- 9 section 499.54 or section 501A.221.
- 10 d. The name of a cooperative which has been
- 11 administratively dissolved pursuant to section 501.812
- 12 for a period of less than five years from the
- 13 effective date of the dissolution.

14 Sec. ____ . Section 501.813, subsection 1,
 15 unnumbered paragraph 1, Code 2005, is amended to read
 16 as follows:

17 A cooperative administratively dissolved under
 18 section 501.812 may apply to the secretary of state
 19 for reinstatement ~~within two years~~ at any time after
 20 the effective date of dissolution. The application
 21 must meet all of the following requirements:

22 Sec. ____ . Section 501.813, subsection 1, paragraph
 23 c, Code 2005, is amended to read as follows:

24 c. ~~State~~ If the application is received more than
 25 five years after the effective date of the
 26 cooperative's dissolution, state a name that satisfies
 27 the requirements of section 501.104.

28 Sec. ____ . Section 501.813, subsection 2, paragraph
 29 b, Code 2005, is amended to read as follows:

30 b. (1) If the secretary of state determines that
 31 the application contains the information required by
 32 subsection 1, and that a delinquency or liability
 33 reported pursuant to paragraph "a" has been satisfied,
 34 and that the information is correct, the secretary of
 35 state shall cancel the certificate of dissolution and
 36 prepare a certificate of reinstatement that recites
 37 the secretary of state's determination and the
 38 effective date of reinstatement, file the ~~original of~~
 39 ~~the certificate~~ document, and ~~serve~~ deliver a copy ~~on~~
 40 to the cooperative under section 501.106.

41 (2) If the name of the cooperative as provided in
 42 subsection 1, paragraph "c", is different than the
 43 name in subsection 1, paragraph "a", the certificate
 44 of reinstatement shall constitute an amendment to the
 45 articles of association insofar as it pertains to the
 46 name. A cooperative shall not relinquish the right to
 47 retain its name if the reinstatement is effective
 48 within five years of the effective date of the
 49 cooperative's dissolution."

50 14. Page 5, by inserting after line 29 the

1 following:

2 "Sec. ____ . Section 504.401, subsection 2,
3 paragraph b, Code Supplement 2005, is amended by
4 striking the paragraph and inserting in lieu thereof
5 the following:

6 b. A name reserved, registered, or protected as
7 follows:

8 (1) For a limited liability partnership, section
9 486A.1001 or 486A.1002.

10 (2) For a limited partnership, section 488.108,
11 488.109, or 488.810.

12 (3) For a business corporation, section 490.401,
13 490.402, 490.403, or 490.1422.

14 (4) For a limited liability company, section
15 490A.401, 490A.402, or 490A.1313.

16 (5) For a nonprofit corporation, this section or
17 section 504.402, 504.403, or 504.1423."

18 15. Page 6, lines 5 and 6, by striking the word
19 and figure "or 490A.402" and inserting the following:
20 ", 490A.402, or 490A.1313".

21 16. Page 11, by inserting after line 17 the
22 following:

23 "Sec. ____ . Section 504.1423, subsection 1,
24 unnumbered paragraph 1, Code 2005, is amended to read
25 as follows:

26 A corporation administratively dissolved under
27 section 504.1422 may apply to the secretary of state
28 for reinstatement ~~within two years~~ at any time after
29 the effective date of dissolution. The application
30 must state all of the following:

31 Sec. ____ . Section 504.1423, subsection 1,
32 paragraph c, Code 2005, is amended to read as follows:

33 c. ~~That~~ If the application is received more than
34 five years after the effective date of dissolution,
35 state the corporation's name satisfies the
36 requirements of section 504.401.

37 Sec. ____ . Section 504.1423, subsection 2,
38 paragraph b, Code 2005, is amended to read as follows:

39 b. (1) If the secretary of state determines that
40 the application contains the information required by
41 subsection 1, that a delinquency or liability reported
42 pursuant to paragraph "a" has been satisfied, and that
43 all of the application information is correct, the
44 secretary of state shall cancel the certificate of
45 dissolution and prepare a certificate of reinstatement
46 reciting that determination and the effective date of
47 reinstatement, file the ~~original of the certificate~~
48 document, and serve deliver a copy on to the
49 corporation under section 504.504.

50 (2) If the corporate name in subsection 1,

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1 paragraph "c", is different from the corporate name in
2 subsection 1, paragraph "a", the certificate of
3 reinstatement shall constitute an amendment to the
4 articles of incorporation insofar as it pertains to
5 the corporate name. A corporation shall not
6 relinquish the right to retain its corporate name if
7 the reinstatement is effective within five years of
8 the effective date of the corporation's dissolution."

9 17. Title page, by striking lines 2 and 3 and
10 inserting the following: "entities, including limited
11 partnerships, corporations, limited liability
12 companies, cooperatives, and nonprofit corporations."

13 18. By renumbering as necessary.

By KAUFMANN of Cedar
PAULSEN of Linn

H-8400 FILED MARCH 28, 2006

SENATE FILE 2374

H-8436

1 Amend the amendment, H-8400, to Senate File 2374,
2 as passed, amended, and reprinted by the Senate, as
3 follows:

4 1. Page 1, line 44, by striking the words
5 "original of the" and inserting the following:

6 "~~original of the~~".

7 2. Page 4, lines 12 and 13, by striking the words
8 "~~street and mailing~~" and inserting the following:

9 "street and mailing".

By KAUFMANN of Cedar
PAULSEN of Linn

H-8436 FILED MARCH 29, 2006

ADOPTED

HOUSE AMENDMENT TO
SENATE FILE 2374

S-5143

1 Amend Senate File 2374, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, by inserting before line 1 the
4 following:

5 "DIVISION

6 LIMITED PARTNERSHIPS

7 Section 1. Section 488.108, subsection 4,
8 paragraph b, Code Supplement 2005, is amended by
9 striking the paragraph and inserting in lieu thereof
10 the following:

11 b. A name reserved, registered, or protected as
12 follows:

13 (1) For a limited liability partnership, section
14 486A.1001 or 486A.1002.

15 (2) For a limited partnership, this section,
16 section 488.109, or section 488.810.

17 (3) For a business corporation, section 490.401,
18 490.402, 490.403, or 490.1422.

19 (4) For a limited liability company, section
20 490A.401, 490A.402, or 490A.1313.

21 (5) For a nonprofit corporation, section 504.401,
22 504.402, 504.403, or 504.1423.

23 Sec. 2. Section 488.810, subsection 1, unnumbered
24 paragraph 1, Code 2005, is amended to read as follows:

25 A limited partnership that has been
26 administratively dissolved may apply to the secretary
27 of state for reinstatement within two years at any
28 time after the effective date of dissolution. The
29 application must be delivered to the secretary of
30 state for filing and state all of the following:

31 Sec. 3. Section 488.810, subsection 1, paragraph
32 c, Code 2005, is amended to read as follows:

33 c. That If the application is received more than
34 five years after the effective date of the
35 dissolution, that the limited partnership's name
36 satisfies the requirements of section 488.108.

37 Sec. 4. Section 488.810, subsection 2, Code 2005,
38 is amended to read as follows:

39 2. If the secretary of state determines that an
40 application contains the information required by
41 subsection 2 and that the information is correct, the
42 secretary of state shall prepare a declaration of
43 reinstatement that states this determination, sign,
44 and file the ~~original of the~~ declaration of
45 reinstatement, and ~~serve~~ deliver a copy to the limited
46 partnership with a copy.

47 Sec. 5. Section 488.810, Code 2005, is amended by
48 adding the following new subsection:

49 NEW SUBSECTION. 4. A limited partnership shall
50 not relinquish the right to retain its name if the

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1 reinstatement is effective within five years of the
2 effective date of the limited partnership's
3 dissolution."

4 2. Page 1, lines 13 and 14, by striking the word
5 and figure "or 490A.402" and inserting the following:
6 ", 490A.402, or 490A.1313".

7 3. Page 1, by striking lines 17 through 25.

8 4. Page 1, by inserting before line 26 the
9 following:

10 "Sec. _____. Section 490.502, subsection 3, Code
11 2005, is amended to read as follows:

12 3. If a registered agent changes the registered
13 agent's business address to another place, the
14 registered agent may change the business address and
15 the address of the registered agent by filing a
16 statement as required in subsection 2 for each
17 corporation, or a single statement for all
18 corporations named in the notice, except that it need
19 be signed only by the registered agent ~~or agents~~ and
20 need not be responsive to subsection 1, paragraph "c",
21 and must recite that a copy of the statement has been
22 mailed to each corporation named in the notice."

23 5. By striking page 1, line 33, through page 2,
24 line 12.

25 6. Page 2, by inserting before line 13 the
26 following:

27 "Sec. _____. Section 490.1422, subsection 1,
28 unnumbered paragraph 1, Code 2005, is amended to read
29 as follows:

30 A corporation administratively dissolved under
31 section 490.1421 may apply to the secretary of state
32 for reinstatement ~~within two years~~ at any time after
33 the effective date of dissolution. The application
34 must meet all of the following requirements:"

35 7. Page 2, by inserting after line 18 the
36 following:

37 "Sec. _____. Section 490.1422, subsection 2,
38 paragraph b, Code 2005, is amended to read as follows:

39 b. (1) If the secretary of state determines that
40 the application contains the information required by
41 subsection 1, and that a delinquency or liability
42 reported pursuant to paragraph "a" ~~of this subsection~~
43 has been satisfied, and that the information is
44 correct, the secretary of state shall cancel the
45 certificate of dissolution and prepare a certificate
46 of reinstatement that recites the secretary of state's
47 determination and the effective date of reinstatement,
48 file the ~~original of the~~ certificate of reinstatement,
49 and ~~serve~~ deliver a copy ~~on~~ to the corporation under
50 section 490.504.

1 (2) If the corporate name in subsection 1,
2 paragraph "c", is different than the corporate name in
3 subsection 1, paragraph "a", the certificate of
4 reinstatement shall constitute an amendment to the
5 articles of incorporation insofar as it pertains to
6 the corporate name. A corporation shall not
7 relinquish the right to retain its corporate name if
8 the reinstatement is effective within five years of
9 the effective date of the corporation's dissolution.

10 Sec. _____. Section 490.1422, subsection 4, Code
11 2005, is amended by striking the subsection."

12 8. Page 2, by inserting after line 22 the
13 following:

14 "Sec. _____. Section 490.1701, subsection 3,
15 paragraph a, Code Supplement 2005, is amended to read
16 as follows:

17 a. The corporation shall amend or restate its
18 articles of incorporation to indicate that the
19 corporation adopts this chapter and to designate the
20 address of its initial registered office and the name
21 of its registered agent ~~or agents~~ at that office and,
22 if the name of the corporation is not in compliance
23 with the requirements of this chapter, to change the
24 name of the corporation to one complying with the
25 requirements of this chapter."

26 9. Page 2, by inserting after line 31 the
27 following:

28 "Sec. _____. Section 490A.121, subsections 2 and 3,
29 Code 2005, are amended to read as follows:

30 2. The secretary of state files a document by
31 ~~stamping or otherwise endorsing recording it as~~
32 ~~"filed", together with the secretary of state's name~~
33 ~~and official title and acknowledging the date and time~~
34 ~~of its receipt, on both the document and the receipt~~
35 ~~for the filing fee, and recording the document in the~~
36 ~~records of the secretary of state. After filing a~~
37 ~~document, and except as provided in section 490A.503,~~
38 ~~the secretary of state shall deliver a copy of the~~
39 ~~filed document, with the filing fee receipt, or an~~
40 ~~acknowledgment of receipt if no fee is required,~~
41 ~~attached, the date and time of filing to the domestic~~
42 ~~or foreign limited liability company or its~~
43 ~~representative.~~

44 3. If the secretary of state refuses to file a
45 document, the secretary of state shall return it to
46 the domestic or foreign limited liability company or
47 its representative ~~within ten days after the document~~
48 ~~was received by the secretary of state, together with~~
49 ~~a brief, written explanation of the reason for the~~
50 ~~refusal.~~

1 Sec. ____ . Section 490A.124, subsection 1,
2 paragraphs e and f, Code 2005, are amended to read as
3 follows:

4 e. Application for registered name per month or
5 part thereof \$

2
No fee

6
7 f. Application for renewal of registered name
8 \$

20
No fee

9
10 Sec. ____ . Section 490A.131, subsection 1,
11 paragraph b, Code Supplement 2005, is amended to read
12 as follows:

13 b. The street ~~and mailing~~ address of its
14 ~~designated~~ registered office and the name and street
15 ~~and mailing~~ address of its registered agent ~~for~~
16 ~~service of process in this state."~~

17 10. Page 3, by inserting after line 5 the
18 following:

19 "Sec. ____ . Section 490A.131, subsection 5, Code
20 Supplement 2005, is amended by striking the
21 subsection."

22 11. Page 4, by inserting after line 10 the
23 following:

24 "Sec. ____ . Section 490A.401, subsection 3,
25 paragraph b, Code 2005, is amended by striking the
26 paragraph and inserting in lieu thereof the following:

27 b. A name reserved, registered, or protected as
28 follows:

29 (1) For a limited liability partnership, section
30 486A.1001 or 486A.1002.

31 (2) For a limited partnership, section 488.108,
32 488.109, or 488.810.

33 (3) For a business corporation, section 490.401,
34 490.402, 490.403, or 490.1422.

35 (4) For a limited liability company, this section
36 or section 490A.402 or 490A.1313.

37 (5) For a nonprofit corporation, section 504.401,
38 504.402, 504.403, or 504.1423.

39 Sec. ____ . Section 490A.401, subsection 6, Code
40 2005, is amended to read as follows:

41 6. This chapter does not control the use of
42 fictitious names; however, if a limited liability
43 company uses a fictitious name in this state it shall
44 deliver to the secretary of state for filing a
45 certified copy of the resolution ~~of the limited~~
46 ~~liability company~~ filed and executed according to
47 section 490A.120 adopting the fictitious name.

48 Sec. ____ . Section 490A.1301, Code 2005, is amended
49 by adding the following new subsection:

50 NEW SUBSECTION. 4. The administrative dissolution

1 of the limited liability company under section
2 490A.1312.

3 Sec. ____ . NEW SECTION. 490A.1308 REVOCATION OF
4 DISSOLUTION.

5 1. A limited liability company may revoke its
6 dissolution within one hundred twenty days of the
7 effective date of its articles of dissolution.

8 2. Revocation of dissolution must be authorized in
9 the same manner as the dissolution was authorized
10 unless that authorization permitted revocation by
11 action of the managers of the limited liability
12 company alone, in which event the managers may revoke
13 the dissolution without member action.

14 3. After the revocation of dissolution is
15 authorized, the limited liability company may revoke
16 the dissolution by delivering to the secretary of
17 state for filing articles of revocation of
18 dissolution, together with a copy of its articles of
19 dissolution, that set forth all of the following:

20 a. The name of the limited liability company.
21 b. The effective date of the dissolution that was
22 revoked.

23 c. The date that the revocation of dissolution was
24 authorized.

25 d. If members of the limited liability company
26 unanimously revoked the dissolution, a statement to
27 that effect.

28 e. If the managers of the limited liability
29 company revoked a dissolution authorized by its
30 members, a statement that revocation was permitted by
31 action by the managers alone pursuant to that
32 authorization.

33 4. Revocation of dissolution is effective upon the
34 effective date of the articles of revocation of
35 dissolution.

36 5. When the revocation of dissolution is
37 effective, it relates back to and takes effect as of
38 the effective date of the dissolution as if the
39 dissolution had never occurred.

40 PART B

41 ADMINISTRATIVE DISSOLUTION

42 Sec. ____ . NEW SECTION. 490A.1311 GROUNDS FOR
43 ADMINISTRATIVE DISSOLUTION.

44 The secretary of state may commence a proceeding
45 under section 490A.1312 to administratively dissolve a
46 limited liability company if any of the following
47 apply:

48 1. The limited liability company has not delivered
49 a biennial report to the secretary of state in a form
50 that meets the requirements of section 490A.131,

1 within sixty days after it is due, or has not paid the
2 filing fee as determined by the secretary of state,
3 within sixty days after it is due.

4 2. The limited liability company is without a
5 registered office or registered agent in this state as
6 required in subchapter V for sixty days or more.

7 3. The limited liability company does not notify
8 the secretary of state within sixty days that its
9 registered office or registered agent as required in
10 subchapter V has been changed, its registered office
11 has been discontinued, or that its registered agent
12 has resigned.

13 4. The limited liability company's period of
14 duration stated in its articles of organization
15 expires.

16 Sec. ____ . NEW SECTION. 490A.1312 PROCEDURE FOR
17 AND EFFECT OF ADMINISTRATIVE DISSOLUTION.

18 1. If the secretary of state determines that one
19 or more grounds exist under section 490A.1311 for
20 dissolving a limited liability company, the secretary
21 of state shall serve the limited liability company
22 with written notice of the secretary of state's
23 determination under section 490A.504.

24 2. If the limited liability company does not
25 correct each ground for dissolution or demonstrate to
26 the reasonable satisfaction of the secretary of state
27 that each ground determined by the secretary of state
28 does not exist within sixty days after service of the
29 notice is perfected under section 490A.504, the
30 secretary of state shall administratively dissolve the
31 limited liability company by signing a certificate of
32 dissolution that recites the ground or grounds for
33 dissolution and its effective date. The secretary of
34 state shall file the original of the certificate and
35 serve a copy on the limited liability company under
36 section 490A.504.

37 3. A limited liability company administratively
38 dissolved continues its existence but shall not carry
39 on any business except that necessary to wind up and
40 liquidate its business and affairs under part A of
41 this subchapter and notify claimants under sections
42 490A.1306 and 490A.1307.

43 4. The administrative dissolution of a limited
44 liability company does not terminate the authority of
45 its registered agent as provided in subchapter V.

46 5. The secretary of state's administrative
47 dissolution of a limited liability company pursuant to
48 this section appoints the secretary of state the
49 limited liability company's agent for service of
50 process in any proceeding based on a cause of action

1 which arose during the time the limited liability
2 company was authorized to transact business in this
3 state. Service of process on the secretary of state
4 under this subsection is service on the limited
5 liability company. Upon receipt of process, the
6 secretary of state shall serve a copy of the process
7 on the limited liability company as provided in
8 section 490A.504. This subsection does not preclude
9 service on the limited liability company's registered
10 agent, if any.

11 Sec. ____ . NEW SECTION. 490A.1313 REINSTATEMENT
12 FOLLOWING ADMINISTRATIVE DISSOLUTION.

13 1. A limited liability company administratively
14 dissolved under section 490A.1312 may apply to the
15 secretary of state for reinstatement at any time after
16 the effective date of dissolution. The application
17 must meet all of the following requirements:

18 a. Recite the name of the limited liability
19 company at its date of dissolution and the effective
20 date of its administrative dissolution.

21 b. State that the ground or grounds for
22 dissolution as provided in section 490A.1311 have been
23 eliminated.

24 c. If the application is received more than five
25 years after the effective date of the administrative
26 dissolution, state a name that satisfies the
27 requirements of section 490A.401.

28 d. State the federal tax identification number of
29 the limited liability company.

30 2. a. The secretary of state shall refer the
31 federal tax identification number contained in the
32 application for reinstatement to the department of
33 revenue. The department of revenue shall report to
34 the secretary of state the tax status of the limited
35 liability company. If the department reports to the
36 secretary of state that a filing delinquency or
37 liability exists against the limited liability
38 company, the secretary of state shall not cancel the
39 certificate of dissolution until the filing
40 delinquency or liability is satisfied.

41 b. If the secretary of state determines that the
42 application contains the information required by
43 subsection 1, and that a delinquency or liability
44 reported pursuant to paragraph "a" of this subsection
45 has been satisfied, and that the information is
46 correct, the secretary of state shall cancel the
47 certificate of dissolution and prepare a certificate
48 of reinstatement that recites the secretary of state's
49 determination and the effective date of reinstatement,
50 file the original of the certificate, and serve a copy

1 on the limited liability company under section
2 490A.504. If the limited liability company's name in
3 subsection 1, paragraph "c", is different than the
4 name in subsection 1, paragraph "a", the certificate
5 of reinstatement shall constitute an amendment to the
6 limited liability company's articles of organization
7 insofar as it pertains to its name. A limited
8 liability company shall not relinquish the right to
9 retain its name as provided in section 490A.401, if
10 the reinstatement is effective within five years of
11 the effective date of the limited liability company's
12 dissolution.

13 3. When the reinstatement is effective, it relates
14 back to and takes effect as of the effective date of
15 the administrative dissolution as if the
16 administrative dissolution had never occurred.

17 Sec. ____ . NEW SECTION. 490A.1314 APPEAL FROM
18 DENIAL OF REINSTATEMENT.

19 1. If the secretary of state denies a limited
20 liability company's application for reinstatement
21 following administrative dissolution pursuant to
22 section 490A.1312, the secretary of state shall serve
23 the limited liability company under section 490A.504
24 with a written notice that explains the reason or
25 reasons for denial.

26 2. The limited liability company may appeal the
27 denial of reinstatement to the district court within
28 thirty days after service of the notice of denial is
29 perfected. The limited liability company appeals by
30 petitioning the court to set aside the dissolution and
31 attaching to the petition copies of the secretary of
32 state's certificate of dissolution, the limited
33 liability company's application for reinstatement, and
34 the secretary of state's notice of denial.

35 3. The court may summarily order the secretary of
36 state to reinstate the dissolved limited liability
37 company or may take other action the court considers
38 appropriate.

39 4. The court's final decision may be appealed as
40 in other civil proceedings."

41 12. Page 4, by inserting after line 27 the
42 following:

43 "Sec. ____ . Section 490A.1402, Code 2005, is
44 amended by striking the section and inserting in lieu
45 thereof the following:

46 490A.1402 APPLICATION FOR CERTIFICATE OF
47 AUTHORITY.

48 1. A foreign limited liability company may apply
49 for a certificate of authority to transact business in
50 this state by delivering an application to the

1 secretary of state for filing. The application must
2 set forth all of the following:

3 a. The name of the foreign limited liability
4 company or, if its name is unavailable for use in this
5 state, a name that satisfies the requirements of
6 section 490A.401.

7 b. The name of the state or country under whose
8 law it is organized.

9 c. Its date of formation and period of duration.

10 d. The street address of its principal office.

11 e. The address of its registered office in this
12 state and the name of its registered agent at that
13 address as provided in subchapter V.

14 2. The foreign limited liability company shall
15 deliver the completed application to the secretary of
16 state, and also deliver to the secretary of state a
17 certificate of existence or a document of similar
18 import duly authenticated by the secretary of state or
19 proper officer of the state or other jurisdiction of
20 its formation which is dated no earlier than ninety
21 days prior to the date the application is filed with
22 the secretary of state."

23 13. Page 5, by inserting after line 22 the
24 following:

25 "Sec. _____. Section 490A.1410, subsection 1,
26 paragraph a, Code 2005, is amended by adding the
27 following new subparagraph:

28 NEW SUBPARAGRAPH. (5) Deliver for filing to the
29 secretary of state a biennial report as required by
30 section 490A.131."

31 14. Page 5, by inserting after line 27 the
32 following:

33 "DIVISION

34 TRADITIONAL COOPERATIVES

35 Sec. _____. Section 499.78, subsection 1, unnumbered
36 paragraph 1, Code 2005, is amended to read as follows:

37 An association administratively dissolved under
38 section 499.77 may apply to the secretary of state for
39 reinstatement ~~within two years~~ at any time after the
40 effective date of dissolution. The application must
41 meet all of the following requirements:

42 DIVISION

43 CLOSED COOPERATIVES

44 Sec. _____. Section 501.104, Code 2005, is amended
45 to read as follows:

46 501.104 NAME.

47 The name of a cooperative organized under this
48 chapter must comply with all of the following:

49 1. The name must contain the word "cooperative",
50 "coop", or "co-op", ~~and the~~

1 2. The name must be distinguishable from the names
2 all of the following:

3 a. The name of ~~cooperatives~~ a cooperative
4 organized under this chapter ~~or~~.

5 b. The name of a cooperative or cooperative
6 association organized under another chapter, including
7 chapter 497, 498, 499, or 501A.

8 c. The name of a foreign ~~cooperatives~~ cooperative,
9 cooperative association, or corporation authorized to
10 do business in this state, including as provided in
11 section 499.54 or section 501A.221.

12 d. The name of a cooperative which has been
13 administratively dissolved pursuant to section 501.812
14 for a period of less than five years from the
15 effective date of the dissolution.

16 Sec. ____. Section 501.813, subsection 1,
17 unnumbered paragraph 1, Code 2005, is amended to read
18 as follows:

19 A cooperative administratively dissolved under
20 section 501.812 may apply to the secretary of state
21 for reinstatement within two years at any time after
22 the effective date of dissolution. The application
23 must meet all of the following requirements:

24 Sec. ____. Section 501.813, subsection 1, paragraph
25 c, Code 2005, is amended to read as follows:

26 c. ~~State~~ If the application is received more than
27 five years after the effective date of the
28 cooperative's dissolution, state a name that satisfies
29 the requirements of section 501.104.

30 Sec. ____. Section 501.813, subsection 2, paragraph
31 b, Code 2005, is amended to read as follows:

32 b. (1) If the secretary of state determines that
33 the application contains the information required by
34 subsection 1, and that a delinquency or liability
35 reported pursuant to paragraph "a" has been satisfied,
36 and that the information is correct, the secretary of
37 state shall cancel the certificate of dissolution and
38 prepare a certificate of reinstatement that recites
39 the secretary of state's determination and the
40 effective date of reinstatement, file the ~~original of~~
41 the ~~certificate~~ document, and ~~serve~~ deliver a copy ~~on~~
42 to the cooperative under section 501.106.

43 (2) If the name of the cooperative as provided in
44 subsection 1, paragraph "c", is different than the
45 name in subsection 1, paragraph "a", the certificate
46 of reinstatement shall constitute an amendment to the
47 articles of association insofar as it pertains to the
48 name. A cooperative shall not relinquish the right to
49 retain its name if the reinstatement is effective
50 within five years of the effective date of the

1 cooperative's dissolution."

2 15. Page 5, by inserting after line 29 the
3 following:

4 "Sec. ____ . Section 504.401, subsection 2,
5 paragraph b, Code Supplement 2005, is amended by
6 striking the paragraph and inserting in lieu thereof
7 the following:

8 b. A name reserved, registered, or protected as
9 follows:

10 (1) For a limited liability partnership, section
11 486A.1001 or 486A.1002.

12 (2) For a limited partnership, section 488.108,
13 488.109, or 488.810.

14 (3) For a business corporation, section 490.401,
15 490.402, 490.403, or 490.1422.

16 (4) For a limited liability company, section
17 490A.401, 490A.402, or 490A.1313.

18 (5) For a nonprofit corporation, this section or
19 section 504.402, 504.403, or 504.1423."

20 16. Page 6, lines 5 and 6, by striking the word
21 and figure "or 490A.402" and inserting the following:
22 ", 490A.402, or 490A.1313".

23 17. Page 11, by inserting after line 17 the
24 following:

25 "Sec. ____ . Section 504.1423, subsection 1,
26 unnumbered paragraph 1, Code 2005, is amended to read
27 as follows:

28 A corporation administratively dissolved under
29 section 504.1422 may apply to the secretary of state
30 for reinstatement ~~within two years~~ at any time after
31 the effective date of dissolution. The application
32 must state all of the following:

33 Sec. ____ . Section 504.1423, subsection 1,
34 paragraph c, Code 2005, is amended to read as follows:

35 c. ~~That~~ If the application is received more than
36 five years after the effective date of dissolution,
37 state the corporation's name satisfies the
38 requirements of section 504.401.

39 Sec. ____ . Section 504.1423, subsection 2,
40 paragraph b, Code 2005, is amended to read as follows:

41 b. (1) If the secretary of state determines that
42 the application contains the information required by
43 subsection 1, that a delinquency or liability reported
44 pursuant to paragraph "a" has been satisfied, and that
45 all of the application information is correct, the
46 secretary of state shall cancel the certificate of
47 dissolution and prepare a certificate of reinstatement
48 reciting that determination and the effective date of
49 reinstatement, file the ~~original of the certificate~~
50 document, and ~~serve~~ deliver a copy ~~on~~ to the

1 corporation under section 504.504.

2 (2) If the corporate name in subsection 1,
3 paragraph "c", is different from the corporate name in
4 subsection 1, paragraph "a", the certificate of
5 reinstatement shall constitute an amendment to the
6 articles of incorporation insofar as it pertains to
7 the corporate name. A corporation shall not
8 relinquish the right to retain its corporate name if
9 the reinstatement is effective within five years of
10 the effective date of the corporation's dissolution."

11 18. Title page, by striking lines 2 and 3 and
12 inserting the following: "entities, including limited
13 partnerships, corporations, limited liability
14 companies, cooperatives, and nonprofit corporations."

15 19. By renumbering, relettering, or redesignating
16 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

Schoenjahn co-chair
Boettger co-chair
Hancock
Zawn

SSB#3235
Judiciary

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL
BY CO-CHAIRPERSONS
KREIMAN AND MILLER)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act containing various provisions relating to business
2 entities, including limited partnerships, corporations,
3 limited liability companies, cooperatives, and nonprofit
4 corporations.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I
LIMITED PARTNERSHIPS

Section 1. Section 488.108, subsection 4, paragraph b, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001 or 486A.1002.

(2) For a limited partnership, this section, section 488.109, or section 488.810.

(3) For a business corporation, section 490.401, 490.402, 490.403, or 490.1422.

(4) For a limited liability company, section 490A.401, 490A.402, or 490A.1314.

(5) For a nonprofit corporation, section 504.401, 504.402, 504.403, or 504.1423.

Sec. 2. Section 488.810, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A limited partnership that has been administratively dissolved may apply to the secretary of state for reinstatement ~~within two years~~ at any time after the effective date of dissolution. The application must be delivered to the secretary of state for filing and state all of the following:

Sec. 3. Section 488.810, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. ~~That~~ If the application is received more than five years after the effective date of the dissolution, that the limited partnership's name satisfies the requirements of section 488.108.

Sec. 4. Section 488.810, subsection 2, Code 2005, is amended to read as follows:

2. If the secretary of state determines that an application contains the information required by subsection 2 and that the information is correct, the secretary of state shall prepare a declaration of reinstatement that states this

1 determination, sign, and file the original of the declaration
2 of reinstatement, and serve deliver a copy to the limited
3 partnership with-a-copy.

4 Sec. 5. Section 488.810, Code 2005, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 4. A limited partnership shall not
7 relinquish the right to retain its name if the reinstatement
8 is effective within five years of the effective date of the
9 limited partnership's dissolution.

10 DIVISION II

11 BUSINESS CORPORATIONS

12 Sec. 6. Section 490.401, subsection 2, paragraph b, Code
13 Supplement 2005, is amended by striking the paragraph and
14 inserting in lieu thereof the following:

15 b. A name reserved, registered, or protected as follows:

16 (1) For a limited liability partnership, section 486A.1001
17 or 486A.1002.

18 (2) For a limited partnership, section 488.108, 488.109,
19 or 488.810.

20 (3) For a business corporation, this section, or section
21 490.402, 490.403, or 490.1422.

22 (4) For a limited liability company, section 490A.401,
23 490A.402, or 490A.1314.

24 (5) For a nonprofit corporation, section 504.401, 504.402,
25 504.403, or 504.1423.

26 Sec. 7. Section 490.401, subsection 5, Code Supplement
27 2005, is amended to read as follows:

28 5. This chapter does not control the use of fictitious
29 names; however, if a corporation or a foreign corporation uses
30 a fictitious name in this state it shall deliver to the
31 secretary of state for filing a certified copy of the
32 resolution ~~of-its-board-of-directors,-certified-by-its~~
33 secretary filed and executed according to section 490.120,
34 adopting the fictitious name.

35 Sec. 8. Section 490.630, subsection 1, Code 2005, is

1 amended to read as follows:

2 1. ~~Unless section 490.1704 is applicable to the~~
3 ~~corporation, the~~ The shareholders of a corporation do not have
4 a preemptive right to acquire the corporation's unissued
5 shares except to the extent the articles of incorporation so
6 provide.

7 Sec. 9. Section 490.704, subsection 1, Code 2005, is
8 amended to read as follows:

9 1. Unless otherwise provided in the articles of
10 incorporation, any action required or permitted by this
11 chapter to be taken at a shareholders' meeting may be taken
12 without a meeting or vote, and, except as provided in
13 subsection 5, without prior notice, if one or more written
14 consents describing the action taken are signed by the holders
15 of outstanding shares having not less than ~~ninety-percent-of~~
16 ~~the votes entitled to be cast~~ the minimum number of votes that
17 would be necessary to authorize or take such action at a
18 meeting at which all shares entitled to vote on the action
19 were present and voted, and are delivered to the corporation
20 for inclusion in the minutes or filing with the corporate
21 records.

22 Sec. 10. Section 490.1422, subsection 1, unnumbered
23 paragraph 1, Code 2005, is amended to read as follows:

24 A corporation administratively dissolved under section
25 490.1421 may apply to the secretary of state for reinstatement
26 ~~within two years~~ at any time after the effective date of
27 dissolution. The application must meet all of the following
28 requirements:

29 Sec. 11. Section 490.1422, subsection 1, paragraph c, Code
30 2005, is amended to read as follows:

31 c. State If the application is received more than five
32 years after the effective date of dissolution, state a
33 corporate name that satisfies the requirements of section
34 490.401.

35 Sec. 12. Section 490.1422, subsection 2, paragraph b, Code

2379
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1 2005, is amended to read as follows:

2 b. (1) If the secretary of state determines that the
3 application contains the information required by subsection 1,
4 and that a delinquency or liability reported pursuant to
5 paragraph "a" ~~of this subsection~~ has been satisfied, and that
6 the information is correct, the secretary of state shall
7 cancel the certificate of dissolution and prepare a
8 certificate of reinstatement that recites the secretary of
9 state's determination and the effective date of reinstatement,
10 file the ~~original of the~~ certificate of reinstatement, and
11 ~~serve~~ deliver a copy on to the corporation under section
12 490.504.

13 (2) If the corporate name in subsection 1, paragraph "c",
14 is different than the corporate name in subsection 1,
15 paragraph "a", the certificate of reinstatement shall
16 constitute an amendment to the articles of incorporation
17 insofar as it pertains to the corporate name. A corporation
18 shall not relinquish the right to retain its corporate name if
19 the reinstatement is effective within five years of the
20 effective date of the corporation's dissolution.

21 Sec. 13. Section 490.1422, subsection 4, Code 2005, is
22 amended by striking the subsection.

23 Sec. 14. Section 490.1506, subsection 2, paragraph b, Code
24 2005, is amended to read as follows:

25 b. A corporate name reserved ~~or~~, registered under, or
26 protected as provided in section 490.402 or 490.403.

27 Sec. 15. Section 490.1701, subsection 3, paragraph a, Code
28 Supplement 2005, is amended to read as follows:

29 a. The corporation shall amend or restate its articles of
30 incorporation to indicate that the corporation adopts this
31 chapter and to designate the address of its initial registered
32 office and the name of its registered agent ~~or agents~~ at that
33 office and, if the name of the corporation is not in
34 compliance with the requirements of this chapter, to change
35 the name of the corporation to one complying with the

1 requirements of this chapter.

2 Sec. 16. Section 534.508, subsection 1, Code 2005, is
3 amended to read as follows:

4 1. IN GENERAL. Sections 490.601 through 490.604, 490.620
5 through 490.628, and 490.630, ~~and 490.1704~~ apply to stock
6 associations.

7 Sec. 17. Sections 490.1704 and 490.1705, Code 2005, are
8 repealed.

9 DIVISION III

10 LIMITED LIABILITY COMPANIES

11 Sec. 18. Section 490A.121, subsections 2 and 3, Code 2005,
12 are amended to read as follows:

13 2. The secretary of state files a document by ~~stamping or~~
14 ~~otherwise endorsing~~ recording it as "filed", ~~together with the~~
15 ~~secretary of state's name and official title~~ and acknowledging
16 the date and time of its receipt, ~~on both the document and the~~
17 ~~receipt for the filing fee, and recording the document in the~~
18 ~~records of the secretary of state.~~ After filing a document,
19 and except as provided in section 490A.503, the secretary of
20 state shall deliver a copy of the filed document, with the
21 ~~filing fee receipt, or an acknowledgment of receipt if no fee~~
22 ~~is required, attached,~~ the date and time of filing to the
23 domestic or foreign limited liability company or its
24 representative.

25 3. If the secretary of state refuses to file a document,
26 the secretary of state shall return it to the domestic or
27 foreign limited liability company or its representative within
28 ~~ten days after the document was received by the secretary of~~
29 ~~state,~~ together with a brief, written explanation of the
30 reason for the refusal.

31 Sec. 19. Section 490A.124, subsection 1, paragraphs e and
32 f, Code 2005, are amended to read as follows:

33 e. Application for registered name per month or part
34 thereof \$ 2 No fee

35 f. Application for renewal of registered name

257B
3235

1 § 20 No fee

2 Sec. 20. Section 490A.131, subsection 1, paragraph b, Code
3 Supplement 2005, is amended to read as follows:

4 b. The street ~~and-mailing~~ address of its ~~designated~~
5 registered office and the name and ~~street-and~~ mailing address
6 of its registered agent ~~for-service-of-process-in-this-state~~.

7 Sec. 21. Section 490A.131, subsection 4, Code Supplement
8 2005, is amended to read as follows:

9 4. If a filed biennial report contains an address of a
10 ~~designated~~ registered office or the name or address of an ~~a~~
11 registered agent ~~for-service-of-process~~ which differs from the
12 information shown in the records of the secretary of state
13 immediately before the filing, the differing information in
14 the biennial report is considered a statement of change under
15 section 490A.502.

16 Sec. 22. Section 490A.201, Code 2005, is amended to read
17 as follows:

18 490A.201 PURPOSES.

19 1. A limited liability company organized under this
20 chapter has the purpose of engaging in any lawful ~~business~~
21 activity unless a more limited purpose is set forth in the
22 articles of organization.

23 2. A limited liability company engaging in ~~a-business~~ an
24 activity that is subject to regulation under another statute
25 of this state may organize under this chapter only if
26 permitted by, and subject to all limitations of, the other
27 statute.

28 Sec. 23. Section 490A.305, subsection 2, paragraph b, Code
29 2005, is amended to read as follows:

30 b. Separate and distinct records are maintained for the
31 that series and separate and distinct records account for the
32 assets associated with the that series ~~are-held-and~~. The
33 assets associated with a series must be accounted for
34 separately from the other assets of the limited liability
35 company, ~~or-from-any-other-series-of-the-limited-liability~~

1 company including another series.

2 Sec. 24. Section 490A.305, subsection 13, Code 2005, is
3 amended to read as follows:

4 13. A foreign limited liability company that is
5 registering authorized to do business in this state under this
6 chapter subchapter XIV which is governed by an operating
7 agreement that establishes or provides for the establishment
8 of designated series of members, managers, or membership
9 interests having separate rights, powers, or duties with
10 respect to specified property or obligations of the foreign
11 limited liability company, or profits and losses associated
12 with the specified property or obligations, shall indicate
13 that fact on the application for registration a certificate of
14 authority as a foreign limited liability company as provided
15 in section 490A.1402. In addition, the foreign limited
16 liability company shall state on the application whether the
17 debts, liabilities, and obligations incurred, contracted for,
18 or otherwise existing with respect to a particular series, if
19 any, are enforceable against the assets of such series only,
20 and not against the assets of the foreign limited liability
21 company generally.

22 Sec. 25. Section 490A.401, subsection 3, paragraph a, Code
23 2005, is amended by striking the paragraph and inserting in
24 lieu thereof the following:

25 a. A name reserved, registered, or protected as follows:

26 (1) For a limited liability partnership, section 486A.1001
27 or 486A.1002.

28 (2) For a limited partnership, section 488.108, 488.109,
29 or 488.810.

30 (3) For a business corporation, section 490.401, 490.402,
31 490.403, or 490.1422.

32 (4) For a limited liability company, this section or
33 section 490A.402 or 490A.1314.

34 (5) For a nonprofit corporation, section 504.401, 504.402,
35 504.403, or 504.1423.

1 Sec. 26. Section 490A.401, subsection 3, paragraph d, Code
2 2005, is amended by striking the paragraph.

3 Sec. 27. NEW SECTION. 490A.1308 REVOCATION OF
4 DISSOLUTION.

5 1. A limited liability company may revoke its dissolution
6 within one hundred twenty days of the effective date of its
7 articles of dissolution.

8 2. Revocation of dissolution must be authorized in the
9 same manner as the dissolution was authorized unless that
10 authorization permitted revocation by action of the managers
11 of the limited liability company alone, in which event the
12 managers may revoke the dissolution without member action.

13 3. After the revocation of dissolution is authorized, the
14 limited liability company may revoke the dissolution by
15 delivering to the secretary of state for filing articles of
16 revocation of dissolution, together with a copy of its
17 articles of dissolution, that set forth all of the following:

- 18 a. The name of the limited liability company.
- 19 b. The effective date of the dissolution that was revoked.
- 20 c. The date that the revocation of dissolution was
21 authorized.
- 22 d. If members of the limited liability company unanimously
23 revoked the dissolution, a statement to that effect.
- 24 e. If the managers of the limited liability company
25 revoked a dissolution authorized by its members, a statement
26 that revocation was permitted by action by the managers alone
27 pursuant to that authorization.

28 4. Revocation of dissolution is effective upon the
29 effective date of the articles of revocation of dissolution.

30 5. When the revocation of dissolution is effective, it
31 relates back to and takes effect as of the effective date of
32 the dissolution as if the dissolution had never occurred.

33 PART B

34 ADMINISTRATIVE DISSOLUTION

35 Sec. 28. NEW SECTION. 490A.1311 GROUNDS FOR

1 ADMINISTRATIVE DISSOLUTION.

2 The secretary of state may commence a proceeding under
3 section 490A.1312 to administratively dissolve a limited
4 liability company if any of the following apply:

5 1. The limited liability company has not delivered a
6 biennial report to the secretary of state in a form that meets
7 the requirements of section 490A.131, within sixty days after
8 it is due, or has not paid the filing fee as determined by the
9 secretary of state, within sixty days after it is due.

10 2. The limited liability company is without a registered
11 office or registered agent in this state as required in
12 subchapter V for sixty days or more.

13 3. The limited liability company does not notify the
14 secretary of state within sixty days that its registered
15 office or registered agent as required in subchapter V has
16 been changed, its registered office has been discontinued, or
17 that its registered agent has resigned.

18 4. The limited liability company's period of duration
19 stated in its articles of organization expires.

20 Sec. 29. NEW SECTION. 490A.1312 PROCEDURE FOR AND EFFECT
21 OF ADMINISTRATIVE DISSOLUTION.

22 1. If the secretary of state determines that one or more
23 grounds exist under section 490A.1311 for dissolving a limited
24 liability company, the secretary of state shall serve the
25 limited liability company with written notice of the secretary
26 of state's determination under section 490A.504.

27 2. If the limited liability company does not correct each
28 ground for dissolution or demonstrate to the reasonable
29 satisfaction of the secretary of state that each ground
30 determined by the secretary of state does not exist within
31 sixty days after service of the notice is perfected under
32 section 490A.504, the secretary of state shall
33 administratively dissolve the limited liability company by
34 signing a certificate of dissolution that recites the ground
35 or grounds for dissolution and its effective date. The

1 secretary of state shall file the original of the certificate
2 and serve a copy on the limited liability company under
3 section 490A.504.

4 3. A limited liability company administratively dissolved
5 continues its existence but shall not carry on any business
6 except that necessary to wind up and liquidate its business
7 and affairs under part A of this subchapter and notify
8 claimants under sections 490A.1306 and 490A.1307.

9 4. The administrative dissolution of a limited liability
10 company does not terminate the authority of its registered
11 agent as provided in subchapter V.

12 5. The secretary of state's administrative dissolution of
13 a limited liability company pursuant to this section appoints
14 the secretary of state the limited liability company's agent
15 for service of process in any proceeding based on a cause of
16 action which arose during the time the limited liability
17 company was authorized to transact business in this state.
18 Service of process on the secretary of state under this
19 subsection is service on the limited liability company. Upon
20 receipt of process, the secretary of state shall serve a copy
21 of the process on the limited liability company as provided in
22 section 490A.504. This subsection does not preclude service
23 on the limited liability company's registered agent, if any.

24 Sec. 30. NEW SECTION. 490A.1313 REINSTATEMENT FOLLOWING
25 ADMINISTRATIVE DISSOLUTION.

26 1. A limited liability company administratively dissolved
27 under section 490A.1312 may apply to the secretary of state
28 for reinstatement at any time after the effective date of
29 dissolution. The application must meet all of the following
30 requirements:

31 a. Recite the name of the limited liability company at its
32 date of dissolution and the effective date of its
33 administrative dissolution.

34 b. State that the ground or grounds for dissolution as
35 provided in section 490A.1311 have been eliminated.

1 c. If the application is received more than five years
2 after the effective date of the administrative dissolution,
3 state a name that satisfies the requirements of section
4 490A.401.

5 d. State the federal tax identification number of the
6 limited liability company.

7 2. a. The secretary of state shall refer the federal tax
8 identification number contained in the application for
9 reinstatement to the department of revenue. The department of
10 revenue shall report to the secretary of state the tax status
11 of the limited liability company. If the department reports
12 to the secretary of state that a filing delinquency or
13 liability exists against the limited liability company, the
14 secretary of state shall not cancel the certificate of
15 dissolution until the filing delinquency or liability is
16 satisfied.

17 b. If the secretary of state determines that the
18 application contains the information required by subsection 1,
19 and that a delinquency or liability reported pursuant to
20 paragraph "a" of this subsection has been satisfied, and that
21 the information is correct, the secretary of state shall
22 cancel the certificate of dissolution and prepare a
23 certificate of reinstatement that recites the secretary of
24 state's determination and the effective date of reinstatement,
25 file the original of the certificate, and serve a copy on the
26 limited liability company under section 490A.504. If the
27 limited liability company's name in subsection 1, paragraph
28 "c", is different than the name in subsection 1, paragraph
29 "a", the certificate of reinstatement shall constitute an
30 amendment to the limited liability company's articles of
31 organization insofar as it pertains to its name. A limited
32 liability company shall not relinquish the right to retain its
33 name as provided in section 490A.401, if the reinstatement is
34 effective within five years of the effective date of the
35 limited liability company's dissolution.

1 3. When the reinstatement is effective, it relates back to
2 and takes effect as of the effective date of the
3 administrative dissolution as if the administrative
4 dissolution had never occurred.

5 Sec. 31. NEW SECTION. 490A.1314 APPEAL FROM DENIAL OF
6 REINSTATEMENT.

7 1. If the secretary of state denies a limited liability
8 company's application for reinstatement following
9 administrative dissolution pursuant to section 490A.1312, the
10 secretary of state shall serve the limited liability company
11 under section 490A.504 with a written notice that explains the
12 reason or reasons for denial.

13 2. The limited liability company may appeal the denial of
14 reinstatement to the district court within thirty days after
15 service of the notice of denial is perfected. The limited
16 liability company appeals by petitioning the court to set
17 aside the dissolution and attaching to the petition copies of
18 the secretary of state's certificate of dissolution, the
19 limited liability company's application for reinstatement, and
20 the secretary of state's notice of denial.

21 3. The court may summarily order the secretary of state to
22 reinstate the dissolved limited liability company or may take
23 other action the court considers appropriate.

24 4. The court's final decision may be appealed as in other
25 civil proceedings.

26 Sec. 32. Section 490A.1401, Code 2005, is amended to read
27 as follows:

28 490A.1401 LAW GOVERNING.

29 The law of the state or other jurisdiction under which a
30 foreign limited liability company is formed governs its
31 formation and internal affairs and the liability of its
32 members and managers. A foreign limited liability company
33 shall not be denied ~~registration~~ a certificate of authority by
34 reason of any difference between those laws and the laws of
35 this state. A foreign limited liability company holding a

1 valid registration certificate of authority in this state
2 shall have no greater rights and privileges than a domestic
3 limited liability company. The registration certificate of
4 authority shall not be deemed to authorize the foreign limited
5 liability company to exercise any of its powers or purposes
6 that a domestic limited liability company is forbidden by law
7 to exercise in this state.

8 Sec. 33. Section 490A.1402, Code 2005, is amended by
9 striking the section and inserting in lieu thereof the
10 following:

11 490A.1402 APPLICATION FOR CERTIFICATE OF AUTHORITY.

12 1. A foreign limited liability company may apply for a
13 certificate of authority to transact business in this state by
14 delivering an application to the secretary of state for
15 filing. The application must set forth all of the following:

16 a. The name of the foreign limited liability company or,
17 if its name is unavailable for use in this state, a name that
18 satisfies the requirements of section 490A.401.

19 b. The name of the state or country under whose law it is
20 organized.

21 c. Its date of formation and period of duration.

22 d. The street address of its principal office.

23 e. The address of its registered office in this state and
24 the name of its registered agent at that address as provided
25 in subchapter V.

26 2. The foreign limited liability company shall deliver the
27 completed application to the secretary of state, and also
28 deliver to the secretary of state a certificate of existence
29 or a document of similar import duly authenticated by the
30 secretary of state or proper officer of the state or other
31 jurisdiction of its formation which is dated no earlier than
32 ninety days prior to the date the application is filed with
33 the secretary of state.

34 Sec. 34. Section 490A.1404, unnumbered paragraph 1, Code
35 2005, is amended to read as follows:

1 A certificate of registration authority shall not be issued
2 to a foreign limited liability company unless the name of the
3 limited liability company satisfies the requirements of
4 section 490A.401. To obtain or maintain a certificate of
5 registration authority, the company shall comply with the
6 following:

7 Sec. 35. Section 490A.1405, Code 2005, is amended to read
8 as follows:

9 490A.1405 CHANGE AND AMENDMENT.

10 If any statement in the application for registration a
11 certificate of authority of a foreign limited liability
12 company was false when made or any arrangements or other facts
13 described have changed, making the application inaccurate in
14 any respect, the foreign limited liability company shall
15 promptly deliver to the secretary of state for filing articles
16 of correction correcting such statement as required by section
17 490A.123.

18 Sec. 36. Section 490A.1406, subsection 1, paragraph b,
19 Code 2005, is amended to read as follows:

20 b. That the foreign limited liability company is not
21 transacting business in this state and that it surrenders its
22 registration certificate of authority to transact business in
23 this state.

24 Sec. 37. Section 490A.1406, subsection 2, Code 2005, is
25 amended to read as follows:

26 2. The certificate of registration authority shall be
27 canceled upon the filing of the certificate of cancellation by
28 the secretary of state.

29 Sec. 38. Section 490A.1410, subsection 2, unnumbered
30 paragraph 1, Code 2005, is amended to read as follows:

31 A certificate of registration authority of a foreign
32 limited liability company shall not be revoked by the
33 secretary of state, unless both of the following apply:

34 DIVISION IV
35 TRADITIONAL COOPERATIVES

1 Sec. 39. Section 499.78, subsection 1, unnumbered
2 paragraph 1, Code 2005, is amended to read as follows:
3 An association administratively dissolved under section
4 499.77 may apply to the secretary of state for reinstatement
5 ~~within two years~~ at any time after the effective date of
6 dissolution. The application must meet all of the following
7 requirements:

8 DIVISION V

9 CLOSED COOPERATIVES

10 Sec. 40. Section 501.104, Code 2005, is amended to read as
11 follows:

12 501.104 NAME.

13 The name of a cooperative organized under this chapter must
14 comply with all of the following:

15 1. The name must contain the word "cooperative", "coop",
16 or "co-op", ~~and the~~.

17 2. The name must be distinguishable from the names all of
18 the following:

19 a. The name of cooperatives a cooperative organized under
20 this chapter ~~or~~.

21 b. The name of a cooperative or cooperative association
22 organized under another chapter, including chapter 497, 498,
23 499, or 501A.

24 c. The name of a foreign cooperatives cooperative,
25 cooperative association, or corporation authorized to do
26 business in this state, including as provided in section
27 499.54 or section 501A.221.

28 d. The name of a cooperative which has been
29 administratively dissolved pursuant to section 501.812 for a
30 period of less than five years from the effective date of the
31 dissolution.

32 Sec. 41. Section 501.813, subsection 1, unnumbered
33 paragraph 1, Code 2005, is amended to read as follows:

34 A cooperative administratively dissolved under section
35 501.812 may apply to the secretary of state for reinstatement

1 within-two-years at any time after the effective date of
2 dissolution. The application must meet all of the following
3 requirements:

4 Sec. 42. Section 501.813, subsection 1, paragraph c, Code
5 2005, is amended to read as follows:

6 c. State If the application is received more than five
7 years after the effective date of the cooperative's
8 dissolution, state a name that satisfies the requirements of
9 section 501.104.

10 Sec. 43. Section 501.813, subsection 2, paragraph b, Code
11 2005, is amended to read as follows:

12 b. (1) If the secretary of state determines that the
13 application contains the information required by subsection 1,
14 and that a delinquency or liability reported pursuant to
15 paragraph "a" has been satisfied, and that the information is
16 correct, the secretary of state shall cancel the certificate
17 of dissolution and prepare a certificate of reinstatement that
18 recites the secretary of state's determination and the
19 effective date of reinstatement, file the ~~original-of-the~~
20 certificate document, and ~~serve~~ deliver a copy ~~on~~ to the
21 cooperative under section 501.106.

22 (2) If the name of the cooperative as provided in
23 subsection 1, paragraph "c", is different than the name in
24 subsection 1, paragraph "a", the certificate of reinstatement
25 shall constitute an amendment to the articles of association
26 insofar as it pertains to the name. A cooperative shall not
27 relinquish the right to retain its name if the reinstatement
28 is effective within five years of the effective date of the
29 cooperative's dissolution.

30 DIVISION VI

31 NONPROFIT CORPORATIONS

32 Sec. 44. Section 504.401, subsection 2, paragraph b, Code
33 Supplement 2005, is amended by striking the paragraph and
34 inserting in lieu thereof the following:

35 b. A name reserved, registered, or protected as follows:

1 (1) For a limited liability partnership, section 486A.1001
2 or 486A.1002.

3 (2) For a limited partnership, section 488.108, 488.109,
4 or 488.810.

5 (3) For a business corporation, section 490.401, 490.402,
6 490.403, or 490.1422.

7 (4) For a limited liability company, section 490A.401,
8 490A.402, or 490A.1314.

9 (5) For a nonprofit corporation, this section or section
10 504.402, 504.403, or 504.1423.

11 Sec. 45. Section 504.401, subsection 5, Code Supplement
12 2005, is amended to read as follows:

13 5. This chapter does not control the use of fictitious
14 names; however, if a corporation or a foreign corporation uses
15 a fictitious name in this state, it shall deliver to the
16 secretary of state for filing a certified copy of the
17 resolution ~~of-its-board-of-directors, certified-by-its~~
18 secretary filed and executed pursuant to section 504.111,
19 adopting the fictitious name.

20 Sec. 46. Section 504.403, subsection 1, paragraph b, Code
21 Supplement 2005, is amended by striking the paragraph and
22 inserting in lieu thereof the following:

23 b. A name reserved, registered, or protected as follows:

24 (1) For a limited liability partnership, section 486A.1001
25 or 486A.1002.

26 (2) For a limited partnership, section 488.108, 488.109,
27 or 488.810.

28 (3) For a business corporation, section 490.401, 490.402,
29 490.403, or 490.1422.

30 (4) For a limited liability company, section 490A.401,
31 490A.402, or 490A.1314.

32 (5) For a nonprofit corporation, this section or section
33 501.401, 501.402, or 504.1423.

34 Sec. 47. Section 504.702, subsection 1, paragraph b, Code
35 2005, is amended to read as follows:

1 b. Except as provided in the articles or bylaws of a
 2 religious corporation, if the holders of at least five percent
 3 of the voting power of any corporation sign, date, and deliver
 4 to any corporate officer one or more written demands for the
 5 meeting describing the purpose for which it is to be held.
 6 Unless otherwise provided in the articles of incorporation, a
 7 written demand for a special meeting may be revoked by a
 8 writing to that effect received by the corporation prior to
 9 the receipt by the corporation of demands sufficient in number
 10 to require the holding of a special meeting.

11 Sec. 48. Section 504.808, subsection 10, unnumbered
 12 paragraph 1, Code 2005, is amended to read as follows:

13 The articles or bylaws of a religious corporation may do
 14 both of the following:

15 Sec. 49. Section 504.901, Code Supplement 2005, is amended
 16 to read as follows:

17 504.901 PERSONAL LIABILITY.

18 1. Except as otherwise provided in this chapter, a
 19 director, officer, employee, or member of a corporation is not
 20 liable for the corporation's debts or obligations and a
 21 director, officer, member, or other volunteer is not
 22 personally liable in that capacity to any person for any
 23 action taken or failure to take any action in the discharge of
 24 the person's duties except liability for any of the following:

- 25 1- a. The amount of any financial benefit to which the
 26 person is not entitled.
- 27 2- b. An intentional infliction of harm on the
 28 corporation or the members.
- 29 3- c. A violation of section 504.835.
- 30 4- d. An intentional violation of criminal law.

31 2. A provision set forth in the articles of incorporation
 32 eliminating or limiting the liability of a director to the
 33 corporation or its members for money damages for any action
 34 taken, or any failure to take any action, pursuant to section
 35 504.202, subsection 2, paragraph "d", shall not affect the

1 applicability of this section.

2 Sec. 50. Section 504.1001, Code 2005, is amended to read
3 as follows:

4 504.1001 AUTHORITY TO AMEND.

5 A corporation may amend its articles of incorporation at
6 any time to add or change a provision that is required or
7 permitted in the articles as of the effective date of the
8 amendment or to delete a provision that is not required to be
9 contained in the articles of incorporation. ~~Whether-a~~
10 ~~provision-is-required-or-permitted-in-the-articles-is~~
11 ~~determined-as-of-the-effective-date-of-the-amendment-~~

12 Sec. 51. Section 504.1002, subsection 1, Code 2005, is
13 amended to read as follows:

14 1. Unless the articles of incorporation provide otherwise,
15 a corporation's board of directors may adopt ~~one-or-more~~
16 amendments to the corporation's articles of incorporation
17 without member approval ~~to-do~~ for any of the following
18 purposes:

19 a. ~~Extend~~ To extend the duration of the corporation if it
20 was incorporated at a time when limited duration was required
21 by law.

22 b. ~~Delete~~ To delete the names and addresses of the initial
23 directors.

24 c. ~~Delete~~ To delete the name and address of the initial
25 registered agent or registered office, if a statement of
26 change is on file with the secretary of state.

27 d. ~~Change~~ To change the corporate name by substituting the
28 word "corporation", "incorporated", "company", "limited", or
29 the abbreviation "corp.", "inc.", "co.", or "ltd.", for a
30 similar word or abbreviation in the name, or by adding,
31 deleting, or changing a geographical attribution to the name.

32 e. ~~Make~~ To make any other change expressly permitted by
33 this subchapter to be made by director action.

34 Sec. 52. Section 504.1005, unnumbered paragraph 1, Code
35 2005, is amended to read as follows:

1 A After an amendment to the articles of incorporation has
2 been adopted and approved in the manner required by this
3 chapter and by the articles of incorporation or bylaws, the
4 corporation amending its articles shall deliver to the
5 secretary of state, for filing, articles of amendment setting
6 forth:

7 Sec. 53. Section 504.1005, subsections 4 and 5, Code 2005,
8 are amended to read as follows:

9 4. If approval by members was not required, ~~a-statement-to~~
10 ~~that-effect-and~~ a statement that the amendment was duly
11 ~~approved by a-sufficient-vote-of~~ the incorporators or by the
12 ~~board of directors or-incorporators,~~ as the case may be, and
13 that member approval was not required.

14 5. If approval by members was required, ~~both-of-the~~
15 ~~following:~~

16 ~~a.--The-designation,-number-of-memberships-outstanding,-~~
17 ~~number-of-votes-entitled-to-be-cast-by-each-class-entitled-to~~
18 ~~vote-separately-on-the-amendment,-and-number-of-votes-of-each~~
19 ~~class-indisputably-voting-on-the-amendment.-~~

20 ~~b.--Either-the-total-number-of-votes-cast-for-and-against~~
21 ~~the-amendment-by-each-class-entitled-to-vote-separately-on-the~~
22 ~~amendment-or-the-total-number-of-undisputed-votes-cast-for-the~~
23 ~~amendment-by-each-class-and~~ a statement that the number-of
24 ~~votes-cast-for-the~~ amendment by each class was sufficient-for
25 ~~approval-by-that-class~~ duly approved by the members in the
26 manner required by this chapter, the articles of
27 incorporation, and bylaws.

28 Sec. 54. Section 504.1006, Code 2005, is amended to read
29 as follows:

30 504.1006 RESTATED ARTICLES OF INCORPORATION.

31 1. A corporation's board of directors may restate the
32 corporation's articles of incorporation at any time with or
33 without approval by members or any other person, to
34 consolidate all amendments into a single document.

35 2. ~~The-restatement-may~~ If the restated articles include

1 one or more new amendments ~~to the articles.~~ ~~---If the~~
2 ~~restatement includes an amendment requiring~~ that require
3 approval by the members or any other person, ~~it~~ the amendments
4 must be adopted as provided in section 504.1003.

5 ~~3.---If the restatement includes an amendment requiring~~
6 ~~approval by members, the board must submit the restatement to~~
7 ~~the members for their approval.~~

8 ~~4.---If the board seeks to have the restatement approved by~~
9 ~~the members at a membership meeting, the corporation shall~~
10 ~~notify each of its members of the proposed membership meeting~~
11 ~~in writing in accordance with section 504.705.---The notice~~
12 ~~must also state that the purpose, or one of the purposes, of~~
13 ~~the meeting is to consider the proposed restatement and must~~
14 ~~contain or be accompanied by a copy or summary of the~~
15 ~~restatement that identifies any amendments or other changes~~
16 ~~the restatement would make in the articles.~~

17 ~~5.---If the board seeks to have the restatement approved by~~
18 ~~the members by written ballot or written consent, the material~~
19 ~~soliciting the approval shall contain or be accompanied by a~~
20 ~~copy or summary of the restatement that identifies any~~
21 ~~amendments or other changes the restatement would make in the~~
22 ~~articles.~~

23 ~~6.---A restatement requiring approval by the members must be~~
24 ~~approved by the same vote as an amendment to articles under~~
25 ~~section 504.1003.~~

26 ~~7. 3.~~ 3. If the restatement includes an amendment requiring
27 approval pursuant to section 504.1031, the board must submit
28 the restatement for such approval.

29 ~~8. 4.~~ 4. A corporation restating that restates its articles
30 of incorporation shall deliver to the secretary of state for
31 filing articles of restatement setting forth the name of the
32 corporation and the text of the restated articles of
33 incorporation together with a certificate ~~setting forth all of~~
34 ~~the following:~~

35 ~~a.---Whether the restatement contains an amendment to the~~

1 ~~articles requiring approval by the members or any other person~~
2 ~~other than the board of directors and, if it does not, that~~
3 ~~the board of directors adopted the restatement.~~

4 ~~b. If the restatement contains an amendment to the~~
5 ~~articles requiring approval by the members, the information~~
6 ~~required by section 504.1005.~~

7 ~~c. If the restatement contains an amendment to the~~
8 ~~articles requiring approval by a person whose approval is~~
9 ~~required pursuant to section 504.1031, a statement that such~~
10 ~~approval was obtained stating that the restated articles~~
11 ~~consolidate all amendments into a single document. If a new~~
12 ~~amendment is included in the restated articles, the~~
13 ~~corporation shall include the statement required in section~~
14 ~~504.1005.~~

15 9. 5. Duly adopted restated articles of incorporation
16 supersede the original articles of incorporation and all
17 amendments to the original articles of incorporation.

18 ~~10.~~ 6. The secretary of state may certify restated
19 articles of incorporation as the articles of incorporation
20 currently in effect without including the certificate
21 information required by subsection 8 4.

22 Sec. 55. Section 504.1007, subsection 1, Code 2005, is
23 amended to read as follows:

24 1. A corporation's articles may be amended without board
25 approval or approval by the members or approval required
26 pursuant to section 504.1031 to carry out a plan of
27 reorganization ordered or decreed by a court of competent
28 jurisdiction under ~~federal statute if the articles after~~
29 ~~amendment contain only provisions required or permitted by~~
30 ~~section 504.202~~ the authority of law of the United States.

31 Sec. 56. Section 504.1008, Code Supplement 2005, is
32 amended to read as follows:

33 504.1008 EFFECT OF AMENDMENT AND RESTATEMENT.

34 An amendment to the articles of incorporation does not
35 affect a cause of action existing against or in favor of the

1 corporation, a proceeding to which the corporation is a party,
2 any requirement or limitation imposed upon the corporation, or
3 any property held by it by virtue of any trust upon which such
4 property is held by the corporation, or the existing rights of
5 persons other than members of the corporation. An amendment
6 changing a corporation's name does not abate a proceeding
7 brought by or against the corporation in its former name.

8 Sec. 57. Section 504.1423, subsection 1, unnumbered
9 paragraph 1, Code 2005, is amended to read as follows:

10 A corporation administratively dissolved under section
11 504.1422 may apply to the secretary of state for reinstatement
12 within-two-years at any time after the effective date of
13 dissolution. The application must state all of the following:

14 Sec. 58. Section 504.1423, subsection 1, paragraph c, Code
15 2005, is amended to read as follows:

16 c. That if the application is received more than five
17 years after the effective date of dissolution, state the
18 corporation's name satisfies the requirements of section
19 504.401.

20 Sec. 59. Section 504.1423, subsection 2, paragraph b, Code
21 2005, is amended to read as follows:

22 b. (1) If the secretary of state determines that the
23 application contains the information required by subsection 1,
24 that a delinquency or liability reported pursuant to paragraph
25 "a" has been satisfied, and that all of the application
26 information is correct, the secretary of state shall cancel
27 the certificate of dissolution and prepare a certificate of
28 reinstatement reciting that determination and the effective
29 date of reinstatement, file the ~~original-of-the-certificate~~
30 document, and serve deliver a copy on to the corporation under
31 section 504.504.

32 (2) If the corporate name in subsection 1, paragraph "c",
33 is different from the corporate name in subsection 1,
34 paragraph "a", the certificate of reinstatement shall
35 constitute an amendment to the articles of incorporation

1 insofar as it pertains to the corporate name. A corporation
2 shall not relinquish the right to retain its corporate name if
3 the reinstatement is effective within five years of the
4 effective date of the corporation's dissolution.

5 Sec. 60. Section 504.1506, subsection 2, paragraph b, Code
6 Supplement 2005, is amended to read as follows:

7 b. A corporate name reserved, or registered under, or
8 protected as provided in section 490.402 or 490.403 or section
9 504.402 or 504.403.

10 Sec. 61. NEW SECTION. 504.1607 EXCEPTION TO NOTICE
11 REQUIREMENT.

12 1. Whenever notice is required to be given under any
13 provision of this chapter to any member, such notice shall not
14 be required to be given if notice of two consecutive annual
15 meetings, and all notices of meetings during the period
16 between such two consecutive annual meetings, have been sent
17 to the member at the member's address as shown on the records
18 of the corporation and have been returned as undeliverable.

19 2. If the member delivers to the corporation a written
20 notice setting forth the member's then-current address, the
21 requirement that notice be given to the member shall be
22 reinstated.

23 EXPLANATION

24 This bill is divided into a number of divisions
25 corresponding to Code chapters governing different forms of
26 business entities, including division I which amends
27 provisions in Code chapter 488 governing limited partnerships,
28 division II which amends provisions in Code chapter 490
29 governing business corporations, division III which amends
30 provisions in Code chapter 490A governing limited liability
31 companies, division IV amending provisions in Code chapter 499
32 governing traditional cooperative associations, division V
33 which amends provisions in Code chapter 501 governing closed
34 cooperatives, and division VI which amends provisions in Code
35 chapter 504 governing nonprofit corporations.

1 DIVISION I -- LIMITED PARTNERSHIPS. Code section 488.108
2 restricts how a limited partnership may name itself. The
3 division provides that the name must be distinguished from
4 names of other business entities in existence or which may be
5 reinstated following dissolution, including a limited
6 liability partnership (Code chapter 486A), a limited
7 partnership (under the Code chapter), a business corporation
8 (Code chapter 490), a limited liability company (Code chapter
9 490A), or a nonprofit corporation (Code chapter 504).

10 Code section 488.810 provides for a limited partnership's
11 reinstatement after it has been administratively dissolved.
12 The bill eliminates a requirement that the limited partnership
13 must apply within two years to the secretary of state for
14 reinstatement. It also provides that a limited partnership
15 has five years to reclaim its name following the effective
16 date of an administrative dissolution.

17 Code section 488.810 provides procedures for reinstatement
18 by the secretary of state. The division provides that the
19 secretary of state is to deliver (mail) a copy of the
20 declaration of reinstatement to the limited partnership rather
21 than to utilize service of process procedures.

22 DIVISION II -- BUSINESS CORPORATIONS. Code section 490.401
23 restricts how a business corporation may name itself. The
24 division provides that the name must be distinguished from
25 names of other business entities in existence or which may be
26 reinstated following dissolution, in the same manner as
27 provided in division I.

28 Code section 490.704 is amended to allow a business
29 corporation to take action without a meeting with the consent
30 of shareholders having the minimum number of votes required to
31 authorize the action at a meeting.

32 Code section 490.1422 provides procedures for reinstatement
33 by the secretary of state. The division provides that the
34 secretary of state may deliver (mail) the business corporation
35 a copy of the declaration of reinstatement rather than utilize

1 service of process procedures. It also provides that a
 2 corporation does not relinquish the right to retain its
 3 corporate name if the reinstatement is effective within five
 4 years of the effective date of the corporation's dissolution
 5 in the same manner as provided in division I. The division
 6 also amends a provision in the Code section by allowing it to
 7 list only one registered agent.

8 DIVISION III -- LIMITED LIABILITY COMPANIES. Code section
 9 490A.121 provides for the filing of documents with the office
 10 of the secretary of state. The division eliminates
 11 requirements that documents be endorsed and provides that the
 12 secretary of state must acknowledge the date and time of
 13 filing. It eliminates a requirement that the secretary of
 14 state return an unfiled document to the limited liability
 15 company within a specified time period.

16 Code section 490A.124 lists filing fees for a number of
 17 documents filed with the secretary of state, including an
 18 application fee for a registered name reserved per month and
 19 an application for the renewal of a registered name. The
 20 division provides that these items have no fees.

21 Code section 490A.131 requires a limited liability company
 22 to deliver a biennial report to the secretary of state. The
 23 division eliminates requirements relating to the mailing
 24 address of the limited liability company's registered office
 25 and agent.

26 Code section 490A.201 is amended to provide that a limited
 27 liability company may have as its purpose any lawful activity,
 28 not just a lawful business activity.

29 Code section 490A.305 is amended to further describe the
 30 requirements for maintenance of separate and distinct records
 31 associated with a series of members, managers, or membership
 32 interests of a limited liability company.

33 Code section 490A.401 restricts how a limited liability
 34 company may name itself. The division provides that the name
 35 must be distinguished from names of other business entities in

1 existence or which may be reinstated following dissolution, in
2 the same manner as provided for business entities described in
3 division I and division II.

4 The division creates a number of new provisions relating to
5 the dissolution of a limited liability company. New Code
6 section 490A.1308 provides for the revocation of a voluntary
7 dissolution. Other provisions provide for administrative
8 dissolution. New Code section 490A.1311 provides grounds for
9 an administrative dissolution. New Code section 490A.1312
10 provides procedures for administrative dissolution. New Code
11 section 490A.1313 provides for reinstatement following
12 administrative dissolution. New Code section 490A.1314
13 provides for appeal from a denial of reinstatement. In
14 addition, Code section 490A.1402 is rewritten to provide a
15 procedure for an application for a certificate of authority
16 for a foreign limited liability company. It replaces
17 provisions in a number of Code sections which refer to
18 registration requirements.

19 DIVISION IV -- TRADITIONAL COOPERATIVES. The division
20 amends a provision in Code section 499.78 which provides for
21 the administrative dissolution of a cooperative association
22 and allows a cooperative association to apply for
23 reinstatement within two years after the effective date of the
24 dissolution. The division eliminates that deadline
25 requirement in the same manner as for other business entities
26 described in the previous divisions.

27 DIVISION V -- CLOSED COOPERATIVES. Code section 501A.104
28 restricts how a closed cooperative may name itself. The
29 division amends the Code section to provide that the name must
30 be distinguishable from other cooperatives or cooperative
31 associations organized under the Code chapter or other Code
32 chapters, including the name of a closed cooperative which has
33 been administratively dissolved in the same manner as
34 amendments to provisions in division I, division II, and
35 division III.

1 Code section 501A.813 provides for the administrative
 2 dissolution of a cooperative association and allows a
 3 cooperative association to apply for reinstatement within two
 4 years after the effective date of the dissolution. The
 5 division eliminates that deadline requirement in the same
 6 manner as provided for the preceding divisions of the bill.
 7 The division also provides that a closed cooperative does not
 8 relinquish the right to retain its name if it is reinstated
 9 within five years of the effective date of the closed
 10 cooperative's dissolution in the same manner as for other
 11 business entities described in division I, division II, and
 12 division III.

13 DIVISION VI -- NONPROFIT CORPORATIONS. Code section
 14 504.401 restricts how a nonprofit corporation may name itself.
 15 The division provides that the name must be distinguished from
 16 names of other business entities in existence or which may be
 17 reinstated following dissolution, in the same manner as the
 18 business entities described in division I, division II, and
 19 division III.

20 Code section 504.401 also provides requirements for the
 21 filing of a resolution adopted by a nonprofit corporation's
 22 board of directors which adopts a fictitious name. The
 23 division provides that the resolution is not required to be
 24 certified by the board.

25 Code section 504.702 is amended to provide that any
 26 nonprofit corporation, not just a religious corporation, can
 27 alter the statutory demand requirements for holding a special
 28 meeting of the corporation in its corporate articles or
 29 bylaws.

30 Code section 504.808 is amended to provide that any
 31 nonprofit corporation, not just a religious corporation, can
 32 alter the statutory requirements for removal of elected
 33 corporate directors in its corporate articles or bylaws.

34 Code section 504.1001 is amended to make the language
 35 consistent with Code section 490.1001, relating to business

1 corporations, by providing that a nonprofit corporation has
2 the authority to amend its articles of incorporation by adding
3 or changing a provision that is required or permitted in the
4 articles of incorporation as of the effective date of the
5 amendment, or to delete a provision not required in the
6 articles of incorporation.

7 Code section 504.1002 is amended to make the language
8 consistent with Code section 490.1005 relating to business
9 corporations, providing for amendments of articles of
10 incorporation by corporate directors.

11 Code section 504.1005 is amended to make the language
12 consistent with Code section 490.1006 relating to business
13 corporations, and provides that articles of amendment of a
14 nonprofit corporation be adopted and approved as required by
15 law and by the corporate articles or bylaws before being
16 delivered to the secretary of state for filing.

17 Code section 504.1005, subsections 4 and 5, are amended to
18 make the language consistent with Code section 490.1006
19 relating to business corporations, and provides that the
20 articles of amendment of a nonprofit corporation must include
21 a statement that member approval was not required and the
22 amendment was approved by the incorporators or directors, or a
23 statement that member approval was required and was approved
24 as required by law and by the corporate articles or bylaws.

25 Code section 504.1006 is amended to make the language
26 consistent with Code section 490.1007 relating to business
27 corporations, and provides that a nonprofit corporation's
28 board of directors may consolidate all amendments into a
29 single restated article of incorporation, any new amendments
30 included in the restated articles that require approval must
31 meet the requirements for amendments contained in Code section
32 504.1003, and restated articles of incorporation must be
33 delivered to the secretary of state for filing accompanied by
34 a certificate stating that the restated articles consolidate
35 all amendments into one document and, if new amendments are

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1 included, the statement required under Code section 504.1005.

2 Code section 504.1007 is amended to make the language
3 consistent with Code section 490.1008 relating to business
4 corporations, and provides that a nonprofit corporation's
5 articles may be amended without board or member approval or
6 approval by a third person under Code section 504.1031 to
7 carry out a plan of reorganization ordered by a court of
8 competent jurisdiction under the authority of United States
9 law.

10 Code section 504.1008 is amended to make the language
11 consistent with Code section 490.1009, relating to business
12 corporations, and is a technical correction.

13 Code section 504.1423 provides for a nonprofit
14 corporation's reinstatement after it has been administratively
15 dissolved. The division eliminates a requirement that the
16 limited partnership must apply within two years to the
17 secretary of state for reinstatement and provides that a
18 limited partnership has five years to reclaim its name
19 following the effective date of the administrative dissolution
20 in the same manner as provided in division I, division II,
21 division III, and division IV.

22 New Code section 504.1607 provides that notice to a member
23 of a nonprofit corporation is no longer required if notice of
24 two consecutive annual meetings and all notices of meetings
25 between the two consecutive annual meetings have been sent to
26 the member at the address of record and returned as
27 undeliverable. The notice requirement can be reinstated if
28 the member delivers written notice of the member's current
29 address to the corporation.

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SENATE FILE 2374

AN ACT

CONTAINING VARIOUS PROVISIONS RELATING TO BUSINESS ENTITIES,
INCLUDING LIMITED PARTNERSHIPS, CORPORATIONS, LIMITED
LIABILITY COMPANIES, COOPERATIVES, AND NONPROFIT
CORPORATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

LIMITED PARTNERSHIPS

Section 1. Section 488.108, subsection 4, paragraph b,
Code Supplement 2005, is amended by striking the paragraph and
inserting in lieu thereof the following:

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001
or 486A.1002.

(2) For a limited partnership, this section, section
488.109, or section 488.810.

(3) For a business corporation, section 490.401, 490.402,
490.403, or 490.1422.

(4) For a limited liability company, section 490A.401,
490A.402, or 490A.1313.

(5) For a nonprofit corporation, section 504.401, 504.402,
504.403, or 504.1423.

Sec. 2. Section 488.810, subsection 1, unnumbered
paragraph 1, Code 2005, is amended to read as follows:

A limited partnership that has been administratively
dissolved may apply to the secretary of state for
reinstatement within two years at any time after the effective
date of dissolution. The application must be delivered to the
secretary of state for filing and state all of the following:

Sec. 3. Section 488.810, subsection 1, paragraph c, Code
2005, is amended to read as follows:

c. That if the application is received more than five
years after the effective date of the dissolution, that the
limited partnership's name satisfies the requirements of
section 488.108.

Sec. 4. Section 488.810, subsection 2, Code 2005, is
amended to read as follows:

2. If the secretary of state determines that an
application contains the information required by subsection 2
and that the information is correct, the secretary of state
shall prepare a declaration of reinstatement that states this
determination, sign, and file the original-of-the declaration
of reinstatement, and serve deliver a copy to the limited
partnership with-a-copy.

Sec. 5. Section 488.810, Code 2005, is amended by adding
the following new subsection:

NEW SUBSECTION. 4. A limited partnership shall not
relinquish the right to retain its name if the reinstatement
is effective within five years of the effective date of the
limited partnership's dissolution.

DIVISION II

BUSINESS CORPORATIONS

Sec. 6. Section 490.401, subsection 2, paragraph b, Code
Supplement 2005, is amended by striking the paragraph and
inserting in lieu thereof the following:

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001
or 486A.1002.

(2) For a limited partnership, section 488.108, 488.109, or 488.810.

(3) For a business corporation, this section, or section 490.402, 490.403, or 490.1422.

(4) For a limited liability company, section 490A.401, 490A.402, or 490A.1313.

(5) For a nonprofit corporation, section 504.401, 504.402, 504.403, or 504.1423.

Sec. 7. Section 490.502, subsection 3, Code 2005, is amended to read as follows:

3. If a registered agent changes the registered agent's business address to another place, the registered agent may change the business address and the address of the registered agent by filing a statement as required in subsection 2 for each corporation, or a single statement for all corporations named in the notice, except that it need be signed only by the registered agent ~~or agents~~ and need not be responsive to subsection 1, paragraph "c", and must recite that a copy of the statement has been mailed to each corporation named in the notice.

Sec. 8. Section 490.630, subsection 1, Code 2005, is amended to read as follows:

1. ~~Unless section 490.1704 is applicable to the corporation, the~~ The shareholders of a corporation do not have a preemptive right to acquire the corporation's unissued shares except to the extent the articles of incorporation so provide.

Sec. 9. Section 490.1422, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A corporation administratively dissolved under section 490.1421 may apply to the secretary of state for reinstatement ~~within two years at any time~~ after the effective date of dissolution. The application must meet all of the following requirements:

Sec. 10. Section 490.1422, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. State if the application is received more than five years after the effective date of dissolution, state a corporate name that satisfies the requirements of section 490.401.

Sec. 11. Section 490.1422, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. (1) If the secretary of state determines that the application contains the information required by subsection 1, and that a delinquency or liability reported pursuant to paragraph "a" ~~of this subsection~~ has been satisfied, and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of state's determination and the effective date of reinstatement, file the ~~original of the~~ certificate of reinstatement, and serve deliver a copy on to the corporation under section 490.504.

(2) If the corporate name in subsection 1, paragraph "c", is different than the corporate name in subsection 1, paragraph "a", the certificate of reinstatement shall constitute an amendment to the articles of incorporation insofar as it pertains to the corporate name. A corporation shall not relinquish the right to retain its corporate name if the reinstatement is effective within five years of the effective date of the corporation's dissolution.

Sec. 12. Section 490.1422, subsection 4, Code 2005, is amended by striking the subsection.

Sec. 13. Section 490.1506, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. A corporate name reserved ~~or~~ registered under, or protected as provided in section 490.402 or 490.403.

Sec. 14. Section 490.1701, subsection 3, paragraph a, Code Supplement 2005, is amended to read as follows:

a. The corporation shall amend or restate its articles of incorporation to indicate that the corporation adopts this chapter and to designate the address of its initial registered office and the name of its registered agent or agents at that office and, if the name of the corporation is not in compliance with the requirements of this chapter, to change the name of the corporation to one complying with the requirements of this chapter.

Sec. 15. Section 534.508, subsection 1, Code 2005, is amended to read as follows:

1. IN GENERAL. Sections 490.601 through 490.604, 490.620 through 490.628, and 490.630, ~~and 490.1704~~ apply to stock associations.

Sec. 16. Sections 490.1704 and 490.1705, Code 2005, are repealed.

DIVISION III

LIMITED LIABILITY COMPANIES

Sec. 17. Section 490A.121, subsections 2 and 3, Code 2005, are amended to read as follows:

2. The secretary of state files a document by ~~stamping or otherwise endorsing recording it as "filed", together with the secretary of state's name and official title and acknowledging the date and time of its receipt, on both the document and the receipt for the filing fee, and recording the document in the records of the secretary of state.~~ After filing a document, and except as provided in section 490A.503, the secretary of state shall deliver a copy of the filed document, with the ~~filing fee receipt, or an acknowledgment of receipt if no fee is required, attached, the date and time of filing~~ to the domestic or foreign limited liability company or its representative.

3. If the secretary of state refuses to file a document, the secretary of state shall return it to the domestic or foreign limited liability company or its representative ~~within ten days after the document was received by the secretary of~~

state, together with a brief, written explanation of the reason for the refusal.

Sec. 18. Section 490A.124, subsection 1, paragraphs e and f, Code 2005, are amended to read as follows:

e. Application for registered name per month or part thereof	\$	2
		<u>No fee</u>
f. Application for renewal of registered name	\$	20
		<u>No fee</u>

Sec. 19. Section 490A.131, subsection 1, paragraph b, Code Supplement 2005, is amended to read as follows:

b. The street ~~and mailing~~ address of its designated registered office and the name and street ~~and mailing~~ address of its registered agent ~~for service of process in this state.~~

Sec. 20. Section 490A.131, subsection 4, Code Supplement 2005, is amended to read as follows:

4. If a filed biennial report contains an address of a designated registered office or the name or address of an registered agent ~~for service of process~~ which differs from the information shown in the records of the secretary of state immediately before the filing, the differing information in the biennial report is considered a statement of change under section 490A.502.

Sec. 21. Section 490A.131, subsection 5, Code Supplement 2005, is amended by striking the subsection.

Sec. 22. Section 490A.201, Code 2005, is amended to read as follows:

490A.201 PURPOSES.

1. A limited liability company organized under this chapter has the purpose of engaging in any lawful business activity unless a more limited purpose is set forth in the articles of organization.

2. A limited liability company engaging in a business activity that is subject to regulation under another statute

of this state may organize under this chapter only if permitted by, and subject to all limitations of, the other statute.

Sec. 23. Section 490A.305, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. Separate and distinct records are maintained for the that series and separate and distinct records account for the assets associated with the that series are held and. The assets associated with a series must be accounted for separately from the other assets of the limited liability company, ~~or from any other series of the limited liability company including another series.~~

Sec. 24. Section 490A.305, subsection 13, Code 2005, is amended to read as follows:

13. A foreign limited liability company that is registering authorized to do business in this state under this chapter subchapter XIV which is governed by an operating agreement that establishes or provides for the establishment of designated series of members, managers, or membership interests having separate rights, powers, or duties with respect to specified property or obligations of the foreign limited liability company, or profits and losses associated with the specified property or obligations, shall indicate that fact on the application for registration a certificate of authority as a foreign limited liability company. In addition, the foreign limited liability company shall state on the application whether the debts, liabilities, and obligations incurred, contracted for, or otherwise existing with respect to a particular series, if any, are enforceable against the assets of such series only, and not against the assets of the foreign limited liability company generally.

Sec. 25. Section 490A.401, subsection 3, paragraph b, Code 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001 or 486A.1002.

(2) For a limited partnership, section 488.108, 488.109, or 488.810.

(3) For a business corporation, section 490.401, 490.402, 490.403, or 490.1422.

(4) For a limited liability company, this section or section 490A.402 or 490A.1313.

(5) For a nonprofit corporation, section 504.401, 504.402, 504.403, or 504.1423.

Sec. 26. Section 490A.401, subsection 6, Code 2005, is amended to read as follows:

6. This chapter does not control the use of fictitious names; however, if a limited liability company uses a fictitious name in this state it shall deliver to the secretary of state for filing a certified copy of the resolution of the limited liability company filed and executed according to section 490A.120 adopting the fictitious name.

Sec. 27. Section 490A.1301, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The administrative dissolution of the limited liability company under section 490A.1312.

Sec. 28. NEW SECTION. 490A.1308 REVOCATION OF DISSOLUTION.

1. A limited liability company may revoke its dissolution within one hundred twenty days of the effective date of its articles of dissolution.

2. Revocation of dissolution must be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the managers of the limited liability company alone, in which event the managers may revoke the dissolution without member action.

3. After the revocation of dissolution is authorized, the limited liability company may revoke the dissolution by

delivering to the secretary of state for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth all of the following:

- a. The name of the limited liability company.
- b. The effective date of the dissolution that was revoked.
- c. The date that the revocation of dissolution was authorized.
- d. If members of the limited liability company unanimously revoked the dissolution, a statement to that effect.
- e. If the managers of the limited liability company revoked a dissolution authorized by its members, a statement that revocation was permitted by action by the managers alone pursuant to that authorization.

4. Revocation of dissolution is effective upon the effective date of the articles of revocation of dissolution.

5. When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution as if the dissolution had never occurred.

PART B

ADMINISTRATIVE DISSOLUTION

Sec. 29. NEW SECTION. 490A.1311 GROUNDS FOR ADMINISTRATIVE DISSOLUTION.

The secretary of state may commence a proceeding under section 490A.1312 to administratively dissolve a limited liability company if any of the following apply:

1. The limited liability company has not delivered a biennial report to the secretary of state in a form that meets the requirements of section 490A.131, within sixty days after it is due, or has not paid the filing fee as determined by the secretary of state, within sixty days after it is due.
2. The limited liability company is without a registered office or registered agent in this state as required in subchapter V for sixty days or more.
3. The limited liability company does not notify the secretary of state within sixty days that its registered

office or registered agent as required in subchapter V has been changed, its registered office has been discontinued, or that its registered agent has resigned.

4. The limited liability company's period of duration stated in its articles of organization expires.

Sec. 30. NEW SECTION. 490A.1312 PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION.

1. If the secretary of state determines that one or more grounds exist under section 490A.1311 for dissolving a limited liability company, the secretary of state shall serve the limited liability company with written notice of the secretary of state's determination under section 490A.504.

2. If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after service of the notice is perfected under section 490A.504, the secretary of state shall administratively dissolve the limited liability company by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the limited liability company under section 490A.504.

3. A limited liability company administratively dissolved continues its existence but shall not carry on any business except that necessary to wind up and liquidate its business and affairs under part A of this subchapter and notify claimants under sections 490A.1306 and 490A.1307.

4. The administrative dissolution of a limited liability company does not terminate the authority of its registered agent as provided in subchapter V.

5. The secretary of state's administrative dissolution of a limited liability company pursuant to this section appoints the secretary of state the limited liability company's agent

for service of process in any proceeding based on a cause of action which arose during the time the limited liability company was authorized to transact business in this state. Service of process on the secretary of state under this subsection is service on the limited liability company. Upon receipt of process, the secretary of state shall serve a copy of the process on the limited liability company as provided in section 490A.504. This subsection does not preclude service on the limited liability company's registered agent, if any.

Sec. 31. NEW SECTION. 490A.1313 REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION.

1. A limited liability company administratively dissolved under section 490A.1312 may apply to the secretary of state for reinstatement at any time after the effective date of dissolution. The application must meet all of the following requirements:

a. Recite the name of the limited liability company at its date of dissolution and the effective date of its administrative dissolution.

b. State that the ground or grounds for dissolution as provided in section 490A.1311 have been eliminated.

c. If the application is received more than five years after the effective date of the administrative dissolution, state a name that satisfies the requirements of section 490A.401.

d. State the federal tax identification number of the limited liability company.

2. a. The secretary of state shall refer the federal tax identification number contained in the application for reinstatement to the department of revenue. The department of revenue shall report to the secretary of state the tax status of the limited liability company. If the department reports to the secretary of state that a filing delinquency or liability exists against the limited liability company, the secretary of state shall not cancel the certificate of

dissolution until the filing delinquency or liability is satisfied.

b. If the secretary of state determines that the application contains the information required by subsection 1, and that a delinquency or liability reported pursuant to paragraph "a" of this subsection has been satisfied, and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of state's determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the limited liability company under section 490A.504. If the limited liability company's name in subsection 1, paragraph "c", is different than the name in subsection 1, paragraph "a", the certificate of reinstatement shall constitute an amendment to the limited liability company's articles of organization insofar as it pertains to its name. A limited liability company shall not relinquish the right to retain its name as provided in section 490A.401, if the reinstatement is effective within five years of the effective date of the limited liability company's dissolution.

3. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution as if the administrative dissolution had never occurred.

Sec. 32. NEW SECTION. 490A.1314 APPEAL FROM DENIAL OF REINSTATEMENT.

1. If the secretary of state denies a limited liability company's application for reinstatement following administrative dissolution pursuant to section 490A.1312, the secretary of state shall serve the limited liability company under section 490A.504 with a written notice that explains the reason or reasons for denial.

2. The limited liability company may appeal the denial of reinstatement to the district court within thirty days after

service of the notice of denial is perfected. The limited liability company appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the limited liability company's application for reinstatement, and the secretary of state's notice of denial.

3. The court may summarily order the secretary of state to reinstate the dissolved limited liability company or may take other action the court considers appropriate.

4. The court's final decision may be appealed as in other civil proceedings.

Sec. 33. Section 490A.1401, Code 2005, is amended to read as follows:

490A.1401 LAW GOVERNING.

The law of the state or other jurisdiction under which a foreign limited liability company is formed governs its formation and internal affairs and the liability of its members and managers. A foreign limited liability company shall not be denied registration a certificate of authority by reason of any difference between those laws and the laws of this state. A foreign limited liability company holding a valid registration certificate of authority in this state shall have no greater rights and privileges than a domestic limited liability company. The registration certificate of authority shall not be deemed to authorize the foreign limited liability company to exercise any of its powers or purposes that a domestic limited liability company is forbidden by law to exercise in this state.

Sec. 34. Section 490A.1402, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

490A.1402 APPLICATION FOR CERTIFICATE OF AUTHORITY.

1. A foreign limited liability company may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing. The application must set forth all of the following:

a. The name of the foreign limited liability company or, if its name is unavailable for use in this state, a name that satisfies the requirements of section 490A.401.

b. The name of the state or country under whose law it is organized.

c. Its date of formation and period of duration.

d. The street address of its principal office.

e. The address of its registered office in this state and the name of its registered agent at that address as provided in subchapter V.

2. The foreign limited liability company shall deliver the completed application to the secretary of state, and also deliver to the secretary of state a certificate of existence or a document of similar import duly authenticated by the secretary of state or proper officer of the state or other jurisdiction of its formation which is dated no earlier than ninety days prior to the date the application is filed with the secretary of state.

Sec. 35. Section 490A.1404, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A certificate of registration authority shall not be issued to a foreign limited liability company unless the name of the limited liability company satisfies the requirements of section 490A.401. To obtain or maintain a certificate of registration authority, the company shall comply with the following:

Sec. 36. Section 490A.1405, Code 2005, is amended to read as follows:

490A.1405 CHANGE AND AMENDMENT.

If any statement in the application for registration a certificate of authority of a foreign limited liability company was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited liability company shall promptly deliver to the secretary of state for filing articles

of correction correcting such statement as required by section 490A.123.

Sec. 37. Section 490A.1406, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. That the foreign limited liability company is not transacting business in this state and that it surrenders its registration certificate of authority to transact business in this state.

Sec. 38. Section 490A.1406, subsection 2, Code 2005, is amended to read as follows:

2. The certificate of registration authority shall be canceled upon the filing of the certificate of cancellation by the secretary of state.

Sec. 39. Section 490A.1410, subsection 1, paragraph a, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) Deliver for filing to the secretary of state a biennial report as required by section 490A.131.

Sec. 40. Section 490A.1410, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A certificate of registration authority of a foreign limited liability company shall not be revoked by the secretary of state, unless both of the following apply:

DIVISION IV

TRADITIONAL COOPERATIVES

Sec. 41. Section 499.78, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

An association administratively dissolved under section 499.77 may apply to the secretary of state for reinstatement within-two-years at any time after the effective date of dissolution. The application must meet all of the following requirements:

DIVISION V

CLOSED COOPERATIVES

Sec. 42. Section 501.104, Code 2005, is amended to read as follows:

501.104 NAME.

The name of a cooperative organized under this chapter must comply with all of the following:

1. The name must contain the word "cooperative", "coop", or "co-op",-and-the.

2. The name must be distinguishable from the-names all of the following:

a. The name of cooperatives a cooperative organized under this chapter or.

b. The name of a cooperative or cooperative association organized under another chapter, including chapter 497, 498, 499, or 501A.

c. The name of a foreign cooperatives cooperative, cooperative association, or corporation authorized to do business in this state, including as provided in section 499.54 or section 501A.221.

d. The name of a cooperative which has been administratively dissolved pursuant to section 501.812 for a period of less than five years from the effective date of the dissolution.

Sec. 43. Section 501.813, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A cooperative administratively dissolved under section 501.812 may apply to the secretary of state for reinstatement within-two-years at any time after the effective date of dissolution. The application must meet all of the following requirements:

Sec. 44. Section 501.813, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. State if the application is received more than five years after the effective date of the cooperative's dissolution, state a name that satisfies the requirements of section 501.104.

Sec. 45. Section 501.813, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. (1) If the secretary of state determines that the application contains the information required by subsection 1, and that a delinquency or liability reported pursuant to paragraph "a" has been satisfied, and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of state's determination and the effective date of reinstatement, file the ~~original of the~~ certificate document, and serve deliver a copy on to the cooperative under section 501.106.

(2) If the name of the cooperative as provided in subsection 1, paragraph "c", is different than the name in subsection 1, paragraph "a", the certificate of reinstatement shall constitute an amendment to the articles of association insofar as it pertains to the name. A cooperative shall not relinquish the right to retain its name if the reinstatement is effective within five years of the effective date of the cooperative's dissolution.

DIVISION VI
NONPROFIT CORPORATIONS

Sec. 46. Section 504.401, subsection 2, paragraph b, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

- b. A name reserved, registered, or protected as follows:
- (1) For a limited liability partnership, section 486A.1001 or 486A.1002.
 - (2) For a limited partnership, section 488.108, 488.109, or 488.810.
 - (3) For a business corporation, section 490.401, 490.402, 490.403, or 490.1422.
 - (4) For a limited liability company, section 490A.401, 490A.402, or 490A.1313.

(5) For a nonprofit corporation, this section or section 504.402, 504.403, or 504.1423.

Sec. 47. Section 504.403, subsection 1, paragraph b, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

- b. A name reserved, registered, or protected as follows:
- (1) For a limited liability partnership, section 486A.1001 or 486A.1002.
 - (2) For a limited partnership, section 488.108, 488.109, or 488.810.
 - (3) For a business corporation, section 490.401, 490.402, 490.403, or 490.1422.
 - (4) For a limited liability company, section 490A.401, 490A.402, or 490A.1313.
 - (5) For a nonprofit corporation, this section or section 501.401, 501.402, or 504.1423.

Sec. 48. Section 504.702, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. Except as provided in the articles or bylaws of a religious corporation, if the holders of at least five percent of the voting power of any corporation sign, date, and deliver to any corporate officer one or more written demands for the meeting describing the purpose for which it is to be held. Unless otherwise provided in the articles of incorporation, a written demand for a special meeting may be revoked by a writing to that effect received by the corporation prior to the receipt by the corporation of demands sufficient in number to require the holding of a special meeting.

Sec. 49. Section 504.808, subsection 10, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The articles or bylaws of a religious corporation may do both of the following:

Sec. 50. Section 504.901, Code Supplement 2005, is amended to read as follows:

504.901 PERSONAL LIABILITY.

1. Except as otherwise provided in this chapter, a director, officer, employee, or member of a corporation is not liable for the corporation's debts or obligations and a director, officer, member, or other volunteer is not personally liable in that capacity to any person for any action taken or failure to take any action in the discharge of the person's duties except liability for any of the following:

- 1- a. The amount of any financial benefit to which the person is not entitled.
- 2- b. An intentional infliction of harm on the corporation or the members.
- 3- c. A violation of section 504.835.
- 4- d. An intentional violation of criminal law.

2. A provision set forth in the articles of incorporation eliminating or limiting the liability of a director to the corporation or its members for money damages for any action taken, or any failure to take any action, pursuant to section 504.202, subsection 2, paragraph "d", shall not affect the applicability of this section.

Sec. 51. Section 504.1001, Code 2005, is amended to read as follows:

504.1001 AUTHORITY TO AMEND.

A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles as of the effective date of the amendment or to delete a provision that is not required to be contained in the articles of incorporation. Whether a provision is required or permitted in the articles is determined as of the effective date of the amendment.

Sec. 52. Section 504.1002, subsection 1, Code 2005, is amended to read as follows:

1. Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt one or more amendments to the corporation's articles of incorporation

without member approval ~~to do~~ for any of the following purposes:

- a. ~~Extend~~ To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law.
- b. ~~Delete~~ To delete the names and addresses of the initial directors.
- c. ~~Delete~~ To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the secretary of state.
- d. ~~Change~~ To change the corporate name by substituting the word "corporation", "incorporated", "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution to the name.
- e. ~~Make~~ To make any other change expressly permitted by this subchapter to be made by director action.

Sec. 53. Section 504.1005, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A After an amendment to the articles of incorporation has been adopted and approved in the manner required by this chapter and by the articles of incorporation or bylaws, the corporation amending its articles shall deliver to the secretary of state, for filing, articles of amendment setting forth:

Sec. 54. Section 504.1005, subsections 4 and 5, Code 2005, are amended to read as follows:

4. If approval by members was not required, ~~a statement to that effect and a statement that the amendment was duly approved by a sufficient vote of the incorporators or by the board of directors or incorporators, as the case may be, and that member approval was not required.~~

5. If approval by members was required, ~~both of the following:~~

a. The designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on the amendment, and number of votes of each class indisputably voting on the amendment.

b. Either the total number of votes cast for and against the amendment by each class entitled to vote separately on the amendment or the total number of undisputed votes cast for the amendment by each class and a statement that the number of votes cast for the amendment by each class was sufficient for approval by that class duly approved by the members in the manner required by this chapter, the articles of incorporation, and bylaws.

Sec. 55. Section 504.1006, Code 2005, is amended to read as follows:

504.1006 RESTATED ARTICLES OF INCORPORATION.

1. A corporation's board of directors may restate the corporation's articles of incorporation at any time with or without approval by members or any other person, to consolidate all amendments into a single document.

2. The restatement may if the restated articles include one or more new amendments to the articles--if the restatement includes an amendment requiring that require approval by the members or any other person, it the amendments must be adopted as provided in section 504.1003.

3. If the restatement includes an amendment requiring approval by members, the board must submit the restatement to the members for their approval.

4. If the board seeks to have the restatement approved by the members at a membership meeting, the corporation shall notify each of its members of the proposed membership meeting in writing in accordance with section 504.705.--The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed restatement and must contain or be accompanied by a copy or summary of the restatement that identifies any amendments or other changes the restatement would make in the articles.

5. If the board seeks to have the restatement approved by the members by written ballot or written consent, the material soliciting the approval shall contain or be accompanied by a copy or summary of the restatement that identifies any amendments or other changes the restatement would make in the articles.

6. A restatement requiring approval by the members must be approved by the same vote as an amendment to articles under section 504.1003.

7. 3. If the restatement includes an amendment requiring approval pursuant to section 504.1031, the board must submit the restatement for such approval.

8. 4. A corporation restating that restates its articles of incorporation shall deliver to the secretary of state for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate setting forth all of the following:

a. Whether the restatement contains an amendment to the articles requiring approval by the members or any other person other than the board of directors and, if it does not, that the board of directors adopted the restatement.

b. If the restatement contains an amendment to the articles requiring approval by the members, the information required by section 504.1005.

c. If the restatement contains an amendment to the articles requiring approval by a person whose approval is required pursuant to section 504.1031, a statement that such approval was obtained stating that the restated articles consolidate all amendments into a single document. If a new amendment is included in the restated articles, the corporation shall include the statement required in section 504.1005.

9. 5. Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to the original articles of incorporation.

10- 6. The secretary of state may certify restated articles of incorporation as the articles of incorporation currently in effect without including the certificate information required by subsection 4.

Sec. 56. Section 504.1007, subsection 1, Code 2005, is amended to read as follows:

1. A corporation's articles may be amended without board approval or approval by the members or approval required pursuant to section 504.1031 to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under ~~federal statute if the articles after amendment contain only provisions required or permitted by section 504.202~~ the authority of law of the United States.

Sec. 57. Section 504.1008, Code Supplement 2005, is amended to read as follows:

504.1008 EFFECT OF AMENDMENT AND RESTATEMENT.

An amendment to the articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, any requirement or limitation imposed upon the corporation, or any property held by it by virtue of any trust upon which such property is held by the corporation, or the existing rights of persons other than members of the corporation. An amendment changing a corporation's name does not abate a proceeding brought by or against the corporation in its former name.

Sec. 58. Section 504.1423, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A corporation administratively dissolved under section 504.1422 may apply to the secretary of state for reinstatement within two years at any time after the effective date of dissolution. The application must state all of the following:

Sec. 59. Section 504.1423, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. That if the application is received more than five years after the effective date of dissolution, state the

corporation's name satisfies the requirements of section 504.401.

Sec. 60. Section 504.1423, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. (1) If the secretary of state determines that the application contains the information required by subsection 1, that a delinquency or liability reported pursuant to paragraph "a" has been satisfied, and that all of the application information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement reciting that determination and the effective date of reinstatement, file the ~~original of the certificate document~~, and serve deliver a copy on to the corporation under section 504.504.

(2) If the corporate name in subsection 1, paragraph "c", is different from the corporate name in subsection 1, paragraph "a", the certificate of reinstatement shall constitute an amendment to the articles of incorporation insofar as it pertains to the corporate name. A corporation shall not relinquish the right to retain its corporate name if the reinstatement is effective within five years of the effective date of the corporation's dissolution.

Sec. 61. Section 504.1506, subsection 2, paragraph b, Code Supplement 2005, is amended to read as follows:

b. A corporate name reserved, or registered under, or protected as provided in section 490.402 or 490.403 or section 504.402 or 504.403.

Sec. 62. NEW SECTION. 504.1607 EXCEPTION TO NOTICE REQUIREMENT.

1. Whenever notice is required to be given under any provision of this chapter to any member, such notice shall not be required to be given if notice of two consecutive annual meetings, and all notices of meetings during the period between such two consecutive annual meetings, have been sent to the member at the member's address as shown on the records of the corporation and have been returned as undeliverable.

2. If the member delivers to the corporation a written notice setting forth the member's then-current address, the requirement that notice be given to the member shall be reinstated.

JEFFREY M. LAMBERTI
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2374, Eighty-first General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2006

THOMAS J. VILSACK
Governor