SENATE FILE 2339
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3175)

(As Amended and Passed by the Senate June 12, 2020)

_____ and [= New Language by the Senate

* = Language Stricken by the Senate

A BILL FOR

An Act providing for corporations, providing for certain fees, and including effective date provisions.

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

DIVISION I

GENERAL PROVISIONS

Section 1. Section 490.101, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.101 Short title.

This chapter shall be known and may be cited as the "*Iowa Business Corporation Act*".

Sec. 2. Section 490.120, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.120 Requirements for documents — extrinsic facts.

1. A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the secretary of state.

2. This chapter must require or permit filing the document in the office of the secretary of state.

3. The document must contain the information required by this chapter and may contain other information.

4. The document must be typewritten or printed or, if electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form.

5. The document must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

6. Except as provided in section 490.1622, subsection 3, the document must be signed by any of the following:

a. The chair of the board of directors of a domestic or foreign corporation, its president, or another of its officers.

b. If directors have not been selected or the corporation has not been formed, by an incorporator.

c. If the corporation is in the hands of a receiver,

trustee, or other court-appointed fiduciary, by that fiduciary.

7. *a.* The person executing the document shall sign it and state beneath or opposite the person's signature the person's name and the capacity in which the document is signed. The document may but need not contain a corporate seal, attestation, acknowledgment, or verification.

b. The secretary of state may accept for filing a document containing a copy of a signature, however made.

8. If the secretary of state has prescribed a mandatory form for the document under section 490.121, subsection 1, the document must be in or on the prescribed form.

9. The document must be delivered to the office of the secretary of state for filing. Delivery may be made by electronic transmission if and to the extent permitted by the secretary of state. If it is filed in typewritten or printed form and not transmitted electronically, the secretary of state may require one exact or conformed copy to be delivered with the document.

10. When the document is delivered to the office of the secretary of state for filing, the correct filing fee, and any franchise tax, license fee, or penalty required by this chapter or other law to be paid at the time of delivery for filing must be paid or provision for payment made in a manner permitted by the secretary of state.

11. Whenever a provision of this chapter permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, all of the following provisions apply:

a. The manner in which the facts will operate upon the terms of the plan or filed document must be set forth in the plan or filed document.

b. The facts may include any of the following:

(1) Any of the following that is available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices

of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data.

(2) A determination or action by any person or body, including the corporation or any other party to a plan or filed document.

(3) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

c. As used in this subsection:

(1) *"Filed document"* means a document filed by the secretary of state under any provision of this chapter except subchapter XV or section 490.1622.

(2) *"Plan"* means a plan of domestication, conversion, merger, or share exchange.

d. The following provisions of a plan or filed document shall not be made dependent on facts outside the plan or filed document:

(1) The name and address of any person required in a filed document.

(2) The registered office of any entity required in a filed document.

(3) The registered agent of any entity required in a filed document.

(4) The number of authorized shares and designation of each class or series of shares.

(5) The effective date of a filed document.

(6) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

e. If a provision of a filed document is made dependent on a fact ascertainable outside of the filed document, and that fact is neither ascertainable by reference to a source described in paragraph *"b"*, subparagraph (1), nor a document that is a matter of public record, and the affected shareholders have not received notice of the fact from the corporation, then the

corporation shall file with the secretary of state articles of amendment to the filed document setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this paragraph "*e*" are deemed to be authorized by the authorization of the original filed document to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

Sec. 3. Section 490.121, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.121 Forms.

1. *a.* The secretary of state may prescribe and furnish on request any of the following forms:

(1) An application for a certificate of existence or certificate of registration.

(2) A foreign corporation's registration statement.

(3) A foreign corporation's statement of withdrawal.

(4) A foreign corporation's transfer of registration statement.

(5) The biennial report required by section 490.1622.

b. If the secretary of state so requires, use of the forms provided in paragraph "*a*" is mandatory.

2. The secretary of state may prescribe and furnish on request forms for other documents required or permitted to be filed pursuant to this chapter but their use is not mandatory.

Sec. 4. Section 490.122, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.122 Filing, service, and copying fees.

1. The secretary of state shall collect the following fees when the documents described in this subsection are delivered to the secretary of state for filing:

DOCUMENT	FEE
a. Articles of incorporation	$ 50
b. Application for use of indistinguishable name	$ 10

c. Application for reserved name ..... $ 10
d. Notice of transfer of reserved name ..... $ 10
e. Application for registered name ..... $ 20
f. Application for renewal of registered name ..... $ 20
g. Corporation's statement of change of registered agent or registered office or both ..... No fee
h. Agent's statement of change of registered office for each affected corporation not to exceed a total of ..... No fee
i. Agent's statement of resignation ..... No fee
j. Articles of domestication ..... $ 50
k. Articles of conversion ..... $ 50
l. Amendment of articles of incorporation ..... $ 50
m. Restatement of articles of incorporation with amendment of articles ..... $ 50
n. Restatement of articles of incorporation without amendment of articles ..... $ 50
o. Articles of merger or share exchange ..... $ 50
p. Articles of dissolution ..... $ 5
q. Articles of revocation of dissolution ..... $ 5
r. Certificate of administrative dissolution ..... No fee
s. Application for reinstatement following administrative dissolution ..... $ 5
t. Certificate of reinstatement ..... No fee
u. Certificate of judicial dissolution ..... No fee
v. Foreign registration statement ..... $ 100
w. Amendment of foreign registration statement ..... $ 100
x. Statement of withdrawal ..... $ 10
y. Transfer of foreign registration statement ..... $ 100
z. Notice of termination of registration ..... No fee
aa. Articles of correction ..... $ 5
ab. Articles of validation ..... $ 5
ac. Application for certificate of existence or

registration..... $ 5

ad. Biennial report..... $ 60

ae. Any other document required or permitted to be filed by this chapter $5

2. The secretary of state shall collect a fee of five dollars each time process is served on the secretary of state under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if such party prevails in the proceeding.

3. The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

a. One dollar a page for copying.

b. Five dollars for the certificate.

Sec. 5. Section 490.123, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.123 Effective date of filed document.

1. Except to the extent otherwise provided in section 490.124, subsection 3, and part E, a document accepted for filing is effective as follows:

a. On the date and at the time of filing, as provided in section 490.125, subsection 2.

b. On the date of filing and at the time specified in the document as its effective time, if later than the time under paragraph "*a*".

c. At a specified delayed effective date and time which shall not be more than ninety days after filing.

d. If a delayed effective date is specified, but no time is specified, at 12:01 a.m. on the date specified, which shall not be more than ninety days after the date of filing.

2. If a filed document does not specify the time zone or place at which a date or time or both is to be determined, the date or time or both at which it becomes effective shall be those prevailing at the place of filing in this state.

Sec. 6. Section 490.124, Code 2020, is amended by striking

the section and inserting in lieu thereof the following:

490.124 Correcting filed document.

1. A document filed by the secretary of state pursuant to this chapter may be corrected if any of the following applies:

a. The document contains an inaccuracy.

b. The document was defectively signed, attested, sealed, verified, or acknowledged.

c. The electronic transmission was defective.

2. A document is corrected by complying with all of the following:

a. By preparing articles of correction that do all of the following:

(1) Describe the document, including its filing date, or a copy of the document is attached to the articles of correction.

(2) Specify the inaccuracy or defect to be corrected.

(3) Correct the inaccuracy or defect.

b. By delivering the articles of correction to the secretary of state for filing.

3. Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

Sec. 7. Section 490.125, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.125 Filing duty of secretary of state.

1. If a document delivered to the office of the secretary of state for filing satisfies the requirements of section 490.120, the secretary of state shall file it.

2. The secretary of state files a document by recording it as filed on the date and time of receipt. After filing a document, except the biennial report required by section 490.1622, and except as provided in section 490.503, the secretary of state shall return to the person who delivered the document for filing a copy of the document with an

acknowledgment of the date and time of filing.

3. If the secretary of state refuses to file a document, it shall be returned to the person who delivered the document for filing within five days after the document was delivered, together with a brief, written explanation of the reason for the refusal.

4. The secretary of state's duty to file documents under this section is ministerial. The secretary of state's filing or refusing to file a document does not create a presumption of any of the following:

a. The document does or does not conform to the requirements of this chapter.

b. The information contained in the document is correct or incorrect.

Sec. 8. Section 490.126, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.126 Appeal from secretary of state's refusal to file document.

1. If the secretary of state refuses to file a document delivered for filing, the person that delivered the document for filing may petition the district court of the county where the corporation's principal office or, if none in this state, its registered office, is located to compel its filing. The document and the explanation of the secretary of state's refusal to file must be attached to the petition. The court may decide the matter in a summary proceeding.

2. The court may order the secretary of state to file the document or take other action the court considers appropriate.

3. The court's final decision may be appealed as in other civil proceedings.

Sec. 9. Section 490.127, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.127 Evidentiary effect of certified copy of filed document.

A certificate from the secretary of state delivered with

a copy of a document filed by the secretary of state is conclusive evidence that the original document is on file with the secretary of state.

Sec. 10. Section 490.128, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.128 Certificate of existence or registration.

1. Any person may apply to the secretary of state to furnish a certificate of existence for a domestic corporation or a certificate of registration for a foreign corporation.

2. A certificate of existence must set forth all of the following:

a. The domestic corporation's corporate name.

b. That the domestic corporation is duly incorporated under the law of this state, the date of its incorporation, and the period of its duration if less than perpetual.

c. That all fees, taxes, and penalties owed to this state have been paid, subject to all of the following:

(1) Payment is reflected in the records of the secretary of state.

(2) Nonpayment affects the existence of the domestic corporation.

d. That its most recent biennial report required by section 490.1622 has been filed by the secretary of state.

e. That articles of dissolution have not been filed.

f. That the corporation is not administratively dissolved and a proceeding is not pending under section 490.1421.

g. Other facts of record in the office of the secretary of state that may be requested by the applicant.

3. A certificate of registration must set forth all of the following:

a. The foreign corporation's name used in this state.

b. That the foreign corporation is registered to do business in this state.

c. That all fees, taxes, and penalties owed to this state have been paid, subject to all of the following:

(1) Payment is reflected in the records of the secretary of state.

(2) Nonpayment affects the registration of the foreign corporation.

d. That its most recent biennial report required by section 490.1622 has been filed by the secretary of state.

e. Other facts of record in the office of the secretary of state that may be requested by the applicant.

4. Subject to any qualification stated in the certificate, a certificate of existence or registration issued by the secretary of state may be relied upon as conclusive evidence of the facts stated in the certificate.

Sec. 11. Section 490.129, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.129 Penalty for signing false document.

1. A person commits an offense by signing a document that the person knows is false in any material respect with intent that the document be delivered to the secretary of state for filing.

2. An offense under this section is a serious misdemeanor punishable by a fine of not to exceed one thousand dollars.

Sec. 12. Section 490.135, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.135 Powers.

The secretary of state has the power reasonably necessary to perform the duties required of the secretary of state by this chapter.

Sec. 13. Section 490.140, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.140 Chapter definitions.

As used in this chapter, unless otherwise specified:

1. *"Articles of incorporation"* means the articles of incorporation described in section 490.202, all amendments to the articles of incorporation, and any other documents permitted or required to be delivered for filing by a domestic

business corporation with the secretary of state under any provision of this chapter that modify, amend, supplement, restate, or replace the articles of incorporation. After an amendment of the articles of incorporation or any other document filed under this chapter that restates the articles of incorporation in their entirety, the articles of incorporation shall not include any prior documents. When used with respect to a foreign corporation or a domestic or foreign nonprofit corporation, the *"articles of incorporation"* of such an entity means the document of such entity that is equivalent to the articles of incorporation of a domestic business corporation.

2. *"Authorized shares"* means the shares of all classes a domestic or foreign corporation is authorized to issue.

3. *"Beneficial shareholder"* means a person who owns the beneficial interest in shares, which may be a record shareholder or a person on whose behalf shares are registered in the name of an intermediary or nominee.

4. *"Conspicuous"* means so written, displayed, or presented that a reasonable person against whom the writing is to operate should have noticed it.

5. *"Cooperative association"* means an entity that is structured and operated on a cooperative basis pursuant to 26 U.S.C. §1381(a) and that meets the definitional requirements of an association as provided in 12 U.S.C. §1141j(a) or 7 U.S.C. §291.

6. *"Corporation"*, *"domestic corporation"*, *"business corporation"*, or *"domestic business corporation"* means a corporation for profit, which is not a foreign corporation, incorporated under this chapter.

7. *"Deliver"* or *"delivery"* means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and, if authorized in accordance with section 490.141, by electronic transmission.

8. *"Distribution"* means a direct or indirect transfer of cash or other property, except a corporation's own shares,

or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; a distribution in liquidation; or otherwise.

9. *"Document"* means any of the following:

a. A tangible medium on which information is inscribed, and includes handwritten, typed, printed or similar instruments, and copies of such instruments.

b. An electronic record.

10. *"Domestic"*, with respect to an entity, means an entity governed as to its internal affairs by the law of this state.

11. *"Effective date"*, when referring to a document accepted for filing by the secretary of state, means the time and date determined in accordance with section 490.123.

12. *"Electronic"* means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

13. *"Electronic record"* means information that is stored in an electronic or other nontangible medium and is retrievable in paper form through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with section 490.141, subsection 10.

14. *"Electronic transmission"* or *"electronically transmitted"* means any form or process of communication not directly involving the physical transfer of paper or another tangible medium, which is all of the following:

a. Suitable for the retention, retrieval, and reproduction of information by the recipient.

b. Retrievable in paper form by the recipient through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with section 490.141, subsection 10.

15. *"Eligible entity"* means a domestic or foreign

unincorporated entity or a domestic or foreign nonprofit corporation.

16. "*Eligible interests*" means interests or memberships.

17. "*Employee*" includes an officer but not a director. A director may accept duties that make the director also an employee.

18. "*Entity*" includes a domestic and foreign business corporation; domestic and foreign nonprofit corporation; estate; trust; domestic and foreign unincorporated entity; and a state, the United States, and a foreign government.

19. "*Expenses*" means reasonable expenses of any kind, including reasonable fees and expenses of counsel and experts employed by the shareholder, that are incurred in connection with a matter.

20. "*Filing entity*" means an unincorporated entity, other than a limited liability partnership, that is of a type that is created by filing a public organic record or is required to file a public organic record that evidences its creation.

21. "*Foreign*", with respect to an entity, means an entity governed as to its internal affairs by the organic law of a jurisdiction other than this state.

22. "*Foreign corporation*" or "*foreign business corporation*" means a corporation incorporated under a law other than the law of this state which would be a business corporation if incorporated under the law of this state.

23. "*Foreign nonprofit corporation*" means a corporation incorporated under a law other than the law of this state which would be a nonprofit corporation if incorporated under the law of this state.

24. "*Foreign registration statement*" means the foreign registration statement described in section 490.1503.

25. "*Governmental subdivision*" includes an authority, city, county, district, and municipality.

26. "*Governor*" means any person under whose authority the powers of an entity are exercised and under whose direction the

activities and affairs of the entity are managed pursuant to the organic law governing the entity and its organic rules.

27. *"Includes"* and *"including"* denote a partial definition or a nonexclusive list.

28. *"Individual"* means a natural person.

29. *"Interest"* means either or both of the following rights under the organic law governing an unincorporated entity:

a. The right to receive distributions from the entity either in the ordinary course or upon liquidation.

b. The right to receive notice or vote on issues involving its internal affairs, other than as an agent, assignee, proxy, or person responsible for managing its business and affairs.

30. *"Interest holder"* means a person who holds of record an interest.

31. *a. "Interest holder liability"* means any of the following:

(1) Personal liability for a debt, obligation, or other liability of a domestic or foreign corporation or eligible entity that is imposed on a person by any of the following:

(a) Solely by reason of the person's status as a shareholder, member, or interest holder.

(b) By the articles of incorporation of the domestic corporation or the organic rules of the eligible entity or foreign corporation that make one or more specified shareholders, members, or interest holders, or categories of shareholders, members, or interest holders, liable in their capacity as shareholders, members, or interest holders for all or specified liabilities of the corporation or eligible entity.

(2) An obligation of a shareholder, member, or interest holder under the articles of incorporation of a domestic corporation or the organic rules of an eligible entity or foreign corporation to contribute to the entity.

b. For purposes of paragraph *"a"*, except as otherwise provided in the articles of incorporation of a domestic corporation or the organic law or organic rules of an eligible

entity or a foreign corporation, interest holder liability arises under paragraph "*a*", subparagraph (1), when the corporation or eligible entity incurs the liability.

32. "*Jurisdiction of formation*" means the state or country the law of which includes the organic law governing a domestic or foreign corporation or eligible entity.

33. "*Means*" denotes an exhaustive definition.

34. "*Membership*" means the rights of a member in a domestic or foreign nonprofit corporation.

35. "*Merger*" means a transaction pursuant to section 490.1102.

36. "*Nonfiling entity*" means an unincorporated entity that is of a type that is not created by filing a public organic record.

37. "*Nonprofit corporation*" or "*domestic nonprofit corporation*" means a corporation incorporated under the laws of this state and subject to the provisions of chapter 504.

38. "*Organic law*" means the statute governing the internal affairs of a domestic or foreign business or nonprofit corporation or unincorporated entity.

39. "*Organic rules*" means the public organic record and private organic rules of a domestic or foreign corporation or eligible entity.

40. "*Person*" means a person as defined in section 4.1.

41. "*Principal office*" means the office, in or out of this state, so designated in the biennial report required by section 490.1622 or foreign registration statement where the principal executive offices of a domestic or foreign corporation are located.

42. *a.* "*Private organic rules*" means any of the following:

(1) The bylaws of a domestic or foreign business or nonprofit corporation.

(2) The rules, regardless of whether in writing, that govern the internal affairs of an unincorporated entity, are binding on all of its interest holders, and are not part of its public

organic record, if any.

b. Where private organic rules have been amended or restated, the term means the private organic rules as last amended or restated.

43. *"Proceeding"* includes a civil suit and criminal, administrative, and investigatory action.

44. *a. "Public organic record"* means any of the following:

(1) The articles of incorporation of a domestic or foreign business or nonprofit corporation.

(2) The document, if any, the filing of which is required to create an unincorporated entity, or which creates the unincorporated entity and is required to be filed.

b. Where a public organic record has been amended or restated, the term means the public organic record as last amended or restated.

45. *"Record date"* means the date fixed for determining the identity of the corporation's shareholders and their shareholdings for purposes of this chapter. Unless another time is specified when the record date is fixed, the determination shall be made as of the close of business at the principal office of the corporation on the date so fixed.

46. *"Record shareholder"* means any of the following:

a. The person in whose name shares are registered in the records of the corporation.

b. The person identified as the beneficial owner of shares in a beneficial ownership certificate pursuant to section 490.723 on file with the corporation to the extent of the rights granted by such certificate.

47. *"Registered foreign corporation"* means a foreign corporation registered to do business in the state pursuant to subchapter XV.

48. *"Secretary"* means the corporate officer to whom the board of directors has delegated responsibility under section 490.840, subsection 3, to maintain the minutes of the meetings of the board of directors and of the shareholders and for

authenticating records of the corporation.

49. *"Share exchange"* means a transaction pursuant to section 490.1103.

50. *"Shareholder"* means a record shareholder.

51. *"Shares"* means the units into which the proprietary interests in a domestic or foreign corporation are divided.

52. *"Sign"* or *"signature"* means, with present intent to authenticate or adopt a document, doing any of the following:

a. Executing or adopting a tangible symbol to a document, including any manual, facsimile, or conformed signature.

b. Attaching to or logically associating with an electronic transmission an electronic sound, symbol, or process, and including an electronic signature in an electronic transmission.

53. *"State"*, when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions, and a territory and insular possession, and their agencies and governmental subdivisions, of the United States.

54. *"Subscriber"* means a person who subscribes for shares in a corporation, whether before or after incorporation.

55. *"Type of entity"* means a generic form of entity that is any of the following:

a. Recognized at common law.

b. Formed under an organic law, regardless of whether some entities formed under that law are subject to provisions of that law that create different categories of the form of entity.

56. *a. "Unincorporated entity"* means an organization or artificial legal person that either has a separate legal existence or has the power to acquire an estate in real property in its own name and that is not any of the following:

(1) A domestic or foreign business or nonprofit corporation.

(2) A series of a limited liability company or of another

type of entity.

(3) An estate.

(4) A trust.

(5) A state, the United States, or foreign government.

b. "Unincorporated entity" includes a general partnership, limited liability company, limited partnership, business trust, joint stock association, and unincorporated nonprofit association.

57. *"United States"* includes district, authority, bureau, commission, department, and any other agency of the United States.

58. *"Unrestricted voting trust beneficial owner"* means, with respect to any shareholder rights, a voting trust beneficial owner whose entitlement to exercise the shareholder right in question is not inconsistent with the voting trust agreement.

59. *"Voting group"* means all shares of one or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

60. *"Voting power"* means the current power to vote in the election of directors.

61. *"Voting trust beneficial owner"* means an owner of a beneficial interest in shares of the corporation held in a voting trust established pursuant to section 490.730, subsection 1.

62. *"Writing"* or *"written"* means any information in the form of a document.

Sec. 14. Section 490.141, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.141 Notices and other communications.

1. A notice under this chapter must be in writing unless oral notice is reasonable in the circumstances. Unless

otherwise agreed between the sender and the recipient, words in a notice or other communication under this chapter must be in English.

2. A notice or other communication may be given by any method of delivery, except that electronic transmissions must be in accordance with this section. If the methods of delivery are impracticable, a notice or other communication may be given by means of a broad nonexclusionary distribution to the public, which may include a newspaper of general circulation in the area where published; radio, television, or other form of public broadcast communication; or other methods of distribution that the corporation has previously identified to its shareholders.

3. A notice or other communication to a domestic corporation or to a foreign corporation registered to do business in this state may be delivered to the corporation's registered agent at its registered office or to the secretary at the corporation's principal office shown in its most recent biennial report required by section 490.1622 or, in the case of a foreign corporation that has not yet delivered a biennial report, in its foreign registration statement.

4. A notice or other communication may be delivered by electronic transmission if consented to by the recipient or if authorized by subsection 10.

5. Any consent under subsection 4 may be revoked by the person who consented by written or electronic notice to the person to whom the consent was delivered. Any such consent is deemed revoked if all of the following apply:

a. The corporation is unable to deliver two consecutive electronic transmissions given by the corporation in accordance with such consent.

b. Such inability becomes known to the secretary or an assistant secretary or to the transfer agent, or other person responsible for the giving of notice or other communications; provided, however, the inadvertent failure to treat such

inability as a revocation shall not invalidate any meeting or other action.

6. Unless otherwise agreed between the sender and the recipient, an electronic transmission is received when all of the following apply:

a. The electronic transmission enters an information processing system that the recipient has designated or uses for the purposes of receiving electronic transmissions or information of the type sent, and from which the recipient is able to retrieve the electronic transmission.

b. The electronic transmission is in a form capable of being processed by that system.

7. Receipt of an electronic acknowledgment from an information processing system described in subsection 6, paragraph "*a*", establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

8. An electronic transmission is received under this section even if no person is aware of its receipt.

9. A notice or other communication, if in a comprehensible form or manner, is effective at the earliest of the following:

a. If in a physical form, the earliest of when it is actually received, or when it is left at any of the following:

(1) A shareholder's address shown on the corporation's record of shareholders maintained by the corporation under section 490.1601, subsection 4.

(2) A director's residence or usual place of business.

(3) The corporation's principal office.

b. If mailed by postage prepaid and correctly addressed to a shareholder, upon deposit in the United States mail.

c. If mailed by United States mail postage prepaid and correctly addressed to a recipient other than a shareholder, the earliest of when it is actually received, or as follows:

(1) If sent by registered or certified mail, return receipt requested, the date shown on the return receipt signed by or on

behalf of the addressee.

(2) Five days after it is deposited in the United States mail.

d. If an electronic transmission, when it is received as provided in subsection 6.

e. If oral, when communicated.

10. A notice or other communication may be in the form of an electronic transmission that cannot be directly reproduced in paper form by the recipient through an automated process used in conventional commercial practice only if all of the following apply:

a. The electronic transmission is otherwise retrievable in perceivable form.

b. The sender and the recipient have consented in writing to the use of such form of electronic transmission.

11. If this chapter prescribes requirements for notices or other communications in particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe requirements for notices or other communications, not inconsistent with this section or other provisions of this chapter, those requirements govern. The articles of incorporation or bylaws may authorize or require delivery of notices of meetings of directors by electronic transmission.

12. In the event that any provisions of this chapter are deemed to modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§7001 et seq., the provisions of this chapter shall control to the maximum extent permitted by section 102(a)(2) of that federal Act.

13. *a.* Whenever notice would otherwise be required to be given under any provision of this subchapter to a shareholder, such notice need not be given if any of the following apply:

(1) Notices to the shareholders of two consecutive annual meetings, and all notices of meetings during the period between such two consecutive annual meetings, have been sent to such

shareholder at such shareholder's address as shown on the records of the corporation and have been returned undeliverable or could not be delivered.

(2) All, but not less than two, payments of dividends on securities during a twelve-month period, or two consecutive payments of dividends on securities during a period of more than twelve months, have been sent to such shareholder at such shareholder's address as shown on the records of the corporation and have been returned undeliverable or could not be delivered.

b. If any such shareholder shall deliver to the corporation a written notice setting forth such shareholder's then-current address, the requirement that notice be given to such shareholder shall be reinstated.

Sec. 15. Section 490.142, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.142 Number of shareholders.

1. For purposes of this chapter, any of the following identified as a shareholder in a corporation's current record of shareholders constitutes one shareholder:

a. Three or fewer co-owners.

b. A corporation, partnership, trust, estate, or other entity.

c. The trustees, guardians, custodians, or other fiduciaries of a single trust, estate, or account.

2. For purposes of this chapter, shareholdings registered in substantially similar names constitute one shareholder if it is reasonable to believe that the names represent the same person.

Sec. 16. Section 490.143, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.143 Qualified director.

1. As used in this chapter, a "*qualified director*" means a director who takes action, if at the time action is to be taken any of the following applies:

a. Under section 490.202, subsection 2, paragraph "*f*", is not a director under any of the following circumstances:

(1) To whom the limitation or elimination of the duty of an officer to offer potential business opportunities to the corporation would apply.

(2) Has a material relationship with any other person to whom the limitation or elimination described in subparagraph (1) would apply.

b. Under section 490.744, does not have any of the following:

(1) A material interest in the outcome of the proceeding.

(2) A material relationship with a person who has such an interest.

c. Under section 490.853 or 490.855, all of the following apply:

(1) The director is not a party to the proceeding.

(2) The director is not a director as to whom a transaction is a director's conflicting interest transaction or who sought a disclaimer of the corporation's interest in a business opportunity under section 490.870, which transaction or disclaimer is challenged in the proceeding.

(3) The director does not have a material relationship with a director described in either subparagraph (1) or (2).

d. Under section 490.862, the director is not any of the following:

(1) A director as to whom the transaction is a director's conflicting interest transaction.

(2) A director who has a material relationship with another director as to whom the transaction is a director's conflicting interest transaction.

e. Under section 490.870, is not a director who does any of the following:

(1) Pursues or takes advantage of the business opportunity, directly or indirectly through or on behalf of another person.

(2) Has a material relationship with a director or officer

who pursues or takes advantage of the business opportunity, directly, or indirectly through or on behalf of another person.

2. As used in this section, all of the following apply:

a. "Material interest" means an actual or potential benefit or detriment, other than one which would devolve on the corporation or the shareholders generally, that would reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken.

b. "Material relationship" means a familial, financial, professional, employment, or other relationship that would reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken.

3. The presence of one or more of the following circumstances shall not automatically prevent a director from being a qualified director:

a. Nomination or election of the director to the current board by any director who is not a qualified director with respect to the matter, or by any person that has a material relationship with that director, acting alone or participating with others.

b. Service as a director of another corporation of which a director who is not a qualified director with respect to the matter, or any individual who has a material relationship with that director, is or was also a director.

c. With respect to action to be taken under section 490.744, status as a named defendant, as a director against whom action is demanded, or as a director who approved the conduct being challenged.

Sec. 17. Section 490.144, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.144 Householding.

1. A corporation has delivered written notice or any other report or statement under this chapter, the articles of

incorporation, or the bylaws to all shareholders who share a common address if all of the following apply:

a. The corporation delivers one copy of the notice, report, or statement to the common address.

b. The corporation addresses the notice, report, or statement to those shareholders either as a group or to each of those shareholders individually or to the shareholders in a form to which each of those shareholders has consented.

c. Each of those shareholders consents to delivery of a single copy of such notice, report, or statement to the shareholders' common address.

2. Any such consent described in subsection 1, paragraph "*b*" or "*c*", shall be revocable by any of such shareholders who deliver written notice of revocation to the corporation. If such written notice of revocation is delivered, the corporation shall begin providing individual notices, reports, or other statements to the revoking shareholder no later than thirty days after delivery of the written notice of revocation.

3. Any shareholder who fails to object by written notice to the corporation, within sixty days of written notice by the corporation of its intention to deliver single copies of notices, reports, or statements to shareholders who share a common address as permitted by subsection 1, shall be deemed to have consented to receiving such single copy at the common address; provided that the notice of intention explains that consent may be revoked and the method for revoking.

Sec. 18. NEW SECTION. **490.145 Part definitions.**

As used in this part:

1. "*Corporate action*" means any action taken by or on behalf of the corporation, including any action taken by the incorporator, the board of directors, a committee of the board of directors, an officer or agent of the corporation, or the shareholders.

2. "*Date of the defective corporate action*" means the date or, if the defective corporate action occurred or may have

occurred on more than one date, the range of dates, or the approximate date or range of dates, if the exact date or range of dates is unknown or not readily ascertainable, the defective corporate action was purported to have been taken.

3. *"Defective corporate action"* means all of the following:

a. Any corporate action purportedly taken that is, and at the time such corporate action was purportedly taken would have been, within the power of the corporation, but is void or voidable due to a failure of authorization.

b. An overissue.

4. *"Failure of authorization"* means the failure to authorize, approve, or otherwise effect a corporate action in compliance with the provisions of this chapter, the articles of incorporation or bylaws, a corporate resolution, or any plan or agreement to which the corporation is a party, if and to the extent such failure would render such corporate action void or voidable.

5. *"Overissue"* means the purported issuance of any of the following:

a. Shares of a class or series in excess of the number of shares of a class or series the corporation has the power to issue under section 490.601 at the time of such issuance.

b. Shares of any class or series that is not then authorized for issuance by the articles of incorporation.

6. *"Putative shares"* means the shares of any class or series, including shares issued upon exercise of rights, options, warrants or other securities convertible into shares of the corporation, or interests with respect to such shares, that were created or issued as a result of a defective corporate action, and any of the following applies:

a. But for any failure of authorization would constitute valid shares.

b. Cannot be determined by the board of directors to be valid shares.

7. *"Valid shares"* means the shares of any class or series

that have been duly authorized and validly issued in accordance with this chapter, including as a result of ratification or validation under this part.

8. *a. "Validation effective time"* with respect to any defective corporate action ratified under this part means the later of the following:

(1) The time at which the ratification of the defective corporate action is approved by the shareholders, or if approval of shareholders is not required, the time at which the notice required by section 490.149 becomes effective in accordance with section 490.141.

(2) The time at which any articles of validation filed in accordance with section 490.151 become effective.

b. The validation effective time shall not be affected by the filing or pendency of a judicial proceeding under section 490.152 or otherwise, unless otherwise ordered by the court.

Sec. 19. NEW SECTION. **490.146 Defective corporate actions.**

1. A defective corporate action shall not be void or voidable if ratified in accordance with section 490.147 or validated in accordance with section 490.152.

2. Ratification under section 490.147 or validation under section 490.152 shall not be deemed to be the exclusive means of ratifying or validating any defective corporate action, and the absence or failure of ratification in accordance with this part shall not, of itself, affect the validity or effectiveness of any corporate action properly ratified under common law or otherwise, nor shall it create a presumption that any such corporate action is or was a defective corporate action or void or voidable.

3. In the case of an overissue, putative shares shall be valid shares effective as of the date originally issued or purportedly issued upon any of the following:

a. The effectiveness under this part and under subchapter X of an amendment to the articles of incorporation authorizing, designating, or creating such shares.

b. The effectiveness of any other corporate action under this part ratifying the authorization, designation, or creation of such shares.

Sec. 20. NEW SECTION. **490.147 Ratification of defective corporate actions.**

1. To ratify a defective corporate action under this section, other than the ratification of an election of the initial board of directors under subsection 2, the board of directors shall take action ratifying the action in accordance with section 490.148, stating all of the following:

a. The defective corporate action to be ratified and, if the defective corporate action involved the issuance of putative shares, the number and type of putative shares purportedly issued.

b. The date of the defective corporate action.

c. The nature of the failure of authorization with respect to the defective corporate action to be ratified.

d. That the board of directors approves the ratification of the defective corporate action.

2. In the event that a defective corporate action to be ratified relates to the election of the initial board of directors of the corporation under section 490.205, subsection 1, paragraph *"b"*, a majority of the persons who, at the time of the ratification, are exercising the powers of directors may take an action stating all of the following:

a. The name of the person or persons who first took action in the name of the corporation as the initial board of directors of the corporation.

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

c. That the ratification of the election of such person or persons as the initial board of directors is approved.

3. If any provision of this chapter, the articles of incorporation or bylaws, any corporate resolution, or any

plan or agreement to which the corporation is a party in effect at the time action under subsection 1 is taken requires shareholder approval or would have required shareholder approval at the date of the occurrence of the defective corporate action, the ratification of the defective corporate action approved in the action taken by the directors under subsection 1 shall be submitted to the shareholders for approval in accordance with section 490.148.

4. Unless otherwise provided in the action taken by the board of directors under subsection 1, after the action by the board of directors has been taken and, if required, approved by the shareholders, the board of directors may abandon the ratification at any time before the validation effective time without further action of the shareholders.

Sec. 21. NEW SECTION. **490.148 Action on ratification.**

1. The quorum and voting requirements applicable to a ratifying action by the board of directors under section 490.147, subsection 1, shall be the quorum and voting requirements applicable to the corporate action proposed to be ratified at the time such ratifying action is taken.

2. If the ratification of the defective corporate action requires approval by the shareholders under section 490.147, subsection 3, and if the approval is to be given at a meeting, the corporation shall notify each holder of valid and putative shares, regardless of whether entitled to vote, as of the record date for notice of the meeting and as of the date of the occurrence of defective corporate action, provided that notice shall not be required to be given to holders of valid or putative shares whose identities or addresses for notice cannot be determined from the records of the corporation. The notice must state that the purpose, or one of the purposes, of the meeting is to consider ratification of a defective corporate action and must be accompanied by all of the following:

a. Either a copy of the action taken by the board of directors in accordance with section 490.147, subsection 1,

or the information required by section 490.147, subsection 1, paragraphs "a" through "d".

b. A statement that any claim that the ratification of such defective corporate action and any putative shares issued as a result of such defective corporate action should not be effective, or should be effective only on certain conditions, shall be brought within one hundred twenty days from the applicable validation effective time.

3. Except as provided in subsection 4, with respect to the voting requirements to ratify the election of a director, the quorum and voting requirements applicable to the approval by the shareholders required by section 490.147, subsection 3, shall be the quorum and voting requirements applicable to the corporate action proposed to be ratified at the time of such shareholder approval.

4. The approval by shareholders to ratify the election of a director requires that the votes cast within the voting group favoring such ratification exceed the votes cast opposing such ratification of the election at a meeting at which a quorum is present.

5. Putative shares on the record date for determining the shareholders entitled to vote on any matter submitted to shareholders under section 490.147, subsection 3, and without giving effect to any ratification of putative shares that becomes effective as a result of such vote, shall neither be entitled to vote nor counted for quorum purposes in any vote to approve the ratification of any defective corporate action.

6. If the approval under this section of putative shares would result in an overissue, in addition to the approval required by section 490.147, approval of an amendment to the articles of incorporation under subchapter X to increase the number of shares of an authorized class or series or to authorize the creation of a class or series of shares so there would be no overissue shall also be required.

Sec. 22. NEW SECTION. **490.149 Notice requirements.**

1. Unless shareholder approval is required under section 490.147, subsection 3, prompt notice of an action taken under section 490.147 shall be given to each holder of valid and putative shares, regardless of whether entitled to vote, as of all of the following:

a. The date of such action by the board of directors.

b. The date of the defective corporate action ratified, provided that notice shall not be required to be given to holders of valid and putative shares whose identities or addresses for notice cannot be determined from the records of the corporation.

2. The notice must contain all of the following:

a. Either a copy of the action taken by the board of directors in accordance with section 490.147, subsection 1 or 2, or the information required by section 490.147, subsection 1, paragraphs *"a"* through *"d"*, or section 490.147, subsection 2, paragraphs *"a"* through *"c"*, as applicable.

b. A statement that any claim that the ratification of the defective corporate action and any putative shares issued as a result of such defective corporate action should not be effective, or should be effective only on certain conditions, shall be brought within one hundred twenty days from the applicable validation effective time.

3. No notice under this section is required with respect to any action required to be submitted to shareholders for approval under section 490.147, subsection 3, if notice is given in accordance with section 490.148, subsection 2.

4. A notice required by this section may be given in any manner permitted by section 490.141 and, for any corporation subject to the reporting requirements of section 13 or 15(d) of the federal Securities Exchange Act of 1934, may be given by means of a filing or furnishing of such notice with the United States securities and exchange commission.

Sec. 23. NEW SECTION. **490.150 Effect of ratification.**

From and after the validation effective time, and without

regard to the one hundred twenty-day period during which a claim may be brought under section 490.152, all of the following shall apply:

1. Each defective corporate action ratified in accordance with section 490.147 shall not be void or voidable as a result of the failure of authorization identified in the action taken under section 490.147, subsection 1 or 2, and shall be deemed a valid corporate action effective as of the date of the defective corporate action.

2. The issuance of each putative share or fraction of a putative share purportedly issued pursuant to a defective corporate action identified in the action taken under section 490.147 shall not be void or voidable, and each such putative share or fraction of a putative share shall be deemed to be an identical share or fraction of a valid share as of the time it was purportedly issued.

3. Any corporate action taken subsequent to the defective corporate action ratified in accordance with this part in reliance on such defective corporate action having been validly effected and any subsequent defective corporate action resulting directly or indirectly from such original defective corporate action shall be valid as of the time taken.

Sec. 24. NEW SECTION. **490.151 Filings.**

1. If the defective corporate action ratified under this part would have required under any other section of this chapter a filing in accordance with this chapter, then, regardless of whether a filing was previously made in respect of such defective corporate action and in lieu of a filing otherwise required by this chapter, the corporation shall file articles of validation in accordance with this section, and such articles of validation shall serve to amend or substitute for any other filing with respect to such defective corporate action required by this chapter.

2. The articles of validation must set forth all of the following:

a. The defective corporate action that is the subject of the articles of validation, including in the case of any defective corporate action involving the issuance of putative shares, the number and type of putative shares issued and the date or dates upon which such putative shares were purported to have been issued.

b. The date of the defective corporate action.

c. The nature of the failure of authorization in respect of the defective corporate action.

d. A statement that the defective corporate action was ratified in accordance with section 490.147, including the date on which the board of directors ratified such defective corporate action and the date, if any, on which the shareholders approved the ratification of such defective corporate action.

e. The information required by subsection 3.

3. The articles of validation must also contain the following information:

a. If a filing was previously made in respect of the defective corporate action and no changes to such filing are required to give effect to the ratification of such defective corporate action in accordance with section 490.147, the articles of validation must set forth all of the following:

(1) The name, title, and filing date of the filing previously made and any articles of correction to that filing.

(2) A statement that a copy of the filing previously made, together with any articles of correction to that filing, is attached as an exhibit to the articles of validation.

b. If a filing was previously made in respect of the defective corporate action and such filing requires any change to give effect to the ratification of such defective corporate action in accordance with section 490.147, the articles of validation must set forth all of the following:

(1) The name, title, and filing date of the filing previously made and any articles of correction to that filing.

(2) A statement that a filing containing all of the information required to be included under the applicable section or sections of this chapter to give effect to such defective corporate action is attached as an exhibit to the articles of validation.

(3) The date and time that such filing is deemed to have become effective.

c. If a filing was not previously made in respect of the defective corporate action and the defective corporate action ratified under section 490.147 would have required a filing under any other section of this chapter, the articles of validation must set forth all of the following:

(1) A statement that a filing containing all of the information required to be included under the applicable section or sections of this chapter to give effect to such defective corporate action is attached as an exhibit to the articles of validation.

(2) The date and time that such filing is deemed to have become effective.

Sec. 25. NEW SECTION. **490.152 Judicial proceedings regarding validity of corporate actions.**

1. Upon application by the corporation, any successor entity to the corporation, a director of the corporation, any shareholder, beneficial shareholder, or unrestricted voting trust beneficial owner of the corporation, including any such shareholder, beneficial shareholder, or unrestricted voting trust beneficial owner as of the date of the defective corporate action ratified under section 490.147, or any other person claiming to be substantially and adversely affected by a ratification under section 490.147, the district court of the county where a corporation's principal office or, if none in this state, its registered office, is located may do all of the following:

a. Determine the validity and effectiveness of any corporate action or defective corporate action.

b. Determine the validity and effectiveness of any ratification under section 490.147.

c. Determine the validity of any putative shares.

d. Modify or waive any of the procedures specified in section 490.147 or 490.148 to ratify a defective corporate action.

2. In connection with an action under this section, the court may make such findings or orders, and take into account any factors or considerations, regarding such matters as it deems proper under the circumstances.

3. Service of process of the application under subsection 1 on the corporation may be made in any manner provided by statute of this state or by rule of the applicable court for service on the corporation, and no other party need be joined in order for the court to adjudicate the matter. In an action filed by the corporation, the court may require notice of the action to be provided to other persons specified by the court and permit such other persons to intervene in the action.

4. Notwithstanding any other provision of this section or otherwise under applicable law, any action asserting that the ratification of any defective corporate action and any putative shares issued as a result of such defective corporate action should not be effective, or should be effective only on certain conditions, shall be brought within one hundred twenty days of the validation effective time.

Sec. 26. Section 490.201, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.201 Incorporators.

One or more persons may act as the incorporator or incorporators of a corporation by delivering articles of incorporation to the secretary of state for filing.

Sec. 27. Section 490.202, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.202 Articles of incorporation.

1. The articles of incorporation must set forth all of the

following:

a. A corporate name for the corporation that satisfies the requirements of section 490.401.

b. The number of shares the corporation is authorized to issue.

c. The street and mailing addresses of the corporation's initial registered office and the name of its initial registered agent at that office.

d. The name and address of each incorporator.

2. The articles of incorporation may set forth any of the following:

a. The names and addresses of the individuals who are to serve as the initial directors.

b. Provisions not inconsistent with law regarding any of the following:

(1) The purpose or purposes for which the corporation is organized.

(2) Managing the business and regulating the affairs of the corporation.

(3) Defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders.

(4) A par value for authorized shares or classes of shares.

(5) The imposition of interest holder liability on shareholders.

c. Any provision that under this chapter is required or permitted to be set forth in the bylaws.

d. A provision eliminating or limiting the liability of a director to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except liability for any of the following:

(1) The amount of a financial benefit received by a director to which the director is not entitled.

(2) An intentional infliction of harm on the corporation or the shareholders.

(3) A violation of section 490.833.

(4) An intentional violation of criminal law.

e. A provision permitting or making obligatory indemnification of a director for liability, as defined in section 490.850, to any person for any action taken, or any failure to take any action, as a director, except liability for any of the following:

(1) Receipt of a financial benefit to which the director is not entitled.

(2) An intentional infliction of harm on the corporation or its shareholders.

(3) A violation of section 490.833.

(4) An intentional violation of criminal law.

f. A provision limiting or eliminating any duty of a director or any other person to offer the corporation the right to have or participate in any, or one or more classes or categories of, business opportunities, before the pursuit or taking of the opportunity by the director or other person; provided that any application of such a provision to an officer or a related person of that officer is subject to all of the following:

(1) It also requires approval of that application by the board of directors, subsequent to the effective date of the provision, by action of qualified directors taken in compliance with the same procedures as are set forth in section 490.862.

(2) It may be limited by the authorizing action of the board.

3. The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

4. Provisions of the articles of incorporation may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with section 490.120, subsection 11.

5. As used in this section, "*related person*" has the meaning specified in section 490.860.

Sec. 28. Section 490.203, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.203 Incorporation.

1. Unless a delayed effective date is specified, the corporate existence begins when the articles of incorporation are filed.

2. The secretary of state's filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

Sec. 29. Section 490.205, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.205 Organization of corporation.

1. After incorporation, the following shall apply:

a. If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting.

b. If initial directors are not named in the articles of incorporation, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators to do any of the following:

(1) Elect initial directors and complete the organization of the corporation.

(2) Elect a board of directors who shall complete the organization of the corporation.

2. Action required or permitted by this chapter to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator.

3. An organizational meeting may be held in or out of this

state.

Sec. 30. Section 490.206, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.206 Bylaws.

1. The incorporators or board of directors of a corporation shall adopt initial bylaws for the corporation.

2. The bylaws of a corporation may contain any provision that is not inconsistent with law or the articles of incorporation.

3. The bylaws may contain any of the following provisions:

a. A requirement that if the corporation solicits proxies or consents with respect to an election of directors, the corporation include in its proxy statement and any form of its proxy or consent, to the extent and subject to such procedures or conditions as are provided in the bylaws, one or more individuals nominated by a shareholder in addition to individuals nominated by the board of directors.

b. A requirement that the corporation reimburse the expenses incurred by a shareholder in soliciting proxies or consents in connection with an election of directors, to the extent and subject to such procedures and conditions as are provided in the bylaws, provided that no bylaw so adopted shall apply to elections for which any record date precedes its adoption.

4. Notwithstanding section 490.1020, subsection 2, paragraph "*b*", the shareholders in amending, repealing, or adopting a bylaw described in subsection 3 shall not limit the authority of the board of directors to amend or repeal any condition or procedure set forth in or to add any procedure or condition to such a bylaw to provide for a reasonable, practical, and orderly process.

Sec. 31. Section 490.207, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.207 Emergency bylaws.

1. Unless the articles of incorporation provide otherwise, the board of directors may adopt bylaws to be effective only in

an emergency as defined in subsection 4. The emergency bylaws, which are subject to amendment or repeal by the shareholders, may make all provisions necessary for managing the corporation during the emergency, including any of the following:

a. Procedures for calling a meeting of the board of directors.

b. Quorum requirements for the meeting.

c. Designation of additional or substitute directors.

2. All provisions of the regular bylaws not inconsistent with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

3. Corporate action taken in good faith in accordance with the emergency bylaws has all of the following effects:

a. The action binds the corporation.

b. The action shall not be used to impose liability on a director, officer, employee, or agent of the corporation.

4. An emergency exists for purposes of this section if a quorum of the board of directors cannot readily be assembled because of some catastrophic event.

Sec. 32. NEW SECTION. **490.208 Forum selection provisions.**

1. The articles of incorporation or bylaws may require that any or all internal corporate claims shall be brought exclusively in any specified court or courts of this state and, if so specified, in any additional courts in this state or in any other jurisdictions with which the corporation has a reasonable relationship.

2. A provision of the articles of incorporation or bylaws adopted under subsection 1 shall not have the effect of conferring jurisdiction on any court or over any person or claim, and shall not apply if none of the courts specified by such provision has the requisite personal and subject matter jurisdiction. If the court or courts of this state specified in a provision adopted under subsection 1 do not have the requisite personal and subject matter jurisdiction

and another court of this state does have such jurisdiction, then the internal corporate claim may be brought in such other court of this state, notwithstanding that such other court of this state is not specified in such provision, and in any other court specified in such provision that has the requisite jurisdiction.

3. No provision of the articles of incorporation or bylaws may prohibit bringing an internal corporate claim in the courts of this state or require such claims to be determined by arbitration.

4. *"Internal corporate claim"* means, for the purposes of this section, any of the following:

a. Any claim that is based upon a violation of a duty under the laws of this state by a current or former director, officer, or shareholder in such capacity.

b. Any derivative action or proceeding brought on behalf of the corporation.

c. Any action asserting a claim arising pursuant to any provision of this chapter or the articles of incorporation or bylaws.

d. Any action asserting a claim governed by the internal affairs doctrine that is not included in paragraphs *"a"* through *"c"*.

Sec. 33. NEW SECTION. **490.209 Foreign-trade zone corporation.**

A corporation may be organized under the laws of this state for the purpose of establishing, operating, and maintaining a foreign-trade zone as defined in 19 U.S.C. §81(a). A corporation organized for the purposes set forth in this section has all powers necessary or convenient for applying for a grant of authority to establish, operate, and maintain a foreign-trade zone under 19 U.S.C. §81(a) et seq., and regulations promulgated under that law, and for establishing, operating, and maintaining a foreign-trade zone pursuant to that grant of authority.

Sec. 34. Section 490.302, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.302 General powers.

Unless its articles of incorporation provide otherwise, every corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including the power to do all of the following:

1. Sue and be sued, complain, and defend in its corporate name.

2. Have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it.

3. Make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for managing the business and regulating the affairs of the corporation.

4. Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located.

5. Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property.

6. Purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with shares or other interests in, or obligations of, any other entity.

7. Make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other securities and obligations, which may be convertible into or include the option to purchase other securities of the corporation, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income.

8. Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment.

9. Be a promoter, partner, member, associate, or manager of

any partnership, joint venture, trust, or other entity.

10. Conduct its business, locate offices, and exercise the powers granted by this chapter within or without this state.

11. Elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix their compensation, and lend them money and credit.

12. Pay pensions and establish pension plans, pension trusts, profit sharing plans, share bonus plans, share option plans, and benefit or incentive plans for any or all of its current or former directors, officers, employees, and agents.

13. Make donations for the public welfare or for charitable, scientific, or educational purposes.

14. Transact any lawful business that will aid governmental policy.

15. Make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the corporation.

Sec. 35. Section 490.303, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.303 Emergency powers.

1. In anticipation of or during an emergency as defined in subsection 4, the board of directors of a corporation may do all of the following:

a. Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent.

b. Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

2. During an emergency as defined in subsection 4, unless emergency bylaws provide otherwise:

a. Notice of a meeting of the board of directors need be given only to those directors whom it is practicable to reach and may be given in any practicable manner.

b. One or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors

for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

3. Corporate action taken in good faith during an emergency under this section to further the ordinary business affairs of the corporation shall both:

a. Bind the corporation.

b. Not be used to impose liability on a corporate director, officer, employee, or agent.

4. An emergency exists for purposes of this section if a quorum of the board of directors cannot readily be assembled because of some catastrophic event.

Sec. 36. Section 490.401, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.401 Corporate name.

1. A corporate name is subject to all of the following:

a. It must contain the word "corporation", "incorporated", "company", or "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", or words or abbreviations of like import in another language.

b. It must not contain language stating or implying that the corporation is organized for a purpose other than that permitted by section 490.301 and its articles of incorporation.

2. Except as authorized by subsections 3 and 4, a corporate name must be distinguishable upon the records of the secretary of state from all of the following:

a. The corporate name of a corporation incorporated in this state which is not administratively dissolved, or if such corporation has been administratively dissolved, within five years after the effective date of dissolution.

b. A corporate name reserved or registered under section 490.402 or 490.403 or any similar provision of the law of this state.

c. The name of a foreign corporation registered to do business in this state or an alternate name adopted by a foreign corporation registered to do business in this state

because its corporate name is unavailable.

d. The corporate name of a nonprofit corporation incorporated in this state which is not administratively dissolved.

e. The name of a foreign nonprofit corporation registered to do business in this state or an alternate name adopted by a foreign nonprofit corporation registered to conduct activities in this state because its real name is unavailable.

f. The name of a domestic filing entity which is not administratively dissolved.

g. The name of a foreign unincorporated entity registered to do business in this state or an alternate name adopted by such an entity registered to conduct activities in this state because its real name is unavailable.

h. 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 under chapter 489, section 489.108, 489.109, or 489.706.

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

3. A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the secretary of state's records from one or more of the names described in subsection 2. The secretary of state shall authorize use of the name applied for if any of the following conditions apply:

a. The other corporation or unincorporated entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary

of state from the name of the applying corporation.

b. The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

4. A corporation may use the name, including the fictitious name, of another domestic or foreign corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the proposed user corporation submits documentation to the satisfaction of the secretary of state establishing any of the following conditions:

a. Has merged with the other corporation.

b. Has been formed by reorganization of the other corporation.

c. Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

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 copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

Sec. 37. Section 490.402, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.402 Reserved name.

1. A person may reserve the exclusive use of a corporate name, including a fictitious or alternate name for a foreign corporation whose corporate name is not available, by delivering an application to the secretary of state for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the corporate name applied for is available, the secretary of state shall reserve the name for the applicant's exclusive use for a nonrenewable one hundred

twenty-day period.

2. The owner of a reserved corporate name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

Sec. 38. Section 490.403, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.403 Registered name.

1. A foreign corporation may register its corporate name, or its corporate name with the addition of any word or abbreviation listed in section 490.401, subsection 1, paragraph *"a"*, if necessary for the corporate name to comply with section 490.401, subsection 1, paragraph *"a"*, if the name is distinguishable upon the records of the secretary of state from the corporate names that are not available under section 490.401, subsection 2.

2. A foreign corporation registers its corporate name, or its corporate name with any addition permitted by subsection 1, by delivering to the secretary of state for filing an application that complies with all of the following:

a. Sets forth that name, the state or country and date of its incorporation, and a brief description of the nature of the business which is to be conducted in this state.

b. Is accompanied by a certificate of existence, or a document of similar import, from the state or country of incorporation.

3. The name is registered for the applicant's exclusive use upon the effective date of the application and for the remainder of the calendar year, unless renewed.

4. A foreign corporation whose name registration is effective may renew it for successive years by delivering to the secretary of state for filing a renewal application, which complies with the requirements of subsection 2, between October 1 and December 31 of the preceding year. The renewal application when filed renews the registration for the

following calendar year.

5. *a.* A foreign corporation whose name registration is effective may thereafter do any of the following:

(1) Register to do business as a foreign corporation under the registered name, if it complies with section 490.401, subsection 1, paragraph *"b"*.

(2) Consent in writing to the use of that name by a domestic corporation thereafter incorporated under this chapter or by another foreign corporation.

b. The registration terminates when the domestic corporation is incorporated or the foreign corporation registers to do business under that name.

Sec. 39. Section 490.501, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.501 Registered office and agent of domestic and registered foreign corporations.

1. Each corporation shall continuously maintain in this state all of the following:

a. A registered office that may be the same as any of its places of business.

b. A registered agent, which may be any of the following:

(1) An individual who resides in this state and whose business office is identical with the registered office.

(2) A domestic or foreign corporation or eligible entity whose business office is identical with the registered office and, in the case of a foreign corporation or foreign eligible entity, is registered to do business in this state.

2. As used in this subchapter, *"corporation"* means both a domestic corporation and a registered foreign corporation.

Sec. 40. Section 490.502, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.502 Change of registered office or registered agent.

1. A corporation may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth all of the

following:

a. The name of the corporation.

b. The street and mailing addresses of its current registered office.

c. If the current registered office is to be changed, the street and mailing addresses of the new registered office.

d. The name of its current registered agent.

e. If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment.

f. That after the change or changes are made, the street and mailing addresses of its registered office and of the business office of its registered agent will be identical.

2. If the street or mailing address of a registered agent's business office changes, the agent shall change the street or mailing address of the registered office of any corporation for which the agent is the registered agent by delivering a signed written notice of the change to the corporation and delivering to the secretary of state for filing a signed statement that complies with the requirements of subsection 1 and states that the corporation has been notified of the change.

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 and need not be responsive to subsection 1, paragraph "*e*", and must recite that a copy of the statement has been mailed to each corporation named in the notice.

4. A corporation may also change its registered office or registered agent in its biennial report as provided in section 490.1622.

Sec. 41. Section 490.503, Code 2020, is amended by striking

the section and inserting in lieu thereof the following:

490.503 Resignation of registered agent.

1. A registered agent may resign as agent for a corporation by delivering to the secretary of state for filing a statement of resignation signed by the agent which shall state all of the following:

a. The name of the corporation.

b. The name of the agent.

c. The agent resigns from serving as registered agent for the corporation.

d. The address of the corporation to which the agent will deliver the notice required by subsection 3.

2. A statement of resignation takes effect on the earlier of the following:

a. 12:01 a.m. on the thirty-first day after the day on which it is filed by the secretary of state.

b. The designation of a new registered agent for the corporation.

3. A registered agent promptly shall deliver to the corporation notice of the date on which a statement of resignation was delivered to the secretary of state for filing.

4. When a statement of resignation takes effect, the person that resigned ceases to have responsibility under this chapter for any matter thereafter tendered to it as agent for the corporation. The resignation does not affect any contractual rights the corporation has against the agent or that the agent has against the corporation.

5. A registered agent may resign with respect to a corporation regardless of whether the corporation is in good standing.

Sec. 42. Section 490.504, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.504 Service on corporation.

1. A corporation's registered agent is the corporation's agent for service of process, notice, or demand required or

permitted by law to be served on the corporation.

2. If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary at the corporation's principal office. Service is perfected under this subsection at the earliest of the following:

a. The date the corporation receives the mail.

b. The date shown on the return receipt, if signed on behalf of the corporation.

c. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

3. *a.* The secretary of state shall be an agent of the corporation upon whom process, notice, or demand may be served, if any of the following applies:

(1) The process, notice, or demand cannot be served on a corporation pursuant to subsection 1 or 2.

(2) The process, notice, or demand is to be served on a registered foreign corporation that has withdrawn its registration pursuant to section 490.1507 or 490.1509, or the registration of which has been terminated pursuant to section 490.1511.

b. Service of any process, notice, or demand on the secretary of state as agent for a corporation may be made by delivering to the secretary of state duplicate copies of the process, notice, or demand. If process, notice, or demand is served on the secretary of state, the secretary of state shall forward one of the copies by registered or certified mail, return receipt requested, to the corporation at the last address shown in the records of the secretary of state. Service is effected under this subsection at the earliest of the following:

(1) The date the corporation receives the process, notice, or demand.

(2) The date shown on the return receipt, if signed on behalf of the corporation.

(3) Five days after the process, notice, or demand is deposited with the United States mail by the secretary of state.

4. This section does not prescribe the only means, or necessarily the required means, of serving a corporation.

Sec. 43. Section 490.601, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.601 Authorized shares.

1. The articles of incorporation must set forth any classes of shares and series of shares within a class, and the number of shares of each class and series, that the corporation is authorized to issue. If more than one class or series of shares is authorized, the articles of incorporation must prescribe a distinguishing designation for each class or series and, before the issuance of shares of a class or series, describe the terms, including the preferences, rights, and limitations of that class or series. Except to the extent varied as permitted by this section, all shares of a class or series must have terms, including preferences, rights, and limitations that are identical with those of other shares of the same class or series.

2. The articles of incorporation must authorize all of the following:

a. One or more classes or series of shares that together have full voting rights.

b. One or more classes or series of shares, which may be the same class, classes, or series as those with voting rights, that together are entitled to receive the net assets of the corporation upon dissolution.

3. The articles of incorporation may authorize one or more classes or series of shares that have any of the following characteristics:

a. Have special, conditional, or limited voting rights, or

no right to vote, except to the extent otherwise provided by this chapter.

b. Are redeemable or convertible as specified in the articles of incorporation in any of the following ways:

(1) At the option of the corporation, the shareholder, or another person or upon the occurrence of a specified event.

(2) For cash, indebtedness, securities, or other property.

(3) At prices and in amounts specified or determined in accordance with a formula.

c. Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative.

d. Have preference over any other class or series of shares with respect to distributions, including distributions upon the dissolution of the corporation.

4. The terms of shares may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with section 490.120, subsection 11.

5. Any of the terms of shares may vary among holders of the same class or series so long as such variations are expressly set forth in the articles of incorporation.

6. The description of the preferences, rights, and limitations of classes or series of shares in subsection 3 is not exhaustive.

Sec. 44. Section 490.602, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.602 Terms of class or series determined by board of directors.

1. If the articles of incorporation so provide, the board of directors is authorized, without shareholder approval, to do any of the following:

a. Classify any unissued shares into one or more classes or into one or more series within a class.

b. Reclassify any unissued shares of any class into one or more classes or into one or more series within one or more

classes.

c. Reclassify any unissued shares of any series of any class into one or more classes or into one or more series within a class.

2. If the board of directors acts pursuant to subsection 1, it shall determine the terms, including the preferences, rights, and limitations, to the same extent permitted under section 490.601, of any of the following:

a. Any class of shares before the issuance of any shares of that class.

b. Any series within a class before the issuance of any shares of that series.

3. Before issuing any shares of a class or series created under this section, the corporation shall deliver to the secretary of state for filing articles of amendment setting forth the terms determined under subsection 1.

Sec. 45. Section 490.603, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.603 Issued and outstanding shares.

1. A corporation may issue the number of shares of each class or series authorized by the articles of incorporation. Shares that are issued are outstanding shares until they are reacquired, redeemed, converted, or canceled.

2. The reacquisition, redemption, or conversion of outstanding shares is subject to the limitations of subsection 3 and to section 490.640.

3. At all times that shares of the corporation are outstanding, one or more shares that together have full voting rights and one or more shares that together are entitled to receive the net assets of the corporation upon dissolution must be outstanding.

Sec. 46. Section 490.604, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.604 Fractional shares.

1. A corporation may issue fractions of a share or in lieu

of doing so may do any of the following:

a. Pay in cash the value of fractions of a share.

b. Issue scrip in registered or bearer form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share.

c. Arrange for disposition of fractional shares by the holders of such shares.

2. Each certificate representing scrip must be conspicuously labeled "scrip" and must contain the information required by section 490.625, subsection 2.

3. The holder of a fractional share is entitled to exercise the rights of a shareholder, including the rights to vote, to receive dividends, and to receive distributions upon dissolution. The holder of scrip is not entitled to any of these rights unless the scrip provides for them.

4. The board of directors may authorize the issuance of scrip subject to any condition, including any of the following:

a. That the scrip will become void if not exchanged for full shares before a specified date.

b. That the shares for which the scrip is exchangeable may be sold and the proceeds paid to the scripholders.

Sec. 47. Section 490.620, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.620 Subscription for shares before incorporation.

1. A subscription for shares entered into before incorporation is irrevocable for six months unless the subscription agreement provides a longer or shorter period or all the subscribers agree to revocation.

2. The board of directors may determine the payment terms of subscriptions for shares that were entered into before incorporation, unless the subscription agreement specifies them. A call for payment by the board of directors must be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

3. Shares issued pursuant to subscriptions entered into before incorporation are fully paid and nonassessable when the corporation receives the consideration specified in the subscription agreement.

4. If a subscriber defaults in payment of cash or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt. Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement and may sell the shares if the debt remains unpaid for more than twenty days after the corporation delivers a written demand for payment to the subscriber.

5. A subscription agreement entered into after incorporation is a contract between the subscriber and the corporation subject to section 490.621.

Sec. 48. Section 490.621, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.621 Issuance of shares.

1. The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

2. The board of directors may authorize shares to be issued for consideration consisting of any tangible or intangible property or benefit to the corporation, including cash, promissory notes, services performed, contracts for services to be performed, or other securities of the corporation.

3. Before the corporation issues shares, the board of directors shall determine that the consideration received or to be received for shares to be issued is adequate. That determination by the board of directors is conclusive insofar as the adequacy of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid, and nonassessable.

4. When the corporation receives the consideration for which the board of directors authorized the issuance of shares,

the shares issued therefor are fully paid and nonassessable.

5. The corporation may place in escrow shares issued for a contract for future services or benefits or a promissory note, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect of the shares against their purchase price, until the services are performed, the benefits are received, or the note is paid. If the services are not performed, the benefits are not received, or the note is not paid, the shares escrowed or restricted and the distributions credited may be canceled in whole or part.

6. *a.* An issuance of shares or other securities convertible into or rights exercisable for shares in a transaction or a series of integrated transactions requires approval of the shareholders, at a meeting at which a quorum consisting of a majority, or such greater number as the articles of incorporation may prescribe, of the votes entitled to be cast on the matter exists, if all of the following conditions are satisfied:

(1) The shares, other securities, or rights are to be issued for consideration other than cash or cash equivalents.

(2) The voting power of shares that are issued and issuable as a result of the transaction or series of integrated transactions will comprise more than twenty percent of the voting power of the shares of the corporation that were outstanding immediately before the transaction.

b. For purposes of this subsection, the following shall apply:

(1) For purposes of determining the voting power of shares issued and issuable as a result of a transaction or series of integrated transactions, the voting power of shares or other securities convertible into or rights exercisable for shares shall be the greater of the following:

(a) The voting power of the shares to be issued.

(b) The voting power of the shares that would be outstanding after giving effect to the conversion of convertible shares and

other securities and the exercise of rights to be issued.

(2) A series of transactions is integrated only if consummation of one transaction is made contingent on consummation of one or more of the other transactions.

Sec. 49. Section 490.622, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.622 Liability of shareholders.

1. A purchaser from a corporation of the corporation's own shares is not liable to the corporation or its creditors with respect to the shares except to pay the consideration for which the shares were authorized to be issued or specified in the subscription agreement.

2. A shareholder of a corporation is not personally liable for any liabilities of the corporation, including liabilities arising from acts of the corporation, subject to the following exceptions:

a. To the extent provided in a provision of the articles of incorporation permitted by section 490.202, subsection 2, paragraph "*b*", subparagraph (5).

b. A shareholder may become personally liable by reason of the shareholder's own acts or conduct.

Sec. 50. Section 490.623, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.623 Share dividends.

1. Unless the articles of incorporation provide otherwise, shares may be issued pro rata and without consideration to the corporation's shareholders or to the shareholders of one or more classes or series of shares. An issuance of shares under this subsection is a share dividend.

2. Shares of one class or series shall not be issued as a share dividend in respect of shares of another class or series unless one or more of the following conditions are met:

a. The articles of incorporation so authorize.

b. A majority of the votes entitled to be cast by the class or series to be issued approve the issue.

c. There are no outstanding shares of the class or series to be issued.

3. The board of directors may fix the record date for determining shareholders entitled to a share dividend, which date shall not be retroactive. If the board of directors does not fix the record date for determining shareholders entitled to a share dividend, the record date is the date the board of directors authorizes the share dividend.

Sec. 51. Section 490.624, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.624 Share rights, options, warrants, and awards.

1. A corporation may issue rights, options, or warrants for the purchase of shares or other securities of the corporation. The board of directors shall determine the terms and conditions upon which the rights, options, or warrants are issued and the terms, including the consideration for which the shares or other securities are to be issued. The authorization by the board of directors for the corporation to issue such rights, options, or warrants constitutes authorization of the issuance of the shares or other securities for which the rights, options, or warrants are exercisable.

2. The terms and conditions of such rights, options, or warrants may include restrictions or conditions that do any of the following:

a. Preclude or limit the exercise, transfer, or receipt of such rights, options, or warrants by any person or persons owning or offering to acquire a specified number or percentage of the outstanding shares or other securities of the corporation or by any transferee or transferees of any such person or persons.

b. Invalidate or void such rights, options, or warrants held by any such person or persons or any such transferee or transferees.

3. The board of directors may authorize one or more officers to do any of the following:

a. Designate the recipients of rights, options, warrants, or other equity compensation awards that involve the issuance of shares.

b. Determine, within an amount and subject to any other limitations established by the board of directors and, if applicable, the shareholders, the number of such rights, options, warrants, or other equity compensation awards and the terms of such rights, options, warrants, or awards to be received by the recipients, provided that an officer shall not use such authority to designate the officer or any other persons as the board of directors may specify as a recipient of such rights, options, warrants, or other equity compensation awards.

Sec. 52. Section 490.625, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.625 Form and content of certificates.

1. Shares may, but need not, be represented by certificates. Unless this chapter or another statute expressly provides otherwise, the rights and obligations of shareholders are identical regardless of whether their shares are represented by certificates.

2. At a minimum, each share certificate must state on its face all of the following:

a. The name of the corporation and that it is organized under the law of this state.

b. The name of the person to whom issued.

c. The number and class of shares and the designation of the series, if any, the certificate represents.

3. *a.* If the corporation is authorized to issue different classes of shares or series of shares within a class, the front or back of each certificate must summarize all of the following:

(1) The preferences, rights, and limitations applicable to each class and series.

(2) Any variations in preferences, rights, and limitations

among the holders of the same class or series.

(3) The authority of the board of directors to determine the terms of future classes or series.

b. Alternatively, each certificate may state conspicuously on its front or back that the corporation will furnish the shareholder this information on request in writing and without charge.

4. Each share certificate must be signed by two officers designated in the bylaws.

5. If the person who signed a share certificate no longer holds office when the certificate is issued, the certificate is nevertheless valid.

Sec. 53. Section 490.626, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.626 Shares without certificates.

1. Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a corporation may authorize the issuance of some or all of the shares of any or all of its classes or series without certificates. The authorization does not affect shares already represented by certificates until they are surrendered to the corporation.

2. Within a reasonable time after the issuance or transfer of shares without certificates, the corporation shall deliver to the shareholder a written statement of the information required on certificates by section 490.625, subsections 2 and 3, and, if applicable, section 490.627.

Sec. 54. Section 490.627, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.627 Restriction on transfer of shares.

1. The articles of incorporation, the bylaws, an agreement among shareholders, or an agreement between shareholders and the corporation may impose restrictions on the transfer or registration of transfer of shares of the corporation. A restriction does not affect shares issued before the restriction was adopted unless the holders of the shares are

parties to the restriction agreement or voted in favor of the restriction.

2. A restriction on the transfer or registration of transfer of shares is valid and enforceable against the holder or a transferee of the holder if the restriction is authorized by this section and its existence is noted conspicuously on the front or back of the certificate or is contained in the information statement required by section 490.626, subsection 2. Unless so noted, or contained, a restriction is not enforceable against a person without knowledge of the restriction.

3. A restriction on the transfer or registration of transfer of shares is authorized for any of the following purposes:

a. To maintain the corporation's status when it is dependent on the number or identity of its shareholders.

b. To preserve exemptions under federal or state securities law.

c. For any other reasonable purpose.

4. A restriction on the transfer or registration of transfer of shares may do any of the following:

a. Obligate the shareholder first to offer the corporation or other persons, separately, consecutively, or simultaneously, an opportunity to acquire the restricted shares.

b. Obligate the corporation or other persons, separately, consecutively, or simultaneously, to acquire the restricted shares.

c. Require the corporation, the holders of any class or series of its shares, or other persons to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable.

d. Prohibit the transfer of the restricted shares to designated persons or classes of persons, if the prohibition is not manifestly unreasonable.

5. As used in this section, "*shares*" includes a security convertible into or carrying a right to subscribe for or

acquire shares.

Sec. 55. Section 490.630, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.630 Shareholders' preemptive rights.

1. 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.

2. A statement included in the articles of incorporation that "the corporation elects to have preemptive rights", or words of similar effect, means that the following principles apply except to the extent the articles of incorporation expressly provide otherwise:

a. The shareholders of the corporation have a preemptive right, granted on uniform terms and conditions prescribed by the board of directors to provide a fair and reasonable opportunity to exercise the right, to acquire proportional amounts of the corporation's unissued shares upon the decision of the board of directors to issue them.

b. A preemptive right may be waived by a shareholder. A waiver evidenced by a writing is irrevocable even though it is not supported by consideration.

c. There is no preemptive right with respect to any of the following:

(1) Shares issued as compensation to directors, officers, employees, or agents of the corporation, its subsidiaries, or its affiliates.

(2) Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, employees, or agents of the corporation, its subsidiaries, or its affiliates.

(3) Shares authorized in the articles of incorporation that are issued within six months from the effective date of incorporation.

(4) Shares sold otherwise than for cash.

d. Holders of shares of any class or series without voting

power but with preferential rights to distributions have no preemptive rights with respect to shares of any class or series.

e. Holders of shares of any class or series with voting power but without preferential rights to distributions have no preemptive rights with respect to shares of any class or series with preferential rights to distributions unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire the shares without preferential rights.

f. Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one year is subject to the shareholders' preemptive rights.

3. As used in this section, "*shares*" includes a security convertible into or carrying a right to subscribe for or acquire shares.

Sec. 56. Section 490.640, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.640 Distribution to shareholders.

1. A board of directors may authorize and the corporation may make distributions to its shareholders subject to restriction by the articles of incorporation and the limitation in subsection 3.

2. The board of directors may fix the record date for determining shareholders entitled to a distribution, which date shall not be retroactive. If the board of directors does not fix a record date for determining shareholders entitled to a distribution, other than one involving a purchase, redemption, or other acquisition of the corporation's shares, the record date is the date the board of directors authorizes the distribution.

3. A distribution shall not be made if, after giving it effect, any of the following would result:

a. The corporation would not be able to pay its debts as they become due in the usual course of business.

b. The corporation's total assets would be less than the sum of its total liabilities plus, unless the articles of incorporation permit otherwise, the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

4. The board of directors may base a determination that a distribution is not prohibited under subsection 3 either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

5. Except as provided in subsection 7, the effect of a distribution under subsection 3 is measured as follows:

a. In the case of distribution by purchase, redemption, or other acquisition of the corporation's shares, as of the earlier of the following:

(1) The date cash or other property is transferred or debt to a shareholder is incurred by the corporation.

(2) The date the shareholder ceases to be a shareholder with respect to the acquired shares.

b. In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed.

c. In all other cases, as of the following:

(1) The date the distribution is authorized if the payment occurs within one hundred twenty days after the date of authorization.

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

6. A corporation's indebtedness to a shareholder incurred

by reason of a distribution made in accordance with this section is at parity with the corporation's indebtedness to its general, unsecured creditors except to the extent subordinated by agreement.

7. Indebtedness of a corporation, including indebtedness issued as a distribution, is not considered a liability for purposes of determinations under subsection 3 if its terms provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could then be made under this section. If such indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is actually made.

8. This section shall not apply to distributions in liquidation under subchapter XIV.

Sec. 57. Section 490.701, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.701 Annual meeting.

1. Unless directors are elected by written consent in lieu of an annual meeting as permitted by section 490.704, a corporation shall hold a meeting of shareholders annually, at a time stated in or fixed in accordance with the bylaws, at which directors shall be elected.

2. Unless the board of directors determines to hold the meeting solely by means of remote communication in accordance with section 490.709, subsection 3, annual meetings may be held as follows:

a. In or out of this state at the place stated in or fixed in accordance with the bylaws.

b. If no place is stated in or fixed in accordance with the bylaws, at the corporation's principal office.

3. The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

Sec. 58. Section 490.702, Code 2020, is amended by striking

the section and inserting in lieu thereof the following:

490.702 Special meeting.

1. Except as provided in subsection 5, a corporation shall hold a special meeting of shareholders upon the occurrence of any of the following:

a. On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws.

b. If the shareholders holding at least ten percent of all the votes entitled to be cast on an issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation one or more written demands for the meeting describing the purpose or purposes for which it is to be held, provided that the articles of incorporation may fix a lower percentage or a higher percentage not exceeding twenty-five percent of all the votes entitled to be cast on any issue proposed to be considered. 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 before the receipt by the corporation of demands sufficient in number to require the holding of a special meeting.

2. If not otherwise fixed under section 490.703 or 490.707, the record date for determining shareholders entitled to demand a special meeting shall be the first date on which a signed shareholder demand is delivered to the corporation. No written demand for a special meeting shall be effective unless, within sixty days of the earliest date on which such a demand delivered to the corporation as required by this section was signed, written demands signed by shareholders holding at least the percentage of votes specified in or fixed in accordance with subsection 1, paragraph "*b*", have been delivered to the corporation.

3. Unless the board of directors determines to hold the meeting solely by remote participation in accordance with

section 490.709, subsection 3, special meetings of shareholders may be held as follows:

a. In or out of this state at the place stated in or fixed in accordance with the bylaws.

b. If no place is so stated in or fixed in accordance with the bylaws, at the corporation's principal office.

4. Only business within the purpose or purposes described in the meeting notice required by section 490.705, subsection 3, may be conducted at a special meeting of shareholders.

5. Notwithstanding subsections 1 through 4, a corporation that has a class of equity securities registered pursuant to section 12 of the federal Securities Exchange Act of 1934 is required to hold a special meeting only upon the occurrence of any of the following:

a. On call of its board of directors or the person or persons authorized to call a special meeting by the articles of incorporation or bylaws.

b. If the holders of at least fifty percent of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation's secretary one or more written demands for the meeting describing the purpose or purposes for which it is to be held.

Sec. 59. Section 490.703, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.703 Court-ordered meeting.

1. The district court of the county where a corporation's principal office, or, if none in this state, its registered office, is located may summarily order a meeting to be held pursuant to any of the following:

a. On application of any shareholder of the corporation if an annual meeting was not held or action by written consent in lieu of an annual meeting did not become effective within the earlier of six months after the end of the corporation's fiscal year or fifteen months after its last annual meeting.

b. On application of one or more shareholders who signed a demand for a special meeting valid under section 490.702 if any of the following applies:

(1) Notice of the special meeting was not given within thirty days after the first day on which the requisite number of such demands have been delivered to the corporation.

(2) The special meeting was not held in accordance with the notice.

2. The court may fix the time and place of the meeting, determine the shares entitled to participate in the meeting, specify a record date or dates for determining shareholders entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting, or direct that the shares represented at the meeting constitute a quorum for action on those matters, and enter other orders necessary to accomplish the purpose or purposes of the meeting.

3. For purposes of subsection 1, paragraph *"a"*, *"shareholder"* means a record shareholder, a beneficial shareholder, and an unrestricted voting trust beneficial owner.

Sec. 60. Section 490.704, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.704 Action without meeting.

1. Unless otherwise provided in the articles of incorporation, any action required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting or vote, and, except as provided in subsection 5, without prior notice, if one or more written consents bearing the date of signature and describing the action taken are signed by the holders of outstanding shares having not less than ninety percent of the votes entitled to be cast at a meeting at which all shares entitled to vote on the action were present and voted, and are delivered to the corporation for inclusion in the minutes or filing with the corporate records.

2. Except in the case of a corporation that has a class

of equity securities registered pursuant to section 12 of the federal Securities Exchange Act of 1934, the articles of incorporation may provide that any action required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting, and without prior notice, if consents in writing setting forth the action so taken are signed by the holders of outstanding shares having not less than the minimum number of votes that would be required to authorize or take the action at a meeting at which all shares entitled to vote on the action were present and voted. However, if a corporation's articles of incorporation authorize shareholders to cumulate their votes when electing directors pursuant to section 490.728, directors shall not be elected by less than unanimous written consent. A written consent must bear the date of signature of the shareholder who signs the consent and be delivered to the corporation for filing by the corporation with the minutes or corporate records.

3. If not otherwise fixed under section 490.707 and if prior action by the board of directors is not required respecting the action to be taken without a meeting, the record date for determining the shareholders entitled to take action without a meeting shall be the first date on which a signed written consent is delivered to the corporation. If not otherwise fixed under section 490.707, and if prior action by the board of directors is required respecting the action to be taken without a meeting, the record date shall be the close of business on the day the resolution of the board of directors taking such prior action is adopted. No written consent shall be effective to take the corporate action referred to therein unless, within sixty days of the earliest date on which a consent delivered to the corporation as required by this section was signed, written consents signed by sufficient shareholders to take the action have been delivered to the corporation. A written consent may be revoked by a writing to that effect delivered to the corporation before unrevoked

written consents sufficient in number to take the corporate action have been delivered to the corporation.

4. A consent signed pursuant to the provisions of this section has the effect of a vote taken at a meeting and may be described as such in any document. Unless the articles of incorporation, bylaws, or a resolution of the board of directors provides for a reasonable delay to permit tabulation of written consents, the action taken by written consent shall be effective when written consents signed by sufficient shareholders to take the action have been delivered to the corporation.

5. *a.* If this chapter requires that notice of a proposed action be given to nonvoting shareholders and the action is to be taken by written consent of the voting shareholders, the corporation shall give its nonvoting shareholders written notice of the action not more than ten days after any of the following:

(1) Written consents sufficient to take the action have been delivered to the corporation.

(2) Such later date that tabulation of consents is completed pursuant to an authorization under subsection 4.

b. The notice must reasonably describe the action taken and contain or be accompanied by the same material that, under any provision of this chapter, would have been required to be sent to nonvoting shareholders in a notice of a meeting at which the proposed action would have been submitted to the shareholders for action.

6. *a.* If action is taken by less than unanimous written consent of the voting shareholders, the corporation shall give its nonconsenting voting shareholders written notice of the action not more than ten days after any of the following:

(1) Written consents sufficient to take the action have been delivered to the corporation.

(2) Such later date that tabulation of consents is completed pursuant to an authorization under subsection 4.

b. The notice must reasonably describe the action taken and contain or be accompanied by the same material that, under any provision of this chapter, would have been required to be sent to voting shareholders in a notice of a meeting at which the action would have been submitted to the shareholders for action.

7. The notice requirements in subsections 5 and 6 shall not delay the effectiveness of actions taken by written consent, and a failure to comply with such notice requirements shall not invalidate actions taken by written consent, provided that this subsection shall not be deemed to limit judicial power to fashion any appropriate remedy in favor of a shareholder adversely affected by a failure to give such notice within the required time period.

Sec. 61. Section 490.705, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.705 Notice of meeting.

1. A corporation shall notify shareholders of the date, time, and place of each annual and special shareholders' meeting no fewer than ten nor more than sixty days before the meeting date. If the board of directors has authorized participation by means of remote communication pursuant to section 490.709 for holders of any class or series of shares, the notice to the holders of such class or series of shares must describe the means of remote communication to be used. The notice must include the record date for determining the shareholders entitled to vote at the meeting, if such date is different from the record date for determining shareholders entitled to notice of the meeting. Unless this chapter or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting as of the record date for determining the shareholders entitled to notice of the meeting.

2. Unless this chapter or the articles of incorporation require otherwise, the notice of an annual meeting of

shareholders need not include a description of the purpose or purposes for which the meeting is called.

3. Notice of a special meeting of shareholders must include a description of the purpose or purposes for which the meeting is called.

4. If not otherwise fixed under section 490.703 or 490.707, the record date for determining shareholders entitled to notice of and to vote at an annual or special shareholders' meeting is the day before the first notice is delivered to shareholders.

5. Unless the bylaws require otherwise, if an annual or special shareholders' meeting is adjourned to a different date, time, or place, if any, notice need not be given of the new date, time, or place, if any, if the new date, time, or place, if any, is announced at the meeting before adjournment. However, if a new record date for the adjourned meeting is or must be fixed under section 490.707, notice of the adjourned meeting shall be given under this section to shareholders entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

Sec. 62. Section 490.706, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.706 Waiver of notice.

1. A shareholder may waive any notice required by this chapter, or the articles of incorporation or bylaws, before or after the date and time stated in the notice. The waiver must be in writing, be signed by the shareholder entitled to the notice, and be delivered to the corporation for filing by the corporation with the minutes or corporate records.

2. A shareholder's attendance at a meeting does all of the following:

a. Waives objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

b. Waives objection to consideration of a particular matter

at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

Sec. 63. Section 490.707, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.707 Record date for meeting.

1. The bylaws may fix or provide the manner of fixing the record date or dates for one or more voting groups to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote, or to take any other action. If the bylaws do not fix or provide for fixing a record date, the board of directors may fix the record date.

2. A record date fixed under this section shall not be more than seventy days before the meeting or action requiring a determination of shareholders and shall not be retroactive.

3. A determination of shareholders entitled to notice of or to vote at a shareholders' meeting is effective for any adjournment of the meeting unless the board of directors fixes a new record date or dates, which it shall do if the meeting is adjourned to a date more than one hundred twenty days after the date fixed for the original meeting.

4. If a court orders a meeting adjourned to a date more than one hundred twenty days after the date fixed for the original meeting, it may provide that the original record date or dates continue in effect or it may fix a new record date or dates.

5. The record date or dates for a shareholders' meeting fixed by or in the manner provided in the bylaws or by the board of directors shall be the record date for determining shareholders entitled both to notice of and to vote at the shareholders' meeting unless, in the case of a record date fixed by the board of directors and to the extent not prohibited by the bylaws, the board, at the time it fixes the record date for shareholders entitled to notice of the meeting, fixes a later record date on or before the date of the meeting to determine the shareholders entitled to vote at the meeting.

Sec. 64. Section 490.708, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.708 Conduct of meeting.

1. At each meeting of shareholders, a chair shall preside. The chair shall be appointed as provided in the bylaws or, in the absence of such provision, by the board of directors.

2. The chair, unless the articles of incorporation or bylaws provide otherwise, shall determine the order of business and shall have the authority to establish rules for the conduct of the meeting.

3. Any rules adopted for, and the conduct of, the meeting shall be fair to shareholders.

4. The chair of the meeting shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the polls shall be deemed to have closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies, or votes nor any revocations or changes to such ballots, proxies, or votes may be accepted.

Sec. 65. Section 490.709, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.709 Remote participation in shareholders' meetings.

1. Shareholders of any class or series of shares may participate in any meeting of shareholders by means of remote communication to the extent the board of directors authorizes such participation for such class or series. Participation as a shareholder by means of remote communication shall be subject to such guidelines and procedures as the board of directors adopts, and shall be in conformity with subsection 2.

2. Shareholders participating in a shareholders' meeting by means of remote communication shall be deemed present and may vote at such a meeting if the corporation has implemented reasonable measures to do all of the following:

a. Verify that each person participating remotely as a shareholder is a shareholder.

b. Provide such shareholders a reasonable opportunity to

participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrently with such proceedings.

3. Unless the bylaws require the meeting of shareholders to be held at a place, the board of directors may determine that any meeting of shareholders shall not be held at any place and shall instead be held solely by means of remote communication, but only if the corporation implements the measures specified in subsection 2.

Sec. 66. Section 490.720, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.720 Shareholders' list for meeting.

1. After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. If the board of directors fixes a different record date under section 490.707, subsection 5, to determine the shareholders entitled to vote at the meeting, a corporation also shall prepare an alphabetical list of the names of all its shareholders who are entitled to vote at the meeting. A list must be arranged by voting group and within each voting group by class or series of shares, and show the address of and number of shares held by each shareholder. Nothing contained in this subsection shall require the corporation to include on such list the electronic mail address or other electronic contact information of a shareholder.

2. *a.* The shareholders' list for notice shall be available for inspection by any shareholder, beginning two business days after notice of the meeting is given for which the list was prepared and continuing through the meeting. The shareholders' list for notice shall be made available at any of the following:

(1) The corporation's principal office or at a place identified in the meeting notice in the city where the meeting

will be held.

(2) A reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to shareholders of the corporation.

b. A shareholders' list for voting shall be similarly available for inspection promptly after the record date for voting. A shareholder, or the shareholder's agent or attorney, is entitled on written demand to inspect and, subject to the requirements of section 490.1602, subsection 3, to copy a list, during regular business hours and at the shareholder's expense, during the period it is available for inspection.

3. If the meeting is to be held at a place, the corporation shall make the list of shareholders entitled to vote available at the meeting, and any shareholder, or the shareholder's agent or attorney, is entitled to inspect the list at any time during the meeting or any adjournment. If the meeting is to be held solely by means of remote communication, then such list shall also be open to such inspection during the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

4. If the corporation refuses to allow a shareholder, or the shareholder's agent or attorney, to inspect a shareholders' list before or at the meeting, or copy a list as permitted by subsection 2, the district court of the county where a corporation's principal office or, if none in this state, its registered office, is located, on application of the shareholder, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

5. Refusal or failure to prepare or make available the shareholders' list does not affect the validity of action taken at the meeting.

Sec. 67. Section 490.721, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.721 Voting entitlement of shares.

1. Except as provided in subsections 2 and 4 or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class or series, is entitled to one vote on each matter voted on at a shareholders' meeting. Only shares are entitled to vote.

2. Shares of a corporation are not entitled to vote if they are owned by or otherwise belong to the corporation directly, or indirectly through an entity of which a majority of the voting power is held directly or indirectly by the corporation or which is otherwise controlled by the corporation.

3. Shares held by the corporation in a fiduciary capacity for the benefit of any person are entitled to vote unless they are held for the benefit of, or otherwise belong to, the corporation directly, or indirectly through an entity of which a majority of the voting power is held directly or indirectly by the corporation or which is otherwise controlled by the corporation.

4. Redeemable shares are not entitled to vote after delivery of written notice of redemption is effective and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

5. As used in this section, *"voting power"* means the current power to vote in the election of directors of a corporation or to elect, select, or appoint governors of another entity.

Sec. 68. Section 490.722, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.722 Proxies.

1. A shareholder may vote the shareholder's shares in person or by proxy.

2. A shareholder, or the shareholder's agent or attorney-in-fact, may appoint a proxy to vote or otherwise act for the shareholder by signing an appointment form, or by an electronic transmission. An electronic transmission must contain or be accompanied by information from which the recipient can determine the date of the transmission and that the transmission was authorized by the sender or the sender's agent or attorney-in-fact.

3. An appointment of a proxy is effective when a signed appointment form or an electronic transmission of the appointment is received by the inspector of election or the officer or agent of the corporation authorized to count votes. An appointment is valid for the term provided in the appointment form, and, if no term is provided, is valid for eleven months unless the appointment is irrevocable under subsection 4.

4. An appointment of a proxy is revocable unless the appointment form or electronic transmission states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include, but are not limited to, the appointment of any of the following:

a. A pledgee.

b. A person who purchased or agreed to purchase the shares.

c. A creditor of the corporation who extended the corporation credit under terms requiring the appointment.

d. An employee of the corporation whose employment contract requires the appointment.

e. A party to a voting agreement created under section 490.731.

5. The death or incapacity of the shareholder appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or

agent authorized to tabulate votes before the proxy exercises the proxy's authority under the appointment.

6. An appointment made irrevocable under subsection 4 is revoked when the interest with which it is coupled is extinguished.

7. Unless it otherwise provides, an appointment made irrevocable under subsection 4 continues in effect after a transfer of the shares and a transferee takes subject to the appointment, except that a transferee for value of shares subject to an irrevocable appointment may revoke the appointment if the transferee did not know of its existence when acquiring the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

8. Subject to section 490.724 and to any express limitation on the proxy's authority stated in the appointment form or electronic transmission, a corporation is entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

Sec. 69. Section 490.723, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.723 Shares held by intermediaries and nominees.

1. A corporation's board of directors may establish a procedure under which a person on whose behalf shares are registered in the name of an intermediary or nominee may elect to be treated by the corporation as the record shareholder by filing with the corporation a beneficial ownership certificate. The terms, conditions, and limitations of this treatment shall be specified in the procedure. To the extent such person is treated under such procedure as having rights or privileges that the record shareholder otherwise would have, the record shareholder shall not have those rights or privileges.

2. The procedure must specify all of the following:

a. The types of intermediaries or nominees to which it

applies.

b. The rights or privileges that the corporation recognizes in a person with respect to whom a beneficial ownership certificate is filed.

c. The manner in which the procedure is selected which must include that the beneficial ownership certificate be signed or assented to by or on behalf of the record shareholder and the person on whose behalf the shares are held.

d. The information that must be provided when the procedure is selected.

e. The period for which selection of the procedure is effective.

f. Requirements for notice to the corporation with respect to the arrangement.

g. The form and contents of the beneficial ownership certificate.

3. The procedure may specify any other aspects of the rights and duties created by the filing of a beneficial ownership certificate.

Sec. 70. Section 490.724, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.724 Acceptance of votes and other instruments.

1. If the name signed on a vote, ballot, consent, waiver, shareholder demand, or proxy appointment corresponds to the name of a shareholder, the corporation, if acting in good faith, is entitled to accept the vote, ballot, consent, waiver, shareholder demand, or proxy appointment and give it effect as the act of the shareholder.

2. If the name signed on a vote, ballot, consent, waiver, shareholder demand, or proxy appointment does not correspond to the name of its shareholder, the corporation, if acting in good faith, is nevertheless entitled to accept the vote, ballot, consent, waiver, shareholder demand, or proxy appointment and give it effect as the act of the shareholder if any of the following applies:

a. The shareholder is an entity and the name signed purports to be that of an officer or agent of the entity.

b. The name signed purports to be that of an administrator, executor, guardian, or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, ballot, consent, waiver, shareholder demand, or proxy appointment.

c. The name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, ballot, consent, waiver, shareholder demand, or proxy appointment.

d. The name signed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the shareholder has been presented with respect to the vote, ballot, consent, waiver, shareholder demand, or proxy appointment.

e. Two or more persons are the shareholder as co-tenants or fiduciaries and the name signed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

3. The corporation is entitled to reject a vote, ballot, consent, waiver, shareholder demand, or proxy appointment if the person authorized to accept or reject such instrument, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the shareholder.

4. Neither the corporation or any person authorized by it, nor an inspector of election appointed under section 490.729, that accepts or rejects a vote, ballot, consent, waiver, shareholder demand, or proxy appointment in good faith and

voting group greater than specified in subsection 1 or 3 is governed by section 490.727.

5. The election of directors is governed by section 490.728.

6. Whenever a provision of this chapter provides for voting of classes or series as separate voting groups, the rules provided in section 490.1004, subsection 3, for amendments of the articles of incorporation apply to that provision.

Sec. 72. Section 490.726, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.726 Action by single or multiple voting groups.

1. If the articles of incorporation or this chapter provide for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group as provided in section 490.725.

2. If the articles of incorporation or this chapter provide for voting by two or more voting groups on a matter, action on that matter is taken only when voted upon by each of those voting groups counted separately as provided in section 490.725. Action may be taken by different voting groups on a matter at different times.

Sec. 73. Section 490.727, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.727 Modifying quorum or voting requirements.

An amendment to the articles of incorporation or bylaws that adds, changes, or deletes a quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect or proposed to be adopted, whichever is greater.

Sec. 74. Section 490.728, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.728 Voting for directors — cumulative voting.

1. Unless otherwise provided in the articles of incorporation, directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a

meeting at which a quorum is present.

2. Shareholders do not have a right to cumulate their votes for directors unless the articles of incorporation so provide.

3. A statement included in the articles of incorporation that "[all] [a designated voting group of] shareholders are entitled to cumulate their votes for directors", or words of similar import, means that the shareholders designated are entitled to multiply the number of votes they are entitled to cast by the number of directors for whom they are entitled to vote and cast the product for a single candidate or distribute the product among two or more candidates.

4. Shares otherwise entitled to vote cumulatively shall not be voted cumulatively at a particular meeting unless any of the following applies:

a. The meeting notice or proxy statement accompanying the notice states conspicuously that cumulative voting is authorized.

b. A shareholder who has the right to cumulate the shareholder's votes gives notice to the corporation not less than forty-eight hours before the time set for the meeting of the shareholder's intent to cumulate votes during the meeting, and if one shareholder gives this notice all other shareholders in the same voting group participating in the election are entitled to cumulate their votes without giving further notice.

Sec. 75. Section 490.729, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.729 Inspectors of election.

1. A corporation that has a class of equity securities registered pursuant to section 12 of the federal Securities Exchange Act of 1934 shall, and any other corporation may, appoint one or more inspectors to act at a meeting of shareholders in connection with determining voting results. Each inspector shall verify in writing that the inspector will faithfully execute the duties of inspector with strict impartiality and according to the best of the inspector's

ability. An inspector may be an officer or employee of the corporation. The inspectors may appoint or retain other persons to assist the inspectors in the performance of the duties of inspector under subsection 2, and may rely on information provided by such persons and other persons, including those appointed to tabulate votes, unless the inspectors believe reliance is unwarranted.

2. The inspectors shall do all of the following:

a. Ascertain the number of shares outstanding and the voting power of each.

b. Determine the shares represented at a meeting.

c. Determine the validity of proxy appointments and ballots.

d. Count all votes.

e. Make a written report of the results.

3. In performing their duties, the inspectors may examine any of the following:

a. The proxy appointment forms and any other information provided in accordance with section 490.722, subsection 2.

b. Any envelope or related writing submitted with those appointment forms.

c. Any ballots.

d. Any evidence or other information specified in section 490.724.

e. The relevant books and records of the corporation relating to its shareholders and their entitlement to vote, including any securities position list provided by a depository clearing agency.

4. *a.* The inspectors also may consider other information that they believe is relevant and reliable for the purpose of performing any of the duties assigned to them pursuant to subsection 2, including for all of the following purposes:

(1) Evaluating inconsistent, incomplete, or erroneous information.

(2) Reconciling information submitted on behalf of banks, brokers, their nominees, or similar persons that indicates

more votes being cast than a proxy authorized by the record shareholder is entitled to cast.

b. If the inspectors consider other information allowed by this subsection, they shall in their report under subsection 2 specify the information considered by them, including the purpose or purposes for which the information was considered, the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained, and the basis for the inspectors' belief that such information is relevant and reliable.

5. Determinations of law by the inspectors of election are subject to de novo review by a court in a proceeding under section 490.749 or other judicial proceeding.

Sec. 76. Section 490.730, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.730 Voting trusts.

1. One or more shareholders may create a voting trust, conferring on a trustee the right to vote or otherwise act for them, by signing an agreement setting out the provisions of the trust, which may include anything consistent with its purpose, and transferring their shares to the trustee. When a voting trust agreement is signed, the trustee shall prepare a list of the names and addresses of all voting trust beneficial owners, together with the number and class of shares each transferred to the trust, and deliver copies of the list and agreement to the corporation at its principal office.

2. A voting trust becomes effective on the date the first shares subject to the trust are registered in the trustee's name.

3. Limits, if any, on the duration of a voting trust shall be as set forth in the voting trust. A voting trust that became effective between December 31, 1989, and June 30, 2014, both dates inclusive, is governed by the provisions of this section concerning duration then in effect, unless the voting trust is amended to provide otherwise by unanimous agreement of the

parties to the voting trust.

Sec. 77. Section 490.731, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.731 Voting agreement.

1. Two or more shareholders may provide for the manner in which they will vote their shares by signing an agreement for that purpose. A voting agreement created under this section is not subject to the provisions of section 490.730.

2. A voting agreement created under this section is specifically enforceable.

Sec. 78. Section 490.732, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.732 Shareholder agreement.

1. An agreement among the shareholders of a corporation that complies with this section is effective among the shareholders and the corporation even though it is inconsistent with one or more other provisions of this chapter in that it does any of the following:

a. Eliminates the board of directors or restricts the discretion or powers of the board of directors.

b. Governs the authorization or making of distributions, regardless of whether they are in proportion to ownership of shares, subject to the limitations in section 490.640.

c. Establishes who shall be directors or officers of the corporation, or their terms of office or manner of selection or removal.

d. Governs, in general or in regard to specific matters, the exercise or division of voting power by or between the shareholders and directors or by or among any of them, including use of weighted voting rights or director proxies.

e. Establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer, or employee of the corporation, or among any of them.

f. Transfers to one or more shareholders or other persons

all or part of the authority to exercise the corporate powers or to manage the business and affairs of the corporation, including the resolution of any issue about which there exists a deadlock among directors or shareholders.

g. Requires dissolution of the corporation at the request of one or more of the shareholders or upon the occurrence of a specified event or contingency.

h. Otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship among the shareholders, the directors, and the corporation, or among any of them, and is not contrary to public policy.

2. An agreement authorized by this section shall satisfy all of the following requirements:

a. Be as set forth in any of the following:

(1) The articles of incorporation or bylaws and approved by all persons who are shareholders at the time of the agreement.

(2) A written agreement that is signed by all persons who are shareholders at the time of the agreement and is made known to the corporation.

b. Be subject to amendment only by all persons who are shareholders at the time of the amendment, unless the agreement provides otherwise.

3. The existence of an agreement authorized by this section shall be noted conspicuously on the front or back of each certificate for outstanding shares or on the information statement required by section 490.626, subsection 2. If at the time of the agreement the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of the agreement on the certificate or information statement shall not affect the validity of the agreement or any action taken pursuant to it. Any purchaser of shares who, at the time of purchase, did not have knowledge of the existence of the

agreement shall be entitled to rescission of the purchase. A purchaser shall be deemed to have knowledge of the existence of the agreement if its existence is noted on the certificate or information statement for the shares in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or before the time of purchase of the shares. An action to enforce the right of rescission authorized by this subsection shall be commenced within the earlier of ninety days after discovery of the existence of the agreement or two years after the time of purchase of the shares.

4. If the agreement ceases to be effective for any reason, the board of directors may, if the agreement is contained or referred to in the corporation's articles of incorporation or bylaws, adopt an amendment to the articles of incorporation or bylaws, without shareholder action, to delete the agreement and any references to it.

5. An agreement authorized by this section that limits the discretion or powers of the board of directors shall relieve the directors of, and impose upon the person or persons in whom such discretion or powers are vested, liability for acts or omissions imposed by law on directors to the extent that the discretion or powers of the directors are limited by the agreement.

6. The existence or performance of an agreement authorized by this section shall not be a ground for imposing personal liability on any shareholder for the acts or debts of the corporation even if the agreement or its performance treats the corporation as if it were a partnership or results in failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

7. Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized by this section if no shares have been issued when the agreement is made.

8. Limits, if any, on the duration of an agreement authorized by this section must be set forth in the agreement. An agreement that became effective between January 1, 2003, and June 30, 2014, both dates inclusive, unless the agreement provided otherwise, remains governed by the provisions of this section concerning duration then in effect.

Sec. 79. Section 490.740, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.740 Part definitions.

As used in this part:

1. *"Derivative proceeding"* means a civil suit in the right of a domestic corporation or, to the extent provided in section 490.747, in the right of a foreign corporation.

2. *"Shareholder"* means a record shareholder, a beneficial shareholder, and an unrestricted voting trust beneficial owner.

Sec. 80. Section 490.743, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.743 Stay of proceedings.

If the corporation commences an inquiry into the allegations made in the demand or complaint, the court may stay any derivative proceeding for such period as the court deems appropriate.

Sec. 81. Section 490.744, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.744 Dismissal.

1. A derivative proceeding shall be dismissed by the court on motion by the corporation if one of the groups specified in subsection 2 or 5 has determined in good faith, after conducting a reasonable inquiry upon which its conclusions are based, that the maintenance of the derivative proceeding is not in the best interests of the corporation. A corporation moving to dismiss on this basis shall submit in support of the motion a short and concise statement of the reasons for its determination.

2. Unless a panel is appointed pursuant to subsection 5,

the determination in subsection 1 shall be made by any of the following:

a. A majority vote of qualified directors present at a meeting of the board of directors if the qualified directors constitute a quorum.

b. A majority vote of a committee consisting of two or more qualified directors appointed by majority vote of qualified directors present at a meeting of the board of directors, regardless of whether such qualified directors constitute a quorum.

3. *a.* If a derivative proceeding is commenced after a determination has been made rejecting a demand by a shareholder, the complaint shall allege with particularity facts establishing any of the following:

(1) That a majority of the board of directors did not consist of qualified directors at the time the determination was made.

(2) That the requirements of subsection 1 have not been met.

b. All discovery and other proceedings shall be stayed during the pendency of any motion to dismiss unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or prevent undue prejudice to that party.

4. If a majority of the board of directors consisted of qualified directors at the time the determination was made, the plaintiff shall have the burden of proving that the requirements of subsection 1 have not been met; if not, the corporation shall have the burden of proving that the requirements of subsection 1 have been met.

5. Upon motion by the corporation, the court may appoint a panel of one or more individuals to make a determination whether the maintenance of the derivative proceeding is in the best interests of the corporation. In such case, the plaintiff shall have the burden of proving that the requirements of subsection 1 have not been met.

Sec. 82. Section 490.745, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.745 Discontinuance or settlement.

A derivative proceeding shall not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interests of the corporation's shareholders or a class or series of shareholders, the court shall direct that notice be given to the shareholders affected.

Sec. 83. Section 490.746, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.746 Payment of expenses.

On termination of the derivative proceeding, the court may do any of the following:

1. Order the corporation to pay the plaintiff's expenses incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the corporation.

2. Order the plaintiff to pay any defendant's expenses incurred in defending the proceeding if it finds that the proceeding was commenced or maintained without reasonable cause or for an improper purpose.

3. Order a party to pay an opposing party's expenses incurred because of the filing of a pleading, motion, or other paper, if it finds that any of the following apply:

a. The pleading, motion, or other paper was not well grounded in fact, after reasonable inquiry, or warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

b. The pleading, motion, or other paper was interposed for an improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation.

Sec. 84. Section 490.748, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.748 Shareholder action to appoint custodian or receiver.

1. The district court of the county where a corporation's

principal office or, if none in this state, its registered office, is located may appoint one or more persons to be custodians, or, if the corporation is insolvent, to be receivers, of and for a corporation in a proceeding by a shareholder where it is established that any of the following applies:

a. The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered.

b. The directors or those in control of the corporation are acting fraudulently and irreparable injury to the corporation is threatened or being suffered.

2. *a.* The district court may issue injunctions, appoint a temporary custodian or temporary receiver with all the powers and duties the district court directs, take other action to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing is held.

b. The district court shall hold a full hearing, after notifying all parties to the proceeding and any interested persons designated by the district court, before appointing a custodian or receiver.

c. The district court has jurisdiction over the corporation and all of its property, wherever located.

3. The district court may appoint an individual or domestic or foreign corporation, registered to do business in this state, as a custodian or receiver and may require the custodian or receiver to post bond, with or without sureties, in an amount the district court directs.

4. The district court shall describe the powers and duties of the custodian or receiver in its appointing order, which may be amended from time to time. Among other powers, all of the following apply:

a. A custodian may exercise all of the powers of the corporation, through or in place of its board of directors, to

the extent necessary to manage the business and affairs of the corporation.

b. A receiver may do any of the following:

(1) Dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the district court.

(2) Sue and defend in the receiver's own name as receiver in all courts of this state.

5. The district court during a custodianship may redesignate the custodian a receiver, and during a receivership may redesignate the receiver a custodian, if doing so is in the best interests of the corporation.

6. The district court from time to time during the custodianship or receivership may order compensation paid and expense disbursements or reimbursements made to the custodian or receiver from the assets of the corporation or proceeds from the sale of its assets.

7. As used in this section, "*shareholder*" means a record shareholder, a beneficial shareholder, and an unrestricted voting trust beneficial owner.

Sec. 85. NEW SECTION. **490.749 Judicial determination of corporate offices and review of elections and shareholder votes.**

1. Upon application of or in a proceeding commenced by a person specified in subsection 2, the district court of the county where the corporation's principal office or, if none in this state, its registered office, is located may determine all of the following:

a. The result or validity of the election, appointment, removal, or resignation of a director or officer of the corporation.

b. The right of an individual to hold the office of director or officer of the corporation.

c. The result or validity of any vote by the shareholders of the corporation.

d. The right of a director to membership on a committee of

the board of directors.

e. The right of a person to nominate or an individual to be nominated as a candidate for election or appointment as a director of the corporation, and any right under a bylaw adopted pursuant to section 490.206, subsection 3, or any comparable right under any provision of the articles of incorporation, contract, or applicable law.

2. An application or proceeding pursuant to subsection 1 may be filed or commenced by any of the following persons:

a. The corporation.

b. Any record shareholder, beneficial shareholder, or unrestricted voting trust beneficial owner of the corporation.

c. A director of the corporation, an individual claiming the office of director, or a director whose membership on a committee of the board of directors is contested, in each case who is seeking a determination of a right to such office or membership.

d. An officer of the corporation or an individual claiming to be an officer of the corporation, in each case who is seeking a determination of a right to such office.

e. A person claiming a right covered by subsection 1, paragraph "*e*", and who is seeking a determination of such right.

3. In connection with any application or proceeding under subsection 1, the following shall be named as defendants, unless such person made the application or commenced the proceeding:

a. The corporation.

b. Any individual whose right to office or membership on a committee of the board of directors is contested.

c. Any individual claiming the office or membership at issue.

d. Any person claiming a right covered by subsection 1, paragraph "*e*", that is at issue.

4. In connection with any application or proceeding under subsection 1, service of process may be made upon each of the

persons specified in subsection 3, by any of the following:

a. Service of process on the corporation addressed to such person in any manner provided by statute of this state or by rule of the applicable court for service on the corporation.

b. Service of process on the person in any manner provided by statute of this state or by rule of the applicable court.

5. When service of process is made upon a person other than the corporation by service upon the corporation pursuant to subsection 4, paragraph "*a*", the plaintiff and the corporation or its registered agent shall promptly provide written notice of such service, together with copies of all process and the application or complaint, to the person at the person's last known residence or business address, or as permitted by statute of this state or by rule of the applicable court.

6. In connection with any application or proceeding under subsection 1, the court shall dispose of the application or proceeding on an expedited basis and also may do any of the following:

a. Order such additional or further notice as the court deems proper under the circumstances.

b. Order that additional persons be joined as parties to the proceeding if the court determines that such joinder is necessary for a just adjudication of matters before the court.

c. Order an election or meeting be held in accordance with the provisions of section 490.703, subsection 2, or otherwise.

d. Appoint a master to conduct an election or meeting.

e. Enter temporary, preliminary, or permanent injunctive relief.

f. Resolve solely for the purpose of this proceeding any legal or factual issues necessary for the resolution of any of the matters specified in subsection 1, including the right and power of persons claiming to own shares to vote at any meeting of the shareholders.

g. Order such other relief as the court determines is equitable, just, and proper.

7. It is not necessary to make shareholders a party to a proceeding or application pursuant to this section unless the shareholder is a required defendant under subsection 3, paragraph *"d"*, relief is sought against the shareholder individually, or the court orders joinder pursuant to subsection 6, paragraph *"b"*.

8. Nothing in this section limits, restricts, or abolishes the subject matter jurisdiction or powers of the court as existed before the enactment of this section, and an application or proceeding pursuant to this section is not the exclusive remedy or proceeding available with respect to the matters specified in subsection 1.

Sec. 86. NEW SECTION. **490.800 Special subchapter definition.**

1. As used in this subchapter, *"public corporation"* means a corporation that has a class of voting stock that is listed on a national securities exchange or held of record by more than two thousand shareholders.

2. This section is repealed on January 1, 2022.

Sec. 87. Section 490.801, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.801 Requirement for and functions of board of directors.

1. Except as may be provided in an agreement authorized under section 490.732, each corporation shall have a board of directors.

2. Except as may be provided in an agreement authorized under section 490.732, and subject to any limitation in the articles of incorporation permitted by section 490.202, subsection 2, all corporate powers shall be exercised by or under the authority of the board of directors, and the business and affairs of the corporation shall be managed by or under the direction, and subject to the oversight, of the board of directors.

Sec. 88. Section 490.802, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.802 Qualifications of directors.

1. The articles of incorporation or bylaws may prescribe qualifications for directors or for nominees for directors. Qualifications must be reasonable as applied to the corporation and be lawful.

2. A requirement that is based on a past, prospective, or current action, or expression of opinion, by a nominee or director that could limit the ability of a nominee or director to discharge his or her duties as a director is not a permissible qualification under this section. Notwithstanding the foregoing, qualifications may include not being or having been subject to specified criminal, civil, or regulatory sanctions or not having been removed as a director by judicial action or for cause.

3. A director need not be a resident of this state or a shareholder unless the articles of incorporation or bylaws so prescribe.

4. A qualification for nomination for director prescribed before a person's nomination shall apply to such person at the time of nomination. A qualification for nomination for director prescribed after a person's nomination shall not apply to such person with respect to such nomination.

5. A qualification for director prescribed before a director has been elected or appointed may apply only at the time an individual becomes a director or may apply during a director's term. A qualification prescribed after a director has been elected or appointed shall not apply to that director before the end of that director's term.

Sec. 89. Section 490.803, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.803 Number and election of directors.

1. A board of directors shall consist of one or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.

2.*a.* The number of directors may be increased or decreased

from time to time by amendment to, or in the manner provided in, the articles of incorporation or bylaws.

b. (1) Notwithstanding paragraph "*a*", the number of directors of a public corporation subject to section 490.806A, subsection 1, or section 490.806B, shall be increased or decreased only by the affirmative vote of a majority of its board of directors.

(2) This paragraph "*b*" is repealed on January 1, 2022.

3.*a.* Directors are elected at the first annual shareholders' meeting and at each annual shareholders' meeting thereafter unless elected by written consent in lieu of an annual meeting as permitted by section 490.704 or unless their terms are staggered under section 490.806.

b. (1) Notwithstanding paragraph "*a*", for a public corporation subject to section 490.806A, subsection 1, or section 490.806B, a director's term shall be staggered as provided in section 490.806A, subsection 1, or may be staggered as provided in section 490.806B.

(2) This paragraph "*b*" is repealed on January 1, 2022.

Sec. 90. Section 490.804, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.804 Election of directors by certain classes of series of shares.

If the articles of incorporation or action by the board of directors pursuant to section 490.602 authorize dividing the shares into classes or series, the articles of incorporation may also authorize the election of all or a specified number of directors by the holders of one or more authorized classes or series of shares. A class or series, or multiple classes or series, of shares entitled to elect one or more directors is a separate voting group for purposes of the election of directors.

Sec. 91. Section 490.805, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.805 Terms of directors generally.

1. The terms of the initial directors of a corporation expire at the first shareholders' meeting at which directors are elected.

2. *a.* The terms of all other directors expire at the next, or if their terms are staggered in accordance with section 490.806, at the applicable second or third, annual shareholders' meeting following their election.

b. Paragraph "*a*" does not apply in any of the following circumstances:

(1) To the extent provided in section 490.1022 if a bylaw electing to be governed by that section is in effect.

(2) A shorter term is specified in the articles of incorporation in the event of a director nominee failing to receive a specified vote for election.

c. (1) Notwithstanding paragraph "*a*", for a public corporation subject to section 490.806A, subsection 1, or section 490.806B, the terms of directors shall be staggered as provided in section 490.806A, subsection 1, or may be staggered as provided in section 490.806B.

(2) This paragraph "*c*" is repealed on January 1, 2022.

3. A decrease in the number of directors does not shorten an incumbent director's term.

4.*a.* The term of a director elected to fill a vacancy expires at the next shareholders' meeting at which directors are elected.

b. (1) Notwithstanding paragraph "*a*", for a public corporation subject to section 490.806A, subsection 1, or section 490.806B, the term of a director elected to fill a vacancy expires as provided in section 490.806A, subsection 1, or section 490.806B.

(2) This paragraph "*b*" is repealed on January 1, 2022.

5. Except to the extent otherwise provided in the articles of incorporation or under section 490.1022, if a bylaw electing to be governed by that section is in effect, despite the expiration of a director's term, the director continues to

serve until the director's successor is elected and qualifies or there is a decrease in the number of directors.

Sec. 92. Section 490.806, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.806 Staggered terms for directors.

1. The articles of incorporation may provide for staggering the terms of directors by dividing the total number of directors into two or three groups, with each group containing one-half or one-third of the total, as near as may be practicable. In that event, the terms of directors in the first group expire at the first annual shareholders' meeting after their election, the terms of the second group expire at the second annual shareholders' meeting after their election, and the terms of the third group, if any, expire at the third annual shareholders' meeting after their election. At each annual shareholders' meeting held thereafter, directors shall be elected for a term of two years or three years, as the case may be, to succeed those whose terms expire.

2. *a.* Subsection 1 does not apply to a public corporation that is subject to section 490.806A, subsection 1, but may apply to a public corporation that is subject to section 490.806B.

b. This subsection is repealed on January 1, 2022.

Sec. 93. Section 490.807, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.807 Resignation of directors.

1. A director may resign at any time by delivering a written notice of resignation to the board of directors or its chair, or to the secretary.

2. A resignation is effective as provided in section 490.141, subsection 9, unless the resignation provides for a delayed effectiveness, including effectiveness determined upon a future event or events. A resignation that is conditioned upon failing to receive a specified vote for election as a director may provide that it is irrevocable.

Sec. 94. Section 490.808, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.808 Removal of directors by shareholders.

1. The shareholders may remove one or more directors with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

2. If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove that director.

3. A director may be removed if the number of votes cast to remove exceeds the number of votes cast not to remove the director, except to the extent the articles of incorporation or bylaws require a greater number. However, if cumulative voting is authorized, a director shall not be removed if, in the case of a meeting, the number of votes sufficient to elect the director under cumulative voting is voted against removal and, if action is taken by less than unanimous written consent, voting shareholders entitled to the number of votes sufficient to elect the director under cumulative voting do not consent to the removal.

4. A director may be removed by the shareholders only at a meeting called for the purpose of removing the director, and the meeting notice must state that removal of the director is a purpose of the meeting.

Sec. 95. Section 490.809, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.809 Removal of directors by judicial proceeding.

1. The district court of the county where a corporation's principal office or, if none in this state, its registered office, is located may remove a director from office or may order other relief, including barring the director from reelection for a period prescribed by the court, in a proceeding commenced by or in the right of the corporation if the court finds that all of the following apply:

a. The director engaged in fraudulent conduct with respect

to the corporation or its shareholders, grossly abused the position of director, or intentionally inflicted harm on the corporation.

b. Considering the director's course of conduct and the inadequacy of other available remedies, removal or such other relief would be in the best interest of the corporation.

2. A shareholder proceeding on behalf of the corporation under subsection 1 shall comply with all of the requirements of subchapter VII, part D, except section 490.741, subsection 1.

Sec. 96. Section 490.810, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.810 Vacancy on board of directors.

1. Unless the articles of incorporation provide otherwise, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors, the vacancy may be filled in any of the following manners:

a. The shareholders may fill the vacancy.

b. The board of directors may fill the vacancy.

c. If the directors remaining in office are less than a quorum, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

1A. *a.* For a public corporation subject to section 490.806A, subsection 1, or section 490.806B, a vacancy on the board of directors, including but not limited to a vacancy resulting from an increase in the number of directors, shall be filled solely by the affirmative vote of a majority of the remaining directors, even though less than a quorum of the board.

b. This subsection is repealed on January 1, 2022.

2. If the vacant office was held by a director elected by a voting group of shareholders, only the holders of shares of that voting group are entitled to vote to fill the vacancy if it is filled by the shareholders, and only the remaining directors elected by that voting group, even if less than a quorum, are entitled to fill the vacancy if it is filled by the

directors.

3. A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date under section 490.807, subsection 2, or otherwise, may be filled before the vacancy occurs but the new director shall not take office until the vacancy occurs.

Sec. 97. Section 490.820, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.820 Meetings.

1. The board of directors may hold regular or special meetings in or out of this state.

2. Unless restricted by the articles of incorporation or bylaws, any director may participate in any meeting of the board of directors through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Sec. 98. Section 490.821, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.821 Action without meeting.

1. Except to the extent that the articles of incorporation or bylaws require that action by the board of directors be taken at a meeting, action required or permitted by this chapter to be taken by the board of directors may be taken without a meeting if each director signs a consent describing the action to be taken and delivers it to the corporation.

2. Action taken under this section is the act of the board of directors when one or more consents signed by all the directors are delivered to the corporation. The consent may specify the time at which the action taken is to be effective. A director's consent may be withdrawn by a revocation signed by the director and delivered to the corporation before delivery to the corporation of unrevoked written consents signed by all the directors.

3. A consent signed under this section has the effect of action taken at a meeting of the board of directors and may be described as such in any document.

Sec. 99. Section 490.822, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.822 Notice of meeting.

1. Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting.

2. Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board of directors shall be preceded by at least two days' notice of the date, time, and place of the meeting. The notice need not describe the purpose of the special meeting unless required by the articles of incorporation or bylaws.

Sec. 100. Section 490.823, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.823 Waiver of notice.

1. A director may waive any notice required by this chapter, the articles of incorporation, or the bylaws before or after the date and time stated in the notice. Except as provided by subsection 2, the waiver must be in writing, signed by the director entitled to the notice, and delivered to the corporation for filing by the corporation with the minutes or corporate records.

2. A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless all of the following apply:

a. The director at the beginning of the meeting, or promptly upon arrival, objects to holding the meeting or transacting business at the meeting.

b. The director does not, after objecting, vote for or assent to action taken at the meeting.

Sec. 101. Section 490.824, Code 2020, is amended by striking

the section and inserting in lieu thereof the following:

490.824 Quorum and voting.

1. Unless the articles of incorporation or bylaws provide for a greater or lesser number, or unless otherwise expressly provided in this chapter, a quorum of a board of directors consists of a majority of the number of directors specified in or fixed in accordance with the articles of incorporation or bylaws.

2. The quorum of the board of directors specified in or fixed in accordance with the articles of incorporation or bylaws shall not consist of less than one-third of the specified or fixed number of directors.

3. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors or unless otherwise expressly provided in this chapter.

4. *a.* A director who is present at a meeting of the board of directors or a committee when corporate action is taken is deemed to have assented to the action taken unless one or more of the following occurs:

(1) The director objects at the beginning of the meeting, or promptly upon arrival, to holding it or transacting business at the meeting.

(2) The dissent or abstention from the action taken is entered in the minutes of the meeting.

(3) The director delivers written notice of the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting.

b. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

Sec. 102. Section 490.825, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.825 Committees of the board.

1. Unless this chapter, the articles of incorporation, or the bylaws provide otherwise, a board of directors may establish one or more board committees composed exclusively of one or more directors to perform functions of the board of directors.

2. *a.* The establishment of a board committee and appointment of members to it shall be approved by the greater of the following:

(1) A majority of all the directors in office when the action is taken.

(2) The number of directors required by the articles of incorporation or bylaws to take action under section 490.824.

b. Paragraph "*a*" applies unless, in either case, this chapter or the articles of incorporation provide otherwise.

3. Sections 490.820 through 490.824 apply to board committees and their members.

4. A board committee may exercise the powers of the board of directors under section 490.801, to the extent specified by the board of directors or in the articles of incorporation or bylaws, except that a board committee shall not do any of the following:

a. Authorize or approve distributions, except according to a formula or method, or within limits, prescribed by the board of directors.

b. Approve or propose to shareholders action that this chapter requires be approved by shareholders.

c. Fill vacancies on the board of directors or, subject to subsection 5, on any board committees.

d. Adopt, amend, or repeal bylaws.

5. The board of directors may appoint one or more directors as alternate members of any board committee to replace any absent or disqualified member during the member's absence or disqualification. If the articles of incorporation, the bylaws, or the resolution creating the board committee so provide, the member or members present at any board committee

meeting and not disqualified from voting may, by unanimous action, appoint another director to act in place of an absent or disqualified member during that member's absence or disqualification.

Sec. 103. Section 490.830, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.830 Standards of conduct for directors.

1. Each member of the board of directors, when discharging the duties of a director, shall act in conformity with all of the following:

a. In good faith.

b. In a manner the director reasonably believes to be in the best interests of the corporation.

2. The members of the board of directors or a board committee, when becoming informed in connection with their decision-making function or devoting attention to their oversight function, shall discharge their duties with the care that a person in a like position would reasonably believe appropriate under similar circumstances.

3. In discharging board or board committee duties, a director shall disclose, or cause to be disclosed, to the other board or committee members information which the director knows is not already known by them but known by the director to be material to the discharge of their decision-making or oversight functions, except that disclosure is not required to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule.

4. In discharging board or board committee duties, a director who does not have knowledge that makes reliance unwarranted is entitled to rely on the performance by any of the persons specified in subsection 6, paragraph *"a"* or *"c"*, to whom the board may have delegated, formally or informally by course of conduct, the authority or duty to perform one or more of the board's functions that are delegable under applicable

law.

5. In discharging board or board committee duties, a director who does not have knowledge that makes reliance unwarranted is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by any of the persons specified in subsection 6.

6. A director is entitled to rely, in accordance with subsection 4 or 5, on any of the following:

a. One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports, or statements provided.

b. Legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the director reasonably believes are any of the following:

(1) Matters within the particular person's professional or expert competence.

(2) Matters as to which the particular person merits confidence.

c. A board committee of which the director is not a member if the director reasonably believes the committee merits confidence.

Sec. 104. Section 490.831, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.831 Standards of liability for directors.

1. A director shall not be liable to the corporation or its shareholders for any decision to take or not to take action, or any failure to take any action, as a director, unless the party asserting liability in a proceeding establishes all of the following:

a. No defense interposed by the director based on any of the following precludes liability:

(1) A provision in the articles of incorporation authorized

by section 490.202, subsection 2, paragraph "*d*" or "*f*".

(2) The protection afforded by section 490.861 for action taken in compliance with section 490.862 or section 490.863.

(3) The protection afforded by section 490.870.

b. That the challenged conduct consisted or was the result of any of the following:

(1) Action not in good faith.

(2) A decision that satisfies any of the following:

(a) That which the director did not reasonably believe to be in the best interests of the corporation.

(b) As to which the director was not informed to an extent the director reasonably believed appropriate in the circumstances.

(3) A lack of objectivity due to the director's familial, financial, or business relationship with, or a lack of independence due to the director's domination or control by, another person having a material interest in the challenged conduct, which also meets all of the following criteria:

(a) Which relationship or which domination or control could reasonably be expected to have affected the director's judgment respecting the challenged conduct in a manner adverse to the corporation.

(b) After a reasonable expectation to such effect has been established, the director shall not have established that the challenged conduct was reasonably believed by the director to be in the best interests of the corporation.

(4) A sustained failure of the director to devote attention to ongoing oversight of the business and affairs of the corporation, or a failure to devote timely attention, by making, or causing to be made, appropriate inquiry, when particular facts and circumstances of significant concern materialize that would alert a reasonably attentive director to the need for such inquiry.

(5) Receipt of a financial benefit to which the director was not entitled or any other breach of the director's duties to

deal fairly with the corporation and its shareholders that is actionable under applicable law.

2. *a.* The party seeking to hold the director liable for money damages shall also have the burden of establishing all of the following:

(1) That harm to the corporation or its shareholders has been suffered.

(2) The harm suffered was proximately caused by the director's challenged conduct.

b. A party seeking to hold the director liable for other money payment under a legal remedy, such as compensation for the unauthorized use of corporate assets, shall also have whatever persuasion burden may be called for to establish that the payment sought is appropriate in the circumstances.

c. A party seeking to hold the director liable for other money payment under an equitable remedy, such as profit recovery by or disgorgement to the corporation, shall also have whatever persuasion burden may be called for to establish that the equitable remedy sought is appropriate in the circumstances.

3. This section shall not do any of the following:

a. In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the corporation under section 490.861, subsection 2, paragraph "*c*", alter the burden of proving the fact or lack of fairness otherwise applicable.

b. Alter the fact or lack of liability of a director under another section of this chapter, such as the provisions governing the consequences of an unlawful distribution under section 490.833 or a transactional interest under section 490.861.

c. Affect any rights to which the corporation or a shareholder may be entitled under another statute of this state or the United States.

Sec. 105. Section 490.833, Code 2020, is amended by striking

the section and inserting in lieu thereof the following:

490.833 Directors' liability for unlawful distributions.

1. A director who votes for or assents to a distribution in excess of what may be authorized and made pursuant to section 490.640, subsection 1, or section 490.1409, subsection 1, is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating section 490.640, subsection 1, or section 490.1409, subsection 1, if the party asserting liability establishes that when taking the action the director did not comply with section 490.830.

2. A director held liable under subsection 1 for an unlawful distribution is entitled to all of the following:

a. Contribution from every other director who could be held liable under subsection 1 for the unlawful distribution.

b. Recoupment from each shareholder of the prorata portion of the amount of the unlawful distribution the shareholder accepted, knowing the distribution was made in violation of section 490.640, subsection 1, or section 490.1409, subsection 1.

3. *a.* A proceeding to enforce the liability of a director under subsection 1 is barred unless it is commenced within two years after any of the following:

(1) The date on which the effect of the distribution was measured under section 490.640, subsection 5 or 8.

(2) The date as of which the violation of section 490.640, subsection 1, occurred as the consequence of disregard of a restriction in the articles of incorporation.

(3) The date on which the distribution of assets to shareholders under section 490.1409, subsection 1, was made.

b. A proceeding to enforce contribution or recoupment under subsection 2 is barred unless it is commenced within one year after the liability of the claimant has been finally adjudicated under subsection 1.

Sec. 106. Section 490.840, Code 2020, is amended by striking

the section and inserting in lieu thereof the following:

490.840 Officers.

1. A corporation has the officers described in its bylaws or appointed by the board of directors in accordance with the bylaws.

2. The board of directors may elect individuals to fill one or more offices of the corporation. An officer may appoint one or more officers if authorized by the bylaws or the board of directors.

3. The bylaws or the board of directors shall assign to an officer responsibility for maintaining and authenticating the records of the corporation required to be kept under section 490.1601, subsection 1.

4. The same individual may simultaneously hold more than one office in a corporation.

Sec. 107. Section 490.842, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.842 Standards of conduct for officers.

1. An officer, when performing in such capacity, has the duty to act in conformity with all of the following:

a. In good faith.

b. With the care that a person in a like position would reasonably exercise under similar circumstances.

c. In a manner the officer reasonably believes to be in the best interests of the corporation.

2. The duty of an officer includes the obligation to do all of the following:

a. Inform the superior officer to whom, or the board of directors or the board committee to which, the officer reports of information about the affairs of the corporation known to the officer, within the scope of the officer's functions, and known to the officer to be material to such superior officer, board, or committee.

b. Inform the officer's superior officer, or another appropriate person within the corporation, or the board of

directors, or a board committee, of any actual or probable material violation of law involving the corporation or material breach of duty to the corporation by an officer, employee, or agent of the corporation, that the officer believes has occurred or is likely to occur.

3. In discharging the officer's duties, an officer who does not have knowledge that makes reliance unwarranted is entitled to rely on any of the following:

a. The performance of properly delegated responsibilities by one or more employees of the corporation whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated.

b. Information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by one or more employees of the corporation whom the officer reasonably believes to be reliable and competent in the matters presented or by legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the officer reasonably believes are any of the following:

(1) Matters within the particular person's professional or expert competence.

(2) Matters as to which the particular person merits confidence.

4. An officer shall not be liable to the corporation or its shareholders for any decision to take or not to take action, or any failure to take any action, as an officer, if the duties of the office are performed in compliance with this section. Whether an officer who does not comply with this section shall have liability will depend in such instance on applicable law, including those principles of section 490.831 that have relevance.

Sec. 108. Section 490.843, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.843 Resignation and removal of officers.

1. An officer may resign at any time by delivering a written notice to the board of directors, or its chair, or to the appointing officer or the secretary. A resignation is effective as provided in section 490.141, subsection 9, unless the notice provides for a delayed effectiveness, including effectiveness determined upon a future event or events. If effectiveness of a resignation is stated to be delayed and the board of directors or the appointing officer accepts the delay, the board of directors or the appointing officer may fill the pending vacancy before the delayed effectiveness but the new officer shall not take office until the vacancy occurs.

2. An officer may be removed at any time with or without cause by any of the following:

a. The board of directors.

b. The appointing officer, unless the bylaws or the board of directors provide otherwise.

c. Any other officer if authorized by the bylaws or the board of directors.

3. As used in this section, *"appointing officer"* means the officer, including any successor to that officer, who appointed the officer resigning or being removed.

Sec. 109. Section 490.844, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.844 Contract rights of officers.

1. The election or appointment of an officer does not itself create contract rights.

2. An officer's removal does not affect the officer's contract rights, if any, with the corporation. An officer's resignation does not affect the corporation's contract rights, if any, with the officer.

Sec. 110. Section 490.850, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.850 Part definitions.

As used in this part:

1. *"Corporation"* includes any domestic or foreign

predecessor entity of a corporation in a merger.

2. *"Director"* or *"officer"* means an individual who is or was a director or officer, respectively, of a corporation or who, while a director or officer of the corporation, is or was serving at the corporation's request as a director, officer, manager, partner, trustee, employee, or agent of another entity or employee benefit plan. A director or officer is considered to be serving an employee benefit plan at the corporation's request if the individual's duties to the corporation also impose duties on, or otherwise involve services by, the individual to the plan or to participants in or beneficiaries of the plan. *"Director"* or *"officer"* includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

3. *"Liability"* means the obligation to pay a judgment, settlement, penalty, fine, including an excise tax assessed with respect to an employee benefit plan, or expenses incurred with respect to a proceeding.

4. *a. "Official capacity"* means the following:

(1) When used with respect to a director, the office of director in a corporation.

(2) When used with respect to an officer, as contemplated in section 490.856, the office in a corporation held by the officer.

b. "Official capacity" does not include service for any other domestic or foreign corporation or any joint venture, trust, employee benefit plan, or other entity.

5. *"Party"* means an individual who was, is, or is threatened to be made a defendant or respondent in a proceeding.

6. *"Proceeding"* means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrative, or investigative and whether formal or informal.

Sec. 111. Section 490.851, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.851 Permissible indemnification.

1. Except as otherwise provided in this section, a corporation may indemnify an individual who is a party to a proceeding because the individual is a director against liability incurred in the proceeding if any of the following apply:

a. All of the following apply:

(1) The director's conduct was in good faith.

(2) The director reasonably believed:

(a) In the case of conduct in an official capacity, that the director's conduct was in the best interests of the corporation.

(b) In all other cases, that the director's conduct was at least not opposed to the best interests of the corporation.

(3) In the case of any criminal proceeding, the director had no reasonable cause to believe the director's conduct was unlawful.

b. The director engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the articles of incorporation, as authorized by section 490.202, subsection 2, paragraph *"e"*.

2. A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in, and the beneficiaries of, the plan is conduct that satisfies the requirement of subsection 1, paragraph *"a"*, subparagraph (2), subparagraph division (b).

3. The termination of a proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, is not, of itself, determinative that the director did not meet the relevant standard of conduct described in this section.

4. Unless ordered by a court under section 490.854, subsection 1, paragraph *"c"*, a corporation shall not indemnify a director in any of the following circumstances:

a. In connection with a proceeding by or in the right of the corporation, except for expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection 1.

b. In connection with any proceeding with respect to conduct for which the director was adjudged liable on the basis of receiving a financial benefit to which the director was not entitled, regardless of whether it involved action in the director's official capacity.

Sec. 112. Section 490.852, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.852 Mandatory indemnification.

A corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because the director is or was a director of the corporation against expenses incurred by the director in connection with the proceeding.

Sec. 113. Section 490.853, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.853 Advance for expenses.

1. A corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse expenses incurred in connection with the proceeding by an individual who is a party to the proceeding because that individual is a director, if the director delivers to the corporation a signed written undertaking of the director to repay any funds advanced and all of the following apply:

a. The director is not entitled to mandatory indemnification under section 490.852.

b. It is ultimately determined under section 490.854 or 490.855 that the director is not entitled to indemnification.

2. The undertaking required by subsection 1 must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial

ability of the director to make repayment.

3. Authorizations under this section shall be made by any of the following:

a. By the board of directors as follows:

(1) If there are two or more qualified directors, by a majority vote of all of the qualified directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee consisting solely of two or more qualified directors appointed by such a vote.

(2) If there are fewer than two qualified directors, by the vote necessary for action by the board of directors in accordance with section 490.824, subsection 3, in which authorization directors who are not qualified directors may participate.

b. By the shareholders, but shares owned by or voted under the control of a director who at the time is not a qualified director shall not be voted on the authorization.

Sec. 114. Section 490.854, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.854 Court-ordered indemnification and advance for expenses.

1. A person who is a party to a proceeding because the person is a director may apply for indemnification or an advance for expenses to the court conducting the proceeding or to another court of competent jurisdiction. After receipt of an application and after giving any notice it considers necessary, the court shall do any of the following:

a. Order indemnification if the court determines that the director is entitled to mandatory indemnification under section 490.852.

b. Order indemnification or advance for expenses if the court determines that the director is entitled to indemnification or advance for expenses pursuant to a provision authorized by section 490.858, subsection 1.

c. (1) Order indemnification or advance for expenses if the

court determines, in view of all the relevant circumstances, that it is fair and reasonable to do any of the following:

(a) Indemnify the director.

(b) Advance expenses to the director.

(2) The court shall order indemnification or advance for expenses, even if in the case of subparagraph (1), subparagraph division (a) or (b), the director has not met the relevant standard of conduct set forth in section 490.851, subsection 1, failed to comply with section 490.853 or was adjudged liable in a proceeding referred to in section 490.851, subsection 4, paragraph *"a"* or *"b"*. However, if the director was adjudged so liable the director's indemnification shall be limited to expenses incurred in connection with the proceeding.

2. If the court determines that the director is entitled to indemnification under subsection 1, paragraph *"a"*, or to indemnification or advance for expenses under subsection 1, paragraph *"b"*, it shall also order the corporation to pay the director's expenses incurred in connection with obtaining court-ordered indemnification or advance for expenses. If the court determines that the director is entitled to indemnification or advance for expenses under subsection 1, paragraph *"c"*, it may also order the corporation to pay the director's expenses to obtain court-ordered indemnification or advance for expenses.

Sec. 115. Section 490.855, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.855 Determination and authorization of indemnification.

1. A corporation shall not indemnify a director under section 490.851 unless authorized for a specific proceeding after a determination has been made that indemnification is permissible because the director has met the relevant standard of conduct set forth in section 490.851.

2. The determination shall be made by any of the following:

a. If there are two or more qualified directors, by the board of directors by a majority vote of all the qualified

directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more qualified directors appointed by such a vote.

b. By special legal counsel selected in one of the following manners:

(1) In the manner prescribed in paragraph *"a"*.

(2) If there are fewer than two qualified directors, selected by the board of directors, in which selection directors who are not qualified directors may participate.

c. By the shareholders, but shares owned by or voted under the control of a director who at the time is not a qualified director shall not be voted on the determination.

3. Authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than two qualified directors or if the determination is made by special legal counsel, authorization of indemnification shall be made by those entitled to select special legal counsel under subsection 2, paragraph *"b"*, subparagraph (2).

Sec. 116. Section 490.856, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.856 Indemnification of officers.

1. A corporation may indemnify and advance expenses under this part to an officer who is a party to a proceeding because the person is an officer, according to all of the following:

a. To the same extent as a director.

b. If the person is an officer but not a director, to such further extent as may be provided by the articles of incorporation or bylaws, or by a resolution adopted or a contract approved by the board of directors or shareholders, except for any of the following:

(1) Liability in connection with a proceeding by or in the right of the corporation other than for expenses incurred in connection with the proceeding.

(2) Liability arising out of conduct that constitutes any

of the following:

(a) Receipt by the officer of a financial benefit to which the officer is not entitled.

(b) An intentional infliction of harm on the corporation or the shareholders.

(c) An intentional violation of criminal law.

2. The provisions of subsection 1, paragraph "b", shall apply to an officer who is also a director, if the officer is made a party to the proceeding based on an act or omission solely as an officer.

3. An officer who is not a director is entitled to mandatory indemnification under section 490.852, and may apply to a court under section 490.854 for indemnification or an advance for expenses, in each case to the same extent to which a director may be entitled to indemnification or advance for expenses under those sections.

Sec. 117. Section 490.857, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.857 Insurance.

A corporation may purchase and maintain insurance on behalf of an individual who is a director or officer of the corporation, or who, while a director or officer of the corporation, serves at the corporation's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, or a joint venture, trust, employee benefit plan, or other entity, against liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director or officer, regardless of whether the corporation would have power to indemnify or advance expenses to the individual against the same liability under this part.

Sec. 118. Section 490.858, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.858 Variation by corporate action — application of part.

1. A corporation may, by a provision in its articles

of incorporation or bylaws or in a resolution adopted or a contract approved by the board of directors or shareholders, obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification in accordance with section 490.851 or advance funds to pay for or reimburse expenses in accordance with section 490.853. Any such obligatory provision shall be deemed to satisfy the requirements for authorization referred to in section 490.853, subsection 3, and in section 490.855, subsection 3. Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law shall be deemed to obligate the corporation to advance funds to pay for or reimburse expenses in accordance with section 490.853 to the fullest extent permitted by law, unless the provision expressly provides otherwise.

2. A right of indemnification or to advances for expenses created by this part or under subsection 1 and in effect at the time of an act or omission shall not be eliminated or impaired with respect to such act or omission by an amendment of the articles of incorporation or bylaws or a resolution of the board of directors or shareholders, adopted after the occurrence of such act or omission, unless, in the case of a right created under subsection 1, the provision creating such right and in effect at the time of such act or omission explicitly authorizes such elimination or impairment after such act or omission has occurred.

3. Any provision pursuant to subsection 1 shall not obligate the corporation to indemnify or advance expenses to a director of a predecessor of the corporation, pertaining to conduct with respect to the predecessor, unless otherwise expressly provided. Any provision for indemnification or advance for expenses in the articles of incorporation, or bylaws, or a resolution of the board of directors or shareholders of a predecessor of the corporation in a merger or in a contract to which the predecessor is a party, existing at the time the

merger takes effect, shall be governed by section 490.1107, subsection 1, paragraph *"d"*.

4. Subject to subsection 2, a corporation may, by a provision in its articles of incorporation, limit any of the rights to indemnification or advance for expenses created by or pursuant to this part.

5. This part does not limit a corporation's power to pay or reimburse expenses incurred by a director or an officer in connection with appearing as a witness in a proceeding at a time when the director or officer is not a party.

6. This part does not limit a corporation's power to indemnify, advance expenses to, or provide or maintain insurance on behalf of an employee or agent.

Sec. 119. Section 490.860, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.860 Part definitions.

As used in this part, unless otherwise specified:

1. *"Control"*, including the term *"controlled by"*, means any of the following:

a. Having the power, directly or indirectly, to elect or remove a majority of the members of the board of directors or other governing body of an entity, whether through the ownership of voting shares or interests, by contract, or otherwise.

b. Being subject to a majority of the risk of loss from the entity's activities or entitled to receive a majority of the entity's residual returns.

2. *"Director's conflicting interest transaction"* means a transaction effected or proposed to be effected by the corporation, or by an entity controlled by the corporation, to which, or respecting which, any of the following applies:

a. To which, at the relevant time, the director is a party.

b. Respecting which, at the relevant time, the director had knowledge and a material financial interest known to the director.

c. Respecting which, at the relevant time, the director knew that a related person was a party or had a material financial interest.

3. *"Fair to the corporation"* means, for purposes of section 490.861, subsection 2, paragraph *"c"*, that the transaction as a whole was beneficial to the corporation, taking into appropriate account whether it was all of the following:

a. Fair in terms of the director's dealings with the corporation.

b. Comparable to what might have been obtainable in an arm's length transaction, given the consideration paid or received by the corporation.

4. *"Material financial interest"* means a financial interest in a transaction that would reasonably be expected to impair the objectivity of the director's judgment when participating in action on the authorization of the transaction.

5. *"Related person"* means any of the following:

a. The individual's spouse.

b. A child, stepchild, grandchild, parent, stepparent, grandparent, sibling, stepsibling, half sibling, aunt, uncle, niece, or nephew, or spouse of any such person, of the individual or of the individual's spouse.

c. A natural person living in the same home as the individual.

d. An entity, other than the corporation or an entity controlled by the corporation, controlled by the individual or any person specified in this subsection.

e. Any of the following:

(1) A domestic or foreign business or nonprofit corporation, other than the corporation or an entity controlled by the corporation, of which the individual is a director.

(2) A domestic or foreign unincorporated entity of which the individual is a general partner or a member of the governing body.

(3) A domestic or foreign individual, trust, or estate

for whom or of which the individual is a trustee, guardian, personal representative, or like fiduciary.

f. A person that is, or an entity that is controlled by, an employer of the individual.

6. *"Relevant time"* means the following:

a. The time at which directors' action respecting the transaction is taken in compliance with section 490.862.

b. If the transaction is not brought before the board of directors or a board committee for action under section 490.862, at the time the corporation or an entity controlled by the corporation becomes legally obligated to consummate the transaction.

7. *"Required disclosure"* means disclosure of all of the following:

a. The existence and nature of the director's conflicting interest.

b. All facts known to the director respecting the subject matter of the transaction that a director free of such conflicting interest would reasonably believe to be material in deciding whether to proceed with the transaction.

Sec. 120. Section 490.861, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.861 Judicial action.

1. A transaction effected or proposed to be effected by the corporation, or by an entity controlled by the corporation, shall not be the subject of equitable relief, or give rise to an award of damages or other sanctions against a director of the corporation, in a proceeding by a shareholder or by or in the right of the corporation, on the ground that the director has an interest respecting the transaction, if it is not a director's conflicting interest transaction.

2. A director's conflicting interest transaction shall not be the subject of equitable relief, or give rise to an award of damages or other sanctions against a director of the corporation, in a proceeding by a shareholder or by or in the

right of the corporation, on the ground that the director has an interest respecting the transaction, if any of the following apply:

a. Directors' action respecting the transaction was taken in compliance with section 490.862 at any time.

b. Shareholders' action respecting the transaction was taken in compliance with section 490.863 at any time.

c. The transaction, judged according to the circumstances at the relevant time, is established to have been fair to the corporation.

Sec. 121. Section 490.862, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.862 Directors' action.

1. Directors' action respecting a director's conflicting interest transaction is effective for purposes of section 490.861, subsection 2, paragraph "*a*", if the transaction has been authorized by the affirmative vote of a majority, but no fewer than two, of the qualified directors who voted on the transaction, after required disclosure by the conflicted director of information not already known by such qualified directors, or after modified disclosure in compliance with subsection 2, provided that all of the following apply:

a. The qualified directors have deliberated and voted outside the presence of and without the participation by any other director.

b. Where the action has been taken by a board committee, all members of the committee were qualified directors, and any of the following apply:

(1) The committee was composed of all the qualified directors on the board of directors.

(2) The members of the committee were appointed by the affirmative vote of a majority of the qualified directors on the board of directors.

2. Notwithstanding subsection 1, when a transaction is a director's conflicting interest transaction only because a

related person described in section 490.860, subsection 5, paragraph "e" or "f", is a party to or has a material financial interest in the transaction, the conflicted director is not obligated to make required disclosure to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule, provided that the conflicted director discloses to the qualified directors voting on the transaction all of the following:

a. All information required to be disclosed that is not so violative.

b. The existence and nature of the director's conflicting interest.

c. The nature of the conflicted director's duty not to disclose the confidential information.

3. A majority, but no fewer than two, of all the qualified directors on the board of directors, or on the board committee, constitutes a quorum for purposes of action that complies with this section.

4. Where directors' action under this section does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by reason of the articles of incorporation or bylaws, or a provision of law, independent action to satisfy those authorization requirements shall be taken by the board of directors or a board committee, in which action directors who are not qualified directors may participate.

Sec. 122. Section 490.863, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.863 Shareholders' action.

1. *a.* Shareholders' action respecting a director's conflicting interest transaction is effective for purposes of section 490.861, subsection 2, paragraph "b", if a majority of the votes cast by the holders of all qualified shares are in favor of the transaction after all of the following occur:

(1) Notice to shareholders describing the action to be taken respecting the transaction.

(2) Provision to the corporation of the information referred to in subsection 2.

(3) Communication to the shareholders entitled to vote on the transaction of the information that is the subject of required disclosure, to the extent the information is not known by them.

b. In the case of shareholders' action at a meeting, the shareholders entitled to vote shall be determined as of the record date for notice of the meeting.

2. A director who has a conflicting interest respecting the transaction shall, before the shareholders' vote, inform the secretary or other officer or agent of the corporation authorized to tabulate votes, in writing, of the number of shares that the director knows are not qualified shares under subsection 3, and the identity of the holders of those shares.

3. As used in this section:

a. *"Holder"* means and *"held by"* refers to shares held by a record shareholder, a beneficial shareholder, or an unrestricted voting trust beneficial owner.

b. *"Qualified shares"* means all shares entitled to be voted with respect to the transaction except for shares that the secretary or other officer or agent of the corporation authorized to tabulate votes either knows, or under subsection 2 is notified, are held by any of the following:

(1) A director who has a conflicting interest respecting the transaction.

(2) A related person of the director, excluding a person described in section 490.860, subsection 5, paragraph *"f"*.

4. A majority of the votes entitled to be cast by the holders of all qualified shares constitutes a quorum for purposes of compliance with this section. Subject to the provisions of subsection 5, shareholders' action that otherwise complies with this section is not affected by the presence of

holders, or by the voting, of shares that are not qualified shares.

5. If a shareholders' vote does not comply with subsection 1 solely because of a director's failure to comply with subsection 2, and if the director establishes that the failure was not intended to influence and did not in fact determine the outcome of the vote, the court may take such action respecting the transaction and the director, and may give such effect, if any, to the shareholders' vote, as the court considers appropriate in the circumstances.

6. Where shareholders' action under this section does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by reason of the articles of incorporation or bylaws, or a provision of law, independent action to satisfy those authorization requirements shall be taken by the shareholders, in which action shares that are not qualified shares may participate.

Sec. 123. Section 490.870, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.870 Business opportunities.

1. If a director or officer pursues or takes advantage of a business opportunity directly, or indirectly through or on behalf of another person, that action shall not be the subject of equitable relief, or give rise to an award of damages or other sanctions against the director, officer, or other person, in a proceeding by or in the right of the corporation on the ground that the opportunity should have first been offered to the corporation, if any of the following apply:

a. Before the director, officer, or other person becomes legally obligated respecting the opportunity, the director or officer brings it to the attention of the corporation and any of the following apply:

(1) Action by qualified directors disclaiming the corporation's interest in the opportunity is taken in compliance with the same procedures as are set forth in section

490.862.

(2) Shareholders' action disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in section 490.863, in either case as if the decision being made concerned a director's conflicting interest transaction; except that, rather than making required disclosure as defined in section 490.860, the director or officer shall have made prior disclosure to those acting on behalf of the corporation of all material facts concerning the business opportunity known to the director or officer.

b. The duty to offer the corporation the business opportunity has been limited or eliminated pursuant to a provision of the articles of incorporation adopted, and where required, made effective by action of qualified directors, in accordance with section 490.202, subsection 2, paragraph *"f"*.

2. In any proceeding seeking equitable relief or other remedies based upon an alleged improper pursuit or taking advantage of a business opportunity by a director or officer, directly, or indirectly through or on behalf of another person, the fact that the director or officer did not employ the procedure described in subsection 1, paragraph *"a"*, subparagraph (1) or (2), before pursuing or taking advantage of the opportunity shall not create an implication that the opportunity should have been first presented to the corporation or alter the burden of proof otherwise applicable to establish that the director or officer breached a duty to the corporation in the circumstances.

Sec. 124. Section 490.901, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.901 Subchapter definitions.

1. As used in this subchapter:

a. "Conversion" means a transaction pursuant to part C.

b. "Converted entity" means the converting entity as it continues in existence after a conversion.

c. "Converting entity" means the domestic corporation or

eligible entity that approves a plan of conversion pursuant to section 490.932 or the foreign eligible entity that approves a conversion pursuant to the organic law of the eligible entity.

d. "Domesticated corporation" means the domesticating corporation as it continues in existence after a domestication.

e. "Domesticating corporation" means the domestic corporation that approves a plan of domestication pursuant to section 490.921 or the foreign corporation that approves a domestication pursuant to the organic law of the foreign corporation.

f. "Domestication" means a transaction pursuant to part B.

g. "Protected agreement" means any of the following:

(1) A document evidencing indebtedness of a domestic corporation or eligible entity and any related agreement in effect immediately before the enactment date.

(2) An agreement that is binding on a domestic corporation or eligible entity immediately before the enactment date.

(3) The articles of incorporation or bylaws of a domestic corporation or the organic rules of a domestic eligible entity, in each case in effect immediately before the enactment date.

(4) An agreement that is binding on any of the shareholders, members, interest holders, directors, or other governors of a domestic corporation or eligible entity, in their capacities as such, immediately before the enactment date.

2. As used in subsection 1 and sections 490.920 and 490.930, *"enactment date"* means July 1, 2021, as it relates to domestications and January 1, 2009, as it relates to conversions.

Sec. 125. Section 490.902, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.902 Excluded transactions.

This subchapter shall not be used to effect a transaction that converts a company organized on the mutual principle to one organized on the basis of share ownership.

Sec. 126. NEW SECTION. **490.903 Required approvals.**

If a domestic or foreign corporation or eligible entity shall not be a party to a merger without the approval of the superintendent of banking, the commissioner of insurance, or the Iowa utility board, and the applicable statutes or regulations do not specifically deal with transactions under this subchapter but do require such approval for mergers, a corporation or eligible entity shall not be a party to a transaction under this subchapter without the prior approval of that agency or official.

Sec. 127. NEW SECTION. **490.904 Relationship of subchapter to other laws.**

A transaction effected under this subchapter shall not create or impair a right, duty, or obligation of a person under the statutory law of this state other than this subchapter relating to a change in control, business combination, control-share acquisition, or similar transaction involving a domesticating or converting domestic corporation, unless the approval of the plan of domestication or conversion is by a vote of the shareholders or the board of directors which would be sufficient to create or impair the right, duty, or obligation directly under that law.

Sec. 128. NEW SECTION. **490.905 Foreign insurance companies becoming domestic.**

1. The secretary of state, upon a corporation complying with this section and upon the filing of articles of incorporation and upon receipt of the fees as provided in this chapter, shall issue an acknowledgment of receipt of document as of the date of the filing of the articles of incorporation with the secretary of state. The acknowledgment of receipt of document shall state on its face that it is issued in accordance with this section. The secretary of state shall then notify the appropriate officer of the state or country of the corporation's last domicile that the corporation is now a domestic corporation domiciled in this state. This section applies to life insurance companies, and to insurance companies

doing business under chapter 515.

2. A corporation becoming domiciled in this state under subsection 1 shall not be required to comply with any other requirements under this subchapter.

Sec. 129. NEW SECTION. **490.920 Domestication.**

1. By complying with the provisions of this part applicable to foreign corporations, a foreign corporation may become a domestic corporation if the domestication is permitted by the organic law of the foreign corporation.

2. By complying with the provisions of this part, a domestic corporation may become a foreign corporation pursuant to a plan of domestication if the domestication is permitted by the organic law of the foreign corporation.

3. The plan of domestication must include all of the following:

a. The name of the domesticating corporation.

b. The name and jurisdiction of formation of the domesticated corporation.

c. The manner and basis of reclassifying the shares of the domesticating corporation into shares or other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing.

d. The proposed articles of incorporation and bylaws of the domesticated corporation.

e. The other terms and conditions of the domestication.

4. In addition to the requirements of subsection 3, a plan of domestication may contain any other provision not prohibited by law.

5. The terms of a plan of domestication may be made dependent upon facts objectively ascertainable outside the plan in accordance with section 490.120, subsection 11.

6. If a protected agreement of a domestic domesticating corporation in effect immediately before the domestication becomes effective contains a provision applying to a merger of the corporation and the agreement does not refer to a

domestication of the corporation, the provision applies to a domestication of the corporation as if the domestication were a merger until such time as the provision is first amended after the enactment date.

Sec. 130. NEW SECTION. **490.921 Action on a plan of domestication.**

In the case of a domestication of a domestic corporation into a foreign jurisdiction, the plan of domestication shall be adopted in the following manner:

1. The plan of domestication shall first be adopted by the board of directors.

2. *a.* The plan of domestication shall then be approved by the shareholders. In submitting the plan of domestication to the shareholders for approval, the board of directors shall recommend that the shareholders approve the plan, unless any of the following applies:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation.

(2) Section 490.826 applies.

b. If paragraph "*a*", subparagraph (1) or (2) applies, the board shall inform the shareholders of the basis for its so proceeding.

3. The board of directors may set conditions for approval of the plan of domestication by the shareholders or the effectiveness of the plan of domestication.

4. If the approval of the shareholders is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the plan of domestication is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the plan of domestication and must contain or be accompanied by a copy or summary of the plan. The notice must include or be accompanied by a copy of the articles of incorporation

and the bylaws as they will be in effect immediately after the domestication.

5. Unless the articles of incorporation, bylaws, or the board of directors acting pursuant to subsection 3, require a greater vote or a greater quorum, approval of the plan of domestication requires all of the following:

a. The approval of the shareholders at a meeting at which a quorum exists consisting of a majority of the votes entitled to be cast on the plan.

b. Except as provided in subsection 6, the approval of each class or series of shares voting as a separate voting group at a meeting at which a quorum of the voting group exists consisting of a majority of the votes entitled to be cast on the plan by that voting group.

6. The articles of incorporation may expressly limit or eliminate the separate voting rights provided in subsection 5, paragraph *"b"*, as to any class or series of shares, except when the articles of incorporation of the foreign corporation resulting from the domestication include what would be in effect an amendment that would entitle the class or series to vote as a separate group under section 490.1004 if it were a proposed amendment of the articles of incorporation of the domestic domesticating corporation.

7. If as a result of a domestication one or more shareholders of a domestic domesticating corporation would become subject to interest holder liability, approval of the plan of domestication shall require the signing in connection with the domestication, by each such shareholder, of a separate written consent to become subject to such interest holder liability, unless in the case of a shareholder that already has interest holder liability with respect to the domesticating corporation, the terms and conditions of the interest holder liability with respect to the domesticated corporation are substantially identical to those of the existing interest holder liability, other than for changes that eliminate or

reduce such interest holder liability.

Sec. 131. NEW SECTION. **490.922 Articles of domestication — effectiveness.**

1. After a plan of domestication of a domestic corporation has been adopted and approved as required by this chapter, or a foreign corporation that is the domesticating corporation has approved a domestication as required under its organic law, articles of domestication shall be signed by the domesticating corporation. The articles must set forth all of the following:

a. The name of the domesticating corporation and its jurisdiction of formation.

b. The name and jurisdiction of formation of the domesticated corporation.

c. If the domesticating corporation is a domestic corporation, a statement that the plan of domestication was approved in accordance with this subchapter or, if the domesticating corporation is a foreign corporation, a statement that the domestication was approved in accordance with its organic law.

2. If the domesticated corporation is a domestic corporation, the articles of domestication must attach articles of incorporation of the domesticated corporation that satisfy the requirements of section 490.202. Provisions that would not be required to be included in restated articles of incorporation may be omitted from the articles of incorporation attached to the articles of domestication.

3. The articles of domestication shall be delivered to the secretary of state for filing, and shall take effect at the effective date determined in accordance with section 490.123.

4. If the domesticated corporation is a domestic corporation, the domestication becomes effective when the articles of domestication are effective. If the domesticated corporation is a foreign corporation, the domestication becomes effective on the later of the following:

a. The date and time provided by the organic law of the

domesticated corporation.

b. When the articles of domestication are effective.

5. If the domesticating corporation is a foreign corporation that is registered to do business in this state under subchapter XV, its registration statement shall be canceled automatically when the domestication becomes effective.

Sec. 132. NEW SECTION. **490.923 Amendment of plan of domestication — abandonment.**

1. A plan of domestication of a domestic corporation may be amended by any of the following manners:

a. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

b. In the manner provided in the plan, except that a shareholder that was entitled to vote on or consent to approval of the plan is entitled to vote on or consent to any amendment of the plan that will change any of the following:

(1) The amount or kind of shares or other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, to be received by any of the shareholders of the domesticating corporation under the plan.

(2) The articles of incorporation or bylaws of the domesticated corporation that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the shareholders of the domesticated corporation under its organic law or its proposed articles of incorporation or bylaws as set forth in the plan.

(3) Any of the other terms or conditions of the plan, if the change would adversely affect the shareholder in any material respect.

2. After a plan of domestication has been adopted and approved by a domestic corporation as required by this part, and before the articles of domestication have become effective, the plan may be abandoned by the corporation without action by

its shareholders in accordance with any procedures set forth in the plan or, if no such procedures are set forth in the plan, in the manner determined by the board of directors.

3. If a domestication is abandoned after the articles of domestication have been delivered to the secretary of state for filing but before the articles of domestication have become effective, articles of abandonment, signed by the domesticating corporation, must be delivered to the secretary of state for filing before the articles of domestication become effective. The articles of abandonment take effect upon filing, and the domestication shall be deemed abandoned and shall not become effective. The articles of abandonment must contain all of the following:

a. The name of the domesticating corporation.

b. The date on which the articles of domestication were filed by the secretary of state.

c. A statement that the domestication has been abandoned in accordance with this section.

Sec. 133. NEW SECTION. **490.924 Effect of domestication.**

1. When a domestication becomes effective all of the following apply:

a. All property owned by, and every contract right possessed by, the domesticating corporation are the property and contract rights of the domesticated corporation without transfer, reversion, or impairment.

b. All debts, obligations, and other liabilities of the domesticating corporation are the debts, obligations, and other liabilities of the domesticated corporation.

c. The name of the domesticated corporation may but need not be substituted for the name of the domesticating corporation in any pending proceeding.

d. The articles of incorporation and bylaws of the domesticated corporation become effective.

e. The shares of the domesticating corporation are reclassified into shares or other securities, obligations,

rights to acquire shares or other securities, cash, or other property in accordance with the terms of the domestication, and the shareholders of the domesticating corporation are entitled only to the rights provided to them by those terms and to any appraisal rights they may have under the organic law of the domesticating corporation.

f. The domesticated corporation is all of the following:

(1) Incorporated under and subject to the organic law of the domesticated corporation.

(2) The same corporation without interruption as the domesticating corporation.

(3) Deemed to have been incorporated on the date the domesticating corporation was originally incorporated.

2. When a domestication of a domestic corporation into a foreign jurisdiction becomes effective, the domesticated corporation is deemed to have done all of the following:

a. Appointed the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders who exercise appraisal rights in connection with the domestication.

b. Agreed that it will promptly pay the amount, if any, to which such shareholders are entitled under subchapter XIII.

3. Except as otherwise provided in the organic law or organic rules of a domesticating foreign corporation, the interest holder liability of a shareholder in a foreign corporation that is domesticated into this state who had interest holder liability in respect of such domesticating corporation before the domestication becomes effective shall be as follows:

a. The domestication does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the domestication becomes effective.

b. The provisions of the organic law of the domesticating corporation shall continue to apply to the collection or

discharge of any interest holder liabilities preserved by paragraph "a", as if the domestication had not occurred.

c. The shareholder shall have such rights of contribution from other persons as are provided by the organic law of the domesticating corporation with respect to any interest holder liabilities preserved by paragraph "a", as if the domestication had not occurred.

d. The shareholder shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that are incurred after the domestication becomes effective.

4. A shareholder who becomes subject to interest holder liability in respect of the domesticated corporation as a result of the domestication shall have such interest holder liability only in respect of interest holder liabilities that arise after the domestication becomes effective.

5. A domestication does not constitute or cause the dissolution of the domesticating corporation.

6. Property held for charitable purposes under the laws of this state by a domestic or foreign corporation immediately before a domestication shall not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred except and to the extent permitted by or pursuant to the laws of this state addressing cy pres or dealing with nondiversion of charitable assets.

7. A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance which is made to the domesticating corporation and which takes effect or remains payable after the domestication inures to the domesticated corporation.

8. A trust obligation that would govern property if transferred to the domesticating corporation applies to property that is transferred to the domesticated corporation after the domestication takes effect.

Sec. 134. NEW SECTION. **490.930 Conversion.**

1. By complying with this subchapter, a domestic corporation may become any of the following:

a. A domestic eligible entity.

b. A foreign eligible entity if the conversion is permitted by the organic law of the foreign entity.

2. By complying with this part and applicable provisions of its organic law, a domestic eligible entity may become a domestic corporation. If procedures for the approval of a conversion are not provided by the organic law or organic rules of a domestic eligible entity, the conversion shall be adopted and approved in the same manner as a merger of that eligible entity. If the organic law or organic rules of a domestic eligible entity do not provide procedures for the approval of either a conversion or a merger, a plan of conversion may nonetheless be adopted and approved by the unanimous consent of all the interest holders of such eligible entity. In either such case, the conversion thereafter may be effected as provided in the other provisions of this part; and for purposes of applying this subchapter in such a case all of the following apply:

a. The eligible entity, its members or interest holders, eligible interests and organic rules taken together, shall be deemed to be a domestic business corporation, shareholders, shares and articles of incorporation, respectively and vice versa, as the context may require.

b. If the business and affairs of the eligible entity are managed by a person or persons that are not identical to the members or interest holders, that person or persons shall be deemed to be the board of directors.

3. By complying with the provisions of this part applicable to foreign entities, a foreign eligible entity may become a domestic corporation if the organic law of the foreign eligible entity permits it to become a business corporation in another jurisdiction.

4. If a protected agreement of a domestic converting corporation in effect immediately before the conversion becomes effective contains a provision applying to a merger of the corporation that is a converting entity and the agreement does not refer to a conversion of the corporation, the provision applies to a conversion of the corporation as if the conversion were a merger, until such time as the provision is first amended after the enactment date.

Sec. 135. NEW SECTION. **490.931 Plan of conversion.**

1. A domestic corporation may convert to a domestic or foreign eligible entity under this part by approving a plan of conversion. The plan of conversion must include all of the following:

a. The name of the converting corporation.

b. The name, jurisdiction of formation, and type of entity of the converted entity.

c. The manner and basis of converting the shares of the domestic corporation into eligible interests or other securities, obligations, rights to acquire eligible interests or other securities, cash, other property, or any combination of the foregoing.

d. The other terms and conditions of the conversion.

e. The full text, as it will be in effect immediately after the conversion becomes effective, of the organic rules of the converted entity which are to be in writing.

2. In addition to the requirements of subsection 1, a plan of conversion may contain any other provision not prohibited by law.

3. The terms of a plan of conversion may be made dependent upon facts objectively ascertainable outside the plan in accordance with section 490.120, subsection 11.

Sec. 136. NEW SECTION. **490.932 Action on a plan of conversion.**

In the case of a conversion of a domestic corporation to a domestic or foreign eligible entity, the plan of conversion

shall be adopted in the following manner:

1. The plan of conversion shall first be adopted by the board of directors.

2. *a.* The plan of conversion shall then be approved by the shareholders. In submitting the plan of conversion to the shareholders for their approval, the board of directors must recommend that the shareholders approve the plan, unless any of the following applies:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation.

(2) Section 490.826 applies.

b. If paragraph "*a*", subparagraph (1) or (2) applies, the board of directors shall inform the shareholders of the basis for its so proceeding.

3. The board of directors may set conditions for approval of the plan of conversion by the shareholders or the effectiveness of the plan of conversion.

4. If the approval of the shareholders is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the plan of conversion is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the plan of conversion and must contain or be accompanied by a copy or summary of the plan. The notice must include or be accompanied by a copy of the organic rules of the converted entity which are to be in writing as they will be in effect immediately after the conversion.

5. Unless the articles of incorporation, bylaws, or the board of directors acting pursuant to subsection 3, require a greater vote or a greater quorum, approval of the plan of conversion requires all of the following:

a. The approval of the shareholders at a meeting at which a quorum exists consisting of a majority of the votes entitled

to be cast on the plan.

b. Except as provided in subsection 6, the approval of each class or series of shares voting as a separate voting group at a meeting at which a quorum of the voting group exists consisting of a majority of the votes entitled to be cast on the plan by that voting group.

6. If as a result of the conversion one or more shareholders of the converting domestic corporation would become subject to interest holder liability, approval of the plan of conversion shall require the signing in connection with the transaction, by each such shareholder, of a separate written consent to become subject to such interest holder liability.

Sec. 137. NEW SECTION. **490.933 Articles of conversion — effectiveness.**

1. Articles of conversion shall be signed by the converting entity after either a plan of conversion of a domestic corporation has been adopted and approved as required by this chapter or a domestic or foreign eligible entity that is the converting entity has approved a conversion as required under its organic law. The articles of conversion must do all of the following:

a. State the name, jurisdiction of formation, and type of entity of the converting entity.

b. State the name, jurisdiction of formation, and type of entity of the converted entity.

c. (1) If the converting entity is a domestic corporation, state that the plan of conversion was approved in accordance with this part.

(2) If the converting entity is an eligible entity, state that the conversion was approved by the eligible entity in accordance with its organic law.

(3) If the converting entity is a domestic eligible entity the organic law of which does not provide for approval of the conversion, state that the conversion was approved by the domestic eligible entity in accordance with this part.

d. (1) If the converted entity is a domestic business corporation, or a domestic nonprofit corporation or filing entity, have attached the public organic record of the converted entity, except that provisions that would not be required to be included in a restated public organic record may be omitted.

(2) If the converted entity is a domestic limited liability partnership, have attached the filing required to become a limited liability partnership.

2. If the converted entity is a domestic corporation, its articles of incorporation must satisfy the requirements of section 490.202, except that provisions that would not be required to be included in restated articles of incorporation may be omitted from the articles of incorporation. If the converted entity is a domestic eligible entity, its public organic record, if any, must satisfy the requirements of the organic law of this state, except that the public organic record does not need to be signed.

3. The articles of conversion shall be delivered to the secretary of state for filing, and shall take effect at the effective date determined in accordance with section 490.123.

4. If a converted entity is a domestic entity, the conversion becomes effective when the articles of conversion are effective. With respect to a conversion in which the converted entity is a foreign eligible entity, the conversion itself shall become effective at the later of the following:

a. The date and time provided by the organic law of that eligible entity.

b. When the articles of conversion become effective.

5. Articles of conversion under this section may be combined with any required conversion filing under the organic law of a domestic eligible entity that is the converting entity or converted entity if the combined filing satisfies the requirements of both this section and the other organic law.

6. If the converting entity is a foreign eligible entity

that is registered to do business in this state under a provision of law similar to subchapter XV, its registration statement or other type of foreign qualification shall be canceled automatically on the effective date of its conversion.

Sec. 138. NEW SECTION. **490.934 Amendment of plan of conversion — abandonment.**

1. A plan of conversion of a converting entity that is a domestic corporation may be amended in any of the following manners:

a. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

b. In the manner provided in the plan, except that shareholders that were entitled to vote on or consent to approval of the plan are entitled to vote on or consent to any amendment of the plan that will change any of the following:

(1) The amount or kind of eligible interests or other securities, obligations, rights to acquire eligible interests or other securities, cash, other property, or any combination of the foregoing, to be received by any of the shareholders of the converting corporation under the plan.

(2) The organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the eligible interest holders of the converted entity under its organic law or organic rules.

(3) Any other terms or conditions of the plan, if the change would adversely affect such shareholders in any material respect.

2. After a plan of conversion has been approved by a converting entity that is a domestic corporation in the manner required by this part and before the articles of conversion become effective, the plan may be abandoned by the corporation without action by its shareholders in accordance with any procedures set forth in the plan or, if no such procedures are set forth in the plan, in the manner determined by the board of

directors.

3. If a conversion is abandoned after the articles of conversion have been delivered to the secretary of state for filing and before the articles of conversion become effective, articles of abandonment, signed by the converting entity, must be delivered to the secretary of state for filing before the articles of conversion become effective. The articles of abandonment take effect on filing, and the conversion is abandoned and does not become effective. The articles of abandonment must contain all of the following:

a. The name of the converting entity.

b. The date on which the articles of conversion were filed by the secretary of state.

c. A statement that the conversion has been abandoned in accordance with this section.

Sec. 139. NEW SECTION. **490.935 Effect of conversion.**

1. When a conversion becomes effective all of the following shall apply:

a. All property owned by, and every contract right possessed by, the converting entity remain the property and contract rights of the converted entity without transfer, reversion, or impairment.

b. All debts, obligations, and other liabilities of the converting entity remain the debts, obligations, and other liabilities of the converted entity.

c. The name of the converted entity may but need not be substituted for the name of the converting entity in any pending action or proceeding.

d. If the converted entity is a filing entity or a domestic business corporation or a domestic or foreign nonprofit corporation, its public organic record and its private organic rules become effective.

e. If the converted entity is a nonfiling entity, its private organic rules become effective.

f. If the converted entity is a limited liability

partnership, the filing required to become a limited liability partnership and its private organic rules become effective.

g. The shares or eligible interests of the converting entity are reclassified into shares, eligible interests or other securities, obligations, rights to acquire shares, eligible interests or other securities, cash, or other property in accordance with the terms of the conversion, and the shareholders or interest holders of the converting entity are entitled only to the rights provided to them by those terms and to any appraisal rights they may have under the organic law of the converting entity.

h. The converted entity is all of the following:

(1) Incorporated or organized under and subject to the organic law of the converted entity.

(2) The same entity without interruption as the converting entity.

(3) Deemed to have been incorporated or otherwise organized on the date that the converting entity was originally incorporated or organized.

2. When a conversion of a domestic corporation to a foreign eligible entity becomes effective, the converted entity is deemed to have done all of the following:

a. Appointed the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders who exercise appraisal rights in connection with the conversion.

b. Agreed that it will promptly pay the amount, if any, to which such shareholders are entitled under subchapter XIII.

3. Except as otherwise provided in the articles of incorporation of a domestic corporation or the organic law or organic rules of a foreign corporation or a domestic or foreign eligible entity, a shareholder or eligible interest holder who becomes subject to interest holder liability in respect of a domestic corporation or eligible entity as a result of the conversion shall have such interest holder liability only in

respect of interest holder liabilities that arise after the conversion becomes effective.

4. Except as otherwise provided in the organic law or the organic rules of the eligible entity, the interest holder liability of an interest holder in a converting eligible entity that converts to a domestic corporation who had interest holder liability in respect of such converting eligible entity before the conversion becomes effective shall be as follows:

a. The conversion does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the conversion became effective.

b. The provisions of the organic law of the eligible entity shall continue to apply to the collection or discharge of any interest holder liabilities preserved by paragraph "*a*", as if the conversion had not occurred.

c. The eligible interest holder shall have such rights of contribution from other persons as are provided by the organic law of the eligible entity with respect to any interest holder liabilities preserved by paragraph "*a*", as if the conversion had not occurred.

d. The eligible interest holder shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the conversion becomes effective.

5. A conversion does not require the converting entity to wind up its affairs and does not constitute or cause the dissolution or termination of the entity.

6. Property held for charitable purposes under the laws of this state by a corporation or a domestic or foreign eligible entity immediately before a conversion shall not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred except and to the extent permitted by or pursuant to the laws of this state addressing cy pres or dealing with nondiversion of charitable assets.

7. A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance which is made to the converting entity and which takes effect or remains payable after the conversion inures to the converted entity.

8. A trust obligation that would govern property if transferred to the converting entity applies to property that is transferred to the converted entity after the conversion takes effect.

Sec. 140. Section 490.1003, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1003 Amendment by board of directors and shareholders.

If a corporation has issued shares, an amendment to the articles of incorporation shall be adopted in the following manner:

1. The proposed amendment shall first be adopted by the board of directors.

2. *a.* Except as provided in sections 490.1005, 490.1007, and 490.1008, the amendment shall then be approved by the shareholders. In submitting the proposed amendment to the shareholders for approval, the board of directors shall recommend that the shareholders approve the amendment, unless any of the following applies:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation.

(2) Section 490.826 applies.

b. If paragraph "*a*", subparagraph (1) or (2) applies, the board must inform the shareholders of the basis for its so proceeding.

3. The board of directors may set conditions for the approval of the amendment by the shareholders or the effectiveness of the amendment.

4. If the amendment is required to be approved by the

shareholders, and the approval is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the amendment is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the amendment. The notice must contain or be accompanied by a copy of the amendment.

5. Unless the articles of incorporation or bylaws, or the board of directors acting pursuant to subsection 3, require a greater vote or a greater quorum, approval of the amendment requires the approval of the shareholders at a meeting at which a quorum consisting of a majority of the votes entitled to be cast on the amendment exists, and, if any class or series of shares is entitled to vote as a separate group on the amendment, except as provided in section 490.1004, subsection 3, the approval of each such separate voting group at a meeting at which a quorum of the voting group exists consisting of a majority of the votes entitled to be cast on the amendment by that voting group.

6. *a.* If as a result of an amendment of the articles of incorporation one or more shareholders of a domestic corporation would become subject to new interest holder liability, approval of the amendment requires the signing in connection with the amendment, by each such shareholder, of a separate written consent to become subject to such new interest holder liability.

b. Paragraph "*a*" does not apply in the case of a shareholder that already has interest holder liability and the terms and conditions of the new interest holder liability are any of the following:

(1) Substantially identical to those of the existing interest holder liability.

(2) Substantially identical to those of the existing interest holder liability, other than changes that eliminate or reduce such interest holder liability.

7. As used in subsection 6 and section 490.1009, "*new interest holder liability*" means interest holder liability of a person resulting from an amendment of the articles of incorporation if any of the following applies:

a. The person did not have interest holder liability before the amendment becomes effective.

b. The person had interest holder liability before the amendment becomes effective, the terms and conditions of which are changed when the amendment becomes effective.

Sec. 141. Section 490.1004, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1004 Voting on amendments by voting groups.

1. The holders of the outstanding shares of a class are entitled to vote as a separate voting group, if shareholder voting is otherwise required by this chapter, on a proposed amendment to the articles of incorporation if the amendment would do any of the following:

a. Effect an exchange or reclassification of all or part of the shares of the class into shares of another class.

b. Effect an exchange or reclassification, or create the right of exchange, of all or part of the shares of another class into shares of the class.

c. Change the rights, preferences, or limitations of all or part of the shares of the class.

d. Change the shares of all or part of the class into a different number of shares of the same class.

e. Create a new class of shares having rights or preferences with respect to distributions that are prior or superior to the shares of the class.

f. Increase the rights, preferences, or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions that are prior or superior to the shares of the class.

g. Limit or deny an existing preemptive right of all or part

of the shares of the class.

h. Cancel or otherwise affect rights to distributions that have accumulated but not yet been authorized on all or part of the shares of the class.

2. If a proposed amendment would affect a series of a class of shares in one or more of the ways described in subsection 1, the holders of shares of that series are entitled to vote as a separate voting group on the proposed amendment.

3. If a proposed amendment that entitles the holders of two or more classes or series of shares to vote as separate voting groups under this section would affect those two or more classes or series in the same or a substantially similar way, the holders of shares of all the classes or series so affected shall vote together as a single voting group on the proposed amendment, unless otherwise provided in the articles of incorporation or added as a condition by the board of directors pursuant to section 490.1003, subsection 3.

4. A class or series of shares is entitled to the voting rights granted by this section even if the articles of incorporation provide that the shares are nonvoting shares.

Sec. 142. Section 490.1006, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1006 Articles of amendment.

1. 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, the corporation shall deliver to the secretary of state, for filing, articles of amendment, which must set forth all of the following:

a. The name of the corporation.

b. The text of each amendment adopted, or the information required by section 490.120, subsection 11, paragraph *"e"*.

c. If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment, if not contained in

the amendment itself, which may be made dependent upon facts objectively ascertainable outside the articles of amendment in accordance with section 490.120, subsection 11, paragraph "e".

d. The date of each amendment's adoption.

e. For an amendment, the following:

(1) If it was adopted by the incorporators or board of directors without shareholder approval, a statement that the amendment was duly adopted by the incorporators or by the board of directors, as the case may be, and that shareholder approval was not required.

(2) If it required approval by the shareholders, a statement that the amendment was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation.

(3) If being filed pursuant to section 490.120, subsection 11, paragraph "e", a statement to that effect.

2. Articles of amendment shall take effect at the effective date determined in accordance with section 490.123.

Sec. 143. Section 490.1007, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1007 Restated articles of incorporation.

1. A corporation's board of directors may restate its articles of incorporation at any time, without shareholder approval, to consolidate all amendments into a single document.

2. If the restated articles include one or more new amendments that require shareholder approval, the amendments shall be adopted and approved as provided in section 490.1003.

3. A corporation that restates its articles of incorporation shall deliver to the secretary of state for filing articles of restatement setting forth all of the following:

a. The name of the corporation.

b. The text of the restated articles of incorporation.

c. A statement that the restated articles consolidate all

amendments into a single document.

d. If a new amendment is included in the restated articles, the statements required under section 490.1006 with respect to the new amendment.

4. Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to the articles of incorporation.

5. The secretary of state may certify restated articles of incorporation as the articles of incorporation currently in effect, without including the statements required by subsection 3, paragraph *"d"*.

Sec. 144. Section 490.1009, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1009 Effect of amendment.

1. 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, or the existing rights of persons other than the shareholders. An amendment changing a corporation's name does not affect a proceeding brought by or against the corporation in its former name.

2. A shareholder who becomes subject to new interest holder liability in respect of the corporation as a result of an amendment to the articles of incorporation shall have that new interest holder liability only in respect of interest holder liabilities that arise after the amendment becomes effective.

3. Except as otherwise provided in the articles of incorporation of the corporation, the interest holder liability of a shareholder who had interest holder liability in respect of the corporation before the amendment becomes effective and has new interest holder liability after the amendment becomes effective shall be as follows:

a. The amendment does not discharge that prior interest holder liability with respect to any interest holder

liabilities that arose before the amendment becomes effective.

b. The provisions of the articles of incorporation of the corporation relating to interest holder liability as in effect immediately prior to the amendment shall continue to apply to the collection or discharge of any interest holder liabilities preserved by paragraph "*a*", as if the amendment had not occurred.

c. The shareholder shall have such rights of contribution from other persons as are provided by the articles of incorporation relating to interest holder liability as in effect immediately prior to the amendment with respect to any interest holder liabilities preserved by paragraph "*a*", as if the amendment had not occurred.

d. The shareholder shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the amendment becomes effective.

Sec. 145. Section 490.1020, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1020 Authority to amend.

1. A corporation's shareholders may amend or repeal the corporation's bylaws.

2. A corporation's board of directors may amend or repeal the corporation's bylaws unless any of the following apply:

a. The articles of incorporation, section 490.1021, or, if applicable, section 490.1022, reserve that power exclusively to the shareholders in whole or part.

b. Except as provided in section 490.206, subsection 4, the shareholders in amending, repealing, or adopting a bylaw expressly provide that the board of directors shall not amend, repeal, or adopt that bylaw.

3. A shareholder of the corporation does not have a vested property right resulting from any provision in the bylaws.

Sec. 146. Section 490.1021, Code 2020, is amended by

striking the section and inserting in lieu thereof the following:

490.1021 Bylaw increasing quorum or voting requirement for directors.

1. A bylaw that increases a quorum or voting requirement for the board of directors or that requires a meeting of shareholders to be held at a place may be amended or repealed as follows:

a. If originally adopted by the shareholders, only by the shareholders, unless the bylaw otherwise provides.

b. If adopted by the board of directors, either by the shareholders or by the board of directors.

2. A bylaw adopted or amended by the shareholders that increases a quorum or voting requirement for the board of directors may provide that it can be amended or repealed only by a specified vote of either the shareholders or the board of directors.

3. Action by the board of directors under subsection 1 to amend or repeal a bylaw that changes a quorum or voting requirement for the board of directors shall meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

Sec. 147. NEW SECTION. **490.1022 Bylaw provisions relating to the election of directors.**

1. Unless the articles of incorporation specifically prohibit the adoption of a bylaw pursuant to this section, alter the vote specified in section 490.728, subsection 1, or provide for cumulative voting, a corporation may elect in its bylaws to be governed in the election of directors as follows:

a. Each vote entitled to be cast may be voted for or against up to that number of candidates that is equal to the number of directors to be elected, or a shareholder may indicate an abstention, but without cumulating the votes.

b. To be elected, a nominee shall have received a plurality

of the votes cast by holders of shares entitled to vote in the election at a meeting at which a quorum is present, provided that a nominee who is elected but receives more votes against than for election shall serve as a director for a term that shall terminate on the date that is the earlier of the following:

(1) (a) Ninety days from the date on which the voting results are determined pursuant to section 490.729, subsection 2, paragraph "e".

(b) The date on which an individual is selected by the board of directors to fill the office held by such director, which selection shall be deemed to constitute the filling of a vacancy by the board to which section 490.810 applies.

(2) Subject to subsection 1, paragraph "c", a nominee who is elected but receives more votes against than for election shall not serve as a director beyond the ninety-day period provided in subparagraph division (a).

c. The board of directors may select any qualified individual to fill the office held by a director who received more votes against than for election.

2. *a.* Subsection 1 does not apply to an election of directors by a voting group if any of the following applies:

(1) At the expiration of the time fixed under a provision requiring advance notification of director candidates.

(2) Absent such a provision, at a time fixed by the board of directors which is not more than fourteen days before notice is given of the meeting at which the election is to occur, there are more candidates for election by the voting group than the number of directors to be elected, one or more of whom are properly proposed by shareholders.

b. An individual shall not be considered a candidate for purposes of paragraph "a", if the board of directors determines before the notice of meeting is given that such individual's candidacy does not create a bona fide election contest.

3. A bylaw electing to be governed by this section may be

repealed under any of the following circumstances:

a. If originally adopted by the shareholders, only by the shareholders, unless the bylaw otherwise provides.

b. If adopted by the board of directors, by the board of directors or the shareholders.

Sec. 148. Section 490.1101, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1101 Subchapter definitions.

As used in this subchapter:

1. *"Acquired entity"* means the domestic or foreign corporation or eligible entity that will have all of one or more classes or series of its shares or eligible interests acquired in a share exchange.

2. *"Acquiring entity"* means the domestic or foreign corporation or eligible entity that will acquire all of one or more classes or series of shares or eligible interests of the acquired entity in a share exchange.

3. *"New interest holder liability"* means interest holder liability of a person, resulting from a merger or share exchange, that is any of the following:

a. In respect of an entity which is different from the entity in which the person held shares or eligible interests immediately before the merger or share exchange became effective.

b. In respect of the same entity as the one in which the person held shares or eligible interests immediately before the merger or share exchange became effective if any of the following apply:

(1) The person did not have interest holder liability immediately before the merger or share exchange became effective.

(2) The person had interest holder liability immediately before the merger or share exchange became effective, the terms and conditions of which were changed when the merger or share

exchange became effective.

4. *"Party to a merger"* means any domestic or foreign corporation or eligible entity that will merge under a plan of merger but does not include a survivor created by the merger.

5. *"Survivor"* in a merger means the domestic or foreign corporation or eligible entity into which one or more other corporations or eligible entities are merged.

Sec. 149. Section 490.1102, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1102 Merger.

1. By complying with this subchapter, all of the following apply:

a. One or more domestic business corporations may merge with one or more domestic or foreign business corporations or eligible entities pursuant to a plan of merger, resulting in a survivor.

b. Two or more foreign business corporations or domestic or foreign eligible entities may merge, resulting in a survivor that is a domestic business corporation created in the merger.

2. By complying with the provisions of this subchapter applicable to foreign entities, a foreign business corporation or a foreign eligible entity may be a party to a merger with a domestic business corporation, or may be created as the survivor in a merger in which a domestic business corporation is a party, but only if the merger is permitted by the organic law of the foreign business corporation or eligible entity.

3. If the organic law or organic rules of a domestic eligible entity do not provide procedures for the approval of a merger, a plan of merger may nonetheless be adopted and approved by the unanimous consent of all of the interest holders of such eligible entity, and the merger may thereafter by effected as provided in the other provisions of this subchapter; and for the purposes of applying this subchapter in such a case all of the following shall apply:

a. The eligible entity, its members or interest holders, eligible interests and articles of incorporation or other organic rules taken together shall be deemed to be a domestic business corporation, shareholders, shares and articles of incorporation, respectively and vice versa as the context may require.

b. If the business and affairs of the eligible entity are managed by a person or persons that are not identical to the members or interest holders, that group shall be deemed to be the board of directors.

4. The plan of merger must include all of the following:

a. As to each party to the merger, its name, jurisdiction of formation, and type of entity.

b. The survivor's name, jurisdiction of formation, and type of entity, and, if the survivor is to be created in the merger, a statement to that effect.

c. The terms and conditions of the merger.

d. The manner and basis of converting the shares of each merging domestic or foreign business corporation and eligible interests of each merging domestic or foreign eligible entity into shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property, or any combination of the foregoing.

e. The articles of incorporation of any domestic or foreign business or nonprofit corporation, or the public organic record of any domestic or foreign unincorporated entity, to be created by the merger, or if a new domestic or foreign business or nonprofit corporation or unincorporated entity is not to be created by the merger, any amendments to the survivor's articles of incorporation or other public organic record.

f. Any other provisions required by the laws under which any party to the merger is organized or by which it is governed, or by the articles of incorporation or organic rules of any such party.

5. In addition to the requirements of subsection 4, a plan of merger may contain any other provision not prohibited by law.

6. Terms of a plan of merger may be made dependent on facts objectively ascertainable outside the plan in accordance with section 490.120, subsection 11.

7. A plan of merger may be amended only with the consent of each party to the merger, except as provided in the plan. A domestic party to a merger may approve an amendment to a plan in any of the following manners:

a. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

b. In the manner provided in the plan, except that shareholders, members, or interest holders that were entitled to vote on or consent to approval of the plan are entitled to vote on or consent to any amendment of the plan that will change any of the following:

(1) The amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, or other property to be received under the plan by the shareholders, members, or interest holders of any party to the merger.

(2) The articles of incorporation of any domestic or foreign business or nonprofit corporation, or the organic rules of any unincorporated entity, that will be the survivor of the merger, except for changes permitted by section 490.1005 or by comparable provisions of the organic law of any such foreign corporation or domestic or foreign nonprofit corporation or unincorporated entity.

(3) Any of the other terms or conditions of the plan if the change would adversely affect such shareholders, members, or interest holders in any material respect.

Sec. 150. Section 490.1103, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1103 Share exchange.

1. By complying with this subchapter all of the following apply:

a. A domestic corporation may acquire all of the shares of one or more classes or series of shares of another domestic or foreign corporation, or all of the eligible interests of one or more classes or series of interests of a domestic or foreign eligible entity, in exchange for shares or other securities, eligible interests, obligations, rights to acquire shares or other securities or eligible interests, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange.

b. All of the shares of one or more classes or series of shares of a domestic corporation may be acquired by another domestic or foreign corporation or eligible entity, in exchange for shares or other securities, eligible interests, obligations, rights to acquire shares or other securities or eligible interests, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange.

2. A foreign corporation or eligible entity may be the acquired entity in a share exchange only if the share exchange is permitted by the organic law of that corporation or other entity.

3. If the organic law or organic rules of a domestic eligible entity do not provide procedures for the approval of a share exchange, a plan of share exchange may be adopted and approved, and the share exchange effected, in accordance with the procedures, if any, for a merger. If the organic law or organic rules of a domestic eligible entity do not provide procedures for the approval of either a share exchange or a merger, a plan of share exchange may nonetheless be adopted and approved by the unanimous consent of all of the interest holders of such eligible entity whose interests will be exchanged under the plan of share exchange, and the share exchange may thereafter be effected as provided in the other

provisions of this subchapter; and for purposes of applying this subchapter in such a case all of the following apply:

a. The eligible entity, its interest holders, interests, and articles of incorporation or other organic rules taken together shall be deemed to be a domestic business corporation, shareholders, shares and articles of incorporation, respectively and vice versa as the context may require.

b. If the business and affairs of the eligible entity are managed by a person or persons that are not identical to the members or interest holders, that person or those persons shall be deemed to be the board of directors.

4. The plan of share exchange must include all of the following:

a. The name of each domestic or foreign corporation or other eligible entity the shares or eligible interests of which will be acquired and the name of the domestic or foreign corporation or eligible entity that will acquire those shares or eligible interests.

b. The terms and conditions of the share exchange.

c. The manner and basis of exchanging shares of a domestic or foreign corporation or eligible interests in a domestic or foreign eligible entity the shares or eligible interests of which will be acquired under the share exchange for shares or other securities, eligible interests, obligations, rights to acquire shares, other securities, or eligible interests, cash, other property, or any combination of the foregoing.

d. Any other provisions required by the organic law governing the acquired entity or its articles of incorporation or organic rules.

5. The terms of a plan of share exchange may be made dependent on facts objectively ascertainable outside the plan in accordance with section 490.120, subsection 11.

6. A plan of share exchange may be amended only with the consent of each party to the share exchange, except as provided in the plan. A domestic entity may approve an amendment to a

plan in any of the following manners:

a. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

b. In the manner provided in the plan, except that shareholders, members, or interest holders that were entitled to vote on or consent to approval of the plan are entitled to vote on or consent to any amendment of the plan that will change any of the following:

(1) The amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, or other property to be received under the plan by the shareholders, members, or interest holders of the acquired entity.

(2) Any of the other terms or conditions of the plan if the change would adversely affect such shareholders, members, or interest holders in any material respect.

Sec. 151. Section 490.1104, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1104 Action on a plan of merger or share exchange.

In the case of a domestic corporation that is a party to a merger or the acquired entity in a share exchange, the plan of merger or share exchange shall be adopted in the following manner:

1. The plan of merger or share exchange shall first be adopted by the board of directors.

2. *a.* Except as provided in subsections 8, 10, and 12, and in section 490.1105, the plan of merger or share exchange shall then be approved by the shareholders. In submitting the plan of merger or share exchange to the shareholders for approval, the board of directors shall recommend that the shareholders approve the plan, or, in the case of an offer referred to in subsection 10, paragraph "*b*", that the shareholders tender their shares to the offeror in response to the offer, unless any of the following apply:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation.

(2) Section 490.826 applies.

b. If either paragraph "*a*", subparagraph (1) or (2), applies, the board shall inform the shareholders of the basis for its so proceeding.

3. The board of directors may set conditions for the approval of the plan of merger or share exchange by the shareholders or the effectiveness of the plan of merger or share exchange.

4. If the plan of merger or share exchange is required to be approved by the shareholders, and if the approval is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the plan is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the plan and must contain or be accompanied by a copy or summary of the plan. If the corporation is to be merged into an existing foreign or domestic corporation or eligible entity, the notice must also include or be accompanied by a copy or summary of the articles of incorporation and bylaws or the organic rules of that corporation or eligible entity. If the corporation is to be merged with a domestic or foreign corporation or eligible entity and a new domestic or foreign corporation or eligible entity is to be created pursuant to the merger, the notice must include or be accompanied by a copy or a summary of the articles of incorporation and bylaws or the organic rules of the new corporation or eligible entity.

5. Unless the articles of incorporation, bylaws, or the board of directors acting pursuant to subsection 3, require a greater vote or a greater quorum, approval of the plan of merger or share exchange requires the approval of the shareholders at a meeting at which a quorum exists consisting

of a majority of the votes entitled to be cast on the plan, and, if any class or series of shares is entitled to vote as a separate group on the plan of merger or share exchange, the approval of each such separate voting group at a meeting at which a quorum of the voting group is present consisting of a majority of the votes entitled to be cast on the merger or share exchange by that voting group.

6. Subject to subsection 7, separate voting by voting groups is required for each of the following:

a. On a plan of merger, by each class or series of shares that are any of the following:

(1) To be converted under the plan of merger into shares, other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property, or any combination of the foregoing.

(2) Entitled to vote as a separate group on a provision in the plan that constitutes a proposed amendment to the articles of incorporation of a surviving corporation that requires action by separate voting groups under section 490.1004.

b. On a plan of share exchange, by each class or series of shares included in the exchange, with each class or series constituting a separate voting group.

c. On a plan of merger or share exchange, if the voting group is entitled under the articles of incorporation to vote as a voting group to approve a plan of merger or share exchange, respectively.

7. The articles of incorporation may expressly limit or eliminate the separate voting rights provided in subsection 6, paragraph *"a"*, subparagraph (1), and subsection 6, paragraph *"b"*, as to any class or series of shares, except when all of the following apply:

a. The plan of merger or share exchange includes what is or would be in effect an amendment subject to subsection 6, paragraph *"a"*, subparagraph (2).

b. The plan of merger or share exchange will not effect a

substantive business combination.

8. Unless the articles of incorporation otherwise provide, approval by the corporation's shareholders of a plan of merger is not required if all of the following conditions are satisfied:

a. The corporation will survive the merger.

b. Except for amendments permitted by section 490.1005, its articles of incorporation will not be changed.

c. Each shareholder of the corporation whose shares were outstanding immediately before the effective date of the merger or share exchange will hold the same number of shares, with identical preferences, rights, and limitations, immediately after the effective date of the merger.

d. The issuance in the merger of shares or other securities convertible into or rights exercisable for shares does not require a vote under section 490.621, subsection 6.

9. *a.* If, as a result of a merger or share exchange, one or more shareholders of a domestic corporation would become subject to new interest holder liability, approval of the plan of merger or share exchange requires the signing in connection with the transaction, by each such shareholder, of a separate written consent to become subject to such new interest holder liability.

b. Paragraph "*a*" does not apply in the case of a shareholder that already has interest holder liability with respect to such domestic corporation, if all of the following apply:

(1) The new interest holder liability is with respect to a domestic or foreign corporation, which may be a different or the same domestic corporation in which the person is a shareholder.

(2) The terms and conditions of the new interest holder liability are substantially identical to those of the existing interest holder liability, other than for changes that eliminate or reduce such interest holder liability.

10. Unless the articles of incorporation otherwise provide,

approval by the shareholders of a plan of merger or share exchange is not required if all of the following apply:

a. The plan of merger or share exchange expressly permits or requires the merger or share exchange to be effected under this subsection and provides that, if the merger or share exchange is to be effected under this subsection, the merger or share exchange will be effected as soon as practicable following the satisfaction of the requirement set forth in paragraph "*f*".

b. Another party to the merger, the acquiring entity in the share exchange, or a parent of another party to the merger or the acquiring entity in the share exchange, makes an offer to purchase, on the terms provided in the plan of merger or share exchange, any and all of the outstanding shares of the corporation that, absent this subsection, would be entitled to vote on the plan of merger or share exchange, except that the offer may exclude shares of the corporation that are owned at the commencement of the offer by the corporation, the offeror, or any parent of the offeror, or by any wholly owned subsidiary of any of the foregoing.

c. The offer discloses that the plan of merger or share exchange provides that the merger or share exchange will be effected as soon as practicable following the satisfaction of the requirement set forth in paragraph "*f*" and that the shares of the corporation that are not tendered in response to the offer will be treated as set forth in paragraph "*h*".

d. The offer remains open for at least ten days.

e. The offeror purchases all shares properly tendered in response to the offer and not properly withdrawn.

f. The shares listed below are collectively entitled to cast at least the minimum number of votes on the merger or share exchange that, absent this subsection, would be required by this subchapter and by the articles of incorporation for the approval of the merger or share exchange by the shareholders and by any other voting group entitled to vote on the merger or share exchange at a meeting at which all shares entitled to

vote on the approval were present and voted:

(1) Shares purchased by the offeror in accordance with the offer.

(2) Shares otherwise owned by the offeror or by any parent of the offeror or any wholly owned subsidiary of any of the foregoing.

(3) Shares subject to an agreement that they are to be transferred, contributed, or delivered to the offeror, any parent of the offeror, or any wholly owned subsidiary of any of the foregoing in exchange for shares or eligible interests in such offeror, parent, or subsidiary.

g. The offeror or a wholly owned subsidiary of the offeror merges with or into, or effects a share exchange in which it acquires shares of, the corporation.

h. Each outstanding share of each class or series of shares of the corporation that the offeror is offering to purchase in accordance with the offer, and that is not purchased in accordance with the offer, is to be converted in the merger into, or into the right to receive, or is to be exchanged in the share exchange for, or for the right to receive, the same amount and kind of securities, eligible interests, obligations, rights, cash, or other property to be paid or exchanged in accordance with the offer for each share of that class or series of shares that is tendered in response to the offer, except that shares of the corporation that are owned by the corporation or that are described in paragraph "*f*", subparagraph (2) or (3), need not be converted into or exchanged for the consideration described in this paragraph "*h*".

11. As used in subsection 10:

a. "*Offer*" means the offer referred to in subsection 10, paragraph "*b*".

b. "*Offeror*" means the person making the offer.

c. "*Parent*" of an entity means a person that owns, directly or indirectly, through one or more wholly owned subsidiaries,

all of the outstanding shares of or eligible interests in that entity.

d. Shares tendered in response to the offer shall be deemed to have been "purchased" in accordance with the offer at the earliest time as of which the following applies:

(1) The offeror has irrevocably accepted those shares for payment.

(2) Either of the following applies:

(a) In the case of shares represented by certificates, the offeror, or the offeror's designated depository or other agent, has physically received the certificates representing those shares.

(b) In the case of shares without certificates, those shares have been transferred into the account of the offeror or its designated depository or other agent, or an agent's message relating to those shares has been received by the offeror or its designated depository or other agent.

e. "Wholly owned subsidiary" of a person means an entity of or in which that person owns, directly or indirectly, through one or more wholly owned subsidiaries, all of the outstanding shares or eligible interests.

12. Unless the articles of incorporation otherwise provide, all of the following applies:

a. Approval of a plan of share exchange by the shareholders of a domestic corporation is not required if the corporation is the acquiring entity in the share exchange.

b. Shares not to be exchanged under the plan of share exchange are not entitled to vote on the plan.

Sec. 152. Section 490.1105, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1105 Merger between parent and subsidiary or between subsidiaries.

1. A domestic or foreign parent entity that owns shares of a domestic corporation which carry at least ninety percent of

the voting power of each class and series of the outstanding shares of the subsidiary that has voting power may do any of the following:

a. Merge the subsidiary into itself, if it is a domestic or foreign corporation or eligible entity, or into another domestic or foreign corporation or eligible entity in which the parent entity owns at least ninety percent of the voting power of each class and series of the outstanding shares or eligible interests which have voting power.

b. Merge itself, if it is a domestic or foreign corporation or eligible entity, into such subsidiary, in either case without the approval of the board of directors or shareholders of the subsidiary, unless the articles of incorporation or organic rules of the parent entity or the articles of incorporation of the subsidiary corporation otherwise provide.

c. Section 490.1104, subsection 9, applies to a merger under this section. The articles of merger relating to a merger under this section do not need to be signed by the subsidiary.

2. A parent entity shall, within ten days after the effective date of a merger approved under subsection 1, notify each of the subsidiary's shareholders that the merger has become effective.

3. Except as provided in subsections 1 and 2, a merger between a parent entity and a domestic subsidiary corporation shall be governed by the provisions of this subchapter applicable to mergers generally.

Sec. 153. Section 490.1106, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1106 Articles of merger or share exchange.

1. After a plan of merger has been adopted and approved as required by this chapter, or if the merger is being effected under section 490.1102, subsection 1, paragraph "*b*", the merger has been approved as required by the organic law governing the parties to the merger, then articles of merger shall be signed

by each party to the merger except as provided in section 490.1105, subsection 1. The articles must set forth all of the following:

a. The name, jurisdiction of formation, and type of entity of each party to the merger.

b. The name, jurisdiction of formation, and type of entity of the survivor.

c. If the survivor of the merger is a domestic corporation and its articles of incorporation are amended, or if a new domestic corporation is created as a result of the merger, any of the following:

(1) The amendments to the survivor's articles of incorporation.

(2) The articles of incorporation of the new corporation.

d. If the survivor of the merger is a domestic eligible entity and its public organic record is amended, or if a new domestic eligible entity is created as a result of the merger, any of the following:

(1) The amendments to the public organic record of the survivor.

(2) The public organic record of the new eligible entity.

e. If the plan of merger required approval by the shareholders of a domestic corporation that is a party to the merger, a statement that the plan was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of incorporation.

f. If the plan of merger or share exchange did not require approval by the shareholders of a domestic corporation that is a party to the merger, a statement to that effect.

g. As to each foreign corporation that is a party to the merger, a statement that the participation of the foreign corporation was duly authorized as required by its organic law.

h. As to each domestic or foreign eligible entity that is a party to the merger, a statement that the merger was approved

in accordance with its organic law or section 490.1102, subsection 3.

i. If the survivor is created by the merger and is a domestic limited liability partnership, the filing required to become a limited liability partnership, as an attachment.

2. After a plan of share exchange in which the acquired entity is a domestic corporation or eligible entity has been adopted and approved as required by this chapter, articles of share exchange shall be signed by the acquired entity and the acquiring entity. The articles shall set forth all of the following:

a. The name of the acquired entity.

b. The name, jurisdiction of formation, and type of entity of the domestic or foreign corporation or eligible entity that is the acquiring entity.

c. A statement that the plan of share exchange was duly approved by the acquired entity by all of the following:

(1) The required vote or consent of each class or series of shares or eligible interests included in the exchange.

(2) The required vote or consent of each other class or series of shares or eligible interests entitled to vote on approval of the exchange by the articles of incorporation or organic rules of the acquired entity or section 490.1103, subsection 3.

3. In addition to the requirements of subsection 1 or 2, articles of merger or share exchange may contain any other provision not prohibited by law.

4. The articles of merger or share exchange shall be delivered to the secretary of state for filing and, subject to subsection 5, the merger or share exchange shall take effect on the effective date determined in accordance with section 490.123.

5. With respect to a merger in which one or more foreign entities is a party or a foreign entity created by the merger is the survivor, the merger itself shall become effective at

the later of the following:

a. When all documents required to be filed in foreign jurisdictions to effect the merger have become effective.

b. When the articles of merger take effect.

6. Articles of merger filed under this section may be combined with any filing required under the organic law governing any domestic eligible entity involved in the transaction if the combined filing satisfies the requirements of both this section and the other organic law.

Sec. 154. Section 490.1107, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1107 Effect of merger or share exchange.

1. When a merger becomes effective, all of the following apply:

a. The domestic or foreign corporation or eligible entity that is designated in the plan of merger as the survivor continues or comes into existence, as the case may be.

b. The separate existence of every domestic or foreign corporation or eligible entity that is a party to the merger, other than the survivor, ceases.

c. All property owned by, and every contract right possessed by, each domestic or foreign corporation or eligible entity that is a party to the merger, other than the survivor, are the property and contract rights of the survivor without transfer, reversion, or impairment.

d. All debts, obligations, and other liabilities of each domestic or foreign corporation or eligible entity that is a party to the merger, other than the survivor, are debts, obligations, or liabilities of the survivor.

e. The name of the survivor may, but need not be, substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger.

f. If the survivor is a domestic entity, the articles of incorporation and bylaws or the organic rules of the survivor

are amended to the extent provided in the plan of merger.

g. The articles of incorporation and bylaws or the organic rules of a survivor that is a domestic entity and is created by the merger become effective.

h. The shares of each domestic or foreign corporation that is a party to the merger, and the eligible interests in an eligible entity that is a party to a merger, that are to be converted in accordance with the terms of the merger into shares, or other securities, eligible interests, obligations, rights to acquire shares, other securities, or eligible interests, cash, other property, or any combination of the foregoing, are converted, and the former holders of such shares or eligible interests are entitled only to the rights provided to them by those terms or to any rights they may have under subchapter XIII or the organic law governing the eligible entity or foreign corporation.

i. Except as provided by law or the terms of the merger, all the rights, privileges, franchises, and immunities of each entity that is a party to the merger, other than the survivor, are the rights, privileges, franchises, and immunities of the survivor.

j. If the survivor exists before the merger, all of the following apply:

(1) All the property and contract rights of the survivor remain its property and contract rights without transfer, reversion, or impairment.

(2) The survivor remains subject to all its debts, obligations, and other liabilities.

(3) Except as provided by law or the plan of merger, the survivor continues to hold all of its rights, privileges, franchises, and immunities.

2. When a share exchange becomes effective, the shares or eligible interests in the acquired entity that are to be exchanged for shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or

eligible interests, cash, other property, or any combination of the foregoing, are entitled only to the rights provided to them in the plan of share exchange or to any rights they may have under subchapter XIII or under the organic law governing the acquired entity.

3. Except as otherwise provided in the articles of incorporation of a domestic corporation or the organic law governing or organic rules of a foreign corporation or a domestic or foreign eligible entity, the effect of a merger or share exchange on interest holder liability is as follows:

a. A person who becomes subject to new interest holder liability in respect of an entity as a result of a merger or share exchange shall have that new interest holder liability only in respect of interest holder liabilities that arise after the merger or share exchange becomes effective.

b. If a person had interest holder liability with respect to a party to the merger or the acquired entity before the merger or share exchange becomes effective with respect to shares or eligible interests of such party or acquired entity which were exchanged in the merger or share exchange, were canceled in the merger, or the terms and conditions of which relating to interest holder liability were amended pursuant to the merger, then all of the following apply:

(1) The merger or share exchange does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the merger or share exchange becomes effective.

(2) The provisions of the organic law governing any entity for which the person had that prior interest holder liability shall continue to apply to the collection or discharge of any interest holder liabilities preserved by subparagraph (1), as if the merger or share exchange had not occurred.

(3) The person shall have such rights of contribution from other persons as are provided by the organic law governing the entity for which the person had that prior interest holder

liability with respect to any interest holder liabilities preserved by subparagraph (1), as if the merger or share exchange had not occurred.

(4) The person shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the merger or share exchange becomes effective.

c. If a person has interest holder liability both before and after a merger becomes effective with unchanged terms and conditions with respect to the entity that is the survivor by reason of owning the same shares or eligible interests before and after the merger becomes effective, the merger has no effect on such interest holder liability.

d. A share exchange has no effect on interest holder liability related to shares or eligible interests of the acquired entity that were not exchanged in the share exchange.

4. Upon a merger becoming effective, a foreign corporation, or a foreign eligible entity, that is the survivor of the merger is deemed to have done all of the following:

a. Appointed the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders of each domestic corporation that is a party to the merger who exercise appraisal rights.

b. Agreed that it will promptly pay the amount, if any, to which such shareholders are entitled under subchapter XIII.

5. Except as provided in the organic law governing a party to a merger or in its articles of incorporation or organic rules, the merger does not give rise to any rights that an interest holder, governor, or third party would have upon a dissolution, liquidation, or winding up of that party. The merger does not require a party to the merger to wind up its affairs and does not constitute or cause its dissolution or termination.

6. Property held for a charitable purpose under the law of this state by a domestic or foreign corporation or eligible

entity immediately before a merger becomes effective shall not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred except and to the extent permitted by or pursuant to the laws of this state addressing cy pres or dealing with nondiversion of charitable assets.

7. A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance which is made to an entity that is a party to a merger that is not the survivor and which takes effect or remains payable after the merger inures to the survivor.

8. A trust obligation that would govern property if transferred to a nonsurviving entity applies to property that is transferred to the survivor after a merger becomes effective.

Sec. 155. Section 490.1108, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1108 Abandonment of a merger or share exchange.

1. After a plan of merger or share exchange has been adopted and approved as required by this subchapter, and before articles of merger or share exchange have become effective, the plan may be abandoned by a domestic business corporation that is a party to the plan without action by its shareholders in accordance with any procedures set forth in the plan of merger or share exchange or, if no such procedures are set forth in the plan, in the manner determined by the board of directors.

2. If a merger or share exchange is abandoned under subsection 1 after articles of merger or share exchange have been delivered to the secretary of state for filing but before the merger or share exchange has become effective, a statement of abandonment signed by all the parties that signed the articles of merger or share exchange shall be delivered to the secretary of state for filing before the articles of merger or share exchange become effective. The statement shall take

effect on filing and the merger or share exchange shall be deemed abandoned and shall not become effective. The statement of abandonment must contain all of the following:

a. The name of each party to the merger or the names of the acquiring and acquired entities in a share exchange.

b. The date on which the articles of merger or share exchange were filed by the secretary of state.

c. A statement that the merger or share exchange has been abandoned in accordance with this section.

Sec. 156. Section 490.1201, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1201 Disposition of assets not requiring shareholder approval.

No approval of the shareholders is required to do any of the following, unless the articles of incorporation otherwise provide:

1. Sell, lease, exchange, or otherwise dispose of any of the corporation's assets in the usual and regular course of business.

2. Mortgage, pledge, dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber any or all of the corporation's assets, regardless of whether in the usual and regular course of business.

3. Transfer any or all of the corporation's assets to one or more domestic or foreign corporations or other entities, all of the shares or interests of which are owned by the corporation.

4. Distribute assets pro rata to the holders of one or more classes or series of the corporation's shares.

Sec. 157. Section 490.1202, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1202 Shareholder approval of certain dispositions.

1. A sale, lease, exchange, or other disposition of assets, other than a disposition described in section 490.1201,

requires approval of the corporation's shareholders if the disposition would leave the corporation without a significant continuing business activity. A corporation will conclusively be deemed to have retained a significant continuing business activity if it retains a business activity that represented, for the corporation and its subsidiaries on a consolidated basis, at least twenty-five percent of total assets at the end of the most recently completed fiscal year, and either twenty-five percent of either income from continuing operations before taxes or twenty-five percent of revenues from continuing operations, in each case for the most recently completed fiscal year; but no presumption that the disposition will leave the corporation without a significant continuing business activity shall arise from the fact that the corporation's continuing business activity does not equal or exceed any of these percentages.

2. To obtain the approval of the shareholders under subsection 1, all of the following shall apply:

a. The board of directors shall first adopt a resolution authorizing the disposition. The disposition shall then be approved by the shareholders. In submitting the disposition to the shareholders for approval, the board of directors shall recommend that the shareholders approve the disposition, unless any of the following apply:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation.

(2) Section 490.826 applies.

b. If paragraph "*a*", subparagraph (1) or (2), applies, the board shall inform the shareholders of the basis for its so proceeding.

3. The board of directors may set conditions for the approval by the shareholders of a disposition or the effectiveness of the disposition.

4. If a disposition is required to be approved by the

shareholders under subsection 1, and if the approval is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the disposition is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the disposition and must contain a description of the disposition, including the terms and conditions of the disposition and the consideration to be received by the corporation.

5. Unless the articles of incorporation, bylaws, or the board of directors acting pursuant to subsection 3 require a greater vote or a greater quorum, the approval of a disposition by the shareholders shall require the approval of the shareholders at a meeting at which a quorum exists consisting of a majority of the votes entitled to be cast on the disposition.

6. After a disposition has been approved by the shareholders under this subchapter, and at any time before the disposition has been consummated, it may be abandoned by the corporation without action by the shareholders, subject to any contractual rights of other parties to the disposition.

7. A disposition of assets in the course of dissolution under subchapter XIV is not governed by this section.

8. The assets of a direct or indirect consolidated subsidiary shall be deemed to be the assets of the parent corporation for the purposes of this section.

Sec. 158. Section 490.1301, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1301 Subchapter definitions.

As used in this subchapter:

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

executive of such person. For purposes of section 490.1302, subsection 2, paragraph *"d"*, a person is deemed to be an affiliate of its senior executives.

2. *"Corporation"* means the domestic corporation that is the issuer of the shares held by a shareholder demanding appraisal and, for matters covered in sections 490.1322 through 490.1331, *"corporation"* includes the survivor of a merger.

3. *"Fair value"* means the value of the corporation's shares determined according to the following:

a. Immediately before the effectiveness of the corporate action to which the shareholder objects.

b. Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal.

c. Without discounting for lack of marketability or minority status except, if appropriate, for amendments to the articles of incorporation pursuant to section 490.1302, subsection 1, paragraph *"d"*.

4. *"Interest"* means interest from the date the corporate action becomes effective until the date of payment, at the rate of interest on judgments in this state on the effective date of the corporate action.

5. *"Interested transaction"* means a corporate action described in section 490.1302, subsection 1, other than a merger pursuant to section 490.1105, involving an interested person in which any of the shares or assets of the corporation are being acquired or converted. As used in this subsection:

a. *"Beneficial owner"* means any person who, directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, shares; except that a member of a national securities exchange is not deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person if the member is precluded by the rules of the exchange from voting without instruction

on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When two or more persons agree to act together for the purpose of voting their shares of the corporation, each member of the group formed thereby is deemed to have acquired beneficial ownership, as of the date of the agreement, of all shares having voting power of the corporation beneficially owned by any member of the group.

b. "Excluded shares" means shares acquired pursuant to an offer for all shares having voting power if the offer was made within one year before the corporate action for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action.

c. "Interested person" means a person, or an affiliate of a person, who at any time during the one-year period immediately preceding approval by the board of directors of the corporate action was or had any of the following:

(1) Was the beneficial owner of twenty percent or more of the voting power of the corporation, other than as owner of excluded shares.

(2) Had the power, contractually or otherwise, other than as owner of excluded shares, to cause the appointment or election of twenty-five percent or more of the directors to the board of directors of the corporation.

(3) Was a senior executive or director of the corporation or a senior executive of any affiliate of the corporation, and that senior executive or director will receive, as a result of the corporate action, a financial benefit not generally available to other shareholders as such, other than any of the following:

(a) Employment, consulting, retirement, or similar benefits established separately and not as part of or in contemplation of the corporate action.

(b) Employment, consulting, retirement, or similar benefits established in contemplation of, or as part of, the corporate

action that are not more favorable than those existing before the corporate action or, if more favorable, that have been approved on behalf of the corporation in the same manner as is provided in section 490.862.

(c) In the case of a director of the corporation who will, in the corporate action, become a director or governor of the acquiror or any of its affiliates, rights, and benefits as a director or governor that are provided on the same basis as those afforded by the acquiror generally to other directors or governors of such entity or such affiliate.

6. *"Preferred shares"* means a class or series of shares whose holders have preference over any other class or series of shares with respect to distributions.

7. *"Senior executive"* means the chief executive officer, chief operating officer, chief financial officer, and any individual in charge of a principal business unit or function.

8. *"Shareholder"* means a record shareholder, a beneficial shareholder, and a voting trust beneficial owner.

Sec. 159. Section 490.1302, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1302 Right to appraisal.

1. A shareholder is entitled to appraisal rights, and to obtain payment of the fair value of that shareholder's shares, in the event of any of the following corporate actions:

a. Consummation of a merger to which the corporation is a party if any of the following apply:

(1) Shareholder approval is required for the merger by section 490.1104 or would be required but for the provisions of section 490.1104, subsection 10, except that appraisal rights shall not be available to any shareholder of the corporation with respect to shares of any class or series that remain outstanding after consummation of the merger.

(2) The corporation is a subsidiary and the merger is governed by section 490.1105.

b. Consummation of a share exchange to which the corporation is a party the shares of which will be acquired, except that appraisal rights shall not be available to any shareholder of the corporation with respect to any class or series of shares of the corporation that is not acquired in the share exchange.

c. Consummation of a disposition of assets pursuant to section 490.1202 if the shareholder is entitled to vote on the disposition, except that appraisal rights shall not be available to any shareholder of the corporation with respect to shares of any class or series if all of the following apply:

(1) Under the terms of the corporate action approved by the shareholders there is to be distributed to shareholders in cash the corporation's net assets, in excess of a reasonable amount reserved to meet claims of the type described in sections 490.1406 and 490.1407, if the distribution is made subject to all of the following:

(a) Within one year after the shareholders' approval of the action.

(b) In accordance with the shareholders' respective interests determined at the time of distribution.

(2) The disposition of assets is not an interested transaction.

d. An amendment of the articles of incorporation with respect to a class or series of shares that reduces the number of shares of a class or series owned by the shareholder to a fraction of a share if the corporation has the obligation or right to repurchase the fractional share so created.

e. Any other merger, share exchange, disposition of assets, or amendment to the articles of incorporation, in each case to the extent provided by the articles of incorporation, bylaws, or a resolution of the board of directors.

f. Consummation of a domestication pursuant to section 490.920 if the shareholder does not receive shares in the foreign corporation resulting from the domestication that have terms as favorable to the shareholder in all material respects,

and represent at least the same percentage interest of the total voting rights of the outstanding shares of the foreign corporation, as the shares held by the shareholder before the domestication.

g. Consummation of a conversion of the corporation to a nonprofit corporation pursuant to section 490.930.

h. Consummation of a conversion of the corporation to an unincorporated entity pursuant to section 490.930.

2. Notwithstanding subsection 1, the availability of appraisal rights under subsection 1, paragraphs *"a"*, *"b"*, *"c"*, *"d"*, *"f"*, and *"h"*, shall be limited in accordance with the following provisions:

a. Appraisal rights shall not be available for the holders of shares of any class or series of shares which is any of the following:

(1) A covered security under section 18(b)(1)(A) or (B) of the federal Securities Act of 1933, as amended.

(2) Traded in an organized market and has at least two thousand shareholders and a market value of at least twenty million dollars, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives and directors, and by any beneficial shareholder and any voting trust beneficial owner owning more than ten percent of such shares.

(3) Issued by an open-end management investment company registered with the United States securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. §80a-1 et seq., and which may be redeemed at the option of the holder at net asset value.

b. The applicability of paragraph *"a"* shall be determined according to the following:

(1) The record date fixed to determine the shareholders entitled to receive notice of the meeting of shareholders to act upon the corporate action requiring appraisal rights or in the case of an offer made pursuant to section 490.1104,

subsection 10, the date of such offer.

(2) If there is no meeting of shareholders and no offer made pursuant to section 490.1104, subsection 10, the day before the consummation of the corporate action or effective date of the amendment of the articles of incorporation, as applicable.

c. Paragraph *"a"* shall not be applicable and appraisal rights shall be available pursuant to subsection 1 under the following circumstances:

(1) For the holders of any class or series of shares who are required by the terms of the corporate action requiring appraisal rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in paragraph *"a"*, at the time the corporate action becomes effective.

(2) For the holders of any class or series of shares, in the case of the consummation of a disposition of assets pursuant to section 490.1202, unless the cash, shares, or proprietary interests received in the disposition are, under the terms of the corporate action approved by the shareholders, to be distributed to the shareholders, as part of a distribution to shareholders of the net assets of the corporation in excess of a reasonable amount to meet claims of the type described in sections 490.1406 and 490.1407, if the distribution is made subject to all of the following:

(a) Within one year after the shareholders' approval of the action.

(b) In accordance with the shareholders' respective interests determined at the time of the distribution.

d. Paragraph *"a"* shall not be applicable and appraisal rights shall be available pursuant to subsection 1 for the holders of any class or series of shares where the corporate action is an interested transaction.

3. Notwithstanding any other provision of this section, the articles of incorporation as originally filed or any amendment

to the articles of incorporation may limit or eliminate appraisal rights for any class or series of preferred shares, except that the following shall apply:

a. Except as provided in paragraph "*b*", no such limitation or elimination shall be effective if the class or series does not have the right to vote separately as a voting group, alone or as part of a group, on the action or if the action is a conversion under section 490.930, or a merger having a similar effect as a conversion in which the converted entity is an eligible entity.

b. Any such limitation or elimination contained in an amendment to the articles of incorporation that limits or eliminates appraisal rights for any of such shares that are outstanding immediately before the effective date of such amendment or that the corporation is or may be required to issue or sell thereafter pursuant to any conversion, exchange, or other right existing immediately before the effective date of such amendment, shall not apply to any corporate action that becomes effective within one year after the effective date of such amendment if such action would otherwise afford appraisal rights.

Sec. 160. Section 490.1303, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1303 Assertion of rights by nominees and beneficial shareholders.

1. A record shareholder may assert appraisal rights as to fewer than all the shares registered in the record shareholder's name but owned by a beneficial shareholder or a voting trust beneficial owner only if the record shareholder objects with respect to all shares of a class or series owned by the beneficial shareholder or the voting trust beneficial owner and notifies the corporation in writing of the name and address of each beneficial shareholder or voting trust beneficial owner on whose behalf appraisal rights are being

asserted. The rights of a record shareholder who asserts appraisal rights for only part of the shares held of record in the record shareholder's name under this subsection shall be determined as if the shares as to which the record shareholder objects and the record shareholder's other shares were registered in the names of different record shareholders.

2. A beneficial shareholder and a voting trust beneficial owner may assert appraisal rights as to shares of any class or series held on behalf of the shareholder only if such shareholder does all of the following:

a. Submits to the corporation the record shareholder's written consent to the assertion of such rights no later than the date referred to in section 490.1322, subsection 2, paragraph "*b*", subparagraph (2).

b. Does so with respect to all shares of the class or series that are beneficially owned by the beneficial shareholder or the voting trust beneficial owner.

Sec. 161. Section 490.1320, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1320 Notice of appraisal rights.

1. Where any corporate action specified in section 490.1302, subsection 1, is to be submitted to a vote at a shareholders' meeting, the meeting notice, or where no approval of such action is required pursuant to section 490.1104, subsection 10, the offer made pursuant to that section, must state that the corporation has concluded that appraisal rights are, are not, or may be available under this subchapter. If the corporation concludes that appraisal rights are or may be available, a copy of this subchapter must accompany the meeting notice or offer sent to those record shareholders entitled to exercise appraisal rights.

2. In a merger pursuant to section 490.1105, the parent entity shall notify in writing all record shareholders of the subsidiary who are entitled to assert appraisal rights that the

corporate action became effective. Such notice shall be sent within ten days after the corporate action became effective and include the materials described in section 490.1322.

3. Where any corporate action specified in section 490.1302, subsection 1, is to be approved by written consent of the shareholders pursuant to section 490.704, all of the following apply:

a. Written notice that appraisal rights are, are not, or may be available shall be sent to each record shareholder from whom a consent is solicited at the time consent of such shareholder is first solicited and, if the corporation has concluded that appraisal rights are or may be available, the notice must be accompanied by a copy of this subchapter.

b. Written notice that appraisal rights are, are not, or may be available must be delivered together with the notice to nonconsenting and nonvoting shareholders required by section 490.704, subsections 5 and 6, may include the materials described in section 490.1322, and, if the corporation has concluded that appraisal rights are or may be available, must be accompanied by a copy of this subchapter.

4. Where corporate action described in section 490.1302, subsection 1, is proposed, or a merger pursuant to section 490.1105 is effected, the notice referred to in subsection 1 or 3, if the corporation concludes that appraisal rights are or may be available, and in subsection 2 must be accompanied by all of the following:

a. Financial statements of the corporation that issued the shares that may be subject to appraisal, consisting of a balance sheet as of the end of a fiscal year ending not more than sixteen months before the date of the notice, an income statement for that year, and a cash flow statement for that year; provided that, if such financial statements are not reasonably available, the corporation shall provide reasonably equivalent financial information.

b. The latest interim financial statements of such

corporation, if any.

5. The right to receive the information described in subsection 4 may be waived in writing by a shareholder before or after the corporate action.

Sec. 162. Section 490.1321, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1321 Notice of intent to demand payment and consequences of voting or consenting.

1. If a corporate action specified in section 490.1302, subsection 1, is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares must do all of the following:

a. Deliver to the corporation, before the vote is taken, written notice of the shareholder's intent to demand payment if the proposed action is effectuated.

b. Not vote, or cause or permit to be voted, any shares of such class or series in favor of the proposed action.

2. If a corporate action specified in section 490.1302, subsection 1, is to be approved by written consent, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares shall not sign a consent in favor of the proposed action with respect to that class or series of shares.

3. If a corporate action specified in section 490.1302, subsection 1, does not require shareholder approval pursuant to section 490.1104, subsection 10, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares must do all of the following:

a. Deliver to the corporation before the shares are purchased pursuant to the offer written notice of the shareholder's intent to demand payment if the proposed action is effected.

b. Not tender, or cause or permit to be tendered, any shares

of such class or series in response to such offer.

4. A shareholder who fails to satisfy the requirements of subsection 1, 2, or 3 is not entitled to payment under this subchapter.

Sec. 163. Section 490.1322, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1322 Appraisal notice and form.

1. If a corporate action requiring appraisal rights under section 490.1302, subsection 1, becomes effective, the corporation shall deliver a written appraisal notice and form required by subsection 2, to all shareholders who satisfy the requirements of section 490.1321, subsection 1, 2, or 3. In the case of a merger under section 490.1105, the parent shall deliver an appraisal notice and form to all record shareholders who may be entitled to assert appraisal rights.

2. The appraisal notice shall be delivered no earlier than the date the corporate action specified in section 490.1302, subsection 1, became effective, and no later than ten days after such date, and must do all of the following:

a. Supply a form that does all of the following:

(1) Specifies the first date of any announcement to shareholders made before the date the corporate action became effective of the principal terms of the proposed corporate action.

(2) If such announcement was made, requires the shareholder asserting appraisal rights to certify whether beneficial ownership of those shares for which appraisal rights are asserted was acquired before that date.

(3) Requires the shareholder asserting appraisal rights to certify that such shareholder did not vote for or consent to the transaction as to the class or series of shares for which appraisal is sought.

b. State all of the following:

(1) Where the form shall be sent and where certificates for

certificated shares shall be deposited and the date by which those certificates must be deposited, which date shall not be earlier than the date by which the corporation must receive the required form under subparagraph (2).

(2) A date by which the corporation shall receive the form, which date shall not be fewer than forty nor more than sixty days after the date the appraisal notice is sent under subsection 1, and state that the shareholder shall have waived the right to demand appraisal with respect to the shares unless the form is received by the corporation by such specified date.

(3) The corporation's estimate of the fair value of the shares.

(4) That, if requested in writing, the corporation will provide, to the shareholder so requesting, within ten days after the date specified in subparagraph (2) the number of shareholders who return the forms by the specified date and the total number of shares owned by them.

(5) The date by which the notice to withdraw under section 490.1323 shall be received, which date shall be within twenty days after the date specified in subparagraph (2).

c. Be accompanied by a copy of this subchapter.

Sec. 164. Section 490.1323, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1323 Perfection of rights — right to withdraw.

1. A shareholder who receives notice pursuant to section 490.1322 and who wishes to exercise appraisal rights shall sign and return the form sent by the corporation and, in the case of certificated shares, deposit the shareholder's certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to section 490.1322, subsection 2, paragraph "*b*", subparagraph (2). In addition, if applicable, the shareholder shall certify on the form whether the beneficial owner of such shares acquired beneficial ownership of the shares before the date required to be set

forth in the notice pursuant to section 490.1322, subsection 2, paragraph "a", subparagraph (1). If a shareholder fails to make this certification, the corporation may elect to treat the shareholder's shares as after-acquired shares under section 490.1325. Once a shareholder deposits that shareholder's certificates or, in the case of uncertificated shares, returns the signed forms, that shareholder loses all rights as a shareholder, unless the shareholder withdraws pursuant to subsection 2.

2. A shareholder who has complied with subsection 1 may nevertheless decline to exercise appraisal rights and withdraw from the appraisal process by so notifying the corporation in writing by the date set forth in the appraisal notice pursuant to section 490.1322, subsection 2, paragraph "b", subparagraph (5). A shareholder who fails to so withdraw from the appraisal process shall not thereafter withdraw without the corporation's written consent.

3. A shareholder who does not sign and return the form and, in the case of certificated shares, deposit that shareholder's share certificates where required, each by the date set forth in the notice described in section 490.1322, subsection 2, shall not be entitled to payment under this subchapter.

Sec. 165. Section 490.1324, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1324 Payment.

1. Except as provided in section 490.1325, within thirty days after the form required by section 490.1322, subsection 2, paragraph "b", subparagraph (2), is due, the corporation shall pay in cash to those shareholders who complied with section 490.1323, subsection 1, the amount the corporation estimates to be the fair value of their shares, plus interest.

2. The payment to each shareholder pursuant to subsection 1 must be accompanied by all of the following:

a. (1) Financial statements of the corporation that issued

the shares to be appraised, consisting of a balance sheet as of the end of a fiscal year ending not more than sixteen months before the date of payment, an income statement for that year, and a cash flow statement for that year; provided that, if such annual financial statements are not reasonably available, the corporation shall provide reasonably equivalent financial information.

(2) The latest interim financial statements of such corporation, if any.

b. A statement of the corporation's estimate of the fair value of the shares, which estimate shall equal or exceed the corporation's estimate given pursuant to section 490.1322, subsection 2, paragraph "*b*", subparagraph (3).

c. A statement that shareholders described in subsection 1 have the right to demand further payment under section 490.1326 and that if any such shareholder does not do so within the time period specified in section 490.1326, subsection 2, such shareholder shall be deemed to have accepted the payment under subsection 1 in full satisfaction of the corporation's obligations under this subchapter.

Sec. 166. Section 490.1325, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1325 After-acquired shares.

1. A corporation may elect to withhold payment required by section 490.1324 from any shareholder who was required to, but did not certify that beneficial ownership of all of the shareholder's shares for which appraisal rights are asserted was acquired before the date set forth in the appraisal notice sent pursuant to section 490.1322, subsection 2, paragraph "*a*".

2. If the corporation elected to withhold payment under subsection 1, within thirty days after the form required by section 490.1322, subsection 2, paragraph "*b*", subparagraph (2), is due, the corporation shall notify all shareholders who are described in subsection 1 regarding all of the following:

a. Of the information required by section 490.1324, subsection 2, paragraph "*a*".

b. Of the corporation's estimate of fair value pursuant to section 490.1324, subsection 2, paragraph "*b*".

c. That they may accept the corporation's estimate of fair value, plus interest, in full satisfaction of their demands or demand appraisal under section 490.1326.

d. That those shareholders who wish to accept such offer shall so notify the corporation of their acceptance of the corporation's offer within thirty days after receiving the offer.

e. That those shareholders who do not satisfy the requirements for demanding appraisal under section 490.1326 shall be deemed to have accepted the corporation's offer.

3. Within ten days after receiving the shareholder's acceptance pursuant to subsection 2, paragraph "*d*", the corporation shall pay in cash the amount it offered under subsection 2, paragraph "*b*", plus interest to each shareholder who agreed to accept the corporation's offer in full satisfaction of the shareholder's demand.

4. Within forty days after delivering the notice described in subsection 2, the corporation shall pay in cash the amount it offered to pay under subsection 2, paragraph "*b*", plus interest to each shareholder described in subsection 2, paragraph "*e*".

Sec. 167. Section 490.1326, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1326 Procedure if shareholder dissatisfied with payment or offer.

1. A shareholder paid pursuant to section 490.1324 who is dissatisfied with the amount of the payment shall notify the corporation in writing of that shareholder's estimate of the fair value of the shares and demand payment of that estimate, less any payment under section 490.1324 plus interest. A

shareholder offered payment under section 490.1325 who is dissatisfied with that offer shall reject the offer and demand payment of the shareholder's stated estimate of the fair value of the shares plus interest.

2. A shareholder who fails to notify the corporation in writing of that shareholder's demand to be paid the shareholder's stated estimate of the fair value plus interest under subsection 1 within thirty days after receiving the corporation's payment or offer of payment under section 490.1324 or 490.1325, respectively, waives the right to demand payment under this section and shall be entitled only to the payment made or offered pursuant to those respective sections.

Sec. 168. Section 490.1330, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1330 Court action.

1. If a shareholder makes a demand for payment under section 490.1326 which remains unsettled, the corporation shall commence a proceeding within sixty days after receiving the payment demand and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the sixty-day period, it shall pay in cash to each shareholder the amount the shareholder demanded pursuant to section 490.1326 plus interest.

2. The corporation shall commence the proceeding in the district court of the county where the corporation's principal office or, if none, its registered office, in this state is located. If the corporation is a foreign corporation without a registered office in this state, it shall commence the proceeding in the county in this state where the principal office or registered office of the domestic corporation merged with the foreign corporation was located at the time of the transaction.

3. The corporation shall make all shareholders, regardless

of whether they are residents of this state, whose demands remain unsettled parties to the proceeding as in an action against their shares, and all parties shall be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

4. The jurisdiction of the court in which the proceeding is commenced under subsection 2 is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have the powers described in the order appointing them, or in any amendment to it. The shareholders demanding appraisal rights are entitled to the same discovery rights as parties in other civil proceedings. There shall be no right to a jury trial.

5. Each shareholder made a party to the proceeding is entitled to judgment for any of the following:

a. The amount, if any, by which the court finds the fair value of the shareholder's shares exceeds the amount paid by the corporation to the shareholder for such shares, plus interest.

b. The fair value, plus interest, of the shareholder's shares for which the corporation elected to withhold payment under section 490.1325.

Sec. 169. Section 490.1331, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1331 Court costs and expenses.

1. The court in an appraisal proceeding commenced under section 490.1330 shall determine all court costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the court costs against the corporation, except that the court may assess court costs against all or some of the shareholders demanding appraisal, in amounts which the court finds equitable, to the extent the court finds such shareholders

acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this subchapter.

2. The court in an appraisal proceeding may also assess the expenses of the respective parties in amounts the court finds equitable, against any of the following:

a. The corporation and in favor of any or all shareholders demanding appraisal if the court finds the corporation did not substantially comply with the requirements of section 490.1320, 490.1322, 490.1324, or 490.1325.

b. Either the corporation or a shareholder demanding appraisal, in favor of any other party, if the court finds that the party against whom expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this subchapter.

3. If the court in an appraisal proceeding finds that the expenses incurred by any shareholder were of substantial benefit to other shareholders similarly situated and that such expenses should not be assessed against the corporation, the court may direct that such expenses be paid out of the amounts awarded the shareholders who were benefited.

4. To the extent the corporation fails to make a required payment pursuant to section 490.1324, 490.1325, or 490.1326, the shareholder may sue directly for the amount owed, and to the extent successful, shall be entitled to recover from the corporation all expenses of the suit.

Sec. 170. Section 490.1340, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1340 Other remedies limited.

1. The legality of a proposed or completed corporate action described in section 490.1302, subsection 1, shall not be contested, nor may the corporate action be enjoined, set aside, or rescinded, in a legal or equitable proceeding by a shareholder after the shareholders have approved the corporate action.

2. Subsection 1 does not apply to a corporate action that meets any of the following conditions:

a. Was not authorized and approved in accordance with the applicable provisions of any of the following:

(1) Subchapter IX, X, XI, or XII.

(2) The articles of incorporation or bylaws.

(3) The resolution of the board of directors authorizing the corporate action.

b. Was procured as a result of fraud, a material misrepresentation, or an omission of a material fact necessary to make statements made, in light of the circumstances in which they were made, not misleading.

c. Is an interested transaction, unless it has been recommended by the board of directors in the same manner as is provided in section 490.862 and has been approved by the shareholders in the same manner as is provided in section 490.863 as if the interested transaction were a director's conflicting interest transaction.

d. Is approved by less than unanimous consent of the voting shareholders pursuant to section 490.704 if all of the following apply:

(1) The challenge to the corporate action is brought by a shareholder who did not consent and as to whom notice of the approval of the corporate action was not effective at least ten days before the corporate action was effected.

(2) The proceeding challenging the corporate action is commenced within ten days after notice of the approval of the corporate action is effective as to the shareholder bringing the proceeding.

Sec. 171. Section 490.1402, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1402 Dissolution by board of directors and shareholders.

1. The board of directors may propose dissolution for submission to the shareholders by first adopting a resolution

authorizing the dissolution.

2. *a.* For a proposal to dissolve to be adopted, it shall then be approved by the shareholders. In submitting the proposal to dissolve to the shareholders for approval, the board of directors shall recommend that the shareholders approve the dissolution, unless any of the following apply:

(1) The board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation.

(2) Section 490.826 applies.

b. If paragraph "*a*", subparagraph (1) or (2), applies, the board shall inform the shareholders of the basis for its so proceeding.

3. The board of directors may set conditions for the approval of the proposal for dissolution by shareholders or the effectiveness of the dissolution.

4. If the approval of the shareholders is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the dissolution is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation.

5. Unless the articles of incorporation, bylaws, or the board of directors acting pursuant to subsection 3 require a greater vote, a greater quorum, or a vote by voting groups, adoption of the proposal to dissolve shall require the approval of the shareholders at a meeting at which a quorum exists consisting of a majority of the votes entitled to be cast on the proposal to dissolve.

Sec. 172. Section 490.1403, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1403 Articles of dissolution.

1. At any time after dissolution is authorized, the

corporation may dissolve by delivering to the secretary of state for filing articles of dissolution setting forth all of the following:

a. The name of the corporation.

b. The date that dissolution was authorized.

c. If dissolution was approved by the shareholders, a statement that the proposal to dissolve was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation and bylaws.

2. The articles of dissolution shall take effect at the effective date determined in accordance with section 490.123. A corporation is dissolved upon the effective date of its articles of dissolution.

3. As used in this part, "*dissolved corporation*" means a corporation whose articles of dissolution have become effective and includes a successor entity to which the remaining assets of the corporation are transferred subject to its liabilities for purposes of liquidation.

Sec. 173. Section 490.1404, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1404 Revocation of dissolution.

1. A corporation may revoke its dissolution within one hundred twenty days after its effective date.

2. Revocation of dissolution shall be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without shareholder action.

3. After the revocation of dissolution is authorized, the corporation 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 corporation.

b. The effective date of the dissolution that was revoked.

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

d. If the corporation's board of directors or incorporators revoked the dissolution, a statement to that effect.

e. If the corporation's board of directors revoked a dissolution as authorized by the shareholders, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization.

f. If shareholder action was required to revoke the dissolution, a statement that the revocation was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation and bylaws.

4. The articles of revocation of dissolution shall take effect at the effective date determined in accordance with section 490.123. 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 and the corporation resumes carrying on its business as if the dissolution had never occurred.

Sec. 174. Section 490.1405, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1405 Effect of dissolution.

1. A corporation that has dissolved continues its corporate existence but the dissolved corporation shall not carry on any business except that appropriate to wind up and liquidate its business and affairs, including by doing any of the following:

a. Collecting its assets.

b. Disposing of its properties that will not be distributed in kind to its shareholders.

c. Discharging or making provision for discharging its liabilities.

d. Making distributions of its remaining assets among its shareholders according to their interests.

e. Doing every other act necessary to wind up and liquidate its business and affairs.

2. Dissolution of a corporation does not do any of the following:

a. Transfer title to the corporation's property.

b. Prevent transfer of its shares or securities.

c. Subject its directors or officers to standards of conduct different from those prescribed in subchapter VIII.

d. Change any of the following:

(1) Quorum or voting requirements for its board of directors or shareholders.

(2) Provisions for selection, resignation, or removal of its directors or officers or both.

(3) Provisions for amending its bylaws.

e. Prevent commencement of a proceeding by or against the corporation in its corporate name.

f. Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution.

g. Terminate the authority of the registered agent of the corporation.

3. A distribution in liquidation under this section may only be made by a dissolved corporation. For purposes of determining the shareholders entitled to receive a distribution in liquidation, the board of directors may fix a record date for determining shareholders entitled to a distribution in liquidation, which date shall not be retroactive. If the board of directors does not fix a record date for determining shareholders entitled to a distribution in liquidation, the record date is the date the board of directors authorizes the distribution in liquidation.

Sec. 175. Section 490.1406, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1406 Known claims against dissolved corporation.

1. A dissolved corporation may dispose of the known claims against it by notifying its known claimants in writing of the dissolution at any time after its effective date.

2. The written notice must do all of the following:

a. Describe information that must be included in a claim.

b. Provide a mailing address where a claim may be sent.

c. State the deadline, which must not be fewer than one hundred twenty days after the written notice is effective, by which the dissolved corporation shall receive the claim.

d. State that the claim will be barred if not received by the deadline.

3. A claim against the dissolved corporation is barred if any of the following occurs:

a. A claimant who was given written notice under subsection 2 does not deliver the claim to the dissolved corporation by the deadline.

b. A claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within ninety days after the rejection notice is effective.

4. As used in this section, "*claim*" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

Sec. 176. Section 490.1407, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1407 Other claims against dissolved corporation.

1. A dissolved corporation may publish notice of its dissolution and request that persons with claims against the dissolved corporation present them in accordance with the notice.

2. The notice must meet all of the following requirements:

a. Be published in compliance with any of the following:

(1) One time in a newspaper of general circulation in the county where the dissolved corporation's principal office, or,

if none in this state, its registered office, is or was last located.

(2) Be posted conspicuously for at least thirty days on the dissolved corporation's internet site.

b. Describe the information that must be included in a claim and provide a mailing address where the claim may be sent.

c. State that a claim against the dissolved corporation will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of the notice.

3. If the dissolved corporation publishes a notice in accordance with subsection 2, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within three years after the publication date of the notice:

a. A claimant who was not given written notice under section 490.1406.

b. A claimant whose claim was timely sent to the dissolved corporation but not acted on by the corporation.

c. A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

4. A claim that is not barred by section 490.1406, subsection 2, or subsection 3 of this section, may be enforced in any of the following ways:

a. Against the dissolved corporation, to the extent of its undistributed assets.

b. Except as provided in section 490.1408, subsection 4, if the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of the shareholder's pro rata share of the claim or the corporate assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims under this section shall not exceed the total amount of assets distributed to the shareholder in liquidation.

Sec. 177. Section 490.1409, Code 2020, is amended by

striking the section and inserting in lieu thereof the following:

490.1409 Director duties.

1. Directors shall cause the dissolved corporation to discharge or make reasonable provision for the payment of claims and make distributions in liquidation of assets to shareholders after payment or provision for claims.

2. Directors of a dissolved corporation which has disposed of claims under section 490.1406, 490.1407, or 490.1408 shall not be liable for breach of subsection 1 with respect to claims against the dissolved corporation that are barred or satisfied under section 490.1406, 490.1407, or 490.1408.

Sec. 178. Section 490.1420, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1420 Grounds for administrative dissolution.

The secretary of state may commence a proceeding under section 490.1421 to dissolve a corporation administratively, if any of the following apply:

1. The corporation does not pay within sixty days after they are due any fees, taxes, interest, or penalties imposed by this chapter or other laws of this state.

2. The corporation does not deliver its biennial report required by section 490.1622 to the secretary of state within sixty days after it is due.

3. The corporation is without a registered agent or registered office in this state for sixty days or more.

4. The secretary of state has not been notified within sixty days that the corporation's registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

5. The corporation's period of duration stated in its articles of incorporation expires.

Sec. 179. Section 490.1421, Code 2020, is amended by striking the section and inserting in lieu thereof the

following:

490.1421 Procedure for and effect of administrative dissolution.

1. If the secretary of state determines that one or more grounds exist under section 490.1420 for dissolving a corporation, the secretary of state shall serve the corporation with written notice of such determination under section 490.504.

2. If the corporation 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 under section 490.504, the secretary of state shall administratively dissolve the corporation 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 corporation under section 490.504.

3. A corporation administratively dissolved continues its corporate existence but shall not carry on any business except that necessary to wind up and liquidate its business and affairs under section 490.1405 and notify claimants under sections 490.1406 and 490.1407.

4. The administrative dissolution of a corporation does not terminate the authority of its registered agent.

Sec. 180. Section 490.1422, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1422 Reinstatement following administrative dissolution.

1. A corporation administratively dissolved under section 490.1421 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. State the name of the corporation at its date of dissolution and the effective date of its administrative

dissolution.

b. State that the ground or grounds for dissolution either did not exist or have been eliminated.

c. 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.

d. State the federal tax identification number of the corporation.

2. *a.* The secretary of state shall refer the federal tax identification number contained in the application for reinstatement to the departments of revenue and workforce development. The departments of revenue and workforce development shall report to the secretary of state the tax status of the corporation. If either department reports to the secretary of state that a filing delinquency or liability exists against the corporation, the secretary of state shall not cancel the certificate of dissolution until the filing delinquency or liability is satisfied.

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 certificate of reinstatement, and deliver a copy to the corporation under section 490.504.

(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.

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. 181. Section 490.1423, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1423 Appeal from denial of reinstatement.

1. If the secretary of state denies a corporation's application for reinstatement following administrative dissolution, the secretary of state shall serve the corporation under section 490.504 with a written notice that explains the reason or reasons for denial.

2. The corporation may appeal the denial of reinstatement to the district court of the county where the corporation's principal office or, if none in this state, its registered office, is located within thirty days after service of the notice of denial is effected. The corporation 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 corporation'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 corporation or may take other action the court considers appropriate.

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

Sec. 182. Section 490.1430, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1430 Grounds for judicial dissolution.

1. The district court may dissolve a corporation in any of the following ways:

a. A proceeding by the attorney general if it is established

that any of the following apply:

(1) The corporation obtained its articles of incorporation through fraud.

(2) The corporation has continued to exceed or abuse the authority conferred upon it by law.

b. A proceeding by a shareholder if it is established that any of the following conditions exist:

(1) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered, or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock.

(2) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent.

(3) The shareholders are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired.

(4) The corporate assets are being misapplied or wasted.

c. A proceeding by a creditor if it is established that any of the following applies:

(1) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent.

(2) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent.

d. A proceeding by the corporation to have its voluntary dissolution continued under court supervision.

e. A proceeding by a shareholder if the corporation has abandoned its business and has failed within a reasonable time to liquidate and distribute its assets and dissolve.

2. Subsection 1, paragraph "*b*", shall not apply in the

case of a corporation that, on the date of the filing of the proceeding, has a class or series of shares which is any of the following:

a. A covered security under section 18(b)(1)(A) or (B) of the federal Securities Act of 1933.

b. Not a covered security, but is held by at least three hundred shareholders and the shares outstanding have a market value of at least twenty million dollars, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors, and if they own more than ten percent of such shares, beneficial shareholders, and voting trust beneficial owners.

3. *a.* As used in subsection 1, "*shareholder*" means a record shareholder, a beneficial shareholder, and an unrestricted voting trust beneficial owner.

b. As used in subsection 2, "*shareholder*" means a record shareholder, a beneficial shareholder, and a voting trust beneficial owner.

Sec. 183. Section 490.1431, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1431 Procedure for judicial dissolution.

1. Venue for a proceeding by the attorney general to dissolve a corporation lies in Polk county. Venue for a proceeding brought by any other party named in section 490.1430, subsection 1, lies in the county where a corporation's principal office or, if none in this state, its registered office is or was last located.

2. It is not necessary to make shareholders parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

3. A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian during the proceeding with all powers and duties the court directs, take other action required to preserve the corporate assets

wherever located, and carry on the business of the corporation until a full hearing can be held.

4. Within ten days of the commencement of a proceeding to dissolve a corporation under section 490.1430, subsection 1, paragraph "b", the corporation shall deliver to all shareholders, other than the petitioner, a notice stating that the shareholders are entitled to avoid the dissolution of the corporation by electing to purchase the petitioner's shares under section 490.1434, and accompanied by a copy of section 490.1434.

Sec. 184. Section 490.1432, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1432 Receivership or custodianship.

1. Unless an election to purchase has been filed under section 490.1434, a court in a judicial proceeding brought to dissolve a corporation may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage, the business and affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has jurisdiction over the corporation and all of its property wherever located.

2. The court may appoint an individual or a domestic or foreign corporation or eligible entity as a receiver or custodian, which, if a foreign corporation or foreign eligible entity, must be registered to do business in this state. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

3. The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers all of the following apply:

a. The receiver may do any or all of the following:

(1) Dispose of all or any part of the assets of the corporation wherever located, at a public or private sale.

(2) Sue and defend in the receiver's own name as receiver of the corporation in all courts of this state.

b. The custodian may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the affairs of the corporation in the best interests of its shareholders and creditors.

c. The receiver or custodian shall have such other powers and duties as the court may provide in the appointing order, which may be amended from time to time.

4. The court during a receivership may redesignate the receiver a custodian and during a custodianship may redesignate the custodian a receiver.

5. The court from time to time during the receivership or custodianship may order compensation paid and expenses paid or reimbursed to the receiver or custodian from the assets of the corporation or proceeds from the sale of the assets.

Sec. 185. Section 490.1434, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1434 Election to purchase in lieu of dissolution.

1. In a proceeding under section 490.1430, subsection 1, paragraph "*b*", to dissolve a corporation, the corporation may elect or, if it fails to elect, one or more shareholders may elect to purchase all shares owned by the petitioning shareholder at the fair value of the shares. An election pursuant to this section shall be irrevocable unless the court determines that it is equitable to set aside or modify the election.

2. An election to purchase pursuant to this section may be filed with the court at any time within ninety days after the filing of the petition under section 490.1430, subsection 1, paragraph "*b*", or at such later time as the court in its discretion may allow. If the election to purchase is filed

by one or more shareholders, the corporation shall, within ten days thereafter, give written notice to all shareholders, other than the petitioner. The notice must state the name and number of shares owned by the petitioner and the name and number of shares owned by each electing shareholder and must advise the recipients of their right to join in the election to purchase shares in accordance with this section. Shareholders who wish to participate shall file notice of their intention to join in the purchase no later than thirty days after the effectiveness of the notice to them. All shareholders who have filed an election or notice of their intention to participate in the election to purchase thereby become parties to the proceeding and shall participate in the purchase in proportion to their ownership of shares as of the date the first election was filed, unless they otherwise agree or the court otherwise directs. After an election has been filed by the corporation or one or more shareholders, the proceeding under section 490.1430, subsection 1, paragraph "b", shall not be discontinued or settled, nor shall the petitioning shareholder sell or otherwise dispose of the shareholder's shares, unless the court determines that it would be equitable to the corporation and the shareholders, other than the petitioner, to permit such discontinuance, settlement, sale, or other disposition.

3. If, within sixty days of the filing of the first election, the parties reach agreement as to the fair value and terms of purchase of the petitioner's shares, the court shall enter an order directing the purchase of the petitioner's shares upon the terms and conditions agreed to by the parties.

4. If the parties are unable to reach an agreement as provided for in subsection 3, the court, upon application of any party, shall stay the proceedings under section 490.1430, subsection 1, paragraph "b", and determine the fair value of the petitioner's shares as of the day before the date on which the petition under section 490.1430, subsection 1, paragraph

"b", was filed or as of such other date as the court deems appropriate under the circumstances.

5. Upon determining the fair value of the shares, the court shall enter an order directing the purchase upon such terms and conditions as the court deems appropriate, which may include payment of the purchase price in installments, where necessary in the interests of equity, provision for security to assure payment of the purchase price and any additional expenses as may have been awarded, and, if the shares are to be purchased by shareholders, the allocation of shares among them. In allocating the petitioner's shares among holders of different classes or series of shares, the court should attempt to preserve the existing distribution of voting rights among holders of different classes or series insofar as practicable and may direct that holders of a specific class or classes or series shall not participate in the purchase. Interest may be allowed at the rate and from the date determined by the court to be equitable, but if the court finds that the refusal of the petitioning shareholder to accept an offer of payment was arbitrary or otherwise not in good faith, no interest shall be allowed. If the court finds that the petitioning shareholder had probable grounds for relief under section 490.1430, subsection 1, paragraph "b", subparagraph (2) or (4), it may award expenses to the petitioning shareholder.

6. Upon entry of an order under subsection 3 or 5, the court shall dismiss the petition to dissolve the corporation under section 490.1430, subsection 1, paragraph "b", and the petitioning shareholder shall no longer have any rights or status as a shareholder of the corporation, except the right to receive the amounts awarded by the order of the court which shall be enforceable in the same manner as any other judgment.

7. The purchase ordered pursuant to subsection 5 shall be made within ten days after the date the order becomes final.

8. Any payment by the corporation pursuant to an order under subsection 3 or 5, other than an award of expenses pursuant to

subsection 5, is subject to the provisions of section 490.640.

Sec. 186. Section 490.1440, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1440 Deposit with state treasurer.

Assets of a dissolved corporation that should be transferred to a creditor, claimant, or shareholder of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash and deposited with the treasurer of state or other appropriate state official for safekeeping. When the creditor, claimant, or shareholder furnishes satisfactory proof of entitlement to the amount deposited, the treasurer of state or other appropriate state official shall pay such person, or the representative of such person, that amount.

Sec. 187. Section 490.1501, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1501 Governing law.

1. The law of the jurisdiction of formation of a foreign corporation governs all of the following:

a. The internal affairs of the foreign corporation.

b. The interest holder liability of its shareholders.

2. A foreign corporation is not precluded from registering to do business in this state because of any difference between the law of the foreign corporation's jurisdiction of formation and the law of this state.

3. Registration of a foreign corporation to do business in this state does not permit the foreign corporation to engage in any business or affairs or exercise any power that a domestic corporation cannot lawfully engage in or exercise in this state.

Sec. 188. Section 490.1502, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1502 Registration to do business in this state.

1. A foreign corporation shall not do business in this state until it registers with the secretary of state under this chapter.

2. A foreign corporation doing business in this state shall not maintain a proceeding in any court of this state until it is registered to do business in this state.

3. The failure of a foreign corporation to register to do business in this state does not impair the validity of a contract or act of the foreign corporation or preclude it from defending a proceeding in this state.

4. A limitation on the liability of a shareholder or director of a foreign corporation is not waived solely because the foreign corporation does business in this state without registering.

5. Section 490.1501, subsection 1, applies even if a foreign corporation fails to register under this chapter.

Sec. 189. Section 490.1503, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1503 Foreign registration statement.

1. To register to do business in this state, a foreign corporation shall deliver a foreign registration statement to the secretary of state for filing. The registration statement must be signed by the foreign corporation and state all of the following:

a. The corporate name of the foreign corporation and, if the name does not comply with section 490.401, an alternate name as required by section 490.1506.

b. The foreign corporation's jurisdiction of formation.

c. The street and mailing addresses of the foreign corporation's principal office and, if the law of the foreign corporation's jurisdiction of formation requires the foreign corporation to maintain an office in that jurisdiction, the street and mailing addresses of that office.

d. The street and mailing addresses of the foreign

corporation's registered office in this state and the name of its registered agent at that office.

e. The names and business addresses of its directors and principal officers.

2. The foreign corporation shall deliver the completed foreign registration statement 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 other official having custody of corporate records in the state or country under whose law it is incorporated which is dated no earlier than ninety days prior to the date the application is filed by the secretary of state.

Sec. 190. Section 490.1504, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1504 Amendment of foreign registration statement.

A registered foreign corporation shall sign and deliver to the secretary of state for filing an amendment to its foreign registration statement if there is a change in any of the following:

1. Its name or alternate name.

2. Its jurisdiction of formation, unless its registration is deemed to have been withdrawn under section 490.1508 or transferred under section 490.1510.

3. An address required by section 490.1503, subsection 1, paragraph *"c"*.

Sec. 191. Section 490.1505, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1505 Activities not constituting doing business.

1. Activities of a foreign corporation that do not constitute doing business in this state for purposes of this subchapter include all of the following:

a. Maintaining, defending, mediating, arbitrating, or settling a proceeding.

b. Carrying on any activity concerning the internal affairs of the foreign corporation, including holding meetings of its shareholders or board of directors.

c. Maintaining accounts in financial institutions.

d. Maintaining offices or agencies for the transfer, exchange, and registration of securities of the foreign corporation or maintaining trustees or depositories with respect to those securities.

e. Selling through independent contractors.

f. Soliciting or obtaining orders by any means if the orders require acceptance outside this state before they become contracts.

g. Creating or acquiring indebtedness, mortgages, or security interests in property.

h. Securing or collecting debts or enforcing mortgages or security interests in property securing the debts, and holding, protecting, or maintaining property so acquired.

i. Conducting an isolated transaction that is not in the course of similar transactions.

j. Owning, protecting, and maintaining property.

k. Doing business in interstate commerce.

2. This section does not apply in determining the contacts or activities that may subject a foreign corporation to service of process, taxation, or regulation under the laws of this state other than this chapter.

Sec. 192. Section 490.1506, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1506 Noncomplying name of foreign corporation.

1. A foreign corporation whose name does not comply with section 490.401 shall not register to do business in this state until it adopts, for the purpose of doing business in this state, an alternate name that complies with section 490.401 by filing a foreign registration statement under section 490.1503, or if applicable, a transfer of registration statement under

section 490.1510, setting forth that alternate name. After registering to do business in this state with an alternate name, a foreign corporation shall do business in this state under any of the following:

a. The alternate name.

b. The foreign corporation's name, with the addition of its jurisdiction of formation.

2. If a registered foreign corporation changes its name after registration to a name that does not comply with section 490.401, it shall not do business in this state until it complies with subsection 1 by amending its registration statement to adopt an alternate name that complies with section 490.401.

Sec. 193. Section 490.1507, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1507 Withdrawal of registration of registered foreign corporation.

1. A registered foreign corporation may withdraw its registration by delivering a statement of withdrawal to the secretary of state for filing. The statement of withdrawal must be signed by the foreign corporation and state all of the following:

a. The name of the foreign corporation and its jurisdiction of formation.

b. That the foreign corporation is not doing business in this state and that it withdraws its registration to do business in this state.

c. That the foreign corporation revokes the authority of its registered agent in this state.

d. An address to which process on the foreign corporation may be sent by the secretary of state under section 490.504, subsection 3.

2. After the withdrawal of the registration of a foreign corporation, service of process in any proceeding based on

a cause of action arising during the time the entity was registered to do business in this state may be made as provided in section 490.504.

Sec. 194. Section 490.1508, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1508 Deemed withdrawal upon domestication or conversion to certain domestic entities.

A registered foreign corporation that domesticates to a domestic business corporation or converts to a domestic nonprofit corporation or any type of domestic filing entity or to a domestic limited liability partnership is deemed to have withdrawn its registration on the effectiveness of such event.

Sec. 195. Section 490.1509, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1509 Withdrawal upon dissolution or conversion to certain nonfiling entities.

1. A registered foreign corporation that has dissolved and completed winding up or has converted to a domestic or foreign nonfiling entity other than a limited liability partnership shall deliver to the secretary of state for filing a statement of withdrawal. The statement must be signed by the dissolved corporation or the converted domestic or foreign nonfiling entity and state:

a. In the case of a foreign corporation that has completed winding up all of the following:

(1) Its name and jurisdiction of formation.

(2) That the foreign corporation withdraws its registration to do business in this state and revokes the authority of its registered agent to accept service on its behalf.

(3) An address to which process on the foreign corporation may be sent by the secretary of state under section 490.504, subsection 3.

b. In the case of a foreign corporation that has converted

to a domestic or foreign nonfiling entity other than a limited liability partnership all of the following:

(1) The name of the converting foreign corporation and its jurisdiction of formation.

(2) The type of the nonfiling entity to which it has converted and its name and jurisdiction of formation.

(3) That it withdraws its registration to do business in this state and revokes the authority of its registered agent to accept service on its behalf.

(4) An address to which process on the foreign corporation may be sent by the secretary of state under section 490.504, subsection 3.

2. After the withdrawal of the registration of a foreign corporation, service of process in any proceeding based on a cause of action arising during the time the entity was registered to do business in this state may be made as provided in section 490.504.

Sec. 196. Section 490.1510, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1510 Transfer of registration.

1. If a registered foreign corporation merges into a nonregistered foreign corporation or converts to a foreign corporation required to register with the secretary of state to do business in this state, the foreign corporation shall deliver to the secretary of state for filing a transfer of registration statement. The transfer of registration statement must be signed by the surviving or converted foreign corporation and state all of the following:

a. The name of the registered foreign corporation and its jurisdiction of formation before the merger or conversion.

b. The name of the surviving or converted foreign corporation and its jurisdiction of formation after the merger or conversion and, if the name does not comply with section 490.401, an alternate name adopted pursuant to section

490.1506.

c. All of the following information regarding the surviving or converted foreign corporation after the merger or conversion:

(1) The street and mailing addresses of the principal office of the foreign corporation and, if the law of the foreign corporation's jurisdiction of formation requires it to maintain an office in that jurisdiction, the street and mailing addresses of that office.

(2) The street and mailing addresses of the foreign corporation's registered office in this state and the name of its registered agent at that office.

2. On the effective date of a transfer of registration statement as determined in accordance with section 490.123, the registration of the registered foreign corporation to do business in this state is transferred without interruption to the foreign corporation into which it has merged or to which it has been converted.

Sec. 197. NEW SECTION. **490.1511 Administrative termination of registration.**

1. The secretary of state may terminate the registration of a registered foreign corporation in the manner provided in subsections 2 and 3, if any of the following applies:

a. The foreign corporation does not pay within sixty days after they are due any fees, taxes, interest, or penalties imposed by this chapter or other laws of this state.

b. The foreign corporation does not deliver its biennial report to the secretary of state within sixty days after it is due.

c. The foreign corporation is without a registered agent or registered office in this state for sixty days or more.

d. The secretary of state has not been notified within sixty days that the foreign corporation's registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been

discontinued.

2. The secretary of state may terminate the registration of a registered foreign corporation by doing all of the following:

a. Filing a certificate of termination.

b. Delivering a copy of the certificate of termination to the foreign corporation's registered agent or, if the foreign corporation does not have a registered agent, to the foreign corporation's principal office.

3. The certificate of termination must state all of the following:

a. The effective date of the termination, which must be not less than sixty days after the secretary of state delivers the copy of the certificate of termination as prescribed in subsection 2, paragraph "*b*".

b. The grounds for termination under subsection 1.

4. The registration of a registered foreign corporation to do business in this state ceases on the effective date of the termination as set forth in the certificate of termination, unless before that date the foreign corporation cures each ground for termination stated in the certificate of termination. If the foreign corporation cures each ground, the secretary of state shall file a statement that the certificate of termination is withdrawn.

5. After the effective date of the termination as set forth in the certificate of termination, service of process in any proceeding based on a cause of action arising during the time the entity was registered to do business in this state may be made as provided in section 490.504.

Sec. 198. NEW SECTION. **490.1512 Action by attorney general.**

The attorney general may maintain an action to enjoin a foreign corporation from doing business in this state in violation of this chapter.

Sec. 199. Section 490.1601, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1601 Corporate records.

1. A corporation shall maintain all of the following records:

a. Its articles of incorporation as currently in effect.

b. Any notices to shareholders referred to in section 490.120, subsection 11, paragraph *"e"*, specifying facts on which a filed document is dependent if those facts are not included in the articles of incorporation or otherwise available as specified in section 490.120, subsection 11, paragraph *"e"*.

c. Its bylaws as currently in effect.

d. All written communications within the past three years to shareholders generally.

e. Minutes of all meetings of, and records of all actions taken without a meeting by, its shareholders, its board of directors, and board committees established under section 490.825.

f. A list of the names and business addresses of its current directors and officers.

g. Its most recent biennial report delivered to the secretary of state under section 490.1622.

2. A corporation shall maintain all annual financial statements prepared for the corporation for its last three fiscal years, or such shorter period of existence, and any audit or other reports with respect to such financial statements.

3. A corporation shall maintain accounting records in a form that permits preparation of its financial statements.

4. A corporation shall maintain a record of its current shareholders in alphabetical order by class or series of shares showing the address of, and the number and class or series of shares held by, each shareholder. Nothing contained in this subsection shall require the corporation to include in such record the electronic mail address or other electronic contact information of a shareholder.

5. A corporation shall maintain the records specified in this section in a manner so that they may be made available for inspection within a reasonable time.

Sec. 200. Section 490.1602, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1602 Inspection rights of shareholders.

1. A shareholder of a corporation is entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in section 490.1601, subsection 1, excluding minutes of meetings of, and records of actions taken without a meeting by, the corporation's board of directors and board committees established under section 490.825, if the shareholder gives the corporation a signed written notice of the shareholder's demand at least five business days before the date on which the shareholder wishes to inspect and copy.

2. A shareholder of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder meets the requirements of subsection 3 and gives the corporation a signed written notice of the shareholder's demand at least five business days before the date on which the shareholder wishes to inspect and copy any of the following:

a. The financial statements of the corporation maintained in accordance with section 490.1601, subsection 2.

b. Accounting records of the corporation.

c. Excerpts from minutes of any meeting of, or records of any actions taken without a meeting by, the corporation's board of directors and board committees maintained in accordance with section 490.1601, subsection 1.

d. The record of shareholders maintained in accordance with section 490.1601, subsection 4.

3. A shareholder may inspect and copy the records described

in subsection 2 only if all of the following apply:

a. The shareholder's demand is made in good faith and for a proper purpose.

b. The shareholder's demand describes with reasonable particularity the shareholder's purpose and the records the shareholder desires to inspect.

c. The records are directly connected with the shareholder's purpose.

4. The corporation may impose reasonable restrictions on the confidentiality, use, or distribution of records described in subsection 2.

5. For any meeting of shareholders for which the record date for determining shareholders entitled to vote at the meeting is different from the record date for notice of the meeting, any person who becomes a shareholder subsequent to the record date for notice of the meeting and is entitled to vote at the meeting is entitled to obtain from the corporation upon request the notice and any other information provided by the corporation to shareholders in connection with the meeting, unless the corporation has made such information generally available to shareholders by posting it on its internet site or by other generally recognized means. Failure of a corporation to provide such information does not affect the validity of action taken at the meeting.

6. The right of inspection granted by this section shall not be abolished or limited by a corporation's articles of incorporation or bylaws.

7. This section does not affect any of the following:

a. The right of a shareholder to inspect records under section 490.720 or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant.

b. The power of a court, independently of this chapter, to compel the production of corporate records for examination and to impose reasonable restrictions as provided in section 490.1604, subsection 3, provided that, in the case of

production of records described in subsection 2, at the request of a shareholder, the shareholder has met the requirements of subsection 3.

8. As used in this section, *"shareholder"* means a record shareholder, a beneficial shareholder, and an unrestricted voting trust beneficial owner.

Sec. 201. Section 490.1603, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1603 Scope of inspection right.

1. A shareholder may appoint an agent or attorney to exercise the shareholder's inspection and copying rights under section 490.1602.

2. The corporation may, if reasonable, satisfy the right of a shareholder to copy records under section 490.1602 by furnishing to the shareholder copies by photocopy or other means chosen by the corporation, including furnishing copies through an electronic transmission.

3. The corporation may comply at its expense with a shareholder's demand to inspect the record of shareholders under section 490.1602, subsection 2, paragraph *"d"*, by providing the shareholder with a list of shareholders that was compiled no earlier than the date of the shareholder's demand.

4. The corporation may impose a reasonable charge to cover the costs of providing copies of documents to the shareholder, which may be based on an estimate of such costs.

Sec. 202. Section 490.1604, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1604 Court-ordered inspection.

1. If a corporation does not allow a shareholder who complies with section 490.1602, subsection 1, to inspect and copy any records required by that section to be available for inspection, the district court of the county where the corporation's principal office or, if none in this state, its

registered office, is located, may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the shareholder.

2. If a corporation does not within a reasonable time allow a shareholder who complies with section 490.1602, subsection 2, to inspect and copy the records required by that section, the shareholder who complies with section 490.1602, subsection 3, may apply to the district court in the county where the corporation's principal office or, if none in this state, its registered office, is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

3. If the court orders inspection and copying of the records demanded under section 490.1602, subsection 2, it may impose reasonable restrictions on their confidentiality, use, or distribution by the demanding shareholder and it shall also order the corporation to pay the shareholder's expenses incurred to obtain the order, unless the corporation establishes that it refused inspection in good faith because of any of the following:

a. The corporation had a reasonable basis for doubt about the right of the shareholder to inspect the records demanded.

b. The corporation required reasonable restrictions on the confidentiality, use, or distribution of the records demanded to which the demanding shareholder had been unwilling to agree.

Sec. 203. Section 490.1605, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1605 Inspection of records by directors.

1. A director of a corporation is entitled to inspect and copy the books, records, and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a board committee, but not for any other purpose or in any manner that would violate any duty to the

corporation.

2. The district court of the county where the corporation's principal office, or if none in this state, its registered office, is located may order inspection and copying of the books, records, and documents at the corporation's expense, upon application of a director who has been refused such inspection rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

3. If an order is issued, the court may include provisions protecting the corporation from undue burden or expense, and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's expenses incurred in connection with the application.

Sec. 204. Section 490.1620, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1620 Financial statements for shareholders.

1. Upon the written request of a shareholder, a corporation shall deliver or make available to such requesting shareholder by posting on its internet site or by other generally recognized means annual financial statements for the most recent fiscal year of the corporation for which annual financial statements have been prepared for the corporation. If financial statements have been prepared for the corporation on the basis of generally accepted accounting principles for such specified period, the corporation shall deliver or make available such financial statements to the requesting shareholder. If the annual financial statements to be delivered or made available to the requesting shareholder are audited or otherwise reported upon by a public accountant, the report shall also be delivered or made available to the

requesting shareholder.

2. A corporation shall deliver, or make available and provide written notice of availability of, the financial statements required under subsection 1 to the requesting shareholder within five business days of delivery of such written request to the corporation.

3. A corporation may fulfill its responsibilities under this section by delivering the specified financial statements, or otherwise making them available, in any manner permitted by the applicable rules and regulations of the federal securities and exchange commission.

4. Notwithstanding the provisions of subsections 1, 2, and 3, all of the following apply:

a. As a condition to delivering or making available financial statements to a requesting shareholder, the corporation may require the requesting shareholder to agree to reasonable restrictions on the confidentiality, use, and distribution of such financial statements.

b. The corporation may, if it reasonably determines that the shareholder's request is not made in good faith or for a proper purpose, decline to deliver or make available such financial statements to that shareholder.

5. If a corporation does not respond to a shareholder's request for annual financial statements pursuant to this section in accordance with subsection 2 within five business days of delivery of such request to the corporation all of the following shall apply:

a. The requesting shareholder may apply to the district court of the county where the corporation's principal office, or if none in this state, its registered office, is located for an order requiring delivery of or access to the requested financial statements. The court shall dispose of an application under this subsection on an expedited basis.

b. If the court orders delivery or access to the requested financial statements, it may impose reasonable restrictions on

their confidentiality, use, or distribution.

c. In such proceeding, if the corporation has declined to deliver or make available such financial statements because the shareholder had been unwilling to agree to restrictions proposed by the corporation on the confidentiality, use, and distribution of such financial statements, the corporation shall have the burden of demonstrating that the restrictions proposed by the corporation were reasonable.

d. In such proceeding, if the corporation has declined to deliver or make available such financial statements pursuant to subsection 4, paragraph "*b*", the corporation shall have the burden of demonstrating that it had reasonably determined that the shareholder's request was not made in good faith or for a proper purpose.

e. If the court orders delivery or access to the requested financial statements it shall order the corporation to pay the shareholder's expenses incurred to obtain such order unless the corporation establishes that it had refused delivery or access to the requested financial statements because the shareholder had refused to agree to reasonable restrictions on the confidentiality, use, or distribution of the financial statements or that the corporation had reasonably determined that the shareholder's request was not made in good faith or for a proper purpose.

Sec. 205. Section 490.1622, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1622 Biennial report for secretary of state.

1. Each domestic corporation shall deliver to the secretary of state for filing a biennial report that sets forth all of the following:

a. The name of the corporation.

b. The street and mailing addresses of its registered office and the name of its registered agent at that office in this state.

c. The street and mailing addresses of its principal office.

d. The names and business addresses of the president, secretary, treasurer, and one of the board of directors.

2. Each foreign corporation registered to do business in this state shall deliver to the secretary of state for filing a biennial report that sets forth all of the following:

a. The name of the foreign corporation and, if the name does not comply with section 490.401, an alternate name as required by section 490.1506.

b. The foreign corporation's jurisdiction of formation.

c. The street and mailing addresses of the foreign corporation's principal office and, if the law of the foreign corporation's jurisdiction of formation requires the foreign corporation to maintain an office in that jurisdiction, the street and mailing addresses of that office.

d. The street and mailing addresses of the foreign corporation's registered office in this state and the name of its registered agent at that office.

e. The names and business addresses of the president, secretary, treasurer, and one of the board of directors.

3. Information in the biennial report must be current as of the date the biennial report is signed on behalf of the corporation. The report shall be executed on behalf of the corporation and signed as provided in section 490.120 or by any other person authorized by the board of directors of the corporation.

4. The first biennial report shall be delivered to the secretary of state between January 1 and April 1 of the first even-numbered year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent biennial reports must be delivered to the secretary of state between January 1 and April 1 of the following even-numbered calendar years. For purposes of this section, each biennial report shall contain information related to the two-year period

immediately preceding the calendar year in which the report is filed.

5. If a biennial report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the secretary of state within thirty days after the notice from the secretary of state becomes effective as determined in accordance with section 490.141, it is deemed to be timely filed.

6. The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the biennial report, provided that the form contains the information required in section 490.502. If the secretary of state determines that a biennial report does not contain the information required by this section but otherwise meets the requirements of section 490.502 for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent, effective as provided in section 490.123, before returning the biennial report to the corporation as provided in this section. A statement of change of registered office or agent pursuant to this subsection shall be executed by a person authorized to execute the biennial report.

Sec. 206. Section 490.1701, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1701 Application of subchapter — definitions.

1. If a corporation elects to become a benefit corporation under this subchapter in the manner prescribed in this subchapter, it is subject in all respects to the provisions of this chapter, except to the extent this subchapter imposes additional or different requirements, in which case such

requirements apply. The inclusion of a provision in this subchapter does not imply that a contrary or different rule of law applies to a corporation that is not a benefit corporation. This subchapter does not affect a statute or rule of law that applies to a corporation that is not a benefit corporation.

2. As used in this subchapter:

a. "Benefit corporation" means a corporation that includes in its articles of incorporation a statement that the corporation is subject to this subchapter.

b. "Public benefit" means a positive effect, or reduction of negative effects, on one or more communities or categories of persons or entities, other than shareholders solely in their capacity as shareholders, or on the environment, including effects of an artistic, charitable, economic, educational, cultural, literary, medical, religious, social, ecological, or scientific nature.

c. "Public benefit provision" means a provision in the articles of incorporation which states that the corporation shall pursue one or more identified public benefits.

d. "Responsible and sustainable manner" means a manner that does all of the following:

(1) Pursues through the business of the corporation the creation of a positive effect on society and the environment, taken as a whole, that is material taking into consideration the corporation's size and the nature of its business.

(2) Considers, in addition to the interests of shareholders, the interests of stakeholders known to be affected by the conduct of the business of the corporation.

Sec. 207. Section 490.1702, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1702 Name — share certificates.

1. The name of a benefit corporation may contain the words "benefit corporation", the abbreviation "B.C.", or the designation "BC", any of which shall be deemed to satisfy the

requirements of section 490.401, subsection 1, paragraph "a".

2. Any share certificate issued by a benefit corporation, and any information statement delivered by a benefit corporation pursuant to section 490.626, subsection 2, must note conspicuously that the corporation is a benefit corporation subject to this subchapter.

Sec. 208. Section 490.1703, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.1703 Certain amendments and transactions — votes required.

1. Unless the articles of incorporation or bylaws require a greater vote, the approval of at least two-thirds of the voting power of the outstanding shares of the corporation entitled to vote thereon, and, if any class or series of shares is entitled to vote as a separate group on any such amendment or transaction, the approval of at least two-thirds of the outstanding shares of each such separate voting group entitled to vote thereon, shall be required for a corporation that is not a benefit corporation to do any of the following:

a. Amend its articles of incorporation to include a statement that it is subject to this subchapter.

b. Merge with or into, or enter into a share exchange with, another entity, or effect a domestication or conversion, if, as a result of the merger, share exchange, domestication, or conversion, the shares of any voting group would become, or be converted into or exchanged for the right to receive, shares of a benefit corporation or shares or interests in an entity subject to provisions of organic law analogous to those in this subchapter; provided, however, that in the case of this paragraph "b", if the shares of one or more, but not all, voting groups are so affected, then only the shares in the voting groups so affected shall be entitled to vote under this subsection.

2. Unless the articles of incorporation or bylaws require a

greater vote, the approval of at least two-thirds of the voting power of the outstanding shares of the corporation entitled to vote thereon and, if any class or series of shares is entitled to vote as a separate group on any such amendment or transaction, the approval of at least two-thirds of the voting power of the outstanding shares of each such separate voting group, shall be required for a benefit corporation to do any of the following:

a. Amend its articles of incorporation to eliminate a statement that the corporation is subject to this subchapter.

b. Merge with or into, or enter into a share exchange with, another entity, or effect a domestication or conversion if, as a result of the merger, share exchange, domestication, or conversion, the shares of any voting group would become, or be converted into or exchanged for the right to receive, shares or interests in an entity that is neither a benefit corporation nor an entity subject to provisions of organic law analogous to those in this subchapter; provided, however, that in the case of this paragraph "*b*", if the shares of one or more, but not all, voting groups are so affected, then only the shares in the voting groups so affected shall be entitled to vote under this subsection.

3. The vote required under subsections 1 and 2 is in addition to any vote otherwise required under this chapter.

Sec. 209. NEW SECTION. **490.1704 Duties of directors.**

1. Each member of the board of directors of a benefit corporation, when discharging the duties of a director, shall act according to all of the following:

a. In a responsible and sustainable manner.

b. In a manner that pursues the public benefit or benefits identified in any public benefit provision.

2. In fulfilling the duties under subsection 1, a director shall consider, to the extent affected, in addition to the interests of shareholders generally, the separate interests of stakeholders known to be affected by the business of the

corporation including all of the following:

a. The employees and workforces of the corporation, its subsidiaries, and its suppliers.

b. Customers.

c. Communities or society, including those of each community in which offices or facilities of the corporation, its subsidiaries, or its suppliers are located.

d. The local and global environment.

3. A director of a benefit corporation shall not, by virtue of the duties imposed by subsections 1 and 2, owe any duty to a person other than the benefit corporation due to any interest of the person in the status of the corporation as a benefit corporation or in any public benefit provision.

4. Unless otherwise provided in the articles of incorporation, the violation by a director of the duties imposed by subsections 1 and 2 shall not constitute an intentional infliction of harm on the corporation or the shareholders for the purposes of sections 490.202, subsection 2, paragraphs *"d"* and *"e"*.

Sec. 210. NEW SECTION. **490.1705 Annual benefit report.**

1. No less than annually, a benefit corporation shall prepare a benefit report addressing the efforts of the corporation during the preceding year to operate in a responsible and sustainable manner, to pursue any public benefit or benefits identified in any public benefit provision, and to consider the interests described in section 490.1704, subsection 2. The annual benefit report must include all of the following:

a. The objectives that the board of directors has established for the corporation to operate in a responsible and sustainable manner, to pursue any public benefit or benefits identified in any public benefit provision, and to consider the interests described in section 490.1704, subsection 2.

b. The standards the board of directors has adopted to measure the corporation's progress in operating in a

responsible and sustainable manner, in pursuing the public benefit or benefits identified in any public benefit provision, and in considering the interests described in section 490.1704, subsection 2.

c. If the articles of incorporation or bylaws require that the corporation use an independent third-party standard in reporting on the corporation's progress in operating in a responsible and sustainable manner, in pursuing any public benefit or benefits identified in any public benefit provision, or in considering the interests described in section 490.1704, subsection 2, or if the board of directors has chosen to use such a standard, the applicable standard so required or chosen.

d. An assessment of the corporation's success in meeting the objectives and standards identified in paragraphs "*a*" and "*b*", and, if applicable, paragraph "*c*", and the basis for that assessment.

2. The benefit corporation shall deliver to each shareholder, or make available and provide written notice to each shareholder of the availability of, the annual benefit report required by subsection 1 on or before the earlier of the following:

a. One hundred twenty days following the end of the fiscal year of the benefit corporation.

b. The time that the benefit corporation delivers any other annual reports or annual financial statements to its shareholders.

3. Any shareholder that has not received or been given access to an annual benefit report within the time required by subsection 2 may make a written request that the corporation deliver or make available the annual benefit report to the shareholder. If a benefit corporation does not deliver or make available an annual benefit report to the shareholder within five business days of receiving such request, the requesting shareholder may apply to the district court of the county where the corporation's principal office or, if none in this

state, its registered office, is located for an order requiring delivery of or access to the annual benefit report. The court shall dispose of an action under this subsection 3 on an expedited basis.

4. A benefit corporation shall post all of its annual benefit reports on the public portion of its internet site, if any. If a benefit corporation does not have an internet site, the benefit corporation shall provide a copy of its most recent annual benefit report, without charge, to any person that requests a copy in writing.

Sec. 211. NEW SECTION. **490.1706 Rights of action.**

1. Except in a proceeding authorized under section 490.1705, subsection 3, or this section, no person other than the corporation, or a shareholder in the right of the corporation pursuant to subsection 2, may bring an action or assert a claim with respect to the violation of any duty applicable to a benefit corporation or any of its directors under this subchapter.

2. Except for a proceeding brought under section 490.1705, subsection 3, a proceeding by a shareholder of a benefit corporation claiming violation of any duty applicable to a benefit corporation or any of its directors under this subchapter is subject to all of the following:

a. The proceeding must be brought in a derivative proceeding pursuant to subchapter VII, part 4.

b. The proceeding may be brought only by a shareholder of the benefit corporation that at the time of the act or omission complained of either individually, or together with other shareholders bringing such action collectively, owned directly or indirectly at least five percent of a class of the corporation's outstanding shares or, in the case of a corporation with shares traded on an organized market as described in section 490.1302, subsection 2, paragraph "*a*", subparagraph (2), either that percentage of shares or shares with a market value of at least five million dollars at the

time the proceeding is commenced.

3. A suit under subsection 2 shall not be maintained if, during the pendency of the suit, the shareholder individually fails, or the shareholders collectively fail, to continue to own directly or indirectly the lesser of the number of shares owned at the time the proceeding is commenced or five percent of a class of the corporation's shares.

Sec. 212. NEW SECTION. **490.1801 Application to existing domestic corporations.**

1. This chapter applies to all domestic corporations in existence on July 1, 2021, that were incorporated under any general statute of this state providing for incorporation of corporations for profit if power to amend or repeal the statute under which the corporation was incorporated was reserved.

2. *a.* Unless otherwise provided, this chapter does not apply to an entity subject to chapter 174, 497, 498, 499, 499A, 501, 501A, 524, or 533, or a corporation organized on the mutual plan under chapter 491, or a telephone company organized as a corporation under chapter 491 qualifying pursuant to an internal revenue service letter ruling under Internal Revenue Code §501(c)(12) as a nonprofit corporation entitled to distribute profits in a manner similar to a chapter 499 corporation, unless such entity voluntarily elects to adopt the provisions of this chapter and complies with the procedure prescribed by subsection 3.

b. A corporation organized under chapter 496C may voluntarily elect to adopt the provisions of this chapter by complying with the provisions prescribed by subsection 3.

3. The procedure for the voluntary election referred to in subsection 2 is 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 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.

b. (1) The instrument shall be delivered to the secretary of state for filing and recording in the secretary of state's office. If the corporation was organized under chapter 524 or 533, the instrument shall also be filed and recorded in the office of the county recorder. The corporation shall at the time it files the instrument with the secretary of state deliver also to the secretary of state for filing in the secretary of state's office any biennial report required by section 490.1622 which is then due.

(2) If the county of the initial registered office as stated in the instrument for a corporation organized under chapter 524 or 533 is one which is other than the county where the principal place of business of the corporation, as designated in its articles of incorporation, was located, the corporation shall forward to the county recorder of the county in which the principal place of business of the corporation was located a copy of the instrument and the corporation shall forward to the recorder of the county in which the initial registered office of the corporation is located, in addition to a copy of the original instrument, a copy of the articles of incorporation of the corporation together with all amendments to them as then on file in the secretary of state's office. The corporation shall, through an officer or director, certify to the secretary of state that a copy has been sent to each applicable county recorder, including the date each copy was sent.

c. Upon the filing of the instrument by a corporation all of the following apply:

(1) All of the provisions of this chapter apply to the corporation.

(2) The secretary of state shall issue a certificate as to the filing of the instrument and deliver the certificate to the corporation or its representative.

(3) The secretary of state shall not file the instrument with respect to a corporation unless at the time of filing the corporation is validly existing and in good standing in that office under the chapter under which it is incorporated. The corporation shall be considered validly existing and in good standing for the purpose of this chapter for a period of three months following the expiration date of the corporation, provided all biennial reports due have been filed and all fees due in connection with the biennial reports have been paid.

d. The provisions of this chapter becoming applicable to a corporation voluntarily electing to be governed by this chapter do not affect any right accrued or established, or any liability or penalty incurred, under the chapter under which it is incorporated prior to the filing by the secretary of state in the secretary of state's office of the instrument manifesting the election by the corporation to adopt the provisions of this chapter as provided in this subsection.

4. A corporation subject to this chapter is not subject to chapter 491, 492, 493, or 495.

Sec. 213. NEW SECTION. **490.1802 Application to existing foreign corporation.**

A foreign corporation registered or authorized to do business in this state on the effective date of this division of this Act is subject to this chapter, is deemed to be registered to do business in this state, and is not required to file a foreign registration statement under this chapter.

Sec. 214. NEW SECTION. **490.1803 Savings provisions.**

1. Except as to procedural provisions, this division of this Act does not affect a pending action or proceeding or a right accrued before the effective date of this division of this Act, and a pending civil action or proceeding may be completed, and a right accrued may be enforced, as if this division of this Act had not become effective.

2. If a penalty or punishment for violation of a statute or rule is reduced by this division of this Act, the penalty, if

not already imposed, shall be imposed in accordance with this division of this Act.

3. In the event that any provision of this chapter is deemed to modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq., the provisions of this chapter shall control to the maximum extent permitted by section 102(a)(2) of that federal Act.

Sec. 215. NEW SECTION. **490.1804 Severability.**

If any provision of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application.

Sec. 216. REPEAL. 2018 Iowa Acts, chapter 1015, section 8, is repealed.

Sec. 217. CONTINUATION OF THE ARTICLES OF INCORPORATION. Notwithstanding the amendments to sections 490.803, 490.805, 490.806, and 490.810, as provided in this division of this Act, and the repeal of sections 490.806A, 490.806B, and 490.1005A, as provided by those sections, any amendment to the articles of incorporation of a public corporation adopted in compliance with sections 490.806A, 490.806B, and 490.1005A as those sections existed immediately prior to the effective date of this division of this Act shall remain in effect until amended or repealed as provided in the relevant sections of chapter 490 as those sections exist on or after the effective date of this division of this Act.

Sec. 218. CODE EDITOR DIRECTIVE.

1. The Code editor is directed to make the following transfers:

a. Section 490.135, as amended by this division of this Act, to section 490.130.

b. Section 490.833, as amended by this division of this Act, to section 490.832.

c. Section 490.629 to section 490.628.

d. Section 490.1622, as amended by this division of this Act, to section 490.1621.

2. The Code editor shall correct internal references in the Code and in any enacted legislation as necessary due to the enactment of this section.

Sec. 219. REPEAL. Sections 490.624A, 490.628, 490.1111, 490.1112, 490.1113, 490.1114, 490.1520, 490.1523, 490.1530, 490.1531, 490.1532, and 490.1606, Code 2020, are repealed.

Sec. 220. DIRECTIONS TO THE CODE EDITOR. The Code editor is directed to divide Code chapter 490 into subchapters and subdivide certain subchapters into parts, including sections in that chapter not amended in this division of this Act, sections amended or enacted in this division of this Act, and sections transferred in this division of this Act as follows:

1. Subchapter I, subdivided into part A, including sections 490.101 and 490.102; part B, including sections 490.120 through 490.129; part C, including section 490.130; part D, including sections 490.140 through 490.144; and part E, including sections 490.145 through 490.152.

2. Subchapter II, including sections 490.201 through 490.209.

3. Subchapter III, including sections 490.301 through 490.304.

4. Subchapter IV, including sections 490.401 through 490.403.

5. Subchapter V, including sections 490.501 through 490.504.

6. Subchapter VI, subdivided into part A, including sections 490.601 through 490.604; part B, including sections 490.620 through 490.628; part C, including sections 490.630 and 490.631; and part D, including section 490.640.

7. Subchapter VII, subdivided into part A, including sections 490.701 through 490.709; part B, including sections 490.720 through 490.729; part C, including sections 490.730

through 490.732; part D, including sections 490.740 through 490.747; and part E, including sections 490.748 and 490.749.

8. Subchapter VIII, subdivided into part A, including sections 490.800 through 490.811; part B, including sections 490.820 through 490.826; part C, including sections 490.830 through 490.832; part D, including sections 490.840 through 490.844; part E, including sections 490.850 through 490.859; part F, including sections 490.860 through 490.863; and part G, including section 490.870.

9. Subchapter IX, subdivided into part A, including sections 490.901 through 490.905; part B, including sections 490.920 through 490.924; and part C, including sections 490.930 through 490.935.

10. Subchapter X, subdivided into part A, including sections 490.1001 through 490.1009; and part B, including sections 490.1020 through 490.1022.

11. Subchapter XI, including sections 490.1101 through 490.1110.

12. Subchapter XII, including sections 490.1201 and 490.1202.

13. Subchapter XIII, subdivided into part A, including sections 490.1301 through 490.1303; part B, including sections 490.1320 through 490.1326; subchapter C, including sections 490.1330 and 490.1331; and part D, including section 490.1340.

14. Subchapter XIV, subdivided into part A, including sections 490.1401 through 490.1409; part B, including sections 490.1420 through 490.1423; part C, including sections 490.1430 through 490.1434; and part D, including section 490.1440.

15. Subchapter XV, including sections 490.1501 through 490.1512.

16. Subchapter XVI, subdivided into part A, including sections 490.1601 through 490.1605; and part B, including sections 490.1620 and 490.1621.

17. Subchapter XVII, including sections 490.1701 through 490.1706.

18. Subchapter XVIII, including sections 490.1801 through 490.1804.

Sec. 221. EFFECTIVE DATE. This division of this Act takes effect July 1, 2021.

DIVISION II

CORRESPONDING AMENDMENTS

Sec. 222. Section 249A.40, Code 2020, is amended to read as follows:

249A.40 Involuntarily dissolved providers — overpayments or incorrect payments.

Medical assistance paid to a provider following ~~involuntary~~ administrative dissolution of the provider pursuant to chapter 490, subchapter XIV, part B, shall be considered incorrectly paid for the purposes of section 249A.53 and the provider shall be considered to have received an overpayment for the purposes of this subchapter. For the purposes of this section, the overpayment shall not accrue until after a grace period of ninety days following receipt of notice by the provider of the dissolution from the department. Notwithstanding section 490.1422, or any other similar retroactive provision for reinstatement, the director shall recoup any medical assistance paid to a provider while the provider was dissolved if the provider is not retroactively reinstated within the ninety-day grace period. The principals of the provider shall be personally liable for the incorrect payment or overpayment.

Sec. 223. Section 455B.397, Code 2020, is amended to read as follows:

455B.397 Financial disclosure.

Immediately upon the incurrence of any liability to the state under this part, the debtor shall submit to the director a report consisting of documentation of the debtor's liabilities and assets, including if filed, a copy of the ~~annual~~ biennial report submitted to the secretary of state pursuant to ~~chapter 490~~ section 490.1622. A subsequent report pursuant to this section shall be submitted annually on April

15 for the life of the debt. These reports shall be kept confidential and shall not be available to the public.

Sec. 224. Section 455B.430, subsection 5, Code 2020, is amended to read as follows:

5. Immediately upon the listing of real property in the registry of hazardous waste or hazardous substance disposal sites, a person liable for cleanup costs shall submit to the director a report consisting of documentation of the responsible person's liabilities and assets, including if filed, a copy of the ~~annual~~ biennial report submitted to the secretary of state pursuant to ~~chapter 490~~ section 490.1622. A subsequent report pursuant to this section shall be submitted annually on April 15 for the period the site remains on the registry.

Sec. 225. Section 496C.14, subsection 5, Code 2020, is amended to read as follows:

5. Notwithstanding subsections 1 through 4, purchase by the corporation is not required upon the occurrence of any event other than death of a shareholder if the corporation is dissolved or voluntarily elects to adopt the provisions of the Iowa business corporation Act, as provided in section ~~490.1701~~ 490.1801, subsection 2, within sixty days after the occurrence of the event. The articles of incorporation or bylaws may provide that purchase is not required upon the death of a shareholder if the corporation is dissolved within sixty days after the death. Notwithstanding subsections 1 through 4, purchase by the corporation is not required upon the death of a shareholder if the corporation voluntarily elects to adopt the provisions of the Iowa business corporation Act, as provided in section ~~490.1701~~ 490.1801, subsection 2, within sixty days after death.

Sec. 226. Section 496C.19, Code 2020, is amended to read as follows:

496C.19 Dissolution or liquidation.

Violation of any provision of this chapter by a professional

corporation or any of its shareholders, directors, or officers shall be cause for its involuntary dissolution, or liquidation of its assets and business by the district court, as provided in the Iowa business corporation Act, chapter 490. Upon the death of the last remaining shareholder of a professional corporation, or whenever the last remaining shareholder is not licensed or ceases to be licensed to practice in this state a profession which the corporation is authorized to practice, or whenever any person other than the shareholder of record becomes entitled to have all shares of the last remaining shareholder of the corporation transferred into that person's name or to exercise voting rights, except as a proxy, with respect to such shares, the corporation shall not practice any profession and it shall either be promptly dissolved or shall promptly elect to adopt the provisions of the Iowa business corporation Act, as provided in section ~~490.1701~~ 490.1801, subsection 2. However, if prior to such dissolution all outstanding shares of the corporation are acquired by one or more persons licensed to practice in this state a profession which the corporation is authorized to practice, the corporation need not be dissolved and may practice the profession as provided in this chapter.

Sec. 227. Section 499.69A, subsection 2, paragraph b, subparagraph (2), Code 2020, is amended to read as follows:

(2) For a qualified corporation which is a party to the proposed qualified merger, the qualified corporation shall approve the plan as provided in chapter 490, subchapter XI.

Sec. 228. Section 499.69A, subsections 5 and 6, Code 2020, are amended to read as follows:

5. The effect of a qualified merger for a qualified survivor which is a cooperative association shall be as provided for in this chapter. The effect of a qualified merger for a qualified survivor which is a qualified corporation shall be as provided for corporations under chapter 490, subchapter XI.

6. The provisions governing the right of a shareholder or

member of a cooperative association to object to a merger or the right of a member to dissent and obtain payment of the fair value of an interest in the cooperative association in the case of a merger as provided in this chapter shall apply to a qualified merger. The provisions governing the right of a shareholder of a corporation to ~~dissent from~~ exercise appraisal rights and obtain payment of the fair value of the shareholder's shares in the case of a merger as provided in ~~subchapter XIII of~~ chapter 490, subchapter XIII, shall apply to a qualified merger.

Sec. 229. Section 508.12, subsection 1, Code 2020, is amended to read as follows:

1. An insurer which is organized under the laws of any state and has created or will create jobs in this state or which is an affiliate or subsidiary of a domestic insurer, and is admitted to do business in this state for the purpose of writing insurance authorized by this chapter may become a domestic insurer by complying with section ~~490.902~~ 490.905 or 491.33 and with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same type and by designating its principal place of business in this state may become a domestic corporation and be entitled to like certificates of its corporate existence and license to transact business in this state, and be subject in all respects to the authority and jurisdiction thereof.

Sec. 230. Section 515.78, subsection 1, Code 2020, is amended to read as follows:

1. An insurer which is organized under the laws of any state and has created or will create jobs in this state or which is an affiliate or subsidiary of a domestic insurer, and is admitted to do business in this state for the purpose of writing insurance authorized by this chapter may become a domestic insurer by complying with section ~~490.902~~ 490.905 or 491.33 and with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same

type and by designating its principal place of business in this state may become a domestic corporation and be entitled to like certificates of its corporate existence and license to transact business in this state, and be subject in all respects to the authority and jurisdiction thereof.

Sec. 231. Section 515E.3A, subsection 1, paragraph a, Code 2020, is amended to read as follows:

a. Complying with ~~section 490.902~~ section 490.905.

Sec. 232. Section 515G.3, subsection 2, Code 2020, is amended to read as follows:

2. A plan of conversion for an insurer organized on the mutual plan under chapter 491, shall also provide for conversion to a stock company as follows: the insurer organized on the mutual plan under chapter 491 shall amend its articles pursuant to chapter 491 as necessary to become a stock company, and shall immediately convert to a chapter 490 corporation as provided in section ~~490.1701~~ 490.1801 upon becoming a stock company.

Sec. 233. EFFECTIVE DATE. This division of this Act takes effect July 1, 2021.

DIVISION III

NONPROFIT CORPORATIONS

Sec. 234. Section 504.205, Code 2020, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A state agency or state official shall not impose any requirement on a corporation that is more stringent, restrictive, or expansive than a requirement imposed by state or federal law.

Sec. 235. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.