

BUSINESS ORGANIZATIONS CODE	
TITLE 1. GENERAL PROVISIONS	
CHAPTER 1. DEFINITIONS AND OTHER GENERAL PROVISIONS	
SUBCHAPTER A. DEFINITIONS AND PURPOSE	
Sec. 1.001.	PURPOSE 61
Sec. 1.002.	DEFINITIONS 61
Sec. 1.003.	DISINTERESTED PERSON 105
Sec. 1.004.	INDEPENDENT PERSON 108
Sec. 1.005.	CONSPICUOUS INFORMATION 111
Sec. 1.006.	SYNONYMOUS TERMS 111
Sec. 1.007.	SIGNING OF DOCUMENT OR OTHER WRITING 112
Sec. 1.008.	SHORT TITLES 114
Sec. 1.009.	DOLLARS AS MONETARY UNITS 116
[Sections 1.010-1.050 reserved for expansion]	
SUBCHAPTER B. CODE CONSTRUCTION	
Sec. 1.051.	CONSTRUCTION OF CODE 116
Sec. 1.052.	REFERENCE IN LAW TO STATUTE REVISED BY CODE 116
Sec. 1.053.	APPLICABILITY TO FOREIGN AND INTERSTATE AFFAIRS 117
Sec. 1.054.	RESERVATION OF POWER 117
[Sections 1.055-1.100 reserved for expansion]	
SUBCHAPTER C. DETERMINATION OF APPLICABLE LAW	
Sec. 1.101.	DOMESTIC FILING ENTITIES 118
Sec. 1.102.	FOREIGN FILING ENTITIES 121
Sec. 1.103.	ENTITIES NOT FORMED BY FILING INSTRUMENT 122
Sec. 1.104.	LAW APPLICABLE TO LIABILITY 123
Sec. 1.105.	INTERNAL AFFAIRS 124

Sec. 1.106.	ORDER OF PRECEDENCE	125
CHAPTER 2. PURPOSES AND POWERS OF DOMESTIC ENTITY		
SUBCHAPTER A. PURPOSES OF DOMESTIC ENTITY		
Sec. 2.001.	GENERAL SCOPE OF PERMISSIBLE PURPOSES	125
Sec. 2.002.	PURPOSES OF NONPROFIT ENTITY	126
Sec. 2.003.	GENERAL PROHIBITED PURPOSES	127
Sec. 2.004.	LIMITATION ON PURPOSES OF PROFESSIONAL ENTITY	129
Sec. 2.005.	LIMITATION IN GOVERNING DOCUMENTS	131
Sec. 2.006.	PERMISSIBLE PURPOSE OF FOR-PROFIT CORPORATION RELATED TO RAILROADS	131
Sec. 2.007.	ADDITIONAL PROHIBITED ACTIVITIES OF FOR-PROFIT CORPORATION	132
Sec. 2.008.	NONPROFIT CORPORATIONS	134
Sec. 2.009.	PERMISSIBLE PURPOSE OF NONPROFIT CORPORATION RELATED TO ORGANIZED LABOR	134
Sec. 2.010.	PROHIBITED ACTIVITIES OF NONPROFIT CORPORATION	134
Sec. 2.011.	PURPOSES OF COOPERATIVE ASSOCIATION	135
Sec. 2.012.	LIMITATION ON PURPOSES OF REAL ESTATE INVESTMENT TRUST	136
[Sections 2.013-2.100 reserved for expansion]		
SUBCHAPTER B. POWERS OF DOMESTIC ENTITY		
Sec. 2.101.	GENERAL POWERS	137
Sec. 2.102.	ADDITIONAL POWERS OF NONPROFIT ENTITY OR INSTITUTION	145
Sec. 2.103.	POWER TO INCUR INDEBTEDNESS	146
Sec. 2.104.	POWER TO MAKE GUARANTIES	148

Sec. 2.105.	ADDITIONAL POWERS OF CERTAIN PIPELINE BUSINESSES	151
Sec. 2.106.	POWER OF NONPROFIT CORPORATION TO SERVE AS TRUSTEE	152
Sec. 2.107.	STANDARD TAX PROVISIONS FOR CERTAIN CHARITABLE NONPROFIT CORPORATIONS; POWER TO EXCLUDE	154
Sec. 2.108.	POWERS OF PROFESSIONAL ASSOCIATION	155
Sec. 2.109.	POWERS OF PROFESSIONAL CORPORATION	155
Sec. 2.110.	POWERS OF COOPERATIVE ASSOCIATION	156
Sec. 2.111.	LIMITATION ON POWERS OF COOPERATIVE ASSOCIATION	157
Sec. 2.112.	STATED POWERS IN SUBCHAPTER SUFFICIENT	157
Sec. 2.113.	LIMITATION ON POWERS	158
Sec. 2.114.	CERTIFICATED INDEBTEDNESS; MANNER OF ISSUANCE; SIGNATURE AND SEAL	160
	CHAPTER 3. FORMATION AND GOVERNANCE SUBCHAPTER A. FORMATION, EXISTENCE, AND CERTIFICATE OF FORMATION	
Sec. 3.001.	FORMATION AND EXISTENCE OF FILING ENTITIES	161
Sec. 3.002.	FORMATION AND EXISTENCE OF NONFILING ENTITIES	166
Sec. 3.003.	DURATION	166
Sec. 3.004.	ORGANIZERS	168
Sec. 3.005.	CERTIFICATE OF FORMATION	169
Sec. 3.006.	FILINGS IN CASE OF MERGER OR CONVERSION	173

Sec. 3.007.	SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF FOR-PROFIT CORPORATION	175
Sec. 3.008.	SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF CLOSE CORPORATION	178
Sec. 3.009.	SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF NONPROFIT CORPORATION	179
Sec. 3.010.	SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF LIMITED LIABILITY COMPANY	180
Sec. 3.011.	SUPPLEMENTAL PROVISIONS REGARDING CERTIFICATE OF FORMATION OF LIMITED PARTNERSHIP	180
Sec. 3.012.	SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF REAL ESTATE INVESTMENT TRUST	182
Sec. 3.013.	SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF COOPERATIVE ASSOCIATION	184
Sec. 3.014.	SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF PROFESSIONAL ENTITY	185
Sec. 3.015.	SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF PROFESSIONAL ASSOCIATION	186
	[Sections 3.016-3.050 reserved for expansion]	
	SUBCHAPTER B. AMENDMENTS AND RESTATEMENTS OF CERTIFICATE OF FORMATION	
Sec. 3.051.	RIGHT TO AMEND CERTIFICATE OF FORMATION	188
Sec. 3.052.	PROCEDURES TO AMEND CERTIFICATE OF FORMATION	189
Sec. 3.053.	CERTIFICATE OF AMENDMENT	191

Sec. 3.054.	SUPPLEMENTAL PROVISIONS FOR CERTIFICATE OF AMENDMENT OF FOR-PROFIT CORPORATION	194
Sec. 3.055.	SUPPLEMENTAL PROVISIONS FOR CERTIFICATE OF AMENDMENT OF REAL ESTATE INVESTMENT TRUST	195
Sec. 3.056.	EFFECT OF FILING OF CERTIFICATE OF AMENDMENT	196
Sec. 3.057.	RIGHT TO RESTATE CERTIFICATE OF FORMATION	198
Sec. 3.058.	PROCEDURES TO RESTATE CERTIFICATE OF FORMATION	199
Sec. 3.059.	RESTATED CERTIFICATE OF FORMATION	201
Sec. 3.060.	SUPPLEMENTAL PROVISIONS FOR RESTATED CERTIFICATE OF FORMATION FOR FOR-PROFIT CORPORATION	206
Sec. 3.061.	SUPPLEMENTAL PROVISIONS FOR RESTATED CERTIFICATE OF FORMATION FOR NONPROFIT CORPORATION	207
Sec. 3.062.	SUPPLEMENTAL PROVISIONS FOR RESTATED CERTIFICATE OF FORMATION FOR REAL ESTATE INVESTMENT TRUST	208
Sec. 3.063.	EFFECT OF FILING OF RESTATED CERTIFICATE OF FORMATION	209
	[Sections 3.064-3.100 reserved for expansion]	
	SUBCHAPTER C. GOVERNING PERSONS AND OFFICERS	
Sec. 3.101.	GOVERNING AUTHORITY	210
Sec. 3.102.	RIGHTS OF GOVERNING PERSONS IN CERTAIN CASES	211
Sec. 3.103.	OFFICERS	214
Sec. 3.104.	REMOVAL OF OFFICERS	216
Sec. 3.105.	RIGHTS OF OFFICERS IN CERTAIN CASES	217
	[Sections 3.106-3.150 reserved for expansion]	
	SUBCHAPTER D. RECORDKEEPING OF FILING ENTITIES	
Sec. 3.151.	BOOKS AND RECORDS FOR ALL FILING ENTITIES	218
Sec. 3.152.	GOVERNING PERSON'S RIGHT OF INSPECTION	220
Sec. 3.153.	RIGHT OF EXAMINATION BY OWNER OR MEMBER	222

[Sections 3.154-3.200 reserved for expansion]

SUBCHAPTER E. CERTIFICATES REPRESENTING OWNERSHIP INTEREST

- Sec. 3.201. CERTIFICATED OR UNCERTIFICATED OWNERSHIP
INTEREST; APPLICABILITY 223
- Sec. 3.202. FORM AND VALIDITY OF CERTIFICATES;
ENFORCEMENT OF ENTITY'S RIGHTS 226
- Sec. 3.203. SIGNATURE REQUIREMENT 230
- Sec. 3.204. DELIVERY REQUIREMENT 231
- Sec. 3.205. NOTICE FOR UNCERTIFICATED OWNERSHIP
INTEREST 231

CHAPTER 4. FILINGS

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 4.001. SIGNATURE AND DELIVERY 233
- Sec. 4.002. ACTION BY SECRETARY OF STATE 258
- Sec. 4.003. FILING OR ISSUANCE OF REPRODUCTION
OR FACSIMILE 281
- Sec. 4.004. TIME FOR FILING 284
- Sec. 4.005. CERTIFICATES AND CERTIFIED COPIES 284
- Sec. 4.006. FORMS ADOPTED BY SECRETARY OF STATE 286
- Sec. 4.007. LIABILITY FOR FALSE FILING
INSTRUMENTS 287
- Sec. 4.008. OFFENSE; PENALTY 289
- Sec. 4.009. FILINGS BY REAL ESTATE INVESTMENT TRUST 291

[Sections 4.010-4.050 reserved for expansion]

	SUBCHAPTER B. WHEN FILINGS TAKE EFFECT	
Sec. 4.051.	GENERAL RULE	293
Sec. 4.052.	DELAYED EFFECTIVENESS OF CERTAIN FILINGS	306
Sec. 4.053.	CONDITIONS FOR DELAYED EFFECTIVENESS	310
Sec. 4.054.	DELAYED EFFECTIVENESS ON FUTURE EVENT OR FACT	313
Sec. 4.055.	STATEMENT OF EVENT OR FACT	314
Sec. 4.056.	FAILURE TO FILE STATEMENT	316
Sec. 4.057.	ABANDONMENT BEFORE EFFECTIVENESS	318
Sec. 4.058.	DELAYED EFFECTIVENESS NOT PERMITTED	321
Sec. 4.059.	ACKNOWLEDGMENT OF FILING WITH DELAYED EFFECTIVENESS	322
	[Sections 4.060-4.100 reserved for expansion]	
	SUBCHAPTER C. CORRECTION AND AMENDMENT	
Sec. 4.101.	CORRECTION OF FILINGS	324
Sec. 4.102.	LIMITATION ON CORRECTION OF FILINGS	326
Sec. 4.103.	CERTIFICATE OF CORRECTION	327
Sec. 4.104.	FILING CERTIFICATE OF CORRECTION	328
Sec. 4.105.	EFFECT OF CERTIFICATE OF CORRECTION	329
Sec. 4.106.	AMENDMENT OF FILINGS	330
	[Sections 4.107-4.150 reserved for expansion]	
	SUBCHAPTER D. FILING FEES	
Sec. 4.151.	FILING FEES: ALL ENTITIES	336
Sec. 4.152.	FILING FEES: FOR-PROFIT CORPORATIONS	350
Sec. 4.153.	FILING FEES: NONPROFIT CORPORATIONS	352
Sec. 4.154.	FILING FEES: LIMITED LIABILITY COMPANIES	355
Sec. 4.155.	FILING FEES: LIMITED PARTNERSHIPS	357
Sec. 4.156.	FILING FEES: PROFESSIONAL ASSOCIATIONS	359
Sec. 4.157.	FILING FEES: PROFESSIONAL CORPORATIONS	360
Sec. 4.158.	FILING FEES: GENERAL PARTNERSHIPS	360
Sec. 4.159.	FILING FEES: NONPROFIT ASSOCIATIONS	362
Sec. 4.160.	FILING FEES: FOREIGN FILING ENTITIES	362

CHAPTER 5. NAMES OF ENTITIES; REGISTERED AGENTS AND	
REGISTERED OFFICES	
SUBCHAPTER A. GENERAL PROVISIONS	
Sec. 5.001.	EFFECT ON RIGHTS UNDER OTHER LAW 363
[Sections 5.002-5.050 reserved for expansion]	
SUBCHAPTER B. GENERAL PROVISIONS RELATING TO NAMES	
OF ENTITIES	
Sec. 5.051.	ASSUMED NAME 364
Sec. 5.052.	UNAUTHORIZED PURPOSE IN NAME PROHIBITED 366
Sec. 5.053.	IDENTICAL AND DECEPTIVELY SIMILAR NAMES PROHIBITED 367
Sec. 5.054.	NAME OF CORPORATION, FOREIGN CORPORATION, OR PROFESSIONAL CORPORATION 370
Sec. 5.055.	NAME OF LIMITED PARTNERSHIP OR FOREIGN LIMITED PARTNERSHIP 371
Sec. 5.056.	NAME OF LIMITED LIABILITY COMPANY OR FOREIGN LIMITED LIABILITY COMPANY 373
Sec. 5.057.	NAME OF COOPERATIVE ASSOCIATION 374
Sec. 5.058.	NAME OF PROFESSIONAL ASSOCIATION 375
Sec. 5.059.	NAME OF PROFESSIONAL LIMITED LIABILITY COMPANY 375
Sec. 5.060.	NAME OF PROFESSIONAL ENTITY; CONFLICTS WITH OTHER LAW OR ETHICAL RULE 376
Sec. 5.061.	NAME CONTAINING "LOTTO" OR "LOTTERY" PROHIBITED 377
Sec. 5.062.	VETERANS ORGANIZATIONS; UNAUTHORIZED USE OF NAME 377
Sec. 5.063.	NAME OF LIMITED LIABILITY PARTNERSHIP 379
[Sections 5.064-5.100 reserved for expansion]	
SUBCHAPTER C. RESERVATION OF NAMES	
Sec. 5.101.	APPLICATION FOR RESERVATION OF NAME 380
Sec. 5.102.	RESERVATION OF CERTAIN NAMES PROHIBITED; EXCEPTIONS 381
Sec. 5.103.	ACTION ON APPLICATION 384
Sec. 5.104.	DURATION OF RESERVATION OF NAME 384
Sec. 5.105.	RENEWAL OF RESERVATION 385

Sec. 5.106.	TRANSFER OF RESERVATION OF NAME	386
	[Sections 5.107-5.150 reserved for expansion]	
	SUBCHAPTER D. REGISTRATION OF NAMES	
Sec. 5.151.	APPLICATION BY CERTAIN ENTITIES FOR REGISTRATION OF NAME	387
Sec. 5.152.	APPLICATION FOR REGISTRATION OF NAME	388
Sec. 5.153.	CERTAIN REGISTRATIONS PROHIBITED; EXCEPTIONS	389
Sec. 5.154.	DURATION OF REGISTRATION OF NAME	390
Sec. 5.155.	RENEWAL OF REGISTRATION	391
	[Sections 5.156-5.200 reserved for expansion]	
	SUBCHAPTER E. REGISTERED AGENTS AND REGISTERED OFFICES	
Sec. 5.201.	DESIGNATION AND MAINTENANCE OF REGISTERED AGENT AND REGISTERED OFFICE	392
Sec. 5.202.	CHANGE BY ENTITY TO REGISTERED OFFICE OR REGISTERED AGENT	396
Sec. 5.203.	CHANGE BY REGISTERED AGENT TO NAME OR ADDRESS OF REGISTERED OFFICE	400
Sec. 5.204.	RESIGNATION OF REGISTERED AGENT	404
	[Sections 5.205-5.250 reserved for expansion]	
	SUBCHAPTER F. SERVICE OF PROCESS	
Sec. 5.251.	FAILURE TO DESIGNATE REGISTERED AGENT	409
Sec. 5.252.	SERVICE ON SECRETARY OF STATE	411
Sec. 5.253.	ACTION BY SECRETARY OF STATE	413
Sec. 5.254.	REQUIRED RECORDS OF SECRETARY OF STATE	415
Sec. 5.255.	AGENT FOR SERVICE OF PROCESS, NOTICE, OR DEMAND AS MATTER OF LAW	416
Sec. 5.256.	OTHER MEANS OF SERVICE NOT PRECLUDED	418
Sec. 5.257.	SERVICE OF PROCESS BY POLITICAL SUBDIVISION	419
	CHAPTER 6. MEETINGS AND VOTING	
	SUBCHAPTER A. MEETINGS	
Sec. 6.001.	LOCATION OF MEETINGS	421
Sec. 6.002.	ALTERNATIVE FORMS OF MEETINGS	423
Sec. 6.003.	PARTICIPATION CONSTITUTES PRESENCE	425
	[Sections 6.004-6.050 reserved for expansion]	

SUBCHAPTER B. NOTICE OF MEETINGS	
Sec. 6.051.	GENERAL NOTICE REQUIREMENTS 426
Sec. 6.052.	WAIVER OF NOTICE 428
Sec. 6.053.	EXCEPTION 430
[Sections 6.054-6.100 reserved for expansion]	
SUBCHAPTER C. RECORD DATES	
Sec. 6.101.	RECORD DATE FOR PURPOSE OTHER THAN WRITTEN CONSENT TO ACTION 432
Sec. 6.102.	RECORD DATE FOR WRITTEN CONSENT TO ACTION 436
Sec. 6.103.	RECORD DATE FOR SUSPENDED DISTRIBUTIONS 438
[Sections 6.104-6.150 reserved for expansion]	
SUBCHAPTER D. VOTING OF OWNERSHIP INTERESTS	
Sec. 6.151.	MANNER OF VOTING OF INTERESTS 439
Sec. 6.152.	VOTING OF INTERESTS OWNED BY ENTITY 439
Sec. 6.153.	VOTING OF INTERESTS OWNED BY ANOTHER ENTITY 441
Sec. 6.154.	VOTING OF INTERESTS IN AN ESTATE OR TRUST 441
Sec. 6.155.	VOTING OF INTERESTS BY RECEIVER 442
Sec. 6.156.	VOTING OF PLEDGED INTERESTS 443
[Sections 6.157-6.200 reserved for expansion]	
SUBCHAPTER E. ACTION BY WRITTEN CONSENT	
Sec. 6.201.	UNANIMOUS WRITTEN CONSENT TO ACTION 443
Sec. 6.202.	ACTION BY LESS THAN UNANIMOUS WRITTEN CONSENT 445
Sec. 6.203.	DELIVERY OF LESS THAN UNANIMOUS WRITTEN CONSENT 448
Sec. 6.204.	ADVANCE NOTICE NOT REQUIRED 449
[Sections 6.205-6.250 reserved for expansion]	
SUBCHAPTER F. VOTING TRUSTS AND VOTING AGREEMENTS	
Sec. 6.251.	VOTING TRUSTS 450
Sec. 6.252.	VOTING AGREEMENTS 451
[Sections 6.253-6.300 reserved for expansion]	

SUBCHAPTER G. APPLICABILITY OF CHAPTER TO PARTNERSHIPS	
Sec. 6.301.	APPLICABILITY OF CHAPTER TO PARTNERSHIPS 454
Sec. 6.302.	APPLICABILITY OF SUBCHAPTERS C AND D TO LIMITED LIABILITY COMPANIES 454
CHAPTER 7. LIABILITY	
Sec. 7.001.	LIMITATION OF LIABILITY OF GOVERNING PERSON 455
CHAPTER 8. INDEMNIFICATION AND INSURANCE	
SUBCHAPTER A. GENERAL PROVISIONS	
Sec. 8.001.	DEFINITIONS 458
Sec. 8.002.	APPLICATION OF CHAPTER 466
Sec. 8.003.	LIMITATIONS IN GOVERNING DOCUMENTS 466
Sec. 8.004.	LIMITATIONS IN CHAPTER 468
[Sections 8.005-8.050 reserved for expansion]	
SUBCHAPTER B. MANDATORY AND COURT-ORDERED INDEMNIFICATION	
Sec. 8.051.	MANDATORY INDEMNIFICATION 469
Sec. 8.052.	COURT-ORDERED INDEMNIFICATION 471
[Sections 8.053-8.100 reserved for expansion]	
SUBCHAPTER C. PERMISSIVE INDEMNIFICATION AND ADVANCEMENT OF EXPENSES	
Sec. 8.101.	PERMISSIVE INDEMNIFICATION 473
Sec. 8.102.	GENERAL SCOPE OF PERMISSIVE INDEMNIFICATION 477
Sec. 8.103.	MANNER FOR DETERMINING PERMISSIVE INDEMNIFICATION 481
Sec. 8.104.	ADVANCEMENT OF EXPENSES 485
Sec. 8.105.	INDEMNIFICATION OF AND ADVANCEMENT OF EXPENSES TO PERSONS OTHER THAN GOVERNING PERSONS 488
Sec. 8.106.	PERMISSIVE INDEMNIFICATION OF AND REIMBURSEMENT OF EXPENSES TO WITNESSES 491
[Sections 8.107-8.150 reserved for expansion]	
SUBCHAPTER D. LIABILITY INSURANCE; REPORTING REQUIREMENTS	
Sec. 8.151.	INSURANCE AND OTHER ARRANGEMENTS 492
Sec. 8.152.	REPORTS OF INDEMNIFICATION AND ADVANCES 497

CHAPTER 9. FOREIGN ENTITIES

SUBCHAPTER A. REGISTRATION

- Sec. 9.001. FOREIGN ENTITIES REQUIRED TO REGISTER 499
- Sec. 9.002. FOREIGN ENTITIES NOT REQUIRED TO REGISTER 501
- Sec. 9.003. PERMISSIVE REGISTRATION 502
- Sec. 9.004. REGISTRATION PROCEDURE 503
- Sec. 9.005. SUPPLEMENTAL INFORMATION REQUIRED IN
APPLICATION FOR REGISTRATION OF FOREIGN
FOR-PROFIT CORPORATION 509
- Sec. 9.006. SUPPLEMENTAL INFORMATION REQUIRED IN
APPLICATION FOR REGISTRATION OF FOREIGN
NONPROFIT CORPORATION 510
- Sec. 9.007. SUPPLEMENTAL INFORMATION REQUIRED IN
APPLICATION FOR REGISTRATION OF FOREIGN
LIMITED LIABILITY PARTNERSHIP 510
- Sec. 9.008. EFFECT OF REGISTRATION 511
- Sec. 9.009. AMENDMENTS TO REGISTRATION 512
- Sec. 9.010. NAME CHANGE OF FOREIGN ENTITY 514
- Sec. 9.011. VOLUNTARY WITHDRAWAL OF REGISTRATION 515

[Sections 9.012-9.050 reserved for expansion]

SUBCHAPTER B. FAILURE TO REGISTER

- Sec. 9.051. TRANSACTING BUSINESS OR MAINTAINING COURT
PROCEEDING WITHOUT REGISTRATION 520
- Sec. 9.052. CIVIL PENALTY 524
- Sec. 9.053. VENUE 526
- Sec. 9.054. LATE FILING FEE 526
- Sec. 9.055. REQUIREMENTS OF OTHER LAW 527

[Sections 9.056-9.100 reserved for expansion]

SUBCHAPTER C. REVOCATION OF REGISTRATION BY
SECRETARY OF STATE

- Sec. 9.101. REVOCATION OF REGISTRATION BY SECRETARY OF
STATE 529
- Sec. 9.102. CERTIFICATE OF REVOCATION 533

Sec. 9.103.	REINSTATEMENT BY SECRETARY OF STATE AFTER REVOCATION	534
Sec. 9.104.	PROCEDURES FOR REINSTATEMENT	536
Sec. 9.105.	USE OF NAME SIMILAR TO PREVIOUSLY REGISTERED NAME	539
Sec. 9.106.	REINSTATEMENT OF REGISTRATION FOLLOWING TAX FORFEITURE	540
[Sections 9.107-9.150 reserved for expansion]		
SUBCHAPTER D. JUDICIAL REVOCATION OF REGISTRATION		
Sec. 9.151.	REVOCATION OF REGISTRATION BY COURT ACTION	541
Sec. 9.152.	NOTIFICATION OF CAUSE BY SECRETARY OF STATE	544
Sec. 9.153.	FILING OF ACTION BY ATTORNEY GENERAL	545
Sec. 9.154.	CURE BEFORE FINAL JUDGMENT	546
Sec. 9.155.	JUDGMENT REQUIRING REVOCATION	547
Sec. 9.156.	STAY OF JUDGMENT	548
Sec. 9.157.	OPPORTUNITY FOR CURE AFTER AFFIRMATION OF FINDINGS BY APPEALS COURT	550
Sec. 9.158.	JURISDICTION AND VENUE	552
Sec. 9.159.	PROCESS IN STATE ACTION	553
Sec. 9.160.	PUBLICATION OF NOTICE	553
Sec. 9.161.	FILING OF DECREE OF REVOCATION AGAINST FOREIGN FILING ENTITY	555
[Sections 9.162-9.200 reserved for expansion]		
SUBCHAPTER E. BUSINESS, RIGHTS, AND OBLIGATIONS		
Sec. 9.201.	BUSINESS OF FOREIGN ENTITY	556
Sec. 9.202.	RIGHTS AND PRIVILEGES	557
Sec. 9.203.	OBLIGATIONS AND LIABILITIES	558
Sec. 9.204.	RIGHT OF FOREIGN FILING ENTITY TO PARTICIPATE IN BUSINESS OF CERTAIN DOMESTIC ENTITIES	559
[Sections 9.205-9.250 reserved for expansion]		
SUBCHAPTER F. DETERMINATION OF TRANSACTING BUSINESS IN THIS STATE		
Sec. 9.251.	ACTIVITIES NOT CONSTITUTING TRANSACTING BUSINESS IN THIS STATE	561
Sec. 9.252.	OTHER ACTIVITIES	568
[Sections 9.253-9.300 reserved for expansion]		

SUBCHAPTER G. MISCELLANEOUS PROVISIONS	
Sec. 9.301.	APPLICABILITY OF CODE TO CERTAIN FOREIGN ENTITIES 568
CHAPTER 10. MERGERS, INTEREST EXCHANGES, CONVERSIONS, AND SALES OF ASSETS	
SUBCHAPTER A. MERGERS	
Sec. 10.001.	ADOPTION OF PLAN OF MERGER 571
Sec. 10.002.	PLAN OF MERGER: REQUIRED PROVISIONS 576
Sec. 10.003.	CONTENTS OF PLAN OF MERGER: MORE THAN ONE SUCCESSOR 581
Sec. 10.004.	PLAN OF MERGER: PERMISSIVE PROVISIONS 584
Sec. 10.005.	CREATION OF HOLDING COMPANY BY MERGER 586
Sec. 10.006.	SHORT FORM MERGER 591
Sec. 10.007.	EFFECTIVENESS OF MERGER 597
Sec. 10.008.	EFFECT OF MERGER 598
Sec. 10.009.	SPECIAL PROVISIONS APPLYING TO PARTNERSHIP MERGERS 611
Sec. 10.010.	SPECIAL PROVISIONS APPLYING TO NONPROFIT CORPORATION MERGERS 615
[Sections 10.011-10.050 reserved for expansion]	
SUBCHAPTER B. EXCHANGES OF INTERESTS	
Sec. 10.051.	INTEREST EXCHANGES 617
Sec. 10.052.	PLAN OF EXCHANGE: REQUIRED PROVISIONS 621
Sec. 10.053.	PLAN OF EXCHANGE: PERMISSIVE PROVISIONS 623
Sec. 10.054.	EFFECTIVENESS OF EXCHANGE 623
Sec. 10.055.	GENERAL EFFECT OF INTEREST EXCHANGE 624
Sec. 10.056.	SPECIAL PROVISIONS APPLYING TO PARTNERSHIPS 626
[Sections 10.057-10.100 reserved for expansion]	

SUBCHAPTER C. CONVERSIONS

Sec. 10.101.	CONVERSION OF DOMESTIC ENTITIES	628
Sec. 10.102.	CONVERSION OF NON-CODE ORGANIZATIONS	632
Sec. 10.103.	PLAN OF CONVERSION: REQUIRED PROVISIONS	634
Sec. 10.104.	PLAN OF CONVERSION: PERMISSIVE PROVISIONS	636
Sec. 10.105.	EFFECTIVENESS OF CONVERSION	637
Sec. 10.106.	GENERAL EFFECT OF CONVERSION	638
Sec. 10.107.	SPECIAL PROVISIONS APPLYING TO PARTNERSHIP CONVERSIONS	644
Sec. 10.108.	SPECIAL PROVISIONS APPLYING TO NONPROFIT CORPORATION CONVERSIONS	646

[Sections 10.109-10.150 reserved for expansion]

SUBCHAPTER D. CERTIFICATE OF MERGER, EXCHANGE,
OR CONVERSION

Sec. 10.151.	CERTIFICATE OF MERGER AND EXCHANGE	646
Sec. 10.152.	CERTIFICATE OF MERGER: SHORT FORM MERGER	656
Sec. 10.153.	FILING OF CERTIFICATE OF MERGER OR EXCHANGE	658
Sec. 10.154.	CERTIFICATE OF CONVERSION	661
Sec. 10.155.	FILING OF CERTIFICATE OF CONVERSION	664
Sec. 10.156.	ACCEPTANCE OF CERTIFICATE FOR FILING	666

[Sections 10.157-10.200 reserved for expansion]

SUBCHAPTER E. ABANDONMENT OF MERGER, EXCHANGE,
OR CONVERSION

Sec. 10.201.	ABANDONMENT OF PLAN OF MERGER, EXCHANGE, OR CONVERSION	668
Sec. 10.202.	ABANDONMENT AFTER FILING	669

[Sections 10.203-10.250 reserved for expansion]

SUBCHAPTER F. PROPERTY TRANSFERS AND DISPOSITIONS

- Sec. 10.251. GENERAL POWER OF DOMESTIC ENTITY TO SELL,
LEASE, OR CONVEY PROPERTY 671
- Sec. 10.252. NO APPROVAL REQUIRED FOR CERTAIN
DISPOSITIONS OF PROPERTY 673
- Sec. 10.253. RECORDING INSTRUMENT CONVEYING REAL PROPERTY
OF DOMESTIC ENTITY 675
- Sec. 10.254. DISPOSITION OF PROPERTY NOT A MERGER OR
CONVERSION; LIABILITY 676

[Sections 10.255-10.300 reserved for expansion]

SUBCHAPTER G. BANKRUPTCY REORGANIZATION

- Sec. 10.301. REORGANIZATION UNDER BANKRUPTCY
AND SIMILAR LAWS 677
- Sec. 10.302. SIGNING OF DOCUMENTS 681
- Sec. 10.303. REORGANIZATION WITH OTHER
ENTITIES 687
- Sec. 10.304. RIGHT OF DISSENT AND APPRAISAL
EXCLUDED 691
- Sec. 10.305. AFTER FINAL DECREE 691
- Sec. 10.306. CHAPTER CUMULATIVE OF OTHER CHANGES 692

[Sections 10.307-10.350 reserved for expansion]

SUBCHAPTER H. RIGHTS OF DISSENTING OWNERS

Sec. 10.351.	APPLICABILITY OF SUBCHAPTER	693
Sec. 10.352.	DEFINITIONS	694
Sec. 10.353.	FORM AND VALIDITY OF NOTICE	695
Sec. 10.354.	RIGHTS OF DISSENT AND APPRAISAL	695
Sec. 10.355.	NOTICE OF RIGHT OF DISSENT AND APPRAISAL	700
Sec. 10.356.	PROCEDURE FOR DISSENT BY OWNERS AS TO ACTIONS; PERFECTION OF RIGHT OF DISSENT AND APPRAISAL	704
Sec. 10.357.	WITHDRAWAL OF DEMAND FOR FAIR VALUE OF OWNERSHIP INTEREST	708
Sec. 10.358.	RESPONSE BY ORGANIZATION TO NOTICE OF DISSENT AND DEMAND FOR FAIR VALUE BY DISSENTING OWNER	709
Sec. 10.359.	RECORD OF DEMAND FOR FAIR VALUE OF OWNERSHIP INTEREST	713
Sec. 10.360.	RIGHTS OF TRANSFEREE OF CERTAIN OWNERSHIP INTEREST	713
Sec. 10.361.	PROCEEDING TO DETERMINE FAIR VALUE OF OWNERSHIP INTEREST AND OWNERS ENTITLED TO PAYMENT; APPOINTMENT OF APPRAISERS	714
Sec. 10.362.	COMPUTATION AND DETERMINATION OF FAIR VALUE OF OWNERSHIP INTEREST	717
Sec. 10.363.	POWERS AND DUTIES OF APPRAISER; APPRAISAL PROCEDURES	719
Sec. 10.364.	OBJECTION TO APPRAISAL; HEARING	720
Sec. 10.365.	COURT COSTS; COMPENSATION FOR APPRAISER	722
Sec. 10.366.	STATUS OF OWNERSHIP INTEREST HELD OR FORMERLY HELD BY DISSENTING OWNER	722
Sec. 10.367.	RIGHTS OF OWNERS FOLLOWING TERMINATION OF RIGHT OF DISSENT	724
Sec. 10.368.	EXCLUSIVITY OF REMEDY OF DISSENT AND APPRAISAL	726

[Sections 10.369-10.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 10.901.	CREDITORS; ANTITRUST	727
--------------	----------------------	-----

Sec. 10.902.	NONEXCLUSIVITY	727
CHAPTER 11. WINDING UP AND TERMINATION OF DOMESTIC ENTITY		
SUBCHAPTER A. GENERAL PROVISIONS		
Sec. 11.001.	DEFINITIONS	728
[Sections 11.002-11.050 reserved for expansion]		
SUBCHAPTER B. WINDING UP OF DOMESTIC ENTITY		
Sec. 11.051.	EVENT REQUIRING WINDING UP OF DOMESTIC ENTITY	731
Sec. 11.052.	WINDING UP PROCEDURES	736
Sec. 11.053.	PROPERTY APPLIED TO DISCHARGE LIABILITIES AND OBLIGATIONS	738
Sec. 11.054.	COURT SUPERVISION OF WINDING UP PROCESS	742
Sec. 11.055.	COURT ACTION OR PROCEEDING DURING WINDING UP	744
Sec. 11.056.	SUPPLEMENTAL EVENT REQUIRING WINDING UP OF LIMITED LIABILITY COMPANY	745
Sec. 11.057.	SUPPLEMENTAL EVENTS REQUIRING WINDING UP OF GENERAL PARTNERSHIP	747
Sec. 11.058.	SUPPLEMENTAL EVENTS REQUIRING WINDING UP OF LIMITED PARTNERSHIP	749
Sec. 11.059.	SUPPLEMENTAL PROVISIONS FOR CORPORATIONS	749
[Sections 11.060-11.100 reserved for expansion]		
SUBCHAPTER C. TERMINATION OF DOMESTIC ENTITY		
Sec. 11.101.	CERTIFICATE OF TERMINATION FOR FILING ENTITY	750
Sec. 11.102.	EFFECTIVENESS OF TERMINATION OF FILING ENTITY	756
Sec. 11.103.	EFFECTIVENESS OF TERMINATION OF NONFILING ENTITY	757
Sec. 11.104.	ACTION BY SECRETARY OF STATE	757
Sec. 11.105.	SUPPLEMENTAL INFORMATION REQUIRED BY CERTIFICATE OF TERMINATION OF NONPROFIT CORPORATION	758
[Sections 11.106-11.150 reserved for expansion]		

SUBCHAPTER D. REVOCATION AND CONTINUATION

Sec. 11.151. REVOCATION OF VOLUNTARY WINDING UP 759

Sec. 11.152. CONTINUATION OF BUSINESS WITHOUT
WINDING UP 761

[Sections 11.153-11.200 reserved for expansion]

SUBCHAPTER E. REINSTATEMENT OF TERMINATED ENTITY

Sec. 11.201. CONDITIONS FOR REINSTATEMENT 765

Sec. 11.202. PROCEDURES FOR REINSTATEMENT 766

Sec. 11.203. USE OF NAME SIMILAR TO PREVIOUSLY
REGISTERED NAME 768

Sec. 11.204. EFFECTIVENESS OF REINSTATEMENT OF
NONFILING ENTITY 769

Sec. 11.205. EFFECTIVENESS OF REINSTATEMENT OF FILING
ENTITY 769

Sec. 11.206. EFFECT OF REINSTATEMENT 770

[Sections 11.207-11.250 reserved for expansion]

SUBCHAPTER F. INVOLUNTARY TERMINATION OF FILING ENTITY
BY SECRETARY OF STATE

Sec. 11.251. TERMINATION OF FILING ENTITY BY SECRETARY
OF STATE 770

Sec. 11.252. CERTIFICATE OF TERMINATION 774

Sec. 11.253. REINSTATEMENT BY SECRETARY OF STATE
AFTER INVOLUNTARY TERMINATION 776

Sec. 11.254. REINSTATEMENT OF CERTIFICATE OF FORMATION
FOLLOWING TAX FORFEITURE 780

[Sections 11.255-11.300 reserved for expansion]

SUBCHAPTER G. JUDICIAL WINDING UP AND TERMINATION

Sec. 11.301.	INVOLUNTARY WINDING UP AND TERMINATION OF FILING ENTITY BY COURT ACTION	780
Sec. 11.302.	NOTIFICATION OF CAUSE BY SECRETARY OF STATE	783
Sec. 11.303.	FILING OF ACTION BY ATTORNEY GENERAL	784
Sec. 11.304.	CURE BEFORE FINAL JUDGMENT	785
Sec. 11.305.	JUDGMENT REQUIRING WINDING UP AND TERMINATION	786
Sec. 11.306.	STAY OF JUDGMENT	787
Sec. 11.307.	OPPORTUNITY FOR CURE AFTER AFFIRMATION OF FINDINGS BY APPEALS COURT	789
Sec. 11.308.	JURISDICTION AND VENUE	791
Sec. 11.309.	PROCESS IN STATE ACTION	792
Sec. 11.310.	PUBLICATION OF NOTICE	792
Sec. 11.311.	ACTION ALLOWED AFTER EXPIRATION OF FILING ENTITY'S DURATION	794
Sec. 11.312.	COMPLIANCE BY TERMINATED ENTITY	795
Sec. 11.313.	TIMING OF TERMINATION	795
Sec. 11.314.	INVOLUNTARY WINDING UP AND TERMINATION OF PARTNERSHIP OR LIMITED LIABILITY COMPANY	796
Sec. 11.315.	FILING OF DECREE OF TERMINATION AGAINST FILING ENTITY	797

[Sections 11.316-11.350 reserved for expansion]

SUBCHAPTER H. CLAIMS RESOLUTION ON TERMINATION

Sec. 11.351.	LIABILITY OF TERMINATED FILING ENTITY	798
Sec. 11.352.	DEPOSIT WITH COMPTROLLER OF AMOUNT DUE OWNERS AND CREDITORS WHO ARE UNKNOWN OR CANNOT BE LOCATED	798
Sec. 11.353.	DISCHARGE OF LIABILITY OF PERSON RESPONSIBLE FOR LIQUIDATION	800
Sec. 11.354.	PAYMENT FROM ACCOUNT BY COMPTROLLER	801
Sec. 11.355.	NOTICE OF ESCHEAT; ESCHEAT	801
Sec. 11.356.	LIMITED SURVIVAL AFTER TERMINATION	803
Sec. 11.357.	GOVERNING PERSONS OF ENTITY DURING LIMITED SURVIVAL	805
Sec. 11.358.	ACCELERATED PROCEDURE FOR EXISTING CLAIM RESOLUTION	807
Sec. 11.359.	EXTINGUISHMENT OF EXISTING CLAIM	810
[Sections 11.360-11.400 reserved for expansion]		

SUBCHAPTER I. RECEIVERSHIP

- Sec. 11.401. CODE GOVERNS 812
- Sec. 11.402. JURISDICTION TO APPOINT RECEIVER 813
- Sec. 11.403. APPOINTMENT OF RECEIVER FOR SPECIFIC
PROPERTY 814
- Sec. 11.404. APPOINTMENT OF RECEIVER TO REHABILITATE
DOMESTIC ENTITY 817
- Sec. 11.405. APPOINTMENT OF RECEIVER TO LIQUIDATE
DOMESTIC ENTITY; LIQUIDATION 820
- Sec. 11.406. RECEIVERS: QUALIFICATIONS, POWERS, AND
DUTIES 823
- Sec. 11.407. COURT-ORDERED FILING OF CLAIMS 824
- Sec. 11.408. SUPERVISING COURT; JURISDICTION;
AUTHORITY 826
- Sec. 11.409. ANCILLARY RECEIVERSHIPS OF FOREIGN ENTITIES 827
- Sec. 11.410. RECEIVERSHIP FOR ALL PROPERTY AND BUSINESS
OF FOREIGN ENTITY 828
- Sec. 11.411. GOVERNING PERSONS AND OWNERS NOT NECESSARY
PARTIES DEFENDANT 829
- Sec. 11.412. DECREE OF INVOLUNTARY TERMINATION 830
- Sec. 11.413. SUPPLEMENTAL PROVISIONS FOR APPLICATION OF
PROCEEDS FROM LIQUIDATION OF NONPROFIT
CORPORATION 831

CHAPTER 12. ADMINISTRATIVE POWERS

SUBCHAPTER A. SECRETARY OF STATE

- Sec. 12.001. AUTHORITY OF SECRETARY OF STATE 832
- Sec. 12.002. INTERROGATORIES BY SECRETARY OF STATE 833
- Sec. 12.003. INFORMATION DISCLOSED BY INTERROGATORIES 836
- Sec. 12.004. APPEALS FROM SECRETARY OF STATE 836

[Sections 12.005-12.150 reserved for expansion]

SUBCHAPTER B. ATTORNEY GENERAL

Sec. 12.151.	AUTHORITY OF ATTORNEY GENERAL TO EXAMINE BOOKS AND RECORDS	839
Sec. 12.152.	REQUEST TO EXAMINE	839
Sec. 12.153.	AUTHORITY TO EXAMINE MANAGEMENT OF ENTITY	840
Sec. 12.154.	AUTHORITY TO DISCLOSE INFORMATION	840
Sec. 12.155.	FORFEITURE OF BUSINESS PRIVILEGES	841
Sec. 12.156.	CRIMINAL PENALTY	842

[Sections 12.157-12.200 reserved for expansion]

SUBCHAPTER C. ENFORCEMENT LIEN

Sec. 12.201.	LIEN FOR LAW VIOLATIONS	843
--------------	-------------------------	-----

[Sections 12.202-12.250 reserved for expansion]

SUBCHAPTER D. ENFORCEMENT PROCEEDINGS

Sec. 12.251.	RECEIVER	844
Sec. 12.252.	FORECLOSURE	845
Sec. 12.253.	ACTION AGAINST INSOLVENT ENTITY	846
Sec. 12.254.	SUITS BY DISTRICT OR COUNTY ATTORNEY	846
Sec. 12.255.	PERMISSION TO SUE	847
Sec. 12.256.	EXAMINATION AND NOTICE	847
Sec. 12.257.	DISMISSAL OF ACTION	848
Sec. 12.258.	LIQUIDATION OF INSOLVENT ENTITY	849
Sec. 12.259.	EXTRAORDINARY REMEDIES; BOND	849
Sec. 12.260.	ABATEMENT OF SUIT	850
Sec. 12.261.	PROVISIONS CUMULATIVE	851

TITLE 2. CORPORATIONS

CHAPTER 20. GENERAL PROVISIONS

Sec. 20.001.	REQUIREMENT THAT FILING INSTRUMENT BE SIGNED BY OFFICER	851
Sec. 20.002.	ULTRA VIRES ACTS	852

CHAPTER 21. FOR-PROFIT CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 21.001.	APPLICABILITY OF CHAPTER	855
Sec. 21.002.	DEFINITIONS	855

[Sections 21.003-21.050 reserved for expansion]

SUBCHAPTER B. FORMATION AND GOVERNING DOCUMENTS

Sec. 21.051.	NO PROPERTY RIGHT IN CERTIFICATE OF FORMATION	860
Sec. 21.052.	PROCEDURES TO ADOPT AMENDMENT TO CERTIFICATE OF FORMATION	860
Sec. 21.053.	ADOPTION OF AMENDMENT BY BOARD OF DIRECTORS	861
Sec. 21.054.	ADOPTION OF AMENDMENT BY SHAREHOLDERS	861
Sec. 21.055.	NOTICE OF AND MEETING TO CONSIDER PROPOSED AMENDMENT	862
Sec. 21.056.	RESTATED CERTIFICATE OF FORMATION	863
Sec. 21.057.	BYLAWS	864
Sec. 21.058.	DUAL AUTHORITY	864
Sec. 21.059.	ORGANIZATION MEETING	865
[Sections 21.060-21.100 reserved for expansion]		
SUBCHAPTER C. SHAREHOLDERS' AGREEMENTS		
Sec. 21.101.	SHAREHOLDERS' AGREEMENT	866
Sec. 21.102.	TERM OF AGREEMENT	869
Sec. 21.103.	DISCLOSURE OF AGREEMENT; RECALL OF CERTAIN CERTIFICATES	869
Sec. 21.104.	EFFECT OF SHAREHOLDERS' AGREEMENT	870
Sec. 21.105.	RIGHT OF RECISSION; KNOWLEDGE OF PURCHASER OF SHARES	871
Sec. 21.106.	AGREEMENT LIMITING AUTHORITY OF AND SUPPLANTING BOARD OF DIRECTORS; LIABILITY	872
Sec. 21.107.	LIABILITY OF SHAREHOLDER	872
Sec. 21.108.	PERSONS ACTING IN PLACE OF SHAREHOLDERS	873
Sec. 21.109.	AGREEMENT NOT EFFECTIVE	874
[Sections 21.110-21.150 reserved for expansion]		

SUBCHAPTER D. SHARES, OPTIONS, AND CONVERTIBLE SECURITIES

Sec. 21.151.	NUMBER OF AUTHORIZED SHARES	875
Sec. 21.152.	CLASSES AND SERIES OF SHARES	875
Sec. 21.153.	DESIGNATIONS, PREFERENCES, LIMITATIONS, AND RIGHTS OF A CLASS OR SERIES	876
Sec. 21.154.	CERTAIN OPTIONAL CHARACTERISTICS OF SHARES	877
Sec. 21.155.	SERIES OF SHARES ESTABLISHED BY BOARD OF DIRECTORS	878
Sec. 21.156.	ACTIONS WITH RESPECT TO SERIES OF SHARES	881
Sec. 21.157.	ISSUANCE OF SHARES	883
Sec. 21.158.	ISSUANCE OF SHARES UNDER PLAN OF MERGER OR CONVERSION	884
Sec. 21.159.	TYPES OF CONSIDERATION FOR SHARES	885
Sec. 21.160.	DETERMINATION OF CONSIDERATION FOR SHARES	885
Sec. 21.161.	AMOUNT OF CONSIDERATION FOR ISSUANCE OF CERTAIN SHARES	886
Sec. 21.162.	VALUE AND SUFFICIENCY OF CONSIDERATION	888
Sec. 21.163.	ISSUANCE AND DISPOSITION OF FRACTIONAL SHARES OR SCRIP	888
Sec. 21.164.	RIGHTS OF HOLDERS OF FRACTIONAL SHARES OR SCRIP	889
Sec. 21.165.	SUBSCRIPTIONS	890
Sec. 21.166.	PREFORMATION SUBSCRIPTION	891
Sec. 21.167.	COMMITMENT TO PURCHASE SHARES	892
Sec. 21.168.	STOCK RIGHTS, OPTIONS, AND CONVERTIBLE INDEBTEDNESS	893
Sec. 21.169.	TERMS AND CONDITIONS OF RIGHTS AND OPTIONS	894
Sec. 21.170.	CONSIDERATION FOR RIGHTS, OPTIONS, AND CONVERTIBLE INDEBTEDNESS	895
Sec. 21.171.	TREASURY SHARES	896
Sec. 21.172.	EXPENSES OF ORGANIZATION, REORGANIZATION, AND FINANCING OF CORPORATION	897
Sec. 21.173.	SUPPLEMENTAL REQUIRED RECORDS	897

[Sections 21.174-21.200 reserved for expansion]

SUBCHAPTER E. SHAREHOLDER RIGHTS AND RESTRICTIONS

Sec. 21.201.	REGISTERED HOLDERS AS OWNERS	898
Sec. 21.202.	DEFINITION OF SHARES	899
Sec. 21.203.	NO STATUTORY PREEMPTIVE RIGHT UNLESS PROVIDED BY CERTIFICATE OF FORMATION	899
Sec. 21.204.	STATUTORY PREEMPTIVE RIGHTS	902
Sec. 21.205.	WAIVER OF PREEMPTIVE RIGHT	905
Sec. 21.206.	LIMITATION ON ACTION TO ENFORCE PREEMPTIVE RIGHT	905
Sec. 21.207.	DISPOSITION OF SHARES HAVING PREEMPTIVE RIGHTS	907
Sec. 21.208.	PREEMPTIVE RIGHT IN EXISTING CORPORATION	907
Sec. 21.209.	TRANSFER OF SHARES AND OTHER SECURITIES	908
Sec. 21.210.	RESTRICTION ON TRANSFER OF SHARES AND OTHER SECURITIES	908
Sec. 21.211.	VALID RESTRICTIONS ON TRANSFER	909
Sec. 21.212.	BYLAW OR AGREEMENT RESTRICTING TRANSFER OF SHARES OR OTHER SECURITIES	910
Sec. 21.213.	ENFORCEABILITY OF RESTRICTION ON TRANSFER OF CERTAIN SECURITIES	913
Sec. 21.214.	JOINT OWNERSHIP OF SHARES	914
Sec. 21.215.	LIABILITY FOR DESIGNATING OWNER OF SHARES	915
Sec. 21.216.	LIABILITY REGARDING JOINT OWNERSHIP OF SHARES	915
Sec. 21.217.	LIABILITY OF ASSIGNEE OR TRANSFeree	915
Sec. 21.218.	EXAMINATION OF RECORDS	916
Sec. 21.219.	ANNUAL AND INTERIM STATEMENTS OF CORPORATION	917
Sec. 21.220.	PENALTY FOR FAILURE TO PREPARE VOTING LIST	918
Sec. 21.221.	PENALTY FOR FAILURE TO PROVIDE	

	NOTICE OF MEETING	918
Sec. 21.222.	PENALTY FOR REFUSAL TO PERMIT EXAMINATION OF CERTAIN RECORDS	919
Sec. 21.223.	LIMITATION OF LIABILITY FOR OBLIGATIONS	920
Sec. 21.224.	PREEMPTION OF LIABILITY	921
Sec. 21.225.	EXCEPTIONS TO LIMITATIONS	922
Sec. 21.226.	PLEDGEES AND TRUST ADMINISTRATORS	922
	[Sections 21.227-21.250 reserved for expansion]	
	SUBCHAPTER F. REDUCTIONS IN STATED CAPITAL;	
	CANCELLATION OF TREASURY SHARES	
Sec. 21.251.	REDUCTION OF STATED CAPITAL BY REDEMPTION OR PURCHASE OF REDEEMABLE SHARES	923
Sec. 21.252.	CANCELLATION OF TREASURY SHARES	925
Sec. 21.253.	PROCEDURES FOR REDUCTION OF STATED CAPITAL BY BOARD OF DIRECTORS	926
Sec. 21.254.	RESTRICTION ON REDUCTION OF STATED CAPITAL	927
	[Sections 21.255-21.300 reserved for expansion]	

SUBCHAPTER G. DISTRIBUTIONS AND SHARE DIVIDENDS

Sec. 21.301.	DEFINITIONS	928
Sec. 21.302.	AUTHORITY FOR DISTRIBUTIONS	929
Sec. 21.303.	LIMITATIONS ON DISTRIBUTIONS	930
Sec. 21.304.	REDEMPTIONS	930
Sec. 21.305.	NOTICE OF REDEMPTION	931
Sec. 21.306.	DEPOSIT OF MONEY FOR REDEMPTION	932
Sec. 21.307.	PAYMENT OF REDEEMED SHARES	934
Sec. 21.308.	PRIORITY OF DISTRIBUTIONS	935
Sec. 21.309.	RESERVES, DESIGNATIONS, AND ALLOCATIONS FROM SURPLUS	935
Sec. 21.310.	AUTHORITY FOR SHARE DIVIDENDS	936
Sec. 21.311.	LIMITATIONS ON SHARE DIVIDENDS	936
Sec. 21.312.	VALUE OF SHARES ISSUED AS SHARE DIVIDENDS	937
Sec. 21.313.	TRANSFER OF SURPLUS FOR SHARE DIVIDENDS	937
Sec. 21.314.	DETERMINATION OF SOLVENCY, NET ASSETS, STATED CAPITAL, AND SURPLUS	938
Sec. 21.315.	DATE OF DETERMINATION OF SOLVENCY, NET ASSETS, STATED CAPITAL, AND SURPLUS	940
Sec. 21.316.	LIABILITY OF DIRECTORS FOR WRONGFUL DISTRIBUTIONS	941
Sec. 21.317.	STATUTE OF LIMITATIONS ON ACTION FOR WRONGFUL DISTRIBUTION	944
Sec. 21.318.	CONTRIBUTION FROM CERTAIN SHAREHOLDERS AND DIRECTORS	944

[Sections 21.319-21.350 reserved for expansion]

SUBCHAPTER H. SHAREHOLDERS' MEETINGS; VOTING AND QUORUM

Sec. 21.351.	ANNUAL MEETING	945
Sec. 21.352.	SPECIAL MEETINGS	946
Sec. 21.353.	NOTICE OF MEETING	947
Sec. 21.354.	INSPECTION OF VOTING LIST	948
Sec. 21.355.	CLOSING OF SHARE TRANSFER RECORDS	948
Sec. 21.356.	RECORD DATE FOR WRITTEN CONSENT TO ACTION	949
Sec. 21.357.	RECORD DATE FOR PURPOSE OTHER THAN WRITTEN CONSENT TO ACTION	949
Sec. 21.358.	QUORUM	949
Sec. 21.359.	VOTING IN ELECTION OF DIRECTORS	951
Sec. 21.360.	NO CUMULATIVE VOTING RIGHT UNLESS AUTHORIZED	952
Sec. 21.361.	CUMULATIVE VOTING IN ELECTION OF DIRECTORS	953
Sec. 21.362.	CUMULATIVE VOTING RIGHT IN CERTAIN CORPORATIONS	954
Sec. 21.363.	VOTING ON MATTERS OTHER THAN ELECTION OF DIRECTORS	954
Sec. 21.364.	VOTE REQUIRED TO APPROVE FUNDAMENTAL ACTION	956
Sec. 21.365.	CHANGES IN VOTE REQUIRED FOR CERTAIN MATTERS	963
Sec. 21.366.	NUMBER OF VOTES PER SHARE	964
Sec. 21.367.	VOTING IN PERSON OR BY PROXY	965
Sec. 21.368.	TERM OF PROXY	966
Sec. 21.369.	REVOCABILITY OF PROXY	966
Sec. 21.370.	ENFORCEABILITY OF PROXY	967
Sec. 21.371.	PROCEDURES IN BYLAWS RELATING TO PROXIES	969
Sec. 21.372.	SHAREHOLDER MEETING LIST	969
[Sections 21.373-21.400 reserved for expansion]		

SUBCHAPTER I. BOARD OF DIRECTORS	
Sec. 21.401.	MANAGEMENT BY BOARD OF DIRECTORS 970
Sec. 21.402.	BOARD MEMBER ELIGIBILITY REQUIREMENTS 971
Sec. 21.403.	NUMBER OF DIRECTORS 972
Sec. 21.404.	DESIGNATION OF INITIAL BOARD OF DIRECTORS 973
Sec. 21.405.	ELECTION OF BOARD OF DIRECTORS 973
Sec. 21.406.	SPECIAL VOTING RIGHTS OF DIRECTORS 974
Sec. 21.407.	TERM OF OFFICE 974
Sec. 21.408.	SPECIAL TERMS OF OFFICE 975
Sec. 21.409.	REMOVAL OF DIRECTORS 976
Sec. 21.410.	VACANCY 978
Sec. 21.411.	NOTICE OF MEETING 980
Sec. 21.412.	WAIVER OF NOTICE 980
Sec. 21.413.	QUORUM 981
Sec. 21.414.	DISSENT TO ACTION 982
Sec. 21.415.	ACTION BY DIRECTORS 983
Sec. 21.416.	COMMITTEES OF BOARD OF DIRECTORS 983
Sec. 21.417.	ELECTION OF OFFICERS 986
Sec. 21.418.	CONTRACTS OR TRANSACTIONS INVOLVING INTERESTED DIRECTORS AND OFFICERS 987
[Sections 21.419-21.450 reserved for expansion]	

SUBCHAPTER J. FUNDAMENTAL BUSINESS TRANSACTIONS

Sec. 21.451.	DEFINITIONS	989
Sec. 21.452.	APPROVAL OF MERGER	990
Sec. 21.453.	APPROVAL OF CONVERSION	992
Sec. 21.454.	APPROVAL OF EXCHANGE	993
Sec. 21.455.	APPROVAL OF SALE OF ALL OR SUBSTANTIALLY ALL OF ASSETS	995
Sec. 21.456.	GENERAL PROCEDURE FOR SUBMISSION TO SHAREHOLDERS OF FUNDAMENTAL BUSINESS TRANSACTION	997
Sec. 21.457.	GENERAL VOTE REQUIREMENT FOR APPROVAL OF FUNDAMENTAL BUSINESS TRANSACTION	998
Sec. 21.458.	CLASS VOTING REQUIREMENTS FOR CERTAIN FUNDAMENTAL BUSINESS TRANSACTIONS	999
Sec. 21.459.	NO SHAREHOLDER VOTE REQUIREMENT FOR CERTAIN FUNDAMENTAL BUSINESS TRANSACTIONS	1001
Sec. 21.460.	RIGHTS OF DISSENT AND APPRAISAL	1002
Sec. 21.461.	PLEDGE, MORTGAGE, DEED OF TRUST, OR TRUST INDENTURE	1003
Sec. 21.462.	CONVEYANCE BY CORPORATION	1003
	[Sections 21.463-21.500 reserved for expansion]	
	SUBCHAPTER K. WINDING UP AND TERMINATION	
Sec. 21.501.	APPROVAL OF VOLUNTARY WINDING UP, REINSTATEMENT, OR REVOCATION OF VOLUNTARY WINDING UP	1004
Sec. 21.502.	CERTAIN PROCEDURES RELATING TO WINDING UP	1005
Sec. 21.503.	MEETING OF SHAREHOLDERS; NOTICE	1006
Sec. 21.504.	RESPONSIBILITY FOR WINDING UP	1008
	[Sections 21.505-21.550 reserved for expansion]	

SUBCHAPTER L. DERIVATIVE PROCEEDINGS

- Sec. 21.551. DEFINITIONS 1008
- Sec. 21.552. STANDING TO BRING PROCEEDING 1009
- Sec. 21.553. DEMAND 1009
- Sec. 21.554. DETERMINATION BY DIRECTORS OR INDEPENDENT
PERSONS 1010
- Sec. 21.555. STAY OF PROCEEDING 1011
- Sec. 21.556. DISCOVERY 1013
- Sec. 21.557. TOLLING OF STATUTE OF LIMITATIONS 1014
- Sec. 21.558. DISMISSAL OF DERIVATIVE PROCEEDING 1014
- Sec. 21.559. PROCEEDING INSTITUTED AFTER DEMAND
REJECTED 1015
- Sec. 21.560. DISCONTINUANCE OR SETTLEMENT 1016
- Sec. 21.561. PAYMENT OF EXPENSES 1016
- Sec. 21.562. APPLICATION TO FOREIGN CORPORATIONS 1018
- Sec. 21.563. CLOSELY HELD CORPORATION 1019

[Sections 21.564-21.600 reserved for expansion]

SUBCHAPTER M. AFFILIATED BUSINESS COMBINATIONS

- Sec. 21.601. DEFINITIONS 1020
- Sec. 21.602. AFFILIATED SHAREHOLDER 1021
- Sec. 21.603. BENEFICIAL OWNER OF SHARES OR SIMILAR
SECURITIES 1022
- Sec. 21.604. BUSINESS COMBINATION 1024
- Sec. 21.605. CONTROL 1027
- Sec. 21.606. THREE-YEAR MORATORIUM ON CERTAIN BUSINESS
COMBINATIONS 1028
- Sec. 21.607. APPLICATION OF MORATORIUM 1029
- Sec. 21.608. EFFECT ON OTHER ACTIONS 1032
- Sec. 21.609. CONFLICTING PROVISIONS 1032
- Sec. 21.610. CHANGE IN VOTING REQUIREMENTS 1033

[Sections 21.611-21.650 reserved for expansion]

SUBCHAPTER N. PROVISIONS RELATING TO INVESTMENT COMPANIES

Sec. 21.651. DEFINITION 1033

Sec. 21.652. ESTABLISHING CLASS OR SERIES OF SHARES;
CHANGE IN NUMBER OF SHARES 1033

Sec. 21.653. REQUIRED STATEMENT RELATING TO SHARES 1035

Sec. 21.654. TERM OF OFFICE OF DIRECTORS 1037

Sec. 21.655. MEETINGS OF SHAREHOLDERS 1038

[Sections 21.656-21.700 reserved for expansion]

	SUBCHAPTER O. CLOSE CORPORATION	
Sec. 21.701.	DEFINITIONS	1038
Sec. 21.702.	APPLICABILITY OF SUBCHAPTER	1039
Sec. 21.703.	FORMATION OF CLOSE CORPORATION	1039
Sec. 21.704.	BYLAWS OF CLOSE CORPORATION	1040
Sec. 21.705.	ADOPTION OF AMENDMENT FOR CLOSE CORPORATION STATUS	1040
Sec. 21.706.	ADOPTION OF CLOSE CORPORATION STATUS THROUGH MERGER, EXCHANGE, OR CONVERSION	1041
Sec. 21.707.	EXISTING CLOSE CORPORATION	1042
Sec. 21.708.	TERMINATION OF CLOSE CORPORATION STATUS	1043
Sec. 21.709.	STATEMENT TERMINATING CLOSE CORPORATION STATUS; FILING; NOTICE	1044
Sec. 21.710.	EFFECT OF TERMINATION OF CLOSE CORPORATION STATUS	1046
Sec. 21.711.	SHAREHOLDERS' MEETING TO ELECT DIRECTORS	1047
Sec. 21.712.	TERM OF OFFICE OF DIRECTORS	1047
Sec. 21.713.	MANAGEMENT	1048
Sec. 21.714.	SHAREHOLDERS' AGREEMENT	1048
Sec. 21.715.	EXECUTION OF SHAREHOLDERS' AGREEMENT	1052
Sec. 21.716.	ADOPTION OF AMENDMENT OF SHAREHOLDERS' AGREEMENT	1052
Sec. 21.717.	DELIVERY OF SHAREHOLDERS' AGREEMENT	1053
Sec. 21.718.	STATEMENT OF OPERATION AS CLOSE CORPORATION	1054
Sec. 21.719.	VALIDITY AND ENFORCEABILITY OF SHAREHOLDERS' AGREEMENT	1055
Sec. 21.720.	PERSONS BOUND BY SHAREHOLDERS' AGREEMENT	1056
Sec. 21.721.	DELIVERY OF COPY OF SHAREHOLDERS' AGREEMENT TO TRANSFEREE	1057
Sec. 21.722.	EFFECT OF REQUIRED STATEMENT ON SHARE CERTIFICATE AND DELIVERY OF SHAREHOLDERS' AGREEMENT	1057
Sec. 21.723.	PARTY NOT BOUND BY SHAREHOLDERS' AGREEMENT ON CESSATION; LIABILITY	1058

Sec. 21.724.	TERMINATION OF SHAREHOLDERS'	
	AGREEMENT	1059
Sec. 21.725.	CONSEQUENCES OF MANAGEMENT BY PERSONS	
	OTHER THAN BOARD OF DIRECTORS	1059
Sec. 21.726.	SHAREHOLDERS CONSIDERED DIRECTORS	1060
Sec. 21.727.	LIABILITY OF SHAREHOLDERS	1060
Sec. 21.728.	MODE AND EFFECT OF TAKING ACTION BY	
	SHAREHOLDERS AND OTHERS	1061
Sec. 21.729.	LIMITATION OF SHAREHOLDER'S	
	LIABILITY	1062
Sec. 21.730.	LACK OF FORMALITIES; TREATMENT AS	
	PARTNERSHIP	1063
Sec. 21.731.	OTHER AGREEMENTS AMONG SHAREHOLDERS	
	PERMITTED	1064
Sec. 21.732.	CLOSE CORPORATION SHARE CERTIFICATES	1065
	[Sections 21.733-21.750 reserved for expansion]	

SUBCHAPTER P. JUDICIAL PROCEEDINGS RELATING TO
CLOSE CORPORATION

- Sec. 21.751. DEFINITIONS 1066
- Sec. 21.752. PROCEEDINGS AUTHORIZED 1066
- Sec. 21.753. NOTICE; INTERVENTION 1067
- Sec. 21.754. PROCEEDING NONEXCLUSIVE 1067
- Sec. 21.755. UNAVAILABILITY OF JUDICIAL
PROCEEDING 1068
- Sec. 21.756. JUDICIAL PROCEEDING TO ENFORCE
CLOSE CORPORATION PROVISION 1069
- Sec. 21.757. LIQUIDATION; INVOLUNTARY WINDING UP
AND TERMINATION; RECEIVERSHIP 1070
- Sec. 21.758. APPOINTMENT OF PROVISIONAL DIRECTOR 1071
- Sec. 21.759. RIGHTS AND POWERS OF PROVISIONAL
DIRECTOR 1072
- Sec. 21.760. COMPENSATION OF PROVISIONAL
DIRECTOR 1072
- Sec. 21.761. APPOINTMENT OF CUSTODIAN 1073
- Sec. 21.762. POWERS AND DUTIES OF CUSTODIAN 1074
- Sec. 21.763. TERMINATION OF CUSTODIANSHIP 1075

[Sections 21.764-21.800 reserved for expansion]

SUBCHAPTER Q. MISCELLANEOUS PROVISIONS

- Sec. 21.801. SHARES AND OTHER SECURITIES ARE PERSONAL
PROPERTY 1075
- Sec. 21.802. PENALTIES FOR LATE FILING OF CERTAIN
INSTRUMENTS 1076

CHAPTER 22. NONPROFIT CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 22.001. DEFINITIONS 1077
- Sec. 22.002. MEETINGS BY REMOTE COMMUNICATIONS
TECHNOLOGY 1078

[Sections 22.003-22.050 reserved for expansion]

SUBCHAPTER B. PURPOSES AND POWERS

- Sec. 22.051. GENERAL PURPOSES 1079
- Sec. 22.052. DENTAL HEALTH SERVICE CORPORATION 1080
- Sec. 22.053. DIVIDENDS PROHIBITED 1082
- Sec. 22.054. AUTHORIZED BENEFITS AND DISTRIBUTIONS 1083
- Sec. 22.055. POWER TO ASSIST EMPLOYEE OR OFFICER 1083
- Sec. 22.056. HEALTH ORGANIZATION CORPORATION 1084

[Sections 22.057-22.100 reserved for expansion]

SUBCHAPTER C. FORMATION AND GOVERNING DOCUMENTS

- Sec. 22.101. INCORPORATION OF CERTAIN ORGANIZATIONS 1086
- Sec. 22.102. BYLAWS 1086
- Sec. 22.103. INCONSISTENCY BETWEEN CERTIFICATE OF
FORMATION AND BYLAW 1087
- Sec. 22.104. ORGANIZATION MEETING 1087
- Sec. 22.105. PROCEDURES TO ADOPT AMENDMENT TO
CERTIFICATE OF FORMATION BY MEMBERS
HAVING VOTING RIGHTS 1089
- Sec. 22.106. PROCEDURES TO ADOPT AMENDMENT TO
CERTIFICATE OF FORMATION BY MANAGING
MEMBERS 1090
- Sec. 22.107. PROCEDURES TO ADOPT AMENDMENT TO
CERTIFICATE OF FORMATION BY BOARD OF
DIRECTORS 1090
- Sec. 22.108. NUMBER OF AMENDMENTS SUBJECT TO VOTE AT
MEETING 1092

[Sections 22.109-22.150 reserved for expansion]

SUBCHAPTER D. MEMBERS

Sec. 22.151.	MEMBERS	1092
Sec. 22.152.	IMMUNITY FROM LIABILITY	1093
Sec. 22.153.	ANNUAL MEETING	1093
Sec. 22.154.	FAILURE TO CALL ANNUAL MEETING	1093
Sec. 22.155.	SPECIAL MEETINGS OF MEMBERS	1094
Sec. 22.156.	NOTICE OF MEETING	1095
Sec. 22.157.	SPECIAL BYLAWS AFFECTING NOTICE	1096
Sec. 22.158.	PREPARATION AND INSPECTION OF LIST OF VOTING MEMBERS	1096
Sec. 22.159.	QUORUM OF MEMBERS	1097
Sec. 22.160.	VOTING OF MEMBERS	1098
Sec. 22.161.	ELECTION OF DIRECTORS	1099
Sec. 22.162.	GREATER VOTING REQUIREMENTS UNDER CERTIFICATE OF FORMATION	1100
Sec. 22.163.	RECORD DATE FOR DETERMINATION OF MEMBERS	1101
Sec. 22.164.	VOTE REQUIRED TO APPROVE FUNDAMENTAL ACTION	1102
[Sections 22.165-22.200 reserved for expansion]		

SUBCHAPTER E. MANAGEMENT

Sec. 22.201.	MANAGEMENT BY BOARD OF DIRECTORS	1106
Sec. 22.202.	MANAGEMENT BY MEMBERS	1106
Sec. 22.203.	BOARD MEMBER ELIGIBILITY REQUIREMENTS	1107
Sec. 22.204.	NUMBER OF DIRECTORS	1107
Sec. 22.205.	DESIGNATION OF INITIAL BOARD OF DIRECTORS	1108
Sec. 22.206.	ELECTION OR APPOINTMENT OF BOARD OF DIRECTORS	1109
Sec. 22.207.	ELECTION AND CONTROL BY CERTAIN ENTITIES	1109
Sec. 22.208.	TERM OF OFFICE	1110
Sec. 22.209.	CLASSIFICATION OF DIRECTORS	1111
Sec. 22.210.	EX OFFICIO MEMBER OF BOARD	1111
Sec. 22.211.	REMOVAL OF DIRECTOR	1112
Sec. 22.212.	VACANCY	1112
Sec. 22.213.	QUORUM	1113
Sec. 22.214.	ACTION BY DIRECTORS	1113
Sec. 22.215.	VOTING IN PERSON OR BY PROXY	1114
Sec. 22.216.	TERM AND REVOCABILITY OF PROXY	1114
Sec. 22.217.	NOTICE OF MEETING; WAIVER OF NOTICE	1115
Sec. 22.218.	MANAGEMENT COMMITTEE	1115
Sec. 22.219.	OTHER COMMITTEES	1116
Sec. 22.220.	ACTION WITHOUT MEETING OF DIRECTORS OR COMMITTEE	1117
Sec. 22.221.	GENERAL STANDARDS FOR DIRECTORS	1119
Sec. 22.222.	RELIGIOUS CORPORATION DIRECTOR'S GOOD FAITH RELIANCE ON CERTAIN INFORMATION	1120
Sec. 22.223.	NOT A TRUSTEE	1120
Sec. 22.224.	DELEGATION OF INVESTMENT AUTHORITY	1121
Sec. 22.225.	LOAN TO DIRECTOR PROHIBITED	1122
Sec. 22.226.	DIRECTOR LIABILITY FOR CERTAIN DISTRIBUTIONS OF ASSETS	1122
Sec. 22.227.	DISSENT TO ACTION	1124
Sec. 22.228.	RELIANCE ON WRITTEN OPINION OF ATTORNEY	1125
Sec. 22.229.	RIGHT TO CONTRIBUTION	1125
Sec. 22.230.	CONTRACTS OR TRANSACTIONS INVOLVING INTERESTED DIRECTORS, OFFICERS, AND	

	MEMBERS	1126
Sec. 22.231.	OFFICERS	1128
Sec. 22.232.	ELECTION OR APPOINTMENT OF OFFICERS	1128
Sec. 22.233.	APPLICATION TO CHURCH	1129
Sec. 22.234.	RELIGIOUS CORPORATION OFFICER'S GOOD FAITH RELIANCE ON CERTAIN INFORMATION	1129
Sec. 22.235.	OFFICER LIABILITY	1130
	[Sections 22.236-22.250 reserved for expansion]	
	SUBCHAPTER F. FUNDAMENTAL BUSINESS TRANSACTIONS	
Sec. 22.251.	APPROVAL OF MERGER	1131
Sec. 22.252.	APPROVAL OF SALE OF ALL OR SUBSTANTIALLY ALL OF ASSETS	1132
Sec. 22.253.	MEETING OF MEMBERS; NOTICE	1135
Sec. 22.254.	PLEDGE, MORTGAGE, DEED OF TRUST, OR TRUST INDENTURE	1137
Sec. 22.255.	CONVEYANCE BY CORPORATION	1137
Sec. 22.256.	APPROVAL OF CONVERSION	1138
Sec. 22.257.	APPROVAL OF EXCHANGE	1139
	[Sections 22.258-22.300 reserved for expansion]	
	SUBCHAPTER G. WINDING UP AND TERMINATION	
Sec. 22.301.	APPROVAL OF VOLUNTARY WINDING UP, REINSTATEMENT, REVOCATION OF VOLUNTARY WINDING UP, OR DISTRIBUTION PLAN	1139
Sec. 22.302.	CERTAIN PROCEDURES FOR APPROVAL	1140
Sec. 22.303.	MEETING OF MEMBERS; NOTICE	1142
Sec. 22.304.	APPLICATION AND DISTRIBUTION OF PROPERTY	1144
Sec. 22.305.	DISTRIBUTION PLAN	1146
Sec. 22.306.	LIMITED SURVIVAL AFTER NATURAL EXPIRATION	1146
Sec. 22.307.	RESPONSIBILITY FOR WINDING UP	1147
	[Sections 22.308-22.350 reserved for expansion]	

SUBCHAPTER H. RECORDS AND REPORTS

- Sec. 22.351. MEMBER'S RIGHT TO INSPECT BOOKS AND
RECORDS 1147
- Sec. 22.352. FINANCIAL RECORDS AND ANNUAL REPORTS 1148
- Sec. 22.353. AVAILABILITY OF FINANCIAL INFORMATION
FOR PUBLIC INSPECTION 1149
- Sec. 22.354. FAILURE TO MAINTAIN FINANCIAL RECORD
OR PREPARE ANNUAL REPORT; OFFENSE 1149
- Sec. 22.355. EXEMPTIONS FROM CERTAIN REQUIREMENTS
RELATING TO FINANCIAL RECORDS AND ANNUAL
REPORTS 1150
- Sec. 22.356. CORPORATIONS ASSISTING STATE AGENCIES 1152
- Sec. 22.357. REPORT OF DOMESTIC AND FOREIGN
CORPORATIONS 1153
- Sec. 22.358. NOTICE REGARDING REPORT 1155
- Sec. 22.359. FILING OF REPORT 1155
- Sec. 22.360. FAILURE TO FILE REPORT 1156
- Sec. 22.361. NOTICE OF FORFEITURE 1156
- Sec. 22.362. EFFECT OF FORFEITURE 1157
- Sec. 22.363. REVIVAL OF RIGHT TO CONDUCT AFFAIRS 1158
- Sec. 22.364. FAILURE TO REVIVE; TERMINATION OR
REVOCATION 1159
- Sec. 22.365. REINSTATEMENT 1160

[Sections 22.366-22.400 reserved for expansion]

SUBCHAPTER I. CHURCH BENEFITS BOARDS

- Sec. 22.401. DEFINITION 1161
- Sec. 22.402. PENSIONS AND BENEFITS 1162
- Sec. 22.403. CONTRIBUTIONS 1162
- Sec. 22.404. POWER TO ACT AS TRUSTEE 1163
- Sec. 22.405. DOCUMENTS AND AGREEMENTS 1164
- Sec. 22.406. INDEMNIFICATION 1164
- Sec. 22.407. PROTECTION OF BENEFITS 1165
- Sec. 22.408. ASSIGNMENT OF BENEFITS 1165
- Sec. 22.409. INSURANCE CODE NOT APPLICABLE 1166

CHAPTER 23. SPECIAL-PURPOSE CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 23.001. DETERMINATION OF APPLICABLE LAW 1166
Sec. 23.002. APPLICABILITY OF FILING REQUIREMENTS 1168
Sec. 23.003. DOMESTIC CORPORATION ORGANIZED UNDER
SPECIAL STATUTE 1169

[Sections 23.004-23.050 reserved for expansion]

SUBCHAPTER B. BUSINESS DEVELOPMENT CORPORATIONS

- Sec. 23.051. DEFINITIONS 1169
Sec. 23.052. ORGANIZERS 1170
Sec. 23.053. PURPOSES 1170
Sec. 23.054. POWERS 1172
Sec. 23.055. STATEWIDE OPERATION 1175
Sec. 23.056. CERTIFICATE OF FORMATION 1175
Sec. 23.057. MANAGEMENT BY BOARD OF DIRECTORS; NUMBER OF
DIRECTORS 1176
Sec. 23.058. ELECTION OR APPOINTMENT OF DIRECTORS 1176
Sec. 23.059. TERM OF OFFICE; VACANCY 1177
Sec. 23.060. OFFICERS 1177
Sec. 23.061. PARTICIPATION AS OWNER 1178
Sec. 23.062. FINANCIAL INSTITUTION AS MEMBER
OF CORPORATION 1178
Sec. 23.063. WITHDRAWAL OF MEMBER 1179
Sec. 23.064. POWERS OF SHAREHOLDERS AND MEMBERS 1180
Sec. 23.065. VOTING BY SHAREHOLDER OR MEMBER 1181
Sec. 23.066. LOAN TO CORPORATION 1181
Sec. 23.067. PROHIBITED LOAN 1182
Sec. 23.068. LOAN LIMITS 1182
Sec. 23.069. SURPLUS 1185
Sec. 23.070. DEPOSITORY 1185
Sec. 23.071. ANNUAL REPORT; PROVISION OF REQUIRED
INFORMATION 1186

[Sections 23.072-23.100 reserved for expansion]

SUBCHAPTER C. GRAND LODGES

Sec. 23.101.	FORMATION	1186
Sec. 23.102.	APPLICABILITY OF CHAPTER 22	1187
Sec. 23.103.	DURATION	1188
Sec. 23.104.	SUBORDINATE LODGES	1188
Sec. 23.105.	TRUSTEES AND DIRECTORS	1189
Sec. 23.106.	FRANCHISE TAXES	1189
Sec. 23.107.	GENERAL POWERS	1190
Sec. 23.108.	AUTHORITY REGARDING PROPERTY	1190
Sec. 23.109.	AUTHORITY REGARDING LOANS	1191
Sec. 23.110.	WINDING UP AND TERMINATION OF SUBORDINATE BODY	1191

TITLE 3. LIMITED LIABILITY COMPANIES

CHAPTER 101. LIMITED LIABILITY COMPANIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 101.001.	DEFINITIONS	1192
---------------	-------------	------

[Sections 101.002-101.050 reserved for expansion]

SUBCHAPTER B. FORMATION AND GOVERNING DOCUMENTS

Sec. 101.051.	CERTAIN PROVISIONS CONTAINED IN CERTIFICATE OF FORMATION	1194
Sec. 101.052.	COMPANY AGREEMENT	1195
Sec. 101.053.	AMENDMENT OF COMPANY AGREEMENT	1198
Sec. 101.054.	WAIVER OR MODIFICATION OF CERTAIN STATUTORY PROVISIONS PROHIBITED; EXCEPTIONS	1198

[Sections 101.055-101.100 reserved for expansion]

SUBCHAPTER C. MEMBERSHIP

- Sec. 101.101. MEMBERS REQUIRED 1199
- Sec. 101.102. QUALIFICATION FOR MEMBERSHIP 1200
- Sec. 101.103. EFFECTIVE DATE OF MEMBERSHIP 1201
- Sec. 101.104. CLASSES OR GROUPS OF MEMBERS OR MEMBERSHIP
INTERESTS 1203
- Sec. 101.105. ISSUANCE OF MEMBERSHIP INTERESTS AFTER
FORMATION OF COMPANY 1204
- Sec. 101.106. NATURE OF MEMBERSHIP INTEREST 1205
- Sec. 101.107. WITHDRAWAL OR EXPULSION OF MEMBER
PROHIBITED 1206
- Sec. 101.108. ASSIGNMENT OF MEMBERSHIP INTEREST 1206
- Sec. 101.109. RIGHTS AND DUTIES OF ASSIGNEE OF
MEMBERSHIP INTEREST BEFORE MEMBERSHIP 1207
- Sec. 101.110. RIGHTS AND LIABILITIES OF ASSIGNEE OF
MEMBERSHIP INTEREST AFTER BECOMING
MEMBER 1208
- Sec. 101.111. RIGHTS AND DUTIES OF ASSIGNOR OF MEMBERSHIP
INTEREST 1209
- Sec. 101.112. JUDGMENT CREDITOR; CHARGE OF MEMBERSHIP
INTEREST 1209
- Sec. 101.113. PARTIES TO ACTIONS 1210
- Sec. 101.114. LIABILITY FOR OBLIGATIONS 1210
- [Sections 101.115-101.150 reserved for expansion]

SUBCHAPTER D. CONTRIBUTIONS

- Sec. 101.151. REQUIREMENTS FOR ENFORCEABLE PROMISE 1211
- Sec. 101.152. ENFORCEABLE PROMISE NOT AFFECTED BY CHANGE
IN CIRCUMSTANCES 1211
- Sec. 101.153. FAILURE TO PERFORM ENFORCEABLE PROMISE;
CONSEQUENCES 1212
- Sec. 101.154. CONSENT REQUIRED TO RELEASE
ENFORCEABLE OBLIGATION 1213
- Sec. 101.155. CREDITOR'S RIGHT TO ENFORCE CERTAIN
OBLIGATIONS 1214
- Sec. 101.156. REQUIREMENTS TO ENFORCE CONDITIONAL
OBLIGATION 1214

[Sections 101.157-101.200 reserved for expansion]

SUBCHAPTER E. ALLOCATIONS AND DISTRIBUTIONS

- Sec. 101.201. ALLOCATION OF PROFITS AND LOSSES 1215
- Sec. 101.202. DISTRIBUTION IN KIND 1215
- Sec. 101.203. SHARING OF DISTRIBUTIONS 1216
- Sec. 101.204. INTERIM DISTRIBUTIONS 1216
- Sec. 101.205. DISTRIBUTION ON WITHDRAWAL 1217
- Sec. 101.206. PROHIBITED DISTRIBUTION; DUTY TO
RETURN 1217
- Sec. 101.207. CREDITOR STATUS WITH RESPECT TO
DISTRIBUTION 1219

[Sections 101.208-101.250 reserved for expansion]

SUBCHAPTER F. MANAGEMENT

- Sec. 101.251. MEMBERSHIP 1219
- Sec. 101.252. MANAGEMENT BY GOVERNING AUTHORITY 1220
- Sec. 101.253. DESIGNATION OF COMMITTEES; DELEGATION
OF AUTHORITY 1221
- Sec. 101.254. DESIGNATION OF AGENTS; BINDING ACTS 1223
- Sec. 101.255. CONTRACTS OR TRANSACTIONS INVOLVING
INTERESTED GOVERNING PERSONS OR
OFFICERS 1225

[Sections 101.256-101.300 reserved for expansion]

SUBCHAPTER G. MANAGERS

- Sec. 101.301. APPLICABILITY OF SUBCHAPTER 1227
Sec. 101.302. NUMBER AND QUALIFICATIONS 1227
Sec. 101.303. TERM 1228
Sec. 101.304. REMOVAL 1229
Sec. 101.305. MANAGER VACANCY 1229
Sec. 101.306. REMOVAL AND REPLACEMENT OF MANAGER
ELECTED BY CLASS OR GROUP 1230
Sec. 101.307. METHODS OF CLASSIFYING MANAGERS 1231
[Sections 101.308-101.350 reserved for expansion]

SUBCHAPTER H. MEETINGS AND VOTING

- Sec. 101.351. APPLICABILITY OF SUBCHAPTER 1232
Sec. 101.352. GENERAL NOTICE REQUIREMENTS 1233
Sec. 101.353. QUORUM 1234
Sec. 101.354. EQUAL VOTING RIGHTS 1234
Sec. 101.355. ACT OF GOVERNING AUTHORITY, MEMBERS,
OR COMMITTEE 1235
Sec. 101.356. VOTES REQUIRED TO APPROVE CERTAIN ACTIONS 1235
Sec. 101.357. MANNER OF VOTING 1238
Sec. 101.358. ACTION BY LESS THAN UNANIMOUS WRITTEN
CONSENT 1239

[Sections 101.359-101.400 reserved for expansion]

SUBCHAPTER I. MODIFICATION OF DUTIES; INDEMNIFICATION

- Sec. 101.401. EXPANSION OR RESTRICTION OF DUTIES
AND LIABILITIES 1240
Sec. 101.402. PERMISSIVE INDEMNIFICATION, ADVANCEMENT
OF EXPENSES, AND INSURANCE OR OTHER
ARRANGEMENTS 1240

[Sections 101.403-101.450 reserved for expansion]

SUBCHAPTER J. DERIVATIVE PROCEEDINGS

- Sec. 101.451. DEFINITIONS 1241
- Sec. 101.452. STANDING TO BRING PROCEEDING 1242
- Sec. 101.453. DEMAND 1243
- Sec. 101.454. DETERMINATION BY GOVERNING OR
INDEPENDENT PERSONS 1244
- Sec. 101.455. STAY OF PROCEEDING 1246
- Sec. 101.456. DISCOVERY 1248
- Sec. 101.457. TOLLING OF STATUTE OF LIMITATIONS 1249
- Sec. 101.458. DISMISSAL OF DERIVATIVE PROCEEDING 1250
- Sec. 101.459. ALLEGATIONS IF DEMAND REJECTED 1252
- Sec. 101.460. DISCONTINUANCE OR SETTLEMENT 1253
- Sec. 101.461. PAYMENT OF EXPENSES 1254
- Sec. 101.462. APPLICATION TO FOREIGN LIMITED LIABILITY
COMPANIES 1256
- Sec. 101.463. CLOSELY HELD LIMITED LIABILITY COMPANY 1257
[Sections 101.464-101.500 reserved for expansion]

SUBCHAPTER K. SUPPLEMENTAL RECORDKEEPING REQUIREMENTS

- Sec. 101.501. SUPPLEMENTAL RECORDS REQUIRED FOR
LIMITED LIABILITY COMPANIES 1259
- Sec. 101.502. RIGHT TO EXAMINE RECORDS AND CERTAIN
OTHER INFORMATION 1261

[Sections 101.503-101.550 reserved for expansion]

SUBCHAPTER L. SUPPLEMENTAL WINDING UP AND TERMINATION
PROVISIONS

- Sec. 101.551. PERSONS ELIGIBLE TO WIND UP COMPANY 1262
- Sec. 101.552. APPROVAL OF VOLUNTARY WINDING UP,
REVOCATION, CANCELLATION, OR
REINSTATEMENT 1263

TITLE 4. PARTNERSHIPS

CHAPTER 151. GENERAL PROVISIONS

- Sec. 151.001. DEFINITIONS 1266
- Sec. 151.002. KNOWLEDGE OF FACT 1267
- Sec. 151.003. NOTICE OF FACT 1268

	CHAPTER 152. GENERAL PARTNERSHIPS	
	SUBCHAPTER A. GENERAL PROVISIONS	
Sec. 152.001.	DEFINITIONS	1269
Sec. 152.002.	EFFECT OF PARTNERSHIP AGREEMENT; NONWAIVABLE AND VARIABLE PROVISIONS	1271
Sec. 152.003.	SUPPLEMENTAL PRINCIPLES OF LAW	1274
Sec. 152.004.	RULE OF STATUTORY CONSTRUCTION NOT APPLICABLE	1274
Sec. 152.005.	APPLICABLE INTEREST RATE	1275
	[Sections 152.006-152.050 reserved for expansion]	
	SUBCHAPTER B. NATURE AND CREATION OF PARTNERSHIP	
Sec. 152.051.	PARTNERSHIP DEFINED	1275
Sec. 152.052.	RULES FOR DETERMINING IF PARTNERSHIP IS CREATED	1276
Sec. 152.053.	QUALIFICATIONS TO BE PARTNER; NONPARTNER'S LIABILITY TO THIRD PERSON	1279
Sec. 152.054.	FALSE REPRESENTATION OF PARTNERSHIP OR PARTNER	1279
Sec. 152.055.	AUTHORITY OF CERTAIN PROFESSIONALS TO CREATE PARTNERSHIP	1280
Sec. 152.056.	PARTNERSHIP AS ENTITY	1281
	[Sections 152.057-152.100 reserved for expansion]	
	SUBCHAPTER C. PARTNERSHIP PROPERTY	
Sec. 152.101.	NATURE OF PARTNERSHIP PROPERTY	1281
Sec. 152.102.	CLASSIFICATION AS PARTNERSHIP PROPERTY	1282
	[Sections 152.103-152.200 reserved for expansion]	

SUBCHAPTER D. RELATIONSHIP BETWEEN PARTNERS AND BETWEEN
PARTNERS AND PARTNERSHIPS

- Sec. 152.201. ADMISSION AS PARTNER 1283
- Sec. 152.202. CREDITS OF AND CHARGES TO PARTNER 1283
- Sec. 152.203. RIGHTS AND DUTIES OF PARTNER 1284
- Sec. 152.204. GENERAL STANDARDS OF PARTNER'S CONDUCT 1285
- Sec. 152.205. PARTNER'S DUTY OF LOYALTY 1286
- Sec. 152.206. PARTNER'S DUTY OF CARE 1287
- Sec. 152.207. STANDARDS OF CONDUCT APPLICABLE TO PERSON
WINDING UP PARTNERSHIP BUSINESS 1287
- Sec. 152.208. AMENDMENT TO PARTNERSHIP AGREEMENT 1288
- Sec. 152.209. DECISION-MAKING REQUIREMENT 1288
- Sec. 152.210. PARTNER'S LIABILITY TO PARTNERSHIP AND
OTHER PARTNERS 1288
- Sec. 152.211. REMEDIES OF PARTNERSHIP AND PARTNERS 1289
- Sec. 152.212. BOOKS AND RECORDS OF PARTNERSHIP 1290
- Sec. 152.213. INFORMATION REGARDING PARTNERSHIP 1291
- Sec. 152.214. CERTAIN THIRD-PARTY OBLIGATIONS NOT
AFFECTED 1291

[Sections 152.215-152.300 reserved for expansion]

SUBCHAPTER E. RELATIONSHIP BETWEEN PARTNERS AND OTHER PERSONS

- Sec. 152.301. PARTNER AS AGENT 1292
- Sec. 152.302. BINDING EFFECT OF PARTNER'S ACTION 1292
- Sec. 152.303. LIABILITY OF PARTNERSHIP FOR CONDUCT OF
PARTNER 1293
- Sec. 152.304. NATURE OF PARTNER'S LIABILITY 1294
- Sec. 152.305. REMEDY 1295
- Sec. 152.306. ENFORCEMENT OF REMEDY 1295
- Sec. 152.307. EXTENSION OF CREDIT IN RELIANCE ON
FALSE REPRESENTATION 1297

[Sections 152.308-152.400 reserved for expansion]

SUBCHAPTER F. TRANSFER OF PARTNERSHIP INTERESTS

Sec. 152.401. TRANSFER OF PARTNERSHIP INTEREST 1298

Sec. 152.402. GENERAL EFFECT OF TRANSFER 1298

Sec. 152.403. EFFECT OF TRANSFER ON TRANSFEROR 1298

Sec. 152.404. RIGHTS AND DUTIES OF TRANSFEREE 1299

Sec. 152.405. POWER TO EFFECT TRANSFER OR GRANT
OF SECURITY INTEREST 1300

Sec. 152.406. EFFECT OF DEATH OR DIVORCE ON
PARTNERSHIP INTEREST 1300

[Sections 152.407-152.500 reserved for expansion]

SUBCHAPTER G. WITHDRAWAL OF PARTNER

Sec. 152.501. EVENTS OF WITHDRAWAL 1301

Sec. 152.502. EFFECT OF EVENT OF WITHDRAWAL ON
PARTNERSHIP AND OTHER PARTNERS 1307

Sec. 152.503. WRONGFUL WITHDRAWAL; LIABILITY 1307

Sec. 152.504. WITHDRAWN PARTNER'S POWER TO BIND
PARTNERSHIP 1308

Sec. 152.505. EFFECT OF WITHDRAWAL ON PARTNER'S EXISTING
LIABILITY 1309

Sec. 152.506. LIABILITY OF WITHDRAWN PARTNER TO THIRD
PARTY 1310

[Sections 152.507-152.600 reserved for expansion]

SUBCHAPTER H. REDEMPTION OF WITHDRAWING PARTNER'S OR
TRANSFeree'S INTEREST

- Sec. 152.601. REDEMPTION IF PARTNERSHIP NOT WOUND
UP 1311
- Sec. 152.602. REDEMPTION PRICE 1312
- Sec. 152.603. CONTRIBUTION OBLIGATION 1313
- Sec. 152.604. SETOFF FOR CERTAIN DAMAGES 1313
- Sec. 152.605. ACCRUAL OF INTEREST 1313
- Sec. 152.606. INDEMNIFICATION FOR CERTAIN LIABILITY 1314
- Sec. 152.607. DEMAND OR PAYMENT OF ESTIMATED
REDEMPTION 1314
- Sec. 152.608. DEFERRED PAYMENT ON WRONGFUL
WITHDRAWAL 1317
- Sec. 152.609. ACTION TO DETERMINE TERMS OF
REDEMPTION 1317
- Sec. 152.610. DEFERRED PAYMENT ON WINDING UP
PARTNERSHIP 1319
- Sec. 152.611. REDEMPTION OF TRANSFeree'S PARTNERSHIP
INTEREST 1320
- Sec. 152.612. ACTION TO DETERMINE TRANSFeree'S
REDEMPTION PRICE 1321

[Sections 152.613-152.700 reserved for expansion]

SUBCHAPTER I. SUPPLEMENTAL WINDING UP AND
TERMINATION PROVISIONS

- Sec. 152.701. EFFECT OF EVENT REQUIRING WINDING UP 1322
- Sec. 152.702. PERSONS ELIGIBLE TO WIND UP PARTNERSHIP
BUSINESS 1323
- Sec. 152.703. RIGHTS AND DUTIES OF PERSON WINDING
UP PARTNERSHIP BUSINESS 1324
- Sec. 152.704. BINDING EFFECT OF PARTNER'S ACTION AFTER EVENT
REQUIRING WINDING UP 1324
- Sec. 152.705. PARTNER'S LIABILITY TO OTHER PARTNERS AFTER
EVENT REQUIRING WINDING UP 1325
- Sec. 152.706. DISPOSITION OF ASSETS 1326
- Sec. 152.707. SETTLEMENT OF ACCOUNTS 1326
- Sec. 152.708. CONTRIBUTIONS TO DISCHARGE OBLIGATIONS 1327
- Sec. 152.709. CONTINUATION OF PARTNERSHIP 1329
- Sec. 152.710. REINSTATEMENT 1331

[Sections 152.711-152.800 reserved for expansion]

SUBCHAPTER J. LIMITED LIABILITY PARTNERSHIPS

- Sec. 152.801. LIABILITY OF PARTNER 1331
- Sec. 152.802. REGISTRATION 1333
- Sec. 152.803. NAME 1337
- Sec. 152.804. INSURANCE OR FINANCIAL RESPONSIBILITY 1337
- Sec. 152.805. LIMITED PARTNERSHIP 1339

[Sections 152.806-152.900 reserved for expansion]

SUBCHAPTER K. FOREIGN LIMITED LIABILITY PARTNERSHIPS

- Sec. 152.901. GENERAL 1339
- Sec. 152.902. NAME 1340
- Sec. 152.903. ACTIVITIES NOT CONSTITUTING TRANSACTING
BUSINESS 1340
- Sec. 152.904. REGISTERED AGENT 1342
- Sec. 152.905. STATEMENT OF FOREIGN QUALIFICATION 1344
- Sec. 152.906. CANCELLATION OF REGISTRATION 1346
- Sec. 152.907. EFFECT OF CERTIFICATE OF CANCELLATION 1347
- Sec. 152.908. RENEWAL OF REGISTRATION 1347
- Sec. 152.909. ACTION BY SECRETARY OF STATE 1348
- Sec. 152.910. EFFECT OF FAILURE TO QUALIFY 1348
- Sec. 152.911. AMENDMENT 1349
- Sec. 152.912. EXECUTION OF APPLICATION FOR AMENDMENT 1350
- Sec. 152.913. EXECUTION OF STATEMENT OF CHANGE OF
REGISTERED OFFICE OR REGISTERED AGENT 1350

CHAPTER 153. LIMITED PARTNERSHIPS

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 153.001. DEFINITION 1351
- Sec. 153.002. CONSTRUCTION 1351
- Sec. 153.003. APPLICABILITY OF OTHER LAWS 1351
- Sec. 153.004. NONWAIVABLE TITLE 1 PROVISIONS 1353
- Sec. 153.005. WAIVER OR MODIFICATION OF RIGHTS OF THIRD
PARTIES 1354

[Sections 153.006-153.050 reserved for expansion]

SUBCHAPTER B. SUPPLEMENTAL PROVISIONS REGARDING AMENDMENT
TO CERTIFICATE OF FORMATION

- Sec. 153.051. REQUIRED AMENDMENT TO CERTIFICATE OF
FORMATION 1354
- Sec. 153.052. DISCRETIONARY AMENDMENT TO CERTIFICATE OF
FORMATION 1356

[Sections 153.053-153.100 reserved for expansion]

SUBCHAPTER C. LIMITED PARTNERS

Sec. 153.101.	ADMISSION OF LIMITED PARTNERS	1357
Sec. 153.102.	LIABILITY TO THIRD PARTIES	1358
Sec. 153.103.	ACTIONS NOT CONSTITUTING PARTICIPATION IN BUSINESS FOR LIABILITY PURPOSES	1360
Sec. 153.104.	ENUMERATION OF ACTIONS NOT EXCLUSIVE	1364
Sec. 153.105.	CREATION OF RIGHTS	1364
Sec. 153.106.	ERRONEOUS BELIEF OF CONTRIBUTOR BEING LIMITED PARTNER	1364
Sec. 153.107.	STATEMENT REQUIRED FOR LIABILITY PROTECTION	1365
Sec. 153.108.	REQUIREMENTS FOR LIABILITY PROTECTION FOLLOWING EXPIRATION OF STATEMENT	1367
Sec. 153.109.	LIABILITY OF ERRONEOUS CONTRIBUTOR	1368
Sec. 153.110.	WITHDRAWAL OF LIMITED PARTNER	1369
Sec. 153.111.	DISTRIBUTION ON WITHDRAWAL	1369
Sec. 153.112.	RECEIPT OF WRONGFUL DISTRIBUTION	1369
Sec. 153.113.	POWERS OF ESTATE OF LIMITED PARTNER WHO IS DECEASED OR INCAPACITATED	1370

[Sections 153.114-153.150 reserved for expansion]

SUBCHAPTER D. GENERAL PARTNERS

- Sec. 153.151. ADMISSION OF ADDITIONAL GENERAL PARTNERS 1371
- Sec. 153.152. GENERAL POWERS AND LIABILITIES OF GENERAL
PARTNER 1371
- Sec. 153.153. POWERS AND LIABILITIES OF PERSON WHO IS BOTH
GENERAL PARTNER AND LIMITED
PARTNER 1372
- Sec. 153.154. CONTRIBUTIONS BY AND DISTRIBUTIONS TO GENERAL
PARTNER 1373
- Sec. 153.155. WITHDRAWAL OF GENERAL PARTNER 1373
- Sec. 153.156. NOTICE OF EVENT OF WITHDRAWAL 1377
- Sec. 153.157. WITHDRAWAL OF GENERAL PARTNER IN
VIOLATION OF PARTNERSHIP AGREEMENT 1377
- Sec. 153.158. EFFECT OF WITHDRAWAL 1377
- Sec. 153.159. CONVERSION OF PARTNERSHIP INTEREST
AFTER WITHDRAWAL 1379
- Sec. 153.160. EFFECT OF CONVERSION OF PARTNERSHIP
INTEREST 1379
- Sec. 153.161. LIABILITY OF GENERAL PARTNER FOR DEBT
INCURRED AFTER EVENT OF WITHDRAWAL 1380
- Sec. 153.162. LIABILITY FOR WRONGFUL WITHDRAWAL 1381
- [Sections 153.163-153.200 reserved for expansion]

SUBCHAPTER E. FINANCES

- Sec. 153.201. FORM OF CONTRIBUTION 1382
- Sec. 153.202. ENFORCEABILITY OF PROMISE TO MAKE
CONTRIBUTION 1382
- Sec. 153.203. RELEASE OF OBLIGATION TO PARTNERSHIP 1384
- Sec. 153.204. ENFORCEABILITY OF OBLIGATION 1385
- Sec. 153.205. REQUIREMENTS TO ENFORCE CONDITIONAL
OBLIGATION 1386
- Sec. 153.206. ALLOCATION OF PROFITS AND LOSSES 1386
- Sec. 153.207. RIGHT TO DISTRIBUTION 1387
- Sec. 153.208. SHARING OF DISTRIBUTIONS 1387
- Sec. 153.209. INTERIM DISTRIBUTIONS 1388
- Sec. 153.210. LIMITATION ON DISTRIBUTION 1389
- [Sections 153.211-153.250 reserved for expansion]

SUBCHAPTER F. PARTNERSHIP INTEREST

Sec. 153.251.	ASSIGNMENT OF PARTNERSHIP INTEREST	1390
Sec. 153.252.	RIGHTS OF ASSIGNOR	1390
Sec. 153.253.	RIGHTS OF ASSIGNEE	1391
Sec. 153.254.	LIABILITY OF ASSIGNEE	1392
Sec. 153.255.	LIABILITY OF ASSIGNOR	1393
Sec. 153.256.	CHARGE IN PAYMENT OF JUDGMENT CREDITOR	1393
Sec. 153.257.	EXEMPTION LAWS APPLICABLE TO PARTNERSHIP INTEREST NOT AFFECTED	1394

[Sections 153.258-153.300 reserved for expansion]

SUBCHAPTER G. REPORTS

Sec. 153.301.	PERIODIC REPORT	1395
Sec. 153.302.	FORM AND CONTENTS OF REPORT	1395
Sec. 153.303.	FILING FEE	1396
Sec. 153.304.	DELIVERY OF REPORT	1397
Sec. 153.305.	ACTION BY SECRETARY OF STATE	1397
Sec. 153.306.	EFFECT OF FILING REPORT	1398
Sec. 153.307.	EFFECT OF FAILURE TO FILE REPORT	1399
Sec. 153.308.	NOTICE OF FORFEITURE OF RIGHT TO TRANSACT BUSINESS	1399
Sec. 153.309.	EFFECT OF FORFEITURE OF RIGHT TO TRANSACT BUSINESS	1400
Sec. 153.310.	REVIVAL OF RIGHT TO TRANSACT BUSINESS	1401
Sec. 153.311.	CANCELLATION OF CERTIFICATE OR REGISTRATION AFTER FORFEITURE	1402
Sec. 153.312.	REINSTATEMENT OF CERTIFICATE OF FORMATION OR REGISTRATION	1403

[Sections 153.313-153.350 reserved for expansion]

SUBCHAPTER H. LIMITED PARTNERSHIP AS LIMITED
LIABILITY PARTNERSHIP

Sec. 153.351.	REQUIREMENTS	1404
Sec. 153.352.	APPLICABILITY OF OTHER REQUIREMENTS	1404
Sec. 153.353.	LAW APPLICABLE TO PARTNERS	1405

[Sections 153.354-153.400 reserved for expansion]

SUBCHAPTER I. DERIVATIVE ACTIONS	
Sec. 153.401.	RIGHT TO BRING ACTION 1405
Sec. 153.402.	PROPER PLAINTIFF 1406
Sec. 153.403.	PLEADING 1406
Sec. 153.404.	SECURITY FOR EXPENSES OF DEFENDANTS 1407
Sec. 153.405.	EXPENSES OF PLAINTIFF 1408
[Sections 153.406-153.450 reserved for expansion]	
SUBCHAPTER J. CANCELLATION OF CERTIFICATE OF FORMATION	
Sec. 153.451.	CERTIFICATE OF CANCELLATION 1408
Sec. 153.452.	CONTENTS OF CERTIFICATE OF CANCELLATION 1409
[Sections 153.453-153.500 reserved for expansion]	
SUBCHAPTER K. SUPPLEMENTAL WINDING UP AND TERMINATION	
PROVISIONS	
Sec. 153.501.	CONTINUATION WITHOUT WINDING UP 1410
Sec. 153.502.	WINDING UP PROCEDURES 1413
Sec. 153.503.	POWERS OF PERSON CONDUCTING WIND UP 1414
Sec. 153.504.	DISPOSITION OF ASSETS 1415
[Sections 153.505-153.550 reserved for expansion]	
SUBCHAPTER L. MISCELLANEOUS PROVISIONS	
Sec. 153.551.	RECORDS 1416
Sec. 153.552.	EXAMINATION OF RECORDS AND INFORMATION 1418
Sec. 153.553.	EXECUTION OF CERTAIN FILINGS 1419
Sec. 153.554.	EXECUTION, AMENDMENT, OR CANCELLATION BY JUDICIAL ORDER 1422
Sec. 153.555.	PERMITTED TRANSFER IN CONNECTION WITH RACETRACK LICENSE 1423
CHAPTER 154. PROVISIONS APPLICABLE TO BOTH GENERAL AND LIMITED PARTNERSHIPS	
SUBCHAPTER A. PARTNERSHIP INTERESTS	
Sec. 154.001.	NATURE OF PARTNER'S PARTNERSHIP INTEREST 1424
Sec. 154.002.	TRANSFER OF INTEREST IN PARTNERSHIP PROPERTY PROHIBITED 1424
[Sections 154.003-154.100 reserved for expansion]	

SUBCHAPTER B. PARTNERSHIP AGREEMENT

- Sec. 154.101. CLASS OR GROUP OF PARTNERS 1425
Sec. 154.102. PROVISIONS RELATING TO VOTING 1426
Sec. 154.103. NOTICE OF ACTION BY CONSENT WITHOUT A
MEETING 1427

[Sections 154.104-154.200 reserved for expansion]

SUBCHAPTER C. PARTNERSHIP TRANSACTIONS AND RELATIONSHIPS

- Sec. 154.201. BUSINESS TRANSACTIONS BETWEEN
PARTNER AND PARTNERSHIP 1428
Sec. 154.202. EFFECT OF PARTNER CHANGE ON
RELATIONSHIP BETWEEN PARTNERSHIP AND
CREDITORS 1428
Sec. 154.203. DISTRIBUTIONS IN KIND 1429

TITLE 5. REAL ESTATE INVESTMENT TRUSTS

CHAPTER 200. REAL ESTATE INVESTMENT TRUSTS

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 200.001. DEFINITION 1429
Sec. 200.002. APPLICABILITY OF CHAPTER 1430
Sec. 200.003. CONFLICT WITH OTHER LAW 1430
Sec. 200.004. ULTRA VIRES ACTS 1431
Sec. 200.005. SUPPLEMENTARY POWERS OF REAL ESTATE
INVESTMENT TRUST 1433
Sec. 200.006. REQUIREMENT THAT FILING INSTRUMENT BE
SIGNED BY OFFICER 1434

[Sections 200.007-200.050 reserved for expansion]

SUBCHAPTER B. FORMATION AND GOVERNING DOCUMENTS

- Sec. 200.051. DECLARATION OF TRUST 1434
- Sec. 200.052. NO PROPERTY RIGHT IN CERTIFICATE OF
FORMATION 1435
- Sec. 200.053. PROCEDURES TO ADOPT AMENDMENT TO
CERTIFICATE OF FORMATION 1435
- Sec. 200.054. ADOPTION OF AMENDMENT BY TRUST
MANAGERS 1437
- Sec. 200.055. ADOPTION OF AMENDMENT BY
SHAREHOLDERS 1437
- Sec. 200.056. NOTICE OF AND MEETING TO CONSIDER PROPOSED
AMENDMENT 1437
- Sec. 200.057. ADOPTION OF RESTATED CERTIFICATE OF
FORMATION 1438
- Sec. 200.058. BYLAWS 1439
- Sec. 200.059. DUAL AUTHORITY 1440
- Sec. 200.060. ORGANIZATION MEETING 1440
- [Sections 200.061-200.100 reserved for expansion]

SUBCHAPTER C. SHARES

- Sec. 200.101. NUMBER 1441
 - Sec. 200.102. CLASSIFICATION OF SHARES 1441
 - Sec. 200.103. CLASSES OF SHARES ESTABLISHED BY TRUST
MANAGERS 1443
 - Sec. 200.104. ISSUANCE OF SHARES 1444
 - Sec. 200.105. TYPES OF CONSIDERATION FOR ISSUANCE OF
SHARES 1445
 - Sec. 200.106. DETERMINATION OF CONSIDERATION FOR SHARES 1445
 - Sec. 200.107. AMOUNT OF CONSIDERATION FOR ISSUANCE OF
SHARES WITH PAR VALUE 1446
 - Sec. 200.108. VALUE OF CONSIDERATION 1446
 - Sec. 200.109. LIABILITY OF ASSIGNEE OR TRANSFEREE 1446
 - Sec. 200.110. SUBSCRIPTIONS 1447
 - Sec. 200.111. PREFORMATION SUBSCRIPTION 1448
 - Sec. 200.112. COMMITMENT IN CONNECTION WITH PURCHASE OF
SHARES 1449
 - Sec. 200.113. SUPPLEMENTAL REQUIRED RECORDS 1449
- [Sections 200.114-200.150 reserved for expansion]

SUBCHAPTER D. SHAREHOLDER RIGHTS AND RESTRICTIONS

- Sec. 200.151. REGISTERED HOLDERS AS OWNERS 1450
- Sec. 200.152. NO STATUTORY PREEMPTIVE RIGHT UNLESS
SPECIFICALLY PROVIDED BY CERTIFICATE OF
FORMATION 1451
- Sec. 200.153. CHARACTERIZATION AND TRANSFER OF SHARES
AND OTHER SECURITIES 1451
- Sec. 200.154. RESTRICTION ON TRANSFER OF SHARES AND OTHER
SECURITIES 1452
- Sec. 200.155. VALID RESTRICTION ON TRANSFER 1453
- Sec. 200.156. BYLAW OR AGREEMENT RESTRICTING TRANSFER OF
SHARES OR OTHER SECURITIES 1454
- Sec. 200.157. ENFORCEABILITY OF RESTRICTION ON TRANSFER
OF CERTAIN SECURITIES 1456
- Sec. 200.158. JOINT OWNERSHIP OF SHARES 1458
- Sec. 200.159. LIABILITY FOR DESIGNATING OWNER OF
SHARES 1459
- Sec. 200.160. LIABILITY REGARDING JOINT OWNERSHIP OF
SHARES 1459
- Sec. 200.161. LIMITATION OF LIABILITY FOR OBLIGATIONS 1460
- Sec. 200.162. PREEMPTION OF LIABILITY 1461
- Sec. 200.163. EXCEPTIONS TO LIMITATIONS 1462
- Sec. 200.164. PLEDGEEES AND TRUST ADMINISTRATORS 1462
- [Sections 200.165-200.200 reserved for expansion]

SUBCHAPTER E. DISTRIBUTIONS AND SHARE DIVIDENDS

Sec. 200.201.	AUTHORITY FOR DISTRIBUTIONS	1463
Sec. 200.202.	LIMITATIONS ON DISTRIBUTIONS	1463
Sec. 200.203.	PRIORITY OF DISTRIBUTIONS	1464
Sec. 200.204.	RESERVES, DESIGNATIONS, AND ALLOCATIONS FROM SURPLUS	1465
Sec. 200.205.	AUTHORITY FOR SHARE DIVIDENDS	1465
Sec. 200.206.	LIMITATIONS ON SHARE DIVIDENDS	1466
Sec. 200.207.	VALUE OF SHARES ISSUED AS SHARE DIVIDENDS	1466
Sec. 200.208.	TRANSFER OF SURPLUS FOR SHARE DIVIDENDS	1467
Sec. 200.209.	DETERMINATION OF SOLVENCY, NET ASSETS, STATED CAPITAL, AND SURPLUS	1468
Sec. 200.210.	DATE OF DETERMINATION OF SURPLUS	1469
Sec. 200.211.	SPLIT-UP OR DIVISION OF SHARES	1471
[Sections 200.212-200.250 reserved for expansion]		

SUBCHAPTER F. SHAREHOLDERS' MEETINGS; VOTING AND QUORUM

Sec. 200.251.	ANNUAL MEETING	1471
Sec. 200.252.	SPECIAL MEETINGS	1472
Sec. 200.253.	NOTICE OF MEETING	1473
Sec. 200.254.	CLOSING OF SHARE TRANSFER RECORDS	1474
Sec. 200.255.	RECORD DATE FOR WRITTEN CONSENT TO ACTION	1474
Sec. 200.256.	RECORD DATE FOR PURPOSE OTHER THAN WRITTEN CONSENT TO ACTION	1475
Sec. 200.257.	QUORUM	1475
Sec. 200.258.	VOTING IN ELECTION OF TRUST MANAGERS	1477
Sec. 200.259.	CUMULATIVE VOTING IN ELECTION OF TRUST MANAGERS	1478
Sec. 200.260.	VOTING ON MATTERS OTHER THAN ELECTION OF TRUST MANAGERS	1479
Sec. 200.261.	VOTE REQUIRED TO APPROVE FUNDAMENTAL ACTION	1481
Sec. 200.262.	CHANGES IN VOTE REQUIRED FOR CERTAIN MATTERS	1487
Sec. 200.263.	NUMBER OF VOTES PER SHARE	1489
Sec. 200.264.	VOTING IN PERSON OR BY PROXY	1490
Sec. 200.265.	TERM OF PROXY	1490
Sec. 200.266.	REVOCABILITY OF PROXY	1491
Sec. 200.267.	ENFORCEABILITY OF PROXY	1492
Sec. 200.268.	PROCEDURES IN BYLAWS RELATING TO PROXIES	1493

[Sections 200.269-200.300 reserved for expansion]

SUBCHAPTER G. TRUST MANAGERS

Sec. 200.301.	MANAGEMENT BY TRUST MANAGERS	1493
Sec. 200.302.	DESIGNATION OF TRUST MANAGERS	1494
Sec. 200.303.	TRUST MANAGER ELIGIBILITY REQUIREMENTS	1494
Sec. 200.304.	NUMBER OF TRUST MANAGERS	1495
Sec. 200.305.	COMPENSATION	1496
Sec. 200.306.	TERM OF TRUST MANAGER	1496
Sec. 200.307.	STAGGERED TERMS OF TRUST MANAGERS	1497
Sec. 200.308.	VACANCY	1498
Sec. 200.309.	NOTICE OF MEETING	1499
Sec. 200.310.	QUORUM	1500
Sec. 200.311.	COMMITTEES OF TRUST MANAGERS	1500
Sec. 200.312.	LIABILITY OF TRUST MANAGERS	1503
Sec. 200.313.	STATUTE OF LIMITATIONS ON CERTAIN ACTION AGAINST TRUST MANAGERS	1504
Sec. 200.314.	IMMUNITY FROM LIABILITY FOR PERFORMANCE OF DUTY	1505
Sec. 200.315.	RIGHT OF CONTRIBUTION	1505
Sec. 200.316.	OFFICERS	1505
Sec. 200.317.	CONTRACTS OR TRANSACTIONS INVOLVING INTERESTED TRUST MANAGERS AND OFFICERS	1506

[Sections 200.318-200.350 reserved for expansion]

SUBCHAPTER H. INVESTMENTS

Sec. 200.351.	INVESTMENTS	1508
---------------	-------------	------

[Sections 200.352-200.400 reserved for expansion]

SUBCHAPTER I. FUNDAMENTAL BUSINESS TRANSACTIONS

- Sec. 200.401. DEFINITIONS 1509
- Sec. 200.402. APPROVAL OF MERGER 1511
- Sec. 200.403. APPROVAL OF CONVERSION 1513
- Sec. 200.404. APPROVAL OF EXCHANGE 1514
- Sec. 200.405. APPROVAL OF SALE OF ALL OR SUBSTANTIALLY
ALL OF ASSETS 1515
- Sec. 200.406. GENERAL PROCEDURE FOR SUBMISSION TO
SHAREHOLDERS OF FUNDAMENTAL BUSINESS
TRANSACTION 1518
- Sec. 200.407. GENERAL VOTE REQUIREMENT FOR APPROVAL
OF FUNDAMENTAL BUSINESS TRANSACTION 1519
- Sec. 200.408. CLASS VOTING REQUIREMENTS FOR CERTAIN
FUNDAMENTAL BUSINESS TRANSACTIONS 1521
- Sec. 200.409. NO SHAREHOLDER VOTE REQUIREMENT FOR
CERTAIN FUNDAMENTAL BUSINESS TRANSACTIONS 1523
- Sec. 200.410. RIGHTS OF DISSENT AND APPRAISAL 1524
- [Sections 200.411-200.450 reserved for expansion]

SUBCHAPTER J. SUPPLEMENTAL WINDING UP AND TERMINATION
PROVISIONS

- Sec. 200.451. APPROVAL OF VOLUNTARY WINDING UP 1530
- Sec. 200.452. APPROVAL OF REINSTATEMENT, CANCELLATION, OR
REVOCATION OF VOLUNTARY WINDING UP 1531
- Sec. 200.453. RESPONSIBILITY FOR WINDING UP 1531
- [Sections 200.454-200.500 reserved for expansion]

SUBCHAPTER K. MISCELLANEOUS PROVISIONS	
Sec. 200.501.	EXAMINATION OF RECORDS 1532
Sec. 200.502.	JOINDER OF SHAREHOLDERS NOT REQUIRED 1533
Sec. 200.503.	TAX LAW REQUIREMENTS 1533
TITLE 6. ASSOCIATIONS	
CHAPTER 251. COOPERATIVE ASSOCIATIONS	
SUBCHAPTER A. GENERAL PROVISIONS	
Sec. 251.001.	DEFINITIONS 1534
Sec. 251.002.	APPLICABILITY OF NONPROFIT CORPORATION PROVISIONS 1536
Sec. 251.003.	EXEMPTION 1536
[Sections 251.004-251.050 reserved for expansion]	
SUBCHAPTER B. FORMATION AND GOVERNING DOCUMENTS	
Sec. 251.051.	ORGANIZATION MEETING 1538
Sec. 251.052.	AMENDMENT OF CERTIFICATE OF FORMATION 1539
Sec. 251.053.	BYLAWS 1540
[Sections 251.054-251.100 reserved for expansion]	
SUBCHAPTER C. MANAGEMENT	
Sec. 251.101.	BOARD OF DIRECTORS 1542
Sec. 251.102.	OFFICERS 1543
Sec. 251.103.	REMOVAL OF DIRECTORS AND OFFICERS 1543
Sec. 251.104.	REFERENDUM 1544
[Sections 251.105-251.150 reserved for expansion]	
SUBCHAPTER D. MEMBERSHIP	
Sec. 251.151.	ELIGIBILITY AND ADMISSION 1545
Sec. 251.152.	EXPULSION 1546
Sec. 251.153.	SUBSCRIBERS 1546
Sec. 251.154.	LIABILITY 1547
[Sections 251.155-251.200 reserved for expansion]	

SUBCHAPTER E. SHARES

- Sec. 251.201. SHARE AND MEMBERSHIP CERTIFICATES:
ISSUANCE AND CONTENTS 1548
- Sec. 251.202. TRANSFER OF SHARES AND MEMBERSHIP;
WITHDRAWAL 1548
- Sec. 251.203. SHARE AND MEMBERSHIP CERTIFICATES;
RECALL 1550
- Sec. 251.204. CERTIFICATES; ATTACHMENT 1551
[Sections 251.205-251.250 reserved for expansion]

SUBCHAPTER F. MEETINGS AND VOTING

- Sec. 251.251. MEETINGS 1551
- Sec. 251.252. NOTICE OF SPECIAL MEETING 1552
- Sec. 251.253. MEETINGS BY UNITS OF MEMBERSHIP 1552
- Sec. 251.254. ONE MEMBER--ONE VOTE 1553
- Sec. 251.255. NO PROXY 1553
- Sec. 251.256. VOTING BY MAIL 1554
- Sec. 251.257. VOTING BY MAIL OR BY DELEGATES 1555
[Sections 251.258-251.300 reserved for expansion]

SUBCHAPTER G. CAPITAL AND NET SAVINGS

- Sec. 251.301. LIMITATIONS ON RETURN ON CAPITAL 1555
- Sec. 251.302. ALLOCATION AND DISTRIBUTION OF NET
SAVINGS 1556
[Sections 251.303-251.350 reserved for expansion]

SUBCHAPTER H. REPORTS AND RECORDS

- Sec. 251.351. RECORDKEEPING 1558
- Sec. 251.352. REPORTS TO MEMBERS 1558
- Sec. 251.353. ANNUAL REPORT OF FINANCIAL CONDITION 1559
- Sec. 251.354. FAILURE TO FILE REPORT 1561
[Sections 251.355-251.400 reserved for expansion]

SUBCHAPTER I. WINDING UP AND TERMINATION

- Sec. 251.401. VOLUNTARY WINDING UP AND TERMINATION 1562
- Sec. 251.402. EXECUTION OF CERTIFICATE OF
TERMINATION 1563
- Sec. 251.403. DISTRIBUTION OF ASSETS 1564
- Sec. 251.404. INVOLUNTARY TERMINATION 1565
[Sections 251.405-251.450 reserved for expansion]

SUBCHAPTER J. MISCELLANEOUS PROVISIONS

Sec. 251.451. EXEMPTION FROM TAXES 1566

Sec. 251.452. USE OF NAME "COOPERATIVE" 1566

CHAPTER 252. UNINCORPORATED NONPROFIT ASSOCIATIONS

Sec. 252.001. DEFINITIONS 1568

Sec. 252.002. SUPPLEMENTARY GENERAL PRINCIPLES OF LAW
AND EQUITY 1569

Sec. 252.003. TERRITORIAL APPLICATION 1569

Sec. 252.004. REAL AND PERSONAL PROPERTY; NONPROFIT
ASSOCIATION AS BENEFICIARY 1570

Sec. 252.005. STATEMENT OF AUTHORITY AS TO REAL
PROPERTY 1570

Sec. 252.006. LIABILITY IN TORT AND CONTRACT 1572

Sec. 252.007. CAPACITY TO ASSERT AND DEFEND;
STANDING 1573

Sec. 252.008. EFFECT OF JUDGMENT OR ORDER 1574

Sec. 252.009. DISPOSITION OF PERSONAL PROPERTY OF
INACTIVE NONPROFIT ASSOCIATION 1574

Sec. 252.010. BOOKS AND RECORDS 1575

Sec. 252.011. APPOINTMENT OF AGENT TO RECEIVE SERVICE
OF PROCESS 1576

Sec. 252.012. CLAIM NOT ABATED BY CHANGE 1578

Sec. 252.013. SUMMONS AND COMPLAINT; SERVICE 1578

Sec. 252.014. UNIFORMITY OF APPLICATION AND
CONSTRUCTION 1579

Sec. 252.015. TRANSITION CONCERNING REAL AND PERSONAL
PROPERTY 1579

Sec. 252.016. EFFECT ON OTHER LAW 1580

Sec. 252.017. CHAPTER CONTROLLING 1580

TITLE 7. PROFESSIONAL ENTITIES
CHAPTER 301. PROVISIONS RELATING TO
PROFESSIONAL ENTITIES

Sec. 301.001.	APPLICABILITY OF TITLE	1581
Sec. 301.002.	CONFLICTS OF LAW	1582
Sec. 301.003.	DEFINITIONS	1583
Sec. 301.004.	AUTHORIZED PERSON	1589
Sec. 301.005.	APPLICATION FOR REGISTRATION OF FOREIGN PROFESSIONAL ENTITY	1590
Sec. 301.006.	LICENSE REQUIRED TO PROVIDE PROFESSIONAL SERVICE	1592
Sec. 301.007.	CERTAIN REQUIREMENTS TO BE OWNER, GOVERNING PERSON, OR OFFICER	1594
Sec. 301.008.	DUTIES AND POWERS OF OWNER OR MANAGERIAL OFFICIAL WHO CEASES TO BE LICENSED; PURCHASE OF OWNERSHIP INTEREST	1596
Sec. 301.009.	TRANSFER OF OWNERSHIP INTEREST	1598
Sec. 301.010.	LIABILITY	1599
Sec. 301.011.	EXEMPTION FROM SECURITIES LAWS	1600
Sec. 301.012.	JOINT PRACTICE BY CERTAIN PROFESSIONALS	1601

CHAPTER 302. PROVISIONS RELATING TO
PROFESSIONAL ASSOCIATIONS

Sec. 302.001.	APPLICABILITY OF CERTAIN PROVISIONS GOVERNING FOR-PROFIT CORPORATIONS	1605
Sec. 302.002.	DURATION OF PROFESSIONAL ASSOCIATION	1606
Sec. 302.003.	AMENDMENT OF CERTIFICATE OF FORMATION	1607
Sec. 302.004.	ADOPTION OF BYLAWS; DELEGATION OF AUTHORITY	1607
Sec. 302.005.	GOVERNING AUTHORITY	1608
Sec. 302.006.	MEMBERS' VOTING RIGHTS	1608
Sec. 302.007.	ELECTION OF OFFICERS	1609
Sec. 302.008.	OFFICER AND GOVERNING PERSON ELIGIBILITY REQUIREMENTS	1609
Sec. 302.009.	EMPLOYMENT OF AGENTS AND EMPLOYEES	1610
Sec. 302.010.	LIMITATION ON MEMBER'S POWER TO BIND ASSOCIATION	1610
Sec. 302.011.	DIVISION OF PROFITS	1611
Sec. 302.012.	ANNUAL STATEMENT REQUIRED	1611
Sec. 302.013.	WINDING UP AND TERMINATION; CERTIFICATE OF TERMINATION	1612

CHAPTER 303. PROVISIONS RELATING TO	
PROFESSIONAL CORPORATIONS	
Sec. 303.001.	APPLICABILITY OF CERTAIN PROVISIONS GOVERNING FOR-PROFIT CORPORATIONS 1613
Sec. 303.002.	AUTHORITY AND LIABILITY OF SHAREHOLDER 1614
Sec. 303.003.	NOTICE OF RESTRICTION ON TRANSFER OF SHARES 1614
Sec. 303.004.	REDEMPTION OF SHARES; PRICE AND TERMS 1615
Sec. 303.005.	EXISTENCE OF PROFESSIONAL CORPORATION BEFORE WINDING UP AND TERMINATION 1615
Sec. 303.006.	WINDING UP AND TERMINATION OF PROFESSIONAL CORPORATION 1616
CHAPTER 304. PROVISIONS RELATING TO PROFESSIONAL	
LIMITED LIABILITY COMPANIES	
Sec. 304.001.	APPLICABILITY OF CERTAIN PROVISIONS GOVERNING LIMITED LIABILITY COMPANIES 1617

TITLE 8.	MISCELLANEOUS AND TRANSITION PROVISIONS	
CHAPTER 401.	GENERAL PROVISIONS	
Sec. 401.001.	DEFINITIONS	1617
CHAPTER 402.	MISCELLANEOUS AND TRANSITION PROVISIONS	
Sec. 402.001.	APPLICABILITY UPON EFFECTIVE DATE	1617
Sec. 402.002.	EARLY EFFECTIVENESS OF FEES	1618
Sec. 402.003.	EARLY ADOPTION OF CODE BY EXISTING DOMESTIC ENTITY	1618
Sec. 402.004.	EARLY ADOPTION OF CODE BY REGISTERED FOREIGN ENTITY	1619
Sec. 402.005.	APPLICABILITY TO EXISTING ENTITIES ON MANDATORY APPLICATION DATE	1619
Sec. 402.006.	APPLICABILITY TO CERTAIN ACTS, CONTRACTS, AND TRANSACTIONS	1620
Sec. 402.007.	INDEMNIFICATION	1620
Sec. 402.008.	MEETINGS OF OWNERS AND MEMBERS; CONSENTS; VOTING OF INTERESTS	1620
Sec. 402.009.	MEETINGS OF GOVERNING AUTHORITY AND COMMITTEES; CONSENTS	1621
Sec. 402.010.	SALE OF ASSETS, MERGERS, REORGANIZATIONS, CONVERSIONS	1622
Sec. 402.011.	WINDING UP AND TERMINATION	1622
Sec. 402.012.	REGISTRATION OF CERTAIN FOREIGN ENTITIES	1622
Sec. 402.013.	ENTITIES UNDER SUSPENSION FOR NONFILING OF REQUIRED REPORTS OR PAYMENT OF TAXES; APPLICABILITY OF PRIOR LAW	1622
Sec. 402.014.	MAINTENANCE OF PRIOR ACTION	1623

BUSINESS ORGANIZATIONS CODE

TITLE 1. GENERAL PROVISIONS

CHAPTER 1. DEFINITIONS AND OTHER GENERAL PROVISIONS

SUBCHAPTER A. DEFINITIONS AND PURPOSE

Revised Law

Sec. 1.001. PURPOSE. The purpose of this code is to make the law encompassed by this code more accessible and understandable by:

- (1) rearranging the statutes into a more logical order;
- (2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;
- (3) eliminating repealed, duplicative, expired, executed, and other ineffective provisions; and
- (4) restating the law in modern American English to the greatest extent possible. (New.)

Revisor's Note

This section of the revised law represents standard introductory language for new Texas codes.

Revised Law

Sec. 1.002. DEFINITIONS. In this code:

- (1) "Affiliate" means a person who controls, is controlled by, or is under common control with another person. (TBCA 13.02.A(1).)

Source Law

- (1) "Affiliate" means a person who directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with a specified person.

Revisor's Note

The revised law adopts the definition of "affiliate" from the Federal Securities Act of 1933, as amended. The definition is substantively the same as in the source law, which was also derived from the same federal law.

Revised Law

- (2) "Associate," when used to indicate a relationship with a person, means:
 - (A) a domestic or foreign entity or organization for which the person:
 - (i) is an officer or governing person; or
 - (ii) beneficially owns, directly or

indirectly, either individually or through an affiliate, 10 percent or more of a class of voting ownership interests or similar securities of the entity or organization;

(B) a trust or estate in which the person has a substantial beneficial interest or for which the person serves as trustee or in a similar fiduciary capacity;

(C) the person's spouse or a relative of the person related by consanguinity or affinity who resides with the person; or

(D) a governing person or an affiliate or officer of the person. (TBCA 1.02.A(2).)

Source Law

(2) "Associate," when used to indicate a relationship with a person, means:

(a) a domestic or foreign corporation or other entity of which the person is an officer or partner or is the beneficial owner of 10 percent or more of a class of voting shares or similar securities of that corporation or other entity;

(b) a trust or estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar fiduciary capacity; or

(c) a spouse of the person or a relative of the person, or of the person's spouse, who has the same home as the person or who is a director or officer of such person or any of its affiliates.

Revisor's Note

No substantive change is intended. Paragraph (A)(ii) has been reformed to eliminate the use of the phrase "beneficial owner," which may be confused with the defined term "owner."

Revised Law

(3) "Association" means an entity governed as an association under Title 6 or 7. The term includes a cooperative association, nonprofit association, and professional association. (New.)

Revisor's Note

The revised law uses this new term in Title 1 to denote those entities governed as an association under Title 6 or 7.

Revised Law

(4) "Assumed name" means a name adopted for use by a person. The term includes an assumed name filed under Chapter 36, Business & Commerce Code. (New.)

Revisor's Note

The term "assumed name" is introduced in the revised law for clarification and as a means to cross-reference Chapter 36, Business & Commerce Code.

Revised Law

(5) "Business" means a trade, occupation, profession, or other commercial activity. (TRPA 1.01(1).)

Source Law

(1) "Business" means a trade, occupation, profession, or other commercial activity.

Revisor's Note

No substantive change is intended.

Revised Law

(6) "Certificate of formation" means:
 (A) the document required to be filed with the filing officer under Chapter 3 to form a filing entity; and
 (B) if appropriate, a restated certificate of formation and all amendments of an original or restated certificate of formation. (New.)

Revisor's Note

Under the revised law, a "filing entity" is formed by filing a "certificate of formation," which replaces the existing articles of incorporation, articles of organization, certificate of limited partnership, or similar document under the source law.

Revised Law

(7) "Certificated ownership interest" means an ownership interest of a domestic entity represented by a

certificate issued in bearer or registered form. (TBCA 1.02.A(5).)

Source Law

(5) "Certificated shares" means shares represented by instruments in bearer or registered form.

Revisor's Note

The term "certificated ownership interest" is introduced in the revised law to make generally applicable to for-profit domestic entities the certificated share provisions found in Subchapter E of Chapter 3. The use of the term "certificated" in connection with particular types of ownership interests throughout the code should have a similar meaning.

Revised Law

(8) "Close corporation" means a for-profit corporation that elects to be governed as a close corporation in accordance with Subchapter O, Chapter 21. (TBCA 12.02.A(1).)

Source Law

(1) "Close corporation" means a domestic corporation formed in conformance with the requirements of this part.

Revisor's Note

No substantive change is intended.

Revised Law

(9) "Contribution" means a tangible or intangible benefit that a person transfers to an entity in consideration for an ownership interest in the entity or otherwise in the person's capacity as an owner or a member. The benefit includes cash, services rendered, a contract for services to be performed, a promissory note or other obligation of a person to pay cash or transfer property to the entity, or securities or other interests in or obligations of an entity, but does not include cash or property received by the entity:

(A) with respect to a promissory note or other

obligation to the extent that the agreed value of the note or obligation has previously been included as a contribution; or

(B) that the person intends to be a loan to the entity. (TLLCA 5.01; TRLPA 1.02(2).)

Source Law

[TLLCA]

5.01.A. The contribution of a member may consist of any tangible or intangible benefit to the limited liability company or other property of any kind or nature, including cash, a promissory note, services performed, a contract for services to be performed, or other interests in or securities or other obligations of any other limited liability company, domestic or foreign, or other entity.

[TRLPA 1.02]

(2) "Contribution" means the cash, property, services rendered, or promissory note or other obligation of a person to pay cash or transfer property to the limited partnership that a person contributes to a limited partnership in the person's capacity as a partner, but does not include cash or property received by the partnership with respect to a promissory note or other obligation to the extent that the agreed value of the note or obligation has previously been included as a contribution.

Revisor's Note

No substantive change is intended.

Revised Law

(10) "Conversion" means:

(A) the continuance of a domestic entity as a foreign entity of any type;

(B) the continuance of a foreign entity as a domestic entity of any type; or

(C) the continuance of a domestic entity of one type as a domestic entity of another type. (TBCA 1.02.A(8); TLLCA 1.02.A(11); TRLPA 2.15(h)(1); TRPA 9.05(i)(1).)

Source Law

[TBCA 1.02.A]

(8) "Conversion" means:

(a) the continuance of a domestic corporation as, and in the organizational form of, a foreign corporation or other entity; or

(b) the continuance of a foreign corporation or other entity as, and in the organizational form of, a domestic corporation.

[TLLCA 1.02.A]

(11) "Conversion" means:

(a) the continuance of a domestic limited liability company as, and in the organizational form of, a foreign limited liability company or other entity; or

(b) the continuance of a foreign limited liability company or other entity as, and in the organizational form of, a domestic limited liability company.

[TRLPA 2.15(h)]

(1) "Conversion" means the continuance of:

(A) a domestic limited partnership as, and in the organizational form of, a foreign limited partnership or other entity; or

(B) a foreign limited partnership or other entity as, and in the organizational form of, a domestic limited partnership.

[TRPA 9.05(i)]

(1) "Conversion" means:

(A) the continuance of a domestic partnership as, and in the organizational form of, a foreign partnership or other entity; or

(B) the continuance of a foreign partnership or other entity as, and in the organizational form of, a domestic

partnership.

Revisor's Note

No substantive change is intended.

Revised Law

(11) "Converted entity" means an entity resulting from a conversion. (TBCA 1.02.A(9); TLLCA 1.02.A(12); TRLPA 2.15(h)(2); TRPA 9.05(i)(2).)

Source Law

[TBCA 1.02.A]

(9) "Converted entity" means any domestic or foreign corporation or other entity to which a converting entity has converted or intends to convert as permitted by Article 5.17 of this Act.

[TLLCA 1.02.A]

(12) "Converted entity" means any domestic or foreign limited liability company or other entity to which a converting entity has converted or intends to convert as permitted by Article 10.08 of this Act.

[TRLPA 2.15(h)]

(2) "Converted entity" means any domestic or foreign limited partnership or other entity to which a converting entity has converted or intends to convert as permitted by this section.

[TRPA 9.05(i)]

(2) "Converted entity" means any domestic or foreign partnership or other entity to which a converting entity has converted or intends to convert as permitted by this section.

Revisor's Note

No substantive change is intended.

Revised Law

(12) "Converting entity" means an entity as the entity existed before the entity's conversion. (TBCA 1.02.A(10); TLLCA 1.02.A(13); TRLPA 2.15(h)(3); TRPA 9.05(i)(3).)

Source Law

[TBCA 1.02.A]

(10) "Converting entity" means any domestic or foreign corporation or other entity that has converted or intends to convert as permitted by Article 5.17 of this Act.

[TLLCA 1.02.A]

(13) "Converting entity" means any domestic or foreign limited liability company or other entity that has converted or intends to convert as permitted by Article 10.08 of this Act.

[TRLPA 2.15(h)]

(3) "Converting entity" means any domestic or foreign limited partnership or other entity that has converted or intends to convert as permitted by this section.

[TRPA 9.05(i)]

(3) "Converting entity" means any domestic or foreign partnership or other entity that has converted or intends to convert as permitted by this section.

Revisor's Note

No substantive change is intended.

Revised Law

(13) "Cooperative" or "cooperative association" means an association governed as a cooperative association under Chapter 251. (New.)

Revisor's Note

No substantive change is intended. The revised law uses this term in Title 1 to denote entities governed by Chapter 251.

Revised Law

(14) "Corporation" means an entity governed as a corporation under Title 2 or 7. The term includes a for-profit corporation, nonprofit corporation, and professional corporation. (TBCA 1.02.A(11); TNPCA 1.02.A(1).)

Source Law

[TBCA 1.02.A]

(11) "Corporation" or "domestic corporation" means a corporation for profit subject to the provisions of this Act, except a foreign corporation.

[TNPCA 1.02.A]

(1) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this Act, except a foreign corporation.

Revisor's Note

No substantive change is intended. The revised law uses this term in Title 1 to denote entities governed as a corporation under Title 2 or 7.

Revised Law

(15) "Debtor in bankruptcy" means a person who is the subject of:

(A) an order for relief under the United States bankruptcy laws (Title 11, United States Code); or

(B) a comparable order under a:
(i) successor statute of general applicability; or
(ii) federal or state law governing insolvency. (TRPA 1.01(4).)

Source Law

(4) "Debtor in bankruptcy" means a person who is the subject of:

(A) an order for relief under Title 11 of the

United States Code or a comparable order under a successor statute of general application; or

(B) a comparable order under federal, state, or foreign law governing insolvency.

Revisor's Note

No substantive change is intended.

Revised Law

(16) "Director" means an individual who serves on the board of directors of a foreign or domestic corporation. (TNPCA 1.02.A(14).)

Source Law

(14) "Director" means a member of the board of directors of a corporation organized under this Act.

Revisor's Note

No substantive change is intended.

Revised Law

(17) "Domestic" means, with respect to an entity, that the entity is formed under this code or the entity's internal affairs are governed by this code. (TBCA 1.02.A(11) (part); TRPA 9.05(i)(4).)

Source Law

[TBCA 1.02.A]

(11) . . . "domestic corporation" means a corporation for profit subject to the provisions of this Act, except a foreign corporation.

[TRPA 9.05(i)]

(4) "Domestic partnership" means a partnership the internal affairs of which are governed by this Act.

Revisor's Note

No substantive change is intended. If an entity is formed under the code, Sections 1.101 and 1.103 of the code provide that its internal affairs will be governed by the code.

Revised Law

(18) "Domestic entity" means an organization formed under or the internal affairs of which are governed by this code. (TBCA 1.02.A(11) (part); TRPA 9.05(i)(4).)

Source Law

[TBCA 1.02.A]

(11) . . . "domestic corporation" means a corporation for profit subject to the provisions of this Act, except a foreign corporation.

[TRPA 9.05(i)]

(4) "Domestic partnership" means a partnership the internal affairs of which are governed by this Act.

Revisor's Note

This key term is introduced into the revised law to denote those types of entities that are formed under or the internal affairs of which are governed by the code. It is derived from the same terms from which the definition of "domestic" is derived.

Revised Law

(19) "Domestic entity subject to dissenters' rights" means a domestic entity the owners of which have rights of dissent and appraisal under this code or the governing documents of the entity. (New.)

Revisor's Note

Not all domestic entities provide to their owners the rights of dissent and appraisal in connection with a fundamental business transaction. An entity that provides to its owners such rights is referred to in the revised law as a "domestic entity subject to dissenters' rights." Those entities that provide

rights of dissent and appraisal are identified in the specific titles governing the entities and in Subchapter H, Chapter 10.

Revised Law

(20) "Effective date of this code" means January 1, 2006. The applicability of this code is governed by Title 8. (New.)

Revisor's Note

This new term is used in Title 8 of the revised law setting forth transition and miscellaneous provisions.

Revised Law

(21) "Entity" means a domestic entity or foreign entity. (New.)

Revisor's Note

In the revised law, one subset of an "organization" is an "entity," which is defined to be either a "domestic entity" or a "foreign entity." This new definition permits simplifications in Title 1.

Revised Law

(22) "Filing entity" means a domestic entity that is a corporation, limited partnership, limited liability company, professional association, cooperative, or real estate investment trust. (New.)

Revisor's Note

In the revised law, the universe of "domestic entities" is further divided into "filing entities" and "nonfiling entities." A "filing entity" includes a domestic corporation, limited partnership, limited liability company, professional association, professional corporation, cooperative, or real estate investment trust. These entities require a filing with the secretary of state or a county clerk's office as a condition to formation.

Revised Law

(23) "Filing instrument" means an instrument, document, or statement that is required or authorized by this code to be filed by or for an entity with the filing officer in accordance with Chapter 4. (New.)

Revisor's Note

The revised law introduces a new term that covers generically all types of documents, instruments, or statements that are filed with a filing officer under the code. This new term simplifies the revised law.

Revised Law

(24) "Filing officer" means:

(A) with respect to an entity other than a domestic real estate investment trust, the secretary of state; or

(B) with respect to a domestic real estate investment trust, the county clerk of the county in which the real estate investment trust's principal office is located in this state. (New.)

Revisor's Note

The revised law introduces a new generic term to denote the office where filing instruments are filed for different types of entities. This new term simplifies the revised law.

Revised Law

(25) "For-profit corporation" means a corporation governed as a for-profit corporation under Chapter 21. (TMCLA 1.03.A.)

Source Law

A. All corporations shall, to the extent not inconsistent with any special statute pertaining to a particular corporation, be governed

(1) by the Texas Business Corporation Act, as amended, if organized for profit, and

(2) by the Texas Non-Profit Corporation Act, as amended, if organized not for profit.

Revisor's Note

No substantive change is intended. The revised law uses this term in Title 1 to denote entities governed as a for-profit corporation under Chapter 21.

Revised Law

(26) "For-profit entity" means an entity other than a nonprofit entity. (New.)

Revisor's Note

This new term is defined negatively by reference to nonprofit entities. The universe of "entities" is divided into "for-profit entities" and "nonprofit entities." This new definition permits simplifications in Title 1 of the code.

Revised Law

(27) "Foreign" means, with respect to an entity, that the entity is formed under, and the entity's internal affairs are governed by, the laws of a jurisdiction other than this state. (TBCA 1.02.A(14); TNPCA 1.02.A(2); TRPA 9.05(i)(5).)

Source Law

[TBCA 1.02.A]

(14) "Foreign corporation" means a corporation for profit organized under laws other than the laws of this State.

[TNPCA 1.02.A]

(2) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this State.

[TRPA 9.05(i)]

(5) "Foreign partnership" means a partnership, other than a limited partnership, the internal affairs of which are governed by the law of another state comparable to this Act or the Texas Uniform Partnership Act (Article 6132b, Vernon's Texas Civil Statutes).

Revisor's Note

No substantive change is intended. If an entity is formed under the laws of another jurisdiction, Sections 1.102 and 1.103 of the code provide that its internal affairs will be governed by those laws and not the laws of Texas.

Revised Law

(28) "Foreign entity" means an organization formed under, and the internal affairs of which are governed by, the laws of a jurisdiction other than this state. (TBCA 1.02.A(14); TNPCA 1.02.A(2).)

Source Law

[TBCA 1.02.A]

(14) "Foreign corporation" means a corporation for profit organized under laws other than the laws of this State.

[TNPCA 1.02.A]

(2) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this State.

Revisor's Note

This key term is introduced into the revised law to denote those types of organizations that are formed under or the internal affairs of which are governed by the laws of a jurisdiction other than Texas. It is derived from the same terms from which the definition of "foreign" is derived.

Revised Law

(29) "Foreign filing entity" means a foreign entity that registers or is required to register as a foreign entity under Chapter 9. (New.)

Revisor's Note

A "foreign filing entity" is a foreign entity that is required to register under the code to transact business in Texas.

Revised Law

(30) "Foreign governmental authority" means a governmental official, agency, or instrumentality of a jurisdiction other than this state. (New.)

Revisor's Note

The revised law introduces this new generic term to refer to all types of foreign governmental officials, agencies, or

instrumentalities. This new term simplifies the revised law.

Revised Law

(31) "Foreign nonfiling entity" means a foreign entity that is not a foreign filing entity. (New.)

Revisor's Note

This new term is defined negatively by reference to foreign filing entities. The universe of "foreign entities" is divided into "foreign filing entities" and "foreign nonfiling entities." This new definition permits simplifications in Title 1 of the code.

Revised Law

(32) "Fundamental business transaction" means a merger, interest exchange, conversion, or sale of all or substantially all of an entity's assets. (New.)

Revisor's Note

The term "fundamental business transaction" is new and means a merger, interest exchange, conversion, or sale of all or substantially all of an entity's assets. This definition is somewhat similar to the definition of "business combination" contained in Art. 13.02.A(4), Texas Business Corporation Act.

Revised Law

(33) "General partner" means:

(A) each partner in a general partnership; or
(B) a person who is admitted to a limited partnership as a general partner in accordance with the governing documents of the limited partnership. (TRLPA 1.02(4).)

Source Law

(4) "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement.

Revisor's Note

No substantive change is intended. New Paragraph (A) is added to the revised law to make clear that partners in general partnerships are all general partners. This was implicit in the

Texas Revised Partnership Act.

Revised Law

(34) "General partnership" means a partnership governed as a general partnership under Chapter 152. The term includes a limited liability partnership. (TRPA 1.01(11).)

Source Law

(11) "Partnership" means an entity created as described by Section 2.02(a). The term includes a registered limited liability partnership formed under Section 3.08 or under the Texas Uniform Partnership Act (Article 6132b, Vernon's Texas Civil Statutes) and its subsequent amendments.

Revisor's Note

No substantive change is intended. The addition of the word "general" to this term is needed in Title 1 of the revised law to distinguish this kind of partnership from a limited partnership also governed under Title 4.

Revised Law

(35)(A) "Governing authority" means a person or group of persons who are entitled to manage and direct the affairs of an entity under this code and the governing documents of the entity, except that if the governing documents of the entity or this code divide the authority to manage and direct the affairs of the entity among different persons or groups of persons according to different matters, "governing authority" means the person or group of persons entitled to manage and direct the affairs of the entity with respect to a matter under the governing documents of the entity or this code. The term includes:

(i) the board of directors of a corporation or other persons authorized to perform the functions of the board of directors of a corporation;

(ii) the general partners of a general partnership or limited partnership;

(iii) the managers of a limited liability

company that is managed by managers;

(iv) the members of a limited liability company that is managed by members who are entitled to manage the company;

(v) the board of directors of a cooperative association; and

(vi) the trust managers of a real estate investment trust.

(B) The term does not include an officer who is acting in the capacity of an officer. (New.)

Revisor's Note

This new generic term permits simplifications in Title 1 of the revised law. The term encompasses the person or group of persons who are entitled to manage and direct the affairs of an entity under the revised law and the governing documents of the entity.

Revised Law

(36) "Governing documents" means:

(A) in the case of a domestic entity:

(i) the certificate of formation for a domestic filing entity or the document or agreement under which a domestic nonfiling entity is formed; and

(ii) the other documents or agreements adopted by the entity under this code to govern the formation or the internal affairs of the entity; or

(B) in the case of a foreign entity, the instruments, documents, or agreements adopted under the law of its jurisdiction of formation to govern the formation or the internal affairs of the entity. (New.)

Revisor's Note

This new term permits simplifications in Title 1 of the revised law and encompasses the certificate of formation and the other documents or agreements adopted by the entity to govern the formation or internal affairs of the entity. Similarly, for a foreign entity, the instruments, documents, and agreements that govern its formation or internal affairs constitute its

"governing documents." For a corporation, the term means the certificate of formation, bylaws, and, if the corporation is managed by shareholders, the shareholders' agreement. For a general partnership, the term means the partnership agreement. For a limited partnership, the term means the certificate of formation and the limited partnership agreement. For a limited liability company, the term means the certificate of formation and the company agreement.

Revised Law

(37) "Governing person" means a person serving as part of the governing authority of an entity. (New.)

Revisor's Note

This new generic term in the revised law encompasses all of the different types of persons who serve as part of the "governing authority." See the revisor's note to "governing authority" above.

Revised Law

(38) "Individual" means a natural person. (New.)

Revisor's Note

This new definition clarifies the meaning of this term when used in the code.

Revised Law

(39) "Insolvency" means the inability of a person to pay the person's debts as they become due in the usual course of business or affairs. (TBCA 1.02.A(16); TNPCA 1.02.A(12).)

Source Law

[TBCA 1.02.A]

(16) "Insolvency" means inability of a corporation to pay its debts as they become due in the usual course of its business.

[TNPCA 1.02.A]

(12) "Insolvency" means inability of a corporation to pay its debts as they become due in the usual course of its affairs.

Revisor's Note

No substantive change is intended.

Revised Law

(40) "Insolvent" means a person who is unable to pay the person's debts as they become due in the usual course of business or affairs. (New.)

Revisor's Note

This new term is simply the adjective form of the noun "insolvency" and is defined in the same manner.

Revised Law

(41) "Interest exchange" means the acquisition of an ownership or membership interest in a domestic entity as provided by Subchapter B, Chapter 10. The term does not include a merger or conversion. (New.)

Revisor's Note

This new term in the revised law refers to a specific type of fundamental business transaction. The term "interest exchange" is similar to the term "share exchange" as used in the Texas Business Corporation Act but applies to exchanges of membership or ownership interests in all domestic entities.

Revised Law

(42) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended. The term includes corresponding provisions of subsequent federal tax laws. (New.)

Revisor's Note

No substantive change is intended. This new definition clarifies the meaning of this term when used in the revised law.

Revised Law

(43) "Jurisdiction of formation" means:

(A) in the case of a domestic filing entity, this state;

(B) in the case of a foreign filing entity, the jurisdiction in which the entity's certificate of formation or similar organizational instrument is filed; or

(C) in the case of a foreign or domestic nonfiling entity:

(i) the jurisdiction the laws of which are chosen in the entity's governing documents to govern its internal affairs if that jurisdiction bears a reasonable relation to the owners or members or to the domestic or foreign nonfiling entity's business and affairs under the principles of this state that otherwise would apply to a contract among the owners or members; or

(ii) if Subparagraph (i) does not apply, the jurisdiction in which the entity has its chief executive office. (TBCA 8.02 (part); TLLCA 7.02 (part); TNPCA 8.02 (part); TRLPA 9.01(a); TRPA 1.05(a), 10.01(a).)

Source Law

[TBCA]

8.02.A. . . . provided, however, that only the laws of the jurisdiction of incorporation of a foreign corporation shall govern

[TLLCA]

7.02.A. . . . provided, however, that only the laws of the jurisdiction of organization of a foreign limited liability company shall govern

[TNPCA]

8.02.A. . . . provided, however, that the laws of the jurisdiction of incorporation of a foreign corporation shall govern

[TRLPA 9.01]

(a) The laws of the state under which a foreign limited partnership is formed govern its organization and internal affairs and the liability of its partners.

[TRPA 1.05]

(a) Internal Affairs. The determination whether a partnership has been formed, a partnership's internal affairs,

and the relations of the partners to one another are governed by:

(1) the law of the state chosen by the partners to govern if that state bears a reasonable relation to the partners or to the partnership business and affairs under principles that apply to a contract among the partners other than the partnership agreement; or

(2) if the partners do not choose a governing law under Subdivision (1), the law of the state in which the partnership has its chief executive office.

[TRPA 10.01]

(a) The laws of the state under which a foreign limited liability partnership is formed govern its organization and internal affairs and the liability of partners for obligations of the partnership.

Revisor's Note

This definition permits the revised law to reference in a simple manner the jurisdictional law governing an entity, domestic or foreign. The term "jurisdiction of formation" refers to the jurisdiction in which a filing entity's certificate of formation is filed. In the case of nonfiling entities, "jurisdiction of formation" means the jurisdiction chosen in the entity's governing documents to govern its internal affairs if the jurisdiction bears a reasonable relation to the owners or members or to the nonfiling entity's affairs under contract law principles or otherwise the jurisdiction in which the entity has its chief executive office.

Revised Law

(44) "Law" means, unless the context requires otherwise, both statutory and common law. (New.)

Revisor's Note

No substantive change is intended. This new definition clarifies the meaning of this term when used in the revised law.

Revised Law

(45) "License" means a license, certificate of registration, or other legal authorization. (New.)

Revisor's Note

This new term in the revised law permits simplifications in Title 1 and Title 7.

Revised Law

(46) "Limited liability company" means an entity governed as a limited liability company under Title 3 or 7. The term includes a professional limited liability company. (TLLCA 1.02.A(3).)

Source Law

(3) "Limited Liability Company" or "Company" means a limited liability company organized and existing under this chapter.

Revisor's Note

No substantive change is intended.

Revised Law

(47) "Limited liability limited partnership" means a partnership governed as a limited liability partnership and a limited partnership under Title 4. (New.)

Revisor's Note

This new term in the revised law is added to refer to a limited partnership that is also a limited liability partnership. This type of entity is similarly named in the laws of many other states.

Revised Law

(48) "Limited liability partnership" means a partnership governed as a limited liability partnership under Title 4. (TRPA 1.01(16).)

Source Law

(16) "Registered limited liability partnership" means a partnership registered under Section 3.08(b) and complying with

Sections 3.08(c) and (d)(1).

Revisor's Note

Existing law refers to "registered limited liability partnerships." The word "registered" is unnecessary and has been removed throughout the revised law when referring to limited liability partnerships. Removal follows the trend in the laws of other states.

Revised Law

(49) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner as provided by:

(A) in the case of a domestic limited partnership, Chapter 153; or

(B) in the case of a foreign limited partnership, the laws of its jurisdiction of formation. (TRLPA 1.02(5).)

Source Law

(5) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner as provided by Section 3.01 of this Act or, in the case of a foreign limited partnership, in accordance with the laws of the state under which the limited partnership is organized.

Revisor's Note

No substantive change is intended.

Revised Law

(50) "Limited partnership" means a partnership governed as a limited partnership under Title 4. The term includes a limited liability limited partnership. (TRLPA 1.02(6).)

Source Law

(6) "Limited partnership" means a partnership formed by two or more persons under the laws of Texas and having one or more general partners and one or more limited partners.

Revisor's Note

No substantive change is intended. The revised law uses this term in Title 1 to denote entities governed as limited partnerships under Title 4.

Revised Law

(51) "Manager" means a person designated as a manager of a limited liability company that is not managed by members of the company. (TLLCA 2.12 (part).)

Source Law

2.12. A. Except and to the extent the articles of organization or the regulations shall reserve management of the limited liability company to the members in whole or in part, and subject to provisions in the articles of organization, the regulations, or this Act restricting or enlarging the powers, rights, and duties of any manager or group or class of managers, the powers of a limited liability company shall be exercised by or under the authority of, and the business and affairs of a limited liability company shall be managed under the direction of, the manager or managers of the limited liability company. If management of the limited liability company is fully reserved to the members, the limited liability company need not have managers. . . .

Revisor's Note

The revised law uses this term in Title 1 to denote the governing persons of a limited liability company that is not managed by its members.

Revised Law

(52) "Managerial official" means an officer or a governing person. (New.)

Revisor's Note

This new generic term permits simplifications in the revised law. A "managerial official" is an officer or a governing person.

Revised Law

(53) "Member" means:

(A) in the case of a limited liability company, a person who is a member or has been admitted as a member in the limited liability company under its governing documents;

(B) in the case of a nonprofit corporation, a person who has membership rights in the nonprofit corporation under its governing documents;

(C) in the case of a cooperative association, a member of a nonshare or share association;

(D) in the case of a nonprofit association, a person who has membership rights in the nonprofit association under its governing documents; or

(E) in the case of a professional association, a person who has membership rights in the professional association under its governing documents. (CAA 2(2); TLLCA 4.01.A (part); TNPCA 1.02.A(6); TUUNAA 2(1).)

Source Law

[CAA 2]

(2) "Member" means a member of a nonshare or share association.

[TLLCA 4.01]

A. A limited liability company may have one or more members. . . .

[TNPCA 1.02.A]

(6) "Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or its by-laws.

[TUUNAA 2]

(1) "Member" means a person who, under the rules or practices of a nonprofit association, may participate in the selection of persons authorized to manage the affairs of the

nonprofit association or in the development of policy of the nonprofit association.

Revisor's Note

The generic term "member" has essentially the same meaning in the revised law as the source law. The term refers to those persons who are members or have membership rights in various types of nonprofit entities and in certain types of for-profit entities. See the revisor's note to "owner" below.

Revised Law

(54) "Membership interest" means a member's interest in an entity. With respect to a limited liability company, the term includes a member's share of profits and losses or similar items and the right to receive distributions, but does not include a member's right to participate in management. (TLLCA 4.04, 4.05.A.)

Source Law

4.04.A. A membership interest is personal property. A member has no interest in specific limited liability company property.

[4.05]

A. Unless otherwise provided by the regulations:

(1) a membership interest is assignable in whole or in part;

(2) an assignment of a membership interest does not of itself dissolve the limited liability company or entitle the assignee to participate in the management and affairs of the limited liability company or to become or exercise any rights of a member;

(3) an assignment entitles the assignee to be allocated income, gain, loss, deduction, credit, or similar items, and to receive distributions, to which the assignor was entitled, to the extent those items are assigned, and, for any proper purpose, to require reasonable information or account of transactions of the limited liability company and to make

reasonable inspection of the books and records of the limited liability company; and

(4) until the assignee becomes a member, the assignor member continues to be a member and to have the power to exercise any rights or powers of a member, except to the extent those rights or powers are assigned.

Revisor's Note

The generic term "membership interest" is derived from the Texas Limited Liability Company Act, where it is used extensively without explicit definition. The term, in the revised law, is extended in application to other entities that have "members." See the revisor's note to "owner" below.

Revised Law

(55) "Merger" means:

(A) the division of a domestic entity into two or more new domestic entities or other organizations or into a surviving domestic entity and one or more new domestic or foreign entities or non-code organizations; or

(B) the combination of one or more domestic entities with one or more domestic entities or non-code organizations resulting in:

(i) one or more surviving domestic entities or non-code organizations;

(ii) the creation of one or more new domestic entities or non-code organizations; or

(iii) one or more surviving domestic entities or non-code organizations and the creation of one or more new domestic entities or non-code organizations. (TBCA 1.02.A(18); TLLCA 1.02.A(10); TRLPA 1.02(8).)

Source Law

[TBCA 1.02.A]

(18) "Merger" means (a) the division of a domestic corporation into two or more new domestic corporations or into a surviving corporation and one or more new domestic or foreign

corporations or other entities, or (b) the combination of one or more domestic corporations with one or more domestic or foreign corporations or other entities resulting in (i) one or more surviving domestic or foreign corporations or other entities, (ii) the creation of one or more new domestic or foreign corporations or other entities, or (iii) one or more surviving domestic or foreign corporations or other entities and the creation of one or more new domestic or foreign corporations or other entities.

[TLLCA 1.02.A]

(10) "Merger" means (a) the division of a domestic limited liability company into two or more new domestic limited liability companies or into a surviving limited liability company and one or more new domestic or foreign limited liability companies or other entities, or (b) the combination of one or more domestic limited liability companies with one or more domestic or foreign limited liability companies or other entities resulting in (i) one or more surviving domestic or foreign limited liability companies or other entities, (ii) the creation of one or more new domestic or foreign limited liability companies or other entities, or (iii) one or more surviving domestic or foreign limited liability companies or other entities and the creation of one or more new domestic or foreign limited liability companies or other entities.

[TRLPA 1.02]

(8) "Merger" means (a) the division of a domestic limited partnership into two or more new domestic limited partnerships or into a surviving limited partnership and one or more new domestic or foreign limited partnerships or other entities, or (b) the combination of one or more domestic limited partnerships with one or more domestic or foreign limited partnerships or other entities resulting in (i) one or more surviving domestic or foreign limited partnerships or other entities, (ii) the creation of one or more new domestic or

foreign limited partnerships or other entities, or (iii) one or more surviving domestic or foreign limited partnerships or other entities and the creation of one or more new domestic or foreign limited partnerships or other entities.

Revisor's Note

No substantive change is intended.

Revised Law

(56) "Non-code organization" means an organization other than a domestic entity. (TBCA 1.02.A(20); TLLCA 10.07; TRLPA 2.15(h)(4); TRPA 9.05(i)(6).)

Source Law

[TBCA 1.02.A]

(20) "Other entity" means any entity, whether organized for profit or not, that is a corporation (other than a domestic or foreign corporation), limited or general partnership, limited liability company, real estate investment trust, joint venture, joint stock company, cooperative, association, bank, trust, insurance company or other legal entity organized pursuant to the laws of this state or any other state or country.

[TLLCA]

10.07.A. For purposes of this Part, "other entity" means any entity, whether organized for profit or not, that is a corporation, limited partnership, general partnership, joint venture, joint stock company, cooperative, association, bank, insurance company, or other legal entity organized under the laws of this state or any other state or country to the extent the laws or the constituent documents of that entity, not inconsistent with law, permit that entity to enter into a merger or interest exchange as permitted by this Part.

[TRLPA 2.15(h)]

(4) "Other entity" means any entity, whether organized for profit or not, that is a corporation, partnership (other than

a limited partnership or a general partnership (including a joint venture) governed by the Texas Revised Partnership Act (Article 6132b-1.01 et seq., Vernon's Texas Civil Statutes)), limited liability company, joint stock company, cooperative, association, bank, insurance company, or other legal entity organized pursuant to the laws of this state or any other state or country.

[TRPA 9.05(i)]

(6) "Other entity" means any entity, whether organized for profit or not, that is a corporation, limited partnership (other than a limited partnership formed under the Texas Revised Limited Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes)), limited liability company, joint stock company, cooperative, association, bank, insurance company, or other legal entity organized pursuant to the laws of this state or any other state or country.

Revisor's Note

The term "non-code organization" is derived from the term "other entity" in the source law. It is used primarily in the definition of "merger" and in Chapter 10. The term "other entity" could not be used in the revised law due to the potential for confusion with the term "entity," as used in the revised law. The term includes Texas banks and insurance companies as well as foreign organizations.

Revised Law

(57) "Nonfiling entity" means a domestic entity that is not a filing entity. The term includes a domestic general partnership and nonprofit association. (New.)

Revisor's Note

This new term is defined negatively by reference to a filing entity. See the revisor's note to "filing entity." The term "nonfiling entity" includes general partnerships and nonprofit associations. These entities do not require formal filings for their formation.

Revised Law

(58) "Nonprofit association" means an association governed as a nonprofit association under Chapter 252. (TUUNAA 2(2).)

Source Law

(2) "Nonprofit association" means an unincorporated organization, other than one created by a trust, consisting of three or more members joined by mutual consent for a common, nonprofit purpose. However, joint tenancy, tenancy in common, or tenancy by the entirety does not by itself establish a nonprofit association, even if the co-owners share use of the property for a nonprofit purpose.

Revisor's Note

This definition cross-references to the term as defined in Chapter 252.

Revised Law

(59) "Nonprofit corporation" means a corporation governed as a nonprofit corporation under Chapter 22. (TNPCA 1.02.A(3).)

Source Law

(3) "Non-Profit Corporation" is the equivalent of "not for profit corporation" and means a corporation no part of the income of which is distributable to its members, directors, or officers.

Revisor's Note

This definition cross-references to the term as defined in Chapter 22.

Revised Law

(60) "Nonprofit entity" means an entity that is a nonprofit corporation, nonprofit association, or other entity that is organized solely for one or more of the purposes specified by Section 2.002. (New.)

Revisor's Note

The universe of entities is divided into "for-profit entities" and "nonprofit entities." A "nonprofit entity" is an entity that is organized solely for one or more of the nonprofit or charitable purposes specified in Section 2.002 and includes a nonprofit corporation and nonprofit association.

Revised Law

(61) "Officer" means an individual elected, appointed, or designated as an officer of an entity by the entity's governing authority or under the entity's governing documents.
(New.)

Revisor's Note

The term "officer" is used extensively in existing Texas statutes without any explicit definition. The revised law supplies a definition of the term, which is implicit in the existing statutes.

Revised Law

(62) "Organization" means a corporation, limited or general partnership, limited liability company, business trust, real estate investment trust, joint venture, joint stock company, cooperative, association, bank, insurance company, credit union, savings and loan association, or other organization, regardless of whether the organization is for-profit, nonprofit, domestic, or foreign. (New.)

Revisor's Note

The new term "organization" is intended to refer in the broadest sense to any kind of entity or organization regardless of jurisdiction of formation or purpose. "Organizations" formed under Texas law other than the code, for example banks and insurance companies, are neither domestic entities nor foreign entities.

Revised Law

(63) "Owner," for purposes of Title 1, 7, or 8, means:
(A) with respect to a foreign or domestic for-profit corporation or real estate investment trust, a shareholder;

(B) with respect to a foreign or domestic partnership, a partner;

(C) with respect to a foreign or domestic limited liability company or professional association, a member; or

(D) with respect to another foreign or domestic entity, an owner of an equity interest in that entity. (New.)

Revisor's Note

This new generic term permits easy reference in Titles 1, 7, and 8 of the code to the owners of different types of for-profit entities. Each entity has either "owners" or "members," which in turn have "ownership interests" or "membership interests," respectively, in the entity. For-profit corporations, real estate investment trusts, and partnerships have "owners," while nonprofit corporations and unincorporated nonprofit associations have "members." Limited liability companies and professional associations have both "members" and "owners," and these terms are used interchangeably for these kinds of entities.

Revised Law

(64) "Ownership interest" means an owner's interest in an entity. The term includes the owner's share of profits and losses or similar items and the right to receive distributions. The term does not include an owner's right to participate in management. (New.)

Revisor's Note

See the revisor's note to "owner" above.

Revised Law

(65) "Parent" means an organization that, directly or indirectly through or with one or more of its subsidiaries:

(A) owns at least 50 percent of the outstanding ownership or membership interests of another organization; or

(B) possesses at least 50 percent of the voting power of the owners or members of another organization. (TMCLA 2.06.C (part).)

Source Law

C. . . .

(2) "parent" means a domestic or foreign corporation or other entity that at the time of the action owns 50 percent or more of the outstanding voting interests or other ownership interest of the guarantor corporation:

- (a) by itself;
- (b) through one or more of its subsidiaries; or
- (c) with one or more of its subsidiaries; and

. . . .

Revisor's Note

No substantive change is intended. This term permits easy reference to the parent of a subsidiary in the revised law. Examples of the usage of this term are found in Sections 2.104 and 10.006.

Revised Law

(66) "Partner" means a limited partner or general partner. (TRLPA 1.02(9).)

Source Law

(9) "Partner" means a limited or general partner.

Revisor's Note

No substantive change is intended.

Revised Law

(67) "Partnership" means an entity governed as a partnership under Title 4. (TRPA 1.01(11) (part).)

Source Law

(11) "Partnership" means an entity created as described by Section 2.02(a). . . .

Revisor's Note

No substantive change is intended. The term "partnership" includes both a general partnership and a limited partnership, which are both governed by Title 4. The term also includes limited liability partnerships by virtue of the definition of that term and the inclusion of that type of entity in the definition of "general partnership."

Revised Law

(68) "Partnership interest" means a partner's interest in a partnership. The term includes the partner's share of profits and losses or similar items and the right to receive distributions. The term does not include a partner's right to participate in management. (TRLPA 1.02(11); TRPA 1.01(13).)

Source Law

[TRLPA 1.02]

(11) "Partnership interest" means a partner's interest in a limited partnership, including the right to receive distributions of partnership assets and the right to receive allocations of income, gain, loss, deduction, or credit of the partnership.

[TRPA 1.01]

(13) "Partnership interest" means a partner's interest in a partnership, including the partner's share of profits and losses or similar items, and the right to receive distributions. A partnership interest does not include a partner's right to participate in management.

Revisor's Note

No substantive change is intended.

Revised Law

(69) "Party to the merger" means a domestic entity or non-code organization that under a plan of merger is divided or combined by a merger. The term does not include a domestic entity or non-code organization that is not to be divided or

combined into or with one or more domestic entities or non-code organizations, regardless of whether ownership interests of the entity are to be issued under the plan of merger. (TBCA 5.03.I(4).)

Source Law

(4) "Party to the merger" means:

(a) a domestic corporation that is to be divided into two or more new domestic corporations or into a surviving corporation and one or more new domestic or foreign corporations or other entities pursuant to a plan of merger; or

(b) a domestic or foreign corporation or other entity that is to be combined with one or more domestic or foreign corporations or other entities pursuant to a plan of merger resulting in (i) one or more surviving domestic or foreign corporations or other entities, (ii) the creation of one or more new domestic or foreign corporations or other entities, or (iii) one or more surviving domestic or foreign corporations or other entities and the creation of one or more new domestic or foreign corporations or other entities. A domestic or foreign corporation or other entity that is a party to a plan of merger that is not to be divided or combined into or with one or more domestic or foreign corporations or other entities is not considered to be a party to the merger even if shares, securities, or other property of such party is to be issued pursuant to the plan of merger.

Revisor's Note

No substantive change is intended. The language of the revised law is simplified from that of the source law.

Revised Law

(70) "President" means the:

(A) individual designated as president of an entity under the entity's governing documents; or

(B) officer or committee of persons authorized to perform the functions of the principal executive officer of an

entity without regard to the designated name of the officer or committee. (TNCPA 1.02.A(8).)

Source Law

(8) "President" means that officer designated as "president" in the articles of incorporation or by-laws of a corporation, or that officer authorized, in the articles of incorporation, the by-laws, or otherwise, to perform the functions of the principal executive officer, irrespective of the name by which he may be designated, or that committee of persons authorized, in the articles of incorporation, the by-laws, or otherwise, to perform the functions of the principal executive officer.

Revisor's Note

No substantive change is intended.

Revised Law

(71) "Professional association" has the meaning assigned by Section 301.003. (TPAA 2(A), as amended Acts 77th Leg., R.S., Chs. 508 and 883.)

Source Law

(A) [as amended Acts 77th Leg., R.S., Ch. 508] Formation. Any one or more persons duly licensed to practice a profession, including podiatry, dentistry, or optometry or therapeutic optometry, under the laws of this state may, by complying with this Act, form a professional association, as distinguished from either a partnership or a corporation, by associating themselves for the purpose of performing professional services and dividing the gains therefrom as stated in articles of association or bylaws.

(A) [as amended Acts 77th Leg., R.S., Ch. 883] Formation. Any one or more persons duly licensed to practice a profession, including podiatry, dentistry, or chiropractic, under the laws of this state may, by complying with this Act, form a professional

association, as distinguished from either a partnership or a corporation, by associating themselves for the purpose of performing professional services and dividing the gains therefrom as stated in articles of association or bylaws.

Revisor's Note

This definition cross-references to the definition of this term in Title 7.

Revised Law

(72) "Professional corporation" has the meaning assigned by Section 301.003. (TPCA 3(b).)

Source Law

(b) "Professional Corporation" means a corporation organized under this Act for the sole and specific purpose of rendering professional service and which has as its shareholders only individuals who themselves are duly licensed or otherwise duly authorized within this state to render the same professional service as the corporation.

Revisor's Note

This definition cross-references to the definition of this term in Title 7.

Revised Law

(73) "Professional entity" has the meaning assigned by Section 301.003. (TLLCA 11.01.B(4).)

Source Law

(4) "Professional entity," with respect to any professional limited liability company, means a person (other than an individual), whether organized for profit or not, including corporations organized under the Texas Non-Profit Corporation Act (Article 1396-1.01, Vernon's Texas Civil Statutes), and an unincorporated associations governed by the Texas Uniform Unincorporated Nonprofit Association Act (Article 1396-70.01, Vernon's Texas Civil Statutes), that renders the same

professional service as such professional limited liability company only through partners, members, shareholders, managers, directors, associates, officers, employees, or agents who are professional individuals or professional entities.

Revisor's Note

This definition cross-references to the definition of this term in Title 7.

Revised Law

(74) "Professional individual" has the meaning assigned by Section 301.003. (TLLCA 11.01.B(3).)

Source Law

(3) "Professional individual," with respect to any professional limited liability company, means an individual who is licensed or otherwise authorized to render the same professional service as such professional limited liability company, either within this state or in any other jurisdiction.

Revisor's Note

This definition cross-references to the definition of this term in Title 7.

Revised Law

(75) "Professional limited liability company" has the meaning assigned by Section 301.003. (TLLCA 11.01.B(2).)

Source Law

(2) "Professional limited liability company" means a limited liability company that is organized under this Act for the sole and specific purpose of rendering professional service and that has as its members only professional individuals or professional entities.

Revisor's Note

This definition cross-references to the definition of this term in Title 7.

Revised Law

(76) "Professional service" has the meaning assigned by Section 301.003. (TLLCA 11.01.B(1); TPAA 3; TPCA 3(a).)

Source Law

[TLLCA 11.01.B]

(1) "Professional service" means any type of personal service that requires as a condition precedent to the rendering of the service the obtaining of a license, permit, certificate of registration, or other legal authorization, including the personal service rendered by an architect, attorney-at-law, certified public accountant, dentist, doctor, physician, public accountant, surgeon, or veterinarian.

[TPAA]

3. As used in this Act, the term "professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license, and which service by law cannot be performed by a corporation. The term "license" includes a license, certificate of registration or any other evidence of the satisfaction of state requirements.

[TPCA 3]

(a) "Professional Service" means any type of personal service which requires as a condition precedent to the rendering of such service, the obtaining of a license, permit, certificate of registration or other legal authorization, and which prior to the passage of this Act and by reason of law, could not be performed by a corporation, including by way of example and not in limitation of the generality of the foregoing provisions of this definition, the personal services rendered by architects, attorneys-at-law, certified public accountants, dentists, public accountants, and veterinarians; provided, however, that physicians, surgeons and other doctors of medicine are specifically excluded from the operations of this Act, since

there are established precedents allowing them to associate for the practice of medicine in joint stock companies.

Revisor's Note

This definition cross-references to the definition of this term in Title 7.

Revised Law

(77) "Property" includes tangible and intangible property and an interest in that property. (TRPA 1.01(15).)

Source Law

(15) "Property" means all property, real, personal, or mixed, tangible or intangible, or an interest in that property.

Revisor's Note

No substantive change is intended.

Revised Law

(78) "Real estate investment trust" means an entity governed as a real estate investment trust under Title 5. (TREITA 2.10.)

Source Law

2.10. A real estate investment trust is an unincorporated trust formed by one or more trust managers under Section 3.10 of this Act and managed in accordance with this Act.

Revisor's Note

No substantive change is intended. This definition cross-references to the definition of this term in Title 5.

Revised Law

(79) "Secretary" means the:

(A) individual designated as secretary of an entity under the entity's governing documents; or

(B) officer or committee of persons authorized to perform the functions of secretary of an entity without regard to the designated name of the officer or committee. (TNPCA

1.02.A(10).)

Source Law

(10) "Secretary" means that officer designated as "secretary" in the articles of incorporation or the by-laws of a corporation, or that officer or committee of persons authorized, in the articles of incorporation, the by-laws, or otherwise, to perform the functions of secretary, irrespective of the name by which he, or they, may be designated.

Revisor's Note

No substantive change is intended.

Revised Law

(80) "Share" means a unit into which the ownership interest in a for-profit corporation, professional corporation, real estate investment trust, or professional association is divided, regardless of whether the share is certificated or uncertificated. (TBCA 1.02.A(23); TPAA 10; TPCA 12 (part); TREITA 3.10(A)(7) (part).)

Source Law

[TBCA 1.02.A]

(23) "Shares" means the units into which the proprietary interests in a corporation are divided, whether certificated or uncertificated shares.

[TPAA]

10. Shares or units of ownership in a professional association shall be transferable to persons licensed to perform the same type of professional service as that for which the professional association was formed.

[TPCA]

12. A professional corporation may issue shares representing ownership of the capital of the professional corporation only to individuals, and in the case of a

professional legal corporation, individuals, professional legal corporations and foreign professional legal corporations, which are duly licensed or otherwise legally authorized to render the same type of professional service as that for which the corporation was organized. . . .

[TREITA 3.10(A)]

(7) The aggregate number of shares of beneficial interest the real estate investment trust shall have authority to issue and the par value to be received by the real estate investment trust for the issuance of each of such shares. . . .

Revisor's Note

No substantive change is intended. Although the definition of this term is taken from the Texas Business Corporation Act, it is also used in the Texas Real Estate Investment Trust Act, Texas Professional Corporation Act, and Texas Professional Association Act with the same meaning. The Texas Business Corporation Act is incorporated as supplemental law into the Texas Real Estate Investment Trust Act, Texas Professional Corporation Act, and Texas Professional Association Act.

Revised Law

(81) "Shareholder" or "holder of shares" means the person in whose name shares issued by a for-profit corporation, professional corporation, or real estate investment trust are registered in the share transfer records maintained by the for-profit corporation, professional corporation, or real estate investment trust. (TBCA 1.02.A(22).)

Source Law

(22) "Shareholder" or "holder of shares" means the person in whose name shares issued by a corporation are registered at the relevant time in the share transfer records maintained by the corporation pursuant to Article 2.44 of this Act.

Revisor's Note

No substantive change is intended. Although the definition of the term is taken from the Texas Business Corporation Act, it is also used in the Texas Real Estate Investment Trust Act with the same meaning. The Texas Business Corporation Act is incorporated as supplemental law into the Texas Real Estate Investment Trust Act. The Texas Professional Association Act uses the term "members" instead of "shareholders"; therefore, the definition does not apply to professional associations under the code.

Revised Law

(82) "Signature" means any symbol executed or adopted by a person with present intention to authenticate a writing. Unless the context requires otherwise, the term includes a digital signature, an electronic signature, and a facsimile of a signature. (Bus. & Com. Code 43.002(8); Gov. Code 311.005(6), 2054.060(e)(1); TMCLA 7.07.C; TRLPA 13.04(b); TRPA 3.08(b)(12).)

Source Law

[Bus. & Com. Code (Uniform Electronic Transactions Act) 43.002]

(8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

[Gov. Code 311.005]

(6) "Signed" includes any symbol executed or adopted by a person with present intention to authenticate a writing.

[Gov. Code 2054.060(e)]

(1) "Digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.

[TMCLA 7.07]

C. For purposes of this article, any signature on

any instrument required or authorized to be filed with the Secretary of State may be a facsimile, the mark made by a person unable to write, in an electronic format permitted by the rules of the Secretary of State, or any symbol executed or adopted by a person with the intent to authenticate a writing.

[TRLPA 13.04]

(b) Any signature or the mark made by a person unable to write on any certificate, instrument, or other document required or authorized to be filed with the secretary of state may be a facsimile in an electronic format permitted by the rules of the secretary of state or any symbol executed or adopted by a person with the intent to authenticate a writing.

[TRPA 3.08(b)]

(12) A document filed under this subsection may be a photographic, facsimile, or similar reproduction of a signed document. A signature on a document filed under this section may be a facsimile, the mark made by a person unable to write, in electronic format permitted by the rules of the secretary of state or any symbol executed or adopted by a person with the intent to authenticate a writing.

Revisor's Note

The revised law has modernized and clarified current definitions of "signature" to include digital, as well as electronic and facsimile, signatures by defining "signature" to mean any symbol executed or adopted by a person with present intention to authenticate a writing and include a digital signature, an electronic signature, and a facsimile of such. It is derived from the Uniform Electronic Transactions Act, the Texas Miscellaneous Corporation Laws Act, the Texas Revised Limited Partnership Act, the Texas Revised Partnership Act, the Code Construction Act, and the Information Resources Management Act. This definition enables electronic filings. The term "electronic signature" in this definition should be construed to

have the meaning assigned to it in the Uniform Electronic Transactions Act, Section 43.002(8), Business & Commerce Code. The term "digital signature" in this definition should be construed to have the meaning assigned to it in Section 2054.060(e)(1), Government Code.

Revised Law

(83) "Subscriber" means a person who agrees with or makes an offer to an entity to purchase by subscription an ownership interest in the entity. (TBCA 1.02.A(25).)

Source Law

(25) "Subscriber" means the offeror in a subscription.

Revisor's Note

The revised definition of "subscriber" clarifies that the term also includes a person who agrees to purchase. Often, the entity makes the offer to sell an ownership interest and the subscriber accepts the offer. The source law depended on the offer being made by the person purchasing the ownership interest.

Revised Law

(84) "Subscription" means an agreement between a subscriber and an entity, or a written offer made by a subscriber to an entity before or after the entity's formation, in which the subscriber agrees or offers to purchase a specified ownership interest in the entity. (TBCA 1.02.A(26).)

Source Law

(26) "Subscription" means a memorandum in writing, executed before or after incorporation, wherein an offer is made to purchase and pay for a specified number of theretofore unissued shares of a corporation.

Revisor's Note

The revised definition of "subscription" clarifies that the term also includes an agreement to purchase an ownership interest. See the revisor's note to "subscriber" above.

Revised Law

(85) "Subsidiary" means an organization for which another organization, either directly or indirectly through or with one or more of its other subsidiaries:

(A) owns at least 50 percent of the outstanding ownership or membership interests of the organization; or

(B) possesses at least 50 percent of the voting power of the owners or members of the organization. (TMCLA 2.06.C (part).)

Source Law

C. . . .

(1) "subsidiary" means a domestic or foreign corporation or other entity, 50 percent or more of the outstanding voting interests or other ownership interest of which is owned at the time of the action:

(a) by the guarantor corporation itself;

(b) by one or more of the guarantor corporation's subsidiaries; or

(c) by the guarantor corporation and one or more of its subsidiaries;

. . .

Revisor's Note

No substantive change is intended. Examples of the usage of this term are found in Sections 2.104 and 10.006.

Revised Law

(86) "Treasurer" means the:

(A) individual designated as treasurer of an entity under the entity's governing documents; or

(B) officer or committee of persons authorized to perform the functions of treasurer of an entity without regard to the designated name of the officer or committee. (TNPCA 1.02.A(11).)

Source Law

(11) "Treasurer" means that officer designated as "treasurer" in the articles of incorporation or the by-laws of a corporation, or that officer or committee of persons authorized, in the articles of incorporation, the by-laws, or otherwise, to perform the functions of a treasurer, irrespective of the name by which he, or they, may be designated.

Revisor's Note

No substantive change is intended.

Revised Law

(87) "Uncertificated ownership interest" means an ownership interest in a domestic entity that is not represented by an instrument and is transferred by:

(A) amendment of the governing documents of the entity; or

(B) registration on books maintained by or on behalf of the entity for the purpose of registering transfers of ownership interests. (TBCA 1.02.A(29).)

Source Law

(29) "Uncertificated shares" means shares not represented by instruments and the transfers of which are registered upon books maintained for that purpose by or on behalf of the issuing corporation.

Revisor's Note

The revised law adds a new phrase, "uncertificated ownership interest," to mean those ownership interests in domestic entities that are not represented by an instrument and are transferred either by amendment of the governing documents or by registration on books maintained for that purpose. The use of the term "uncertificated" in connection with particular types of ownership interests throughout the code should have a similar meaning.

Revised Law

(88) "Vice president" means the:

(A) individual designated as vice president of an entity under the governing documents of the entity; or

(B) officer or committee of persons authorized to perform the functions of the president of the entity on the death, absence, or resignation of the president or on the inability of the president to perform the functions of office without regard to the designated name of the officer or committee. (TNPCA 1.02.A(9).)

Source Law

(9) "Vice-president" means that officer designated as "vice-president" in the articles of incorporation or the by-laws of a corporation, or that officer or committee of persons authorized, in the articles of incorporation, the by-laws, or otherwise, to perform the duties of the president upon the death, absence, or resignation of the president or upon his inability to perform the duties of his office, irrespective of the name by which he, or they, may be designated.

Revisor's Note

No substantive change is intended.

Revised Law

(89) "Writing" or "written" means an expression of words, letters, characters, numbers, symbols, figures, or other textual information that is inscribed on a tangible medium or that is stored in an electronic or other medium that is retrievable in a perceivable form. Unless the context requires otherwise, the term:

(A) includes stored or transmitted electronic data and transmissions and reproductions of writings; and

(B) does not include sound or video recordings of speech other than transcriptions that are otherwise writings. (Bus. & Com. Code 1.201(46), 43.002(12), 43.007, 43.008(a); Gov. Code 312.011(17).)

Source Law

[Bus. & Com. Code 1.201]

(46) "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form.

[Bus. & Com. Code (Uniform Electronic Transactions Act)]
[43.002]

(12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

43.007. (a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(c) If a law requires a record to be in writing, an electronic record satisfies the law.

(d) If a law requires a signature, an electronic signature satisfies the law.

43.008 (a) If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

[Gov. Code 312.011]

(17) "Written" or "in writing" includes any representation of words, letters, or figures, whether by writing, printing, or other means.

Revisor's Note

The terms "writing" and "written" are defined in a manner that parallels the definition of "record" in the Uniform Electronic Transactions Act and is consistent with other provisions in the Uniform Electronic Transactions Act, the Government Code, and the Business & Commerce Code. Consequently, these terms are modernized and clarified to encompass textual information stored in an electronic or other medium that is retrievable in a perceivable form, and include electronic data and transmissions and reproductions of writings. These terms do not include sound or video recordings.

Revised Law

Sec. 1.003. DISINTERESTED PERSON. (a) For purposes of this code, a person is disinterested with respect to the approval of a contract, transaction, or other matter, or to the consideration of the disposition of a claim or challenge relating to a contract, transaction, or particular conduct, if the person or the person's associate:

(1) is not a party to the contract or transaction or materially involved in the conduct that is the subject of the claim or challenge; and

(2) does not have a material financial interest in the outcome of the contract or transaction or the disposition of the claim or challenge.

(b) For purposes of Subsection (a), a person is not materially involved in a contract or transaction that is the subject of a claim or challenge and does not have a material financial interest in the outcome of a contract or transaction or the disposition of a claim or challenge solely because:

(1) the person was nominated or elected as a governing person by a person who is:

(A) interested in the contract or transaction; or

(B) alleged to have engaged in the conduct that is the subject of the claim or challenge;

(2) the person receives normal fees or customary compensation, reimbursement for expenses, or benefits as a

governing person of the entity;

(3) the person has a direct or indirect equity interest in the entity;

(4) the entity has, or its subsidiaries have, an interest in the contract or transaction or was affected by the alleged conduct;

(5) the person or an associate of the person receives ordinary and reasonable compensation for reviewing, making recommendations regarding, or deciding on the disposition of the claim or challenge; or

(6) in the case of a review by the person of the alleged conduct that is the subject of the claim or challenge:

(A) the person is named as a defendant in the derivative proceeding regarding the matter or as a person who engaged in the alleged conduct; or

(B) the person, acting as a governing person, approved, voted for, or acquiesced in the act being challenged if the act did not result in a material personal or financial benefit to the person and the challenging party fails to allege particular facts that, if true, raise a significant prospect that the governing person would be held liable to the entity or its owners or members as a result of the conduct. (TBCA 1.02.A(12).)

Source Law

(12) "Disinterested," when used to indicate a director or other person is disinterested in a contract, transaction, or other matter for purposes of approval of a contract or transaction under Article 2.35-1 of this Act and for purposes of considering the disposition of a claim or challenge with respect to a particular contract or transaction or to particular conduct means the director or other person, or an associate of the director (other than the corporation and its associates) or other person, is not a party to the contract or transaction or is not materially involved in the conduct that is subject to the claim or challenge and does not otherwise have a material financial interest in the outcome of the contract or transaction or the

disposition of the claim or challenge. A director or other person is not to be considered to be materially involved in conduct that is subject to a claim or challenge or to otherwise have a material financial interest in the outcome of a contract or transaction or the disposition of the claim or challenge solely by reason of the existence of one or more of the following circumstances:

(a) the person was nominated or elected as a director by persons who are interested in the contract or transaction or who are alleged to have engaged in the conduct that is subject to the claim or challenge;

(b) the person receives normal director's fees or similar customary compensation, expense reimbursement, and benefits as a director of the corporation;

(c) the person has a direct or indirect equity interest in the corporation;

(d) the corporation or its subsidiaries has an interest in the contract or transaction or was affected by the alleged conduct;

(e) the person or an associate or affiliate of the person receives ordinary and reasonable compensation for services rendered to review, make recommendations, or decide on the disposition of the claim or challenge; or

(f) in the case of a review by the person of alleged conduct that is subject to a claim or challenge:

(i) the person is named as a defendant in the derivative proceeding with respect to such matter or as a person who engaged in the alleged conduct; or

(ii) the person approved of, voted for, or acquiesced in, as a director, the act being challenged if the act resulted in no material personal or financial benefit to the person and the challenging party fails to allege with particularity facts that, if true, raise a significant prospect that the director would be adjudged liable to the corporation or its shareholders by reason of that conduct.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 1.004. INDEPENDENT PERSON. (a) For purposes of this code, a person is independent with respect to considering the disposition of a claim or challenge regarding a contract or transaction, or particular or alleged conduct, if the person:

(1) is disinterested;

(2) either:

(A) is not an associate, or member of the immediate family, of a party to the contract or transaction or of a person who is alleged to have engaged in the conduct that is the subject of the claim or challenge; or

(B) is an associate to a party or person described by Paragraph (A) that is an entity if the person is an associate solely because the person is a governing person of the entity or of the entity's subsidiaries or associates;

(3) does not have a business, financial, or familial relationship with a party to the contract or transaction, or with another person who is alleged to have engaged in the conduct, that is the subject of the claim or challenge that could reasonably be expected to materially and adversely affect the judgment of the person in favor of the party or other person with respect to the consideration of the matter; and

(4) is not shown, by a preponderance of the evidence, to be under the controlling influence of a party to the contract or transaction that is the subject of the claim or challenge or of a person who is alleged to have engaged in the conduct that is the subject of the claim or challenge.

(b) For purposes of Subsection (a), a person does not have a relationship that could reasonably be expected to materially and adversely affect the judgment of the person regarding the disposition of a matter that is the subject of a claim or challenge and is not otherwise under the controlling influence of a party to a contract or transaction that is the subject of a claim or challenge or that is alleged to have engaged in the

conduct that is the subject of a claim or challenge solely because:

(1) the person has been nominated or elected as a governing person by a person who is interested in the contract or transaction or alleged to be engaged in the conduct that is the subject of the claim or challenge;

(2) the person receives normal fees or similar customary compensation, reimbursement for expenses, or benefits as a governing person of the entity;

(3) the person has a direct or indirect equity interest in the entity;

(4) the entity has, or its subsidiaries have, an interest in the contract or transaction or was affected by the alleged conduct;

(5) the person or an associate of the person receives ordinary and reasonable compensation for reviewing, making recommendations regarding, or deciding on the disposition of the claim or challenge; or

(6) the person, an associate of the person, other than the entity or its associates, or an immediate family member has a continuing business relationship with the entity that is not material to the person, associate, or family member. (TBCA 1.02.A(15).)

Source Law

(15) "Independent," when used to indicate a director or other person is independent for purposes of considering the disposition of a claim or challenge with respect to a particular contract or transaction or to particular conduct or alleged conduct means:

(a) the director or other person is disinterested;

(b) the director or other person is not an associate (other than by reason of being a director of the corporation or one more of its subsidiaries or associates) or member of the immediate family of a party to the contract or

transaction that is the subject of the claim or challenge or that is alleged to have engaged in the conduct that is subject to the claim or challenge;

(c) the director or other person, or an associate or member of the immediate family of the director or other person, does not have a business, financial, or familial relationship with a party to the contract or transaction that is the subject of the claim or challenge or that is alleged to have engaged in conduct that is subject to the claim or challenge, which, in each case, could reasonably be expected to materially and adversely affect the director's or other person's judgment with respect to the consideration of the disposition of the matter subject to the claim or challenge in the interests of the corporation; and

(d) the director or other person is not otherwise shown, by a preponderance of the evidence by the person challenging the independence of the director or other person, to be under the controlling influence of a party to the contract or transaction that is the subject of the claim or challenge or that is alleged to have engaged in conduct that is subject to the claim or challenge.

A director or other person is not considered to have a relationship that could be expected to materially and adversely affect the director's or other person's judgment with respect to the consideration of the disposition of a matter subject to a claim or challenge or to otherwise be under the controlling influence of a party to a contract or transaction that is the subject of the claim or challenge or that is alleged to have engaged in conduct that is subject to a claim or challenge solely by reason of the existence of one or more of the following circumstances:

(a) the person has been nominated or elected as a director by persons who are interested in the contract or transaction or who are alleged to have engaged in the conduct that is subject to the claim or challenge;

(b) the person receives normal director's fees or

similar customary compensation, expense reimbursement, and benefits as a director of the corporation;

(c) the person has a direct or indirect equity interest in the corporation;

(d) the corporation or its subsidiaries have an interest in the contract or transaction or were affected by the alleged conduct;

(e) the person or an associate or affiliate of such person receives ordinary and reasonable compensation for services rendered to review, make recommendations, or decide on the disposition of the claim or challenge; or

(f) the person or an associate (other than the corporation and its associates), immediate family, member or affiliate of the person has an ongoing business relationship with the corporation that is not material to that person, associate, family member, or affiliate.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 1.005. CONSPICUOUS INFORMATION. In this code, required information is conspicuous if the information is placed in a manner or displayed using a font that provides or should provide notice to a reasonable person affected by the information. Required information in a document is conspicuous if the font used for the information is capitalized, boldfaced, italicized, or underlined or is larger or of a different color than the remainder of the document. (TBCA 1.02.A(6).)

Source Law

(6) "Conspicuous" or "conspicuously," when prescribed for information appearing on a certificate for shares or other securities, means the location of such information or use of type of sufficient size, color, or character that a reasonable person against whom such information may operate should notice it. For example, a printed or typed statement in capitals, or boldface or

underlined type, or in type that is larger than or that contrasts in color with that used for other statements on the same certificate, is "conspicuous."

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 1.006. SYNONYMOUS TERMS. To the extent not inconsistent with the provisions of the constitution and other statutes or codes wherein such terms may be found, and as the context requires, in this code or any other statute or code of this state:

(1) a reference to "articles of incorporation," "articles of organization," "articles of association," "certificate of limited partnership," and "charter" includes a "certificate of formation";

(2) a reference to "authorized capital stock" includes "authorized shares";

(3) a reference to "capital stock" includes "authorized and issued shares," "issued share," and "stated capital";

(4) a reference to a "certificate of registration," "certificate of authority," and "permit to do business" includes "registration";

(5) a reference to "stock" and "shares of stock" includes "shares";

(6) a reference to "stockholder" includes "shareholder";

(7) a reference to "no par stock" includes "shares without par value"; and

(8) a reference to "paid-up capital" includes "stated capital." (TMCLA 1.02.)

Source Law

1.02.A. Whether used in this Act or in other Acts and statutes applicable to private corporations:

(1) "Charter" has the same meaning as "articles of incorporation."

(2) "Paid-up capital" has the same meaning as "stated capital."

(3) "Capital stock" may mean, depending on the context, "stated capital," "authorized shares," "authorized and issued shares," or "issued shares."

(4) "Permit to do business" and "certificate of authority" have the same meaning.

(5) "Stockholder" and "shareholder" have the same meaning.

(6) "Stock" and "shares of stock" have the same meaning as "shares."

(7) "Authorized capital stock" has the same meaning as "authorized shares."

(8) "No par shares" means the same as "shares without par value."

Revisor's Note

This section is revised to employ the new language of the revised law in the case of "certificate of formation" and "registration."

Revised Law

Sec. 1.007. SIGNING OF DOCUMENT OR OTHER WRITING. For purposes of this code, a writing has been signed by a person when the writing includes the person's signature. A transmission or reproduction of a writing signed by a person is considered signed by that person for purposes of this code. (TBCA 9.10.A(3); TLLCA 2.23.B(2); TNPCA 9.10.C(5); TMCLA 7.07.B, C; TRLPA 13.04(b); TRPA 3.08(a)(12).)

Source Law

[TBCA 9.10.A]

(3) A telegram, telex, cablegram, or similar transmission by a shareholder, or a photographic, photostatic, facsimile, or similar reproduction of a writing signed by a

shareholder, shall be regarded as signed by the shareholder for purposes of this Section.

[TLLCA 2.23.B]

(2) Unless otherwise provided in the regulations, a telegram, telex, cablegram, or similar transmission by a person, or a photographic, photostatic, facsimile, or similar reproduction of a writing signed by a person, shall be regarded as signed by that person for the purposes of this Article.

[TNPCA 9.10.C]

(5) A telegram, telex, cablegram, or similar transmission by a member, director, or member of a committee or a photographic, photostatic, facsimile, or similar reproduction of a writing signed by a member, director, or member of a committee shall be regarded as signed by the member, director, or member of a committee for purposes of this article.

[TMCLA 7.07]

B. Any original instrument required or authorized to be filed with the Secretary of State under any provision of the Texas Business Corporation Act, the Texas Non-Profit Corporation Act, the Texas Limited Liability Company Act or any special Statute of this State pertaining to a particular type of corporation or entity to which the general corporate laws are applicable, may be a photographic, photostatic, facsimile, or similar reproduction of a signed instrument.

C. For purposes of this article, any signature on any instrument required or authorized to be filed with the Secretary of State may be a facsimile, the mark made by a person unable to write, in an electronic format permitted by the rules of the Secretary of State, or any symbol executed or adopted by a person with the intent to authenticate a writing.

[TRLPA 13.04]

(b) Any signature or the mark made by a person unable to

write on any certificate, instrument, or other document required or authorized to be filed with the secretary of state may be a facsimile in an electronic format permitted by the rules of the secretary of state or any symbol executed or adopted by a person with the intent to authenticate a writing.

[TRPA 3.08(a)]

(12) A document filed under this subsection may be a photographic, facsimile, or similar reproduction of a signed document. A signature on a document filed under this section may be a facsimile, the mark made by a person unable to write, in electronic format permitted by the rules of the secretary of state or any symbol executed or adopted by a person with the intent to authenticate a writing.

Revisor's Note

No substantive change is intended. The first sentence of the revised law clarifies what is meant by "signing" a writing and is implicit in the source law.

Revised Law

Sec. 1.008. SHORT TITLES. (a) The provisions of this code as described by this section may be cited as provided by this section.

(b) The provisions of Title 2 and the provisions of Title 1 to the extent applicable to corporations may be cited as the "Texas Corporation Law."

(c) The provisions of Chapters 20 and 21 and the provisions of Title 1 to the extent applicable to for-profit corporations may be cited as the "Texas For-Profit Corporation Law."

(d) The provisions of Chapters 20 and 22 and the provisions of Title 1 to the extent applicable to nonprofit corporations may be cited as the "Texas Nonprofit Corporation Law."

(e) The provisions of Title 3 and the provisions of Title 1 to the extent applicable to limited liability companies may be cited as the "Texas Limited Liability Company Law."

(f) The provisions of Chapters 151, 152, and 154 and the

provisions of Title 1 to the extent applicable to general partnerships may be cited as the "Texas General Partnership Law."

(g) The provisions of Chapters 151, 153, and 154 and the provisions of Title 1 to the extent applicable to limited partnerships may be cited as the "Texas Limited Partnership Law."

(h) The provisions of Title 5 and the provisions of Title 1 to the extent applicable to real estate investment trusts may be cited as the "Texas Real Estate Investment Trust Law."

(i) The provisions of Chapter 251 and the provisions of Title 1 to the extent applicable to cooperative associations may be cited as the "Texas Cooperative Association Law."

(j) The provisions of Title 7 and the provisions of Titles 1, 2, and 3 to the extent applicable to professional entities may be cited as the "Texas Professional Entities Law."

(k) The provisions of Chapter 252 may be cited as the "Uniform Unincorporated Nonprofit Association Act."

(l) The provisions of Chapters 301 and 302 and the provisions of Chapters 20 and 21 and Title 1 to the extent applicable to professional associations may be cited as the "Texas Professional Association Law."

(m) The provisions of Chapters 301 and 303 and the provisions of Chapters 20 and 21 and Title 1 to the extent applicable to professional corporations may be cited as the "Texas Professional Corporation Law."

(n) The provisions of Chapters 301 and 304 and the provisions of Titles 1 and 3 to the extent applicable to professional limited liability companies may be cited as the "Texas Professional Limited Liability Company Law." (CAA 1; TBCA 1.01.A; TLLCA 1.01.A; TNPCA 1.01.A; TPAA 1; TPCA 1; TREITA 1.10; TRLPA 1.01; TRPA 11.01; TUUNAA 1.)

Source Law

[CAA]

1. This Act may be cited as the Cooperative Association Act.

[TBCA 1.01]

A. This Act shall be known and may be cited as the "Texas Business Corporation Act."

[TLLCA 1.01]

A. This act shall be known and may be cited as the "Texas Limited Liability Company Act."

[TNPCA 1.01]

A. This Act shall be known and may be cited as the "Texas Non-Profit Corporation Act."

[TPAA]

1. This Act may be cited as the Texas Professional Association Act.

[TPCA]

1. This Act shall be known and may be cited as "The Texas Professional Corporation Act."

[TREITA]

1.10. This Act shall be known and may be cited as the "Texas Real Estate Investment Trust Act."

[TRLPA]

1.01. This Act may be cited as the Texas Revised Limited Partnership Act.

[TRPA]

11.01. This Act may be cited as the "Texas Revised Partnership Act."

[TUUNAA]

1. This Act may be cited as the Texas Uniform Unincorporated Nonprofit Association Act.

Revisor's Note

Section 1.008 creates shorthand references to portions of the code. These references are similar in name to the predecessor stand-alone acts governing the different types of entities.

Revised Law

Sec. 1.009. DOLLARS AS MONETARY UNITS. Unless the context requires otherwise, a value or amount that is required by this code to be stated in monetary terms must be stated in United States dollars. Currency that is not specified is considered to be in United States dollars. (New.)

Revisor's Note

No substantive change is intended. This section clarifies that all monetary terms are considered to be references to United States dollars. This rule is implicit in the existing Texas statutes.

[Sections 1.010-1.050 reserved for expansion]

SUBCHAPTER B. CODE CONSTRUCTION

Revised Law

Sec. 1.051. CONSTRUCTION OF CODE. Chapter 311, Government Code (Code Construction Act), applies to the construction of each provision in this code except as otherwise expressly provided by this code. (New.)

Revisor's Note

This provision is contained in all new Texas codes. It clarifies that the Code Construction Act supplements the revised law.

Revised Law

Sec. 1.052. REFERENCE IN LAW TO STATUTE REVISED BY CODE. A reference in a law to a statute or a part of a statute revised by this code is considered to be a reference to the part of this code that revises that statute or part of that statute. (TBCA 1.02.C.)

Source Law

C. A reference in this Act to another statute is a reference to that statute as amended.

Revisor's Note

This provision is contained in all new Texas codes. It clarifies the effect of the codification on cross-references to the old recodified statutes that are contained in other statutes.

Revised Law

Sec. 1.053. APPLICABILITY TO FOREIGN AND INTERSTATE AFFAIRS. This code applies to the conduct of affairs with foreign countries and the other states of the United States only to the extent permitted under the United States Constitution. (TBCA 9.11; TLLCA 8.09; TNPCA 10.01.)

Source Law

[TBCA]

9.11. A. The provisions of this Act shall apply to commerce with foreign nations and among the several states only in so far as the same may be permitted under the provisions of the Constitution of the United States.

[TLLCA]

8.09. A. The provisions of this Act shall apply to commerce with foreign nations and among the several states only insofar as the same may be permitted under the provisions of the Constitution of the United States.

[TNPCA]

10.01. A. The provisions of this Act shall apply to the conduct of affairs with foreign nations and among the several states only in so far as the same may be permitted under the provisions of the Constitution of the United States.

Revisor's Note

No substantive change is intended. Although a similar provision is not found in the partnership statutes, this rule is implicit in existing Texas law and federal constitutional law.

Revised Law

Sec. 1.054. RESERVATION OF POWER. The legislature at all times has the power to amend, repeal, or modify this code and to prescribe regulations, provisions, and limitations as the legislature considers advisable. The regulations, provisions, and limitations are binding on any entity subject to this code. (TBCA 9.12; TLLCA 8.10; TNPCA 10.02; TRPA 1.06.)

Source Law

[TBCA]

9.12. A. The Legislature shall at all times have power to prescribe such regulations, provisions, and limitations as it may deem advisable, which regulations, provisions, and limitations shall be binding upon any and all corporations subject to the provisions of this Act, and the Legislature shall have power to amend, repeal, or modify this Act.

[TLLCA]

8.10. A. The Legislature shall at all times have power to prescribe such regulations, provisions, and limitations as it may deem advisable, which regulations, provisions, and limitations shall be binding upon any and all limited liability companies subject to the provisions of this Act, and the Legislature shall have power to amend, repeal, or modify this Act.

[TNPCA]

10.02. A. The Legislature shall at all times have power to prescribe such regulations, provisions, and limitations as it may deem advisable, which regulations, provisions, and limitations shall be binding upon any and all corporations subject to the provisions of this Act, and the Legislature shall have power to amend, repeal, or modify this Act.

[TRPA]

1.06. A partnership governed by this Act is subject to an amendment or repeal of this Act.

Revisor's Note

No substantive change is intended. This provision recognizes the legislature's power to change the revised law as to then existing entities. As with the source law, this section is intended to negate old jurisprudence in the corporate area that implied the contrary result.

[Sections 1.055-1.100 reserved for expansion]

SUBCHAPTER C. DETERMINATION OF APPLICABLE LAW

Revised Law

Sec. 1.101. DOMESTIC FILING ENTITIES. The law of this state governs the formation and internal affairs of an entity if the entity's formation occurs when a certificate of formation filed in accordance with Chapter 4 takes effect. (CAA 2(1); TBCA 1.02.A(11); TLLCA 1.02.A(3); TNPCA 1.02.A(1); TPAA 2(A); TPCA 6; TREITA 2.10; TRLPA 1.02(5), (6); TRPA 1.01(11); TRPA 1.05(a).)

Source Law

[CAA 2]

(1) "Association" means a group enterprise legally incorporated under this Act.

[TBCA 1.02.A]

(11) "Corporation" or "domestic corporation" means a corporation for profit subject to the provisions of this Act, except a foreign corporation.

[TLLCA 1.02.A]

(3) "Limited Liability Company" or "Company" means a limited liability company organized and existing under this chapter.

[TNPCA 1.02.A]

(1) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this Act, except a foreign corporation.

[TPAA]

2. (A) Formation. Any one or more persons duly licensed to practice a profession, including podiatry, dentistry, or optometry or therapeutic optometry, under the laws of this state may, by complying with this Act, form a professional association, as distinguished from either a partnership or a corporation, by associating themselves for the purpose of performing professional services and dividing the gains therefrom as stated in articles of association or bylaws.

(Eff. 6/11/01)

(A) Formation. Any one or more persons duly licensed to practice a profession, including podiatry, dentistry, or chiropractic, under the laws of this state may, by complying with this Act, form a professional association, as distinguished from either a partnership or a corporation, by associating themselves for the purpose of performing professional services and dividing the gains therefrom as stated in articles of association or bylaws.

(Eff. 6/14/01)

[TPCA]

6. A professional corporation may be organized under this Act only for the purpose of rendering one specific type of professional service and services ancillary thereto.

[TREITA]

2.10. A real estate investment trust is an unincorporated trust formed by one or more trust managers under Section 3.10 of this Act and managed in accordance with this Act.

[TRLPA 1.02]

(5) "Limited partner" means a person who has been admitted

to a limited partnership as a limited partner as provided by Section 3.01 of this Act or, in the case of a foreign limited partnership, in accordance with the laws of the state under which the limited partnership is organized.

(6) "Limited partnership" means a partnership formed by two or more persons under the laws of Texas and having one or more general partners and one or more limited partners.

[TRPA 1.01]

(11) "Partnership" means an entity created as described by Section 2.02(a). The term includes a registered limited liability partnership formed under Section 3.08 or under the Texas Uniform Partnership Act (Article 6132b, Vernon's Texas Civil Statutes) and its subsequent amendments.

[TRPA 1.05]

(a) Internal Affairs. The determination whether a partnership has been formed, a partnership's internal affairs, and the relations of the partners to one another are governed by:

(1) the law of the state chosen by the partners to govern if that state bears a reasonable relation to the partners or to the partnership business and affairs under principles that apply to a contract among the partners other than the partnership agreement; or

(2) if the partners do not choose a governing law under Subdivision (1), the law of the state in which the partnership has its chief executive office.

Revisor's Note

Subchapter C, Chapter 1, contains rules specifying what law governs the formation and internal affairs of domestic and foreign entities. These provisions are derived from existing statutes. Generally, the law of the state or other jurisdiction in which an entity is formed governs the formation and internal affairs of the entity. The liability of an owner, member, or managerial official of the entity is also governed by the same

law.

The revised law is derived primarily from the provisions of the Texas Revised Partnership Act but is implicit in the definitions of the domestic entities covered by each of the other source laws as well as the basic structure of the existing statutes. It is also implicit as the inverse of the rule for foreign entities reflected in the source laws for Section 1.102.

Revised Law

Sec. 1.102. FOREIGN FILING ENTITIES. If the formation of an entity occurs when a certificate of formation or similar instrument filed with a foreign governmental authority takes effect, the law of the state or other jurisdiction in which that foreign governmental authority is located governs the formation and internal affairs of the entity. (TBCA 8.02 (part); TLLCA 7.02 (part); TNPCA 8.02 (part); TRLPA 9.01(a).)

Source Law

[TBCA]

8.02. A. . . . provided, however, that only the laws of the jurisdiction of incorporation of a foreign corporation shall govern (1) the internal affairs of the foreign corporation, including but not limited to the rights, powers, and duties of its board of directors and shareholders and matters relating to its shares, and

[TLLCA]

7.02. A. . . . provided, however, that only the laws of the jurisdiction of organization of a foreign limited liability company shall govern (1) the internal affairs of the foreign limited liability company, including but not limited to the rights, powers, and duties of its manager and members and matters relating to its ownership, and

[TNPCA]

8.02. A. . . . provided, however, that the laws of the jurisdiction of incorporation of a foreign corporation shall

govern (1) the internal affairs of the foreign corporation, including but not limited to the rights, powers, and duties of its board of directors and members and matters relating to its membership, and

[TRLPA 9.01]

(a) The laws of the state under which a foreign limited partnership is formed govern its organization and internal affairs and the liability of its partners.

Revisor's Note

No substantive change is intended with respect to the entities covered by the source law. Section 1.102 goes beyond the source law and provides an explicit statutory rule with respect to foreign entities that are formed pursuant to a filing in another jurisdiction but have no counterpart under Texas statutes, such as a foreign statutory business trust.

Revised Law

Sec. 1.103. ENTITIES NOT FORMED BY FILING INSTRUMENT. If the formation of an entity does not occur when a certificate of formation or similar instrument filed with the secretary of state or with a foreign governmental authority takes effect, the law governing the entity's formation and internal affairs is the law of the entity's jurisdiction of formation. (TRPA 1.05(a) (part), 10.01(a) (part).)

Source Law

[TRPA 1.05]

(a) Internal Affairs. The determination whether a partnership has been formed, a partnership's internal affairs, and . . . are governed by:

(1) the law of the state chosen by the partners to govern if that state bears a reasonable relation to the partners or to the partnership business and affairs under principles that apply to a contract among the partners other than the partnership agreement; or

(2) if the partners do not choose a governing law under Subdivision (1), the law of the state in which the partnership has its chief executive office.

[TRPA 10.01]

(a) The laws of the state under which a foreign limited liability partnership is formed govern its organization and internal affairs

Revisor's Note

No substantive change is intended with respect to partnerships, which are subject to a similar rule under the source law. Section 1.103 goes beyond the source law to provide an explicit statutory rule with respect to entities that are not covered by the source law, such as foreign common law business trusts and domestic and foreign unincorporated nonprofit associations.

The alternative choices for the governing law found in the source law are contained in the definition of "jurisdiction of formation."

A limited liability partnership is not "formed" by a filing, but rather its status is confirmed through the filing of a statement. Therefore, it is covered by this section of the revised law and not Section 1.102.

Revised Law

Sec. 1.104. LAW APPLICABLE TO LIABILITY. The law of the jurisdiction that governs an entity as determined under Sections 1.101-1.103 applies to the liability of an owner, a member, or a managerial official of the entity in the capacity as an owner, a member, or a managerial official for an obligation, including a debt or other liability, of the entity for which the owner, member, or managerial official is not otherwise liable by contract or under provisions of law other than this code. (TBCA 8.02 (part); TLLCA 7.02 (part); TNPCA 8.02 (part); TRLPA 9.01(a) (part); TRPA 1.05(b), 10.01(a) (part).)

Source Law

[TBCA]

8.02. A. . . . provided, however, that only the laws of the jurisdiction of incorporation of a foreign corporation shall govern . . . (2) the liability, if any, of shareholders of the foreign corporation for the debts, liabilities, and obligations of the foreign corporation for which they are not otherwise liable by statute or agreement.

[TLLCA]

7.02. A. . . . provided, however, that only the laws of the jurisdiction of organization of a foreign limited liability company shall govern . . . (2) the liability, if any, of members of the foreign limited liability company for the debts, liabilities and obligations of the foreign limited liability company for which they are not otherwise liable by statute or agreement.

[TNPCA]

8.02. A. . . . provided, however, that the laws of the jurisdiction of incorporation of a foreign corporation shall govern . . . (2) the liability, if any, of members of the foreign corporation for the debts, liabilities, and obligations of the foreign corporation for which they are not otherwise liable by statute or agreement.

[TRLPA 9.01]

(a) The laws of the state under which a foreign limited partnership is formed govern . . . the liability of its partners.

[TRPA 1.05]

(b) Liability to Third Parties. The law governing a partnership's internal affairs also governs the liability of its partners to third parties.

[TRPA 10.01]

(a) The laws of the state under which a foreign limited liability partnership is formed govern . . . the liability of partners for obligations of the partnership.

Revisor's Note

No substantive change is intended with respect to the entities covered by the source laws. Section 1.104 goes beyond the source law and provides an explicit statutory rule for entities that are not covered by the source law, such as domestic entities other than partnerships (as to which the rule reflected in the revised law is implicit in the existing statutes) and foreign entities that have no counterpart under existing Texas statutes, such as foreign business trusts.

Revised Law

Sec. 1.105. INTERNAL AFFAIRS. For purposes of this code, the internal affairs of an entity include:

- (1) the rights, powers, and duties of its governing authority, governing persons, officers, owners, and members; and
- (2) matters relating to its membership or ownership interests. (TBCA 8.02 (part); TLLCA 7.02 (part); TNPCA 8.02 (part); TRLPA 9.01(a).)

Source Law

[TBCA]

8.02. A. . . . (1) the internal affairs of the foreign corporation, including but not limited to the rights, powers, and duties of its board of directors and shareholders and matters relating to its shares, and

[TLLCA]

7.02. A. . . . (1) the internal affairs of the foreign limited liability company, including but not limited to the rights, powers, and duties of its manager and members and matters relating to its ownership, and

[TNPCA]

8.02. A. . . . (1) the internal affairs of the foreign corporation, including but not limited to the rights, powers, and duties of its board of directors and members and matters relating to its membership, and

[TRLPA 9.01]

(a) The laws of the state under which a foreign limited partnership is formed govern its organization and internal affairs and the liability of its partners.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 1.106. ORDER OF PRECEDENCE. (a) This title applies to all domestic entities and foreign entities to the extent provided by this title.

(b) Each title of this code, other than this title, applies to a different type of entity to the extent provided by that title.

(c) If a provision of this title conflicts with a provision in another title of this code, the provision of the other title supersedes the provision of this title. (New.)

Revisor's Note

Because Title 1 of the revised law applies generally to all domestic entities, this section is necessary to establish which titles have precedence in the event of conflict.

CHAPTER 2. PURPOSES AND POWERS OF DOMESTIC ENTITY

SUBCHAPTER A. PURPOSES OF DOMESTIC ENTITY

Revised Law

Sec. 2.001. GENERAL SCOPE OF PERMISSIBLE PURPOSES. A domestic entity has any lawful purpose or purposes, unless otherwise provided by this code. (TBCA 2.01.A (part); TLLCA 2.01.A; TNPCA 2.01.A (part); TRLPA 1.09(a).)

Source Law

[TBCA 2.01]

A. Except as hereinafter in this Article excluded herefrom, corporations for profit may be organized under this Act for any lawful purpose or purposes. . . .

[TLLCA 2.01]

A. A limited liability company formed under this Act may engage in any lawful business unless a more limited purpose is stated in its articles of organization or regulations.

[TNPCA 2.01]

A. Except as hereinafter in this Article expressly excluded herefrom, non-profit corporations may be organized under this Act for any lawful purpose or purposes,

[TRLPA 1.09]

(a) A limited partnership formed under this Act may engage in any lawful business unless a more limited purpose is stated in its partnership agreement.

Revisor's Note

Unincorporated nonprofit associations are not governed by Chapter 2 by virtue of Section 252.017 of the code. Therefore, the Texas Uniform Unincorporated Nonprofit Association Act is not shown as one of the source laws for this chapter.

The Texas Limited Liability Company Act permits the business in which a limited liability company may engage to be qualified by its articles of organization or regulations. Similarly, the Texas Revised Limited Partnership Act permits the business in which a limited partnership may engage to be qualified by its partnership agreement. These qualifications are not necessary in the revised law because these requirements are contained in other sections of Chapter 2. The revised law uses the term "purpose or purposes" instead of "business" because the revised law also

governs nonprofit entities, which may not be construed to have a business.

Revised Law

Sec. 2.002. PURPOSES OF NONPROFIT ENTITY. The purpose or purposes of a domestic nonprofit entity may include one or more of the following purposes:

- (1) serving charitable, benevolent, religious, eleemosynary, patriotic, civic, missionary, educational, scientific, social, fraternal, athletic, aesthetic, agricultural, and horticultural purposes;
- (2) operating or managing a professional, commercial, or trade association or labor union;
- (3) providing animal husbandry; or
- (4) operating on a nonprofit cooperative basis for the benefit of its members. (TNPCA 2.01.A (part).)

Source Law

A. . . . Such purpose or purposes may include, without being limited to, any one or more of the following: charitable, benevolent, religious, eleemosynary, patriotic, civic, missionary, educational, scientific, social, fraternal, athletic, aesthetic, agricultural and horticultural; and the conduct of professional, commercial, industrial, or trade associations; and animal husbandry. . . .

Revisor's Note

The revised law omits "industrial" because it is redundant with "commercial." Although no existing statutes, other than the Texas Non-Profit Corporation Act and Texas Uniform Unincorporated Nonprofit Association Act, specifically apply to nonprofit entities, the revised law permits nonprofit status in limited liability companies. Partnerships cannot be nonprofit entities because one of the tests for existence of a partnership is that it is formed for the purpose of making a profit.

Revised Law

Sec. 2.003. GENERAL PROHIBITED PURPOSES. A domestic entity may not:

- (1) engage in a business or activity that:
 - (A) is expressly unlawful or prohibited by a law of this state;
 - (B) cannot lawfully be engaged in by that entity under state law; or
 - (C) may not be engaged in by an entity without first obtaining a license under the laws of this state to engage in that business or activity and a license cannot lawfully be granted to the entity; or
- (2) operate as a:
 - (A) bank;
 - (B) trust company;
 - (C) savings association;
 - (D) insurance company;
 - (E) railroad company;
 - (F) cemetery organization; or
 - (G) abstract or title company governed by Chapter 9, Insurance Code. (CAA 6 (part); TBCA 2.01.B (part); TLLCA 2.01.B; TNPCA 2.01.B (part); TRLPA 1.09(b).)

Source Law

[CAA]

6. . . .

(4) not engage, either directly or indirectly, in insurance companies of every type or character as the insurance business is defined and regulated by the Insurance Code, as amended,

[TBCA 2.01]

B. No corporation may adopt this Act or be organized under this Act or obtain authority to transact business in this State under this Act:

- (1) If any one or more of its purposes for the

transaction of business in this State is expressly prohibited by any law of this State.

(2) If any one or more of its purposes for the transaction of business in this State is to engage in any activity which cannot lawfully be engaged in without first obtaining a license under the authority of the laws of this State to engage in such activity and such a license cannot lawfully be granted to a corporation.

. . .

(4) If any one or more of its purposes is to operate any of the following:

(a) Banks, (b) trust companies, (c) building and loan associations or companies, (d) insurance companies of every type and character that operate under the insurance laws of this State, and corporate attorneys in fact for reciprocal or inter-insurance exchanges, (e) railroad companies, (f) cemetery companies, . . . (i) abstract and title insurance companies whose purposes are provided for and whose powers are prescribed by Chapter 9 of the Insurance Code of this State.

. . .

[TLLCA 2.01]

B. A limited liability company engaging in a business that is subject to regulation by another Texas statute may be formed under this Act only if it is not prohibited by the other statute. The limited liability company is subject to all limitations of the other statute.

[TNPCA 2.01]

B. This Act shall not apply to any corporation, nor may any corporation be organized under this Act or obtain authority to conduct its affairs in this State under this Act:

(1) If any one or more of its purposes for the conduct of its affairs in this State is expressly forbidden by any law of this State.

(2) If any one or more of its purposes for the conduct

of its affairs in this State is to engage in any activity which cannot lawfully be engaged in without first obtaining a license under the authority of the laws of this State to engage in such activity and such license cannot lawfully be granted to a corporation, except as provided by Subsection C.

. . .

(4) If any one or more of its purposes for the conduct of its affairs in this State is to operate a bank under the banking laws of this State or to operate an insurance company of any type or character that operates under the insurance laws of this State.

. . .

[TRLPA 1.09]

(b) A limited partnership engaging in a business that is subject to regulation by another Texas statute may be formed under this Act only if it is not prohibited by the other statute. The limited partnership is subject to all limitations of the other statute.

Revisor's Note

Section 2.003 is derived primarily from Article 2.01, Texas Business Corporation Act. Section 2.003(1) specifies general rules that are implicit under existing law applicable to all domestic entities under existing law, even though not explicit in the governing statute. Section 2.003(2) specifies the types of entities that must be formed under other Texas statutes and cannot be formed under the code. Extending this list to all domestic entities is not intended as a substantive change because this limitation is implicit in existing Texas law even though not explicit in the existing statutes governing each type of domestic entity.

Revised Law

Sec. 2.004. LIMITATION ON PURPOSES OF PROFESSIONAL ENTITY. Except as provided in Title 7, a professional entity may engage in only:

(1) one type of professional service, unless the entity is expressly authorized to provide more than one type of professional service under state law regulating the professional services; and

(2) services ancillary to that type of professional service. (Court opinion; TLLCA 11.01.A(2); TPCA 4(a) (part), 6.)

Source Law

Texas Court's opinion interpreting TPAA: Forrest N. Welmaker, Jr. v. The Honorable Henry Cuellar, Secretary of State, 37 S.W. 3d 550 (Tex.Civ.App.-Austin), pet. denied, June 7, 2001.

[TLLCA 11.01.A]

(2) Except as provided by Subdivisions (3) and (4) of this subsection, a professional limited liability company:

(a) may be organized under this Act only for the purpose of rendering one specific type of professional service and ancillary services; and

(b) may not render more than one kind of professional service.

[TPCA 4]

(a) . . . Except as provided by Subsection (b) of this section, no professional corporation organized under this Act shall render more than one kind of professional service. . . .

[TPCA 6]

6. A professional corporation may be organized under this Act only for the purpose of rendering one specific type of professional service and services ancillary thereto.

Revisor's Note

Section 2.004 pulls together various statutory provisions in existing Texas law governing the purposes of professional entities, such as professional corporations, professional associations, and professional limited liability companies.

Section 2.004 allows a professional entity to provide more than one professional service as its purpose if permitted by the Texas law regulating the professional services. Existing Texas organizational statutes governing professional entities are unduly rigid. Unlike the Texas Limited Liability Company Act or Texas Professional Corporation Act, the Texas Professional Association Act is ambiguous on its face with respect to how many professional services may be rendered but has recently been interpreted by a Texas court to limit the number of professional services to one. The revised law changes this rule to provide more flexibility by deferring to the regulatory law governing the profession. The necessity for a single professional service limitation should be the subject of the special regulatory law governing the profession and not the organizational law.

Revised Law

Sec. 2.005. LIMITATION IN GOVERNING DOCUMENTS. The governing documents of a domestic entity may contain limitations on the entity's purposes. (TLLCA 2.01.A; TRLPA 1.09(a).)

Source Law

[TLLCA 2.01]

A. A limited liability company formed under this Act may engage in any lawful business unless a more limited purpose is stated in its articles of organization or regulations.

[TRLPA 1.09]

(a) A limited partnership formed under this Act may engage in any lawful business unless a more limited purpose is stated in its partnership agreement.

Revisor's Note

No substantive change is intended. Section 2.005 states what is implicit in existing Texas law governing all entities, namely, that the governing documents of the entity may limit its purposes. This statement was not explicit in some existing Texas statutes.

Revised Law

Sec. 2.006. PERMISSIBLE PURPOSE OF FOR-PROFIT CORPORATION RELATED TO RAILROADS. Notwithstanding Section 2.003(2)(E), a for-profit corporation may:

- (1) construct, acquire, maintain, and operate street railways, suburban railways, and belt lines of railways in or near municipalities to transport freight and passengers;
- (2) construct, own, and operate union depots;
- (3) buy, sell, and convey rights-of-way on which to construct railroads;
- (4) construct, acquire, maintain, and operate lines of electric, gas, or gasoline, denatured alcohol, or naphtha motor railways in and between municipalities, and interurban railways in and between municipalities in this state to transport freight or passengers;
- (5) build, maintain, and operate a line of railroads to mines, gins, quarries, manufacturing plants, or mills;
- (6) construct, maintain, and operate terminal railways; or
- (7) operate a railroad passenger service by contracting with a railroad corporation or other company that does not construct, own, or maintain a railroad track. (TBCA 2.01.C; TMCLA 3.05.)

Source Law

[TBCA 2.01]

C. A company may be incorporated under this Article or under Chapter 1, Title 112, Revised Statutes, [Vernon's Ann. Civ. St. art. 6259 et seq.] if the company:

- (1) operates a railroad passenger service by contracting with a railroad corporation or other company; and
- (2) does not construct, own, or maintain a railroad track.

[TMCLA 3.05]

A. Corporations for profit may be organized for the

following purposes:

(1) To construct or acquire with power to maintain and operate street railways and suburban railways and belt lines of railways within and near cities and towns, for the transportation of freight and passengers, with power also to construct, own and operate union depots, and to buy, sell and convey right-of-way upon which to construct railroads.

(2) To construct, acquire, maintain and operate lines of electric, gas, or gasoline, denatured alcohol, or naphtha motor railways within and between any cities or towns, and any interurban railways within and between cities and towns, in this State, for the transportation of freight or passengers, or both.

(3) To build, maintain and operate a line of railroads to mines, gins, quarries, manufacturing plants, or mills.

(4) The construction, operation and maintenance of terminal railways.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 2.007. ADDITIONAL PROHIBITED ACTIVITIES OF FOR-PROFIT CORPORATION. A for-profit corporation may not:

(1) operate a cooperative association, limited cooperative association, or labor union;

(2) transact a combination of the businesses of:

(A) raising cattle and owning land for the raising of cattle, other than operating and owning feedlots and feeding cattle; and

(B) operating stockyards and slaughtering, refrigerating, canning, curing, or packing meat; or

(3) engage in a combination of:

(A) the petroleum oil producing business in this state; and

(B) the oil pipeline business in this state other than through stock ownership in a for-profit corporation engaged in the oil pipeline business and other than the ownership or

operation of private pipelines in and about the corporation's refineries, fields, or stations. (TBCA 2.01.B (part).)

Source Law

B. . . .

(3) If among its purposes for the transaction of business in this State, there is included, however worded, a combination of the two businesses listed in either of the following:

(a) The business of raising cattle and owning land therefor, and the business of operating stockyards and of slaughtering, refrigerating, canning, curing or packing meat. Owning and operating feed lots and feeding cattle shall not be considered as engaging in "the business of raising cattle and owning land therefor" within the purview of this paragraph of this subsection.

(b) The business of engaging in the petroleum oil producing business in this State and the business of engaging directly in the oil pipe line business in this State: provided, however, that a corporation engaged in the oil producing business in this State which owns or operates private pipe lines in and about its refineries, fields or stations or which owns stock of corporations engaged in the oil pipe line business shall not be deemed to be engaging directly in the oil pipe line business in this State; and provided that

(4) If any one or more of its purposes is to operate any of the following:

. . . (g) cooperatives or limited cooperative associations, (h) labor unions,

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 2.008. NONPROFIT CORPORATIONS. A corporation formed for the purpose of operating a nonprofit institution, including an institution devoted to a charitable, benevolent, religious,

patriotic, civic, cultural, missionary, educational, scientific, social, fraternal, athletic, or aesthetic purpose, may be formed and governed only as a nonprofit corporation under this code and not as a for-profit corporation under this code. (TBCA 2.01.A (part).)

Source Law

A. . . . Corporations for the purpose of operating non-profit institutions, including but not limited to those devoted to charitable, benevolent, religious, patriotic, civic, cultural, missionary, educational, scientific, social, fraternal, athletic, or aesthetic purposes, may not adopt or be organized under this Act.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 2.009. PERMISSIBLE PURPOSE OF NONPROFIT CORPORATION RELATED TO ORGANIZED LABOR. Subject to Chapter 101, Labor Code, a nonprofit corporation may be formed to organize laborers, workers, or wage earners to protect themselves in their various pursuits. (TNPCA 2.01.A (part).)

Source Law

A. . . . Subject to the provisions of Chapter 2, Title 83, of the Revised Civil Statutes of Texas, 1925, [Vernon's Ann.Civ.St. art. 5152 et seq., repealed; see, now, V.T.C.A., Labor Code Sec. 101.001 et seq.] and of such Chapter or any part thereof as it may hereafter be amended, a corporation may be organized under this Act if any one or more of its purposes for the conduct of its affairs in this State is to organize laborers, working men, or wage earners to protect themselves in their various pursuits.

. . .

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 2.010. PROHIBITED ACTIVITIES OF NONPROFIT CORPORATION.
A nonprofit corporation may not be organized or registered under this code to conduct its affairs in this state to:

(1) engage in or operate as a group hospital service, rural credit union, agricultural and livestock pool, mutual loan corporation, cooperative association under Chapter 251, cooperative credit association, farmers' cooperative society, Co-operative Marketing Act corporation, rural electric cooperative corporation, telephone cooperative corporation, or fraternal organization operating under the lodge system and incorporated under Subchapter C, Chapter 23; or

(2) engage in water supply or sewer service as an entity incorporated under Chapter 67, Water Code. (TNPCA 2.01.B (part).)

Source Law

B. . . .

(3) If any one or more of its purposes for the conduct of its affairs in this State is to organize Group Hospital Service, Rural Credit Unions, Agricultural and Livestock Pools, Mutual Loan Corporations, Co-operative Credit Associations, Farmers' Co-operative Societies, Co-operative Marketing Act Corporations, Rural Electric Co-operative Corporations, Telephone Co-operative Corporations, or fraternal organizations operating under the lodge system and heretofore or hereafter incorporated under Articles 1399 through 1407, both inclusive, of Revised Civil Statutes of Texas, 1925.

. . . .

(5) If any one or more of its purposes for the conduct of its affairs in this State is to engage in water or sewer service and it has heretofore or is hereafter incorporated under the Acts of 1933, Forty-third Legislature, First Called Session, Chapter 76, as amended, Acts of 1941, Forty-seventh Legislature,

page 666, Chapter 407, being presently identified as Article 1434(a), Revised Civil Statutes of Texas, 1925.

Revisor's Note

The revised law contains updated cross-references to the provisions of existing Texas law referenced by this section. The revised law also cross-references to the provisions governing fraternal lodges under Subchapter C, Chapter 23, of the code.

Revised Law

Sec. 2.011. PURPOSES OF COOPERATIVE ASSOCIATION. (a) A person may organize a cooperative association under this code to acquire, produce, build, operate, manufacture, furnish, exchange, or distribute any type of property, commodities, goods, or services for the primary and mutual benefit of the members of the cooperative association.

(b) A cooperative association may not be organized to:

- (1) serve or function as a health maintenance organization;
- (2) furnish medical or health care; or
- (3) employ or contract with a health care provider in a manner prohibited by the statute under which the provider is licensed.

(c) A cooperative association may not directly or indirectly engage in a health maintenance organization or a prepaid legal service corporation. (CAA 5, 6 (part), 26(b) (part).)

Source Law

5. An association may be incorporated under this Act to engage in acquiring, producing, building, operating, manufacturing, furnishing, exchanging, or distributing any type of property, commodities, goods, or services for the primary and mutual benefit of the members of the association.

6. . . .

- (4) not engage, either directly or indirectly, in

. . . health maintenance organizations, or prepaid legal service corporations; and

. . .

[26]

(b) . . .

(2) the entities are not organizing to:

(A) serve or function as a health maintenance organization;

(B) provide medical or health care; or

(C) employ or contract with a medical or health care provider in a manner that is prohibited by a licensing law of this state under which that medical or health care provider is licensed.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 2.012. LIMITATION ON PURPOSES OF REAL ESTATE INVESTMENT TRUST. The purposes of a real estate investment trust are limited by Section 3.012. (TREITA 3.10(A) (part).)

Source Law

(A) One or more persons, may act as trust manager(s) of a real estate investment trust by subscribing and acknowledging to a declaration of trust before an officer duly authorized to take acknowledgements of deeds, which shall set forth:

. . .

(2) A statement that it is formed pursuant to the provisions of this Act and has the following as its purpose:

To purchase, hold, lease, manage, sell, exchange, develop, subdivide and improve real property and interests in real property, and in general, to carry on any other business and do any other acts in connection with the foregoing and to have and exercise all powers conferred by the laws of the State of Texas upon real estate investment trusts formed under the Texas

Real Estate Investment Trust Act, and to do any or all of the things hereinafter set forth to the same extent as natural persons might or could do. The term "real property" and the term "interests in real property" for the purposes stated herein shall not include severed mineral, oil or gas royalty interests.

Revisor's Note

This section adds a cross-reference to the purposes limitations required in the certificate of formation of a real estate investment trust and contained in Section 3.012.

[Sections 2.013-2.100 reserved for expansion]

SUBCHAPTER B. POWERS OF DOMESTIC ENTITY

Revised Law

Sec. 2.101. GENERAL POWERS. Except as otherwise provided by this code, a domestic entity has the same powers as an individual to take action necessary or convenient to carry out its business and affairs. Except as otherwise provided by this code, the powers of a domestic entity include the power to:

- (1) sue, be sued, and defend suit in the entity's business name;
- (2) have and alter a seal and use the seal or a facsimile of it by impressing, affixing, or reproducing it;
- (3) acquire, receive, own, hold, improve, use, and deal in and with property or an interest in property;
- (4) sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of property;
- (5) make contracts and guarantees;
- (6) incur liabilities, borrow money, issue notes, bonds, or other obligations, which may be convertible into, or include the option to purchase, other securities or ownership interests in the entity, and secure its obligations by mortgaging or pledging its property, franchises, or income;
- (7) lend money, invest its funds, and receive and hold property as security for repayment if the loan or assistance reasonably may be expected to benefit, directly or indirectly, the entity;

(8) acquire its own bonds, debentures, or other evidences of indebtedness or obligations;

(9) acquire its own ownership interests, regardless of whether redeemable, and hold the ownership interests as treasury ownership interests or cancel or dispose of the ownership interests;

(10) be a promoter, organizer, owner, partner, member, associate, or manager of an organization;

(11) acquire, receive, own, hold, vote, use, pledge, and dispose of ownership interests in or securities issued by another person;

(12) conduct its business, locate its offices, and exercise the powers granted by this code to further its purposes, in or out of this state;

(13) lend money to, and otherwise assist, its managerial officials, owners, members, or employees as necessary or appropriate;

(14) elect or appoint officers and agents of the entity, establish the length of their terms, define their duties, and fix their compensation;

(15) pay pensions and establish pension plans, pension trusts, profit-sharing plans, bonus plans, and incentive plans for managerial officials, owners, members, or employees or former managerial officials, owners, members, or employees;

(16) indemnify and maintain liability insurance for managerial officials, owners, members, employees, and agents of the entity or the entity's affiliate;

(17) adopt and amend governing documents for managing the affairs of the entity subject to applicable law;

(18) make donations for the public welfare or for a charitable, scientific, or educational purpose;

(19) voluntarily wind up its business and activities and terminate its existence;

(20) transact business or take action that will aid governmental policy; and

(21) take other action necessary or appropriate to

further the purposes of the entity. (TBCA 2.02.A (part); TLLCA 2.02.A, 2.11; TNPCA 2.02.A (part); TPAA 5; TREITA 6.10(A); TRPA 3.01 (part), 3.05(a).)

Source Law

[TBCA 2.02]

A. Subject to the provisions of Sections B and C of this Article, each corporation shall have power:

. . .

(2) To sue and be sued, complain and defend, in its corporate name.

(3) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed on, affixed to, or in any manner reproduced upon, instruments of any nature required to be executed by its proper officers.

(4) To purchase, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated, as the purposes of the corporation shall require.

(5) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(6) To lend money to, and otherwise assist, its employees, officers, and directors if such a loan or assistance reasonably may be expected to benefit, directly or indirectly, the lending or assisting corporation.

(7) To purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, mortgage, lend, pledge, sell or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships, or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, government district, or municipality, or of any instrumentality thereof.

(8) To purchase or otherwise acquire its own bonds,

debentures, or other evidences of its indebtedness or obligations; to purchase or otherwise acquire its own unredeemable shares and hold those acquired shares as treasury shares or cancel or otherwise dispose of those acquired shares; and to redeem or purchase shares made redeemable by the provisions of its articles of incorporation.

(9) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises, and income.

(10) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(11) To conduct its business, carry on its operations, and have offices and exercise the powers granted by this Act, within or without this State.

(12) To elect or appoint officers and agents of the corporation for such period of time as the corporation may determine, and define their duties and fix their compensation.

(13) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this State, for the administration and regulation of the affairs of the corporation.

(14) To make donations for the public welfare or for charitable, scientific, or educational purposes.

(15) To transact any lawful business which the board of directors shall find will be in aid of government policy.

(16) To indemnify directors, officers, employees, and agents of the corporation and to purchase and maintain liability insurance for those persons.

(17) To pay pensions and establish pension plans, pension trusts, profit sharing plans, stock bonus plans, and other incentive plans for any or all of, or any class or classes of, its directors, officers, or employees.

(18) To be an organizer, partner, member, associate, or manager of any partnership, joint venture, or other enterprise, and to the extent permitted in any other jurisdiction to be an incorporator of any other corporation of any type or kind.

(19) To cease its corporate activities and terminate its existence by voluntary dissolution.

(20) Whether included in the foregoing or not, to have and exercise all powers necessary or appropriate to effect any or all of the purposes for which the corporation is organized.

[TLLCA 2.02]

A. Each limited liability company shall have the power provided for a corporation under the TBCA and a limited partnership under the Texas Revised Limited Partnership Act.

[TLLCA]

2.11.A. Real or personal property owned or purchased by a limited liability company may be held and owned, and conveyance may be made, in the name of the limited liability company. Instruments and documents providing for the acquisition, mortgage, or disposition of the property of the limited liability company shall be valid and binding upon the company, if they are executed by one or more persons as provided in Article 2.21 of this Act.

[TNPCA 2.02]

A. Subject to the provisions of Sections B and C of this Article, each corporation shall have power:

. . .

(2) To sue and be sued, complain and defend, in its corporate name.

(3) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed on, affixed to, or in any manner reproduced upon, instruments of any nature required to be

executed by its proper officers.

(4) To purchase, receive, lease, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with, real or personal property, or any interest therein, wherever situated, as the purposes of the corporation shall require, or as shall be donated to it.

(5) To sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets.

. . .

(7) To purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, mortgage, lend, pledge, sell or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships, or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, government district, or municipality, or of any instrumentality thereof.

(8) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises, and income.

(9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(10) To conduct its affairs, carry on its operations, and have officers and exercise the powers granted by this Act in any state, territory, district, or possession of the United States, or any foreign country.

(11) To elect or appoint officers and agents of the corporation for such period of time as the corporation may determine and define their duties and fix their compensation.

(12) To make and alter by-laws, not inconsistent with

its articles of incorporation or with the laws of this State, for the administration and regulation of the affairs of the corporation.

(13) To make donations for the public welfare or for charitable, scientific, or educational purposes and in time of war to make donations in aid of war activities.

(14) To cease its corporate activities and terminate its existence by voluntary dissolution.

(15) Whether included in the foregoing or not, to have and exercise all powers necessary or appropriate to effect any or all of the purposes for which the corporation is organized.

. . .

(17) To pay pensions and establish pension plans and pension trusts for all of, or class, or classes of its officer and employees, or its officers or its employees.

[TPAA]

5. (A) Property. A professional association may in its own name invest its funds in real estate, mortgages, stocks, bonds, or any other type of investment, and may own real or personal property necessary or appropriate for rendering its professional service. Any investment or property so owned may be transferred in the association name by action of the Board of Directors or Executive Committee.

(B) Suits. An association shall have power to sue and be sued, complain and defend in its association name.

[TREITA 6.10]

(A) Subject to the provisions of paragraphs (B) and (C) of this Section, each real estate investment trust shall have power:

(1) To have perpetual succession by its trust name unless a limited period of duration is stated in its declaration of trust.

(2) To sue and be sued, complain and defend, in its trust name.

(3) To purchase, receive, lease, or otherwise acquire,

own, hold, improve, use and otherwise deal in and with, real or personal property or any interest therein, wherever situated, as the purposes of the real estate investment trust shall require.

(4) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(5) To lend money to, and otherwise assist, the employees, officers, and trust managers of the real estate investment trust if the loan or assistance may reasonably be expected to benefit, directly or indirectly, the lending or assisting real estate investment trust.

(6) To purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, mortgage, lend, pledge, sell or otherwise dispose of, and otherwise use and deal in and with, securities, shares or other interests in, or obligations of, domestic or foreign corporations, associations, partnerships, other real estate investment trusts, or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, government district, or municipality, or of any instrumentality thereof.

(7) To purchase or otherwise acquire its own bonds, debentures, or other evidences of its indebtedness or obligations; to purchase or otherwise acquire its own unredeemable shares and hold those acquired shares as treasury shares or cancel or otherwise dispose of those acquired shares; and to redeem or purchase shares made redeemable by the provisions of its declaration of trust.

(8) To make contracts, and incur liabilities, borrow money at such rates of interest as the trust may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises, and income.

(9) To lend money for its trust purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(10) To conduct its business, carry on its operations,

and have offices and exercise the powers granted by this Act in any state, territory, district or possession of the United States, or in any foreign country.

(11) To elect or appoint officers and agents of the trust for such period of time as the real estate investment trust may determine, and define their duties and fix their compensation.

(12) To make and alter bylaws, not inconsistent with its declaration of trust or with the laws of this state, for the administration and regulation of the affairs of the real estate investment trust.

(13) To make donations for the public welfare or for charitable, scientific, or educational purposes.

(14) To transact any lawful business that the trust managers find will aid government policy.

(15) To indemnify trust managers, officers, employees, and agents of the real estate investment trust and to purchase and maintain liability insurance for those persons.

(16) To pay pensions and establish pension plans, pension trusts, profit sharing plans, stock option plans, stock bonus plans, and other incentive plans for any or all of, or any class or classes of, its trust managers, officers, or employees.

(17) To be an organizer, partner, member, associate, or manager of any partnership, joint venture, or other enterprise, and to the extent permitted in any other jurisdiction, to be an incorporator of any other corporation of any type or kind.

(18) To cease its trust activities and terminate its existence by voluntary dissolution.

(19) To engage in activities that are mandated or authorized by sections of the Internal Revenue Code of 1986, or any successor statute, that relate to or govern real estate investment trusts or the regulations adopted under that law.

(20) Whether included in the foregoing or not, to have and exercise, all powers necessary or appropriate to effect any or all of the purposes for which the real estate investment trust

is organized.

[TRPA]

3.01. Unless restricted by applicable law, a partnership has the same powers as an individual or corporation to do all things necessary or convenient to carry out its business and affairs, including the power to:

(1) sue and be sued, complain, and defend in its partnership name;

(2) 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;

(3) sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;

(4) 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;

(5) make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations, which may be convertible into or include the option to purchase other securities of the partnership, and secure its obligations by mortgage or pledge of its property, franchises, or income;

(6) lend money, invest, and reinvest its funds, and receive and hold real and personal property as security for repayment;

(7) be a promoter, partner, member, associate, or manager of a partnership, joint venture, trust, or other entity;

(8) conduct its business, locate offices, and exercise the powers granted by this Act within or outside this state;

(9) appoint employees and agents of the partnership, define their duties, fix their compensation, and lend them money or credit;

(10) 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 partners, employees, and agents;

(11) make donations for the public welfare or for charitable, scientific, or educational purposes;

(12) transact any lawful business that will aid governmental policy;

(13) make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the partnership;

(14) enter into mergers and similar transactions to the extent permitted by applicable law;

(15) indemnify a person who was, is, or is threatened to be made a defendant or respondent in a proceeding and purchase and maintain liability insurance for the person; and

. . .

[TRPA 3.05]

(a) Partnership as Party. A partnership may sue and be sued in the name of the partnership.

Revisor's Note

The concept of perpetual existence of a corporation was a relatively new concept in 1955 when the Texas Business Corporation Act was adopted. However, that concept is now ingrained in corporate law. Accordingly, the provisions empowering corporations to have perpetual existence found in Article 2.02.A(1), Texas Business Corporation Act, and Article 2.02.A(1), Texas Non-Profit Corporation Act, are no longer necessary and have been omitted.

Under the modern entity theory accepted in most United States jurisdictions, including Texas, an entity has the same powers as an individual except as limited by law. This concept is explicit in the Texas Revised Partnership Act but implicit in the other source law through the lengthy list of powers and applicable jurisprudence. The first sentence of the revised law recognizes the modern entity theory. The source laws governing

most kinds of domestic entities have similar provisions either explicitly in the statutes currently governing those entities or incorporated by reference into such statutes. For example, although the source law governing lodges, which was originally adopted in 1899, does not have a similar broad statement of powers, these powers are incorporated into the law governing lodges by virtue of Article 1.03.A, Texas Miscellaneous Corporation Laws Act, which specifies that all corporations organized not for profit are also governed by the Texas Non-Profit Corporation Act to the extent not inconsistent with the special statute pertaining to the lodge corporations. One type of entity that does not explicitly or by incorporation have a similar lengthy enumeration of powers is a nonprofit association governed by the Texas Uniform Unincorporated Nonprofit Association Act. By virtue of Section 252.017 of the revised law, Chapter 2 does not apply to nonprofit associations.

Revised Law

Sec. 2.102. ADDITIONAL POWERS OF NONPROFIT ENTITY OR INSTITUTION. To effect its purposes, a domestic nonprofit entity or institution formed for a religious, charitable, educational, or eleemosynary purpose may acquire, own, hold, mortgage, and dispose of and invest its funds in property for the use and benefit of, under the discretion of, and in trust for a convention, conference, or association organized under the laws of this state or another state with which it is affiliated or by which it is controlled. (TNPCA 2.02.A (part).)

Source Law

A. . . .

(16) Any religious, charitable, educational, or eleemosynary institution organized under the laws of this State may acquire, own, hold, mortgage, and dispose of and invest its funds in real and personal property for the use and benefit and under the discretion of, and in trust for any convention, conference or association organized under the laws of this State or another state with which it is affiliated, or which elects its

board of directors, or which controls it, in furtherance of the purposes of the member institution.

Revisor's Note

The revised law permits nonprofit status in limited liability companies in addition to corporations, cooperative associations, and associations. The revised law is derived from the special power provision contained in the Texas Non-Profit Corporation Act and is extended to nonprofit limited liability companies.

Revised Law

Sec. 2.103. POWER TO INCUR INDEBTEDNESS. (a) Unless otherwise provided by its governing documents or this code, a domestic entity may create indebtedness for any consideration the entity considers appropriate, including:

- (1) cash;
- (2) property;
- (3) a contract to receive property;
- (4) a debt or other obligation of the entity or of another person;
- (5) services performed or a contract for services to be performed; or
- (6) a direct or indirect benefit realized by the entity.

(b) In the absence of fraud in the transaction, the judgment of the governing authority of a domestic entity as to the value of the consideration received by the entity for indebtedness is conclusive.

(c) The consideration for the indebtedness may be received either directly or indirectly by the domestic entity, including by a domestic or foreign organization that is wholly or partially owned, directly or indirectly, by the domestic entity.

(d) This section does not apply to indebtedness created by a domestic entity that is incurred by reason of the authorization or payment of a distribution. (TLLCA 8.12.B; TMCLA 2.06.A.)

Source Law

[TLLCA 8.12]

B. Subject to Section C of this Article, Articles 2.03 through 2.06, 2.09, 2.09A, 3.01, 7.01 through 7.05, and 7.07, Texas Miscellaneous Corporation Laws Act (Article 1302-1.01 et seq., Vernon's Texas Civil Statutes), as amended, apply to a limited liability company and its members, managers, and officers.

[TMCLA 2.06]

A. A corporation may incur indebtedness for such consideration as it may deem appropriate, including, without limitation, cash, real property, personal property, intangible property, contracts to receive real, personal, or intangible property, debt and other obligations of the corporation or any other domestic or foreign corporation, person, or other entity, services performed, contracts for services to be performed, debt or equity securities of the corporation or of any other domestic or foreign corporation, person, or other entity, and any direct or indirect benefit realized by the corporation. Such consideration may be received either directly or indirectly, including by direct or indirect wholly owned or partially owned domestic or foreign corporations or other entities. In addition, a corporation may issue and incur indebtedness without the receipt of any consideration by reason of the authorization or payment of a distribution. In the absence of fraud in the transaction, the judgment of the Board of Directors or the shareholders, as the case may be, as to the value, type, and sufficiency of the consideration received for any such indebtedness shall be conclusive.

Revisor's Note

The revised law expands on the power to incur liabilities set forth in Section 2.101(6). The need for this expansion is essentially historical. The common law of corporations placed

limits on the power of a corporation to incur debts. This common law concept has become antiquated in modern times as corporations have been accepted as separate entities with full legal capacity in all respects. Explicit or implicit in the source law for all domestic entities is the power to incur indebtedness. The explicit power to incur indebtedness found in Section 2.103, which is derived from Article 2.06, Texas Miscellaneous Corporation Laws Act, confirms this power of domestic entities.

Subsection (d) clarifies that this section does not apply to distributions by a domestic entity. The source law appears to authorize distributions by corporations, when the Texas Business Corporation Act and Texas Non-Profit Corporation Act strictly regulate the authority of a board of directors to authorize a distribution. The revised law eliminates this conflict and defers to other portions of the Code the authority for and limitations on distributions by domestic entities.

Revised Law

Sec. 2.104. POWER TO MAKE GUARANTIES. (a) In this section, "guaranty" means a mortgage, pledge, security agreement, or other agreement making the domestic entity or its assets secondarily liable for another person's contract, security, or other obligation.

(b) Unless otherwise provided by its governing documents or this code, a domestic entity may:

(1) make a guaranty on behalf of a parent, subsidiary, or affiliate of the entity; or

(2) make a guaranty of the indebtedness of another person if the guaranty may reasonably be expected directly or indirectly to benefit the entity.

(c) For purposes of Subsection (b)(2), a decision by the governing authority of the domestic entity that a guaranty may reasonably be expected to benefit the entity is conclusive and not subject to attack by any person, except:

(1) a guaranty may not be enforced by a person who participated in a fraud on the domestic entity resulting in the making of the guaranty or by a person who had notice of that

fraud at the time the person acquired rights under the guaranty;

(2) a proposed guaranty may be enjoined at the request of an owner of the domestic entity on the ground that the guaranty cannot reasonably be expected to benefit the domestic entity; or

(3) the domestic entity, whether acting directly or through a receiver, trustee, or other legal representative, or through an owner on behalf of the domestic entity, may bring suit for damages against the managerial officials, owners, or members who authorized the guaranty on the ground that the guaranty could not reasonably be expected to benefit the domestic entity.

(d) This section does not:

(1) apply to a domestic entity governed by the Insurance Code; or

(2) authorize a domestic entity that is not governed by the Insurance Code to engage in a business or transaction regulated by the Insurance Code. (TLLCA 8.12.B; TMCLA 2.06.B, C, D.)

Source Law

[TLLCA 8.12]

B. Subject to Section C of this Article, Articles 2.03 through 2.06, 2.09, 2.09A, 3.01, 7.01 through 7.05, and 7.07, Texas Miscellaneous Corporation Laws Act (Article 1302-1.01 et seq., Vernon's Texas Civil Statutes), as amended, apply to a limited liability company and its members, managers, and officers.

[TMCLA 2.06]

B. Any corporation shall have the power and authority to make a guaranty if the guaranty reasonably may be expected to benefit, directly or indirectly, the guarantor corporation. For purposes of this section, "guaranty" means a guaranty, mortgage, pledge, security agreement, or other agreement making the guarantor corporation or its assets responsible respecting the contracts, securities, or other obligations of any person

(including, but not limited to, any domestic or foreign corporation, person, or other entity, or any officer, director, or employee of such guarantor corporation). The decision of, or a decision made pursuant to authority granted by, the Board of Directors that the guaranty may reasonably be expected to benefit, directly or indirectly, the guarantor corporation shall be binding upon the guarantor corporation, and no guaranty made by a corporation in accordance with the provisions of this Section B shall be invalid or unenforceable as against such corporation, unless such guaranty is sought to be enforced by a person who participated in a fraud on the guarantor corporation resulting in the making of the guaranty or by a person who had notice of such fraud before he acquired his rights under the guaranty. Nothing herein contained shall prevent a suit (1) prior to the making of a guaranty by a corporation, by a shareholder in a representative suit against the guarantor corporation, to enjoin the making of such guaranty on the ground that such guaranty could not reasonably be expected to benefit, directly or indirectly, the guarantor corporation, or (2) after the making of a guaranty by a corporation, by the guarantor corporation, whether acting directly or through a receiver, trustee, or other legal representative or through a shareholder in a representative suit, against the directors who voted for or assented to the making of such guaranty for damages or other appropriate relief on the ground that such guaranty could not reasonably have been expected to benefit, directly or indirectly, the guarantor corporation, but such directors shall be entitled to assert any defenses which they may have under law.

C. A guaranty will be considered to benefit a guarantor corporation for purposes of Section B of this Article if the guaranty is of a contract, security, or other obligation of a subsidiary or an affiliated corporation or other entity. For the purposes of this section only:

(1) "subsidiary" means a domestic or foreign corporation or other entity, 50 percent or more of the outstanding voting interests or other ownership interest of which

is owned at the time of the action:

- (a) by the guarantor corporation itself;
- (b) by one or more of the guarantor corporation's subsidiaries; or

- (c) by the guarantor corporation and one or more of its subsidiaries;

(2) "parent" means a domestic or foreign corporation or other entity that at the time of the action owns 50 percent or more of the outstanding voting interests or other ownership interest of the guarantor corporation:

- (a) by itself;
- (b) through one or more of its subsidiaries; or
- (c) with one or more of its subsidiaries; and

(3) "affiliated corporation or other entity" means a domestic or foreign corporation or other entity, 50 percent or more of the outstanding shares or other ownership interest of which is owned at the time of the action:

- (a) by the parent of the guarantor corporation;
- (b) by one or more of the parent's subsidiaries;

or

- (c) by the parent and one or more of its subsidiaries.

D. Nothing contained in this Article is intended or shall be construed to limit or deny to any corporation the right or power to do or perform any act which it is or may be empowered or authorized to do or perform under any other laws of the State of Texas now in force or hereafter enacted. Provided, however, Sections B and C of this Article shall not apply to nor enlarge the powers of any corporation that does business pursuant to any provision of the Insurance Code of Texas, whether licensed in Texas or not, nor shall those sections allow or permit any corporation, not licensed under the Insurance Code of Texas, to engage in any character, type, class, or kind of fidelity, surety, or guaranty business or transaction subject to regulation under the Insurance Code.

Revisor's Note

The revised law expands on the power to incur liabilities set forth in Section 2.101(6). The need for this expansion is essentially historical. The common law of corporations placed limits on the power of a corporation to make guarantees. This common law concept has become antiquated in modern times as corporations have been accepted as separate entities with full capacity in all respects. Explicit or implicit in the source law for all domestic entities is the power to make guarantees. The explicit power to make guarantees found in Section 2.104, which is derived from Article 2.06, Texas Miscellaneous Corporation Laws Act, confirms this power of domestic entities.

Revised Law

Sec. 2.105. ADDITIONAL POWERS OF CERTAIN PIPELINE BUSINESSES. In addition to the powers provided by the other sections of this subchapter, a corporation, general partnership, limited partnership, limited liability company, or other combination of those entities engaged as a common carrier in the pipeline business for the purpose of transporting oil, oil products, gas, carbon dioxide, salt brine, fuller's earth, sand, clay, liquefied minerals, or other mineral solutions has all the rights and powers conferred on a common carrier by Sections 111.019-111.022, Natural Resources Code. (TBCA 2.01.B (part); TLLCA 2.02.D; TRLPA 1.09(c); TRPA 3.01 (part).)

Source Law

[TBCA 2.01]

B. . . .

(3) . . .

(b) . . . any corporation, or group of corporations acting in partnership or other combination with other corporations, engaged as a common carrier in the pipe line business for transporting oil, oil products, gas, carbon dioxide, salt brine, fuller's earth, sand, clay, liquefied minerals or other mineral solutions, shall have all of the rights and powers conferred by Sections 111.019 through 111.022, Natural Resources

Code.

[TLLCA 2.02]

D. A limited liability company engaged as a common carrier in the pipeline business for transporting oil, oil products, gas, carbon dioxide, salt brine, fuller's earth, sand, clay, liquefied minerals, or other mineral solutions has all of the rights and powers conferred by Sections 111.019-111.022, Natural Resources Code.

[TRLPA 1.09]

(c) A limited partnership engaged as a common carrier in the pipeline business for transporting oil, oil products, gas, carbon dioxide, salt brine, fuller's earth, sand, clay, liquefied minerals, or other mineral solutions has all of the rights and powers conferred by Sections 111.019 through 111.022, Natural Resources Code. A limited partnership that is a common carrier as defined in Section 111.002, Natural Resources Code, has in addition all of the obligations conferred by Sections 111.001 through 111.025, Natural Resources Code.

[TRPA]

3.01. . . .

(16) exercise all of the rights and powers conferred by Sections 111.019 through 111.022, Natural Resources Code, and their subsequent amendments, if the partnership is engaged as a common carrier in the pipeline business for transporting oil, oil products, gas, carbon dioxide, salt brine, fuller's earth, sand, clay, liquefied minerals, or other mineral solutions.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 2.106. POWER OF NONPROFIT CORPORATION TO SERVE AS TRUSTEE. (a) A nonprofit corporation that is described by Section 501(c)(3) or 170(c), Internal Revenue Code, or a

corresponding provision of a subsequent federal tax law, or a nonprofit corporation listed by the Internal Revenue Service in the Cumulative List of Organizations Described in Section 170(c) of the Internal Revenue Code of 1986, I.R.S. Publication 78, or any successor I.R.S. publication, may serve as the trustee of a trust:

(1) of which the nonprofit corporation is a beneficiary; or

(2) benefiting another organization described by one of those sections of the Internal Revenue Code, or a corresponding provision of a subsequent federal tax law, or listed by the Internal Revenue Service in the Cumulative List of Organizations Described in Section 170(c) of the Internal Revenue Code of 1986, I.R.S. Publication 78, or any successor I.R.S. publication.

(b) Any corporation (or person or entity assisting such corporation) described in this section shall have immunity from suit (including both a defense to liability and the right not to bear the cost, burden, and risk of discovery and trial) as to any claim alleging that the corporation's role as trustee of a trust described in this section constitutes engaging in the trust business in a manner requiring a state charter as defined in Section 181.002(a)(9), Finance Code. An interlocutory appeal may be taken if a court denies or otherwise fails to grant a motion for summary judgment that is based on an assertion of the immunity provided in this subsection. (TNPCA 2.31.)

Source Law

2.31.A. A corporation that is described by Section 501(c)(3) or 170(c), Internal Revenue Code of 1986, or a corresponding provision of a subsequent federal tax law, or a corporation listed by the Internal Revenue Service in the Cumulative List of Organizations Described in Section 170(c) of the Internal Revenue Code of 1986, I.R.S. Publication 78, may serve as the trustee of a trust:

(1) of which the corporation is a beneficiary; or

(2) benefitting another organization described by one of those sections of the Internal Revenue Code of 1986, or a corresponding provision of a subsequent federal tax law, or listed by the Internal Revenue Service in the Cumulative List of Organizations Described in Section 170(c) of the Internal Revenue Code of 1986, I.R.S. Publication 78.

B. Any corporation (or person or entity assisting such corporation) described in this article shall have immunity from suit (including both a defense to liability and the right not to bear the cost, burden, and risk of discovery and trial) as to any claim alleging that the corporation's role as trustee of a trust described in this article constitutes engaging in the trust business in a manner requiring a state charter as defined in Section 181.002(a)(9), Finance Code. An interlocutory appeal may be taken if a court denies or otherwise fails to grant a motion for summary judgment that is based on an assertion of the immunity provided in this subsection.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 2.107. STANDARD TAX PROVISIONS FOR CERTAIN CHARITABLE NONPROFIT CORPORATIONS; POWER TO EXCLUDE. (a) Notwithstanding any conflicting provision of this chapter, Chapter 3, or the certificate of formation and except as provided by Subsection (b), the certificate of formation of each corporation that is a private foundation as defined by Section 509, Internal Revenue Code, is considered to contain the following provisions: "The corporation shall make distributions at the time and in the manner as not to subject it to tax under Section 4942 of the Internal Revenue Code of 1986; the corporation shall not engage in any act of self-dealing which would be subject to tax under Section 4941 of the Code; the corporation shall not retain any excess business holdings which would subject it to tax under Section 4943 of the Code; the corporation shall not make any investments which would subject it to tax under Section 4944 of

the Code; and the corporation shall not make any taxable expenditures which would subject it to tax under Section 4945 of the Code."

(b) A nonprofit corporation described by Subsection (a) may amend the certificate of formation of the corporation to expressly exclude the application of Subsection (a). (TNPCA 2.27.A, B.)

Source Law

A. Notwithstanding any provision in this Act or in the articles of incorporation to the contrary (except as provided in Section B), the articles of incorporation of each corporation which is a private foundation described in Section 509 of the Internal Revenue Code of 1986 [26 U.S.C.A. Sec. 509] shall be deemed to contain the following provisions: "The corporation shall make distributions at such time and in such manner as not to subject it to tax under Section 4942 of the Internal Revenue Code of 1986; [26 U.S.C.A. Sec. 4942] the corporation shall not engage in any act of self-dealing which would be subject to tax under Section 4941 of the Code; [26 U.S.C.A. Sec. 4941] the corporation shall not retain any excess business holdings which would subject it to tax under Section 4943 of the Code; [26 U.S.C.A. Sec. 4943] the corporation shall not make any investments which would subject it to tax under Section 4944 of the Code; [26 U.S.C.A. Sec. 4944] and the corporation shall not make any taxable expenditures which would subject it to tax under Section 4945 of the Code." [26 U.S.C.A. Sec. 4945.] With respect to any such corporation organized prior to January 1, 1970, this Section A shall apply only for its taxable years beginning on or after January 1, 1972.

B. The articles of incorporation of any corporation described in Section A may be amended to expressly exclude the application of Section A, and in the event of such amendment, Section A shall not apply to such corporation.

Revisor's Note

No substantive change is intended. The revised law omits the last sentence of Article 2.27.A, Texas Non-Profit Corporation Act, as unnecessary.

Revised Law

Sec. 2.108. POWERS OF PROFESSIONAL ASSOCIATION. Except as provided by Title 7, a professional association has the same powers, privileges, duties, restrictions, and liabilities as a for-profit corporation. (TPAA 25 (part).)

Source Law

25. . . . professional associations shall enjoy the powers and privileges and be subject to the duties, restrictions and liabilities of business corporations except insofar as the same may be limited or enlarged by this Act. . . .

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 2.109. POWERS OF PROFESSIONAL CORPORATION. Except as provided by Title 7, a professional corporation has the same powers, privileges, duties, restrictions, and liabilities as a for-profit corporation. (TPCA 5 (part).)

Source Law

5. . . . professional corporations shall enjoy the powers and privileges and be subject to the duties, restrictions and liabilities of other business corporations except insofar as the same may be limited or enlarged by this Act. . . .

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 2.110. POWERS OF COOPERATIVE ASSOCIATION. (a) Except as provided by Chapter 251, a cooperative association may exercise the same powers and privileges and is subject to the

same duties, restrictions, and liabilities as a nonprofit corporation.

(b) A cooperative association may:

(1) own and hold membership in other associations or corporations;

(2) own and hold share capital of other associations or corporations;

(3) own and exercise ownership rights in bonds or other obligations;

(4) make agreements of mutual aid or federation with other associations, other groups organized on a cooperative basis, or other nonprofit groups; and

(5) deliver money to a scholarship fund for rural students. (CAA 6 (part).)

Source Law

6. An association may exercise all the powers granted to a nonprofit corporation under Article 2.02, Texas Non-Profit Corporation Act and may:

(1) own and hold membership in and share capital of other associations or corporations, and own and exercise ownership rights in bonds or other obligations;

(2) make agreements of mutual aid or federation with other associations, other groups organized on a cooperative basis, and other nonprofit groups;

. . .

(5) deliver money to a scholarship fund for rural students.

Revisor's Note

No substantive change is intended. Subsection (a) of the revised law is drafted to parallel the provisions of Sections 2.108 and 2.109. As such, the language contains additional provisions that a cooperative association is subject to the same duties, restrictions, and liabilities as a nonprofit corporation. This expanded language does not represent a substantive change

because Section 3, Cooperative Association Act, incorporates by reference the provisions of the Texas Non-Profit Corporation Act to the extent such provisions are not inconsistent with any other provisions of the Cooperative Association Act.

Revised Law

Sec. 2.111. LIMITATION ON POWERS OF COOPERATIVE ASSOCIATION. Except for the payment of necessary legal fees or promotion expenses, a cooperative association may not directly or indirectly use its funds, issue shares, or incur indebtedness for the payment of compensation for the organization of the cooperative association in excess of five percent of the amount paid for the shares or membership certificates involved in the promotion transaction. (CAA 40(a).)

Source Law

(a) No association may use its funds, directly or indirectly, issue shares, or incur indebtedness for the payment of compensation for the organization of the association, except necessary legal fees, or for the payment of promotion expenses, in excess of five percent of the amount paid for the shares or membership certificates involved in the promotion transaction.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 2.112. STATED POWERS IN SUBCHAPTER SUFFICIENT. A domestic entity is not required to state any of the powers provided to the entity by this subchapter in its governing documents. (TBCA 3.02.B; TLLCA 3.02.B; TNPCA 3.02.C.)

Source Law

[TBCA 3.02]

B. It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this Act.

[TLLCA 3.02]

B. It shall not be necessary to set forth in the articles of organization any of the company powers enumerated in this Act.

[TNPCA 3.02]

C. It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this Act.

Revisor's Note

The revised law is derived from source law governing corporations and limited liability companies. The same concept set forth in the revised law is implied in existing Texas statutes governing other entities because the requirements for the contents of the governing documents of the entity do not require a statement of the powers of the entity. Accordingly, these statutes are interpreted not to require such statement of powers. The revised law, therefore, does not represent a substantive change for these other domestic entities.

Revised Law

Sec. 2.113. LIMITATION ON POWERS. (a) This subchapter does not authorize a domestic entity or a managerial official of a domestic entity to exercise a power in a manner inconsistent with a limitation on the purposes or powers of the entity contained in its governing documents, this code, or other law of this state.

(b) This code does not authorize any action in violation of the antitrust laws of this state. (TBCA 2.02.B, C; TLLCA 2.02.B, C; TNPCA 2.02.B, C; TREITA 6.10(B), (C).)

Source Law

[TBCA 2.02]

B. Nothing in this Article grants any authority to officers or directors of a corporation for the exercise of any of the foregoing powers, inconsistent with limitations on any of the same which may be expressly set forth in this Act or in the articles of incorporation or in any other laws of this State.

Authority of officers and directors to act beyond the scope of the purpose or purposes of a corporation is not granted by any provision of this Article.

C. Nothing contained in this Article shall be deemed to authorize any action in violation of the Anti-Trust Laws of this State, as now existing or hereafter amended.

[TLLCA 2.02]

B. Nothing in this Article grants any authority to managers or members of a limited liability company for the exercise of the powers of a limited liability company, inconsistent with limitations on any of the same which may be expressly set forth in this Act or any articles of organization or regulations or in any laws of this State. Authority of managers and members to act beyond the scope of the purpose or purposes of a limited liability company is not granted by any provision of this Act.

C. Nothing contained in this Act shall be deemed to authorize any action in violation of the Anti-Trust laws of this State, as now existing or hereafter amended.

[TNPCA 2.02]

B. Nothing in this Article grants any authority to officers or directors of a corporation for the exercise of any of the foregoing powers, inconsistent with limitations on any of the same which may be expressly set forth in this Act or in the articles of incorporation or by-laws or in any other laws of this State. Authority of officers and directors to act beyond the scope of the purpose or purposes of a corporation is not granted by any provisions of this Article.

C. Nothing in this Article shall be deemed to authorize any action in violation of the Anti-Trust Laws of this State or of any of the provisions of Chapter 4 of Title 32 of Revised Civil Statutes of Texas, 1925, as now existing or hereafter amended.

[Vernon's Ann.Civ.St. arts. 1359 to 1365 (repealed).]

[TREITA 6.10]

(B) Nothing in this Section grants any authority to officers or trust manager(s) of a real estate investment trust to perform any of the foregoing powers inconsistent with the limitations on any of the same which may be expressly set forth in this Act or in the declaration of trust or in any other laws of this state. Authority of officers and trust manager(s) to act beyond the scope of the purpose or purposes of a real estate investment trust is not granted by any provision of this Section.

(C) Nothing contained in this Act shall be deemed to authorize any action in violation of the antitrust laws of this state as now existing or hereafter amended.

Revisor's Note

The revised law is derived from source law governing corporations, limited liability companies, and real estate investment trusts. Existing Texas statutes governing other types of entities have not been read to express or imply an intent to allow violations of the state's antitrust laws or conduct inconsistent with a limitation on the purposes or powers of an entity. The revised law, therefore, does not represent a substantive change for these other domestic entities.

Revised Law

Sec. 2.114. CERTIFICATED INDEBTEDNESS; MANNER OF ISSUANCE; SIGNATURE AND SEAL. (a) Except as otherwise provided by the governing documents of the domestic entity, this code, or other law, on the issuance by a domestic entity of a bond, debenture, or other evidence of indebtedness in certificated form, the seal of the entity, if the entity has adopted a seal, may be a facsimile that may be engraved or printed on the certificate.

(b) Except as otherwise provided by the governing documents of the domestic entity, this code, or other law, if a security described by Subsection (a) is authenticated with the manual signature of an authorized officer of the domestic entity or an authorized officer or representative, to the extent permitted by law, of a transfer agent or trustee appointed or named by an indenture of trust or other agreement under which the security is

issued, the signature of any officer of the domestic entity may be a facsimile signature.

(c) A security described by Subsection (a) that contains the manual or facsimile signature of a person who is no longer an officer when the security is delivered by the entity may be adopted, issued, and delivered by the entity in the same manner and to the same extent as if the person had remained an officer of the entity. (TLLCA 8.12.B; TMCLA 2.05.)

Source Law

[TLLCA 8.12]

B. Subject to Section C of this Article, Articles 2.03 through 2.06, 2.09, 2.09A, 3.01, 7.01 through 7.05, and 7.07, Texas Miscellaneous Corporation Laws Act (Article 1302-1.01 et seq., Vernon's Texas Civil Statutes), as amended, apply to a limited liability company and its members, managers, and officers.

[TMCLA]

2.05.A. Where any private corporation organized under the laws of this State hereafter issues any bond, debenture, or other evidence of indebtedness, the seal of the corporation thereon may be facsimile, engraved, or printed, and where any such bond, debenture, or other evidence of indebtedness is authenticated with the manual signature of any authorized officer of the corporation or other trustee appointed or named by an indenture of trust or other agreement under which such security is issued, the signature of any of the corporation's officers authorized to execute such security may be facsimile. In case any officer who signed, or whose facsimile signature has been used on any such bond, debenture, or other evidence of indebtedness shall cease to be an officer of the corporation for any reason before the same has been delivered by the corporation, such bond, debenture, or other evidence of indebtedness may nevertheless be adopted by the corporation and issued and delivered as though the person who signed it or whose facsimile signature has been used thereon had

not ceased to be such officer.

Revisor's Note

The provisions of the revised law, which are derived from Article 2.05, Texas Miscellaneous Corporation Laws Act, apply to certificated bonds, debentures, and other evidences of indebtedness of all domestic entities. The source law applies only to corporations and limited liability companies. This section codifies existing legal practices for the affected domestic entities and represents a reasonable standardization of the law in this area. By authorizing facsimile signatures from former officers to be enforceable on such certificates, this provision permits transfer agents for all types of domestic entities to continue to use preprinted certificate forms despite a change in officers.

CHAPTER 3. FORMATION AND GOVERNANCE

SUBCHAPTER A. FORMATION, EXISTENCE, AND CERTIFICATE OF FORMATION

Revised Law

Sec. 3.001. FORMATION AND EXISTENCE OF FILING ENTITIES. (a) Subject to the other provisions of this code, to form a filing entity, a certificate of formation complying with Sections 3.003, 3.004, and 3.005 must be filed in accordance with Chapter 4.

(b) The filing of a certificate of formation described by Subsection (a) may be included in a filing under Chapter 10.

(c) The existence of a filing entity commences when the filing of the certificate of formation takes effect as provided by Chapter 4.

(d) Except in a proceeding by the state to terminate the existence of a filing entity, an acknowledgment of the filing of a certificate of formation issued by the filing officer is conclusive evidence of:

- (1) the formation and existence of the filing entity;
- (2) the satisfaction of all conditions precedent to the formation of the filing entity; and
- (3) the authority of the filing entity to transact

business in this state. (CAA 9(a), (b); TBCA 3.03.A, 3.04; TLLCA 3.01, 3.03.A, 3.04, 11.01.A(1) (part); TNPCA 3.03.A, 3.04; TPAA 12(A), 13; TPCA 4(a) (part); TREITA 3.10(B); TRLPA 2.01(a) (part), (b).)

Source Law

[CAA 9]

(a) The articles shall be delivered to the secretary of state in accordance with the provisions of Article 3.03, Texas Non-Profit Corporation Act. If he finds that the articles conform to law, he shall file them on payment by the association of the fee required by Article 9.03, Texas Non-Profit Corporation Act.

(b) After filing and recording the articles, the secretary of state shall issue a certificate of incorporation, in accordance with Article 3.04, Texas Non-Profit Corporation Act, at which point the corporate existence begins.

[TBCA 3.03]

A. Except as provided by Section C of this Article, the original and a copy of the articles of incorporation shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of incorporation conform to law, he shall, when all fees have been paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of incorporation to which he shall affix the copy.

[TBCA]

3.04.A. Except as provided by Section B of this Article, on the issuance of the certificate of incorporation, the corporate existence of the corporation being incorporated shall begin.

B. In the case of a new domestic corporation being incorporated pursuant to a plan of conversion or a plan of merger

pursuant to Part Five of this Act, the corporate existence of the corporation shall begin upon the effectiveness of the conversion or the merger, as the case may be.

C. The certificate of incorporation on effectiveness shall be conclusive evidence that all conditions precedent required to be performed for the valid incorporation of the corporation have been complied with and that the corporation has been duly incorporated under this Act, except as against the State in a proceeding for involuntary dissolution.

[TLLCA]

3.01.A. Any natural person of the age of eighteen years or more, or any other person (without regard to place of residence, domicile, or organization) may act as an organizer of a limited liability company by signing the articles of organization for such limited liability company and by delivering the original and a copy of the articles of organization to the Secretary of State.

[TLLCA 3.03]

A. Except as provided by Section C of this Article, the original and a copy of the articles of organization shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of organization conform to law, the Secretary of State shall, when all fees have been paid as required by law:

(1) Endorse on the original and the copy the word "filed," and the month, day, and year of the filing thereof.

(2) File the original in the office of the Secretary of State.

(3) Issue a certificate of organization to which shall be affixed the copy.

[TLLCA]

3.04.A. Except as provided by Section B of this Article, on the issuance of the certificate of organization, the limited liability company's existence shall begin.

B. In the case of a new domestic limited liability company being organized pursuant to a plan of conversion or a plan of merger pursuant to Part Ten of this Act, the existence of the limited liability company as such shall begin on the effectiveness of the conversion or the merger, as the case may be.

C. On the issuance of the certificate of organization or the effectiveness of the merger or conversion, the certificate of organization shall be conclusive evidence that all conditions precedent required to be performed for the valid organization of the limited liability company have been complied with and that the limited liability company has been duly organized under this Act, except as against the state in a proceeding for involuntary dissolution.

[TLLCA 11.01.A]

(1) One or more persons may organize a professional limited liability company by filing articles of organization with the Secretary of State in accordance with Part Three of this Act. . . .

[TNPCA 3.03]

A. The original and a copy of the articles of incorporation shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of incorporation conform to law, he shall, when all fees have been paid as required by law:

(1) Endorse on the original and the copy the word "Filed", and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of incorporation to which he shall affix the copy.

[TNPCA]

3.04.A. Upon the issuance of the certificate of incorporation, the corporate existence shall begin, and such certificate of incorporation shall be conclusive evidence that

all conditions precedent required to be performed by the incorporators have been complied with, and that the corporation has been incorporated under this Act, except as against the State in a proceeding for involuntary dissolution.

[TPAA 12]

(A) The original and a copy of the articles of association shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of association conform to law, he shall, when all fees have been paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of association to which he shall affix the copy.

[TPAA]

13. Upon the issuance of the certificate of association, the association's existence shall begin.

[TPCA 4]

(a) One or more individuals, may incorporate a professional corporation by filing the original and a copy of Articles of Incorporation with the Secretary of State. One or more individuals may incorporate a professional legal corporation by filing the original and a copy of Articles of Incorporation with the Secretary of State. . . .

[TREITA 3.10]

(B) The declaration of trust shall be filed for record with the County Clerk of the county of the principal place of business of the real estate investment trust. The existence of the real estate investment trust begins when the declaration of trust is filed as required by this subsection.

[TRLPA 2.01]

(a) To form a limited partnership, . . . one or more partners, including all of the general partners, must execute a certificate of limited partnership. The filing fee and the certificate shall be filed with the secretary of state. . . .

(b) Except in the case of a limited partnership formed under a plan of merger or a plan of conversion under Section 2.11 or 2.15 of this Act, a limited partnership is formed at the time of the filing of the initial certificate of limited partnership with the secretary of state or at a later date or time specified in the certificate if there has been substantial compliance with the requirements of this section. In the case of a limited partnership being formed under a plan of merger or a plan of conversion under Section 2.11 or 2.15 of this Act, the existence of the limited partnership as a limited partnership begins on the effectiveness of the merger or the conversion, as applicable, and the persons to be partners shall become general or limited partners, as applicable, as of that time.

Revisor's Note

The revised law uses the generic term "certificate of formation," which differs from the source law where domestic filing entities filed organizational documents by different names, such as "articles of incorporation," "certificate of limited partnership," and "articles of organization," for example. The existence of the domestic filing entity commences when the filing takes effect under Chapter 4 and is not dependent on the issuance of a certificate by the filing officer, as under certain of the source laws. However, under Chapter 4, the filing cannot take effect unless the filing officer accepts the certificate of formation for filing. After acceptance, the filing officer is required to send an acknowledgment of the filing to the person filing the certificate of formation.

The revised law, in Subsection (d), extends to limited partnerships the rule, derived from similar provisions in the Texas Business Corporation Act, Texas Non-Profit Corporation Act, and Texas Limited Liability Company Act, that the acknowledgment

of filing by the filing officer is conclusive evidence of certain matters. The Texas Professional Association Act, Texas Professional Corporation Act, Cooperative Association Act, and Texas Real Estate Investment Trust Act have the same concept already through their incorporation by reference of the Texas Business Corporation Act and Texas Non-Profit Corporation Act to supplement their provisions.

Although not expressly stated, Chapter 3 relates to only domestic entities. The provisions of Chapter 3 are applicable to "nonfiling entities" and "filing entities," which are limited to domestic entities. Foreign entities are formed under the laws of another state and are, therefore, not subject to Chapter 3. This result can be implied from the definitions of these terms.

Revised Law

Sec. 3.002. FORMATION AND EXISTENCE OF NONFILING ENTITIES. The requirements for the formation of and the determination of the existence of a nonfiling entity are governed by the title of this code that applies to that entity. (New.)

Revisor's Note

No substantive change is intended. This section cross-references to the title of the code that governs each type of nonfiling entity for the requirements for the formation and determination of existence of the nonfiling entity.

Revised Law

Sec. 3.003. DURATION. A domestic entity exists perpetually unless otherwise provided in the governing documents of the entity. A domestic entity may be terminated in accordance with this code or the Tax Code. (TBCA 2.02.A (part); TLLCA 2.02.A; TNPCA 2.02.A (part); TPCA 17 (part).)

Source Law

[TBCA 2.02]

A. Subject to the provisions of Sections B and C of this Article, each corporation shall have power:

(1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of

incorporation. Notwithstanding the articles of incorporation, the period of duration for any corporation incorporated before September 6, 1955, is perpetual if all fees and franchise taxes have been paid as provided by law.

. . .

[TLLCA 2.02]

A. Each limited liability company shall have the power provided for a corporation under the TBCA and a limited partnership under the Texas Revised Limited Partnership Act.

[TNPCA 2.02]

A. Subject to the provisions of Sections B and C of this Article, each corporation shall have power:

(1) To have perpetual succession by its corporate name, unless a limited period of duration is stated in its articles of incorporation. Notwithstanding the articles of incorporation, the period of duration for any corporation incorporated before August 10, 1959, is perpetual if all fees and franchise taxes have been paid as provided by law.

. . .

[TPCA]

17. Unless the Articles of Incorporation expressly provide otherwise, a professional corporation shall continue as a separate entity for all purposes and for such period of time as is provided in the Articles of Incorporation until dissolved by a vote of its shareholders. . . .

Revisor's Note

The first sentence of Section 3.003 presumes that a domestic entity exists perpetually unless otherwise provided in the governing documents of the entity. The source law requires the articles of incorporation of a corporation, the certificate of organization of a limited liability company, or other formation instruments for other entities, other than limited partnerships,

to state the period of duration of the entity. As a corollary, the certificate of formation under the code for a filing entity other than a limited partnership only needs to state the period of duration if the entity is not formed to exist perpetually. The source law currently does not require the certificate of limited partnership to state the period of duration of the limited partnership. This rule is retained in Section 3.005 of the revised law. Because most filing entities formed in Texas have perpetual duration, a default rule of perpetual duration eliminates an unnecessary statement from the certificate of formation.

The second sentence of Section 3.003 confirms that a domestic entity may also be terminated in accordance with the Tax Code.

Revised Law

Sec. 3.004. ORGANIZERS. (a) Any person having the capacity to contract for the person or for another may be an organizer of a filing entity.

(b) Each organizer of a filing entity must sign the certificate of formation of the filing entity, except that:

(1) each general partner must sign the certificate of formation of a domestic limited partnership; and

(2) each trust manager must sign and acknowledge before an officer who is authorized by law to take acknowledgment of a deed the certificate of formation of a domestic real estate investment trust. (TBCA 3.01 (part); TLLCA 3.01 (part); TNPCA 3.01.A (part); TREITA 3.10(A) (part); TRLPA 2.01(a) (part).)

Source Law

[TBCA]

3.01.A. Any natural person of the age of eighteen (18) years or more, or any domestic or foreign corporation, estate, or other entity may act as an incorporator of a corporation by signing the articles of incorporation for such corporation and

[TLLCA]

3.01.A. Any natural person of the age of eighteen years or more, or any other person (without regard to place of residence, domicile, or organization) may act as an organizer of a limited liability company by signing the articles of organization for such limited liability company and

[TNPCA 3.01]

A. Any natural person of the age of eighteen (18) years or more without regard to the person's place of residence or domicile may act as an incorporator of a corporation by signing the articles of incorporation for such corporation and

[TREITA 3.10]

(A) One or more persons, may act as trust manager(s) of a real estate investment trust by subscribing and acknowledging to a declaration of trust before an officer duly authorized to take acknowledgments of deeds,

[TRLPA 2.01]

(a) To form a limited partnership, . . . one or more partners, including all of the general partners, must execute a certificate of limited partnership. . . .

Revisor's Note

No substantive change is intended. The revised law uses the generic term "organizer" in lieu of the term "incorporator" found in the Texas Business Corporation Act and Texas Non-Profit Corporation Act. Instead of referring to the age of the organizer, as in the source law, Subsection (a) of the revised law refers to the organizer's ability to enter into a contract. Under Texas law, 18 is the age at which persons are no longer considered minors and can enter into contracts.

Revised Law

Sec. 3.005. CERTIFICATE OF FORMATION. (a) The certificate of formation must state:

- (1) the name of the filing entity being formed;
 - (2) the type of filing entity being formed;
 - (3) for filing entities other than limited partnerships, the purpose or purposes for which the filing entity is formed, which may be stated to be or include any lawful purpose for that type of entity;
 - (4) for filing entities other than limited partnerships, the period of duration, if the entity is not formed to exist perpetually;
 - (5) the street address of the initial registered office of the filing entity and the name of the initial registered agent of the filing entity at the office;
 - (6) the name and address of each:
 - (A) organizer for the filing entity, unless the entity is formed under a plan of conversion or merger;
 - (B) general partner, if the filing entity is a limited partnership; or
 - (C) trust manager, if the filing entity is a real estate investment trust;
 - (7) if the filing entity is formed under a plan of conversion or merger, a statement to that effect and, if formed under a plan of conversion, the name, address, date of formation, prior form of organization, and jurisdiction of formation of the converting entity; and
 - (8) any other information required by this code to be included in the certificate of formation for the filing entity.
- (b) The certificate of formation may contain other provisions not inconsistent with law relating to the organization, ownership, governance, business, or affairs of the filing entity.
- (c) Except as provided by Section 3.004, Chapter 4 governs the signing and filing of a certificate of formation for a domestic entity. (TBCA 3.02.A (part); TLLCA 3.02.A (part), 11.01.A(1) (part); TNPCA 3.02.A (part); TPAA 8(A) (part); TPCA 4(a) (part); TREITA 3.10(A) (part); TRLPA 2.01(a) (part).)

Source Law

[TBCA 3.02]

A. The articles of incorporation shall set forth:

- (1) The name of the corporation;
- (2) The period of duration, which may be perpetual;
- (3) The purpose or purposes for which the corporation is organized which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated under this Act;

. . .

(10) Any provision, not inconsistent with law, including any provision which under this Act is required or permitted to be set forth in the bylaws or which is permitted to be included pursuant to Article 2.30-1 of this Act, providing for the regulation of the internal affairs of the corporation;

(11) The street address of its initial registered office and the name of its initial registered agent at such address;

. . .

(13) The name and address of each incorporator, unless the corporation is being incorporated pursuant to a plan of conversion or a plan of merger, in which case the articles need not include such information; and

(14) If the corporation is being incorporated pursuant to a plan of conversion or a plan of merger, a statement to that effect, and in the case of a plan of conversion, the name, address, date of formation, and prior form of organization and jurisdiction of incorporation or organization of the converting entity.

[TLLCA 3.02]

A. The initial Articles of Organization shall set forth:

- (1) The name of the limited liability company;
- (2) The period of duration, which may be perpetual;
- (3) The purpose for which the limited liability

company is organized which may be stated to be, or to include, the transaction of any or all lawful business for which limited liability companies may be organized under this Act;

(4) The address of its initial registered office and the name of its initial registered agent at that address;

. . .

(6) The name and the address of each organizer, unless the limited liability company is being organized pursuant to a plan of conversion or a plan of merger, in which case the articles need not include such information;

. . .

(8) If the limited liability company is being organized pursuant to a plan of conversion or a plan of merger, a statement to that effect, and in the case of a plan of conversion, the name, address, prior form of organization, date of incorporation, formation, or organization, and jurisdiction of incorporation, formation, or organization of the converting entity; and

(9) Any other provisions, not inconsistent with law, that the members elect to set out in the articles of organization for the regulation of the internal affairs of the limited liability company, including any provisions that under this Act are permitted to be set out in the regulations of the limited liability company.

[TLLCA 11.01.A]

(1) . . . In addition to other provisions required or permitted by law, the articles of organization of a professional limited liability company must include a statement:

(a) that the limited liability company is a professional limited liability company; and

(b) describing the specific kind of professional service to be rendered by the limited liability company.

[TNPCA 3.02]

A. The articles of incorporation shall set forth:

- (1) The name of the corporation.
- (2) A statement that the corporation is a non-profit corporation.
- (3) The period of duration, which may be perpetual.
- (4) The purpose or purposes for which the corporation is organized.
- . . .
- (7) Any provision, not inconsistent with law, including any provision which under this Act is required or permitted to be set forth in the by-laws, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation.
- (8) The street address of its initial registered office and the name of its initial registered agent at such street address.
- . . .
- (10) The name and street or post office address of each incorporator.
- . . .

[TPAA 8]

- (A) Required provisions. The articles of association shall set forth:
 - (1) The name and address of the association
 - (2) The period of duration
 - (3) The type of professional service to be performed
 - . . .

[TPCA 4]

- (a) . . . In addition to other provisions required or permitted by law, the Articles of Incorporation shall set forth:
 - (1) A statement that the corporation is a professional corporation; and
 - (2) A statement of the professional service to be rendered by the corporation.

[TREITA 3.10]

(A) One or more persons, may act as trust manager(s) of a real estate investment trust by subscribing and acknowledging to a declaration of trust before an officer duly authorized to take acknowledgments of deeds, which shall set forth:

(1) The name of the real estate investment trust
and

. . . .

(3) The post office address of its initial principal office and place of business.

(4) The street address of its registered office and the name of its registered agent at that address.

. . . .

(6) The period of its duration, which may be for a term of years or perpetual.

. . . .

(10) Any provision, not inconsistent with law, including any provision which under this Act is permitted to be set forth in the bylaws, which the trust manager(s) elect to set forth in the declaration of trust for the regulation of the internal affairs of the real estate investment trust.

[TRLPA 2.01]

(a) . . . The certificate must contain:

(1) the name of the limited partnership;

(2) the address of the registered office and the name and address of the registered agent for service of process required to be maintained by Section 1.06 of this Act;

. . . .

(4) the name, the mailing address, and the street address of the business or residence of each general partner;

(5) if the limited partnership is being formed pursuant to a plan of merger or a plan of conversion under Section 2.11 or 2.15 of this Act, a statement to that effect;

(6) if the limited partnership is being formed pursuant to a plan of conversion under Section 2.15 of this Act,

the name, the address, the date of formation, and the prior form of organization and jurisdiction of incorporation or organization of the converting entity; and

(7) other matters that the general partners determine to include.

Revisor's Note

Section 3.005 contains several necessary changes. The certificate of formation must state the type of entity being formed. In addition, in conformance with Section 3.003, the certificate of formation only needs to state the period of duration if not perpetual. See Revisor's Note to Section 3.003. The revised law omits certain phrases in the Texas Business Corporation Act, Texas Limited Liability Company Act, Texas Real Estate Investment Trust Act, and Texas Non-Profit Corporation Act that indicate that provisions permitted in the bylaws of the business corporation, nonprofit corporation, or real estate investment trust or in the regulations of a limited liability company may be included in the articles of incorporation, trust declaration, or articles of organization. No substantive change is intended by the revised law because the language of Subsection (b) is very broad and should be interpreted to permit such provisions to be included. The reference to Texas Business Corporation Act Article 2.30-1 in Texas Business Corporation Act Article 3.02.A(10) is omitted because it is covered by Section 3.008 of the revised law.

Revised Law

Sec. 3.006. FILINGS IN CASE OF MERGER OR CONVERSION. (a) If a new domestic filing entity is formed under a plan of conversion or merger, the certificate of formation of the entity must be filed with the certificate of conversion or merger under Section 10.155(a) or 10.153(a). The certificate of formation is not required to be filed separately under Section 3.001.

(b) The formation and existence of a domestic filing entity that is a converted entity in a conversion or that is to be created under a plan of merger takes effect and commences on the

effectiveness of the conversion or merger, as appropriate. (TBCA 3.03.C (part), 3.04.B; TLLCA 3.03.C (part), 3.04.B; TRLPA 2.01(b) (part), 2.11(e) (part), 2.15(c) (part).)

Source Law

[TBCA 3.03]

C. In the case of a new domestic corporation being incorporated pursuant to a plan of conversion or a plan of merger pursuant to Part Five of this Act, the articles of incorporation of the corporation shall be filed with the Secretary of State with the articles of conversion or merger and need not be filed separately pursuant to Section A of this Article. . . . In the case of a conversion or a merger, the certificate of incorporation of a domestic corporation that is a converted entity or that is to be created pursuant to the plan of merger shall become effective on the effectiveness of the conversion or the merger, as the case may be.

[TBCA 3.04]

B. In the case of a new domestic corporation being incorporated pursuant to a plan of conversion or a plan of merger pursuant to Part Five of this Act, the corporate existence of the corporation shall begin upon the effectiveness of the conversion or the merger, as the case may be.

[TLLCA 3.03]

C. In the case of a new domestic limited liability company being organized pursuant to a plan of conversion or a plan of merger pursuant to Part Ten of this Act, the articles of organization of the limited liability company shall be filed with the Secretary of State with the articles of conversion or merger and need not be filed separately pursuant to Section A of this Article. . . . In the case of a conversion or a merger, the certificate of organization of a domestic limited liability company that is a converted entity or that is to be created pursuant to the plan of merger shall become effective on the

effectiveness of the conversion or the merger, as the case may be.

[TLLCA 3.04]

B. In the case of a new domestic limited liability company being organized pursuant to a plan of conversion or a plan of merger pursuant to Part Ten of this Act, the existence of the limited liability company as such shall begin on the effectiveness of the conversion or the merger, as the case may be.

[TRLPA 2.01]

(b) . . . In the case of a limited partnership being formed under a plan of merger or a plan of conversion under Section 2.11 or 2.15 of this Act, the existence of the limited partnership as a limited partnership begins on the effectiveness of the merger or the conversion, as applicable, and the persons to be partners shall become general or limited partners, as applicable, as of that time.

[TRLPA 2.11]

(e) An equal number of copies of the certificate of limited partnership of each domestic limited partnership that is to be formed pursuant to the plan of merger shall also be delivered to the secretary of state with the articles of merger. . . .

[TRLPA 2.15]

(c) A plan of conversion shall set forth:

. . .

(5) in an attachment or exhibit, the certificate of limited partnership of the domestic limited partnership, if the converted entity is a domestic limited partnership; and

. . .

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 3.007. SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF FOR-PROFIT CORPORATION. (a) In addition to the information required by Section 3.005, the certificate of formation of a for-profit corporation must state:

(1) the aggregate number of shares the corporation is authorized to issue;

(2) if the shares the corporation is authorized to issue consist of one class of shares only, the par value of each share or a statement that each share is without par value;

(3) if the corporation is to be managed by a board of directors, the number of directors constituting the initial board of directors and the name and address of each person who will serve as director until the first annual meeting of shareholders and until a successor is elected and qualified; and

(4) if the corporation is to be managed pursuant to a shareholders' agreement in a manner other than by a board of directors, the name and address of each person who will perform the functions required by this code to be performed by the initial board of directors.

(b) If the shares a for-profit corporation is authorized to issue consist of more than one class of shares, the certificate of formation of the for-profit corporation must, with respect to each class, state:

(1) the designation of the class;

(2) the aggregate number of shares in the class;

(3) the par value of each share or a statement that each share is without par value;

(4) the preferences, limitations, and relative rights of the shares; and

(5) if the shares in a class the corporation is authorized to issue consist of more than one series, the following with respect to each series:

(A) the designation of the series;

(B) the aggregate number of shares in the series;
(C) any preferences, limitations, and relative rights of the shares to the extent provided in the certificate of formation; and

(D) any authority vested in the board of directors to establish the series and set and determine the preferences, limitations, and relative rights of the series.

(c) If the shareholders of a for-profit corporation are to have a preemptive right or cumulative voting right, the certificate of formation of the for-profit corporation must comply with Section 21.203 or 21.360, as appropriate. (TBCA 3.02.A (part).)

Source Law

A. The articles of incorporation shall set forth:

. . .

(4) The aggregate number of shares which the corporation shall have authority to issue; if such shares are to consist of one class only, the par value of each of such shares, or a statement that all of such shares are without par value; or, if such shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each class or that such shares are to be without par value;

(5) If the shares are to be divided into classes, the designation of each class and statement of the preferences, limitations, and relative rights in respect of the shares of each class;

(6) If the corporation is to issue the shares of any class in series, then the designation of each series and a statement of the variations in the preferences, limitations and relative rights as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the preferences, limitations and relative rights of each series;

(7) A statement that the corporation will not commence business until it has received for the issuance of shares consideration of the value of a stated sum which shall be at least One Thousand Dollars (\$1,000.00);

(8) Any provision limiting or denying to shareholders the preemptive right to acquire additional or treasury shares of the corporation;

. . .

(12) Subject to Article 2.30-1 of this Act, the number of directors constituting the initial board of directors and the names and addresses of the person or persons who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify, or, in the case of a close corporation that, in conformance with Part Twelve of this Act, is to be managed in some other manner pursuant to a shareholders' agreement by the shareholders or by the persons empowered by the agreement to manage its business and affairs, the names and addresses of the person or persons who, pursuant to the shareholders' agreement, will perform the functions of the initial board of directors provided for by this Act;

. . .

Revisor's Note

The requirement under the source law that a for-profit corporation's articles of incorporation contain a statement that a corporation will not commence business until it has received for the issuance of shares consideration of the value of at least \$1,000 has been eliminated from Sections 3.005 and 3.007 since the \$1,000 requirement has been eliminated. A similar change has been made in Section 9.005 with respect to foreign for-profit corporations that qualify to do business in Texas inasmuch as they are no longer required to state that they have received at least \$1,000 for their shares, which had been required by Article 8.05.A(11), Texas Business Corporation Act. A \$1,000 minimum capitalization has become outmoded and provides little comfort as to adequate capitalization. Neither Delaware corporate law nor

the Revised Model Business Corporation Act contains a similar minimum capitalization requirement.

The revised law conforms with substantive changes to the source law effected in Chapter 21 to provide preemptive rights and cumulative voting rights to corporate shareholders only when the certificate of formation affirmatively provides such rights.

Revised Law

Sec. 3.008. SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF CLOSE CORPORATION. (a) In addition to a provision required or permitted to be stated in the certificate of formation of a for-profit corporation under Section 3.007, the certificate of formation of a close corporation, whether original, amended, or restated, must include the sentence, "This corporation is a close corporation."

(b) The certificate of formation of the close corporation may contain:

(1) a provision contained or permitted to be contained in a shareholders' agreement conforming to Subchapter O, Chapter 21, that the organizers elect to include in the certificate of formation; or

(2) a copy of a shareholders' agreement that conforms to Subchapter O, Chapter 21, and that may be filed in the manner provided by Section 21.212.

(c) A provision contained in the certificate of formation under Subsection (b) must be preceded by a statement that the provision is subject to the corporation remaining a close corporation. (TBCA 3.02.A (part), 12.11.)

Source Law

[3.02]

A. . . .

(9) If a corporation elects to become a close corporation in conformance with Part Twelve of this Act, any provision (a) required or permitted by this Act to be stated in the articles of incorporation of a close corporation, but not in the articles of incorporation of an ordinary corporation, (b)

contained or permitted to be contained in a shareholders' agreement in conformance with Part Twelve of this Act which the incorporators elect to set forth in articles of incorporation, or (c) that makes a shareholders' agreement in conformance with Part Twelve of this Act part of the articles of incorporation of a close corporation in the manner prescribed in Section F, Article 2.22 of this Act, but any such provision, other than the statement required by Section A, Article 12.11 of this Act, shall be preceded by a statement that the provision shall be subject to the corporation remaining a close corporation in conformance with Part Twelve of this Act;

. . .

12.11.A. In General. In addition to any provision required or permitted to be set forth in the articles by Article 3.02 of this Act the articles of incorporation of a close corporation, whether original, amended, or restated, must include the following statement: "This corporation is a close corporation."

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 3.009. SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF NONPROFIT CORPORATION. In addition to the information required by Section 3.005, the certificate of formation of a nonprofit corporation must include:

(1) if the nonprofit corporation is to have no members, a statement to that effect;

(2) if management of the nonprofit corporation's affairs is to be vested in the nonprofit corporation's members, a statement to that effect;

(3) the number of directors constituting the initial board of directors and the names and addresses of those directors or, if the management of the nonprofit corporation is vested solely in the nonprofit corporation's members, a statement to that effect; and

(4) if the nonprofit corporation is to be authorized on its winding up to distribute the nonprofit corporation's assets in a manner other than as provided by Section 22.304, a statement describing the manner of distribution. (TNPCA 3.02.A (part).)

Source Law

A. The articles of incorporation shall set forth:

. . .

(5) If the corporation is to have no members, a statement to that effect.

(6) If management of the affairs of the corporation is to be vested in its members, a statement to that effect.

(7) Any provision, not inconsistent with law, including any provision which under this Act is required or permitted to be set forth in the by-laws, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation.

. . .

(9) The number of directors constituting the initial board of directors, and the names and addresses of the persons who are to serve as the initial directors unless the management of the corporation is vested in its members, in which event a statement to that effect shall be set forth.

. . .

(11) If the corporation is to be authorized on its dissolution to distribute its assets in a manner other than as provided by Article 6.02(3) of this Act, a statement describing the manner of distribution of the corporation's assets.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 3.010. SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF LIMITED LIABILITY COMPANY. In addition to the information required by Section 3.005, the certificate of

formation of a limited liability company must state:

(1) whether the limited liability company will or will not have managers;

(2) if the limited liability company will have managers, the name and address of each initial manager of the limited liability company; and

(3) if the limited liability company will not have managers, the name and address of each initial member of the limited liability company. (TLLCA 3.02.A (part).)

Source Law

A. The initial Articles of Organization shall set forth:

. . .

(5) If the limited liability company is to have a manager or managers, a statement to that effect and the names and the addresses of the initial manager or managers, or if the limited liability company will not have managers, a statement to that effect and the names and the addresses of the initial members;

. . .

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 3.011. SUPPLEMENTAL PROVISIONS REGARDING CERTIFICATE OF FORMATION OF LIMITED PARTNERSHIP. (a) To form a limited partnership, the partners must enter into a partnership agreement and file a certificate of formation.

(b) The partners of a limited partnership formed under Section 10.001 or 10.101 may include the partnership agreement required under Subsection (a) in the plan of merger or conversion.

(c) A certificate of formation for a limited partnership must include the address of the principal office of the partnership in the United States where records are to be kept or made available under Section 153.551.

(d) The fact that a certificate of formation is on file with the secretary of state is notice that the partnership is a limited partnership and of all other facts contained in the certificate as required by Section 3.005. (TRLPA 2.01(a) (part), 2.09.)

Source Law

[2.01]

(a) To form a limited partnership, the partners must enter into a partnership agreement (which, in the case of a limited partnership formed under a plan of merger or a plan of conversion under Section 2.11 or 2.15 of this Act, may be included in the plan of merger or plan of conversion) and . . . the certificate shall be filed with the secretary of state. The certificate must contain:

. . .

(3) the address of the principal office in the United States where records are to be kept or made available under Section 1.07 of this Act;

. . .

2.09. The fact that a certificate of limited partnership is on file with the secretary of state is notice that the partnership is a limited partnership and of all other facts contained in the certificate as required by Subdivision (1), (2), or (3) of Subsection (a) of Section 2.01 of this Act.

Revisor's Note

No substantive change is intended. Subsection (d) clarifies what was confusing in Texas Revised Limited Partnership Act Section 2.09 as to the deemed notice of facts contained in the certificate of formation. There is no policy reason why this constructive notice doctrine should be limited to only a portion of the certificate, and a court would probably have difficulty so limiting the deemed notice.

Revised Law

Sec. 3.012. SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF REAL ESTATE INVESTMENT TRUST. In addition to the information required by Section 3.005, the certificate of formation of a real estate investment trust must state:

(1) that an assumed name certificate stating the name of the real estate investment trust has been filed in the manner provided by law;

(2) that the purpose of the real estate investment trust is to:

(A) purchase, hold, lease, manage, sell, exchange, develop, subdivide, and improve real property and interests in real property, other than severed mineral, oil, or gas royalty interests, and carry on any other business and perform any other action in connection with a purpose described by this paragraph;

(B) exercise powers conferred by the laws of this state on a real estate investment trust; and

(C) perform any action described by Chapter 200 or Title 1 to the same extent as an individual;

(3) the post office address of the initial principal office and place of business of the real estate investment trust;

(4) the aggregate number of shares of beneficial interest the real estate investment trust is authorized to issue and the par value to be received by the real estate investment trust for the issuance of each share;

(5) if shares described by Subdivision (4) are divided into classes as authorized by Section 200.102 or 200.103, a description of each class of shares, including any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends, qualifications, and terms and conditions of redemption; and

(6) that the trust managers shall manage the money or property received for the issuance of shares for the benefit of the shareholders of the real estate investment trust. (TREITA 3.10(A) (part).)

Source Law

(A) One or more persons, may act as trust manager(s) of a real estate investment trust by subscribing and acknowledging to a declaration of trust before an officer duly authorized to take acknowledgments of deeds, which shall set forth:

(1) . . . a statement that an assumed name certificate setting forth such name has been filed in the manner prescribed by law.

(2) A statement that it is formed pursuant to the provisions of this Act and has the following as its purpose:

To purchase, hold, lease, manage, sell, exchange, develop, subdivide and improve real property and interests in real property, and in general, to carry on any other business and do any other acts in connection with the foregoing and to have and exercise all powers conferred by the laws of the State of Texas upon real estate investment trusts formed under the Texas Real Estate Investment Trust Act, and to do any or all of the things hereinafter set forth to the same extent as natural persons might or could do. The term "real property" and the term "interests in real property" for the purposes stated herein shall not include severed mineral, oil or gas royalty interests.

(3) The post office address of its initial principal office and place of business.

. . .

(7) The aggregate number of shares of beneficial interest the real estate investment trust shall have authority to issue and the par value to be received by the real estate investment trust for the issuance of each of such shares. If the shares are divided into classes as permitted by Section 3.30 of this Act, the declaration shall provide a description of each class, including any preferences, conversion, and other rights, voting powers, restrictions, limitations as to dividends, qualifications, and terms and conditions of redemption.

(8) A statement that the trust manager(s) shall manage the money or property received for the issuance of shares for the

benefit of the shareholders of the real estate investment trust.

(9) A statement that the real estate investment trust will not commence business until it has received for the issuance of shares of beneficial interest consideration of at least a \$1,000 value, consisting of any tangible or intangible benefit to the real estate investment trust, including cash, promissory notes, services performed, contracts for services to be performed, or other securities of the real estate investment trust.

. . .

Revisor's Note

The requirement that a real estate investment trust have \$1,000 of minimum capital has been deleted from Sections 3.005 and 3.012 as outmoded and unnecessary. A \$1,000 minimum capitalization in today's terms does not provide anyone any comfort as to adequate capitalization. This change parallels the change in the for-profit corporation provisions.

Revised Law

Sec. 3.013. SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF COOPERATIVE ASSOCIATION. In addition to the information required by Section 3.005, the certificate of formation of a cooperative association must state:

(1) whether the cooperative association is organized with or without shares;

(2) the number of shares or memberships subscribed for the cooperative association;

(3) if the cooperative association is organized with shares:

(A) the amount of authorized capital;

(B) the number and type of shares;

(C) par value of the shares, if any; and

(D) the rights, preferences, and restrictions of each type of share;

(4) the method of distribution on winding up and termination of any surplus of the cooperative association in

accordance with Section 251.403; and

(5) the names and street addresses of the directors who will manage the affairs of the cooperative association for the initial year, unless sooner changed by the members. (CAA 8(b) (part).)

Source Law

(b) Subject to the limitations of this Act, the articles must contain:

. . .

(6) the names and street addresses of the directors who shall manage the affairs of the association for the first year, unless sooner changed by the members;

(7) a statement of whether the association is organized with or without shares, and the number of shares or memberships subscribed for;

(8) if organized with shares, a statement of the amount of authorized capital, the number and types of shares and the par value, if any, of the shares, and the rights, preferences, and restrictions of each type of share;

(9) the method by which a surplus is distributed on dissolution of the association, in conformity with the requirements of Section 38 of this Act for division of surplus.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 3.014. SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF PROFESSIONAL ENTITY. In addition to the information required by Section 3.005, the certificate of formation of a professional entity must state:

(1) the type of professional service to be provided by the professional entity as the purpose of the entity; and

(2) that the professional entity is a:

(A) professional association;

(B) professional corporation; or

(C) professional limited liability company.
(TLLCA 11.01.A(1) (part); TPAA 8(A) (part); TPCA 4(a) (part).)

Source Law

[TLLCA 11.01.A]

(1) . . . In addition to other provisions required or permitted by law, the articles of organization of a professional limited liability company must include a statement:

(a) that the limited liability company is a professional limited liability company; and

(b) describing the specific kind of professional service to be rendered by the limited liability company.

[TPAA 8]

(A) Required provisions. The articles of association shall set forth:

[(1) The name and address of the association]

. . .

(3) The type of professional service to be performed

. . .

[(5) A statement that each of the original members is licensed to perform the type of professional service for which the association is formed.]

[TPCA 4]

(a) . . . In addition to other provisions required or permitted by law, the Articles of Incorporation shall set forth:

(1) A statement that the corporation is a professional corporation; and

(2) A statement of the professional service to be rendered by the corporation.

Revisor's Note

No substantive change is intended, except that to conform with the provisions of other types of professional entities and the more modern provisions of the Texas Business Corporation Act

in this area, the requirements in the Texas Professional Association Act for listing a professional association's address and for stating that each original member is properly licensed have been deleted. There is no need to repeat in the certificate of formation the statutory requirement that all members must be properly licensed. In practice, the Secretary of State sends notices to the address of the registered agent and not the association's address listed in its articles.

Revised Law

Sec. 3.015. SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF PROFESSIONAL ASSOCIATION. (a) In addition to containing the information required under Sections 3.005 and 3.014, the certificate of formation of a professional association must:

- (1) be signed by each member of the association; and
- (2) state:

(A) the name and address of each original member of the association; and

(B) that a member of the association may not dissolve the association independently of other members of the association.

(b) The certificate of formation of a professional association may contain:

(1) provisions regarding shares or units of ownership in the association;

(2) provisions governing the winding up and termination of the association's business; and

(3) any other provision consistent with state law regulating the internal affairs of a professional association.

(TPAA 8(A) (part), (B), (C), (D), (E).)

Source Law

(A) Required provisions. The articles of association shall set forth:

. . .

- (4) The names and addresses of each of the original

members

. . .

(B) Continuity. Articles of association may provide that a professional association

(1) shall continue as a separate entity independent of its members, for all purposes, for such period of time as provided in the articles, or until dissolved by a vote of two-thirds of the members, and

(2) shall continue notwithstanding the death, insanity, incompetency, conviction for felony, resignation, withdrawal, transfer of membership, retirement, or expulsion of any one or more of the members (except the last surviving member), the admission of or transfer of membership to any new member or members, or the happening of any other event, which under the law of this state and under like circumstances, would work a dissolution of a partnership.

(C) Power to dissolve. The articles shall provide that no member of a professional association shall have the power to dissolve the association by his independent act of any kind.

(D) Optional provisions. The articles of association may set forth any other provision, not inconsistent with the law, which the members elect to set forth for the regulation of the internal affairs of the association.

(E) Execution. The articles of association shall be signed by each of the members.

Revisor's Note

No substantive change is intended. Subsection (b)(1) of the revised law has been added to clarify what was implied in the Texas Professional Association Act through various references to shares or units of ownership in the association. Subsection (b)(2) of the revised law simplifies the authority to add terms relating to winding up and termination into the certificate of formation and avoids the lengthy description of what are in substance regulatory provisions contained in Texas Professional Association Act Section 8(B). These regulatory provisions are

included in Section 302.002 of the code in clearer terms. In addition, the more elaborate dissolution provisions in the source law were tax driven and have become less important as a result of the flexibility permitted by the "check-the-box" rules of the IRS.

[Sections 3.016-3.050 reserved for expansion]

SUBCHAPTER B. AMENDMENTS AND RESTATEMENTS OF
CERTIFICATE OF FORMATION

Revised Law

Sec. 3.051. RIGHT TO AMEND CERTIFICATE OF FORMATION. (a) A filing entity may amend its certificate of formation.

(b) An amended certificate of formation may contain only provisions that:

(1) would be permitted at the time of the amendment if the amended certificate of formation were a newly filed original certificate of formation; or

(2) effect a change, exchange, reclassification, or cancellation in the membership or ownership interests or the rights of owners or members of the filing entity. (TBCA 4.01.A; TLLCA 3.05.A; TNPCA 4.01; TPAA 14(A); TREITA 22.10(A); TRLPA 2.02(a) (part).)

Source Law

[TBCA 4.01]

A. A corporation may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment, and, if a change in shares or the rights of shareholders, or an exchange, reclassification, or cancellation of shares or rights of shareholders is to be made, such provisions as may be necessary to effect such change, exchange, reclassification, or cancellation.

[TLLCA 3.05]

A. A limited liability company may amend its articles of organization from time to time, in any and as many respects as may be desired, so long as its articles of organization as amended contain only such provisions as might be lawfully contained in original articles of organization at the time of making such amendment.

[TNPCA]

4.01.A. A corporation may amend its articles of incorporation from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as are lawful under this Act.

[TPAA 14]

(A) Authority to amend. A professional association may amend its articles of association, from time to time, in accordance with the procedure for amendment stated therein or if none is stated therein, by two-thirds vote of its members.

[TREITA 22.10]

(A) A real estate investment trust may amend its declaration of trust, from time to time, in any and as many respects as may be desired, so long as its declaration of trust as amended contains only such provisions as may be lawfully contained in original declaration of trust at the time of making such amendment, and, if a change in shares or the rights of shareholders, or an exchange, reclassification, or cancellation of shares or rights of shareholders is to be made, such provisions as may be necessary to effect such change, exchange, reclassification or cancellation.

[TRLPA 2.02]

(a) A certificate of limited partnership may be amended

Revisor's Note

No substantive change is intended. The revised law in this section and the remainder of Subchapter B is modeled on the provisions of the Texas Business Corporation Act and Texas Real Estate Investment Trust Act, which contain more detail than the source law in other statutes. However, in practice, these other statutes should not be interpreted differently, in any material fashion.

Revised Law

Sec. 3.052. PROCEDURES TO AMEND CERTIFICATE OF FORMATION.

(a) The procedure to adopt an amendment to the certificate of formation is as provided by the title of this code that applies to the entity.

(b) A filing entity that amends its certificate of formation shall sign and file, in the manner required by Chapter 4, a certificate of amendment complying with Section 3.053 or a restated certificate of formation complying with Section 3.059. (TBCA 4.05; TLLCA 3.07.A; TNPCA 4.04; TPAA 16; TREITA 22.50; TRLPA 2.02(a) (part).)

Source Law

[TBCA]

4.05.A. The original and a copy of the articles of amendment shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of amendment conform to law, he shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and the copy the word "Filed" and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of amendment to which he shall affix the copy.

B. The certificate of amendment, together with the copy of the articles of amendment affixed thereto by the Secretary of State, shall be delivered to the corporation or its representative.

[TLLCA 3.07]

A. The original and a copy of the articles of amendment shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of amendment conform to law, the Secretary of State shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and the copy the word "filed," and the month, day, and year of the filing thereof.

(2) File the original in the office of the Secretary of State.

(3) Issue a certificate of amendment to which shall be affixed the copy.

[TNPCA]

4.04.A. The original and a copy of the articles of amendment shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of amendment conform to law, he shall, when all fees have been paid as in this Act prescribed:

(1) Endorse on the original and the copy the word "Filed", and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of amendment to which he shall affix the copy.

B. The certificate of amendment, together with the copy of the articles of amendment affixed thereto by the Secretary of State, shall be delivered to the corporation or its representative.

[TPAA]

16. (A) The original and a copy of the articles of amendment shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of amendment conform to law, he shall, when all fees have been paid as required by law:

(1) Endorse on the original and the copy the word

"Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of amendment to which he shall affix the copy.

(B) The certificate of amendment, together with the copy of the articles of amendment affixed thereto by the Secretary of State, shall be delivered to the association or its representatives.

[TREITA]

22.50. A copy of the articles of amendment shall be filed with the county clerk of the county of the principal place of business of the real estate investment trust.

[TRLPA 2.02]

(a) A certificate of limited partnership may be amended by paying the filing fee and filing a certificate of amendment with the secretary of state. . . .

Revisor's Note

No substantive change is intended. Subsection (a) of the revised law cross-references to the Title governing the type of entity for the procedures the entity must follow to adopt an amendment. Subsection (b) cross-references to Chapter 4 for filing mechanics.

Revised Law

Sec. 3.053. CERTIFICATE OF AMENDMENT. A certificate of amendment for a filing entity must state:

(1) the name of the filing entity;

(2) the type of the filing entity;

(3) for each provision of the certificate of formation that is added, altered, or deleted, an identification by reference or description of the added, altered, or deleted provision and, if the provision is added or altered, a statement of the text of the amended or added provision;

(4) that the amendment or amendments have been

approved in the manner required by this code and the governing documents of the entity; and

(5) any other matter required by the provisions of this code applicable to the filing entity to be in the certificate of amendment. (TBCA 4.04.B; TLLCA 3.06.B; TNPCA 4.03; TPAA 15; TREITA 22.40(B); TRLPA 2.02(a).)

Source Law

[TBCA 4.04]

B. The articles of amendment shall set forth:

(1) The name of the corporation.

(2) If the amendment alters any provision of the original or amended articles of incorporation, an identification by reference or description of the altered provision and a statement of its text as it is amended to read. If the amendment is an addition to the original or amended articles of incorporation, a statement of that fact and the full text of each provision added.

(3) The date of the adoption of the amendment by the shareholders, or by the board of directors where no shares have been issued.

(4) The number of shares outstanding, and the number of shares entitled to vote on the amendment, and if the shares of any class or series are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon of each such class or series.

(5) The number of shares voted for and against the amendment, respectively, and, if the shares of any class are entitled to vote thereon as a class or series, the number of shares of each such class or series voted for and against the amendment, respectively, or if no shares have been issued a statement to that effect.

(6) If the amendment provides for an exchange, reclassification or cancellation of issued shares, and if the manner in which the same shall be effected is not set forth in the amendment, then a statement of the manner in which the same

shall be effected.

(7) If the amendment effects a change in the amount of stated capital, then a statement of the manner in which the same is effected and a statement, expressed in dollars, of the amount of stated capital as changed by the amendment.

[TLLCA 3.06]

B. The articles of amendment shall set forth:

(1) The name of the limited liability company.

(2) If the amendment alters any provision of the original or amended articles of organization an identification by reference or description of the altered provision and a statement of its text as it is amended to read. If the amendment is an addition to the original or amended articles of organization a statement of that fact and the text of each provision added.

(3) A statement that the amendment was approved in accordance with Section G or H of Article 2.23 of this Act or as otherwise provided in the articles of organization or regulations and the date of the approval.

[TNPCA]

4.03.A. The articles of amendment shall be signed on behalf of the corporation by an officer and shall set forth:

(1) The name of the corporation.

(2) If the amendment alters any provision of the original or amended articles of incorporation, an identification by reference or description of the altered provision and a statement of its text as it is amended to read. If the amendment is an addition to the original or amended articles of incorporation, a statement of that fact and the full text of each provision added.

(3) Where there are members having voting rights, (1) a statement setting forth the date of the meeting of members at which the amendment was adopted, that a quorum was present at such meeting, and that such amendment received at least two-thirds of the votes which members present at such meeting in

person or by proxy were entitled to cast, as well as, in the case of any class entitled to vote as a class thereon by the terms of the articles of incorporation or of the by-laws, at least two-thirds of the votes which members of any such class who were present at such meeting in person or by proxy were entitled to cast, or (2) a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(4) Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the amendment was adopted, and a statement of the fact that such amendment received the vote of a majority of the directors in office.

[TPAA]

15. The articles of amendment shall be executed on behalf of the association by an officer and shall set forth:

(1) The name and address of the association;

(2) If the amendment alters any provision of the original or amended articles of association, an identification by reference or description of the altered provision and a statement of its text as it is amended to read. If the amendment is an addition to the original or amended articles of association, a statement of that fact and the full text of each provision added;

(3) The date of the adoption of the amendment; and

(4) A statement that the amendment was adopted in accordance with the procedure for amendment stated in the articles of association, or, if none is stated therein, a statement that the amendment was adopted by two-thirds vote of its members.

[TREITA 22.40]

(B) The articles of amendment shall set forth:

(1) the name of the real estate investment trust;

(2) if the amendment alters any provision of the original or amended declaration of trust, an identification by

reference or description of the altered provision and a statement of its text as it is amended to read; if the amendment is an addition to the original or amended declaration of trust, a statement of that fact and the full text of each added provision;

(3) the date of the adoption of the amendment by the shareholders, or by the trust managers where no shares have been issued;

(4) the number of shares outstanding and the number of shares entitled to vote on the amendment and, if the shares of any class or series are entitled to vote on the amendment as a class, the designation and number of outstanding shares entitled to vote on the amendment of each such class or series;

(5) the number of shares voted for and against the amendment, respectively, and, if the shares of any class are entitled to vote on the amendment as a class or series, the number of shares of each such class or series voted for and against the amendment, respectively, or, if no shares have been issued, a statement to that effect;

(6) if the amendment provides for an exchange, reclassification, or cancellation of issued shares and if the manner in which the exchange, reclassification, or cancellation of issued shares shall be effected is not set forth in the amendment, a statement of the manner in which the exchange, reclassification, or cancellation of the issued shares shall be effected; and

(7) if the amendment effects a change in the amount of stated capital, a statement of the manner in which the change in the amount of stated capital is effected and a statement, expressed in dollars, of the amount of stated capital as changed by the amendment.

[TRLPA 2.02]

(a) A certificate of limited partnership may be amended by paying the filing fee and filing a certificate of amendment with the secretary of state. The certificate of amendment must set forth:

- (1) the name of the limited partnership; and
- (2) the amendment to the certificate.

Revisor's Note

Section 3.053 provides that a certificate of amendment need not specify the date or method of adoption by the owners, as required by the source law. As to limited partnerships, the requirements for the certificate of amendment are greater than presently required, but the new requirements are procedural in nature. This change simplifies the filing instrument without any significant detriment. Details of how a vote is taken or how many votes supported the action are not necessary for public filings. Compliance with legal requirements is the basic necessary statement.

Revised Law

Sec. 3.054. SUPPLEMENTAL PROVISIONS FOR CERTIFICATE OF AMENDMENT OF FOR-PROFIT CORPORATION. (a) In addition to the statements required by Section 3.053, a certificate of amendment for a for-profit corporation must state:

(1) if the amendment provides for an exchange, reclassification, or cancellation of issued shares, the manner in which the exchange, reclassification, or cancellation of the issued shares will be effected if the manner is not specified in the amendment; and

(2) if the amendment effects a change in the amount of stated capital, the manner in which the change in the amount of stated capital is effected and the amount of stated capital expressed in dollar terms as changed by the amendment.

(b) An officer shall sign the certificate of amendment on behalf of the for-profit corporation. If shares of the for-profit corporation have not been issued and the certificate of amendment is adopted by the board of directors, a majority of the directors may sign the certificate of amendment on behalf of the for-profit corporation. (TBCA 4.04.A, B (part).)

Source Law

A. The articles of amendment shall be executed on behalf of the corporation by an officer. If no shares have been issued, however, and the articles of amendment are adopted by the board of directors, the articles of amendment may be executed on behalf of the corporation by a majority of the directors.

B. The articles of amendment shall set forth:

. . .

(6) If the amendment provides for an exchange, reclassification or cancellation of issued shares, and if the manner in which the same shall be effected is not set forth in the amendment, then a statement of the manner in which the same shall be effected.

(7) If the amendment effects a change in the amount of stated capital, then a statement of the manner in which the same is effected and a statement, expressed in dollars, of the amount of stated capital as changed by the amendment.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 3.055. SUPPLEMENTAL PROVISIONS FOR CERTIFICATE OF AMENDMENT OF REAL ESTATE INVESTMENT TRUST. (a) In addition to the statements required by Section 3.053, a certificate of amendment for a real estate investment trust must state:

(1) if the amendment provides for an exchange, reclassification, or cancellation of issued shares, the manner in which the exchange, reclassification, or cancellation of the issued shares will be effected if the manner is not specified in the amendment; and

(2) if the amendment effects a change in the amount of stated capital, the manner in which the change in the amount of stated capital is effected and the amount of stated capital expressed in dollar terms as changed by the amendment.

(b) If shares of the real estate investment trust have not

been issued and the certificate of amendment is adopted by the trust managers, a majority of the trust managers may execute the certificate of amendment on behalf of the real estate investment trust. (TREITA 22.40(A), (B) (part).)

Source Law

(A) An officer shall execute the articles of amendment on behalf of the real estate investment trust. If no shares have been issued and the articles of amendment are adopted by the trust managers, a majority of the trust managers may execute the articles of amendment on behalf of the real estate investment trust.

(B) The articles of amendment shall set forth:

. . .

(6) if the amendment provides for an exchange, reclassification, or cancellation of issued shares and if the manner in which the exchange, reclassification, or cancellation of issued shares shall be effected is not set forth in the amendment, a statement of the manner in which the exchange, reclassification, or cancellation of the issued shares shall be effected; and

(7) if the amendment effects a change in the amount of stated capital, a statement of the manner in which the change in the amount of stated capital is effected and a statement, expressed in dollars, of the amount of stated capital as changed by the amendment.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 3.056. EFFECT OF FILING OF CERTIFICATE OF AMENDMENT.

(a) An amendment to a certificate of formation takes effect when the filing of the certificate of amendment takes effect as provided by Chapter 4.

(b) An amendment to a certificate of formation does not affect:

(1) an existing cause of action in favor of or against the entity for which the certificate of amendment is sought;
(2) a pending suit to which the entity is a party; or
(3) an existing right of a person other than an existing owner.

(c) If the name of an entity is changed by amendment, an action brought by or against the entity in the former name of the entity does not abate because of the name change. (TBCA 4.06; TLLCA 3.08; TNPCA 4.05; TPAA 17; TREITA 22.60; TRLPA 2.02(e).)

Source Law

[TBCA]

4.06.A. Upon the issuance of the certificate of amendment by the Secretary of State, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

B. No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending suit to which such corporation shall be a party, or the existing rights of persons other than shareholders; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such corporation under its former name shall abate for that reason.

[TLLCA]

3.08.A. Upon the issuance of the certificate of amendment by the Secretary of State, the amendment shall become effective and the articles of organization shall be amended accordingly.

B. No amendment shall affect any existing cause of action in favor of or against such limited liability company or any pending suit to which such limited liability company shall be a party, or the existing rights of persons other than members, and, in the event the limited liability company name shall be changed by amendment, no suit brought by or against such limited liability company under its former name shall abate for that reason.

[TNPCA]

4.05.A. Upon the issuance of the certificate of amendment by the Secretary of State, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

B. No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending suit to which such corporation shall be a party, or the existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such corporation under its former name shall abate for that reason.

[TPAA]

17. (A) Issuance. Upon the issuance of the certificate of amendment by the Secretary of State, the amendment shall become effective and the articles of association shall be deemed to be amended accordingly.

(B) Prior rights. No amendment shall affect any existing cause of action in favor of or against the association, or any pending suit to which the association shall be a party, or the existing rights of persons other than members. If the association name is changed by amendment, no suit brought by or against the association under its former name shall abate for that reason.

[TREITA]

22.60. (A) On the filing of the articles of amendment with the county clerk of the county of the principal place of business of the real estate investment trust, the amendment becomes effective and the declaration of trust is considered to be amended accordingly.

(B) An amendment may not affect any existing cause of action in favor of or against the real estate investment trust, or any pending suit to which the real estate investment trust is a party, or the existing rights of persons other than

shareholders. If the name of a real estate investment trust is changed by amendment, a suit brought by or against the real estate investment trust under its former name may not be abated for that reason.

[TRLPA 2.02]

(e) Unless otherwise provided by this Act, a certificate of amendment is effective when filed with the secretary of state or at a later date or time specified in the certificate if there has been substantial compliance with the requirements of this section.

Revisor's Note

No substantive change is intended. Sections 3.056(b) and (c) specify the effects of an amendment to a certificate of formation. There are no similar provisions in the Texas Revised Limited Partnership Act, but they may be implied. Subsection (a) cross-references to Chapter 4 for when the amendment takes effect.

Revised Law

Sec. 3.057. RIGHT TO RESTATE CERTIFICATE OF FORMATION. (a) A filing entity may restate its certificate of formation.

(b) An amendment effected by a restated certificate of formation must comply with Section 3.051(b). (TBCA 4.07.A (part); TLLCA 3.09.A (part); TNPCA 4.06.A (part); TREITA 22.70(A) (part); TRLPA 2.10(a), (e).)

Source Law

[TBCA 4.07]

A. A corporation may, by following the procedure to amend the articles of incorporation provided by this Act (except that no shareholder approval shall be required where no amendment is made), authorize, execute, and file restated articles of incorporation

[TLLCA 3.09]

A. By following the procedure to amend the articles of organization provided by this Act, a limited liability company may authorize, execute, and file restated articles of organization that restate the entire text of the articles of organization, as amended or supplemented

[TNPCA 4.06]

A. A corporation may, by following the procedure to amend the articles of incorporation provided by this Act, authorize, execute and file restated articles of incorporation

[TREITA 22.70]

(A) A real estate investment trust, by following the procedure to amend the declaration of trust provided by this Act, . . . may authorize, execute, and file a restated declaration of trust

[TRLPA 2.10]

(a) A limited partnership may integrate into a single instrument all of the provisions of its certificate of limited partnership that are then in effect as a result of a previous filing with the secretary of state of one or more certificates or other instruments under this article, and it may also further amend its certificate of limited partnership by adopting a restated certificate of limited partnership, paying the filing fee, and filing the restated certificate with the secretary of state.

. . . .

(e) Any amendment or change made in connection with the restatement and integration of the certificate of limited partnership is subject to other provisions of this article that are not inconsistent with this article, that would apply if a separate certificate of amendment were filed to effect the amendment or change.

Revisor's Note

No substantive change is intended. Subsection (b) clarifies what is implied in the source law, that the restated certificate of formation must only contain permitted provisions satisfying the same standards applicable to amendments.

Revised Law

Sec. 3.058. PROCEDURES TO RESTATE CERTIFICATE OF FORMATION.

(a) The procedure to adopt a restated certificate of formation is governed by the title of this code that applies to the entity.

(b) A filing entity that restates its certificate of formation shall sign and file, in the manner required by Chapter 4, a restated certificate of formation and accompanying statements complying with Section 3.059. (TBCA 4.07.A (part), D; TLLCA 3.09.A (part), D; TNPCA 4.06.A (part), D; TREITA 22.70(A) (part); TRLPA 2.10(b) (part).)

Source Law

[TBCA 4.07]

A. A corporation may, by following the procedure to amend the articles of incorporation provided by this Act (except that no shareholder approval shall be required where no amendment is made),

D. Such restated articles of incorporation shall be executed on behalf of the corporation by an officer. If no shares have been issued, however, and the restated articles of incorporation are adopted by the board of directors, the restated articles of incorporation may be executed on behalf of the corporation by a majority of the directors. The original and a copy of the restated articles of incorporation shall be delivered to the Secretary of State. If the Secretary of State finds that the restated articles of incorporation conform to law, he shall, when the appropriate filing fee is paid as required by law:

- (1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.
- (2) File the original in his office.

(3) Issue a restated certificate of incorporation to which he shall affix the copy.

[TLLCA 3.09]

A. By following the procedure to amend the articles of organization provided by this Act, a limited liability company may authorize, execute, and file restated articles of organization that restate the entire text of the articles of organization,

Unless otherwise provided by the articles of organization or the regulations, member approval is not required if further amendment is not made by the restated articles of organization.

. . . .

D. Restated articles of organization must be executed on behalf of the limited liability company by an authorized manager or member unless capital has not been paid into the limited liability company and the restated articles of organization have been adopted by action of a majority of the initial managers or a majority of the initial members named in the articles of organization as provided by Article 2.23 of this Act, in which case the restated articles of organization may be executed on behalf of the limited liability company by a majority of the persons adopting such restated articles. The original and a copy of the restated articles of organization shall be delivered to the Secretary of State. If the Secretary of State finds that the restated articles of organization conform to law, and the appropriate filing fee is paid as required by law, the Secretary of State shall:

(1) endorse on the original and the copy the word "Filed" and the month, day, and year of filing;

(2) file the original in the Secretary of State's office; and

(3) issue a restated certificate of organization and affix the copy to the restated certificate of organization.

[TNPCA 4.06]

A. A corporation may, by following the procedure to amend the articles of incorporation provided by this Act, authorize, execute and file restated articles of incorporation, except that member approval, if the corporation has members with voting rights, is not required if no amendments are made. . . .

D. Such restated articles of incorporation shall be signed on behalf of the corporation by an officer. The original and a copy of the restated articles of incorporation shall be delivered to the Secretary of State. If the Secretary of State finds that the restated articles of incorporation conform to law, he shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and the copy the word "Filed", and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a restated certificate of incorporation to which he shall affix the copy.

[TREITA 22.70]

(A) A real estate investment trust, by following the procedure to amend the declaration of trust provided by this Act, except that no shareholder approval shall be required where no amendment is made, may authorize, execute, and file a restated declaration of trust

[TRLPA 2.10]

(b) If the restated certificate of limited partnership only restates and integrates provisions but does not amend the initial certificate of limited partnership, as previously amended or supplemented under this article, it . . . must be executed by a general partner and filed with the secretary of state as provided by Section 2.07 of this Act. If the restated certificate restates and integrates and amends the certificate of limited partnership, as previously amended or supplemented, it must:

. . .

(3) be executed by at least one general partner and by

each other general partner designated in the restated certificate of limited partnership as a new general partner; and

(4) be filed with the secretary of state as provided by Section 2.07 of this Act.

Revisor's Note

No substantive change is intended. Subsection (a) of the revised law cross-references to the Title governing the type of entity for the procedures the entity must follow to adopt a restated certificate of formation. Subsection (b) cross-references to Chapter 4 for filing mechanics.

Revised Law

Sec. 3.059. RESTATED CERTIFICATE OF FORMATION. (a) A restated certificate of formation must accurately state the text of the previous certificate of formation, regardless of whether the certificate of formation is an original, corrected, or restated certificate, and include:

(1) each previous amendment to the certificate being restated that is carried forward; and

(2) each new amendment to the certificate being restated.

(b) A restated certificate of formation may omit:

(1) the name and address of each organizer other than the name and address of each general partner of a limited partnership or trust manager of a real estate investment trust; and

(2) any other information that may be omitted under the provisions of this code applicable to the filing entity.

(c) A restated certificate of formation that does not make new amendments to the certificate of formation being restated must be accompanied by:

(1) a statement that the restated certificate of formation accurately states the text of the certificate of formation being restated, as amended, restated, and corrected, except for information omitted under Subsection (b); and

(2) any other information required by other provisions

of this code applicable to the filing entity.

(d) A restated certificate of formation that makes new amendments to the certificate of formation being restated must:

(1) be accompanied by a statement that each new amendment has been made in accordance with this code;

(2) identify by reference or description each added, altered, or deleted provision;

(3) be accompanied by a statement that each amendment has been approved in the manner required by this code and the governing documents of the entity;

(4) be accompanied by a statement that the restated certificate of formation:

(A) accurately states the text of the certificate of formation being restated and each amendment to the certificate of formation being restated that is in effect, as further amended by the restated certificate of formation; and

(B) does not contain any other change in the certificate of formation being restated except for information omitted under Subsection (b); and

(5) include any other information required by the title of this code applicable to the entity. (TBCA 4.07.A (part), B (part), C (part); TLLCA 3.09.A (part), B (part), C (part); TNPCA 4.06.A (part), B (part), C (part); TREITA 22.70(A) (part), (B) (part), (C) (part); TRLPA 2.10(b) (part), (c).)

Source Law

[TBCA 4.07]

A. A corporation may, . . . authorize, execute, and file restated articles of incorporation which may restate either:

(1) The entire text of the articles of incorporation as amended or supplemented by all certificates of amendment previously issued by the Secretary of State; or

(2) The entire text of the articles of incorporation as amended or supplemented by all certificates of amendment previously issued by the Secretary of State, and as further amended by such restated articles of incorporation.

B. If the restated articles of incorporation restate the entire articles of incorporation as amended and supplemented by all certificates of amendments previously issued by the Secretary of State, without making any further amendment thereof, the introductory paragraph shall contain a statement that the instrument accurately copies the articles of incorporation and all amendments thereto that are in effect to date and that the instrument contains no change in any provision thereof; . . . and the name and address of each incorporator may be omitted.

C. If the restated articles of incorporation restate the entire articles of incorporation as amended and supplemented by all certificates of amendments previously issued by the Secretary of State, and as further amended by such restated articles of incorporation, the instrument containing such articles shall:

(1) Set forth, for any amendment made by such restated articles of incorporation, a statement that each such amendment has been effected in conformity with the provisions of this Act, and shall further set forth the statements required by this Act to be contained in articles of amendment.

(2) Contains a statement that the instrument accurately copies the articles of incorporation and all amendments thereto that are in effect to date and as further amended by such restated articles of incorporation and that the instrument contains no other change in any provision thereof; . . . and the names and addresses of each incorporator may be omitted.

(3) Restate the text of the entire articles of incorporation as amended and supplemented by all certificates of amendment previously issued by the Secretary of State and as further amended by the restated articles of incorporation.

[TLLCA 3.09]

A. . . . a limited liability company may authorize, execute, and file restated articles of organization that restate the entire text of the articles of organization, as amended or supplemented by:

(1) all certificates of amendment previously issued by the Secretary of State; or

(2) all certificates of amendment previously issued by the Secretary of State and by further amendments included in the restated articles of organization.

. . .

B. Restated articles of organization that restate the entire articles of organization as amended and supplemented by all certificates of amendment previously issued by the Secretary of State, without making a further amendment, must contain an introductory paragraph stating that the instrument accurately copies the articles of organization and all amendments to the articles of organization that are in effect to date and that the instrument does not contain any other change in a provision of the articles of organization or a previous amendment, other than:

. . .

(2) the omission of the name and address of each organizer.

C. An instrument containing restated articles of organization that restate the entire articles of organization as amended and supplemented by all certificates of amendment previously issued by the Secretary of State and as further amended by the restated articles of organization must:

(1) state that each amendment made by the restated articles of organization has been effected in conformity with this Act;

(2) include the statements required by this Act to be contained in articles of amendment; and

(3) state that the instrument accurately copies the articles of organization and all amendments that are in effect to date and as further amended by the restated articles of organization and that the instrument does not contain any other change in a provision of the articles of organization or the previous amendments, other than:

. . .

(b) the omission of the name and address of each

organizer.

[TNPCA 4.06]

A. A corporation may, . . . authorize, execute and file restated articles of incorporation, The restated articles of incorporation may restate either:

(1) The entire text of the articles of incorporation as amended or supplemented by all certificates of amendment previously issued by the Secretary of State; or

(2) The entire text of the articles of incorporation as amended or supplemented by all certificates of amendment previously issued by the Secretary of State, and as further amended by such restated articles of incorporation.

B. If the restated articles of incorporation restate the entire articles of incorporation as amended and supplemented by all certificates of amendment previously issued by the Secretary of State, without making any further amendment thereof, the introductory paragraph shall contain a statement that the instrument accurately copies the articles of incorporation and all amendments thereto that are in effect to date and that the instrument contains no change in the provisions thereof, . . . and the name and address of each incorporator may be omitted;

C. If the restated articles of incorporation restate the entire articles of incorporation as amended and supplemented by all certificates of amendment previously issued by the Secretary of State, and as further amended by such restated articles of incorporation, the instrument containing such articles shall:

(1) Set forth, for any amendment made by such restated articles of incorporation, a statement that each such amendment has been effected in conformity with the provisions of this Act, and shall further set forth the statements required by this act to be contained in articles of amendment, provided that the full text of such amendments need not be set forth except in the restated articles of incorporation as so amended.

(2) Contain a statement that the instrument accurately

copies the articles of incorporation and all amendments thereto that are in effect to date and as further amended by such restated articles of incorporation and that the instrument contains no other change in any provision thereof; . . . the names and addresses of each incorporator may be omitted;

(3) Restate the text of the entire articles of incorporation as amended and supplemented by all certificates of amendment previously issued by the Secretary of State and as further amended by the restated articles of incorporation.

[TREITA 22.70]

(A) A real estate investment trust, . . . may authorize, execute, and file a restated declaration of trust that may restate:

(1) the entire text of the declaration of trust as amended or supplemented by all articles of amendment previously filed with the county clerk of the county of the principal place of business of the real estate investment trust; or

(2) the entire text of the declaration of trust, as amended or supplemented by all articles of amendment previously filed with the county clerk of the county of the principal place of business of the real estate investment trust and as further amended by the restated declaration of trust.

(B) If the restated declaration of trust restates the entire declaration of trust, as amended and supplemented by all articles of amendment previously filed with the county clerk of the county of the principal place of business of the real estate investment trust, without making any further amendment to the declaration of trust, the introductory paragraph shall contain a statement that the instrument accurately copies the declaration of trust and all amendments to the declaration of trust that are in effect on that date and that the instrument contains no change in any provision of the declaration of trust. . . .

(C) If the restated declaration of trust restates the entire declaration of trust, as amended and supplemented by all articles of amendment previously filed with the county clerk of

the county of the principal place of business of the real estate investment trust and as further amended by the restated declaration of trust, the instrument containing the declaration of trust shall:

(1) set forth, for any amendment made by the restated declaration of trust, a statement that the amendment has been effected in conformity with the provisions of this Act and the statements required by this Act to be contained in articles of amendment;

(2) contain a statement that the instrument accurately copies the declaration of trust and all amendments to the declaration of trust that are in effect on that date and as further amended by the restated declaration of trust and that the instrument contains no other change in any provision in the declaration of trust, . . . and

(3) restate the text of the entire declaration of trust, as amended and supplemented by all articles of amendment previously filed with the county clerk of the county of the principal place of business of the real estate investment trust and as further amended by the restated declaration of trust.

[TRLPA 2.10]

(b) . . . If the restated certificate restates and integrates and amends the certificate of limited partnership, as previously amended or supplemented, it must:

. . .

(2) set forth the amendments made by the amended and restated certificate;

. . .

(c) A restated certificate of limited partnership must state, either in its heading or in an introductory paragraph, the limited partnership's present name and, if it has been changed, the name under which the limited partnership was originally formed, the date of filing of its original certificate of limited partnership with the secretary of state, and the future effective date or time, which must be a date or time certain, of the

restated certificate if it is not to be effective on the filing of the restated certificate. A restated certificate must also state that it was duly executed and is being filed in accordance with this section. If the restated certificate only restates and integrates and does not amend the limited partnership's certificate of limited partnership, as previously amended or supplemented, and there is no discrepancy between those provisions and the restated certificate, it must also state that fact.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 3.060. SUPPLEMENTAL PROVISIONS FOR RESTATED CERTIFICATE OF FORMATION FOR FOR-PROFIT CORPORATION. (a) In addition to the provisions authorized or required by Section 3.059, a restated certificate of formation for a for-profit corporation may update the current number of directors and the names and addresses of the persons serving as directors.

(b) An officer shall sign the restated certificate of formation on behalf of the corporation. If shares of the corporation have not been issued and the restated certificate of formation is adopted by the board of directors, the majority of the directors may sign the restated certificate of formation on behalf of the corporation. (TBCA 4.07.B (part), C (part).)

Source Law

B. . . . provided that the number of directors then constituting the board of directors and the names and addresses of the persons then serving as directors may be inserted in lieu of similar information concerning the initial board of directors,

C. If the restated articles of incorporation restate the entire articles of incorporation as amended and supplemented by all certificates of amendments previously issued by the Secretary of State, and as further amended by such restated articles of

incorporation, the instrument containing such articles shall:

. . .

(2) . . . provided that the number of directors then constituting the board of directors and the names and addresses of the persons then serving as directors may be inserted in lieu of similar information concerning the initial board of directors,

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 3.061. SUPPLEMENTAL PROVISIONS FOR RESTATED CERTIFICATE OF FORMATION FOR NONPROFIT CORPORATION. (a) In addition to the provisions authorized or required by Section 3.059, a restated certificate of formation for a nonprofit corporation may update the current number of directors and the names and addresses of the persons serving as directors.

(b) If the nonprofit corporation is a church in which management is vested in the church's members under Section 22.202, and the original certificate of formation is not required to contain a statement to that effect, any restated certificate of formation for the church must contain a statement to that effect in addition to the information required by Section 3.059. (TNPCA 4.06.B (part), C (part).)

Source Law

B. . . . provided that the number of directors then constituting the board of directors and the names and addresses of the persons then serving as directors may be inserted in lieu of similar information concerning the initial board of directors, . . . and provided further that, if the management of a church is vested in its members pursuant to Article 2.14C of this Act and if, under that Article, original articles of incorporation are not required to contain a statement to that effect, any restatement of the articles of incorporation shall contain a statement to that effect.

C. If the restated articles of incorporation restate the entire articles of incorporation as amended and supplemented by all certificates of amendment previously issued by the Secretary of State, and as further amended by such restated articles of incorporation, the instrument containing such articles shall:

. . .

(2) . . . provided that the number of directors then constituting the board of directors and the names and addresses of the persons then serving as directors may be inserted in lieu of similar information concerning the initial board of directors, . . . and provided further that, if the management of a church is vested in its members pursuant to Article 2.14C of this Act, and if, under that Article, original articles of incorporation are not required to contain a statement to that effect, any restatement of the articles of incorporation shall contain a statement to that effect.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 3.062. SUPPLEMENTAL PROVISIONS FOR RESTATED CERTIFICATE OF FORMATION FOR REAL ESTATE INVESTMENT TRUST. In addition to the provisions authorized or required by Section 3.059, a restated certificate of formation for a real estate investment trust may update the current number of trust managers and the names and addresses of the persons serving as trust managers. (TREITA 22.70(B) (part), (C) (part).)

Source Law

(B) . . . The number of trust managers and the names and addresses of the persons serving as trust managers may be inserted in lieu of similar information concerning the initial trust managers.

(C) If the restated declaration of trust restates the entire declaration of trust, as amended and supplemented by all articles of amendment previously filed with the county clerk of

the county of the principal place of business of the real estate investment trust and as further amended by the restated declaration of trust, the instrument containing the declaration of trust shall:

. . .

(2) . . . provided that the number of trust managers and the names and addresses of the persons serving as trust managers may be inserted in lieu of similar information concerning the initial trust managers; and

. . .

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 3.063. EFFECT OF FILING OF RESTATED CERTIFICATE OF FORMATION. (a) A restated certificate of formation takes effect when the filing of the restated certificate of formation takes effect as provided by Chapter 4.

(b) On the date the restated certificate of formation takes effect, the original certificate of formation and each prior amendment or restatement of the certificate of formation is superseded and the restated certificate of formation is the effective certificate of formation.

(c) Sections 3.056(b) and (c) apply to an amendment effected by a restated certificate of formation. (TBCA 4.07.F; TLLCA 3.09.F; TNPCA 4.06.F; TREITA 22.70(E); TRLPA 2.10(d).)

Source Law

[TBCA 4.07]

F. Upon the issuance of the restated certificate of incorporation by the Secretary of State, the original articles of incorporation and all amendments thereto shall be superseded and the restated articles of incorporation shall be deemed to be the articles of incorporation of the corporation.

[TLLCA 3.09]

F. On issuance of a restated certificate of organization by the Secretary of State, the original articles of organization and all amendments to the original articles are superseded, and the restated articles of organization are the articles of organization of the limited liability company.

[TNPCA 4.06]

F. Upon the issuance of the restated certificate of incorporation by the Secretary of State, the original articles of incorporation and all amendments thereto shall be superseded and the restated articles of incorporation shall be deemed to be articles of incorporation of the corporation.

[TREITA 22.70]

(E) On the filing of the copy of the restated declaration of trust with the county clerk of the county of the principal place of business of the real estate investment trust, the original declaration of trust and all amendments to the original declaration of trust shall be superseded and the restated declaration of trust is considered to be the declaration of trust of the real estate investment trust.

[TRLPA 2.10]

(d) On the filing of the restated certificate of limited partnership with the secretary of state, or on the future effective date or time of a restated certificate of limited partnership as provided by the certificate, the initial certificate of limited partnership, as previously amended or supplemented, is superseded, and the restated certificate of limited partnership, including any further amendment or changes made by it, is the certificate of limited partnership of the limited partnership. The original effective date of formation, however, is not changed.

Revisor's Note

No substantive change is intended. Subsection (a) cross-references to Chapter 4 for when the restatement takes effect. Subsection (c) cross-references to Sections 3.056(b) and (c) for certain effects of amendments contained in the restatement.

[Sections 3.064-3.100 reserved for expansion]

SUBCHAPTER C. GOVERNING PERSONS AND OFFICERS

Revised Law

Sec. 3.101. GOVERNING AUTHORITY. Subject to the title of this code that governs the domestic entity and the governing documents of the domestic entity, the governing authority of a domestic entity manages and directs the business and affairs of the domestic entity. (TBCA 2.31 (part); TLLCA 2.12 (part); TNPCA 2.14.A (part); TRLPA 4.03(a); TRPA 4.01(d) (part).)

Source Law

[TBCA]

2.31.A. Except as provided by Article 2.30-1 and Part Twelve of this Act, the powers of a corporation shall be exercised by or under the authority of, and the business and affairs of a corporation shall be managed under the direction of, the board of directors of the corporation. . . .

[TLLCA]

2.12.A. Except and to the extent the articles of organization or the regulations shall reserve management of the limited liability company to the members in whole or in part, and subject to provisions in the articles of organization, the regulations, or this Act restricting or enlarging the powers, rights, and duties of any manager or group or class of managers, the powers of a limited liability company shall be exercised by or under the authority of, and the business and affairs of a limited liability company shall be managed under the direction of, the manager or managers of the limited liability company. . . .

[TNPCA 2.14]

A. The affairs of a corporation shall be managed by a board of directors. . . .

[TRLPA 4.03]

(a) Except as provided by this Act or a partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions of a partner in a partnership without limited partners.

[TRPA 4.01]

(d) Participation in Management. Each partner has equal rights in the management and conduct of the business of a partnership. . . .

Revisor's Note

Section 3.101 confirms the general rule for most domestic entities that the entity's business and affairs are managed and directed by its governing authority. This rule is subject to the governing documents and the title of the code governing the entity.

Revised Law

Sec. 3.102. RIGHTS OF GOVERNING PERSONS IN CERTAIN CASES.

(a) In discharging a duty or exercising a power, a governing person, including a governing person who is a member of a committee, may, in good faith and with ordinary care, rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning a domestic entity or another person and prepared or presented by:

- (1) an officer or employee of the entity;
- (2) legal counsel;
- (3) a certified public accountant;
- (4) an investment banker;
- (5) a person who the governing person reasonably believes possesses professional expertise in the matter; or
- (6) a committee of the governing authority of which

the governing person is not a member.

(b) A governing person may not in good faith rely on the information described by Subsection (a) if the governing person has knowledge of a matter that makes the reliance unwarranted. (TBCA 2.41.D; TNPCA 2.26.C (part), 2.28.B (part), C; TREITA 15.10(C), (D).)

Source Law

[TBCA 2.41]

D. In the discharge of any duty imposed or power conferred upon a director, including as a member of a committee, the director, may in good faith and with ordinary care, rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the corporation or another person, that were prepared or presented by:

(1) one or more officers or employees of the corporation;

(2) legal counsel, public accountants, investment bankers, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or

(3) a committee of the board of directors of which the director is not a member.

A director is not relying in good faith within the meaning of this Section if the director has knowledge concerning the matter in question that makes reliance otherwise permitted by this Section unwarranted.

[TNPCA 2.26]

C. A director shall not be liable under Section A of this Article if, in voting for or assenting to a distribution, the director:

(1) relied in good faith and with ordinary care on information, opinions, reports, or statements, including financial statements and other financial data, concerning the

corporation or another person that were prepared or presented by:

- (a) one or more officers or employees of the corporation;
- (b) legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or
- (c) a committee of the board of directors of which the director is not a member;

. . .

[TNPCA 2.28]

B. In the discharge of any duty imposed or power conferred on a director, including as a member of a committee, the director may in good faith rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the corporation or another person that were prepared or presented by:

- (1) one or more officers or employees of the corporation;
- (2) legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence;
- (3) a committee of the board of directors of which the director is not a member; or

. . .

C. A director is not relying in good faith, within the meaning of this article, if the director has knowledge concerning a matter in question that makes reliance otherwise permitted by this article unwarranted.

[TREITA 15.10]

(C) A trust manager(s) shall not be liable for any claims or damages that may result from his acts in the discharge of any duty imposed or power conferred upon him by the real estate investment trust, if, in the exercise of ordinary care, he acted in good faith and in reliance upon information, opinions,

reports, or statements, including financial statements and other financial data, concerning the real estate investment trust or another person, that were prepared or presented by:

(1) one or more officers or employees of the real estate investment trust, other than the real estate investment trust manager;

(2) legal counsel, public accountants, investment bankers, or other persons as to matters the trust manager reasonably believes are within the person's professional or expert competence; or

(3) a committee of the trust managers of which the trust manager is not a member.

(D) A trust manager is not relying in good faith within the meaning of this Section if the trust manager has knowledge concerning the matter in question that makes reliance otherwise permitted by this Section unwarranted.

Revisor's Note

Sections 3.102 and 3.105 permit governing persons and officers to rely on information, opinions, reports, and statements concerning the entity or another person prepared or presented by certain persons. These provisions are taken from the Texas Business Corporation Act, Texas Non-Profit Corporation Act, and Texas Real Estate Investment Trust Act but are new with respect to partnerships and limited liability companies. Under the code, partnerships and limited liability companies may revise these rules by agreement in their governing documents.

Revised Law

Sec. 3.103. OFFICERS. (a) Officers of a domestic entity may be elected or appointed in accordance with the governing documents of the entity or by the governing authority of the entity unless prohibited by the governing documents.

(b) An officer of an entity shall perform the duties in the management of the entity and has the authority as provided by the governing documents of the entity or the governing authority that elects or appoints the officer.

(c) A person may simultaneously hold any two or more offices of an entity unless prohibited by this code or the governing documents of the entity. (CAA 22 (part); TBCA 2.42.A (part), B; TLLCA 2.21.A, B; TNPCA 2.20.A (part), B; TPAA 9(G) (part); TREITA 4.10(F) (part).)

Source Law

[CAA]

22. . . . Any two or more offices may be held by the same person, except the offices of president and secretary. The officers of an association may be designated by such other titles as may be provided in the articles of incorporation or the by-laws. . . . The officers are elected annually by the directors unless the by-laws provide otherwise.

[TBCA 2.42]

A. . . . Such other officers, including assistant officers, and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the bylaws. Any two (2) or more offices may be held by the same person.

B. All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws.

[TLLCA 2.21]

A. One or more persons, who may or may not be managers or members, may be designated as officers of the limited liability company by the manager or managers, if management is vested in one or more managers, or by the member or members, if management of the limited liability company is reserved to the members.

B. All officers, agents, managers, and members of the limited liability company, as among themselves and the limited liability company, have authority and perform duties in the

management of the limited liability company as may be provided in the regulations or as may be determined by resolution of the manager or managers, if management is vested in one or more managers, or of the member or members, if management is reserved to the members, in each case not inconsistent with the regulations or the articles of organization.

[TNPCA 2.20]

A. The officers of a corporation shall consist of . . . such other officers and assistant officers as may be deemed necessary, each of whom shall be elected or appointed at such time and in such manner and for such terms not exceeding three (3) years as may be prescribed in the articles of incorporation or the by-laws. In the absence of any such provisions, all officers shall be elected or appointed annually by the board of directors, or, if the management of the corporation is vested in its members, by the members. Any two or more offices may be held by the same person, except the offices of president and secretary. . . .

B. The officers of a corporation may be designated by such other or additional titles as may be provided in the articles of incorporation or the by-laws.

[TPAA 9]

(G) Officers. The officers of the association shall include . . . such other officers as the Board of Directors or Executive Committee may determine. Any one person may serve in more than one office provided that the President and the Secretary of the professional association shall not be the same person unless the association has only one member.

[TREITA 4.10]

(F) The trust manager(s) may designate one or more persons, regardless of whether the persons are trust managers, to constitute officers of the real estate investment trust to the extent provided in the declaration of trust or in the bylaws of

the real estate investment trust, who shall have and may exercise all of the authorities of the trust manager(s) in the business and affairs of the real estate investment trust except where action of the trust manager(s) is specified by this Act or other applicable laws All officers and agents of the real estate investment trust shall have such authority and perform such duties in the management of the real estate investment trust as may be provided in the bylaws or as may be determined by the trust manager(s) not inconsistent with the bylaws. . . .

Revisor's Note

The provisions of Sections 3.103 and 3.104 are not found in the Texas Revised Partnership Act and Texas Revised Limited Partnership Act. Nevertheless, under those statutes, partnerships may adopt similar provisions by agreement of their partners in their partnership agreements. The code permits partnerships to revise these provisions by their governing documents.

Revised Law

Sec. 3.104. REMOVAL OF OFFICERS. (a) Unless otherwise provided by the governing documents of a domestic entity, an officer may be removed for or without cause by the governing authority or as provided by the governing documents of the entity. The removal of an officer does not prejudice any contract rights of the person removed.

(b) Election or appointment of an officer does not by itself create contract rights. (TBCA 2.43; TNPCA 2.21; TREITA 4.10(F) (part).)

Source Law

[TBCA]

2.43.A. Any officer or agent or member of a committee elected or appointed by the board of directors may be removed by the board of directors whenever in its judgment the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if

any, of the person so removed. Election or appointment of an officer or agent or member of a committee shall not of itself create contract rights.

[TNPCA]

2.21.A. Any officer elected or appointed may be removed by the persons authorized to elect or appoint such officer whenever in their judgment the best interests of the corporation will be served thereby. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

[TREITA 4.10]

(F) . . . Any officer or agent elected or appointed by the trust manager(s) may be removed by the trust manager(s) whenever in their judgment the best interests of the real estate investment trust will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Revisor's Note

See Revisor's Note to Section 3.103. Section 3.104 permits the removal of officers with or without cause. It does not carry forward the provision found in the Texas Business Corporation Act, Texas Non-Profit Corporation Act, and Texas Real Estate Investment Trust Act that permitted the board of directors or the trust managers to remove an officer only if the best interests of the corporation or real estate investment trust would be served by such removal. This change is consistent with the Revised Model Business Corporation Act, which provides that officers may be removed with or without cause. The provisions of Section 3.104 are not found in the Texas Limited Liability Company Act. Nevertheless, under that statute, limited liability companies may adopt similar provisions by agreement of their members in their

regulations. The revised law permits limited liability companies to revise these provisions by their governing documents.

Revised Law

Sec. 3.105. RIGHTS OF OFFICERS IN CERTAIN CASES. (a) In discharging a duty or exercising a power, an officer of a domestic entity may, in good faith and ordinary care, rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the entity or another person and prepared or presented by:

- (1) another officer or an employee of the entity;
- (2) legal counsel;
- (3) a certified public accountant;
- (4) an investment banker; or
- (5) a person who the officer reasonably believes possesses professional expertise in the matter.

(b) An officer may not in good faith rely on the information described by Subsection (a) if the officer has knowledge of a matter that makes the reliance unwarranted. (TBCA 2.42.C; TNPCA 2.20.D (part), E.)

Source Law

[TBCA 2.42]

C. In the discharge of any duty imposed or power conferred upon an officer, of a corporation the officer may in good faith and ordinary care rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the corporation or another person, that were prepared or presented by:

- (1) one or more other officers or employees of the corporation including members of the board of directors; or
- (2) legal counsel, public accountants, investment bankers, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence.

An officer is not relying in good faith within the meaning of this section if the officer has knowledge concerning the

matter in question that makes reliance otherwise permitted by this subsection unwarranted.

[TNPCA 2.20]

D. In the discharge of a duty imposed or power conferred on an officer of a corporation, the officer may in good faith and with ordinary care rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the corporation or another person, that were prepared or presented by:

- (1) one or more other officers or employees of the corporation, including members of the board of directors;
- (2) legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence; or

. . .

E. An officer is not relying in good faith as required by Section D of this article if the officer has knowledge concerning the matter in question that makes reliance otherwise permitted by Section D of this article unwarranted.

Revisor's Note

See the revisor's note to Section 3.102.

[Sections 3.106-3.150 reserved for expansion]

SUBCHAPTER D. RECORDKEEPING OF FILING ENTITIES

Revised Law

Sec. 3.151. BOOKS AND RECORDS FOR ALL FILING ENTITIES. (a) Each filing entity shall keep:

- (1) books and records of accounts;
- (2) minutes of the proceedings of the owners or members or governing authority of the filing entity and committees of the owners or members or governing authority of the filing entity;
- (3) at its registered office or principal place of business, or at the office of its transfer agent or registrar, a current record of the name and mailing address of each owner or

member of the filing entity; and

(4) other books and records as required by the title of this code governing the entity.

(b) The books, records, minutes, and ownership or membership records of any filing entity, including those described in Subsection (a)(4), may be in written form or another form capable of being converted into written form within a reasonable time.

(c) The records required by Subsection (a)(2) need not be maintained by a limited partnership or a limited liability company except to the extent required by its governing documents. (TBCA 2.44.A (part); TLLCA 2.22.A (part), B; TNPCA 2.23.A; TREITA 18.10(A); TRLPA 1.07(a) (part), (b).)

Source Law

[TBCA 2.44]

A. Each corporation shall keep books and records of account and shall keep minutes of the proceedings of its shareholders, its board of directors, and each committee of its board of directors. Each corporation shall keep at its registered office or principal place of business, or at the office of its transfer agent or registrar, a record of the names and addresses of all . . . current shareholders of the corporation Any books, records, minutes, and share transfer records may be in written form or in any other form capable of being converted into written form within a reasonable time. . . .

[TLLCA 2.22]

A. A domestic limited liability company shall keep and maintain the following records in its principal office in the United States or make them available in that office within five days after the date of receipt of a written request under Section E of this Article:

(1) a current list that states:

(a) the name and mailing address of each member;

. . . .

(5) correct and complete books and records of account of the limited liability company.

B. A limited liability company shall maintain such records in written form or in another form capable of conversion into written form within a reasonable time.

[TNPCA 2.23]

A. Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors, and committees having any authority of the board of directors and shall keep at its registered office or principal office in this State a record of the names and addresses of its members entitled to vote.

[TREITA 18.10]

(A) Each real estate investment trust shall keep complete and correct books of account and shall keep minutes of the proceedings of its shareholders and trust manager(s) and shall keep at its principal office or place of business a record of its shareholders giving the names and addresses of all shareholders and the number of shares held by each.

[TRLPA 1.07]

(a) A domestic limited partnership shall keep and maintain the following records in its principal office in the United States or make them available in that office within five days after the date of receipt of a written request under Subsection (d) of this section:

(1) a current list that states:

(A) the name and mailing address of each partner, separately identifying in alphabetical order the general partners and the limited partners;

(B) the last known street address of the business or residence of each general partner;

(C) the percentage of other interest in the partnership owned by each partner; and

(D) if one or more classes or groups are established in or under the partnership agreement, the names of the partners who are members of each specified class or group;

. . .

(5) books and records of account of the limited partnership.

(b) A limited partnership shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

Revisor's Note

No substantive change is intended. The revised law clarifies for all filing entities that the records may be in written form or in a form capable of being converted into written form within a reasonable time, based on provisions in the Texas Revised Limited Partnership Act, Texas Limited Liability Company Act, and Texas Business Corporation Act. This result is implicit in the other source laws. Subsection (a)(4) references other books and records required by the title of this code governing the entity. These supplemental provisions can be found at Sections 21.173, 101.501, 153.551, and 200.113.

Revised Law

Sec. 3.152. GOVERNING PERSON'S RIGHT OF INSPECTION. (a) A governing person of a filing entity may examine the entity's books and records maintained under Section 3.151 and other books and records of the entity for a purpose reasonably related to the governing person's service as a governing person.

(b) A court may require a filing entity to open the books and records of the filing entity, including the books and records maintained under Section 3.151, to permit a governing person to inspect, make copies of, or take extracts from the books and records on a showing by the governing person that:

- (1) the person is a governing person of the entity;
- (2) the person demanded to inspect the entity's books and records;
- (3) the person's purpose for inspecting the entity's

books and records is reasonably related to the person's service as a governing person; and

(4) the entity refused the person's good faith demand to inspect the books and records.

(c) A court may award a governing person attorney's fees and any other proper relief in a suit to require a filing entity to open its books and records under Subsection (b).

(d) This section does not apply to limited partnerships. Section 153.552 applies to limited partnerships. (TBCA 2.44.B.)

Source Law

B. A director may examine the corporation's books and records of account, share transfer records, corporate minutes and any other corporate books and records for any purpose reasonably related to the director's service as a director. A court of competent jurisdiction may compel a corporation to open its books and records of account, share transfer records, corporate minutes or any other corporate books and records to permit the director to inspect the books or records and make copies or extracts from the books or records on a showing by a director that:

(1) he is a director;

(2) he demanded to inspect the corporate books and records;

(3) his purpose for inspecting the corporate books and records was reasonably related to his service as a director; and

(4) his right of access to the books and records was refused by the corporation.

The court may also award the director attorneys' fees and any other relief that the court deems just and proper.

Revisor's Note

Section 3.152 provides a right to the governing persons to inspect the books and records of a filing entity, other than a limited partnership. This provision is based on similar provisions of the Texas Business Corporation Act. Although these inspection rights can be implied, they are not explicit in the

source statutes for nonprofit corporations or limited liability companies. However, under the source laws, these rights could be provided in the governing documents of the entities. The default rule provided in Section 3.152 may be revised by the governing documents.

Subsection (d) excludes limited partnerships from application of this section. This section also does not apply to nonfiling entities such as general partnerships. A partner's right of access to the books and records of a partnership is governed by Section 152.212 for general partnerships and Section 153.552 for limited partnerships.

Revised Law

Sec. 3.153. RIGHT OF EXAMINATION BY OWNER OR MEMBER. Each owner or member of a filing entity may examine the books and records of the filing entity maintained under Section 3.151 and other books and records of the filing entity to the extent provided by the governing documents of the entity and the title of this code governing the filing entity. (TBCA 2.44.C; TLLCA 2.22.D, E; TNPCA 2.23.B; TREITA 18.10(B).)

Source Law

[TBCA 2.44]

C. Any person who shall have been a shareholder for at least six (6) months immediately preceding his demand, or shall be the holder of at least five per cent (5%) of all the outstanding shares of a corporation, upon written demand stating the purpose thereof, shall have the right to examine, in person or by agent, accountant, or attorney, at any reasonable time or times, for any proper purpose, its relevant books and records of account, minutes, and share transfer records, and to make extracts therefrom.

[TLLCA 2.22]

D. A member or an assignee of a membership interest, on written request stating the purpose, may examine and copy, in person or by the member's or assignee's representative, at any

reasonable time, for any proper purpose, and at the member's expense, records required to be kept under this section and other information regarding the business, affairs, and financial condition of the limited liability company as is just and reasonable for the person to examine and copy.

E. On the written request by any member or an assignee of a membership interest made to the person and address designated in the regulations, the limited liability company shall provide to the requesting member or assignee without charge true copies of:

(1) the articles of organization and regulations and all amendments or restatements; and

(2) any of the tax returns described in Subdivision (2) of Section A of this Article.

[TNPCA 2.23]

B. A member of a corporation, on written demand stating the purpose of the demand, has the right to examine and copy, in person or by agent, accountant, or attorney, at any reasonable time, for any proper purpose, the books and records of the corporation relevant to that purpose, at the expense of the member.

[TREITA 18.10]

(B) Any person who shall have been a shareholder of record for at least six (6) months immediately preceding his demand, or who shall be the holder of record of at least five per cent (5%) of all the outstanding shares of a real estate investment trust, upon written demand stating the purpose thereof, shall have the right to examine, in person or by agent or attorney, at any reasonable time or times, for any proper purpose, its books and records of account, minutes and record of shareholders, and shall be entitled to make extracts therefrom.

Revisor's Note

No substantive change is intended. Section 3.153 cross-references to the provisions in the title governing each

type of entity for the rules applicable to the rights of the entity's owners or members to examine the entity's books and records.

[Sections 3.154-3.200 reserved for expansion]

SUBCHAPTER E. CERTIFICATES REPRESENTING OWNERSHIP INTEREST

Revised Law

Sec. 3.201. CERTIFICATED OR UNCERTIFICATED OWNERSHIP INTEREST; APPLICABILITY. (a) Ownership interests in a domestic entity may be certificated or uncertificated.

(b) The ownership interests in a for-profit corporation, real estate investment trust, or professional corporation must be certificated unless the governing documents of the entity or a resolution adopted by the governing authority of the entity states that the ownership interests are uncertificated. If a domestic entity changes the form of its ownership interests from certificated to uncertificated, a certificated ownership interest subject to the change becomes an uncertificated ownership interest only after the certificate is surrendered to the domestic entity.

(c) Ownership interests in a domestic entity, other than a domestic entity described by Subsection (b), are uncertificated unless this code or the governing documents of the domestic entity state that the interests are certificated.

(d) Sections 3.202-3.205 do not apply to a partnership or a limited liability company except to the extent that the governing documents of the partnership or limited liability company specify.

(e) The governing documents of a partnership or a limited liability company may:

(1) provide that an owner's ownership interest may be evidenced by a certificate of ownership interest issued by the entity;

(2) provide for the assignment or transfer of ownership interests represented by certificates; and

(3) make other provisions with respect to the certificate. (TBCA 2.19.A (part); TLLCA 4.05.B; TREITA 7.20(A))

(part); TRLPA 7.02(c); TRPA 5.02(b).)

Source Law

[TBCA 2.19]

A. A corporation shall deliver certificates representing shares to which shareholders are entitled, or the shares of a corporation may be uncertificated shares. Unless otherwise provided by the articles of incorporation or bylaws, the board of directors of a corporation may provide by resolution that some or all of any or all classes and series of its shares shall be uncertificated shares, provided that such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. . . .

[TLLCA 4.05]

B. The regulations may provide that a member's membership interest may be evidenced by a certificate of membership interest issued by the limited liability company, may provide for the assignment or transfer of membership interests represented by a certificate, and may make other provisions with respect to the certificate.

[TREITA 7.20]

(A) A real estate investment trust shall deliver certificates representing shares to which shareholders are entitled, or the shares of a real estate investment trust may be uncertificated shares. Unless otherwise provided by the declaration of trust or bylaws, the trust managers of a real estate investment trust by resolution may provide that some or all of any or all classes and series of its shares shall be uncertificated shares, provided that the resolution may not apply to shares represented by a certificate until the certificate is surrendered to the real estate investment trust. . . .

[TRLPA 7.02]

(c) A written partnership agreement may provide that a

partner's partnership interest may be evidenced by a certificate of partnership interest issued by the limited partnership, may provide for the assignment or transfer of partnership interest represented by a certificate, and may make other provisions with respect to the certificate.

[TRPA 5.02]

(b) Certificate Evidencing Interest. A written partnership agreement may:

(1) provide that a partner's partnership interest may be evidenced by a certificate of partnership interest issued by the partnership;

(2) provide for the assignment or transfer of a partnership interest represented by the certificate; and

(3) make other provisions with respect to the certificate.

Revisor's Note

Sections 3.201-3.205 contain detailed provisions relating to certificated and uncertificated ownership interests in domestic entities based on similar provisions in the Texas Business Corporation Act and Texas Real Estate Investment Trust Act. They do not apply to nonprofit entities that have no ownership interests. The Texas Revised Partnership Act, Texas Revised Limited Partnership Act, and Texas Limited Liability Company Act contain less detailed provisions that authorize limited liability companies and partnerships to issue certificates representing their ownership interests. Subsections (d) and (e) of the revised law retain these simpler, less formal provisions for limited liability companies and partnerships. Subsection (e) omits the "written" requirement of the partnership source law in order to standardize the provisions with those applicable to limited liability companies. Few partners agree, in practice, to require certificated ownership interests except in a written partnership agreement.

Subsections (b) and (c) of the revised law could be viewed

as a substantive change for professional associations because they provide a default rule that the ownership interests in a professional association are uncertificated. Although the Texas Professional Association Act is silent on this issue, the Texas Professional Association Act incorporates the provisions of the Texas Business Corporation Act and thus the rigorous certificate requirements therein. Because professional associations are closely owned and treated in practice less formally, specifying uncertificated ownership interests as a default rule is more appropriate for professional associations.

Revised Law

Sec. 3.202. FORM AND VALIDITY OF CERTIFICATES; ENFORCEMENT OF ENTITY'S RIGHTS. (a) A certificate representing the ownership interest in a domestic entity may contain an impression of the seal of the entity, if any. A facsimile of the entity's seal may be printed or lithographed on the certificate.

(b) If a domestic entity is authorized to issue ownership interests of more than one class or series, each certificate representing ownership interests that is issued by the entity must conspicuously state on the front or back of the certificate:

(1) the designations, preferences, limitations, and relative rights of the ownership interests of each class or series to the extent they have been determined and the authority of the governing authority to make those determinations as to subsequent series; or

(2) that the information required by Subdivision (1) is stated in the domestic entity's governing documents and that the domestic entity, on written request to the entity's principal place of business or registered office, will provide a free copy of that information to the record holder of the certificate.

(c) A certificate representing ownership interests must state on the front of the certificate:

(1) that the domestic entity is organized under the laws of this state;

(2) the name of the person to whom the certificate is issued;

(3) the number and class of ownership interests and the designation of the series, if any, represented by the certificate; and

(4) if the ownership interests are shares, the par value of each share represented by the certificate, or a statement that the shares are without par value.

(d) A certificate representing ownership interests that is subject to a restriction, placed by or agreed to by the domestic entity under this code, or otherwise contained in its governing documents, on the transfer or registration of the transfer of the ownership interests must:

(1) conspicuously state or provide a summary of the restriction on the front of the certificate;

(2) state the restriction on the back of the certificate and conspicuously refer to that statement on the front of the certificate; or

(3) conspicuously state on the front or back of the certificate that a restriction exists pursuant to a specified document and:

(A) that the domestic entity, on written request to the entity's principal place of business, will provide a free copy of the document to the certificate record holder; or

(B) if the document has been filed in accordance with this code, that the document:

(i) is on file with the secretary of state or, in the case of a real estate investment trust, with the county clerk of the county in which the real estate investment trust's principal place of business is located; and

(ii) contains a complete statement of the restriction.

(e) A domestic entity that fails to provide to the record holder of a certificate within a reasonable time a document as required by Subsection (d)(3)(A) may not enforce the entity's rights under the restriction imposed on the certificated ownership interests. (TBCA 2.19.A (part), B (part), C, G; TREITA 7.20(A) (part), (B), (C), (F), (G).)

Source Law

[TBCA 2.19]

A. . . . Certificates representing shares . . . may be sealed with the seal of the corporation or a facsimile thereof. . . .

B. In the event a corporation is authorized to issue shares of more than one class or series, each certificate representing shares issued by such corporation (1) shall conspicuously set forth on the face or back of the certificate a full statement of all the designations, preferences, limitations, and relative rights of the shares of each class or series to the extent they have been fixed and determined and the authority of the board of directors to fix and determine the designations, preferences, limitations, and relative rights of subsequent series; or (2) shall conspicuously state on the face or back of the certificate that (a) such a statement is set forth in the articles of incorporation on file in the office of the Secretary of State and (b) the corporation will furnish a copy of such statement to the record holder of the certificate without charge on written request to the corporation at its principal place of business or registered office. . . .

C. Each certificate representing shares shall state upon the face thereof:

(1) That the corporation is organized under the laws of this State.

(2) The name of the person to whom issued.

(3) The number and class of shares and the designation of the series, if any, which such certificate represents.

(4) The par value of each share represented by such certificate, or a statement that the shares are without par value.

G. In the event any restriction on the transfer, or registration of the transfer, of shares shall be imposed or agreed to by the corporation, as permitted by this Act, each

certificate representing shares so restricted (1) shall conspicuously set forth a full or summary statement of the restriction on the face of the certificate, or (2) shall set forth such statement on the back of the certificate and conspicuously refer to the same on the face of the certificate, or (3) shall conspicuously state on the face or back of the certificate that such a restriction exists pursuant to a specified document and (a) that the corporation will furnish to the record holder of the certificate without charge upon written request to the corporation at its principal place of business or registered office a copy of the specified document, or (b) if such document is one required or permitted to be and has been filed under this Act, that such specified document is on file in the office of the Secretary of State and contains a full statement of such restriction. Unless such document was on file in the office of the Secretary of State at the time of the request, a corporation which fails within a reasonable time to furnish the record holder of a certificate upon such request and without charge a copy of the specified document shall not be permitted thereafter to enforce its rights under the restriction imposed on the shares represented by such certificate.

[TREITA 7.20]

(A) . . . Certificates representing shares . . . may be sealed with the seal of the real estate investment trust, if any, or a facsimile of the seal. . . .

(B) If a real estate investment trust is authorized to issue shares of more than one class or series, each certificate representing shares issued by the real estate investment trust shall conspicuously:

(1) set forth on the face or back of the certificate a full statement of all the designations, preferences, limitations, and relative rights of the shares of each class or series to the extent they have been fixed and determined and the authority of the trust managers to fix and determine the designations, preferences, limitations, and relative rights of subsequent

series; or

(2) state on the face or back of the certificate that:

(a) a statement that contains the information required in Subdivision (1) of this Subsection is set forth in the declaration of trust on file with the county clerk of the county of the principal place of business of the real estate investment trust; and

(b) the real estate investment trust, on written request to the real estate investment trust at its principal place of business or registered office, will furnish a copy of the statement to the record holder of the certificate without charge.

(C) Each certificate representing shares shall state on the face of the certificate:

(1) that the real estate investment trust is organized under the laws of this state;

(2) the name of the person to whom the certificate was issued;

(3) the number and class of shares and the designation of the series, if any, that the certificate represents; and

(4) the par value of each share represented by the certificate, or a statement that the shares are without par value.

(F) If any restriction on the transfer or registration of the transfer of shares is imposed or agreed to by the real estate investment trust, as permitted by this Act, each certificate representing shares restricted in this manner:

(1) shall conspicuously set forth a full or summary statement of the restriction on the face of the certificate;

(2) shall set forth the statement on the back of the certificate and conspicuously refer to the statement on the face of the certificate; or

(3) shall conspicuously state on the face or back of the certificate that such a restriction exists pursuant to a specified document and:

(a) that the real estate investment trust, on written request to the real estate investment trust at its principal place of business, shall furnish to the record holder of the certificate a copy of the specific document without charge; or

(b) if the document is one required or permitted to be and has been filed under this Act, that the specified document is on file with the county clerk of the county of the principal place of business of the real estate investment trust and contains a full statement of the restriction.

(G) Unless the document described by Subdivision (3) of Subsection (F) of this Section was on file with the county clerk of the county of the principal place of business of the real estate investment trust at the time of the request, a real estate investment trust that fails within a reasonable time to furnish without charge to a record holder of a certificate who requested a copy of the specified document may not be permitted to enforce its rights under the restriction imposed on the shares represented by the certificate.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 3.203. SIGNATURE REQUIREMENT. (a) The managerial official or officials of a domestic entity authorized by the governing documents of the entity to sign certificated ownership interests of the entity must sign any certificate representing an ownership interest in the entity.

(b) A certificated ownership interest that contains the manual or facsimile signature of a person who is no longer a managerial official of a domestic entity when the certificate is issued may be issued by the entity in the same manner and with the same effect as if the person had remained a managerial official. (TBCA 2.19.A (part); TREITA 7.20(A) (part).)

Source Law

[TBCA 2.19]

A. . . . Certificates representing shares shall be signed by such officer or officers as the bylaws of the corporation shall prescribe, and The signatures of such officer or officers as the bylaws of the corporation shall prescribe upon a certificate may be facsimiles. In case any officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the corporation with the same effect as if he were such officer at the date of its issuance.

[TREITA 7.20]

(A) Certificates representing shares shall be signed by the officer or officers prescribed by the bylaws of the real estate investment trust to sign the shares and The signatures of the officer or officers on a certificate may be facsimiles. If an officer who has signed or whose facsimile signature has been placed on the certificate ceases to serve as an officer before the certificate is issued, the real estate investment trust may issue the certificate, and the certificate has the same effect as if that officer were serving as an officer on the date of the certificate's issuance.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 3.204. DELIVERY REQUIREMENT. A domestic entity shall deliver a certificate representing a certificated ownership interest to which the owner is entitled. (TBCA 2.19.A (part); TREITA 7.20(A) (part).)

Source Law

[TBCA 2.19]

A. A corporation shall deliver certificates representing shares to which shareholders are entitled,

[TREITA 7.20]

(A) A real estate investment trust shall deliver certificates representing shares to which shareholders are entitled,

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 3.205. NOTICE FOR UNCERTIFICATED OWNERSHIP INTEREST.

(a) Except as provided by Subsection (c) and in accordance with Chapter 8, Business & Commerce Code, after issuing or transferring an uncertificated ownership interest, a domestic entity shall notify the owner of the ownership interest in writing of any information required under this subchapter to be stated on a certificate representing the ownership interest.

(b) Except as otherwise expressly provided by law, the rights and obligations of the owner of an uncertificated ownership interest are the same as the rights and obligations of the owner of a certificated ownership interest of the same class and series.

(c) A domestic entity is not required to send a notice under Subsection (a) if:

(1) the required information is included in the governing documents of the entity; and

(2) the owner of the uncertificated ownership interest is provided with a copy of the governing documents. (TBCA 2.19.D (part); TREITA 7.20(D) (part).)

Source Law

[TBCA 2.19]

D. In accordance with Chapter 8, Business & Commerce Code, a corporation shall, after the issuance or transfer of uncertificated shares, send to the registered owner of uncertificated shares a written notice containing the information required to be set forth or stated on certificates pursuant to this Act. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated shares and the rights and obligations of the holders of certificates representing shares of the same class and series shall be identical. . . .

[TREITA 7.20]

(D) In accordance with Chapter 8, Business & Commerce Code, a real estate investment trust, after the issuance or transfer of uncertificated shares, shall send to the registered owner of uncertificated shares a written notice containing the information required to be set forth or stated on certificates under this Act. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated shares and the rights and obligations of the holders of certificates representing shares of the same class and series must be identical. . . .

Revisor's Note

No substantive change is intended. Subsection (c) goes beyond the source law to permit the uncertificated ownership interest to be reflected in the governing documents. This provision matches the usual practices of partnerships and limited liability companies, where new partners and members are added and changes in ownership interests are effected by changes to the partnership agreement or company agreement (formerly regulations). However, this section does not apply to partnerships or limited liability companies unless the governing

documents so specify.

CHAPTER 4. FILINGS
SUBCHAPTER A. GENERAL PROVISIONS
Revised Law

Sec. 4.001. SIGNATURE AND DELIVERY. (a) A filing instrument must be:

(1) signed by a person authorized by this code to act on behalf of the entity in regard to the filing instrument; and

(2) delivered to the secretary of state in person or by mail, courier, facsimile or electronic transmission, or any other comparable form of delivery.

(b) A person authorized by this code to sign a filing instrument for an entity is not required to show evidence of the person's authority as a requirement for filing. (TBCA 2.06.B (part), C (part), D, 2.07.B (part), 2.10.B (part), 2.10-1.B (part), 2.12.C(2) (part), (3) (part), 2.13.D (part), E (part), 2.22.E(2) (part), 3.01, 3.03.A (part), C (part), 4.05.A (part), 4.07.D (part), 4.10.B (part), C (part), 4.11.B (part), C (part), 4.12.B (part), C (part), 4.14.B (part), C (part), 5.03.L (part), 5.04.A (part), B, 5.16.B (part), C, 5.17.E (part), 5.18.A (part), B, 6.01 (part), 6.02, 6.05.B (part), 6.07.A (part), 7.01.E (part), 7.12.E (part), 8.06.A (part), 8.09.A (part), B (part), D (part), 8.13.A, B, D, 8.14.A (part), B, C, 8.15.A (part), 8.16.E (part), 10.01.B (part), 10.03.A (part), B (part), 12.22.B (part), 12.34.B (part); TLLCA 2.04.B (part), 2.06.B (part), D (part), 2.07.B (part), 3.01, 3.03.A (part), C (part), 3.06.A, 3.07.A (part), 3.09.D (part), 6.08.A (part), 7.06.A (part), 7.08.A, B, D, 7.09.A (part), B, 7.10.A (part), 7.11.E (part), 8.12.A, B, 9.01.B (part), 9.03.B, 10.03.A (part), B (part), 10.05.B (part), C (part), 10.09.B, 11.01.A (part), 11.07.A (part); TNPCA 2.04A.B, 2.06.D (part), 2.06A.A (part), B (part), 3.03.A (part), 4.03.A (part), 4.04.A (part), 4.06.D (part), 5.04.A (part), B (part), 6.05.A (part), 6.06.A (part), 7.01.E (part), 8.05.A (part), 8.08.A (part), B (part), D (part), 8.12.A, B, D, 8.14.A (part), 8.15.E (part), 10.07.B (part), C (part); TMCLA 7.01, 7.03.A (part); TPAA 8(E), 12(A) (part), 15 (part), 16(A) (part), 18

(part), 19(A) (part), 21 (part); TPCA 4(a) (part), 19A(a); TRLPA 1.05(a), (b) (part), (d) (part), 1.06(b) (part), (c) (part), (f) (part), (h) (part), (i) (part), 2.01(a) (part), 2.02(a) (part), (f) (part), 2.03(a) (part), 2.04(a), (b), 2.06(c) (part), 2.07(a) (part), 2.10(b) (part), 2.11(d) (part), (e) (part), 2.12.B, 2.14(b) (part), 2.15(e) (part), 9.02(a) (part), 9.06 (part), 9.09, 13.05(a) (part), (b) (part), 13.07(a) (part), 13.09(a) (part); TRPA 3.08(b) (part), (e), 9.01(a) (part), (b) (part), 9.02(d) (part), (e) (part), 9.05(e) (part), 10.02(a) (part), (b), (c) (part), (f) (part), (g) (part), (k) (part), 10.05(b) (part), (c) (part), (f) (part), (h) (part), (i) (part); TREITA 3.10(A) (part), (B) (part), 5.10(B) (part), (C) (part), (F) (part), 7.40(F) (part), 19.20(A) (part), (B), 22.40(A), 22.50, 22.70(D), 23.40(A) (part), (B), 26.10(C) (part), (D) (part), 27.10(A) (part), (B).)

Source Law

[TBCA 2.06]

B. The reservation shall be made by filing with the Secretary of State an application to reserve a specified corporate name, executed by the applicant or the attorney or agent thereof. . . .

C. The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the Secretary of State a notice of such transfer, executed by the applicant for whom the name was reserved,

D. Any person for whom a specified corporate name has been reserved pursuant to Section B of this article may, during the period for which such name is reserved, terminate such reservation by filing with the Secretary of State an application for cancellation of reservation of corporate name, together with the applicable fee.

[TBCA 2.07]

B. Such registration shall be made by:

(1) Filing with the Secretary of State:

(a) An application for registration executed by the corporation by an officer thereof

[TBCA 2.10]

B. The statement required by this article shall be executed on behalf of the corporation by an officer. The original and a copy of the statement shall be delivered to the Secretary of State. . . .

[TBCA 2.10-1]

B. The statement required by this article shall be signed by the registered agent, or, if said agent is a corporation, by an officer of such corporate agent on its behalf. If the registered agent is simultaneously filing statements as to more than one corporation, each such statement may contain facsimile signatures in the execution. The original and one copy of the statement shall be delivered to the Secretary of State. . . .

[TBCA 2.12.C]

(2) Before the first issuance of any shares of a class or series established or increased or decreased by resolution adopted by the board of directors under Subsection (1) of this section, and in order to eliminate from the articles of incorporation a class or series of shares and all references to the class or series contained in the articles, the corporation shall file with the Secretary of State a statement

(3) The statement shall be executed on behalf of the corporation by an officer. The original and a copy of the statement shall be delivered to the Secretary of State. . . .

[TBCA 2.13]

D. Prior to the issuance of any shares of a series established by resolution adopted by the board of directors, and prior to the issuance of any shares of a series in which the number of shares has been increased or decreased by resolution

adopted by the board of directors, if such issuance is the first issuance of shares of each series since such resolution was adopted, and in order to eliminate from the articles of incorporation a series of shares and all references to such series contained therein, the corporation shall file with the Secretary of State a statement

E. Such statement shall be executed on behalf of the corporation by an officer. The original and a copy of the statement shall be delivered to the Secretary of State. . . .

[TBCA 2.22.E]

(2) Such statement shall be executed on behalf of the corporation by an officer. The original and a copy of the statement shall be delivered to the Secretary of State with copies of such bylaw or agreement restricting the transfer of shares or other securities attached thereto. . . .

[TBCA 3.01]

A. Any natural person of the age of eighteen (18) years or more, or any domestic or foreign corporation, estate, or other entity may act as an incorporator of a corporation by signing the articles of incorporation for such corporation and by delivering the original and a copy of the articles of incorporation to the Secretary of State.

[TBCA 3.03]

A. Except as provided by Section C of this Article, the original and a copy of the articles of incorporation shall be delivered to the Secretary of State. . . .

C. In the case of a new domestic corporation being incorporated pursuant to a plan of conversion or a plan of merger pursuant to Part Five of this Act, the articles of incorporation shall be filed with the Secretary of State with the articles of conversion or merger and need not be filed separately pursuant to Section A of this Article. . . .

[TBCA 4.05]

A. The original and a copy of the articles of amendment shall be delivered to the Secretary of State. . . .

[TBCA 4.07]

D. Such restated articles of incorporation shall be executed on behalf of the corporation by an officer. If no shares have been issued, however, and the restated articles of incorporation are adopted by the board of directors, the restated articles of incorporation may be executed on behalf of the corporation by a majority of the directors. The original and a copy of the restated articles of incorporation shall be delivered to the Secretary of State. . . .

[TBCA 4.10]

B. The statement of cancellation shall be executed on behalf of the corporation by an officer

C. The original and a copy of such statement shall be delivered to the Secretary of State. . . .

[TBCA 4.11]

B. The statement of cancellation shall be executed on behalf of the corporation by an officer and

C. The original and a copy of such statement shall be delivered to the Secretary of State. . . .

[TBCA 4.12]

B. When a reduction of the stated capital of a corporation has been approved as provided in this Article, a statement shall be executed on behalf of the corporation by an officer and

C. The original and a copy of such statement shall be delivered to the Secretary of State. . . .

[TBCA 4.14]

B. Authority to Sign Documents. A trustee appointed for a

corporation being reorganized under a federal statute, the designated officers of the corporation, or any other individual or individuals designated by the court may sign on behalf of a corporation that is being reorganized:

(1) articles of amendment or restated articles of incorporation . . .

(2) articles of merger or exchange . . .

(3) articles of dissolution . . .

(4) a statement of change of registered office or registered agent, or both . . .

(5) articles of conversion

C. Procedure for Merger or Share Exchange. When a domestic or foreign corporation or other entity that is not being reorganized merges or engages in a share exchange with a corporation that is being reorganized pursuant to a plan of reorganization:

. . .

(4) Upon the receipt of all required authorization for all action required by this Act for each corporation that is a party to the plan of merger or exchange that is not being reorganized and all action by each corporation, foreign corporation, or other entity that is a party to the plan of merger or exchange required by the laws under which it is incorporated or organized and its constituent documents, articles of merger or exchange shall be signed by each domestic or foreign corporation or other entity that is a party to the merger or exchange other than the corporation that is being reorganized as provided in Article 5.04 of this Act and on behalf of the corporation that is being reorganized by the persons specified in Section B of this Article;

. . .

(6) The articles of merger or exchange shall be filed with the Secretary of State in the manner and with such number of copies as is provided in Article 5.04B of this Act; and

. . .

[TBCA 5.03]

L. . . . If articles of merger or exchange have been filed with the Secretary of State but the merger or share exchange has not yet become effective, the merger or share exchange may be abandoned if a statement, executed on behalf of each domestic corporation and foreign corporation or other entity that is a party to the merger or share exchange by an officer or other duly authorized representative,

[TBCA 5.04]

A. If a plan of merger or exchange has been approved in accordance with Article 5.03 of this Act and has not been abandoned, or approved by the board of directors if shareholder approval is not required under that Article, articles of merger or exchange shall be executed on behalf of each domestic or foreign corporation or other entity that is a party to the merger or exchange by an officer or other duly authorized representative thereof

B. The original of the articles of merger or exchange, and such number of copies of the articles equal to the number of surviving, new, and acquiring domestic or foreign corporations and other entities that are a party to the merger or exchange or that will be created by the terms thereof, shall be delivered to the Secretary of State. An equal number of copies of the articles of incorporation of each domestic corporation that is to be incorporated pursuant to the plan of merger shall also be delivered to the Secretary of State with the articles of merger.

[TBCA 5.16]

B. The articles of merger shall be signed on behalf of the parent entity by an officer or other duly authorized representative of the parent entity

C. The articles of merger shall be delivered to the Secretary of State and filed as provided by Sections B and C of Article 5.04 of this Act.

[TBCA 5.17]

E. . . . If articles of conversion have been filed with the Secretary of State but the conversion has not become effective, the conversion may be abandoned if a statement, executed on behalf of the converting entity by an officer or other duly authorized representative and stating that the plan of conversion has been abandoned in accordance with applicable law, is filed with the Secretary of State prior to the effectiveness of the conversion. . . .

[TBCA 5.18]

A. If a plan of conversion has been approved in accordance with Article 5.17 of this Act and has not been abandoned, articles of conversion shall be executed by the converting entity by an officer or other duly authorized representative and

B. The original and one copy of the articles of conversion shall be delivered to the Secretary of State. Two copies of the articles of incorporation of the domestic corporation, if the converted entity is a domestic corporation, shall also be delivered to the Secretary of State with the articles of conversion.

[TBCA 6.01]

A. A corporation which has not commenced business and which has not issued any shares, may be voluntarily dissolved by its incorporators or its directors at any time in the following manner:

(1) Articles of dissolution shall be signed by a majority of the incorporators or directors and

(2) The original and a copy of the articles of dissolution shall be delivered to the Secretary of State, along with a certificate from the Comptroller of Public Accounts that all franchise taxes have been paid. . . .

[TBCA 6.02]

A. A corporation may be voluntarily dissolved by the

written consent of all of its shareholders.

B. Upon the execution of such written consent and after compliance with other provisions of this Act, the corporation shall file articles of dissolution as provided in this Act.

[TBCA 6.05]

B. After revocation of voluntary dissolution is authorized as provided in Section A of this Article, the corporation shall, if a certificate of dissolution of the corporation has been issued by the Secretary of State, deliver to the Secretary of State for filing within 120 days after such issuance the original and a copy of articles of revocation of dissolution executed on behalf of the corporation by an officer,

[TBCA 6.07]

A. The original and a copy of such articles of dissolution shall be delivered to the Secretary of State, along with a certificate from the Comptroller of Public Accounts that all taxes administered by the Comptroller under Title 2, Tax Code, have been paid. . . .

[TBCA 7.01]

E. Any corporation dissolved by the Secretary of State under the provisions of Section B of this article may be reinstated by the Secretary of State at any time within a period of 36 months from the date of such dissolution, upon approval of an application for reinstatement signed by an officer or director of the dissolved corporation. . . .

[TBCA 7.12]

E. A dissolved corporation that was dissolved by the expiration of the period of its duration may, during the three-year period following the date of dissolution, amend its articles of incorporation by following the procedure prescribed in this Act to extend or perpetuate its period of existence.
. . . .

[TBCA 8.06]

A. The original and a copy of the application of the corporation for a certificate of authority shall be delivered to the Secretary of State, together with a certificate issued by an authorized officer of the jurisdiction of the corporation's incorporation evidencing its corporate existence. If the certificate is in a language other than English, a translation of the certificate, under the oath of the translator, must be attached to the certificate. . . .

[TBCA 8.09]

A. A foreign corporation authorized to transact business in this state may change its registered office or its registered agent, or both, upon filing in the office of the Secretary of State a statement

B. Such statement shall be executed on behalf of the corporation by an officer. The original and a copy of such statement shall be delivered to the Secretary of State. . . .

D. Any registered agent of a corporation may resign
. . . .

(2) and by giving written notice, in duplicate (the original and one copy of the notice), to the Secretary of State within ten days after mailing or delivery of said notice to the corporation. . . .

[TBCA 8.13]

A. If a foreign corporation authorized to transact business in this State shall change its corporate name, or if such corporation desires to pursue in this State purposes other than, or in addition to, those authorized by its existing certificate of authority, it shall procure an amended certificate of authority by making application therefor to the Secretary of State.

B. To change any statement on an original application for a certificate of authority a foreign corporation shall file with

the Secretary of State an application for an amended certificate of authority setting forth the change.

. . .

D. The requirements in respect to the form and contents of such application, the manner of its execution, the filing of the application and a copy of it with the Secretary of State, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

[TBCA 8.14]

A. A foreign corporation authorized to transact business in this state may withdraw from this state upon procuring from the Secretary of State a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the Secretary of State an application for withdrawal,

B. The application for withdrawal may be made on forms promulgated by the Secretary of State and shall be executed on behalf of the corporation by an officer.

C. When the existence of a foreign corporation terminates because of dissolution, merger, conversion, or otherwise, a certificate from the proper officer in the jurisdiction of the corporation's incorporation evidencing the termination shall be filed with the Secretary of State.

[TBCA 8.15]

A. The original and a copy of such application for withdrawal, along with a certificate from the comptroller that all taxes, including all applicable penalties and interest, administered by the comptroller under Title 2, Tax Code, have been paid, shall be delivered to the secretary of state. . . .

[TBCA 8.16]

E. Any corporation whose certificate of authority has been revoked by the Secretary of State under the provisions of Section

B of this article may be reinstated by the Secretary of State . . . upon approval of an application for reinstatement signed by an officer or director of the corporation. . . .

[TBCA 10.01]

B. Except as otherwise expressly provided in this Act, any instrument to be filed pursuant to this Act shall be signed on behalf of the filing corporation by an officer, and the original and a copy of the instrument shall be delivered to the Secretary of State with copies attached thereto of any document incorporated by reference in or otherwise made a part of such instrument, or to be filed by means of such instrument. . . .

[TBCA 10.03]

A. . . .

(3) in the case of a Permitted Act that is to be made effective upon the occurrence of events or facts that may occur in the future, other than the mere passage of time, a statement that all such events or facts upon which the effectiveness of such Permitted Act is conditioned have been satisfied or waived, and of the date on which such condition was satisfied or waived, is filed with the Secretary of State

B. The statement required by Subsection 3 of Section A of this Article shall be executed on behalf of each domestic or foreign corporation or other entity that was required to execute the articles, statement, application, or other filing that is otherwise required by this Act to be filed with the Secretary of State to make effective such Permitted Act by an officer or other duly authorized representative, including an officer or duly authorized representative of any successor domestic or foreign corporation or other entity, and an original and a copy thereof shall be filed with the Secretary of State. . . .

[TBCA 12.22]

B. Execution, Delivery and Form. Promptly after the time or event specified in a close corporation provision for termination

of close corporation status has occurred, a statement of termination of close corporation status shall be signed on behalf of the close corporation by an officer. A copy of the applicable close corporation provision must be included in or attached to the statement. The original and a copy of the statement and the inclusion or attachment shall be delivered to the Secretary of State. . . .

[TBCA 12.34]

B. Execution and Delivery. A statement of operation as a close corporation shall be signed on behalf of the close corporation by an officer. The close corporation shall deliver the original and a copy of the statement to the Secretary of State. . . .

[TLLCA 2.04]

B. The reservation shall be made by filing with the Secretary of State an application to reserve a specified company name, executed by the applicant or the attorney or agent thereof. . . .

[TLLCA 2.06]

B. The statement required by this article shall be executed on behalf of the limited liability company or foreign limited liability company by an authorized member or manager. The original and a copy of the statement shall be delivered to the Secretary of State. . . .

D. Any registered agent of a limited liability company or foreign limited liability company may resign:

(1) by giving written notice to the limited liability company at its last known address; and

(2) by giving written notice, in duplicate (the original and one copy of the notice), to the Secretary of State. . . .

[TLLCA 2.07]

B. The statement required by this article shall be signed by the registered agent, or, an authorized officer, manager or member on its behalf. If the registered agent is simultaneously filing statements as to more than one limited liability company, each such statement may contain facsimile signatures in the execution. The original and one copy of the statement shall be delivered to the Secretary of State. . . .

[TLLCA 3.01]

A. Any natural person of the age of eighteen years or more, or any other person (without regard to place of residence, domicile, or organization) may act as an organizer of a limited liability company by signing the articles of organization for such limited liability company and by delivering the original and a copy of the articles of organization to the Secretary of State.

[TLLCA 3.03]

A. Except as provided by Section C of this Article, the original and a copy of the articles of organization shall be delivered to the Secretary of State. . . .

C. In the case of a new domestic limited liability company being organized pursuant to a plan of conversion or a plan of merger pursuant to Part Ten of this Act, the articles of organization of the limited liability company shall be filed with the Secretary of State with the articles of conversion or merger and need not be filed separately pursuant to Section A of this Article. . . .

[TLLCA 3.06]

A. The articles of amendment shall be executed on behalf of the limited liability company by an authorized manager or member, or in the case of an amendment of the articles of organization by action of a majority of the initial managers or of a majority of the initial members as provided in Section 2.23 of this Act, by a majority of the initial managers or a majority of the initial members as provided in Section 2.23 of this Act.

[TLLCA 3.07]

A. The original and a copy of the articles of amendment shall be delivered to the Secretary of State. . . .

[TLLCA 3.09]

D. Restated articles of organization must be executed on behalf of the limited liability company by an authorized manager or member unless capital has not been paid into the limited liability company and the restated articles of organization have been adopted by action of a majority of the initial managers or a majority of the initial members named in the articles of organization as provided by Article 2.23 of this Act, in which case the restated articles of organization may be executed on behalf of the limited liability company by a majority of the persons adopting such restated articles. The original and a copy of the restated articles of organization shall be delivered to the Secretary of State. . . .

[TLLCA 6.08]

A. The original and a copy of such articles of dissolution, along with a certificate from the comptroller that all taxes, including all applicable penalties and interest, administered by the comptroller under Title 2, Tax Code, have been paid, shall be delivered to the secretary of state. . . .

[TLLCA 7.06]

A. The original and a copy of the application of the foreign limited liability company for a Certificate of Authority shall be delivered to the Secretary of State, together with a certificate issued by an authorized officer of the jurisdiction of the foreign limited liability company's organization evidencing its existence. . . .

[TLLCA 7.08]

A. If a foreign limited liability company authorized to transact business in this State shall change its foreign limited

liability company name, or if such foreign limited liability company desires to pursue in this State purposes other than, or in addition to, those authorized by its existing certificate of authority, it shall procure an amended certificate of authority by making application therefor to the Secretary of State.

B. To change any statement on an original application for a certificate of authority a foreign limited liability company shall file with the Secretary of State an application for an amended certificate of authority setting forth the change.

. . .

D. The requirements in respect to the form and contents of such application, the manner of its execution, the filing of the application and a copy of it with the Secretary of State, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

[TLLCA 7.09]

A. A foreign limited liability company authorized to transact business in this state may withdraw from this state upon procuring from the Secretary of State a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign limited liability company shall deliver to the Secretary of State an application for withdrawal,

B. The application for withdrawal may be made on forms promulgated by the Secretary of State and shall be executed on behalf of the foreign limited liability company by an authorized manager or member.

[TLLCA 7.10]

A. The original and a copy of such application for withdrawal, along with a certificate from the comptroller that all taxes, including penalties and interest, administered by the comptroller under Title 2, Tax Code, have been paid, shall be delivered to the secretary of state. . . .

[TLLCA 7.11]

E. Any foreign limited liability company whose certificate of authority has been revoked by the Secretary of State under the provisions of Section B of this article may be reinstated by the Secretary of State . . . upon approval of an application for reinstatement signed by a manager or member of the foreign limited liability company. . . .

[TLLCA 8.12]

A. Subject to Section C of this Article, Articles 2.07, 4.14, and 5.14 and Part Seven of the TBCA apply to a limited liability company and its members, managers, and officers.

B. Subject to Section C of this Article, Articles 2.03 through 2.06, 2.09, 2.09A, 3.01, 7.01 through 7.05, and 7.07, Texas Miscellaneous Corporation Laws Act (Article 1302-1.01 et seq., Vernon's Texas Civil Statutes), as amended, apply to a limited liability company and its members, managers, and officers.

[TLLCA 9.01]

B. Except as otherwise expressly provided in this act, any instrument to be filed pursuant to this act shall be signed on behalf of the limited liability company by an authorized manager or member, and the original and a copy of the instrument shall be delivered to the Secretary of State with copies attached thereto of any document incorporated by reference in or otherwise made a part of such instrument, or to be filed by means of such instrument. . . .

[TLLCA 9.03]

B. A statement required by Section A of this Article must be executed on behalf of each domestic or foreign limited liability company or other person required to execute the articles of organization, articles of amendment or restatement, articles of merger, application, or other document required by this Act to be filed with the Secretary of State to make the

permitted act effective by a member, manager, officer, or other duly authorized representative, including a member, manager, officer, or duly authorized representative of any successor domestic or foreign limited liability company or other entity. An original and a copy of the statement must be filed with the Secretary of State.

[TLLCA 10.03]

A. After a plan of merger has been approved by each of the limited liability companies or other entities that is a party to the plan of merger, articles of merger shall be executed on behalf of each domestic limited liability company that is a party to the plan of merger by at least one member, manager, officer, or other agent or representative of the limited liability company who is authorized to execute articles of merger by the articles of organization or regulations or shall be approved by authorizing resolutions adopted by the act of the members. At least one authorized representative of each other foreign limited liability company or other entity that is a party to the plan of merger shall also execute the articles of merger. . . .

B. The original of the articles of merger and a number of copies equal to the number of surviving and new domestic or foreign limited liability companies and other entities that are a party to the plan of merger or that will be created by its terms shall be delivered to the Secretary of State. . . .

[TLLCA 10.05]

B. The articles of merger must be signed on behalf of the parent entity by a member, manager, officer, or other agent or representative authorized by (i) the organizational or other constituent documents of the parent entity, or (ii) resolutions adopted by the parent entity in accordance with the laws of its jurisdiction of organization or formation and the documents.
. . . .

C. The articles of merger shall be filed as provided by Section B of Article 10.03 of this Act,

[TLLCA 10.09]

B. The original and one copy of the articles of conversion shall be delivered to the Secretary of State. Two copies of the articles of organization of the domestic limited liability company, if the converted entity is a domestic limited liability company, shall also be delivered to the Secretary of State with the articles of conversion.

[TLLCA 11.01]

A.(1) One or more persons may organize a professional limited liability company by filing articles of organization with the Secretary of State in accordance with Part Three of this Act.
. . . .

[TLLCA 11.07]

A. A foreign professional limited liability company may apply for a certificate of authority to perform professional services in this state by filing an application in accordance with Part Seven of this Act. . . .

[TNPCA 2.04A]

B. An application for name reservation or transfer of the exclusive use of a specified corporate name is subject to the procedures and period prescribed by Article 2.06, Texas Business Corporation Act.

[TNPCA 2.06]

D. Any registered agent of a corporation may resign
 (1) by giving written notice to the corporation at its last known address
 (2) and by giving written notice, in triplicate (the original and two copies of the notice), to the Secretary of State
.

[TNPCA 2.06A]

A. The location of the registered office in this State for

a corporation may be changed from one address to another by filing in the office of the Secretary of State a statement

B. The statement required by this article shall be signed by the registered agent or, if the agent is a corporation, by an officer of the corporate agent on its behalf. If the registered agent is simultaneously filing statements for more than one corporation, each statement may contain facsimile signatures in the execution. The original and one copy of the statement shall be delivered to the Secretary of State. . . .

[TNPCA 3.03]

A. The original and a copy of the articles of incorporation shall be delivered to the Secretary of State. . . .

[TNPCA 4.03]

A. The articles of amendment shall be signed on behalf of the corporation by an officer

[TNPCA 4.04]

A. The original and a copy of the articles of amendment shall be delivered to the Secretary of State. . . .

[TNPCA 4.06]

D. Such restated articles of incorporation shall be signed on behalf of the corporation by an officer. The original and a copy of the restated articles of incorporation shall be delivered to the Secretary of State. . . .

[TNPCA 5.04]

A. Upon such approval, articles of merger or articles of consolidation shall be signed on behalf of each corporation by one of its officers

B. The original and a copy of the articles of merger or articles of consolidation shall be delivered to the Secretary of State. . . .

[TNPCA 6.05]

A. If voluntary dissolution proceedings have not been revoked . . . articles of dissolution shall be signed on behalf of the corporation by an officer

[TNPCA 6.06]

A. The original and a copy of such articles of dissolution shall be delivered to the Secretary of State. . . .

[TNPCA 7.01]

E. Any corporation dissolved by the Secretary of State under the provisions of Section B of this article may be reinstated by the Secretary of State . . . upon approval of an application for reinstatement signed by an officer or director of the dissolved corporation. . . .

[TNPCA 8.05]

A. The original and a copy of the application of the corporation for a certificate of authority shall be delivered to the Secretary of State, together with a certificate issued by an authorized officer of the jurisdiction of its incorporation evidencing its corporate existence. . . .

[TNPCA 8.08]

A. A foreign corporation authorized to conduct affairs in this state may change its registered office or change its registered agent, or both, upon filing in the office of the Secretary of State a statement

B. Such statement shall be signed on behalf of the corporation by an officer. The original and a copy of such statement shall be delivered to the Secretary of State. . . .

. . .

D. Any registered agent of a corporation may resign

. . .

(2) and by giving written notice, in triplicate (the original and two copies of the notice), to the Secretary of State

within ten days after mailing or delivery of said notice to the corporation. Such notice shall include the last known address of the corporation and shall include the statement that written notice of resignation has been given to the corporation and the date thereof.

. . .

[TNPCA 8.12]

A. If a foreign corporation authorized to conduct affairs in this State changes its corporate name or desires to pursue in this State purposes other than or in addition to the purposes authorized by its existing certificate of authority, the corporation shall file with the Secretary of State an application for amended certificate of authority setting forth the change.

B. A foreign corporation may change any other statement on its original application for certificate of authority or any amendment to that certificate by filing with the Secretary of State an application for an amended certificate of authority setting forth the change.

. . .

D. The requirements in respect to the form and contents of such application, the manner of its execution, the filing of the original and a copy of the application with the Secretary of State, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

[TNPCA 8.14]

A. The original and a copy of such application for withdrawal shall be delivered to the Secretary of State. . . .

[TNPCA 8.15]

E. Any corporation whose certificate of authority has been revoked by the Secretary of State under the provisions of Section B of this article may be reinstated by the Secretary of State . . . upon approval of an application for reinstatement signed by

an officer or director of the corporation. . . .

[TNPCA 10.07]

B. . . .

(3) in the case of a permitted act that is to be made effective on the occurrence of events or facts that may occur in the future, other than the mere passage of time, a statement that all the events or facts on which the effectiveness of the permitted act is conditioned have been satisfied or waived and the date on which the condition was satisfied or waived must be filed with the Secretary of State within 90 days of the date of the filing of the articles, statement, application, or other filing that is otherwise required by this Act for the permitted act to become effective.

C. The statement required by Section A(3) of this article shall be executed on behalf of each domestic or foreign corporation or other entity that was required to execute the articles, statement, application, or other filing that is otherwise required by this Act to be filed with the Secretary of State to make effective the permitted act by an officer or other duly authorized representative, including an officer or duly authorized representative of any successor domestic or foreign corporation or other entity, and an original and copy shall be filed with the Secretary of State. . . .

[TMCLA 7.01]

Whenever any instrument authorized to be filed by a domestic or foreign corporation with the Secretary of State under any statute to which this Act applies has been filed and is an inaccurate record of the corporate action referred to in the instrument, contains an inaccurate or erroneous statement, or was defectively or erroneously executed, sealed, acknowledged, or verified, the instrument may be corrected by articles of correction. Articles of correction must be executed on behalf of the corporation by an officer or director.

[TMCLA 7.03]

A. The original and a copy of the articles of correction shall be delivered to the Secretary of State. . . .

[TPAA 8]

(E) Execution. The articles of association shall be signed by each of the members.

[TPAA 12]

(A) The original and a copy of the articles of association shall be delivered to the Secretary of State. . . .

[TPAA 15]

The articles of amendment shall be executed on behalf of the association by an officer and

[TPAA 16]

(A) The original and a copy of the articles of amendment shall be delivered to the Secretary of State. . . .

[TPAA 18]

The articles of dissolution shall be executed on behalf of the association by an officer. If there are no living officers of the association, the articles shall be executed by the legal representative of the last surviving officer. . . .

[TPAA 19]

(A) The original and a copy of the articles of dissolution shall be delivered to the Secretary of State. . . .

[TPAA 21]

A professional association shall in June of each year file with the Secretary of State a statement The statement shall be on such form as the Secretary of State shall prescribe and furnish. It shall be executed on behalf of the association by an officer.

[TPCA 4]

(a) One or more individuals may incorporate a professional corporation by filing the original and a copy of Articles of Incorporation with the Secretary of State. One or more individuals may incorporate a professional legal corporation by filing the original and a copy of Articles of Incorporation with the Secretary of State. . . .

[TPCA 19A]

(a) A foreign professional legal corporation may apply for a certificate of authority to perform professional legal service in this state by filing an application in accordance with the Texas Business Corporation Act.

[TRLPA 1.05]

(a) A foreign limited partnership not authorized to transact business in Texas may register a name for use in this state if the name complies with Section 1.03 of this Act.

(b) A name may be registered under this section by paying the filing fee and filing with the secretary of state:

. . . .

(d) A foreign limited partnership that has in effect a registration of a name may renew that registration by paying the filing fee and filing an application for renewal with the secretary of state

[TRLPA 1.06]

(b) A limited partnership or foreign limited partnership subject to this Act may change its registered office, its registered agent, or both, by paying the filing fee and filing with the secretary of state a statement and a duplicate copy of the statement, which need not be an executed original or a photocopy of an executed original. . . .

(c) The statement required by Subsection (b) of this section must be executed on behalf of the limited partnership or foreign limited partnership by a general partner. . . .

(f) A registered agent of a limited partnership or foreign limited partnership may resign by giving written notice to the limited partnership and to the secretary of state. . . . Notice, together with a duplicate copy, which need not be an executed original or a photocopy of an executed original, must be given to the secretary of state

(h) The location of the registered office in Texas for a limited partnership or foreign limited partnership may be changed from one address to another by paying the filing fee to the secretary of state and filing with the secretary of state a statement and a duplicate copy, which need not be an executed original or a photocopy of an executed original. . . .

(i) The statement required by Subsection (h) of this section must be signed by the registered agent or, if the registered agent is a corporation, by an officer of the corporation. If the registered agent is simultaneously filing statements for more than one limited partnership, each statement may contain a facsimile signature in the execution. . . .

[TRLPA 2.01]

(a) To form a limited partnership, the partners must enter into a partnership agreement (which, in the case of a limited partnership formed under a plan of merger or a plan of conversion under Section 2.11 or 2.15 of this Act, may be included in the plan of merger or plan of conversion) and one or more partners, including all of the general partners, must execute a certificate of limited partnership. The filing fee and the certificate shall be filed with the secretary of state. . . .

[TRLPA 2.02]

(a) A certificate of limited partnership may be amended by paying the filing fee and filing a certificate of amendment with the secretary of state. . . .

(f) If after the dissolution of a limited partnership but before the limited partnership is either reconstituted or a certificate of cancellation is filed as provided in Section 2.03

of this Act,

(i) the certificate of limited partnership has been amended to reflect the withdrawal of all general partners, then the certificate of limited partnership may be amended to state the name . . . of each person winding up the limited partnership's affairs, each of whom shall execute and file the certificate of amendment . . . , or

(ii) winding up of a limited partnership's affairs is being carried out by a person who is not shown on the certificate of limited partnership as a general partner, then the certificate of limited partnership may be amended to add the name . . . of each person winding up the limited partnership's affairs, each of whom shall execute and file the certificate of amendment

A general partner who is not winding up the limited partnership's affairs need not execute a certificate of amendment that is executed and filed as provided by this section.

[TRLPA 2.03]

(a) A certificate of limited partnership shall be canceled by paying the filing fee and filing a certificate of cancellation with the secretary of state:

. . .

[TRLPA 2.04]

(a) Each certificate required by this article to be filed with the secretary of state shall be executed in the following manner:

(1) an initial certificate of limited partnership or a certificate of conversion must be signed by all general partners, except for an initial certificate of limited partnership signed and filed by a person under Subdivision (1) of Subsection (a) of Section 3.04 of this Act;

(2) a certificate of amendment or restated certificate must be signed by at least one general partner and by each other general partner designated in the certificate of amendment as a new general partner, unless signed and filed by a person under

Subsection (f) of Section 2.02 of this Act or under Subdivision (1) of Subsection (a) of Section 3.04 of this Act, but the certificate of amendment need not be signed by a withdrawing general partner;

(3) a certificate of cancellation must be signed by all general partners participating in the winding up of the limited partnership's affairs or, if no general partners are winding up the limited partnership's affairs, then by all non-partner liquidators, or, if the limited partners are winding up the limited partnership's affairs, by a majority in interest of the limited partners;

(4) a certificate of merger filed on behalf of a domestic limited partnership must be signed as provided in Subsection (d), Section 2.11 of this Act;

(5) a certificate filed under Section 2.06 of this Act must be signed by the person designated by the court; and

(6) a certificate of correction must be signed by at least one general partner.

(b) Any person may sign a certificate or partnership agreement or amendment or restated certificate by an attorney in fact. A power of attorney relating to the signing of a certificate or partnership agreement or amendment or restated certificate by an attorney in fact need not be sworn to, verified, or acknowledged, and need not be filed with the secretary of state, but shall be retained with the partnership records under Section 1.07 of this Act.

[TRLPA 2.06]

(c) If a domestic or foreign limited partnership that is not being reorganized merges or engages in a conversion or an interest exchanged pursuant to a plan of reorganization with a domestic or foreign limited partnership or other entity that is being reorganized . . . a certificate of merger or conversion shall be signed on behalf of the entities that are parties to the merger or conversion and shall be filed with the secretary of state as required by Section 2.11 or 2.15 of this Act.

[TRLPA 2.07]

(a) The original signed copy and one duplicate copy, which need not be an executed original or a photocopy of an executed original, of any document to be filed with the secretary of state under this Act shall be delivered to the secretary of state. A person who executed a certificate as an agent or fiduciary need not exhibit evidence of that person's authority as a prerequisite to filing. . . .

[TRLPA 2.10]

(b) If the restated certificate of limited partnership only restates and integrates provisions but does not amend the initial certificate of limited partnership, as previously amended or supplemented under this article, it must . . . be executed by a general partner and filed with the secretary of state as provided by Section 2.07 of this Act. If the restated certificate restates and integrates and amends the certificate of limited partnership, as previously amended or supplemented, it must:

. . .

(3) be executed by at least one general partner and by each other general partner designated in the restated certificate of limited partnership as a new general partner; and

. . .

[TRLPA 2.11]

(d) After a plan of merger has been approved by each of the limited partnerships or other entities that is a party to the plan of merger, a certificate of merger shall be executed on behalf of each limited partnership or other entity by at least one general partner of each domestic limited partnership that is a party to the plan of merger and by a general partner, officer, agent or other authorized representative of each other limited partnership or other entity that is a party to the plan of merger

(e) The original of the certificate of merger and such number of copies of the certificate equal to the number of

surviving and new domestic or foreign limited partnerships and other entities that are a party to the plan of merger or that will be created by the terms thereof, shall be delivered to the secretary of state. An equal number of copies of the certificate of limited partnership of each domestic limited partnership that is to be formed pursuant to the plan of merger shall also be delivered to the secretary of state with the articles of merger. . . .

[TRLPA 2.12]

B. The statement required by Section A(1)(b) of this Section 2.12 shall be executed on behalf of each domestic or foreign limited partnership or other entity that was required to execute the certificate, statement, application, or other filing that is otherwise required by this Act to be filed with the Secretary of State to make effective such Permitted Act by an officer or other duly authorized representative, including a general partner, an officer or duly authorized representative of any successor domestic or foreign limited partnership or other entity, and an original and a copy thereof shall be filed with the Secretary of State.

[TRLPA 2.14]

(b) In applying Section 3.08(b), Texas Revised Partnership Act, to a limited partnership:

(1) an application to become a registered limited liability partnership or to withdraw a registration must be executed by at least one general partner; and

. . . .

[TRLPA 2.15]

(e) If a plan of conversion has been approved in accordance with the preceding provisions of this section and has not been abandoned, articles of conversion shall be executed by the converting entity by a partner, officer, or other duly authorized representative thereof

[TRLPA 9.02]

(a) Before transacting business in Texas, a foreign limited partnership must register by delivering to the secretary of state the filing fee and one original application for registration as a foreign limited partnership executed by a general partner and a duplicate copy, which need not be an executed original or a photocopy of an executed original. . . .

[TRLPA 9.06]

A foreign limited partnership may cancel its registration by paying the application fee and filing with the secretary of state a certificate of cancellation executed by a general partner, conforming to the requirements of Section 2.03 of this Act as if it were a domestic limited partnership. . . .

[TRLPA 9.09]

Subsection (c) of Section 2.04 and Section 2.07 of this Act are applicable to foreign limited partnerships as if they were domestic limited partnerships.

[TRLPA 13.05]

(a) The secretary of state may require a domestic limited partnership or a foreign limited partnership authorized to transact business in this state to file a report as required by this section. . . .

(b) The report must be made on a form adopted by the secretary of state for that purpose The report must be signed on behalf of the limited partnership by at least one general partner. . . .

[TRLPA 13.07]

(a) A limited partnership that forfeits the right to transact business in this state as provided by Section 13.06 of this Act may be relieved from the forfeiture by filing the required report

[TRLPA 13.09]

(a) A limited partnership whose certificate or registration has been canceled as provided by Section 13.08 of this Act may be relieved of the cancellation by filing the report required by Section 13.05

[TRPA 3.08]

(b) Registration. (1) In addition to complying with subsections (c) and (d)(1), to become a registered limited liability partnership, a partnership must file with the secretary of state an application

(2) The application must be executed by a majority-in-interest of the partners or by one or more partners authorized by a majority-in-interest of the partners.

. . . .

(6) A registration may be withdrawn by filing in duplicate with the secretary of state a written withdrawal notice executed by a majority-in-interest of the partners or by one or more partners authorized by a majority-in-interest of the partners. . . .

(7) An effective registration may be renewed before its expiration by filing in duplicate with the secretary of state an application containing current information of the kind required in an initial application

(11) A document filed under this subsection may be amended or corrected by filing in duplicate with the secretary of state articles of amendment executed by a majority-in-interest of the partners or by one or more partners authorized by a majority-in-interest of the partners. . . .

(e) Limited Partnership. A limited partnership may become a registered limited liability partnership by complying with applicable provisions of the Texas Revised Limited Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes) and its subsequent amendments.

[TRPA 9.01]

(a) General to Limited Partnership. A partnership that is not a limited partnership may convert, with the consent of a majority-in-interest of the partners, to a domestic or foreign limited partnership by properly filing a certificate of limited partnership in the state in which the limited partnership is to be formed. . . .

(b) Limited to General. A domestic or foreign limited partnership may convert, on the affirmative vote of a majority-in-interest of the partners, to a partnership that is not a limited partnership by:

(1) cancelling its certificate of limited partnership in the state of formation or otherwise complying with the provisions for terminating the existence of the limited partnership under that state's law

[TRPA 9.02]

(d) Certificate of Merger. After a plan of merger has been approved by each of the partnerships or other entities that is a party to the plan of merger, unless the only parties to the merger are partnerships, a certificate of merger shall be executed on behalf of each partnership or other entity by at least one partner of each domestic partnership that is a party to the plan of merger and by a general partner, officer, agent or other authorized representative of each other partnership or other entity that is a party to the plan of merger

(e) Filing. If a certificate of merger must be executed, the original of the certificate of merger and the number of copies of the certificate equal to the number of surviving and new domestic or foreign partnerships and other entities that are a party to the plan of merger or that will be created by its terms, shall be delivered to the secretary of state. . . .

[TRPA 9.05]

(e) If a plan of conversion has been approved in accordance with the preceding provisions of this section and has not been abandoned, unless the converted entity and the converting

entities are both partnerships:

(1) articles of conversion shall be executed by the converting entity by a partner, officer, or other duly authorized representative thereof . . .

(2) the original and one copy of the articles of conversion shall be delivered to the secretary of state; and

(3) two copies of the certificate of limited partnership of the domestic limited partnership, if the converted entity is a domestic limited partnership, shall also be delivered to the secretary of state with the articles of conversion.

[TRPA 10.02]

(a) Before transacting business in Texas, a foreign limited liability partnership must file with the secretary of state a statement of foreign qualification. . . .

(b) The statement of qualification must be executed by a majority-in-interest of the partners or by one or more partners authorized by a majority-in-interest of the partners.

(c) Two copies of the statement of foreign qualification must be filed

(f) A registration may be withdrawn by filing in duplicate with the secretary of state a written withdrawal notice executed by a majority-in-interest of the partners or by one or more partners authorized by a majority-in-interest of partners. . . .

(g) An effective registration may be renewed before its expiration by filing in duplicate with the secretary of state a statement of foreign qualification containing current information of the kind required in an initial statement of qualification

(k) A document filed under this section may be amended or corrected by filing in duplicate with the secretary of state articles of amendment executed by a majority-in-interest of the partners or by one or more partners authorized by a majority-in-interest of the partners. . . . Two copies of the articles of amendment must be filed

[TRPA 10.05]

(b) A foreign limited liability partnership subject to this Act may change its registered office, its registered agent, or both, by paying the filing fee and filing with the secretary of state a statement and a duplicate copy of the statement, which need not be an executed original or a photocopy of an executed original. . . .

(c) The statement required by Subsection (b) must be executed on behalf of the foreign limited liability partnership by a majority-in-interest of the partners or by one or more partners authorized by a majority-in-interest of the partners. . . .

(f) A registered agent of a foreign limited liability partnership may resign by giving written notice to the foreign limited liability partnership and to the secretary of state. . . . Notice, together with a duplicate copy, which need not be an executed original or a photocopy of an executed original, must be given to the secretary of state

(h) The location of the registered office in Texas for a foreign limited liability partnership may be changed from one address to another by paying the filing fee to the secretary of state and filing with the secretary of state a statement and a duplicate copy, which need not be an executed original or a photocopy of an executed original. . . .

(i) The statement required by Subsection (h) must be signed by the registered agent or, if the registered agent is a corporation, by an officer of the corporation. If the registered agent is simultaneously filing statements for more than one foreign limited liability partnership, each statement may contain a facsimile signature in the execution. . . .

[TREITA 3.10]

(A) One or more persons, may act as trust manager(s) of a real estate investment trust by subscribing and acknowledging to a declaration of trust before an officer duly authorized to take acknowledgements of deeds,

(B) The declaration of trust shall be filed for record with the County Clerk of the county of the principal place of business of the real estate investment trust. . . .

[TREITA 5.10]

(B) A real estate investment trust may change its registered office, its registered agent, or both, on filing with the county clerk of the county where the declaration of trust was filed a statement that is executed by an officer on behalf of the real estate investment trust

(C) Any registered agent of a real estate investment trust may resign:

. . . .

(2) by filing written notice with the county clerk of the county where the declaration of trust was filed

(F) The address of the location of the registered office in this state for a real estate investment trust may be changed to another address on filing with the county clerk of the county where the declaration of trust was filed a statement that is executed by the registered agent for the real estate investment trust, or if the agent is a corporation or real estate investment trust, by an officer on behalf of the corporation or the real estate investment trust

[TREITA 7.40]

(F)(1) A real estate investment trust that has adopted a bylaw, or that is a party to an agreement restricting the transfer of its shares or other securities, may file the bylaw or agreement as a matter of public record with the county clerk of the county of the principal place of business of the real estate investment trust

(2) The real estate investment trust shall file a copy of the bylaw or agreement with the county clerk and a statement attached to the copy

(3) The statement shall be executed by an officer on behalf of the real estate investment trust.

[TREITA 19.20]

(A) On the termination and liquidation of the real estate investment trust, an officer shall execute articles of dissolution on behalf of the real estate investment trust,
.

(B) A copy of the articles of dissolution shall be filed with the county clerk of the county of the principal place of business of the real estate investment trust.

[TREITA 22.40]

(A) An officer shall execute the articles of amendment on behalf of the real estate investment trust. If no shares have been issued and the articles of amendment are adopted by the trust managers, a majority of the trust managers may execute the articles of amendment on behalf of the real estate investment trust.

[TREITA 22.50]

A copy of the articles of amendment shall be filed with the county clerk of the county of the principal place of business of the real estate investment trust.

[TREITA 22.70]

(D) An officer shall execute the restated declaration of trust on behalf of the real estate investment trust. If no shares have been issued and the restated declaration of trust is adopted by the trust managers, a majority of the trust managers may execute the restated declaration of trust on behalf of the real estate investment trust.

[TREITA 23.40]

(A) If a plan of merger or exchange has been approved in accordance with Section 23.30 of this Act and has not been abandoned, or approved by the trust managers if shareholder approval is not required under that section, articles of merger or exchange shall be executed on behalf of each domestic or

foreign corporation, real estate investment trust, partnership, or other entity that is a party to the plan of merger or exchange by an officer or other duly authorized representative of that entity

(B) The original of the articles of merger or exchange and the number of copies of the articles that is equal to number of surviving, new, and acquiring domestic or foreign corporations, real estate investment trusts, partnerships, and other entities that are parties to the plan of merger or exchange or that will be created by the terms of the plan of merger or exchange thereof shall be filed with the county clerk in each county where the principal place of business of a Texas real estate investment trust that is a party to the merger or exchange is located.

[TREITA 26.10]

(C) A trustee appointed for a real estate investment trust being reorganized under a federal statute, the designated officers of the real estate investment trust, or any other individual or individuals designated by the court on behalf of a real estate investment trust that is being reorganized, may sign:

(1) articles of amendment or a restated declaration of trust

(2) articles of merger or exchange

(3) articles of dissolution

(D) The following apply when a domestic or foreign real estate investment trust, corporation, partnership, or other entity that is not being reorganized merges or engages in a share exchange with a real estate investment trust that is being reorganized pursuant to a plan of reorganization:

. . . .

(3) On receiving all of the required authorization for all action required by this Act for each real estate investment trust that is a party to the plan of merger or exchange that is not being reorganized and all action by each domestic or foreign real estate investment trust, corporation, partnership, or other entity that is a party to the plan of merger or exchange required

by the laws under which it is incorporated or organized and its constituent documents, each domestic or foreign real estate investment trust, corporation, partnership, or other entity that is a party to the merger or exchange other than the real estate investment trust that is being reorganized as provided in Section 23.40 of this Act, the persons described by Subsection (C) of this Section, on behalf of the real estate investment trust that is being reorganized, shall sign the articles of merger or exchange.

. . .

(5) The articles of merger or exchange shall be filed with the county clerk in each county where the principal place of business of a Texas real estate investment trust that is a party to the merger or exchange is located in the manner and with the number of copies provided in Section 23.40 of this Act.

[TREITA 27.10]

(A) . . .

(3) in the case of a permitted act that is to take effect on the occurrence of events or facts that may occur in the future, other than the mere passage of time, a statement that all the events or facts on which the effectiveness of the permitted act is conditioned have been satisfied or waived, including the date on which the condition was satisfied or waived, is filed with the county clerk of the county of the principal place of business

(B) The statement required by Subdivision (3) of Subsection (A) of this Section shall be executed on behalf of each domestic or foreign real estate investment trust, corporation, partnership, or other entity that was required to execute the articles, statement, application, or other filing that is otherwise required to be filed with the county clerk of the county of the principal place of business of the real estate investment trust to make effective the permitted act by this Act by an officer or other duly authorized representative of the entity, including an officer or duly authorized representative of

any successor domestic or foreign real estate investment trust, corporation, partnership, or other entity. The original statement and a copy of the original statement must be filed with the county clerk of the county of the principal place of business of the real estate investment trust.

Revisor's Note

No substantive change is intended. One of the great benefits of the revised law's "hub-and-spoke" approach is that it permits consolidating in one chapter the large number of filing procedures set out formerly under the Texas Business Corporation Act, Texas Limited Liability Company Act, Texas Non-Profit Corporation Act, Texas Miscellaneous Corporation Laws Act, Texas Professional Association Act, Texas Professional Corporation Act, Texas Revised Limited Partnership Act, Texas Revised Partnership Act, and Texas Real Estate Investment Trust Act, as illustrated by the preceding source law references. Section 4.001 deletes the details of the varied procedures prescribed by most articles or sections of the source law for filings with the secretary of state (or county clerk by a REIT; see Section 4.009). Instead, Sections 4.001-4.106 provide one simplified set of rules for filings by all the entities governed by the revised law.

Revised Law

Sec. 4.002. ACTION BY SECRETARY OF STATE. (a) If the secretary of state finds that a filing instrument delivered under Section 4.001 conforms to the provisions of this code that apply to the entity and to applicable rules adopted under Section 12.001 and that all required fees have been paid, the secretary of state shall:

(1) file the instrument by accepting it into the filing system adopted by the secretary of state and assigning the instrument a date of filing; and

(2) deliver a written or electronic acknowledgment of filing to the entity or its representative.

(b) If a duplicate copy of the filing instrument is delivered to the secretary of state, on accepting the filing

instrument, the secretary of state shall return the duplicate copy, endorsed with the word "Filed" and the month, day, and year of filing, to the entity or its representative with the acknowledgment of filing. (TBCA 2.06.B (part), 2.10.B (part), D (part), 2.10-1.B (part), 2.12.C(3) (part), 2.13.E (part), 2.22.E(2) (part), 3.03.A, B, C (part), 4.05, 4.07.D (part), E, 4.10.C, 4.11.C, 4.12.C, 5.03.L (part), 5.04.C, 5.17.E (part), 5.18.C, 6.01 (part), 6.05.C, 6.07.A (part), B (part), 7.01.E (part), 8.06.A (part), B, 8.09.B (part), D (part), 8.15.A (part), 8.16.D (part), E (part), 10.01.B (part), 10.03.B (part), 12.22.C, 12.34.C; TLLCA 2.04.B (part), 2.06.B (part), 2.07.B (part), 3.03, 3.07, 3.09.D, E, 6.08.A (part), B (part), 7.06.A (part), B, 7.10, 7.11.D (part), 8.12.A, B, 10.03.B, 10.09.C, 11.07.A (part), B; TMCLA 7.03, 7.08; TNPCA 2.06.B (part), D (part), 2.06A.B (part), 3.03.A (part), B, 4.04.A (part), B, 4.06.D (part), E, 5.04.B (part), C, 6.06.A (part), B (part), 7.01.E (part), 8.05.A (part), B, 8.08.B (part), D (part), 8.14.A (part), B (part), 8.15.D (part), E (part), 9.01.E, 9.02.G, 10.07.C (part); TPAA 12(A) (part), (B), 16(A) (part), (B), 19(A) (part), (B); TPCA 19A(a) (part), (b); TRLPA 1.06(c) (part), (g) (part), (i) (part), 2.07(a) (part), (c), 2.11(e) (part), 9.03(a), 9.09, 13.04(c), 13.05(d) (part), 13.07(b), 13.08(a) (part), 13.09(b); TRPA 3.08(b)(8), (9) (part), (16), (18), 9.02(e) (part), 9.05(f), 10.02(h), (i) (part), 10.05(c) (part), (e), (g), (i) (part).)

Source Law

[TBCA 2.06]

B. . . . If the Secretary of State finds that the name is available for corporate use, he shall reserve the same for the exclusive use of the applicant for a period of one hundred and twenty (120) days.

[TBCA 2.10]

B. . . . The original and a copy of the statement shall be delivered to the Secretary of State. If the Secretary of State finds that such statement conforms to the provisions of this Act,

he shall, when the appropriate filing fee is paid as prescribed by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Return the copy to the corporation or its representative.

. . .

D. Any registered agent of a corporation may resign

. . .

If the Secretary of State finds that such written notice conforms to the provisions of this Act, he shall:

(1) Endorse on the original and the copy the word "filed" and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Return the copy to such resigning registered agent.

(4) Notify the corporation of the resignation of the registered agent.

. . .

[TBCA 2.10-1]

B. . . . The original and one copy of the statement shall be delivered to the Secretary of State. If the Secretary of State finds that such statement conforms to the provisions of this Act, he shall:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Return the copy to such registered agent.

[TBCA 2.12.C]

(3) . . . The original and a copy of the statement shall be delivered to the Secretary of State. If the Secretary of State finds that the statement conforms to law, when the appropriate filing fee is paid as provided by law, the Secretary

of State shall:

(a) endorse on the original and the copy the word "Filed," and the month, day, and year of the filing of the statement;

(b) file the original in the Secretary of State's office; and

(c) return the copy to the corporation or its representative.

[TBCA 2.13]

E. . . . The original and a copy of the statement shall be delivered to the Secretary of State. If the Secretary of State finds that such statement conforms to law, he shall, when the appropriate filing fee is paid as prescribed by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Return the copy to the corporation or its representative.

[TBCA 2.22.E]

(2) . . . The original and a copy of the statement shall be delivered to the Secretary of State with copies of such bylaw or agreement restricting the transfer of shares or other securities attached thereto. If the Secretary of State finds that such statement conforms to law and the appropriate filing fee has been paid as prescribed by law, he shall:

(a) endorse on the original and the copy the word "Filed", and the month, day, and year of the filing thereof;

(b) file the original in his office; and

(c) return the copy to the corporation or its representative.

[TBCA 3.03]

A. Except as provided by Section C of this Article, the original and a copy of the articles of incorporation shall be

delivered to the Secretary of State. If the Secretary of State finds that the articles of incorporation conform to law, he shall, when all fees have been paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of incorporation to which he shall affix the copy.

B. The certificate of incorporation, together with the copy of the articles of incorporation affixed thereto by the Secretary of State, shall be delivered to the incorporators or their representatives.

C. . . . If the Secretary of State finds that the articles of incorporation conform to the law, he shall file the articles of incorporation in his office and issue a certificate of incorporation, to which he shall affix a copy of the articles of incorporation, and deliver the same to the party or parties filing the articles of conversion or merger, or their representatives, with the certificate of conversion or merger that is issued in connection with the conversion or merger. In the case of a conversion or a merger, the certificate of incorporation of a domestic corporation that is a converted entity or that is to be created pursuant to the plan of merger shall become effective on the effectiveness of the conversion or the merger, as the case may be.

[TBCA 4.05]

A. The original and a copy of the articles of amendment shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of amendment conform to law, he shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and the copy the word "Filed" and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of amendment to which he shall

affix the copy.

B. The certificate of amendment, together with the copy of the articles of amendment affixed thereto by the Secretary of State, shall be delivered to the corporation or its representative.

[TBCA 4.07]

D. . . . The original and a copy of the restated articles of incorporation shall be delivered to the Secretary of State. If the Secretary of State finds that the restated articles of incorporation conform to law, he shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a restated certificate of incorporation to which he shall affix the copy.

E. The restated certificate of incorporation, together with the copy of the restated articles of incorporation affixed thereto by the Secretary of State, shall be delivered to the corporation or its representative.

[TBCA 4.10]

C. The original and a copy of such statement shall be delivered to the Secretary of State. If the Secretary of State finds that such statement conforms to law, he shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Return the copy to the corporation or its representative.

[TBCA 4.11]

C. The original and a copy of such statement shall be delivered to the Secretary of State. If the Secretary of State

finds that such statement conforms to law, he shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Return the copy to the corporation or its representative.

[TBCA 4.12]

C. The original and a copy of such statement shall be delivered to the Secretary of State. If the Secretary of State finds that such statement conforms to law, he shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Return the copy to the Corporation or its representative.

[TBCA 5.03]

L. . . . If the Secretary of State finds that such statement conforms to law, he shall, when all fees have been paid as required by law:

(1) Endorse on the original and each copy the word "Filed" and the month, day, and year the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of abandonment to each domestic or foreign corporation or other entity that is a party to the merger or exchange.

[TBCA 5.04]

C. If the Secretary of State finds that the articles of merger or exchange conform to law, he shall, when all fees and franchise taxes have been paid as required by law, or if the plan of merger or exchange (or statement provided in lieu thereof) provides that one or more of the surviving, new, or acquiring

domestic or foreign corporations or other entities will be responsible for the payment of all such fees and franchise taxes and that all of such surviving, new, or acquiring domestic or foreign corporations and other entities will be obligated to pay such fees and franchise taxes if the same are not timely paid:

- (1) Endorse on the original and each copy the word "Filed," and the month, day, and year of the filing thereof.
- (2) File the original in his office.
- (3) Issue a certificate of merger or exchange, together with a copy of the articles affixed thereto, to each surviving, new, and acquiring domestic or foreign corporation or other entity that is a party to the merger or exchange or that is created thereby, or its or their respective representatives.

[TBCA 5.17]

E. . . . If the Secretary of State finds that such statement conforms to law, the Secretary of State shall, when all fees have been paid as required by law:

- (1) endorse on the original and each copy the word "Filed" and the month, day, and year of the filing;
- (2) file the original in his office; and
- (3) issue a certificate of abandonment to the converting entity or its representatives.

[TBCA 5.18]

C. If the Secretary of State finds that the articles of conversion conform to law, has received all filings required to be received, and has issued all certificates required to be issued in connection with the incorporation, formation, or organization of the converted entity, if any, the Secretary of State shall, when all fees and franchise taxes have been paid as required by law or if the articles of conversion provide that the converted entity will be liable for the payment of all such fees and franchise taxes:

- (1) endorse on the original and each copy the word "Filed" and the month, day, and year of the filing;

- (2) file the original in his office; and
- (3) issue a certificate of conversion, together with a copy of the articles affixed thereto, to the converted entity or its representatives.

[TBCA 6.01]

A. A corporation which has not commenced business and which has not issued any shares, may be voluntarily dissolved by its incorporators or its directors at any time in the following manner:

. . . .

(2) The original and a copy of the articles of dissolution shall be delivered to the Secretary of State, along with a certificate from the Comptroller of Public Accounts that all franchise taxes have been paid. If the Secretary of State finds that the articles of dissolution conform to law, he shall, when the appropriate filing fee is paid as required by law:

(a) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(b) File the original in his office.

(c) Issue a certificate of dissolution, to which he shall affix the copy.

(3) The certificate of dissolution, together with the copy of the articles of dissolution affixed thereto by the Secretary of State, shall be delivered to the incorporators, the directors, or their representatives. . . .

[TBCA 6.05]

C. If the Secretary of State finds that the articles of revocation of dissolution conform to law, the Secretary shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and the copy the word "Filed" and the month, day, and year of the filing thereof;

(2) File the original in his office;

(3) Issue a certificate of revocation of dissolution to which he shall affix the copy; and

(4) Deliver to the corporation or its representative the certificate of revocation of dissolution, together with the affixed copy.

Notwithstanding the foregoing provisions of this Section C, if the corporation's name is the same as or deceptively similar to a corporate name already on file or reserved or registered pursuant to this Act, the Secretary of State shall not issue to the corporation a certificate of revocation of dissolution unless the corporation contemporaneously amends its articles of incorporation to change its name.

[TBCA 6.07]

A. . . . If the Secretary of State finds that such articles of dissolution conform to law, he shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of dissolution to which he shall affix the copy.

B. The certificate of dissolution, together with the copy of the articles of dissolution affixed thereto by the Secretary of State, shall be delivered to the representative of the dissolved corporation. . . .

[TBCA 7.01]

E. . . . Such application shall be filed by the Secretary of State whenever it is established to the Secretary's satisfaction that in fact there was no cause for the dissolution, or whenever the neglect, omission or delinquency resulting in dissolution has been corrected and payment made of all fees, taxes, penalties and interest due thereon which accrued before the dissolution plus an amount equal to the total taxes from the date of dissolution to the date of reinstatement which would have been payable had the corporation not been dissolved. . . .

[TBCA 8.06]

A. . . . If the Secretary of State finds that the application conforms to law, he shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File in his office the original and the certificate evidencing corporate existence.

(3) Issue a certificate of authority to transact business in this State to which he shall affix the copy.

B. The certificate of authority, together with the copy of the application affixed thereto by the Secretary of State, shall be delivered to the corporation or its representative.

[TBCA 8.09]

B. . . . The original and a copy of such statement shall be delivered to the Secretary of State. If the Secretary of State finds that such statement conforms to the provisions of this Act, he shall, when all fees have been paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Return the copy to the corporation or its representative.

. . .

D. . . . If the Secretary of State finds that such written notice conforms to the provisions of this Act, he shall:

(1) Endorse on the original and the copy the word "filed" and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Return the copy to such resigning registered agent.

(4) Notify the corporation of the resignation of the registered agent.

. . .

[TBCA 8.15]

A. . . . If the secretary of state finds that such application conforms to the provisions of this Act, the secretary of state shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in the office of the secretary of state.

(3) Issue a certificate of withdrawal to which shall be affixed the copy.

[TBCA 8.16]

D. Whenever a corporation has given cause for revocation of its certificate of authority and has failed to correct the neglect, omission or delinquency as provided in Sections B and C, the Secretary of State shall thereupon revoke the certificate of authority of the corporation by issuing a certificate of revocation which shall include the fact of such revocation and the date and cause thereof. The original of such certificate shall be placed in his office and a copy thereof mailed to the corporation at its registered office or to its principal place of business, or to the last known address of one of its officers or directors, or to any other known place of business of said corporation. . . .

E. . . . Such application shall be filed by the Secretary of State whenever it is established to the Secretary's satisfaction that in fact there was no cause for the revocation, or whenever the neglect, omission or delinquency resulting in revocation has been corrected and payment made of all fees, taxes, penalties and interest due thereon which accrued before the revocation plus an amount equal to the total taxes from the date of revocation to the date of reinstatement which would have been payable had the corporation's certificate not been revoked. . . .

Reinstatement shall not be authorized if the corporate name

is the same as or deceptively similar to a corporate, limited partnership, or limited liability company name already on file or reserved or registered, unless the corporation being reinstated contemporaneously amends its certificate of authority to change its name.

[TBCA 10.01]

B. . . . If the Secretary of State finds that such instrument conforms to law, he shall, when all franchise taxes and fees have been paid as prescribed by law:

(a) endorse on the original and the copy the word "Filed", and the month, day, and year of the filing thereof;

(b) file the original in his office;

(c) issue any certificate required by this Act relating to the subject matter of the filed instrument; and

(d) return the copy, affixed to any certificate required to be issued by the Secretary of State, to the corporation or its representative.

[TBCA 10.03]

B. . . . If the Secretary of State finds that such statement conforms to the provisions of this Act, he shall:

(1) Endorse on the original and the copy the word "Filed" and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Return the copy to the filing party or its representative.

[TBCA 12.22]

C. Filing. If the Secretary of State finds that the statement of termination of close corporation status conforms to law, the Secretary of State shall, when all fees and franchise taxes have been paid as required by law:

(1) endorse on the original and the copy the word "Filed" and the month, day, and year of the filing of the statement;

(2) file the original in the office of Secretary of State; and

(3) return the copy to the corporation or its representative.

[TBCA 12.34]

C. Filing. If the Secretary of State finds that the statement of operation as a close corporation conforms to law, the Secretary of State shall, when all fees and franchise taxes have been paid as required by law:

(1) endorse on the original and the copy the word "Filed" and the month, day, and year of the filing of the statement;

(2) file the original in the office of the Secretary of State; and

(3) return the copy to the close corporation or its representative.

[TLLCA 2.04]

B. . . . If the Secretary of State finds that the name is available for limited liability company use, the Secretary of State shall reserve the same

[TLLCA 2.06]

B. . . . If the Secretary of State finds that such statement conforms to the provisions of this Act, the Secretary of State shall, when the appropriate filing fee is paid as prescribed by law:

(1) Endorse on the original and the copy the word "filed," and the month, day, and year of the filing thereof.

(2) File the original in the office of the Secretary of State.

(3) Return the copy to the limited liability company or its representative.

[TLLCA 2.07]

B. . . . If the Secretary of State finds that such statement conforms to the provisions of this Act, the Secretary of State shall:

- (1) Endorse on the original and the copy the word "filed," and the month, day, and year of the filing thereof.
- (2) File the original in the office of the Secretary of State.
- (3) Return the copy to such registered agent.

[TLLCA 3.03]

A. Except as provided by Section C of this Article, the original and a copy of the articles of organization shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of organization conform to law, the Secretary of State shall, when all fees have been paid as required by law:

- (1) Endorse on the original and the copy the word "filed," and the month, day, and year of the filing thereof.
- (2) File the original in the office of the Secretary of State.
- (3) Issue a certificate of organization to which shall be affixed the copy.

B. The certificate of organization, together with the copy of the articles of organization affixed thereto by the Secretary of State, shall be delivered to the organizers or their representatives.

C. In the case of a new domestic limited liability company being organized pursuant to a plan of conversion or a plan of merger pursuant to Part Ten of this Act, the articles of organization of the limited liability company shall be filed with the Secretary of State with the articles of conversion or merger and need not be filed separately pursuant to Section A of this Article. If the Secretary of State finds that the articles of organization conform to the law, the Secretary of State shall file the articles of organization in the office of the Secretary of State and issue a certificate of organization, to which the

Secretary of State shall affix a copy of the articles of organization, and deliver the same to the party or parties filing the articles of conversion or merger or their representatives with the certificate of conversion or merger that is issued in connection with the conversion or merger. In the case of a conversion or a merger, the certificate of organization of a domestic limited liability company that is a converted entity or that is to be created pursuant to the plan of merger shall become effective on the effectiveness of the conversion or the merger, as the case may be.

[TLLCA 3.07]

A. The original and a copy of the articles of amendment shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of amendment conform to law, the Secretary of State shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and the copy the word "filed," and the month, day, and year of the filing thereof.

(2) File the original in the office of the Secretary of State.

(3) Issue a certificate of amendment to which shall be affixed the copy.

B. The certificate of amendment, together with the copy of the articles of amendment affixed thereto by the Secretary of State shall be delivered to the limited liability company or its representative.

[TLLCA 3.09]

D. Restated articles of organization must be executed on behalf of the limited liability company by an authorized manager or member unless capital has not been paid into the limited liability company and the restated articles of organization have been adopted by action of a majority of the initial managers or a majority of the initial members named in the articles of organization as provided by Article 2.23 of this Act, in which

case the restated articles of organization may be executed on behalf of the limited liability company by a majority of the persons adopting such restated articles. The original and a copy of the restated articles of organization shall be delivered to the Secretary of State. If the Secretary of State finds that the restated articles of organization conform to law, and the appropriate filing fee is paid as required by law, the Secretary of State shall:

- (1) endorse on the original and the copy the word "Filed" and the month, day, and year of filing;

- (2) file the original in the Secretary of State's office; and

- (3) issue a restated certificate of organization and affix the copy to the restated certificate of organization.

E. The restated certificate of organization, together with the copy of the restated articles of organization affixed to the restated certificate of organization by the Secretary of State, shall be delivered to the limited liability company or its representative.

[TLLCA 6.08]

A. . . . If the secretary of state finds that such articles of dissolution conform to law, the secretary of state shall, when the appropriate filing fee is paid as required by law:

- (1) Endorse on the original and copy the word "Filed," and the month, day, and year of the filing thereof.

- (2) File the original in the secretary of state's office.

- (3) Issue a certificate of dissolution to which there shall be affixed the copy.

B. The certificate of dissolution, together with the copy of the articles of dissolution affixed thereto by the Secretary of State, shall be delivered to the representative of the dissolved limited liability company. . . .

[TLLCA 7.06]

A. . . . If the Secretary of State finds that the application conforms to law, the Secretary of State shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and a copy the word "filed," and the month, day, and year of filing thereof.

(2) File in the office of the Secretary of State the original and a certificate evidencing the foreign limited liability company existence.

(3) Issue a Certificate of Authority to transact business in this state to which there shall be affixed the copy.

B. The Certificate of Authority, together with a copy of the application affixed thereto by the Secretary of State, shall be delivered to the foreign limited liability company or its representative.

[TLLCA 7.10]

A. The original and a copy of such application for withdrawal, along with a certificate from the comptroller that all taxes, including penalties and interest, administered by the comptroller under Title 2, Tax Code, have been paid, shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the provisions of this Act, the secretary of state shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in the secretary of state's office.

(3) Issue a certificate of withdrawal to which there shall be affixed the copy.

B. The certificate of withdrawal, together with the copy of the application for withdrawal affixed thereto by the Secretary of State, shall be delivered to the foreign limited liability company or its representative. Upon the issuance of such certificate of withdrawal, the authority of the foreign limited

liability company to transact business in this State shall cease.

[TLLCA 7.11]

D. Whenever a foreign limited liability company has given cause for revocation of its certificate of authority and has failed to correct the neglect, omission or delinquency as provided in Sections B and C, the Secretary of State shall thereupon revoke the certificate of authority of the foreign limited liability company by issuing a certificate of revocation which shall include the fact of such revocation and the date and cause thereof. The original of such certificate shall be placed in the Secretary of State's office and a copy thereof mailed to the foreign limited liability company at its registered office or to its principal place of business, or to the last known address of one of its managers, or to any other known place of business of said foreign limited liability company. . . .

[TLLCA 8.12]

A. Subject to Section C of this Article, Articles 2.07, 4.14, and 5.14 and Part Seven of the TBCA apply to a limited liability company and its members, managers, and officers.

B. Subject to Section C of this Article, Articles 2.03 through 2.06, 2.09, 2.09A, 3.01, 7.01 through 7.05, and 7.07, Texas Miscellaneous Corporation Laws Act (Article 1302-1.01 et seq., Vernon's Texas Civil Statutes), as amended, apply to a limited liability company and its members, managers, and officers.

[TLLCA 10.03]

B. The original of the articles of merger and a number of copies equal to the number of surviving and new domestic or foreign limited liability companies and other entities that are a party to the plan of merger or that will be created by its terms shall be delivered to the Secretary of State. Unless the Secretary of State finds that the articles of merger do not conform to law, on receipt of all applicable filing fees and

franchise taxes, if any, required by law or if the plan of merger provides that one or more of the surviving, new, or acquiring domestic or foreign limited liability companies or other entities will be responsible for the payment of all of such fees and franchise taxes and that all of such surviving, new, or acquiring domestic or foreign limited liability companies and other entities will be obligated to pay such fees and franchise taxes if the same are not timely paid, the Secretary of State shall:

(1) certify that the articles of merger have been filed in the Secretary of State's office by endorsing on the original the word "Filed" and the date of the filing;

(2) file and index the endorsed articles of merger;
and

(3) issue a certificate of merger, together with a copy of the articles affixed to the certificate, to each surviving or new domestic or foreign limited liability company or other entity that is a party to the plan of merger or that is created by the merger, or to its respective representatives.

[TLLCA 10.09]

C. If the Secretary of State finds that the articles of conversion conform to law, has received all filings required to be received, and has issued all certificates required to be issued in connection with the incorporation, formation, or organization of the converted entity, if any, the Secretary of State shall, when all fees and franchise taxes have been paid as required by law or if the articles of conversion provide that the converted entity will be liable for the payment of all such fees and franchise taxes:

(1) Endorse on the original and each copy the word "Filed" and the month, day, and year of the filing.

(2) File the original in the office of the Secretary of State.

(3) Issue a certificate of conversion, together with a copy of the articles affixed thereto, to the converted entity or its representatives.

[TLLCA 11.07]

A. . . . The Secretary of State may not issue the certificate unless the name of the foreign professional limited liability company or the name it elects in this state meets the requirements of Article 11.02 of this Act. . . .

B. A certificate may not be issued to a limited liability company under this Article unless the application for the certificate includes a statement that the jurisdiction in which the limited liability company is organized would permit reciprocal admission of the limited liability company if it were organized in this state.

[TMCLA 7.03]

A. The original and a copy of the articles of correction shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of correction conform to law, the Secretary of State shall, when all fees have been paid as required by law:

(1) endorse on the original and the copy the word "Filed," and the month, day, and year that the articles are filed;

(2) file the original in the office of the Secretary of State; and

(3) issue a certificate of correction to which the Secretary of State shall affix the copy.

B. The certificate of correction, together with the copy of the articles of correction affixed to the certificate by the Secretary of State, shall be delivered to the domestic or foreign corporation or its representative.

[TMCLA 7.08]

The Secretary of State shall not fail to approve the filing of any instrument required or authorized to be filed in duplicate with the Secretary of State under this Act or under any provision of the Texas Business Corporation Act, the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil

Statutes), the Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes), or any special statute of this state pertaining to a particular type of corporation or entity to which the general corporate laws are applicable, solely for the failure to provide a duplicate copy of the instrument to be filed. If the Secretary of State finds that such instrument otherwise conforms to law, the Secretary of State shall return to the person submitting the instrument or to the person's designated representative any certificate required to be issued by the Secretary of State without affixing a file-stamped copy of the instrument to which the certificate relates.

[TNPCA 2.06]

B . . . If the Secretary of State finds that such statement conforms to the provisions of this Act, he shall, when all fees have been paid as prescribed by law:

(1) Endorse on the original and the copy the word "Filed" and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Return the copy to the corporation or its representative.

. . .

D. . . . If the Secretary of State finds that such written notice conforms to the provisions of this Act, he shall:

(1) Endorse on the original and both copies the word "filed" and the month, day and year of the filing thereof.

(2) File the original in his office.

(3) Return one copy to such resigning registered agent.

(4) Return one copy to the corporation at the last known address of the corporation as shown in such written notice.

[TNPCA 2.06A]

B. . . . If the Secretary of State finds that the statement conforms to this Act, the Secretary of State shall:

(1) endorse on the original and the copy the word

"Filed," and the month, day, and year of the filing;

(2) file the original in the Secretary of State's office; and

(3) return the copy to the registered agent.

[TNPCA 3.03]

A. . . . If the Secretary of State finds that the articles of incorporation conform to law, he shall, when all fees have been paid as required by law:

(1) Endorse on the original and the copy the word "Filed", and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of incorporation to which he shall affix the copy.

B. The certificate of incorporation, together with the copy of the articles of incorporation affixed thereto by the Secretary of State shall be delivered to the incorporators or their representatives.

[TNPCA 4.04]

A. . . . If the Secretary of State finds that the articles of amendment conform to law, he shall, when all fees have been paid as in this Act prescribed:

(1) Endorse on the original and the copy the word "Filed", and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of amendment to which he shall affix the copy.

B. The certificate of amendment, together with the copy of the articles of amendment affixed thereto by the Secretary of State, shall be delivered to the corporation or its representative.

[TNPCA 4.06]

D. . . . If the Secretary of State finds that the restated articles of incorporation conform to law, he shall, when the

appropriate filing fee is paid as required by law:

(1) Endorse on the original and the copy the word "Filed", and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a restated certificate of incorporation to which he shall affix the copy.

E. The restated certificate of incorporation, together with the copy of the restated articles of incorporation affixed thereto by the Secretary of State, shall be delivered to the corporation or its representative.

[TNPCA 5.04]

B. . . . If the Secretary of State finds that such articles conform to law, he shall, when all fees have been paid as in this Act prescribed:

(1) Endorse on the original and the copy the word "Filed," and the month, day and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of merger or a certificate of consolidation to which he shall affix the copy.

C. The certificate of merger or certificate of consolidation, together with the copy of the articles of merger or articles of consolidation affixed thereto by the Secretary of State, shall be returned to the surviving or new corporation, as the case may be, or its representative.

[TNPCA 6.06]

A. . . . If the Secretary of State finds that such articles of dissolution conform to law, he shall, when all fees have been paid as in this Act prescribed:

(1) Endorse on the original and the copy the word "Filed," and the month, day and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of dissolution to which he shall affix the copy.

B. The certificate of dissolution, together with the copy

of the articles of dissolution affixed thereto by the Secretary of State, shall be returned to the representative of the dissolved corporation. . . .

[TNPCA 7.01]

E. . . . Such application shall be filed by the Secretary of State whenever it is established to his satisfaction that in fact there was no cause for the dissolution, or whenever the neglect, omission or delinquency resulting in dissolution has been corrected and payment made of all fees, taxes, penalties and interest due thereon which accrued before the dissolution plus an amount equal to the total taxes from the date of dissolution to the date of reinstatement which would have been payable had the corporation not been dissolved. . . .

[TNPCA 8.05]

A. . . . If the Secretary of State finds that such application conforms to law, he shall, when all fees have been paid as in this Act prescribed:

(1) Endorse on each of such documents the word "Filed," and the month, day and year of the filing thereof.

(2) File in his office the original application and the certificate evidencing corporate existence.

(3) Issue a certificate of authority to conduct affairs in this State to which he shall affix the copy of the application.

B. The certificate of authority, together with the copy of the application affixed thereto by the Secretary of State, shall be delivered to the corporation or its representative.

[TNPCA 8.08]

B. . . . The original and a copy of such statement shall be delivered to the Secretary of State. If the Secretary of State finds that such statement conforms to the provisions of this Act, he shall, when all fees have been paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day and year of the filing thereof.

(2) File the original in his office.

(3) Return the copy to the corporation or its representative.

. . .

D. . . . If the Secretary of State finds that such written notice conforms to the provisions of this Act, he shall:

(1) Endorse on the original and both copies the word "filed" and the month, day and year of the filing thereof.

(2) File the original in his office.

(3) Return one copy to such resigning registered agent.

(4) Return one copy to the corporation at the last known address of the corporation as shown in such written notice.

[TNPCA 8.14]

A. . . . If the Secretary of State finds that such application conforms to the provisions of this Act, he shall, when all fees have been paid as in this Act prescribed:

(1) Endorse on the original and the copy the word "Filed", and the month, day and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of withdrawal to which he shall affix the copy.

B. The certificate of withdrawal, together with the copy of the application for withdrawal affixed thereto by the Secretary of State, shall be returned to the corporation or its representative. . . .

[TNPCA 8.15]

D. Whenever a corporation has given cause for revocation of its certificate of authority and has failed to correct the neglect, omission or delinquency as provided in Sections B and C, the Secretary of State shall thereupon revoke the certificate of authority of the corporation by issuing a certificate of

revocation which shall include the fact of such revocation and the date and cause thereof. The original of such certificate shall be placed in his office and a copy thereof mailed to the corporation at its registered office or to its principal place of business, or to the last known address of one of its officers or directors, or to any other known place of business of said corporation. . . .

E. . . . Such application shall be filed by the Secretary of State whenever it is established to his satisfaction that in fact there was no cause for the revocation, or whenever the neglect, omission or delinquency resulting in revocation has been corrected and payment made of all fees, taxes, penalties and interest due thereon which accrued before the revocation plus an amount equal to the total taxes from the date of revocation to the date of reinstatement which would have been payable had the corporation's certificate not been revoked. . . .

Reinstatement shall not be authorized if the corporate name is the same as or deceptively similar to a corporate name already on file or reserved or registered, unless the corporation being reinstated contemporaneously amends its certificate of authority to change its name.

[TNPCA 9.01]

E. One (1) copy of such report shall be delivered to the Secretary of State. If the Secretary of State finds that such report conforms to the provisions of this Act, he shall:

(1) Endorse on such report the word "Filed," and the month, day, and year of the filing thereof.

(2) Notify the corporation of the filing of such report.

[TNPCA 9.02]

G. When such report shall be filed and the revival fee shall be paid to the Secretary of State, he shall reinstate the certificate of incorporation or charter or certificate of authority without judicial ascertainment, cancelling the word

"Forfeited" upon his record, and endorsing thereon the words "Set Aside" and the date of such reinstatement; provided, if such dissolution or revocation is to be set aside, the corporation shall ascertain from the Secretary of State whether the name of the corporation is available, and if not available, amend its corporate name pursuant to the provisions of this Act.

[TNPCA 10.07]

C. . . . If the Secretary of State finds that the statement conforms to the provisions of this Act, the Secretary of State shall:

(1) endorse on the original and the copy the word "Filed" and the month, day, and year of the filing;

(2) file the original in the Secretary of State's office; and

(3) return the copy to the filing party or its representative.

[TPAA 12]

(A) . . . If the Secretary of State finds that the articles of association conform to law, he shall, when all fees have been paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of association to which he shall affix the copy.

(B) The certificate of association, together with the copy of the articles of association affixed thereto by the Secretary of State, shall be delivered to the members or their representatives.

[TPAA 16]

(A) . . . If the Secretary of State finds that the articles of amendment conform to law, he shall, when all fees have been paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of amendment to which he shall affix the copy.

(B) The certificate of amendment, together with the copy of the articles of amendment affixed thereto by the Secretary of State, shall be delivered to the association or its representatives.

[TPAA 19]

(A) . . . If the Secretary of State finds that the articles of dissolution conform to law, he shall, when all fees have been paid as required by law:

(1) Endorse on the original and the copy the word "Filed," and the month, day, and year of the filing thereof.

(2) File the original in his office.

(3) Issue a certificate of dissolution to which he shall affix the copy.

(B) The certificate of dissolution, together with the copy of the articles of dissolution affixed thereto by the Secretary of State, shall be delivered to the association or its representatives.

[TPCA 19A]

(a) . . . The Secretary of State may not issue the certificate unless the name of the corporation or the name the corporation elects in this state meets the requirements of Section 8 of this Act. . . .

(b) A certificate may not to be issued to a corporation under this section unless the application for such certificate of authority includes a statement that the jurisdiction in which the corporation is incorporated would permit reciprocal admission of such corporation if it were incorporated in this state.

[TRLPA 1.06]

(c) . . . If the secretary of state finds that the statement conforms to this section, the secretary of state, on receipt of all applicable filing fees, shall file it in accordance with Subsection (a) of Section 2.07 of this Act as if it were a certificate of amendment.

. . .

(g) . . . If the secretary of state finds that the written notice conforms to this section, the secretary of state shall file it in accordance with Subsection (a) of Section 2.07 of this Act as if it were a certificate of amendment. . . .

. . .

(i) . . . If the secretary of state finds that the statement conforms to this section, the secretary of state, on receipt of the filing fee, shall file it in accordance with Subsection (a) of Section 2.07 of this Act as if it were a certificate of amendment. . . .

[TRLPA 2.07]

(a) . . . Unless the secretary of state finds that a certificate does not conform to law, on receipt of all applicable filing fees required by law the secretary of state shall certify that the certificate or decree has been filed in the secretary of state's office by endorsing on the original the word "Filed" and the date of the filing, file and index the endorsed certificate or decree, and return the duplicate copy, similarly endorsed, to the person who filed it or to the person's designated representative. The secretary of state's endorsement is conclusive of the date of the filing in the absence of actual fraud.

. . .

(c) Notwithstanding the provisions of Subsection (a) of this section, the secretary of state shall not provide a filed stamped duplicate acknowledgment copy of any document required or authorized to be filed with the secretary of state that is delivered to the secretary of state without a duplicate copy of the document attached. If the secretary of state finds that the

document otherwise conforms to law, the original shall be filed and indexed in the manner provided by Subsection (a) of this section and a letter acknowledging the filing shall be sent to the person who filed the document or to the person's designated representative.

[TRLPA 2.11]

(e) . . . Unless the secretary of state finds that a certificate of merger does not conform to law, on receipt of all applicable filing fees and franchise taxes, if any, required by law, or if the plan of merger (or a statement provided in lieu thereof) provides that one or more of the surviving or new domestic or foreign limited partnerships or other entities will be responsible for the payment of all fees and franchise taxes and that all of the surviving or new domestic or foreign limited partnerships and other entities will be obligated to pay the fees and franchise taxes if they are not timely paid, the secretary of state shall certify that the certificate of merger has been filed in the secretary of state's office by endorsing on the original the word "Filed" and the date of the filing, file and index the endorsed certificate of merger, and return the copy, similarly endorsed, to each surviving or new domestic or foreign limited partnership or other entity that is a party to the plan of merger or that is created thereby, or its or their respective representatives.

[TRLPA 9.03]

(a) If the secretary of state finds that an application for registration conforms to law and all requisite fees have been paid, the secretary of state shall accept the application in accordance with Subsection (a) of Section 2.07 of this Act.

[TRLPA 9.09]

Subsection (c) of Section 2.04 and Section 2.07 of this Act are applicable to foreign limited partnerships as if they were domestic limited partnerships.

[TRLPA 13.04]

(c) If permitted by the rules of the secretary of state, any certificate, instrument, or other document required or authorized to be filed with the secretary of state under this Act may be transmitted for filing electronically. If the certificate, instrument, or other document conforms to law and the rules promulgated by the secretary of state, the secretary shall file the instrument by acceptance into the filing system adopted by the secretary and assigning to the instrument a date of filing. An electronic acknowledgment or certification of the filing, as applicable, shall be provided by the secretary of state to the partnership or its representative. The secretary of state may promulgate rules and adopt practices and procedures for the transmission, filing, and retention of instruments filed electronically or by use of other technological means.

[TRLPA 13.05]

(d) Along with the notice that the report is due, the secretary of state shall mail to the limited partnership copies of a report form to be prepared and filed as provided by this section. Two copies of the report shall be delivered to the secretary of state. If the secretary of state finds that the report complies with this section, the secretary shall:

- (1) endorse on the report the word "Filed" and the month, day, and year of filing;
- (2) notify the limited partnership of the filing of the report; and
- (3) update the records of the secretary of state's office

[TRLPA 13.07]

(b) If a limited partnership complies with Subsection (a) of this section, the secretary of state shall revive the right of the limited partnership to transact business in this state, cancelling the notation regarding the forfeiture and noting the revival and the date of revival on the record kept in the

secretary's office relating to the limited partnership.

[TRLPA 13.08]

(a) The secretary of state may cancel the certificate of a limited partnership, or the registration of a foreign limited partnership, if the limited partnership forfeits its right to transact business in this state under Section 13.06 of this Act The secretary of state shall enter on the record kept in the secretary's office relating to the limited partnership a notation of the cancellation and the date of cancellation.

[TRLPA 13.09]

(b) If the limited partnership complies with the fees required by Subsection (a) of this section, the secretary of state shall reinstate the certificate of registration of the limited partnership without judicial ascertainment. The secretary shall change the status of the limited partnership to active and note the reinstatement on the record kept in the secretary's office relating to the limited partnership. If the name of the limited partnership is not available at the time of reinstatement, the secretary shall require the limited partnership to file an amendment to its certificate or application or adopt an assumed name for use in this state as a precondition to reinstatement.

[TRPA 3.08(b)]

(8) The secretary of state may remove from its active records the registration of a partnership whose registration has been withdrawn or revoked or has expired and not been renewed.

(9) The secretary of state may revoke the filing of a document filed under this subsection if the secretary of state determines that the filing fee for the document was paid by an instrument that was dishonored when presented by the state for payment. The secretary of state shall return the document and give notice of revocation to the filing party by regular mail.

. . . .

(16) If permitted by the rules of the secretary of state, any document authorized to be filed with the secretary of state under this subsection may be transmitted for filing electronically. If the document conforms to the requirements of this subsection and the rules promulgated by the secretary of state, the secretary shall file the document by acceptance into the filing system adopted by the secretary and assigning to the document a date of filing. An electronic acknowledgment of the filing, together with an electronically transmitted confirmation copy of the document, shall be provided by the secretary of state to the partnership or its representative.

. . .

(18) All electronic acknowledgments and certificates required to be issued by the secretary of state under this Act shall be considered issued or provided by the secretary of state on the initial transmission by the secretary of state of the acknowledgment or certificate required to be issued.

[TRPA 9.02]

(e) Filing. . . . Unless the secretary of state finds that a certificate of merger does not conform to law, then on receipt of all applicable filing fees and franchise taxes, if any, required by law, or if the plan of merger (or a statement provided in lieu thereof) provides that one or more of the surviving or new domestic or foreign partnerships or other entities that will be responsible for the payment of all the fees and franchise taxes and that all of the surviving or new domestic or foreign partnerships and other entities will be obligated to pay the fees and franchise taxes if they are not timely paid, the secretary of state shall certify that the certificate of merger has been filed in the secretary of state's office by endorsing on the original the word "Filed" and the date of the filing, file and index the endorsed certificate of merger, and return the copy, similarly endorsed, to each surviving or new domestic or foreign partnership or other entity that is a party to the plan of merger or that is created thereby, or its or their respective

representatives.

[TRPA 9.05]

(f) If the secretary of state finds that the articles of conversion conform to law, has received all filings required to be received, and has issued all certificates required to be issued in connection with the incorporation, formation, or organization of the converted entity, if any, the secretary of state shall, when all fees and franchise taxes have been paid as required by law or if the articles of conversion provide that the converted entity will be liable for the payment of all such fees and franchise taxes:

- (1) endorse on the original and each copy the word "Filed" and the month, day, and year of the filing;
- (2) file the original in his office; and
- (3) issue a certificate of conversion, together with a copy of the articles affixed thereto, to the converted entity or its representatives.

[TRPA 10.02]

(h) The secretary of state may remove from its active records the registration of a foreign limited liability partnership whose registration has been withdrawn or revoked or has expired and not been renewed.

(i) The secretary of state may revoke the filing of a document filed under this section if the secretary of state determines that the filing fee for the document was paid by an instrument that was dishonored when presented by the state for payment. The secretary of state shall return the document and give notice of revocation to the filing party by regular mail.
. . . .

[TRPA 10.05]

(c) . . . If the secretary of state finds that the statement conforms to this section, the secretary of state, on receipt of all applicable filing fees, shall file it in

accordance with Section 10.02(k) as if it were an amendment to the statement of foreign qualification.

. . .

(e) Filing of the statement amends the statement of foreign qualification regarding the information required by Section 10.02(a)(5).

. . .

(g) On compliance with the requirements for giving written notice under Subsection (f), the appointment of an agent terminates on the 31st day after the date of receipt of the notice by the secretary of state. If the secretary of state finds that the written notice conforms to this section, the secretary of state shall file it in accordance with Section 10.02(k) as if it were an amendment to the statement of foreign qualification. A fee is not required for the filing of a resignation under Subsection (f).

. . .

(i) . . . If the secretary of state finds that the statement conforms to this section, the secretary of state, on receipt of the filing fee, shall file it in accordance with Section 10.02(k) as if it were an amendment to the statement of foreign qualification. The address of the registered office of the foreign limited liability partnership is changed on the filing of the statement by the secretary of state. Filing of the statement amends the statement of foreign qualification regarding the information required by Section 10.02(a)(5) and no further action is required under Section 10.02(k).

Revisor's Note

Under the source law, how the Secretary of State was to handle the many kinds of filings with that office varied from a detailed three-step or four-step procedure to a simple command to just file a document without more being said. In many cases, the Secretary of State also had to issue a certificate reflecting the action taken. In addition, most filings were to be in duplicate with a file-stamped copy sent back to the entity or its

representative, but this requirement was mitigated in 1997 by Texas Miscellaneous Corporation Laws Act Section 7.08 permitting a single copy to suffice for most types of entities. By contrast, by following one uniform procedure and consistent with Texas Miscellaneous Corporation Laws Act Section 7.08, all the Secretary of State need do under the revised law for any filing instrument is to file it and send back a written or electronic acknowledgement of the filing. But should an entity or its representative still desire to have a file-stamped copy returned with the acknowledgment, Subsection (b) permits this election. For some entities, the source law required the submission of duplicate originals (or an original and one copy). Thus, the revised law embodies the Secretary of State's current practice of requiring only one filing copy, but providing a "file-stamped copy" to the filer if a second copy is submitted.

Revised Law

Sec. 4.003. FILING OR ISSUANCE OF REPRODUCTION OR FACSIMILE. (a) A photographic, photostatic, facsimile, electronic, or similar reproduction of a filing instrument, signature, acknowledgment of filing, or communication may be filed or issued in place of:

- (1) an original filing instrument;
- (2) an original signature on a filing instrument; or
- (3) an original acknowledgment of filing or other written communication from the secretary of state relating to a filing instrument.

(b) To the extent any filing or action on a filing conforms to this subchapter, a filing instrument or an acknowledgment of filing issued by the secretary of state is not required to be on paper or to be reduced to printed form. (TLLCA 8.12.B; TMCLA 7.07; TRLPA 9.02(a) (part), 13.04; TRPA 3.08(b)(12), (16), (17), (18), 10.02(1).)

Source Law

[TLLCA 8.12]

B. Subject to Section C of this Article, Articles 2.03

through 2.06, 2.09, 2.09A, 3.01, 7.01 through 7.05, and 7.07, Texas Miscellaneous Corporation Laws Act (Article 1302-1.01 et seq., Vernon's Texas Civil Statutes), as amended, apply to a limited liability company and its members, managers, and officers.

[TMCLA 7.07]

A. If permitted by the rules of the Secretary of State, any instrument required or authorized to be filed with the Secretary of State under this Act or under any provision of the Texas Business Corporation Act, the Texas Non-Profit Corporation Act, the Texas Limited Liability Company Act, or any special Statute of this State pertaining to a particular type of corporation or entity to which the general corporate laws are applicable, may be transmitted for filing electronically. If the instrument conforms to law and the rules promulgated by the Secretary of State, the Secretary shall file the instrument by acceptance into the filing system adopted by the Secretary and assigning to the instrument a date of filing. An electronic acknowledgment or certification of the filing, as applicable, shall be provided by the Secretary of State to the corporation or entity or its representative. The Secretary of State may promulgate rules and adopt practices and procedures for the transmission, filing, and retention of instruments filed electronically or by use of other technological means.

B. Any original instrument required or authorized to be filed with the Secretary of State under any provision of the Texas Business Corporation Act, the Texas Non-Profit Corporation Act, the Texas Limited Liability Company Act or any special Statute of this State pertaining to a particular type of corporation or entity to which the general corporate laws are applicable, may be a photographic, photostatic, facsimile, or similar reproduction of a signed instrument.

C. For purposes of this article, any signature on any instrument required or authorized to be filed with the Secretary of State may be a facsimile, the mark made by a person unable to

write, in an electronic format permitted by the rules of the Secretary of State, or any symbol executed or adopted by a person with the intent to authenticate a writing.

D. This article does not require any instrument authorized or required to be filed with the Secretary of State under any provision of the Texas Business Corporation Act, the Texas Non-Profit Corporation Act, the Texas Limited Liability Company Act, or any special Statute of this State pertaining to a particular type of corporation or entity to which the general corporate laws are applicable or any certificate issued by the Secretary of State concerning any such instrument to be on paper or reduced to printed form.

E. All electronic acknowledgments and certificates required to be issued by the Secretary of State under this Act, or under any provision of the Texas Business Corporation Act, the Texas Non-Profit Corporation Act, the Texas Limited Liability Act, or any special Statute of this State pertaining to a particular type of corporation or entity to which the general corporate laws are applicable, shall be considered issued or provided by the Secretary of State on the initial transmission by the Secretary of State of the acknowledgment or certificate required to be issued.

[TRLPA 9.02]

(a) Before transacting business in Texas, a foreign limited partnership must register by delivering to the secretary of state the filing fee and one original application for registration as a foreign limited partnership executed by a general partner and a duplicate copy, which need not be an executed original or a photocopy of an executed original. . . .

[TRLPA 13.04]

(a) Any original certificate, instrument, or other document required or authorized to be filed with the secretary of state under this Act may be a photographic, photostatic, facsimile, or similar reproduction of a signed certificate, instrument, or

other document.

(b) Any signature or the mark made by a person unable to write on any certificate, instrument, or other document required or authorized to be filed with the secretary of state may be a facsimile in an electronic format permitted by the rules of the secretary of state or any symbol executed or adopted by a person with the intent to authenticate a writing.

(c) If permitted by the rules of the secretary of state, any certificate, instrument, or other document required or authorized to be filed with the secretary of state under this Act may be transmitted for filing electronically. If the certificate, instrument, or other document conforms to law and the rules promulgated by the secretary of state, the secretary shall file the instrument by acceptance into the filing system adopted by the secretary and assigning to the instrument a date of filing. An electronic acknowledgment or certification of the filing, as applicable, shall be provided by the secretary of state to the partnership or its representative. The secretary of state may promulgate rules and adopt practices and procedures for the transmission, filing, and retention of instruments filed electronically or by use of other technological means.

(d) This section does not require any certificate, instrument, or other document authorized or required to be filed with the secretary of state under this Act or any certificate issued by the secretary of state concerning any other instrument to be on paper or reduced to printed form.

[TRPA 3.08(b)]

(12) A document filed under this subsection may be a photographic, facsimile, or similar reproduction of a signed document. A signature on a document filed under this section may be a facsimile, the mark made by a person unable to write, in electronic format permitted by the rules of the secretary of state or any symbol executed or adopted by a person with the intent to authenticate a writing.

. . .

(16) If permitted by the rules of the secretary of state, any document authorized to be filed with the secretary of state under this subsection may be transmitted for filing electronically. If the document conforms to the requirements of this subsection and the rules promulgated by the secretary of state, the secretary shall file the document by acceptance into the filing system adopted by the secretary and assigning to the document a date of filing. An electronic acknowledgment of the filing, together with an electronically transmitted confirmation copy of the document, shall be provided by the secretary of state to the partnership or its representative.

(17) This subsection does not require any document authorized to be filed with the secretary of state under this subsection or any certificate issued by the secretary of state concerning any such document to be on paper or reduced to printed form.

(18) All electronic acknowledgments and certificates required to be issued by the secretary of state under this Act shall be considered issued or provided by the secretary of state on the initial transmission by the secretary of state of the acknowledgment or certificate required to be issued.

[TRPA 10.02]

(1) A document filed under this section may be a photographic, facsimile, or similar reproduction of a signed document. A signature on a document filed under this section may be a facsimile.

Revisor's Note

Section 4.003 restates in simpler terms legislative recognition of modern methods for reproducing and transmitting filed documents as provided in Texas Miscellaneous Corporation Laws Act Section 7.07, Texas Revised Limited Partnership Act Section 13.04, and Texas Revised Partnership Act Sections 3.08 and 10.02. In brief, filed documents need not be on paper or in printed form. Except for terminology, no substantive change is

intended.

Revised Law

Sec. 4.004. TIME FOR FILING. Unless this code prescribes a specific period for filing, an entity shall promptly file each filing instrument that this code requires the entity to file. (TBCA 9.07.A; TLLCA 8.07.)

Source Law

[TBCA 9.07]

A. Except as provided by Section B of this article, if a document is required to be filed in the office of the Secretary of State by any provision of this Act, that requirement shall be construed to include the requirement that the document be filed with reasonable promptness.

[TLLCA 8.07]

A. Whenever any document is required to be filed in the office of the Secretary of State by any provision of this Act, the requirement of the statute shall be construed to involve the requirement that same be so filed with reasonable promptness.

Revisor's Note

Section 4.004 simplifies, in one rule, the "reasonable promptness" requirement for the filing of documents under the Texas Business Corporation Act and Texas Limited Liability Company Act. But it is also broader in recognizing that some code provisions may specify particular times or periods for filing. This explicit requirement is new for nonprofit corporations, cooperative associations, limited partnerships, and limited liability partnerships.

Revised Law

Sec. 4.005. CERTIFICATES AND CERTIFIED COPIES. (a) A court, public office, or official body shall accept a certificate issued as provided by this code by the secretary of state or a copy of a filing instrument accepted by the secretary of state for filing as provided by this code that is certified by the

secretary of state as prima facie evidence of the facts stated in the certificate or instrument.

(b) A court, public office, or official body may record a certificate or certified copy described by Subsection (a).

(c) A court, public office, or official body shall accept a certificate issued under an official seal by the secretary of state as to the existence or nonexistence of facts that relate to an entity that would not appear from a certified copy of a filing instrument as prima facie evidence of the existence or nonexistence of the facts stated in the certificate. (TBCA 9.05; TLLCA 8.05; TNPCA 9.06.)

Source Law

[TBCA 9.05]

A. All certificates issued by the Secretary of State in accordance with the provisions of this Act, and all copies of documents filed in his office in accordance with the provisions of this Act, when certified by him, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated, and shall be subject to recordation. A certificate by the Secretary of State, under the state seal, as to the existence or non-existence of the facts relating to corporations which would not appear from a certified copy of any of the foregoing documents or certificates shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or non-existence of the facts therein stated.

[TLLCA 8.05]

A. All certificates issued by the Secretary of State in accordance with the provisions of this Act, and all copies of documents filed in the office of the Secretary of State in accordance with the provisions of this Act, when certified by the Secretary of State, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated, and shall be subject to recordation. A

certificate by the Secretary of State, under the great seal of this State, as to the existence or non-existence of the facts relating to limited liability companies which would not appear from a certified copy of any of the foregoing documents or certificates shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or non-existence of the facts therein stated.

[TNPCA 9.06]

A. All certificates issued by the Secretary of State in accordance with the provisions of this Act, and all copies of documents filed in his office, in accordance with the provisions of this Act when certified by him, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated and may be officially recorded. A certificate by the Secretary of State under the state seal, as to the existence or non-existence of the facts relating to corporations which would not appear from a certified copy of any of the foregoing documents or certificates shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or non-existence of the facts therein stated.

Revisor's Note

No substantive change is intended. Although the Texas Revised Limited Partnership Act and Texas Revised Partnership Act do not have similar provisions for limited partnerships and limited liability partnerships, Rule 902 of the Texas Rules of Evidence provides similar rules applicable to all entities by permitting the admissibility of domestic documents under seal and certified copies of public records.

Revised Law

Sec. 4.006. FORMS ADOPTED BY SECRETARY OF STATE. (a) The secretary of state may adopt forms for a filing instrument or a report authorized or required by this code to be filed with the secretary of state.

(b) A person is not required to use a form adopted by the secretary of state unless this code expressly requires use of that form. (TBCA 9.06; TLLCA 8.06; TNPCA 9.07; TPAA 21 (part); TRLPA 13.05(b) (part), (d) (part); TRPA 3.08(b)(10), 10.02(j).)

Source Law

[TBCA 9.06]

A. Forms may be promulgated by the Secretary of State for all reports and all other documents required to be filed in the office of the Secretary of State. The use of such forms, however, shall not be mandatory, except in instances in which the law may specifically so provide.

[TLLCA 8.06]

A. Forms may be promulgated by the Secretary of State for all reports and all other documents required to be filed in the office of the Secretary of State. The use of such forms, however, shall not be mandatory, except in instances in which the law may specifically so provide.

[TNPCA 9.07]

A. Forms may be promulgated by the Secretary of State for all reports and all other documents required to be filed in the office of the Secretary of State. The use of such forms, however, shall not be mandatory, except in instances in which the law may specifically so provide.

[TPAA 21]

A professional association shall in June of each year file with the Secretary of State a statement The statement shall be on such form as the Secretary of State shall prescribe and furnish. . . .

[TRLPA 13.05]

(b) The report must be made on a form adopted by the secretary of state for that purpose,

(d) Along with the notice that the report is due, the secretary of state shall mail to the limited partnership copies of a report form to be prepared and filed as provided by this section. . . .

[TRPA 3.08(b)]

(10) The secretary of state may provide forms for application for or renewal of registration.

[TRPA 10.02]

(j) The secretary of state may provide forms for the statement of foreign qualification or renewal of registration.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 4.007. LIABILITY FOR FALSE FILING INSTRUMENTS. (a) A person may recover damages, court costs, and reasonable attorney's fees if the person incurs a loss and:

(1) the loss is caused by a:

(A) forged filing instrument; or

(B) filed filing instrument that constitutes an offense under Section 4.008; or

(2) the person reasonably relies on:

(A) a false statement of material fact in a filed filing instrument; or

(B) the omission in a filed filing instrument of a material fact required by this code to be included in the instrument.

(b) A person may recover under Subsection (a) from:

(1) each person who forged the forged filing instrument or signed the filing instrument and knew when the instrument was signed of the false statement or omission;

(2) any managerial official of the entity who directed the signing and filing of the filing instrument who knew or should have known when the instrument was signed or filed of the

false statement or omission; or

(3) the entity that authorizes the filing of the filing instrument. (TRLPA 2.08, 9.05.)

Source Law

[TRLPA 2.08]

(a) If a certificate of limited partnership or a certificate of amendment, merger, or cancellation contains a materially false statement, fails to state any material fact required to be included in the certificate by this Act, or is forged or signed by a person not authorized by the limited partnership to execute the certificate, a person who did not authorize the certificate or other document that purports to have been authorized or a person who suffers loss by reasonable reliance on the statement or from an omission may recover damages arising from the filing of the false, forged, or unauthorized certificate from:

(1) any partner or other person who executed the certificate and knew or, in the case of a general partner, should have known of the forgery, lack of authorization, or false statement or of the omission when the certificate was executed; and

(2) any general partner who after execution of the certificate knows that any arrangement or other fact described in the certificate is false in a material respect or has changed, making the statement false in a material respect, or that the certificate fails to state a material fact required to be included in the certificate by this Act, if that general partner had sufficient time to amend or cancel the certificate or to file a petition for its amendment or cancellation before the statement was reasonably relied on.

(b) A general partner is not subject to liability for failing to file the amendment or cancellation of a certificate or failing to file a petition for its amendment or cancellation under Subdivision (2) of Subsection (a) of this section if the certificate of amendment, certificate of cancellation, or

petition is filed within 30 days after the date that the general partner first had or should have had the knowledge that a statement in the certificate was false in a material respect or that the certificate failed to state a material fact required to be stated by this Act.

[TRLPA 9.05]

If any statement in the application for registration of a foreign limited partnership was false when made or if any arrangements or other facts described in the application have changed, making the application false in any respect, the foreign limited partnership shall promptly pay the filing fee and file with the secretary of state a certificate executed by a general partner correcting the false statement.

Revisor's Note

Section 4.007 is based largely on Texas Revised Limited Partnership Act Section 2.08, which also provided a civil remedy for false statements or omissions of material facts in certificates filed under that Act. However, the revised law does not provide the 30-day grace period in Texas Revised Limited Partnership Act Section 2.08(b) for someone such as a general partner to avoid liability by taking action to amend or cancel a certificate once the partner knows or should have known of the material falsity in the document. Instead, the liability of an individual under the revised law is conditioned on whether the individual had or should have had knowledge of the material falsity of the document at the time of its signing or filing. Even though not as broad in some respects as its Texas Revised Limited Partnership Act antecedent, the revised law provides a much needed civil remedy for false or misleading filings under the Code that should be a more effective remedy and deterrent than criminal prosecution under Section 4.008. That certainly was the case under the source law for Section 4.008 where prosecutions under those statutes were seldom brought.

Revised Law

Sec. 4.008. OFFENSE; PENALTY. (a) A person commits an offense if the person signs or directs the filing of a filing instrument that the person knows is materially false with intent that the filing instrument be delivered on behalf of an entity to the secretary of state for filing.

(b) An offense under this section is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event the offense is a state jail felony. (TBCA 10.02; TLLCA 9.02; TNPCA 9.03A; TPAA 26; TRPA 3.08(b)(13), 10.02(m).)

Source Law

[TBCA 10.02]

A. A person commits an offense if he signs a document he knows is false in any material respect with intent that the document be delivered on behalf of a corporation to the Secretary of State for filing.

B. An offense under this article is a Class A misdemeanor.

[TLLCA 9.02]

A. A person commits an offense if such person signs a document such person knows to be false in any material respect with intent that the document be delivered on behalf of a limited liability company to the Secretary of State for filing.

B. An offense under this article is a Class A misdemeanor.

[TNPCA 9.03A]

A. A person commits an offense if he signs a document he knows is false in any material respect with intent that the document be delivered on behalf of a corporation to the Secretary of State for filing.

B. An offense under this Article is a Class A misdemeanor.

[TPAA 26]

(A) A person commits an offense if the person signs a document the person knows is false in any material respect with

intent that the document be delivered on behalf of a professional association to the Secretary of State for filing.

(B) An offense under this section is a Class A misdemeanor.

[TRPA 3.08(b)]

(13) A person commits an offense if the person signs a document the person knows is false in any material respect with the intent that the document be delivered on behalf of a partnership to the secretary of state for filing. An offense under this subdivision is a Class A misdemeanor.

[TRPA 10.02]

(m) A person commits an offense if the person signs a document the person knows is false in any material respect with the intent that the document be delivered on behalf of the partnership to the secretary of state for filing. An offense under this subsection is a Class A misdemeanor.

Revisor's Note

Section 4.008 makes the signing of a filing instrument that contains a false statement or the omission of a material fact with the intent of filing the instrument with the secretary of state a Class A misdemeanor unless the person's intent is to defraud or harm another. In the latter case, the offense is a state jail felony. The source law simply classified the offense as a Class A misdemeanor, which is not a felony.

Revised Law

Sec. 4.009. FILINGS BY REAL ESTATE INVESTMENT TRUST. (a) A filing instrument relating to a domestic real estate investment trust must be filed with the county clerk of the county in which the domestic real estate investment trust's principal place of business is located.

(b) Subject to other state law governing the requirements for filing instruments with a county clerk, this chapter applies to a filing by a domestic real estate investment trust, except that in relation to such a filing a reference in this chapter to

the secretary of state is considered to be a reference to the county clerk of the county in which the domestic real estate investment trust's principal place of business is located.

(c) A filing instrument relating to a foreign real estate investment trust must be filed with the secretary of state and not a county clerk. (TREITA 3.10(B) (part), 19.20(B), 22.50, 28.10(A).)

Source Law

[TREITA 3.10]

(B) The declaration of trust shall be filed for record with the County Clerk of the county of the principal place of business of the real estate investment trust. . . .

[TREITA 19.20]

(B) A copy of the articles of dissolution shall be filed with the county clerk of the county of the principal place of business of the real estate investment trust.

[TREITA 22.50]

A copy of the articles of amendment shall be filed with the county clerk of the county of the principal place of business of the real estate investment trust.

[TREITA 28.10]

(A) In any case not provided for in this Act, analogous provisions of the Texas Business Corporation Act, and the case law construing that Act, shall govern; provided, however, that in any case where a provision of this Act conflicts with a provision of the Texas Business Corporation Act, the provisions of this Act control. Nothing in this Section shall be construed to cause a provision of the Texas Business Corporation Act to control over a similar provision of this Act on the grounds that the Texas Business Corporation Act provision is more or less extensive, restrictive, or detailed.

Revisor's Note

No substantive change is intended for domestic real estate investment trusts. The real estate investment trust is an entity that in its structure and filings closely resembles a for-profit corporation. For that reason, much of the language and procedures in the Texas Real Estate Investment Trust Act were taken directly and almost verbatim from the Texas Business Corporation Act. One of the primary exceptions is that its filings are with the county clerk of the county where the principal place of business is located instead of with the secretary of state. Section 4.009(b) confirms that except for the place of filing, filings for domestic real estate investment trusts are to be governed by the same standards and consequences as other filings under the code, subject to other state law governing the requirements for filing instruments with a county clerk. Therefore, whether county clerks are required to accept electronic filings will be governed by other Texas law. For foreign real estate investment trusts, the Texas Real Estate Investment Trust Act had no express provision permitting qualification to do business in Texas. The code fills this gap by specifying in Chapter 9 that foreign real estate investment trusts can register to do business in Texas. Subsection (c) of the revised law specifies that the application for registration and other filings for foreign real estate investment trusts must be filed with the secretary of state.

[Sections 4.010-4.050 reserved for expansion]

SUBCHAPTER B. WHEN FILINGS TAKE EFFECT

Revised Law

Sec. 4.051. GENERAL RULE. A filing instrument submitted to the secretary of state takes effect on filing, except as permitted by Section 4.052 or as provided by the provisions of this code that apply to the entity making the filing or other law. (TBCA 2.10.C, 2.10-1.C, 2.12.C(4), 2.13.F, 2.22.F, 3.03.C (part), 3.04.A, B, 4.06.A, 4.07.F, 4.10.D, 4.11.D, 4.12.D, 4.14.C(7), 5.03.L (part), 5.05, 5.16.D, 5.19, 6.01.A(3) (part), 6.05.D (part), 6.07.B (part), 7.01.D (part), E (part), 8.07, 8.09.C, D(2) (part), 8.13.D, 8.15.B (part), 8.16.E (part),

9.14.C(4), 12.22.D, 12.34.D; TLLCA 2.06.C, D(2) (part), 2.07.C, 3.03.C (part), 3.04.A, B, 3.08.A, 3.09.F, 6.08.B (part), 7.07, 7.08.D, 7.10.B, 7.11.D (part), E (part), 9.03.F, 10.03.C, 10.05.C, 10.10; TNPCA 2.06.A, C, D(2) (part), 3.04, 4.05.A, 4.06.F, 5.05, 6.06.B (part), 7.01.E (part), 8.06, 8.08.C, D(2) (part), 8.12.D, 8.14.B (part), 8.15.E (part); TPAA 13, 17(A), 20; TRLPA 1.05(c), 1.06(d), (e), (g) (part), (i) (part), 2.01(b), 2.02(e), 2.03(c), 2.06(d), 2.07(b), 2.10(d), 2.11(f), 2.15(f), 9.09, 13.02(c) (part), 13.07(b), 13.08(b) (part); TRPA 3.08(b)(4), (6) (part), (7) (part), 9.01(f), 9.02(f), 9.05(g), 10.02(d), (f) (part), (g) (part), 10.05(d), (e), (f), (i) (part); TREITA 3.10(B) (part), 5.10(E), 7.40(F)(4), 19.20(C), 22.60(A), 22.70(E), 23.50, 26.10(D)(6).)

Source Law

[TBCA 2.10]

C. Upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

[TBCA 2.10-1]

C. The registered office of the corporation named in such statement shall be changed to the new address of the registered agent upon the filing of such statement by the Secretary of State.

[TBCA 2.12.C]

(4) On the filing of a statement by the Secretary of State, the resolution establishing and designating the class or series and fixing and determining the preferences, limitations, and relative rights of the class or series, the resolution fixing the new number of shares of each class or series in which the number of shares is increased or decreased, or the resolution eliminating a class or series and all references to the class or series from the articles of incorporation, as appropriate, becomes an amendment of the articles of incorporation. An

amendment of the articles of incorporation effected as provided by this Article is not subject to the procedure to amend the articles contained in Article 4.02 of this Act.

[TBCA 2.13]

F. Upon the filing of such statement by the Secretary of State, the resolution establishing and designating the series and fixing and determining the preferences, limitations, and relative rights thereof, the resolution fixing the new number of shares of each series in which the number of shares is increased or decreased, or the resolution eliminating a series and all references to such series from the articles of incorporation, as appropriate, shall become an amendment of the articles of incorporation. An amendment of the articles of incorporation effected pursuant to this Article 2.13 is not subject to the procedure to amend the articles of incorporation contained in Article 4.02 of this Act.

[TBCA 2.22]

F. A corporation that is a party to an agreement restricting the transfer of its shares or other securities may make such agreement part of its articles of incorporation without restating the provisions of such agreement therein by complying with the provisions of Part Four of this Act for amendment of the articles of incorporation. If such agreement shall alter any provision of the original or amended articles of incorporation, the articles of amendment shall identify by reference or description the altered provision. If such agreement is to be an addition to the original or amended articles of incorporation, the articles of amendment shall state that fact. The articles of amendment shall have attached thereto a copy of the agreement restricting the transfer of shares or other securities, and shall state that the attached copy of such agreement is a true and correct copy of the same and that its inclusion as part of the articles of incorporation has been duly authorized in the manner required by this Act to amend the articles of incorporation.

[TBCA 3.03]

C. . . . In the case of a conversion or a merger, the certificate of incorporation of a domestic corporation that is a converted entity or that is to be created pursuant to the plan of merger shall become effective on the effectiveness of the conversion or the merger, as the case may be.

[TBCA 3.04]

A. Except as provided by Section B of this Article, on the issuance of the certificate of incorporation, the corporate existence of the corporation being incorporated shall begin.

B. In the case of a new domestic corporation being incorporated pursuant to a plan of conversion or a plan of merger pursuant to Part Five of this Act, the corporate existence of the corporation shall begin upon the effectiveness of the conversion or the merger, as the case may be.

[TBCA 4.06]

A. Upon the issuance of the certificate of amendment by the Secretary of State, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

[TBCA 4.07]

F. Upon the issuance of the restated certificate of incorporation by the Secretary of State, the original articles of incorporation and all amendments thereto shall be superseded and the restated articles of incorporation shall be deemed to be the articles of incorporation of the corporation.

[TBCA 4.10]

D. The filing of the statement of cancellation shall effect a reduction of the stated capital of the corporation by an amount equal to that part of the stated capital which was, at the time of the cancellation, represented by the shares so cancelled.

[TBCA 4.11]

D. Upon the filing of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so cancelled, and the shares so cancelled shall be restored to the status of authorized but unissued shares.

[TBCA 4.12]

D. Upon the filing of such statement, the stated capital of the corporation shall be reduced as therein set forth.

[TBCA 4.14.C]

(7) Upon the issuance of the certificate of merger or share exchange by the Secretary of State as provided in Article 5.04 of this Act, the merger or share exchange shall become effective with the same effect as if it had been adopted by unanimous action of the directors and shareholders of the corporation being reorganized. The effectiveness of the merger or share exchange shall be determined as provided in Article 5.05 of this Act.

[TBCA 5.03]

L. . . . Upon the filing of such statement by the Secretary of State, the merger or share exchange shall be deemed abandoned and shall not become effective.

[TBCA 5.05]

A. Except as otherwise provided by Article 10.03 of this Act, upon the issuance of the certificate of merger or exchange by the Secretary of State, the merger or share exchange shall be effective.

[TBCA 5.16]

D. The effective date and the effect of such merger shall be the same as provided in Articles 5.05 and 5.06 of this Act if

the surviving entity is a domestic corporation. If the surviving entity is a foreign corporation or other entity, the effective date and the effect of such merger shall be the same as in the case of the merger of domestic corporations except in so far as the laws of such other jurisdiction provide otherwise.

[TBCA 5.19]

A. Except as otherwise provided by Article 10.03 of this Act, on the issuance of the certificate of conversion by the Secretary of State, the conversion of a converting entity shall be effective.

[TBCA 6.01.A]

(3) . . . Upon the issuance of such certificate of dissolution by the Secretary of State, the existence of the corporation shall cease.

[TBCA 6.05]

D. . . . If a corporation revokes voluntary dissolution proceedings after the issuance by the Secretary of State of a certificate of dissolution of the corporation, then upon the issuance by the Secretary of State of a certificate of revocation of dissolution, the revocation shall be effective, the existence of the corporation shall be deemed to have continued without interruption after the issuance by the Secretary of State of the certificate of dissolution, the corporation may carry on its business as though voluntary dissolution proceedings had not occurred, and the existence of the corporation shall continue until the corporation is subsequently dissolved or otherwise ceases to exist pursuant to the provisions of this Act.

[TBCA 6.07]

B. . . . Upon the issuance of such certificate of dissolution, the existence of the corporation shall cease, except as otherwise provided in Article 6.05 or Article 7.12 of this Act.

[TBCA 7.01]

D. . . . Upon the issuance of such certificate of involuntary dissolution, the existence of the corporation shall cease, except for purposes otherwise provided by law.

E. . . . When the application for reinstatement is approved and filed by the Secretary of State, the corporate existence shall be deemed to have continued without interruption from the date of dissolution except the reinstatement shall have no effect upon any issue of personal liability of the directors, officers, or agents of the corporation during the period between dissolution and reinstatement.

[TBCA 8.07]

A. Upon the issuance of a certificate of authority by the Secretary of State, the corporation shall be authorized to transact business in this State for those purposes set forth in its application, and such certificate shall be conclusive evidence of such right of the corporation to transact business in this State for such purposes, except as against this State in a proceeding to revoke such certificate.

[TBCA 8.09]

C. Upon the filing of such statement by the Secretary of State, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

D. . . .

(2) . . . Such notice shall include the last known address of the corporation and shall include the statement that written notice of resignation has been given to the corporation and the date thereof.

. . .

[TBCA 8.13]

D. The requirements in respect to the form and contents of such application, the manner of its execution, the filing of the

application and a copy of it with the Secretary of State, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

[TBCA 8.15]

B. . . . Upon the issuance of such certificate of withdrawal, the authority of the corporation to transact business in this State shall cease.

[TBCA 8.16]

E. . . . When the application for reinstatement is approved and filed by the Secretary of State, the corporate authority to do business in Texas shall be deemed to have continued without interruption from the date of revocation, except that reinstatement shall have no effect upon any issue of personal liability of the directors, officers, or agents of the corporation during the period between revocation and reinstatement.

[TBCA 9.14.C]

(4) Upon the filing of such document, all provisions of this Act shall thereafter apply to the corporation.

[TBCA 12.22]

D. Effect of Filing. On the filing of the statement of termination of close corporation status, the articles of incorporation of the close corporation are considered to be amended to delete from the articles the statement that it is a close corporation and the corporation's status as a close corporation terminates.

[TBCA 12.34]

D. Effect of Filing. On the filing of the statement of operation as a close corporation, the fact that the close corporation is being operated and its business and affairs are

being conducted under the terms of a shareholders' agreement becomes a matter of public record.

[TLLCA 2.06]

C. Upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

D. . . .

(2) . . . Upon compliance with the requirements as to written notice, the appointment of such agent shall terminate upon the expiration of thirty (30) days after receipt of such notice by the Secretary of State.

[TLLCA 2.07]

C. The registered office of the limited liability company or foreign limited liability company named in such statement shall be changed to the new address of the registered agent upon the filing of such statement by the Secretary of State.

[TLLCA 3.03]

C. . . . In the case of a conversion or a merger, the certificate of organization of a domestic limited liability company that is a converted entity or that is to be created pursuant to the plan of merger shall become effective on the effectiveness of the conversion or the merger, as the case may be.

[TLLCA 3.04]

A. Except as provided by Section B of this Article, on the issuance of the certificate of organization, the limited liability company's existence shall begin.

B. In the case of a new domestic limited liability company being organized pursuant to a plan of conversion or a plan of merger pursuant to Part Ten of this Act, the existence of the limited liability company as such shall begin on the effectiveness of the conversion or the merger, as the case may

be.

[TLLCA 3.08]

A. Upon the issuance of the certificate of amendment by the Secretary of State, the amendment shall become effective and the articles of organization shall be amended accordingly.

[TLLCA 3.09]

F. On issuance of a restated certificate of organization by the Secretary of State, the original articles of organization and all amendments to the original articles are superseded, and the restated articles of organization are the articles of organization of the limited liability company.

[TLLCA 6.08]

B. . . . Upon the issuance of such certificate of dissolution the existence of the limited liability company shall cease, except for the purpose of suits, other proceedings in appropriate limited liability company action by members, managers and representatives as provided by the laws of this state.

[TLLCA 7.07]

A. Upon the issuance of a Certificate of Authority by the Secretary of State, the foreign limited liability company shall be authorized to transact business in this State for those purposes set forth in its application, and such certificate shall be conclusive evidence of such right of the foreign limited liability company to transact business in the State for such purposes, except as against this State, in preceding to revoke such certificate.

[TLLCA 7.08]

D. The requirements in respect to the form and contents of such application, the manner of its execution, the filing of the application and a copy of it with the Secretary of State, the issuance of an amended certificate of authority and the effect

thereof, shall be the same as in the case of an original application for a certificate of authority.

[TLLCA 7.10]

B. The certificate of withdrawal, together with the copy of the application for withdrawal affixed thereto by the Secretary of State, shall be delivered to the foreign limited liability company or its representative. Upon the issuance of such certificate of withdrawal, the authority of the foreign limited liability company to transact business in this State shall cease.

[TLLCA 7.11]

D. . . . Upon the issuance of such certificate of revocation, the authority to transact business in this state shall cease.

E. . . . When the application for reinstatement is approved and filed by the Secretary of State, the foreign limited liability company's authority to do business in Texas shall be deemed to have continued without interruption from the date of revocation, except that reinstatement shall have no effect upon any issue of personal liability of the manager or member, or agents of the foreign limited liability company during the period between revocation and reinstatement.

[TLLCA 9.03]

F. If articles of organization, articles of amendment or restatement, articles of merger, articles of conversion, an application, or any other document permitted to be filed pursuant to this Act with the Secretary of State have been filed but the event or transaction evidenced by the filing has not become effective, the filing may be abandoned in accordance with the agreement of the parties to the filing by filing a certificate of abandonment with the Secretary of State before the effectiveness of the event or transaction in accordance with the terms of the document so filed. The certificate of abandonment must be signed on behalf of each domestic or foreign limited liability company

or other entity that is a party to the event or transaction by a member, manager, officer, or other authorized representative and must state the nature of the filing to be abandoned, the date of the filing to be abandoned, the parties to the filing to be abandoned, and that the event or transaction has been abandoned in accordance with the agreement of the parties. On the filing of the certificate of abandonment with the Secretary of State, the event or transaction evidenced by the original filing shall be considered abandoned and may not become effective.

[TLLCA 10.03]

C. Except as provided by Article 9.03 of this Act, the merger is effective on the issuance of the certificate of merger by the Secretary of State.

[TLLCA 10.05]

C. The articles of merger shall be filed as provided by Section B of Article 10.03 of this Act, become effective as provided by Section C of Article 10.03 of this Act, and have the effect stated in Article 10.04 of this Act.

[TLLCA 10.10]

A. Except as otherwise provided by Article 9.03 of this Act, on the issuance of the certificate of conversion by the Secretary of State, the conversion of a converting entity shall be effective.

[TNPCA 2.06]

A. A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the Secretary of State a statement setting forth:

- (1) The name of the corporation.
- (2) The post-office address of its then registered office.
- (3) If the post-office address of its registered office is to be changed, the post-office address to which the

registered office is to be changed.

(4) The name of its then registered agent.

(5) If its registered agent is to be changed, the name of its successor registered agent.

(6) That the post-office address of its registered office and the post-office address of the business office of its registered agent, as changed, will be identical.

(7) That such change was authorized by its Board of Directors or by an officer of the corporation so authorized by the Board of Directors, or if the management of the corporation is vested in its members pursuant to Article 2.14C of this Act, by the members.

. . .

C. Upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

D. . . .

(2) . . . Upon compliance with the requirements as to written notice, the appointment of such agent shall terminate upon the expiration of thirty (30) days after receipt of such notice by the Secretary of State.

[TNPCA 3.04]

A. Upon the issuance of the certificate of incorporation, the corporate existence shall begin, and such certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with, and that the corporation has been incorporated under this Act, except as against the State in a proceeding for involuntary dissolution.

[TNPCA 4.05]

A. Upon the issuance of the certificate of amendment by the Secretary of State, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

[TNPCA 4.06]

F. Upon the issuance of the restated certificate of incorporation by the Secretary of State, the original articles of incorporation and all amendments thereto shall be superseded and the restated articles of incorporation shall be deemed to be articles of incorporation of the corporation.

[TNPCA 5.05]

A. Except as provided by Article 10.07 of this Act, on the issuance of the certificate of merger or the certificate of consolidation by the Secretary of State, the merger or consolidation of domestic corporations shall be effected.

[TNPCA 6.06]

B. . . . Upon the issuance of such certificate of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by members, directors and officers as provided in this Act.

[TNPCA 7.01]

E. . . . When the application for reinstatement is approved and filed by the Secretary of State, the corporate existence shall be deemed to have continued without interruption from the date of dissolution except the reinstatement shall have no effect upon any issue of personal liability of the directors, officers, or agents of the corporation during the period between dissolution and reinstatement.

[TNPCA 8.06]

A. Upon the issuance of a certificate of authority by the Secretary of State, the corporation shall be authorized to conduct affairs in this State for those purposes set forth in its application and the certificate shall be conclusive evidence of the right of the corporation to conduct affairs in this State for that purpose, except as against this State in a proceeding to

revoke the certificate.

[TNPCA 8.08]

C. Upon the filing of such statement by the Secretary of State, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

D. . . .

(2) . . . Upon compliance with the requirements as to written notice, the appointment of such agent shall terminate upon the expiration of thirty (30) days after receipt of such notice by the Secretary of State.

[TNPCA 8.12]

D. The requirements in respect to the form and contents of such application, the manner of its execution, the filing of the original and a copy of the application with the Secretary of State, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

[TNPCA 8.14]

B. . . . Upon the issuance of such certificate of withdrawal, the authority of the corporation to conduct affairs in this State shall cease.

[TNPCA 8.15]

E. . . . When the application for reinstatement is approved and filed by the Secretary of State, the corporate authority to do business in Texas shall be deemed to have continued without interruption from the date of revocation, except that reinstatement shall have no effect upon any issue of personal liability of the directors, officers, or agents of the corporation during the period between revocation and reinstatement.

[TPAA 13]

Upon the issuance of the certificate of association, the association's existence shall begin.

[TPAA 17]

(A) Issuance. Upon the issuance of the certificate of amendment by the Secretary of State, the amendment shall become effective and the articles of association shall be deemed to be amended accordingly.

[TPAA 20]

Upon the issuance of the certificate of dissolution by the Secretary of State, the dissolution shall become effective and the existence of the association shall cease except for the purpose of suits, other proceedings and acts necessary for the winding up of the association.

[TRLPA 1.05]

(c) The registration is effective for one year after the date on which the application is filed, unless it is voluntarily withdrawn before expiration by the filing of written notice of withdrawal with the secretary of state.

[TRLPA 1.06]

(d) On the filing of the statement by the secretary of state, the change of address of the registered office, the appointment of a new registered agent, or both, as the case may be, become effective.

(e) Filing of the statement amends the certificate of limited partnership or registration as a foreign limited partnership regarding the information required by Subdivision (2) of Subsection (a) of Section 2.01 or Subdivision (4) of Subsection (a) of Section 9.02 of this Act, as appropriate.

. . .

(g) On compliance with the requirements for giving written notice under Subsection (f) of this section, the appointment of

an agent terminates on the 31st day after the date of receipt of the notice by the secretary of state. . . .

. . .

(i) . . . If the secretary of state finds that the statement conforms to this section, the secretary of state, on receipt of the filing fee, shall file it in accordance with Subsection (a) of Section 2.07 of this Act as if it were a certificate of amendment. The address of the registered office of the limited partnership is changed on the filing of the statement by the secretary of state. . . .

[TRLPA 2.01]

(b) Except in the case of a limited partnership formed under a plan of merger or a plan of conversion under Section 2.11 or 2.15 of this Act, a limited partnership is formed at the time of the filing of the initial certificate of limited partnership with the secretary of state or at a later date or time specified in the certificate if there has been substantial compliance with the requirements of this section. In the case of a limited partnership being formed under a plan of merger or a plan of conversion under Section 2.11 or 2.15 of this Act, the existence of the limited partnership as a limited partnership begins on the effectiveness of the merger or the conversion, as applicable, and the persons to be partners shall become general or limited partners, as applicable, as of that time.

[TRLPA 2.02]

(e) Unless otherwise provided by this Act, a certificate of amendment is effective when filed with the secretary of state or at a later date or time specified in the certificate if there has been substantial compliance with the requirements of this section.

[TRLPA 2.03]

(c) If, in the case of merger or conversion, one or more limited partnerships formed under this Act are not the surviving

or resulting domestic limited partnership or partnerships or other entity or entities, the certificate of merger or conversion filed under Subsection (d) of Section 2.11 or Subsection (e) of Section 2.15 of this Act is sufficient, without a filing under this section, to cancel the certificate of limited partnership of those nonsurviving limited partnerships.

[TRLPA 2.06]

(d) On endorsement of the certificate by the secretary of state under Section 2.07 of this Act, the certificate of amendment, merger, conversion, or cancellation or restated certificate becomes effective and has the same effect as if it had been adopted by unanimous action of the general and the limited partners of the limited partnership being reorganized except as otherwise provided by this section or by the plan of reorganization ordered or decreed by a court of competent jurisdiction under federal statute.

[TRLPA 2.07]

(b) Any document filed with the secretary of state under this Act is effective on filing with the secretary of state, except as permitted by Section 2.12.

[TRLPA 2.10]

(d) On the filing of the restated certificate of limited partnership with the secretary of state, or on the future effective date or time of a restated certificate of limited partnership as provided by the certificate, the initial certificate of limited partnership, as previously amended or supplemented, is superseded, and the restated certificate of limited partnership, including any further amendment or changes made by it, is the certificate of limited partnership of the limited partnership. The original effective date of formation, however, is not changed.

[TRLPA 2.11]

(f) Except as provided in Section 2.12 of this Act, the merger shall be effective upon the issuance of the certificate of merger by the secretary of state.

[TRLPA 2.15]

(f) Except as otherwise provided by Section 2.14 of this Act, on the issuance of the certificate of conversion by the secretary of state, the conversion of a converting entity shall be effective.

[TRLPA 9.09]

Subsection (c) of Section 2.04 and Section 2.07 of this Act are applicable to foreign limited partnerships as if they were domestic limited partnerships.

[TRLPA 13.02]

(c) . . . On the filing of a document complying with this subsection, this Act applies to that partnership.

[TRLPA 13.07]

(b) If a limited partnership complies with Subsection (a) of this section, the secretary of state shall revive the right of the limited partnership to transact business in this state, cancelling the notation regarding the forfeiture and noting the revival and the date of revival on the record kept in the secretary's office relating to the limited partnership.

[TRLPA 13.08]

(b) On cancellation, the status of the limited partnership is changed to inactive according to the records of the secretary of state. . . .

[TRPA 3.08(b)]

(4) A partnership is registered as a registered limited liability partnership on filing a completed initial or renewal application, in duplicate with the required fee, or on a

later date specified in the application. A registration is not affected by later changes in the partners of the partnership.

. . .

(6) . . . A withdrawal notice terminates the status of the partnership as a registered limited liability partnership as of the date of filing the notice or a later date specified in the notice, but not later than the expiration date under Subdivision (5).

(7) . . . A renewal application filed under this section continues an effective registration for one year after the date the effective registration would otherwise expire.

[TRPA 9.01]

(f) Effective Date of Conversion. A conversion of a partnership that is not a limited partnership to a limited partnership or a conversion of a limited partnership to a partnership that is not a limited partnership is effective on the later of the date specified in a written agreement concerning the conversion between the partners or the date all actions required by this section have been completed.

[TRPA 9.02]

(f) Effective Date. Except as provided by Section 9.06, the merger shall be effective on the issuance of the certificate of merger by the secretary of state or, if a certificate of merger need not be executed, as provided in the plan of merger.

[TRPA 9.05]

(g) Except as otherwise provided by Section 9.06, on the issuance of the certificate of conversion by the secretary of state (or if a certificate of conversion need not be executed, as provided in the plan of merger), the conversion of a converting entity shall be effective.

[TRPA 10.02]

(d) A partnership is registered as a foreign limited

liability partnership on filing a completed initial or renewal statement of foreign qualification, in duplicate with the required fee, or on a later date specified in the statement. A registration is not affected by later changes in the partners of the partnership.

. . .

(f) . . . A withdrawal notice terminates the status of the partnership as a foreign limited liability partnership as of the date of filing the notice or a later date specified in the notice, but not later than the expiration date under Subsection (e).

(g) . . . A renewal statement of foreign qualification filed under this section continues an effective registration for one year after the date the effective registration would otherwise expire.

[TRPA 10.05]

(d) On the filing of the statement by the secretary of state, the change of address of the registered office, the appointment of a new registered agent, or both, as the case may be, become effective.

(e) Filing of the statement amends the statement of foreign qualification regarding the information required by Section 10.02(a)(5).

(f) A registered agent of a foreign limited liability partnership may resign by giving written notice to the foreign limited liability partnership and to the secretary of state. Notice must be given to the foreign limited liability partnership at its last known address and to the last known address of the attorney or other individual at whose request the registered agent was appointed for the foreign limited liability partnership. Notice, together with a duplicate copy, which need not be an executed original or a photocopy of an executed original, must be given to the secretary of state within 10 days after the date of mailing or delivery of the notice to the foreign limited liability partnership and attorney or individual.

The notice to the secretary of state must include the last known address of the foreign limited liability partnership, the statement that written notice of resignation has been given to the foreign limited liability partnership, and the date that the notice was given.

. . .

(i) . . . Filing of the statement amends the statement of foreign qualification regarding the information required by Section 10.02(a)(5) and no further action is required under Section 10.02(k).

[TREITA 3.10]

(B) . . . The existence of the real estate investment trust begins when the declaration of trust is filed as required by this subsection.

[TREITA 5.10]

(E) On complying with the notice requirements of Subsections (C) and (D) of this Section, the appointment of a registered agent who wants to resign as agent terminates on the expiration of 30 days after the date on which the notice is filed with the county clerk of the county where the declaration of trust was filed.

[TREITA 7.40(F)]

(4) After the filing of the statement with the county clerk, the bylaw or agreement restricting the transfer of shares or other securities becomes a matter of public record and the fact of the filing of the bylaw or agreement shall be stated on any certificate representing the shares or other securities restricted by the bylaw or agreement if required by Subsection (F) of Section 7.20 of this Act.

[TREITA 19.20]

(C) On the filing of the articles of dissolution with the county clerk of the county of the principal place of business of

the real estate investment trust, the real estate investment trust shall cease to exist.

[TREITA 22.60]

(A) On the filing of the articles of amendment with the county clerk of the county of the principal place of business of the real estate investment trust, the amendment becomes effective and the declaration of trust is considered to be amended accordingly.

[TREITA 22.70]

(E) On the filing of the copy of the restated declaration of trust with the county clerk of the county of the principal place of business of the real estate investment trust, the original declaration of trust and all amendments to the original declaration of trust shall be superseded and the restated declaration of trust is considered to be the declaration of trust of the real estate investment trust.

[TREITA 23.50]

Except as otherwise provided by Section 27.10 of this Act, the merger or share exchange is effective when the articles of merger or exchange are filed as required by Section 23.40 of this Act.

[TREITA 26.10(D)]

(6) On the filing of the articles of merger or share exchange as provided in Section 23.40 of this Act, the merger or share exchange becomes effective with the same effect as if the merger or share exchange had been adopted by unanimous action of the trust managers and shareholders of the real estate investment trust being reorganized. The effectiveness of the merger or share exchange shall be determined as provided in Section 23.50 of this Act.

Revisor's Note

As the many source law excerpts demonstrate, the former laws had varying ways of determining when the legal consequences of a filed instrument took effect. In particular, the Texas Business Corporation Act, Texas Non-Profit Corporation Act, and Texas Limited Liability Company Act made effectiveness dependent on issuance of a certificate by the secretary of state. By contrast, the Texas Revised Limited Partnership Act made any filing instrument under that act effective upon filing, except as otherwise provided. The revised law adopts that approach by having the same simple standard for effectiveness as the general rule.

Revised Law

Sec. 4.052. DELAYED EFFECTIVENESS OF CERTAIN FILINGS. Except as provided by Section 4.058, a filing instrument may take effect after the time the instrument would otherwise take effect as provided by this code for the entity filing the instrument and:

- (1) at a specified date and time; or
- (2) on the occurrence of a future event or fact, including an act of any person. (TBCA 10.03.A (part); TLLCA 9.03.A(1), (2) (part); TNPCA 10.07.A, B (part); TRLPA 2.12.A (part); TREITA 27.10(A) (part), (F); TRPA 3.08(b)(4), 9.06, 10.02(d).)

Source Law

[TBCA 10.03]

A. The effectiveness of (i) the incorporation of a corporation under this Act, (ii) an amendment to a corporation's articles of incorporation, including an amendment effected pursuant to a statement of resolution establishing a series of shares, (iii) the restatement of articles of incorporation of a corporation, (iv) a merger or share exchange, (v) a cancellation of redeemable or reacquired shares or a reduction in stated capital, (vi) a voluntary dissolution, (vii) the authorization or withdrawal of a foreign corporation to transact business in this

State, (viii) an amendment to the certificate of authority of a foreign corporation, (ix) a bylaw or agreement restricting the transfer of shares or securities of a corporation pursuant to this Act, (x) a change in registered office or registered agent, (xi) a change of address of a registered agent (each such act or document being a "Permitted Act"), or (xii) a conversion may be made effective as of a time and date after the time and date otherwise provided in this Act or may be made effective upon the occurrence of events or facts that may occur in the future, which events or facts may include future acts of any person or entity,

[TLLCA 9.03.A]

(1) For purposes of this Article, "permitted act" means a filing with the Secretary of State under this Act for:

(a) the articles of organization of a limited liability company under this Act;

(b) an amendment to or restatement of the articles of organization;

(c) a merger or conversion;

(d) the application of a foreign limited liability company to procure a certificate of authority to transact business in this state or to withdraw from doing business in this state;

(e) an amendment to the certificate of authority of a foreign limited liability company to transact business in this state;

(f) a change in registered office or registered agent;

(g) a change of address of a registered agent; or

(h) a voluntary dissolution.

(2) A permitted act may be made effective as of a time and date after the time and date otherwise provided in this Act or may be made effective on the occurrence of events or facts that may occur in the future. Those events or facts may include future acts of any person if

[TNPCA 10.07]

A. In this article the following are permitted acts:

- (1) the incorporation of a corporation under this Act;
- (2) an amendment to a corporation's articles of incorporation;
- (3) the reinstatement of articles of incorporation of a corporation;
- (4) a voluntary dissolution;
- (5) the authorization or withdrawal of a foreign corporation to conduct affairs in this State;
- (6) an amendment to the certificate of authority of a foreign corporation;
- (7) a change in registered office or registered agent;
- (8) a change of address of a registered agent; or
- (9) a merger or consolidation of domestic corporations or of domestic and foreign corporations.

B. A permitted act may be made effective as of a time and date after the time and date otherwise provided in this Act or may be made effective on the occurrence of events or facts that may occur in the future. Those events or facts may include future acts of any person or entity,

[TRLPA 2.12]

A. The effectiveness of (i) the certificate of limited partnership of a limited partnership under this Act, (ii) an amendment to a certificate of limited partnership, (iii) the restatement of a certificate of limited partnership, (iv) a merger, (v) a certificate of cancellation, (vi) the registration or cancellation of registration of a foreign limited partnership to transact business in this State, (vii) an amendment to the registration of a foreign limited partnership, (viii) a change in registered office or registered agent, (ix) a change of address of a registered agent (each such act or document being a "Permitted Act"), and (x) a conversion may be made effective as of a time and date after the time and date otherwise provided in this Act or may be made effective upon the occurrence of events

or facts that may occur in the future, which events or facts may include future acts of any person or entity,

[TREITA 27.10]

(A) A permitted act may be made effective at a time and date after the time and date otherwise provided for the permitted act in this Act or may be made effective on the occurrence of future events or facts, including future acts of any person or entity,

(F) In this section, "permitted act" means:

(1) the formation of a real estate investment trust under this Act;

(2) an amendment to a real estate investment trust's declaration of trust, including an amendment effected pursuant to a statement of resolution establishing a series of shares;

(3) the restatement of the declaration of trust of a real estate investment trust;

(4) a merger or share exchange;

(5) a cancellation of redeemable or reacquired shares or a reduction in stated capital;

(6) a voluntary dissolution;

(7) a bylaw or agreement restricting the transfer of shares or securities of a real estate investment trust pursuant to this Act;

(8) a change in registered office or registered agent;
or

(9) a change of address of a registered agent.

[TRPA 3.08(b)]

(4) A partnership is registered as a registered limited liability partnership on filing a completed initial or renewal application, in duplicate with the required fee, or on a later date specified in the application. A registration is not affected by later changes in the partners of the partnership.

[TRPA 9.06]

Sections 2.12 and 12.01, Texas Revised Limited Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes), apply to filings made with the secretary of state under this article as if those filings related to limited partnerships.

[TRPA 10.02]

(d) A partnership is registered as a foreign limited liability partnership on filing a completed initial or renewal statement of foreign qualification, in duplicate with the required fee, or on a later date specified in the statement. A registration is not affected by later changes in the partners of the partnership.

Revisor's Note

In 1991, Article 10.03 was added to the Texas Business Corporation Act to follow up on the concept of delayed effectiveness already permitted for mergers and share exchanges by allowing the same option for other specified filings and actions under the Texas Business Corporation Act for a period of up to 90 days after the initial filings relating thereto. Subsequently, the same privilege was extended to specified filings under the Texas Limited Liability Company Act, Texas Non-Profit Corporation Act, Texas Revised Limited Partnership Act, and Texas Real Estate Investment Trust Act. The revised law codifies those provisions in Sections 4.052-4.059 to permit the same delayed effectiveness. It does so, however, in a more readable and understandable format and also incorporates provisions not found in some of the former acts on abandonment before effectiveness and specifies when delayed effectiveness is not permitted.

No substantive change is intended. Unlike the former statutes, Section 4.052 does not use the concept of "permitted acts" to define the circumstances when delayed filing is permitted. Rather, it allows delayed filing in any case that meets the requirements of Section 4.052(1) or (2), except as provided by Section 4.058.

Revised Law

Sec. 4.053. CONDITIONS FOR DELAYED EFFECTIVENESS. (a) The date and time at which a filing instrument takes effect is delayed if the instrument clearly and expressly states, in addition to any other required statement or information:

(1) the specific date and time at which the instrument takes effect; or

(2) if the instrument takes effect on the occurrence of a future event or fact that may occur:

(A) the manner in which the event or fact will cause the instrument to take effect; and

(B) the date of the 90th day after the date the instrument is signed.

(b) If a filing instrument is to take effect on a specific date and time other than that provided by this code:

(1) the date may not be later than the 90th day after the date the instrument is signed; and

(2) the specific time at which the instrument is to take effect may not be specified as "12:00 a.m." or "12:00 p.m." (TBCA 10.03.A (part); TLLCA 9.03.A(2), (3); TNPCA 10.07.B (part); TRLPA 2.12.A (part); TREITA 27.10(A) (part).)

Source Law

[TBCA 10.03]

A. The effectiveness of . . . may be made effective upon the occurrence of events or facts that may occur in the future, which events or facts may include future acts of any person or entity, if:

(1) the articles, statement, application, or other filing that is required by this Act to be filed with the Secretary of State to make effective such Permitted Act clearly and expressly set forth, in addition to any other statement or information required to be set forth therein, (i) the time and date on which such Permitted Act is to become effective or (ii) if such Permitted Act is to become effective upon the occurrence of events or facts that may occur in the future, (a) the manner

in which such events or facts shall operate to cause such Permitted Act to become effective and (b) the date of the 90th day after the date of the filing of such articles, statement, application or other filing;

(2) in the case of a Permitted Act that is to become effective as of a time or date after the time and date otherwise provided in this Act, (i) such subsequent time and date is not more than 90 days after the date of the filing of the articles, statement, application, or other filing that is otherwise required by this Act to be filed with the Secretary of State to make effective such Permitted Act and (ii) the time on which the Permitted Act is to become effective is not midnight or 12:00 p.m.; and

. . .

[TLLCA 9.03.A]

(2) A permitted act may be made effective as of a time and date after the time and date otherwise provided in this Act or may be made effective on the occurrence of events or facts that may occur in the future. Those events or facts may include future acts of any person if the articles of organization, articles of amendment or restatement, articles of merger, application, or other document required by this Act to be filed with the Secretary of State to make the permitted act effective clearly and expressly states, in addition to any other statement or information required:

(a) a time and date certain on which the permitted act is to become effective; or

(b) if the permitted act is to become effective on the occurrence of events or facts that may occur in the future:

(i) the manner in which the events or facts cause the permitted act to become effective; and

(ii) the date of the 90th day after the date of the filing of the articles of organization, articles of amendment or restatement, articles of merger, application, or other document.

(3) A permitted act becoming effective as of a time or date certain that is after the time and date otherwise provided in this Act must specify a subsequent effective time and date that is not more than 90 days after the date of the filing of the articles of organization, articles of amendment or restatement, articles of merger, application, or other document required by this Act. The time certain on which the permitted act is to become effective may not be midnight or 12 p.m.

[TNPCA 10.07]

B. A permitted act may be made effective as of a time and date after the time and date otherwise provided in this Act or may be made effective on the occurrence of events or facts that may occur in the future. Those events or facts may include future acts of any person or entity, if:

(1) the articles, statement, application, or other filing that is required by this Act to be filed with the Secretary of State to make the permitted act effective clearly and expressly sets forth, in addition to any other statement or information required to be set forth:

(a) the time and date on which the permitted act is to become effective; or

(b) if the permitted act is to become effective on the occurrence of events or facts that may occur in the future, the manner in which the events or facts will operate to cause the permitted act to become effective;

(2) in the case of a permitted act that is to become effective on the mere passage of time as of a time or date after the time and date otherwise provided in this Act, the subsequent time and date must not be more than 90 days after the date of the filing of the articles, statement, application, or other filing that is otherwise required by this Act to be filed with the Secretary of State to make effective the permitted act; and

. . .

[TRLPA 2.12]

A. The effectiveness of . . . may be made effective upon

the occurrence of events or facts that may occur in the future, which events or facts may include future acts of any person or entity, if:

(1) the certificate, statement, application, or other filing that is required by this Act to be filed with the Secretary of State to make effective such Permitted Act clearly and expressly sets forth, in addition to any other statement or information required to be set forth therein, (i) the time and date on which such Permitted Act is to become effective or (ii) if such Permitted Act is to become effective upon the occurrence of events or facts that may occur in the future, (a) the manner in which such events or facts shall operate to cause such Permitted Act to become effective and (b) the date of the 90th day after the date of the filing of such certificate, statement, application or other filing; and either

(2) If in the case of a Permitted Act that is to become effective as of a time or date after the time and date otherwise provided in this Act, such subsequent time and date is not more than 90 days after the date of the filing of the certificate, statement, application, or other filing that is otherwise required by this Act to be filed with the Secretary of State to make effective such Permitted Act and (iii) the time on which the Permitted Act is to become effective is not midnight or 12:00 p.m.; and

. . .

[TREITA 27.10]

(A) A permitted act may be made effective at a time and date after the time and date otherwise provided for the permitted act in this Act or may be made effective on the occurrence of future events or facts, including future acts of any person or entity, if:

(1) the articles, statement, application, or other filing that is required to be filed with the county clerk of the county of the principal place of business of the real estate investment trust by this Act to make effective the permitted act clearly and expressly set forth, in addition to any other

statement or information required to be set forth in those documents:

(a) the time and date on which the permitted act is to become effective or whether the permitted act is to become effective on the occurrence of a future event or fact;

(b) the manner in which the future event or fact shall operate to cause the permitted act to become effective; and

(c) the date of the 90th day after the date of the filing of the articles, statement, application, or other filing;

(2) in the case of a permitted act that is to become effective as of a time or date after the time and date otherwise provided in this Act, the subsequent time and date is not more than 90 days after the date of the filing of the articles, statement, application, or other filing that is otherwise required by this Act to be filed with the county clerk of the county of the principal place of business of the real estate investment trust to make effective the permitted act and the time on which the permitted act is to become effective is not midnight or noon;

Revisor's Note

No substantive change is intended, except that the revised law permits limited liability partnership filings to be made effective upon the occurrence of a future event. See Revisor's Note to Section 4.052.

Revised Law

Sec. 4.054. DELAYED EFFECTIVENESS ON FUTURE EVENT OR FACT. A filing instrument that is to take effect on the occurrence of a future event or fact, other than the passage of time, and for which the statement required by Section 4.055 is filed within the prescribed time, takes effect on the date and time at which the last specified event or fact occurs or the date and time at which a condition is satisfied or waived. (TBCA 10.03.D (part); TLLCA 9.03.D(1) (part); TNPCA 10.07.E (part); TRLPA 2.12.D (part); TREITA 27.10(D) (part); TRPA 9.06.)

Source Law

[TBCA 10.03]

D. If any Permitted Act is to be made effective upon the occurrence of events or facts that may occur in the future, other than the mere passage of time, and the statement required by Subsection 3 of Section A of this Article is filed with the Secretary of State within the time prescribed therein, such Permitted Act shall become effective as of the time and date on which the latest specified event or fact shall have occurred or the time and date on which such condition is otherwise satisfied or waived. . . .

[TLLCA 9.03.D]

(1) A permitted act to be made effective on the occurrence of events or facts that may occur in the future, other than the mere passage of time, and for which the statement required by Subsection (4) of Section A of this Article is filed with the Secretary of State within the prescribed time becomes effective as of the time and date on which the latest specified event or fact occurred or the time and date on which the condition is otherwise satisfied or waived. . . .

[TNPCA 10.07]

E. If a permitted act is to be made effective on the occurrence of events or facts that may occur in the future, other than the mere passage of time, and the statement required by Section A(3) of this article is filed with the Secretary of State within the time prescribed, the permitted act becomes effective as of the time and date on which the latest specified event or fact occurs or the time and date on which the condition is otherwise satisfied or waived. . . .

[TRLPA 2.12]

D. If any Permitted Act is to be made effective upon the occurrence of events or facts that may occur in the future, other

than the mere passage of time, and the statement required by Section A(1)(b) of this Section 2.12 is filed with the Secretary of State within the time prescribed therein, such Permitted Act shall become effective as of the time and date on which the latest specified event or fact shall have occurred or the time and date on which such condition is otherwise satisfied or waived. . . .

[TREITA 27.10]

(D) If any permitted act is to be made effective on the occurrence of future events or facts, other than the mere passage of time, and the statement required by Subdivision (3) of Subsection (A) of this Section is filed with the county clerk of the county of the principal place of business of the real estate investment trust within the time prescribed in that Subdivision, the permitted act takes effect on the time and date on which the latest specified event or fact occurs or the time and date on which the condition is otherwise satisfied or waived. . . .

[TRPA 9.06]

Sections 2.12 and 12.01, Texas Revised Limited Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes), apply to filings made with the secretary of state under this article as if those filings related to limited partnerships.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 4.055. STATEMENT OF EVENT OR FACT. An entity that files a filing instrument that takes effect on the occurrence of a future event or fact, other than the passage of time, must sign and file as provided by Subchapter A, not later than the 90th day after the date the filing instrument is filed, a statement that:

(1) confirms that each event or fact on which the effect of the instrument is conditioned has been satisfied or waived; and

(2) states the date and time on which the condition was satisfied or waived. (TBCA 10.03.A (part); TLLCA 9.03.A(4); TNPCA 10.07.B (part); TRLPA 2.12.A (part); TREITA 27.10(A) (part); TRPA 9.06.)

Source Law

[TBCA 10.03]

A. . . .

(3) in the case of a Permitted Act that is to be made effective upon the occurrence of events or facts that may occur in the future, other than the mere passage of time, a statement that all such events or facts upon which the effectiveness of such Permitted Act is conditioned have been satisfied or waived, and of the date on which such condition was satisfied or waived, is filed with the Secretary of State within 90 days of the date of the filing of the articles, statement, application or other filing that is otherwise required by this Act for such Permitted Act to become effective.

[TLLCA 9.03.A]

(4) Within 90 days after the date of filing of the articles of organization, articles of amendment or restatement, articles of merger, application, or other document for a permitted act becoming effective on the occurrence of events or facts that may occur in the future, other than the mere passage of time, a statement must be filed with the Secretary of State confirming that all the events or facts on which the effectiveness of the permitted act is conditioned have been satisfied or waived and the date on which the condition was satisfied or waived.

[TNPCA 10.07]

B. . . .

(3) in the case of a permitted act that is to be made effective on the occurrence of events or facts that may occur in the future, other than the mere passage of time, a statement that

all the events or facts on which the effectiveness of the permitted act is conditioned have been satisfied or waived and the date on which the condition was satisfied or waived must be filed with the Secretary of State within 90 days of the date of the filing of the articles, statement, application, or other filing that is otherwise required by this Act for the permitted act to become effective.

[TRLPA 2.12]

A. . . .

(3) Permitted Act that is to be made effective upon the occurrence of events or facts that may occur in the future, other than the mere passage of time, a statement that all such events or facts upon which the effectiveness of such Permitted Act is conditioned have been satisfied or waived, and of the date on which such condition was satisfied or waived is filed with the Secretary of State within 90 days of the date of the filing of the certificate, statement, application or other filing that is otherwise required by this Act for such Permitted Act to become effective.

[TREITA 27.10]

(A) . . .

(3) in the case of a permitted act that is to take effect on the occurrence of events or facts that may occur in the future, other than the mere passage of time, a statement that all the events or facts on which the effectiveness of the permitted act is conditioned have been satisfied or waived, including the date on which the condition was satisfied or waived, is filed with the county clerk of the county of the principal place of business of the real estate investment trust within 90 days of the date of the filing of the articles, statement, application, or other filing that is otherwise required by this Act for the permitted act to become effective.

[TRPA 9.06]

Sections 2.12 and 12.01, Texas Revised Limited Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes), apply to filings made with the secretary of state under this article as if those filings related to limited partnerships.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 4.056. FAILURE TO FILE STATEMENT. (a) If the effect of a filing instrument is conditioned on the occurrence of a future event or fact, other than the passage of time, and the statement required by Section 4.055 is not filed before the expiration of the prescribed time, the filing instrument does not take effect. This section does not preclude the filing of a subsequent filing instrument required by this code to make the event or transaction evidenced by the original filing instrument effective.

(b) If the effect of a filing instrument is conditioned on the occurrence of a future event or fact, other than the passage of time, and the specified event or fact does not occur and is not waived, the parties to the filing instrument must sign and file a certificate of abandonment as provided by Section 4.057. (TBCA 10.03.E; TLLCA 9.03.E; TNPCA 10.07.F; TRLPA 2.12.E; TREITA 27.10(E).)

Source Law

[TBCA 10.03]

E. If the effectiveness of any Permitted Act is conditioned upon the occurrence of events or facts that may occur in the future, other than the mere passage of time, and the statement required by Subsection 3 of Section A of this Article is not filed with the Secretary of State within the time prescribed therein, such Permitted Act shall not become effective unless there is subsequently filed with the Secretary of State the articles, statement, application, or other filing required by this Act to be filed with the Secretary of State to make

effective such Permitted Act.

[TLLCA 9.03]

E. If the effectiveness of any permitted act is conditioned on the occurrence of events or facts that may occur in the future, other than the mere passage of time, and the statement required by Subsection (4) of Section A of this Article is not filed with the Secretary of State within the prescribed time, the permitted act does not become effective unless there is subsequently filed with the Secretary of State the articles of organization, articles of amendment or restatement, articles of merger, application, or other document required by this Act to be filed with the Secretary of State to make the permitted act effective.

[TNPCA 10.07]

F. If the effectiveness of any permitted act is conditioned on the occurrence of events or facts that may occur in the future, other than the mere passage of time, and the statement required by Section A(3) of this article is not filed with the Secretary of State within the time prescribed, the permitted act is not effective unless there is subsequently filed with the Secretary of State the articles, statement, application, or other filing required by this Act to be filed with the Secretary of State to make the permitted act effective.

[TRLPA 2.12]

E. If the effectiveness of any Permitted Act is conditioned upon the occurrence of events or facts that may occur in the future, other than the mere passage of time, and the statement required by Section A(1)(b) of this Section 2.12 is not filed with the Secretary of State within the time prescribed therein, such Permitted Act shall not become effective unless there is subsequently filed with the Secretary of State the certificate, statement, application, or other filing required by this Act to be filed with the Secretary of State to make effective such

Permitted Act.

[TREITA 27.10]

(E) If the effectiveness of any permitted act is conditioned on the occurrence of future events or facts, other than the mere passage of time, and the statement required by Subdivision (3) of Subsection (A) of this Section is not filed with the county clerk of the county of the principal place of business of the real estate investment trust within the time prescribed in that Subdivision, the permitted act may not take effect unless the articles, statement, application, or other filing required by this Act to be filed with the county clerk to make the permitted act effective are subsequently filed with the county clerk of the county of the principal place of business of the real estate investment trust.

Revisor's Note

Subsection (b) is new for all entities and requires a certificate of abandonment to be filed under Section 4.057 if a filing instrument does not become effective because a future event or fact did not occur.

Revised Law

Sec. 4.057. ABANDONMENT BEFORE EFFECTIVENESS. (a) The parties to a filing instrument may abandon the filing instrument if the instrument has not taken effect.

(b) To abandon a filing instrument the parties to the instrument must file with the filing officer a certificate of abandonment.

(c) A certificate of abandonment must:

(1) be signed on behalf of each entity that is a party to the action or transaction by the person authorized by this code to act on behalf of the entity;

(2) state the nature of the filing instrument to be abandoned, the date of the instrument, and the parties to the instrument; and

(3) state that the filing instrument has been

abandoned in accordance with the agreement of the parties.

(d) On the filing of the certificate of abandonment, the action or transaction evidenced by the original filing instrument is abandoned and may not take effect.

(e) If in the interim before a certificate of abandonment is filed the name of an entity that is a party to the action or transaction becomes the same as or deceptively similar to the name of another entity already on file or reserved or registered under this code, the filing officer may not file the certificate of abandonment unless the entity by or for whom the certificate is filed changes its name in the manner provided by this code for that entity. (TLLCA 9.03.F; TRLPA 2.12.F; 1 T.A.C. 79.82.)

Source Law

[TLLCA 9.03]

F. If articles of organization, articles of amendment or restatement, articles of merger, articles of conversion, an application, or any other document permitted to be filed pursuant to this Act with the Secretary of State have been filed but the event or transaction evidenced by the filing has not become effective, the filing may be abandoned in accordance with the agreement of the parties to the filing by filing a certificate of abandonment with the Secretary of State before the effectiveness of the event or transaction in accordance with the terms of the document so filed. The certificate of abandonment must be signed on behalf of each domestic or foreign limited liability company or other entity that is a party to the event or transaction by a member, manager, officer, or other authorized representative and must state the nature of the filing to be abandoned, the date of the filing to be abandoned, the parties to the filing to be abandoned, and that the event or transaction has been abandoned in accordance with the agreement of the parties. On the filing of the certificate of abandonment with the Secretary of State, the event or transaction evidenced by the original filing shall be considered abandoned and may not become effective.

[TRLPA 2.12]

F. If a certificate of limited partnership, a certificate of amendment or cancellation, a judicial decree of amendment or cancellation, a certificate of merger, a certificate of conversion, a restated certificate or any other document permitted to be filed pursuant to this Act with the Secretary of State has been filed but the event or transaction evidenced thereby has not become effective, such filing may be abandoned in accordance with the agreement of the parties thereto and, if so abandoned, a certificate of abandonment, signed on behalf of each domestic and foreign limited partnership or other entity that is a party to the event or transaction by any general partner, an officer or other duly authorized representative, stating the nature, date of filing and parties to the filing to be abandoned and that the event or transaction has been abandoned in accordance with the agreement of the parties, is filed with the Secretary of State prior to the effectiveness of the event or transaction in accordance with the terms of the document so filed. Upon the filing of such statement by the Secretary of State, the event or transaction evidenced by the original filing shall be deemed abandoned and shall not become effective.

[1 T.A.C. 79.82]

If a document filing is abandoned in accordance with a statutory provision for abandonment, the secretary of state:

(1) will change the status of all the entities filed with the secretary of state which would have merged out of existence, dissolved, or withdrawn to active on the computer records of the agency and record the filing of the abandonment. If the names of these entities are not available, the entities must file articles of amendment or take other action to change the entity name or bring the name into compliance with applicable statutory provisions as a condition of acceptance of the abandonment;

(2) will change the status of all entities that would have been created and filed or authorized to transact business in

Texas with the secretary of state by the terms of the document filing to inactive on the computer records of the agency;

(3) will change the status of a converted entity that would have been created and filed in Texas with the secretary of state by the terms of the articles of conversion to inactive on the computer records of the agency; and

(4) will change the status of a converting domestic entity filed with the secretary of state to active on the computer records of the secretary of state. If the name of the entity is not available, the entity must file articles of amendment or take other action to change the entity name or bring the entity name into compliance with applicable statutory provisions as a condition of acceptance of the abandonment.

Revisor's Note

Under the source law, statutory abandonment of any filed instruments prior to effectiveness was limited to instruments filed by limited liability companies and limited partnerships. Under the Texas Business Corporation Act and Texas Non-Profit Corporation Act, such a right was granted only in certain circumstances, including, for example, mergers (Texas Business Corporation Act Article 5.03.L; Texas Non-Profit Corporation Act Section 5.03.B), conversions (Texas Business Corporation Act Article 5.17.E), and dissolutions (Texas Business Corporation Act Article 6.05.A; Texas Non-Profit Corporation Act Section 6.04). Section 4.057 adopts the Texas Limited Liability Company Act and Texas Revised Limited Partnership Act approach and extends this procedure to permit any filed instrument subject to a delayed effectiveness to be abandoned prior to its effectiveness. Subsection (e) codifies, in part, a Texas Secretary of State administrative rule (1 T.A.C. 79.82) requiring that as a prerequisite to filing the certificate of abandonment, an entity that is a party to the abandonment change its name in the manner required by the code should the name of the entity, in the interim prior to filing the certificate of abandonment, become the same as or deceptively similar to the name of another

existing entity.

Revised Law

Sec. 4.058. DELAYED EFFECTIVENESS NOT PERMITTED. The effect of the following filing instruments may not be delayed:

(1) a reservation of name as provided by Subchapter C, Chapter 5;

(2) a registration of name as provided by Subchapter D, Chapter 5;

(3) a statement of event or fact as provided by Section 4.055; or

(4) a certificate of abandonment as provided by Section 4.057. (TBCA 10.03.A (part); TLLCA 9.03.A(1); TNPCA 10.07.A.)

Source Law

[See the source law for Section 4.052 enumerating under the former law the specific filing instruments, sometimes referred to as "permitted acts," whose effectiveness could be delayed. None of those named included any of the filing instruments listed in Section 4.058, but having been set out in full for Section 4.052, those source law provisions need not be repeated here.]

Revisor's Note

The source law, which listed the types of filing instruments the effectiveness of which could be delayed, excluded from such lists the filing instruments specified in Section 4.058. The Code presents the delayed effectiveness of certain filings in a more readily understood format by establishing a general provision for delayed effectiveness in Section 4.052 (see revisor's note to Section 4.052). Section 4.058, which is an exception to the general provision, carries forward the exclusions in the source law by listing the filing instruments the effectiveness of which cannot be delayed. No substantive change is intended.

Revised Law

Sec. 4.059. ACKNOWLEDGMENT OF FILING WITH DELAYED EFFECTIVENESS. (a) An acknowledgment of filing issued or other action taken by the secretary of state affirming the filing of a filing instrument that has a specific delayed effective date must state the date and time at which the instrument takes effect.

(b) An acknowledgment of filing issued or other action taken by the secretary of state affirming the filing of a filing instrument the effect of which is delayed until the occurrence of a future event or fact must:

(1) state that the effective date and time of the filing instrument is conditioned on the occurrence of a future event or fact as described in the filing instrument; or

(2) otherwise indicate that the effective date and time of the instrument is conditioned on the occurrence of a future event or fact. (TBCA 10.03.C, D (part); TLLCA 9.03.C, D(1) (part), (2); TNPCA 10.07.D, E (part); TRLPA 2.12.C, D (part).)

Source Law

[TBCA 10.03]

C. If any Permitted Act is to become effective as of a time or date after the time and date otherwise provided in this Act for such Permitted Act to become effective, notwithstanding any other provision of this Act to the contrary, such Permitted Act shall become, to the extent permitted by Section A of this Article, effective as of such subsequent time and date, and any certificate issued by the Secretary of State upon the filing of the articles, statement, application or other filing that is otherwise required by this Act for such Permitted Act to become effective shall expressly set forth the time and date upon which such Permitted Act is to become effective.

D. . . . Any certificate issued or notation, acknowledgment or other statement made by the Secretary of State upon the filing of the articles, statement, application or other filing that is otherwise required by this Act for such Permitted

Act to become effective shall state that "The effectiveness of the action to which this instrument relates is conditioned upon the occurrence of certain facts or events described in the filing to which this instrument relates" or shall make reference in such manner as the Secretary of State shall approve to the fact that the effectiveness of the action is so conditioned. The time and date on which a condition to the effectiveness of a Permitted Act is satisfied or waived as set forth in a statement filed with the Secretary of State pursuant to Subsection 3 of Section A of this Article shall be conclusively regarded as the time and date on which such condition was satisfied or waived for purposes of this Article.

[TLLCA 9.03]

C. Notwithstanding any other provision of this Act to the contrary, a permitted act that is to become effective as of a time or date after the time and date otherwise provided in this Act, to the extent permitted by this Article, shall become effective as of the subsequent time and date. Any certificate issued by the Secretary of State on the filing of the articles of organization, articles of amendment or restatement, articles of merger, application, or other document otherwise required by this Act for the permitted act to become effective shall expressly set forth the time and date on which the permitted act is to become effective.

D. (1) . . . Any certificate issued or notation, acknowledgment, or other statement made by the Secretary of State on the filing of the articles of organization, articles of amendment or restatement, articles of merger, application, or other document otherwise required by this Act for the permitted act to become effective must:

(a) state that "The effectiveness of the action to which this instrument relates is conditioned on the occurrence of certain facts or events described in the filing to which this instrument relates"; or

(b) make reference in any manner approved by the

Secretary of State to the fact that the effectiveness of the action is so conditioned.

(2) The time and date on which a condition to the effectiveness of a permitted act is satisfied or waived as set forth in a statement filed with the Secretary of State pursuant to Subsection (4) of Section A of this Article shall be conclusively regarded as the time and date on which the condition was satisfied or waived for purposes of this section.

[TNPCA 10.07]

D. If any permitted act is to become effective as of a time or date after the time and date otherwise provided in this Act, for the permitted act to become effective, notwithstanding any other provision of this Act to the contrary, the permitted act shall become, to the extent permitted by Section A of this article, effective as of the subsequent time and date, and any certificate issued by the Secretary of State on the filing of the articles, statement, application, or other filing that is otherwise required by this Act for the permitted act to become effective shall expressly state the time and date on which the permitted act is to become effective.

E. . . . Any certificate issued or notation, acknowledgment, or other statement made by the Secretary of State on the filing of the articles, statement, application, or other filing that is otherwise required by this Act for the permitted act to become effective shall state that "The effectiveness of the action to which this instrument relates is conditioned on the occurrence of certain facts or events described in the filing to which this instrument relates" or shall make reference in a manner the Secretary of State approves, to the fact that the effectiveness of the action is conditioned. The time and date on which a condition to the effectiveness of a permitted act is satisfied or waived as set forth in a statement filed with the Secretary of State pursuant to Section A(3) of this article shall be conclusively regarded as the time and date on which the condition was satisfied or waived for purposes of this article.

[TRLPA 2.12]

C. If any Permitted Act is to become made effective as of a time or date after the time and date otherwise provided in this Act for such Permitted Act to become effective, notwithstanding any other provision of this Act to the contrary, such Permitted Act shall, to the extent permitted by this Section 2.12, become effective as of such subsequent time and date and any certificate issued by the Secretary of State upon the filing of the certificate, statement, application or other filing that is otherwise required by this Act for such Permitted Act to become effective shall expressly set forth the time and date upon which such Permitted Act is to become effective.

D. . . . Any certificate issued or notation, acknowledgment or other statement made by the Secretary of State upon the filing of the certificate, statement, application or other filing that is otherwise required by this Act for such Permitted Act to become effective shall state that "The effectiveness of the action to which this instrument relates is conditioned upon the occurrence of certain facts or events described in the filing to which this instrument relates" or shall make reference in such manner as the Secretary of State shall approve to the fact that the effectiveness of the action is so conditioned. The time and date on which a condition to the effectiveness or a Permitted Act is satisfied or waived as set forth in a statement filed with the Secretary of State pursuant to Section A(1)(b) of this Section 2.12 shall be conclusively required as the time and date on which such condition was satisfied or waived for purposes of this Section.

Revisor's Note

No substantive change is intended.

[Sections 4.060-4.100 reserved for expansion]

SUBCHAPTER C. CORRECTION AND AMENDMENT

Revised Law

Sec. 4.101. CORRECTION OF FILINGS. (a) A filing instrument that has been filed with the secretary of state that is an

inaccurate record of the event or transaction evidenced in the instrument, that contains an inaccurate or erroneous statement, or that was defectively or erroneously signed, sealed, acknowledged, or verified may be corrected by filing a certificate of correction.

(b) A certificate of correction must be signed by the person authorized by this code to act on behalf of the entity. (TLLCA 8.12.B; TMCLA 7.01; TRLPA 2.13(a), 9.05.)

Source Law

[TLLCA 8.12]

B. Subject to Section C of this Article, Articles 2.03 through 2.06, 2.09, 2.09A, 3.01, 7.01 through 7.05, and 7.07, Texas Miscellaneous Corporation Laws Act (Article 1302-1.01 et seq., Vernon's Texas Civil Statutes), as amended, apply to a limited liability company and its members, managers, and officers.

[TMCLA 7.01]

Whenever any instrument authorized to be filed by a domestic or foreign corporation with the Secretary of State under any statute to which this Act applies has been filed and is an inaccurate record of the corporate action referred to in the instrument, contains an inaccurate or erroneous statement, or was defectively or erroneously executed, sealed, acknowledged, or verified, the instrument may be corrected by articles of correction. Articles of correction must be executed on behalf of the corporation by an officer or director.

[TRLPA 2.13]

(a) Whenever any instrument authorized to be filed by a domestic or foreign limited partnership with the secretary of state under this Act has been filed and is an inaccurate record of the action referred to in the instrument, contains an inaccurate or erroneous statement, or was defectively or erroneously executed, sealed, acknowledged, or verified, the

instrument may be corrected by a certificate of correction.

[TRLPA 9.05]

If any statement in the application for registration of a foreign limited partnership was false when made or if any arrangements or other facts described in the application have changed, making the application false in any respect, the foreign limited partnership shall promptly pay the filing fee and file with the secretary of state a certificate executed by a general partner correcting the false statement.

Revisor's Note

Sections 4.101 and 4.103-4.105 of this subchapter are based on Texas Miscellaneous Corporation Laws Act Sections 7.01-7.04, which provide the procedure for correcting inaccurate or defective instruments filed by a domestic or foreign corporation. A limited liability company was expressly permitted to use the same procedure by Article 8.12.B of the Texas Limited Liability Company Act. Because the Texas Miscellaneous Corporation Laws Act procedure proved very useful when corporate documents containing inadvertent errors had been filed, the Texas Revised Limited Partnership Act was amended in 1991 by adding Section 2.13 to make limited partnership filings correctable as well. Although the source law is not clear as to whether professional associations could do the same by virtue of the language in the Texas Miscellaneous Corporation Laws Act and Texas Professional Association Act, the Secretary of State in practice has allowed professional associations to make this corrective filing. To the extent the Texas Miscellaneous Corporation Laws Act does not apply to real estate investment trusts, this provision can be considered new for real estate investment trusts and county clerks, although most county clerks currently would accept a corrective filing so long as it meets the regular recordation requirements.

The Texas Revised Limited Partnership Act did not state who could file a correction for a limited partnership, while the

Texas Limited Liability Company Act and Texas Miscellaneous Corporation Laws Act specified the filing being done by a corporation's officer or director or a limited liability company's member, manager, or officer. Instead, Section 4.101 provides a uniform rule for all filing entities by requiring a certificate of correction to be signed by the person authorized by the Code to act on behalf of the entity.

Revised Law

Sec. 4.102. LIMITATION ON CORRECTION OF FILINGS. A filing instrument may be corrected to contain only those statements that this code authorizes or requires to be included in the original instrument. A certificate of correction may not alter, add, or delete a statement that by its alteration, addition, or deletion would have caused the secretary of state to determine the filing instrument did not conform to this code at the time of filing.

(1 T.A.C. 79.24(a).)

Source Law

(a) Documents may be corrected to contain only those statements which lawfully could have been included in the original document. Articles of correction or a certificate of correction may not be used to revoke a previously filed document or to alter, include or delete a statement, which by its alteration, inclusion or deletion, would have caused the secretary of state to determine that the document did not conform to law at the time of the original filing.

Revisor's Note

Section 4.102 codifies the secretary of state's administrative rule in 1 T.A.C. 79.24(a) that limits correction of filings. A certificate of correction may not revoke a previously filed document or alter it in such a way that it would not have been accepted for filing when originally filed. No substantive change is intended in making the administrative rule part of the Code.

Revised Law

Sec. 4.103. CERTIFICATE OF CORRECTION. The certificate of correction must:

- (1) state the name of the entity;
- (2) identify the filing instrument to be corrected by description and date of filing with the secretary of state;
- (3) identify the inaccuracy, error, or defect to be corrected; and
- (4) state in corrected form the portion of the filing instrument to be corrected. (TLLCA 8.12.B; TMCLA 7.02; TRLPA 2.13(b).)

Source Law

[TLLCA 8.12]

B. Subject to Section C of this Article, Articles 2.03 through 2.06, 2.09, 2.09A, 3.01, 7.01 through 7.05, and 7.07, Texas Miscellaneous Corporation Laws Act (Article 1302-1.01 et seq., Vernon's Texas Civil Statutes), as amended, apply to a limited liability company and its members, managers, and officers.

[TMCLA 7.02]

The articles of correction shall:

- (1) set forth the name of the domestic or foreign corporation;
- (2) identify the instrument to be corrected by description and the date of its filing with the Secretary of State;
- (3) identify the inaccuracy, error, or defect to be corrected; and
- (4) set forth a statement in corrected form of the portion of the instrument to be corrected.

[TRLPA 2.13]

(b) The certificate of correction shall:

- (1) set forth the name of the limited partnership;

(2) identify the instrument to be corrected by description and the date of its filing with the secretary of state;

(3) identify the inaccuracy, error, or defect to be corrected; and

(4) set forth a statement in corrected form of the portion of the instrument to be corrected.

Revisor's Note

No substantive change is intended, except as described in the Revisor's Note to Section 4.101.

Revised Law

Sec. 4.104. FILING CERTIFICATE OF CORRECTION. The certificate of correction shall be filed with and acted on by the secretary of state as provided by Subchapter A. On filing, the secretary of state shall deliver to the entity or its representative an acknowledgment of the filing. (TLLCA 8.12.B; TMCLA 7.03.)

Source Law

[TLLCA 8.12]

B. Subject to Section C of this Article, Articles 2.03 through 2.06, 2.09, 2.09A, 3.01, 7.01 through 7.05, and 7.07, Texas Miscellaneous Corporation Laws Act (Article 1302-1.01 et seq., Vernon's Texas Civil Statutes), as amended, apply to a limited liability company and its members, managers, and officers.

[TMCLA 7.03]

A. The original and a copy of the articles of correction shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of correction conform to law, the Secretary of State shall, when all fees have been paid as required by law:

(1) endorse on the original and the copy the word "Filed," and the month, day, and year that the articles are

filed;

(2) file the original in the office of the Secretary of State; and

(3) issue a certificate of correction to which the Secretary of State shall affix the copy.

B. The certificate of correction, together with the copy of the articles of correction affixed to the certificate by the Secretary of State, shall be delivered to the domestic or foreign corporation or its representative.

Revisor's Note

Section 4.104 provides for the filing of a "certificate of correction" instead of articles of correction, as provided by the Texas Limited Liability Company Act and Texas Miscellaneous Corporation Laws Act. The procedural aspects of the filing with and by the secretary of state are those now set out in much less detail in Subchapter A. No substantive change is intended, except as described in the Revisor's Note to Section 4.101.

Revised Law

Sec. 4.105. EFFECT OF CERTIFICATE OF CORRECTION. (a) After the secretary of state files the certificate of correction, the filing instrument is considered to have been corrected on the date the filing instrument was originally filed, except as provided by Subsection (b).

(b) As to a person who is adversely affected by the correction, the filing instrument is considered to have been corrected on the date the certificate of correction is filed.

(c) An acknowledgment of filing or a similar instrument issued by the secretary of state before a filing instrument is corrected, with respect to the effect of filing the original filing instrument, applies to the corrected filing instrument as of the date the corrected filing instrument is considered to have been filed under this section. (TLLCA 8.12.B; TMCLA 7.04; TRLPA 2.13(c).)

Source Law

[TLLCA 8.12]

B. Subject to Section C of this Article, Articles 2.03 through 2.06, 2.09, 2.09A, 3.01, 7.01 through 7.05, and 7.07, Texas Miscellaneous Corporation Laws Act (Article 1302-1.01 et seq., Vernon's Texas Civil Statutes), as amended, apply to a limited liability company and its members, managers, and officers.

[TMCLA 7.04]

A. After the issuance of the certificate of correction by the Secretary of State, the instrument as corrected is considered to have been filed on the date the original instrument was filed except as provided by Section B of this Article.

B. As to persons who are adversely affected by the correction, the instrument as corrected is considered to have been filed on the date the articles of correction were filed.

C. Any certificate issued by the Secretary of State before an instrument is corrected, with respect to the effect of filing the original instrument, is considered to be applicable to the instrument as corrected as of the date the instrument as corrected is considered to have been filed pursuant to this Article.

[TRLPA 2.13]

(c)(1) After the issuance of the certificate of correction by the secretary of state, the instrument as corrected is considered to have been filed on the date the original instrument was filed except as provided by Paragraph (2) of this Subsection (c).

(2) As to persons who are adversely affected by the correction, the instrument as corrected is considered to have been filed on the date the certificate of correction was filed.

(3) Any certificate issued by the secretary of state before an instrument is corrected, with respect to the effect of

filing the original instrument, is considered to be applicable to the instrument as corrected as of the date the instrument as corrected is considered to have been filed pursuant to this Subsection (c).

Revisor's Note

No substantive change is intended, except as described in the Revisor's Note to Section 4.101.

Revised Law

Sec. 4.106. AMENDMENT OF FILINGS. A filing instrument that an entity files with the secretary of state may be amended or supplemented to the extent permitted by the provisions of this code that apply to that entity. (TBCA 4.01.A, 4.07.A (part), 4.14.A (part), 8.13.A, B, D, 12.13.A (part), 12.21.A (part), 13.04.A (part); TNPCA 4.01, 4.06.A (part), 8.12.A, B, D; TPAA 14; TLLCA 3.05.A, 3.09.A (part), 7.08.A, B, D; TRLPA 2.02(a) (part), (b), (c), (d), 2.06(a) (part), 2.10(a), 9.05; TRPA 3.08(b)(11) (part); TREITA 22.10(A), 22.70(A) (part), 26.10(A) (part).)

Source Law

[TBCA 4.01]

A. A corporation may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment, and, if a change in shares or the rights of shareholders, or an exchange, reclassification, or cancellation of shares or rights of shareholders is to be made, such provisions as may be necessary to effect such change, exchange, reclassification, or cancellation.

[TBCA 4.07]

A. A corporation may, by following the procedure to amend the articles of incorporation provided by this Act . . . authorize, execute, and file restated articles of incorporation

which may restate either:

(1) The entire text of the articles of incorporation as amended or supplemented by all certificates of amendment previously issued by the Secretary of State; or

(2) The entire text of the articles of incorporation as amended or supplemented by all certificates of amendment previously issued by the Secretary of State, and as further amended by such restated articles of incorporation.

[TBCA 4.14]

A. Authorization. Notwithstanding any other provision of this Act to the contrary, a trustee appointed for a corporation being reorganized under a federal statute, the designated officers of the corporation, or any other individual or individuals designated by the court to act on behalf of the corporation may do any of the following without action by or notice to its board of directors or shareholders in order to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under the federal statute:

(1) amend or restate its articles of incorporation if the articles after amendment or restatement contain only provisions required or permitted in articles;

. . .

[TBCA 8.13]

A. If a foreign corporation authorized to transact business in this State shall change its corporate name, or if such corporation desires to pursue in this State purposes other than, or in addition to, those authorized by its existing certificate of authority, it shall procure an amended certificate of authority by making application therefor to the Secretary of State.

B. To change any statement on an original application for a certificate of authority a foreign corporation shall file with the Secretary of State an application for an amended certificate of authority setting forth the change.

. . .

D. The requirements in respect to the form and contents of such application, the manner of its execution, the filing of the application and a copy of it with the Secretary of State, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

[TBCA 12.13]

A. By Amendment of Articles of Incorporation. An ordinary corporation may become a close corporation by amending its articles of incorporation in conformance with Part Four and Article 12.11 of this Act. . . .

[TBCA 12.21]

A. In General. A close corporation terminates its status as a close corporation:

. . .

(2) by amending its articles of incorporation in conformance with Part Four of this Act to delete from its articles the statement that it is a close corporation;

. . .

[TBCA 13.04]

A. Article 13.03 of this Act does not apply to:

(1) a business combination of an issuing public corporation:

. . .

(b) that adopts an amendment to its articles of incorporation or bylaws before December 31, 1997, expressly electing not to be governed by this part; or

(c) that after December 31, 1997, adopts an amendment to its articles of incorporation or bylaws, . . . expressly electing not to be governed by this part,

[TNPCA 4.01]

A. A corporation may amend its articles of incorporation from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as are lawful under this Act.

[TNPCA 4.06]

A. A corporation may, by following the procedure to amend the articles of incorporation provided by this Act, authorize, execute and file restated articles of incorporation, The restated articles of incorporation may restate either:

(1) The entire text of the articles of incorporation as amended or supplemented by all certificates of amendment previously issued by the Secretary of State; or

(2) The entire text of the articles of incorporation as amended or supplemented by all certificates of amendment previously issued by the Secretary of State, and as further amended by such restated articles of incorporation.

[TNPCA 8.12]

A. If a foreign corporation authorized to conduct affairs in this State changes its corporate name or desires to pursue in this State purposes other than or in addition to the purposes authorized by its existing certificate of authority, the corporation shall file with the Secretary of State an application for amended certificate of authority setting forth the change.

B. A foreign corporation may change any other statement on its original application for certificate of authority or any amendment to that certificate by filing with the Secretary of State an application for an amended certificate of authority setting forth the change.

D. The requirements in respect to the form and contents of such application, the manner of its execution, the filing of the original and a copy of the application with the Secretary of State, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an

original application for a certificate of authority.

[TPAA 14]

(A) Authority to amend. A professional association may amend its articles of association, from time to time, in accordance with the procedure for amendment stated therein or if none is stated therein, by two-thirds vote of its members.

(B) Acts not requiring amendment. Changes in membership or transfer of shares or units of ownership shall not require amendment.

[TLLCA 3.05]

A. A limited liability company may amend its articles of organization from time to time, in any and as many respects as may be desired, so long as its articles of organization as amended contain only such provisions as might be lawfully contained in original articles of organization at the time of making such amendment.

[TLLCA 3.09]

A. By following the procedure to amend the articles of organization provided by this Act, a limited liability company may authorize, execute, and file restated articles of organization that restate the entire text of the articles of organization, as amended or supplemented by:

(1) all certificates of amendment previously issued by the Secretary of State; or

(2) all certificates of amendment previously issued by the Secretary of State and by further amendments included in the restated articles of organization. . . .

[TLLCA 7.08]

A. If a foreign limited liability company authorized to transact business in this State shall change its foreign limited liability company name, or if such foreign limited liability company desires to pursue in this State purposes other than, or

in addition to, those authorized by its existing certificate of authority, it shall procure an amended certificate of authority by making application therefor to the Secretary of State.

B. To change any statement on an original application for a certificate of authority a foreign limited liability company shall file with the Secretary of State an application for an amended certificate of authority setting forth the change.

. . .

D. The requirements in respect to the form and contents of such application, the manner of its execution, the filing of the application and a copy of it with the Secretary of State, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

[TRLPA 2.02]

(a) a certificate of limited partnership may be amended by paying the filing fee and filing a certificate of amendment with the secretary of state. . . .

(b) A general partner shall file a certificate of amendment reflecting the occurrence of one or more of the following events not later than the 30th day after the date of the occurrence of the event:

- (1) the admission of a new general partner;
- (2) the withdrawal of a general partner;
- (3) a change in the name of the limited partnership;

or

(4) except as provided by Subsection (b) or (h) of Section 1.06 of this Act, a change in the address of the registered office or a change in the name or address of the registered agent of the limited partnership.

(c) A general partner who becomes aware that a statement in a certificate of limited partnership was false when made or that a matter described in the certificate has changed, making the certificate false in any material respect, shall promptly amend the certificate to make it accurate.

(d) A certificate of limited partnership may be amended at any time for any other proper purpose determined by the general partners.

[TRLPA 2.06]

(a) Notwithstanding any other provisions of this Act to the contrary, to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under federal statute, a domestic limited partnership being reorganized under a federal statute may without action by or notice to its partners:

(1) amend or restate its certificate if the certificate after amendment or restatement contains only provisions of the type required or permitted in the certificate;

. . .

[TRLPA 2.10]

(a) A limited partnership may integrate into a single instrument all of the provisions of its certificate of limited partnership that are then in effect as a result of a previous filing with the secretary of state of one or more certificates or other instruments under this article, and it may also further amend its certificate of limited partnership by adopting a restated certificate of limited partnership, paying the filing fee, and filing the restated certificate with the secretary of state.

[TRLPA 9.05]

If any statement in the application for registration of a foreign limited partnership was false when made or if any arrangements or other facts described in the application have changed, making the application false in any respect, the foreign limited partnership shall promptly pay the filing fee and file with the secretary of state a certificate executed by a general partner correcting the false statement.

[TRPA 3.08(b)]

(11) A document filed under this subsection [by a registered limited liability partnership] may be amended or corrected by filing in duplicate with the secretary of state articles of amendment executed by a majority-in-interest of the partners or by one or more partners authorized by a majority-in-interest of the partners. . . .

[TREITA 22.10]

(A) A real estate investment trust may amend its declaration of trust, from time to time, in any and as many respects as may be desired, so long as its declaration of trust as amended contains only such provisions as may be lawfully contained in original declaration of trust at the time of making such amendment, and, if a change in shares or the rights of shareholders, or an exchange, reclassification, or cancellation of shares or rights of shareholders is to be made, such provisions as may be necessary to effect such change, exchange, reclassification or cancellation.

[TREITA 22.70]

(A) A real estate investment trust, by following the procedure to amend the declaration of trust provided by this Act, . . . may authorize, execute, and file a restated declaration of trust that may restate:

(1) The entire text of the declaration of trust as amended or supplemented by all articles of amendment previously filed with the county clerk of the county of the principal place of business of the real estate investment trust; or

(2) The entire text of the declaration of trust, as amended or supplemented by all articles of amendment previously filed with the county clerk of the county of the principal place of business of the real estate investment trust and as further amended by the restated declaration of trust.

[TREITA 26.10]

(A) Notwithstanding any other provision of this Act to the contrary, a trustee appointed for a real estate investment trust being reorganized under a federal statute, the designated officers of the real estate investment trust, or any other individual or individuals designated by the court to act on behalf of the real estate investment trust may do any of the following without action by or notice to its trust managers or shareholders in order to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under the federal statute:

(1) amend or restate its declaration of trust if the declaration of trust after amendment or restatement contains only provisions required or permitted in a declaration of trust;

. . .

Revisor's Note

As the many source law excerpts illustrate, the source laws permitted amendment or supplementation of various organizational documents or other filings required by or for their respective entities. In effect, Section 4.106 encompasses them all by simply restating the basic principle underlying permitted amendments and supplements, subject of course to provisions of the code that apply to specific entities. In that sense, no substantive change is intended.

[Sections 4.107-4.150 reserved for expansion]

SUBCHAPTER D. FILING FEES

Revised Law

Sec. 4.151. FILING FEES: ALL ENTITIES. The secretary of state shall impose the following fees:

- (1) for filing a certificate of correction, \$15;
- (2) for filing an application for reservation or registration of a name, \$40;
- (3) for filing a notice of transfer of a name reservation or registration, \$15;
- (4) for filing an application for renewal of registration of a name, \$40;

(5) for filing a certificate of merger or conversion, other than a filing on behalf of a nonprofit corporation, \$300 plus, with respect to a merger, any fee imposed for filing a certificate of formation for each newly created filing entity or, with respect to a conversion, the fee imposed for filing a certificate of formation for the converted entity;

(6) for filing a certificate of exchange, \$300; and

(7) for preclearance of a filing instrument, \$50.
(TBCA 10.01.A (part); TLLCA 8.12.B, 9.01.A (part); TMCLA 7.05;
TNPCA 9.03.A (part); TRLPA 12.01 (part).)

Source Law

[TBCA 10.01]

A. The Secretary of State is authorized and required to collect for the use of the State the following fees:

. . .

(3) Filing articles of merger, whether the surviving or new corporation be a domestic or foreign corporation, or articles of exchange Three Hundred Dollars (\$300.00).

. . .

(7) Filing application for reservation of corporate name and issuing a certificate therefor, Forty Dollars (\$40.00).

(8) Filing notice of transfer of reserved corporate name and issuing a certificate therefor, Fifteen Dollars (\$15.00).

(9) Filing application for registration of corporate name and issuing a certificate therefor, Seventy-Five Dollars (\$75.00).

(10) Filing application for renewal of registration of corporate name and issuing a certificate therefor, Seventy-Five Dollars (\$75.00).

. . .

(21) Filing any instrument pursuant to this Act not expressly provided for above, Fifteen Dollars (\$15.00).

. . .

(24) Filing articles of conversion and issuing a

certificate of conversion, Three Hundred Dollars (\$300.00).

[TLLCA 8.12]

B. Subject to Section C of this Article, Articles 2.03 through 2.06, 2.09, 2.09A, 3.01, 7.01 through 7.05, and 7.07, Texas Miscellaneous Corporation Laws Act (Article 1302-1.01 et seq., Vernon's Texas Civil Statutes), as amended, apply to a limited liability company and its members, managers, and officers.

[TLLCA 9.01]

A. The Secretary of State is authorized and required to collect for the use of the State the following fees:

. . .

(3) Filing articles of merger or articles of conversion involving one or more domestic or foreign limited liability companies, Two Hundred Dollars (\$200.00), provided that any other filing fee paid under the corporation, partnership, or other entity statutes of this State for the filing of articles of merger or articles of conversion with respect to entities organized under those statutes shall be credited against the filing fee provided by this subsection.

. . .

(7) Filing application for reservations of a limited liability company name and issuing certificate thereof, Twenty-Five Dollars (\$25.00).

(8) Filing notice of transfer of reserved limited liability company name and issuing a certificate therefor, Ten Dollars (\$10.00).

. . .

(14) Filing any instrument pursuant to this act not expressly provided for above, Ten Dollars (\$10.00).

[TMCLA 7.05]

The Secretary of State shall collect, for the use of the State, a fee of Fifteen Dollars (\$15) for filing articles of

correction and issuing a certificate of correction.

[TNPCA 9.03]

A. The Secretary of State shall charge and collect for:

. . .

(3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, Fifty Dollars (\$50).

. . .

(9) Filing any other statement or report of a domestic or foreign corporation, Five Dollars (\$5).

[TRLPA 12.01]

The secretary of state shall collect for the use of the state:

. . .

(3) for filing an application for registration of name or an application for renewal of registration of name under Section 1.05 of this Act, a fee of \$75;

. . .

(5) for the filing of an application for reservation of name under Subsection (b) of Section 1.04 of this Act, a notice of transfer of reservation under Subsection (b) of Section 1.04 of this Act, or for preclearance of any document for filing, a fee of \$50; and

(6) for filing any instrument under this Act not expressly provided for above, a fee of \$25.

Revisor's Note

Rather than leaving them scattered in various statutes as under the former law, Subchapter D sets out all the fees payable to the secretary of state by domestic and foreign filing entities under Title 1 in one convenient source--another change that makes the Code more user-friendly. The subchapter also standardizes fees for filing instruments that share a commonality of procedure as well as for fees for formation of certain domestic entities

not subject to franchise taxes under Chapter 171 of the Tax Code. The fees the subchapter authorizes are comparable to those in the former statutes in most respects but are standardized in some respects. The following chart summarizes the fee changes being made by the revised law.

<u>Business Corporation</u>		
Document Filing	<u>Fees</u>	
	TBCA	Code
Articles of Incorporation (Certificate of Formation)	\$300	\$300
Restated Articles or Restated Certificate	\$300	\$300
Articles or Certificate of Amendment	\$150	\$150
Articles or Certificate of Merger	\$300	\$300**3
Articles or Certificate of Share Exchange	\$300	\$300
Articles or Certificate of Conversion	\$300	\$300**3
Reservation of Name	\$40	\$40
Transfer of Reserved Name	\$15	\$15
Articles or Certificate of Correction	\$15	\$15
Articles of Dissolution (Certificate of Termination)	\$40	\$40
Change of Registered Agent/Office	\$15	\$15
Change of Address by Registered Agent	\$15**10	\$15**10
Statement relating to establishment of series of shares	\$15	\$15

Registration & Renewal of Registration of Foreign Entity Name \$75
\$40

Certificate of Authority or Registration by an out-of-state
entity \$750 \$300

Amended Certificate or Registration of out-of-state entity \$150
\$150

Withdrawal of Certificate of Authority/Registration \$15 \$15

Pre-clearance of a filing instrument N/A \$50**12

Reinstatement of Certificate after tax forfeiture under Ch. 171
Tax Code (foreign or domestic) \$75 \$75

Reinstatement following administrative involuntary termination
(domestic or foreign) \$50 \$75

<hr/>			
<u>Professional Corporation</u>			
<hr/>			
Document Filing		<u>Fees</u> **1	
<hr/>			
		TBCA	Code
<hr/>			
Articles of Incorporation (Certificate of Formation)		\$300	\$300

Restated Articles or Restated Certificate \$300 \$300

Articles or Certificate of Amendment \$150 \$150

Articles or Certificate of Merger \$300 \$300**3

Articles or Certificate of Share Exchange \$300 \$300

Articles or Certificate of Conversion \$300 \$300**3

Reservation of Name \$40 \$40

Transfer of Reserved Name \$15 \$15

Articles or Certificate of Correction \$15 \$15

Articles of Dissolution (Certificate of Termination) \$40 \$40

Change of Registered Agent/Office \$15 \$15

Change of Address by Registered Agent \$15**10 \$15**10

Statement relating to establishment of series of shares \$15 \$15

Registration & Renewal of Registration of Foreign Entity Name \$75 \$40

Certificate of Authority or Registration by an out-of-state entity \$300 \$300

Amended Certificate or Registration of out-of-state entity \$150 \$150

Withdrawal of Certificate of Authority/Registration \$15 \$15

Pre-clearance of a filing instrument N/A \$50**12

Reinstatement of Certificate after tax forfeiture under Ch. 171 Tax Code (foreign or domestic) \$75 \$75

Reinstatement following administrative involuntary termination (domestic or foreign) \$50 \$75

—	<u>Professional Association</u>	
---	---------------------------------	--

—	Document Filing	<u>Fees</u> **1
---	-----------------	-----------------

—	TPAA	Code
—		
Articles of Association (Certificate of Formation)	\$200	\$750**2
Restated Articles or Restated Certificate	\$300	\$300
Articles or Certificate of Amendment	\$150	\$150
Articles or Certificate of Merger	\$300	\$300**3
Articles or Certificate of Conversion	\$300	\$300**3
Reservation of Name	\$40	\$40
Transfer of Reserved Name	\$15	\$15
Articles or Certificate of Correction	\$15	\$15
Articles of Dissolution (Certificate of Termination)	\$40	\$40
Change of Registered Agent/Office	\$15	\$15
Change of Address by Registered Agent	\$15**10	\$15**10
Statement relating to establishment of series of shares	\$15	\$15
Registration & Renewal of Registration of Foreign Entity Name	\$75	
	\$40	
Annual Statement	\$35	\$35
Certificate of Authority or Registration by an out-of-state entity N/A	\$750**11	New Filing

Amended Certificate or Registration of out-of-state entity N/A
\$150 New Filing

Withdrawal of Certificate of Authority/Registration N/A \$15
New Filing

Pre-clearance of a filing instrument N/A \$50**12

N/A**13

Reinstatement following administrative involuntary termination
(domestic or foreign) \$50 \$75

<hr/>		
<hr/>		
Non-Profit Corporation		
<hr/>		
Document Filing		Fees
<hr/>		
TNPCA		Code
<hr/>		
<hr/>		

Articles of Incorporation (Certificate of Formation) \$25 \$25

Restated Articles or Restated Certificate \$50 \$50

Articles or Certificate of Amendment \$25 \$25

Articles or Certificate of Merger or Consolidation \$50 \$50

Certificate of Exchange N/A \$300 New Filing

Articles or Certificate of Conversion \$50 New Filing

Reservation of Name \$40 \$40

Transfer of Reserved Name \$15 \$15

Articles or Certificate of Correction \$5 \$15

Articles of Dissolution (Certificate of Termination) \$5 \$5

Change of Registered Agent/Office \$5 \$5

Change of Address by Registered Agent \$15**10 \$15**10

Registration & Renewal of Registration of Foreign Entity Name \$40

Periodic Report \$5 \$5

Late Report After Forfeiture of Right to do Business \$6 to \$25 \$6 to \$75

Periodic Report Filed to Reinstate Entity \$25 \$25

Certificate of Authority or Registration by an out-of-state entity \$25 \$25

Amended Certificate or Registration of out-of-state entity \$25 \$25

Withdrawal of Certificate of Authority/Registration \$5 \$5

Pre-clearance of a filing instrument N/A \$50**12

Reinstatement of Certificate after tax forfeiture under Ch. 171 Tax Code (foreign or domestic) No fee assessed No fee assessed

Reinstatement following administrative involuntary termination (domestic or foreign) \$25 \$5

—	<u>Limited Liability Company</u>	
—	Document Filing	<u>Fees</u>

—	TLLCA	Code
—		
Articles of Organization (Certificate of Formation)	\$200	\$300
Restated Articles or Restated Certificate	\$200	\$300
Articles or Certificate of Amendment	\$100	\$150
Articles or Certificate of Merger	\$200	\$300**3
Articles or Certificate of Interest Exchange	N/A**4	\$300
New Filing		
Articles or Certificate of Conversion	\$200	\$300**3
Reservation of Name	\$25	\$40
Transfer of Reserved Name	\$10	\$15
Articles or Certificate of Correction	\$10	\$15
Articles of Dissolution (Certificate of Termination)	\$25	\$40
Change of Registered Agent/Office	\$10	\$15
Change of Address by Registered Agent	\$10**10	\$15**10
Registration & Renewal of Registration of Foreign Entity Name	\$10	\$40
Certificate of Authority or Registration by an out-of-state entity	\$500	\$750

Amended Certificate or Registration of out-of-state entity \$100 \$150

Withdrawal of Certificate of Authority/Registration \$10 \$15

Pre-clearance of a filing instrument N/A \$50**12

Reinstatement of Certificate after tax forfeiture under Ch. 171
Tax Code (foreign or domestic) \$75 \$75

Reinstatement following administrative involuntary termination
(domestic or foreign) \$10 for domestic and \$50 for foreign LLC
\$75

<hr/>		
<hr/>		
<div>Limited Partnership</div>		
<hr/>		
<div>Document FilingFees</div>		
<hr/>		
<div>TRLPACode</div>		
<hr/>		
<div></div>		

Certificate of Limited Partnership (Certificate of Formation)
\$750 \$750

Restated Articles or Restated Certificate \$200 \$300

Articles or Certificate of Amendment \$200 \$150

Articles or Certificate of Merger \$200 \$300**3

Articles or Certificate of Interest Exchange N/A**4 \$300
New Filing

Articles or Certificate of Conversion \$200 \$300**3

Reservation of Name \$50 \$40

Transfer of Reserved Name \$50 \$15

Articles or Certificate of Correction \$200 \$15

Certificate of Cancellation (Certificate of Termination) \$200 \$40

Change of Registered Agent/Office \$50 \$15

Change of Address by Registered Agent**5 \$50**10 \$15**10

Registration & Renewal of Registration of Foreign Entity Name \$75 \$40

Periodic Report \$50 \$50

Late Report After Forfeiture of Right to do Business \$75-\$150 \$75-\$150

Periodic Report Filed to Reinstate Entity \$225 \$225

Registration of out-of-state entity \$750 \$750

Amended Certificate of Registration of out-of-state entity \$200 \$150

Voluntary Cancellation of Authority/Registration \$200 \$15

Pre-Clearance of a Filing Instrument \$50 \$50**12

<hr/>		
<u>General Partnership</u>		
<hr/>		
<u>Document Filing</u>	<u>Fees</u>	
<hr/>		
	TRPA	Code
<hr/>		

Application & Renewal of Registration as a Limited Liability Partnership \$200/Per partner \$200/Per partner

Certificate of Amended Registration as LLP \$10**8 \$10**8

Articles or Certificate of Merger \$200 N/A**9

Articles or Certificate of Conversion \$200 N/A**9

Certificate of Cancellation of Registration or Withdrawal No fee \$15

Change of Registered Agent of Foreign LLP \$10 \$10

Change of Address by Registered Agent for Foreign LLP \$10 \$10

Statement of Qualification of out-of-state LLP Not less than \$200 per partner no more than \$750 Not less than \$200 per partner no more than \$750

Amended Qualification of Foreign LLP \$10**14 \$10**14

Voluntary Withdrawal or Cancellation Foreign LLP Qualification No fee \$15

Pre-Clearance of a Filing Instrument \$50**12

Foreign REITs and Other Foreign Filing
Entities**5

Document Filing	Fees
N/A	Code

Reservation of Name \$40

Transfer of Reserved Name \$15

Articles or Certificate of Correction \$15

Change of Registered Agent/Office \$15

Change of Address by Registered Agent \$15**10

Registration & Renewal of Registration of Foreign Entity Name \$40

Certificate of Registration \$750

Amended Certificate of Registration \$150

Voluntary Withdrawal of Certificate of Authority or Statement of Termination \$15

Pre-Clearance of a Filing instrument \$50**12

Cooperative Association		
Document Filing	Fees**6	
	TNPCA	Code

Articles of Incorporation (Certificate of Formation) \$25 \$25

Restated Articles or Restated Certificate of Formation \$50 \$50

Articles or Certificate of Amendment	\$25	\$25	
Articles or Certificate of Merger or Consolidation	\$50	\$50	
Certificate of Exchange	N/A	\$300	New Filing
Articles or Certificate of Conversion	N/A	\$50	New Filing
Reservation of Name	\$40	\$40	
Transfer of Reserved Name	\$15	\$15	
Articles or Certificate of Correction	\$5	\$15	
Certificate of Cancellation (Certificate of Termination)	\$5	\$5	
Change of Registered Agent/Office	\$5	\$5	
Change of Address by Registered Agent	\$15**10	\$15**10	
Registration & Renewal of Registration of Foreign Entity Name	\$75	\$40	
Non-Profit Periodic Report	\$5	\$5	
Late Periodic Report After Forfeiture of Right to do Business	\$6	\$25	\$6 to \$25
Non-Profit Periodic Report to Reinstate Entity	\$25	\$25	
Registration of out-of-state entity	\$25	\$25	
Amended Certificate of Registration of out-of-state entity	\$25	\$25	
Voluntary Withdrawal of Certificate of Authority or Statement of			

Termination \$5 \$5

Pre-Clearance of a Filing Instrument \$50 \$50**12

<hr/>		
<u>Unincorporated Nonprofit Association</u>		
<hr/>		
<hr/>	Document Filing	<u>Fees</u>
<hr/>		
<hr/>	TAC**7	Code
<hr/>		
<hr/>		

Statement Appointing Agent for Service of Process \$25 \$25

Amended Statement of Appointment of Agent \$5 \$5

Cancellation of Appointment of Agent \$5 \$5

Pre-Clearance of a Filing Instrument \$50**12

-
- **1 The provisions of the Texas Business Corporation Act (TBCA) supplement the provisions of the Texas Professional Corporation Act (TPCA). Consequently, the filing fee provisions of the TBCA would apply to filing instruments filed by professional corporations. The fee provisions of the Texas Professional Association Act (TPAA) refer to the filing fee provisions of the TBCA for certain filings.
- **2 The fee for a certificate of formation for a professional association was increased to make the fee comparable to the formation fee for a limited partnership, which, like the professional association, is not subject to state franchise tax under the Tax Code.
- **3 Existing law does not authorize the Secretary of State to

collect a filing fee for the formation of a domestic filing entity created pursuant to the plan of merger. In addition to the filing fee for the merger filing, the Code authorizes the collection of any fee imposed for the filing of a certificate of formation for each newly created domestic filing entity. The same holds true with respect to the filing of a certificate of conversion and the formation of a converted entity that is to be a domestic filing entity.

- **4 Existing law does not require a limited liability company or a limited partnership to submit a filing instrument to the Secretary of State to evidence an interest exchange. The Code would require the filing of a certificate of interest exchange.
- **5 Existing law does not require the registration/qualification of certain types of out-of-state business organizations that afford limited liability for any owner or member under the laws of the entity's jurisdiction of formation. The Code would require such entities, such as out-of-state real estate investment trusts, or out-of-state business trusts, to register with the Secretary of State. The Code filing fees for such entities are the same as those established for for-profit corporations.
- **6 The provisions of the Texas Non-Profit Corporation Act (TNPCA) supplement the provisions of the Cooperative Association Act; consequently, the filing fees established under the TNPCA would apply.
- **7 The filing fees for unincorporated nonprofit association filings are established by administrative rules adopted by the Secretary of State. (1 Tex. Admin. Code Sections 80.21-80.29)
- **8 The filing fee for an amendment to the registration as an

LLP is \$10, plus an additional \$200 for each additional partner added to the partnership.

- **9 Existing law requires a Texas general partnership to file a certificate of merger or certificate of conversion to evidence a merger or conversion involving an entity other than a general partnership, but the Code requires the filing only when a domestic filing entity is involved.
- **10 A registered agent may submit simultaneous filings for more than one entity. A maximum filing fee is established with regard to each entity type under existing law. The maximum fee for a filing relating to more than one for-profit corporation is \$750; the maximum fee for more than one non-profit corporation is \$250; the maximum fee for more than one limited liability company is \$500; the maximum fee for more than one limited partnership is \$2,500. The Code provisions increase the fees for filings relating to limited liability companies and decrease the fees established for limited partnerships.
- **11 Existing law does not provide for the qualification or registration of an out-of-state professional association. The filing fees for these new filings are the same as those established for out-of-state for-profit corporations.
- **12 Although documents for a corporation, cooperative, limited liability company, and professional association may be pre-cleared with the Secretary of State, only the provisions of the TRLPA authorize the collection of a fee for such service. The Code applies the \$50 fee currently established by the TRLPA to all filing instruments pre-cleared by the Secretary of State.
- **13 Professional associations and limited partnerships are not subject to franchise tax under Chapter 171 of the Tax Code;

consequently, the filing is not applicable to such entities.

**14 The filing fee for an amendment to the statement of qualification of a foreign LLP is \$10, plus an additional \$200 for each additional partner added to the partnership by the amendment, but not to exceed \$750.

Section 4.151 sets out the fees the Secretary of State collects for certain instruments commonly filed by all entities whereas Sections 4.152-4.159 list the filing fees for each respective type of entity the Code governs. Section 4.151 also authorizes a fee of \$50 for the preclearance of any document. Under former law, only the Texas Revised Limited Partnership Act authorized a fee for preclearance of limited partnership documents. Nevertheless, the Secretary of State informally provided preclearance of a document to be filed on behalf of any other type of entity, but for no charge. Moreover, the Secretary of State is authorized to collect the filing fee for the certificate of formation for a filing entity created by the terms of a merger or conversion, in addition to the fee for the filing of the certificate of merger or the certificate of conversion, something not authorized under former law.

Revised Law

Sec. 4.152. FILING FEES: FOR-PROFIT CORPORATIONS. For a filing by or for a for-profit corporation, the secretary of state shall impose the following fees:

- (1) for filing a certificate of formation, \$300;
- (2) for filing a certificate of amendment, \$150;
- (3) for filing an application of a foreign corporation for registration to transact business in this state, \$750;
- (4) for filing an application of a foreign corporation for an amended registration to transact business in this state, \$150;
- (5) for filing a restated certificate of formation and accompanying statement, \$300;
- (6) for filing a statement of change of registered

office, registered agent, or both, \$15;

(7) for filing a statement of change of name or address of a registered agent, \$15, except that the maximum fee for simultaneous filings by a registered agent for more than one corporation may not exceed \$750;

(8) for filing a statement of resolution establishing one or more series of shares, \$15;

(9) for filing a certificate of winding up and termination, \$40;

(10) for filing a certificate of withdrawal of a foreign corporation, \$15;

(11) for filing a certificate from the home state of a foreign corporation that the corporation no longer exists in that state, \$15;

(12) for filing a bylaw or agreement restricting transfer of shares or securities other than as an amendment to the certificate of formation, \$15;

(13) for filing an application for reinstatement of a certificate of formation or registration as a foreign corporation following forfeiture under the Tax Code, \$75;

(14) for filing an application for reinstatement of a corporation or registration as a foreign corporation after involuntary dissolution or revocation, \$75; and

(15) for filing any instrument as provided by this code for which this section does not expressly provide a fee, \$15. (TBCA 10.01.A.)

Source Law

[TBCA 10.01]

A. The Secretary of State is authorized and required to collect for the use of the State the following fees:

(1) Filing articles of incorporation of a domestic corporation and issuing a certificate of incorporation, Three Hundred Dollars (\$300.00).

(2) Filing articles of amendment of a domestic corporation and issuing a certificate of amendment, One Hundred

Fifty Dollars (\$150.00).

(3) Filing articles of merger, whether the surviving or new corporation be a domestic or foreign corporation, or articles of exchange Three Hundred Dollars (\$300.00).

(4) Filing an application of a foreign corporation for a certificate of authority to transact business in this State and issuing such a certificate of authority, Seven Hundred Fifty Dollars (\$750.00).

(5) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this State and issuing such an amended certificate of authority, One Hundred Fifty Dollars (\$150.00).

(6) Filing restated articles of incorporation of a domestic corporation, Three Hundred Dollars (\$300.00).

(7) Filing application for reservation of corporate name and issuing a certificate therefor, Forty Dollars (\$40.00).

(8) Filing notice of transfer of reserved corporate name and issuing a certificate therefor, Fifteen Dollars (\$15.00).

(9) Filing application for registration of corporate name and issuing a certificate therefor, Seventy-Five Dollars (\$75.00).

(10) Filing application for renewal of registration of corporate name and issuing a certificate therefor, Seventy-Five Dollars (\$75.00).

(11) Filing statement of change of registered office or registered agent, or both, Fifteen Dollars (\$15.00).

(12) Filing statement of change of address of registered agent, Fifteen Dollars (\$15.00); provided, however, that the maximum fee for simultaneous filings by a registered agent for more than one corporation shall not exceed Seven Hundred Fifty Dollars (\$750.00).

(13) Filing statement of resolution establishing series of shares, Fifteen Dollars (\$15.00).

(14) Filing statement of cancellation of redeemable shares, Fifteen Dollars (\$15.00).

(15) Filing statement of cancellation of re-acquired shares, Fifteen Dollars (\$15.00).

(16) Filing statement of reduction of stated capital, Fifteen Dollars (\$15.00).

(17) Filing articles of dissolution and issuing certificate therefor, Forty Dollars (\$40.00).

(18) Filing application for withdrawal and issuing certificate therefor, Fifteen Dollars (\$15.00).

(19) Filing certificate from home state that foreign corporation is no longer in existence in said state, Fifteen Dollars (\$15.00).

(20) Filing a bylaw or agreement restricting transfer of shares or securities other than as an amendment to the articles of incorporation, Fifteen Dollars (\$15.00).

(21) Filing any instrument pursuant to this Act not expressly provided for above, Fifteen Dollars (\$15.00).

(22) Filing application for reinstatement of corporate charter or certificate of authority following forfeiture under the Tax Code, Seventy-Five Dollars (\$75.00).

(24) Filing articles of conversion and issuing a certificate of conversion, Three Hundred Dollars (\$300.00).

Revisor's Note

No substantive change is intended. Some of the filing instruments listed in the source law for for-profit corporations are now in Section 4.151 so as to standardize fees for filing instruments that share a commonality of procedure. All the rest are included in this section, other than the filing of a statement of cancellation of redeemable or reacquired shares or statement of reduction of stated capital. These latter outmoded statements have been omitted by Subchapter F, Chapter 21. See Revisor's Note to Section 4.151.

Revised Law

Sec. 4.153. FILING FEES: NONPROFIT CORPORATIONS. For a filing by or for a nonprofit corporation, the secretary of state

shall impose the following fees:

- (1) for filing a certificate of formation, \$25;
- (2) for filing a certificate of amendment, \$25;
- (3) for filing a certificate of merger, conversion, or consolidation, without regard to whether the surviving or new corporation is a domestic or foreign corporation, \$50;
- (4) for filing a statement of change of a registered office, registered agent, or both, \$5;
- (5) for filing a certificate of dissolution, \$5;
- (6) for filing an application of a foreign corporation for registration to conduct affairs in this state, \$25;
- (7) for filing an application of a foreign corporation for an amended registration to conduct affairs in this state, \$25;
- (8) for filing a certificate of withdrawal of a foreign corporation, \$5;
- (9) for filing a restated certificate of formation and accompanying statement, \$50;
- (10) for filing a statement of change of name or address of a registered agent, \$15, except that the maximum fee for simultaneous filings by a registered agent for more than one corporation may not exceed \$250;
- (11) for filing a report under Chapter 22, \$5;
- (12) for filing a report under Chapter 22 to reinstate a corporation's right to conduct affairs in this state, \$5, plus a late fee in the amount of \$5 or in the amount of \$1 for each month or part of a month that the report remains unfiled, whichever amount is greater, except that the late fee may not exceed \$25;
- (13) for filing a report under Chapter 22 to reinstate a corporation or registration following involuntary termination or revocation, \$25; and
- (14) for filing any instrument of a domestic or foreign corporation as provided by this code for which this section does not expressly provide a fee, \$5. (TNPCA 8.15.E (part), 9.02.C, F, 9.03.)

Source Law

[TNPCA 8.15]

E. Any corporation whose certificate of authority has been revoked by the Secretary of State under the provisions of Section B of this article may be reinstated by the Secretary of State at any time within a period of 36 months from the date of such dissolution, upon approval of an application for reinstatement A reinstatement filing fee of \$25.00 shall accompany the application for reinstatement.

[TNPCA 9.02]

C. Any corporation whose right to conduct affairs may have been forfeited as provided in this Act, shall be relieved from such forfeiture by filing the required report with the Secretary of State within 120 days of the date of mailing such notice of forfeiture, together with a late filing fee of One Dollar (\$1) for each month, or fractional part thereof, which shall have elapsed after such forfeiture of its right to conduct affairs; provided, that such amount shall in no case be less than Five Dollars (\$5) nor more than Twenty-five Dollars (\$25).

. . .

F. Any corporation which is involuntarily dissolved or whose certificate of authority is revoked without judicial ascertainment, as provided in Section E hereof, and which has paid all fees, taxes, penalties and interest due thereon which accrued before the dissolution or revocation plus an amount equal to the total taxes from the date of dissolution or revocation to the date of reinstatement which would have been payable had the corporation not been dissolved or its certificate revoked may be relieved from such dissolution or revocation by filing the required report with the Secretary of State together with a filing fee of Twenty-five (\$25.00) Dollars.

[TNPCA 9.03]

A. The Secretary of State shall charge and collect for:

- (1) Filing articles of incorporation and issuing a certificate of incorporation, Twenty-five Dollars (\$25).
- (2) Filing articles of amendment and issuing a certificate of amendment, Twenty-five Dollars (\$25).
- (3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, Fifty Dollars (\$50).
- (4) Filing a statement of change of address of registered office or change of registered agent, or both, Five Dollars (\$5).
- (5) Filing articles of dissolution, Five Dollars (\$5).
- (6) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, Twenty-five Dollars (\$25).
- (7) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, Twenty-five Dollars (\$25).
- (8) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, Five Dollars (\$5).
- (9) Filing any other statement or report of a domestic or foreign corporation, Five Dollars (\$5).
- (10) Filing restatement of articles of incorporation, Fifty Dollars (\$50).
- (11) Filing a statement of change of address of registered agent, Fifteen Dollars (\$15), except that the maximum fee for simultaneous filings by a registered agent for more than one corporation may not exceed Two Hundred Fifty Dollars (\$250).

Revisor's Note

No substantive change is intended, except as described in the Revisor's Note to Section 4.151. The revised law adds a few filing fees to those provided by the Texas Non-Profit Corporation Act as part of standardizing fees for filing instruments in general.

Revised Law

Sec. 4.154. FILING FEES: LIMITED LIABILITY COMPANIES. For a filing by or for a limited liability company, the secretary of state shall impose the same fee as the filing fee for a similar instrument under Section 4.152. (TLLCA 7.11.E (part), 9.01.A.)

Source Law

[TLLCA 7.11]

E. Any foreign limited liability company whose certificate of authority has been revoked by the Secretary of State . . . may be reinstated by the Secretary of State . . . upon approval of an application for reinstatement A reinstatement filing fee of \$50 shall accompany the application for reinstatement.

[TLLCA 9.01]

A. The Secretary of State is authorized and required to collect for the use of the State the following fees:

(1) Filing articles of organization of a domestic limited liability company and issuing the certificate of organization, Two Hundred Dollars (\$200.00).

(2) Filing articles of amendment of a domestic limited liability company and issuing the certificate of amendment, One Hundred Dollars (\$100.00).

(3) Filing articles of merger or articles of conversion involving one or more domestic or foreign limited liability companies, Two Hundred Dollars (\$200.00), provided that any other filing fee paid under the corporation, partnership, or other entity statutes of this State for the filing of articles of merger or articles of conversion with respect to entities organized under those statutes shall be credited against the filing fee provided by this subsection.

(4) Filing an application of a foreign limited liability company for certificate of authority to transact business in this state and issuing such a certificate of authority, Five Hundred Dollars (\$500.00).

(5) Filing an application of a foreign limited

liability company for an amended certificate of authority to transact business in this state and issuing such an amended certificate of authority, One Hundred Dollars (\$100.00).

(6) Filing restated articles of organization of a domestic limited liability company, Two Hundred Dollars (\$200.00).

(7) Filing application for reservations of a limited liability company name and issuing certificate thereof, Twenty-Five Dollars (\$25.00).

(8) Filing notice of transfer of reserved limited liability company name and issuing a certificate therefor, Ten Dollars (\$10.00).

(9) Filing statement of change of registered office or registered agent, or both, Ten Dollars (\$10.00).

(10) Filing statement of change of address of registered agent, Ten Dollars (\$10.00); provided, however, that the maximum fee for simultaneous filings by a registered agent for more than one limited liability company shall not exceed Five Hundred Dollars (\$500.00).

(11) Filing articles of dissolution and issuing certificate therefor, Twenty-Five Dollars (\$25.00).

(12) Filing application for withdrawal and issuing certificate therefor, Ten Dollars (\$10.00).

(13) Filing certificate from home state that foreign limited liability company is no longer existent in said state, Ten Dollars (\$10.00).

(14) Filing any instrument pursuant to this act not expressly provided for above, Ten Dollars (\$10.00).

. . . .

(16) Filing an application for reinstatement of the limited liability company charter or certificate of authority following forfeiture under the Tax Code, Seventy-Five Dollars (\$75.00).

Revisor's Note

Rather than enumerate the fees for limited liability company filings as the revised law does for corporations and limited partnerships in Sections 4.152, 4.153, and 4.155, Section 4.154 adopts the same fee schedule for comparable documents filed by a for-profit corporation. This is consistent with the history of the Texas Limited Liability Company Act when as part of its enactment in 1991 during the Regular Session of the 72nd Legislature its fee provisions were drafted to mirror those in the then existing Texas Business Corporation Act provisions for comparable documents. However, House Bill 11, enacted in 1991 by the 1st Called Session of the 72nd Legislature, amended the fee provisions of the Texas Business Corporation Act and established a difference in fees between limited liability companies and corporations that was not originally intended.

Revised Law

Sec. 4.155. FILING FEES: LIMITED PARTNERSHIPS. For a filing by or for a limited partnership, the secretary of state shall impose the following fees:

- (1) for filing a certificate of formation or an application for registration as a foreign limited partnership, \$750;
- (2) for filing a certificate of amendment or an amendment of registration of a foreign limited partnership, \$150;
- (3) for filing a restated certificate of formation, \$300;
- (4) for filing a statement for change of registered office, registered agent, or both, \$15;
- (5) for filing a statement of change of name or address of a registered agent, \$15, except that the maximum fee for simultaneous filings by a registered agent for more than one limited partnership may not exceed \$750;
- (6) for filing a certificate of winding up and termination, \$40;
- (7) for filing a certificate of withdrawal of a foreign limited partnership, \$15;

(8) for filing a certificate of reinstatement of a limited partnership or registration as a foreign limited partnership after involuntary termination or revocation under Chapter 11 or Chapter 9, \$75;

(9) for filing a periodic report required under Chapter 153, \$50;

(10) for reviving a limited partnership's right to transact business under Chapter 153, \$50 plus a late fee in an amount equal to the lesser of:

(A) \$25 for each month or part of a month that elapses after the date of the notice of forfeiture; or

(B) \$100;

(11) for reinstatement of a certificate of formation or registration under Chapter 153, \$50 plus a late fee of \$100 and a reinstatement fee of \$75;

(12) for filing any document required or permitted to be filed for a limited liability partnership, the secretary of state shall impose the same fee as the filing fee for a general partnership under Section 4.158. For purposes of calculation of the filing fee, all references to partners in Section 4.158 as applied to limited partnerships mean general partners only; and

(13) for filing any instrument as provided by this code for which this section does not expressly provide a fee, \$15. (TRLPA 12.01, 13.05(b) (part), 13.07(a) (part), 13.09(a).)

Source Law

[TRLPA 12.01]

The secretary of state shall collect for the use of the state:

(1) for filing a certificate of limited partnership under Section 2.01 of this Act, or an application for registration as a foreign limited partnership under Section 9.02 of this Act, a fee of \$750;

(2) for filing a certificate of amendment under Section 2.02 of this Act, a certificate of cancellation under Section 2.03 of this Act, a restated certificate of limited

partnership under Section 2.10 of this Act, a certificate of merger under Section 2.11 of this Act, a certificate of correction under Section 2.13 of this Act, a certificate of conversion under Section 2.15 of this Act, a certificate under Section 9.05 of this Act, or a certificate of cancellation under Section 9.06 of this Act, a fee of \$200;

(3) for filing an application for registration of name or an application for renewal of registration of name under Section 1.05 of this Act, a fee of \$75;

(4) for filing a statement for change of registered office, registered agent, or both, under Subsection (b) of Section 1.06 of this Act, or a statement for change of location of registered office under Subsection (h) of Section 1.06 of this Act, a fee of \$50, except that the maximum fee for simultaneous filings by a registered agent for more than one limited partnership may not exceed \$2,500;

(5) for the filing of an application for reservation of name under Subsection (b) of Section 1.04 of this Act, a notice of transfer of reservation under Subsection (b) of Section 1.04 of this Act, or for preclearance of any document for filing, a fee of \$50; and

(6) for filing any instrument under this Act not expressly provided for above, a fee of \$25.

[TRLPA 13.05]

(b) The report must be made on a form adopted by the secretary of state for that purpose The filing fee for the report is \$50.

[TRLPA 13.07]

(a) A limited partnership that forfeits the right to transact business in this state as provided by Section 13.06 of this Act may be relieved from the forfeiture by filing the required report . . . , together with:

(1) the filing fee; and

(2) a late fee in an amount equal to the lesser of:

(A) \$25 for each month or fractional part of a month that has elapsed since the date of the notice of forfeiture; or

(B) \$100.

[TRLPA 13.09]

(a) A limited partnership whose certificate or registration has been canceled as provided by Section 13.08 of this Act may be relieved of the cancellation by filing the report required by Section 13.05, together with the filing fee for the report, a late fee of \$100, and a reinstatement fee of \$100.

Revisor's Note

Changes to certain filing fee amounts for limited partnerships have been made as described in the Revisor's Note to Section 4.151.

Revised Law

Sec. 4.156. FILING FEES: PROFESSIONAL ASSOCIATIONS. For a filing by or for a professional association, the secretary of state shall impose the following fees:

(1) for filing a certificate of formation or an application for registration as a foreign professional association, \$750;

(2) for filing an annual statement, \$35; and

(3) for filing any other instrument, the fee provided for the filing of a similar instrument under Section 4.152.

(TPAA 22.)

Source Law

[TPAA 22]

The Secretary of State is authorized and required to collect for the use of the state the following fees:

(1) Filing articles of association and issuing a certificate of association, Two Hundred Dollars (\$200.00)

(2) Filing annual statement, Thirty-Five Dollars (\$35.00)

(3) Filing any other document, the fee provided for the filing of a similar document under the Texas Business Corporation Act.

Revisor's Note

Section 4.156 increases the fee for a certificate of formation for a professional association to \$750 to be comparable to the formation fee for a limited partnership, since a professional association, as well as a limited partnership, is not subject to franchise tax under the Tax Code. See Revisor's Note to Section 4.152.

Revised Law

Sec. 4.157. FILING FEES: PROFESSIONAL CORPORATIONS. For a filing by or for a professional corporation, the secretary of state shall impose the same fee as the filing fee for a similar instrument under Section 4.152. (TPCA 5 (part).)

Source Law

5. . . . The filing fee for a document under this Act is the same as the filing fee for a similar document filed under the Texas Business Corporation Act.

Revisor's Note

See Revisor's Note to Section 4.152.

Revised Law

Sec. 4.158. FILING FEES: GENERAL PARTNERSHIPS. For a filing by or for a general partnership, the secretary of state shall impose the following fees:

- (1) for filing a limited liability partnership application, \$200 for each partner;
- (2) for filing a limited liability partnership renewal application, \$200 for each partner on the date of renewal;
- (3) for filing a statement of foreign qualification by a foreign limited liability partnership, \$200 for each partner in this state, except that the maximum fee may not exceed \$750;
- (4) for filing a renewal of registration by a foreign

limited liability partnership, \$200 for each partner in this state, except that the maximum fee may not exceed \$750;

(5) for filing a certificate of amendment for a domestic limited liability partnership, \$10, plus \$200 for each partner added by the amendment;

(6) for filing a certificate of amendment for a foreign limited liability partnership, \$10, plus \$200 for each partner in this state added by amendment not to exceed \$750; and

(7) for filing any other filing instrument, the filing fee imposed for a similar instrument under Section 4.155. (TRPA 3.08(b)(3), (7) (part), (11) (part), 10.02(c), (g) (part), (k) (part).)

Source Law

[TRPA 3.08(b)]

(3) Two copies of the application must be filed, accompanied by a fee of \$200 for each partner.

. . .

(7) An effective registration may be renewed before its expiration by filing in duplicate with the secretary of state an application The renewal application must be accompanied by a fee of \$200 for each partner on the date of renewal. . . .

. . .

(11) . . . Two copies of the articles of amendment must be filed, accompanied by a fee of \$10 plus, if the amendment increases the number of partners, \$200 for each partner added by amendment of the number of partners.

[TRPA 10.02]

(c) Two copies of the statement of foreign qualification must be filed accompanied by a fee of \$200 for each partner in this state, not to exceed \$750.

. . .

(g) An effective registration may be renewed before its expiration by filing in duplicate with the secretary of state a

statement of foreign qualification The renewal statement of qualification must be accompanied by a fee of \$200 for each partner in this state on the date of renewal, not to exceed \$750. . . .

(k) . . . Two copies of the articles of amendment must be filed, accompanied by a fee of \$10 and, if the amendment increases the number of partners, a fee of \$200 for each partner in this state added by amendment, not to exceed \$750.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 4.159. FILING FEES: NONPROFIT ASSOCIATIONS. For a filing by or for a nonprofit association, the secretary of state shall impose the following fees:

(1) for filing a statement appointing an agent to receive service of process, \$25;

(2) for filing an amendment of a statement appointing an agent, \$5; and

(3) for filing a cancellation of a statement appointing an agent, \$5. (TUUNAA 12(d), 1 T.A.C. 80.21(c), 80.22(c), 80.23(c), 80.24(c).)

Source Law

[TUUNAA 12]

(d) The secretary of state may collect a fee for filing a statement appointing an agent to receive service of process, an amendment, a cancellation, or a resignation in the amount charged for filing similar documents.

[1 T.A.C. 80.21]

(c) Fee. The fee for filing a statement appointing an agent is \$25.

[1 T.A.C. 80.22]

(c) Fee. The fee for filing an amendment to the statement appointing an agent is \$5.00.

[1 T.A.C. 80.23]

(c) Fee. The fee for filing a notice of cancellation is \$5.00.

[1 T.A.C. 80.24]

(c) Fee. There is no fee for filing a notice of resignation.

Revisor's Note

Section 4.159 codifies the fees for instruments filed by unincorporated nonprofit associations with the secretary of state. Currently, the fees are established by administrative rules adopted by the secretary of state contained in 1 T.A.C. 80.21(c), 80.22(c), 80.23(c), and 80.24(c).

Revised Law

Sec. 4.160. FILING FEES: FOREIGN FILING ENTITIES. For a filing by or for a foreign filing entity when no other fee has been provided, the secretary of state shall impose the same fee as the filing fee for a similar instrument under Section 4.151 or 4.152. (New.)

Revisor's Note

The revised law clarifies the filing fees for any type of foreign filing entity not covered by any other section of this subchapter.

CHAPTER 5. NAMES OF ENTITIES; REGISTERED AGENTS AND REGISTERED OFFICES

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 5.001. EFFECT ON RIGHTS UNDER OTHER LAW. (a) The filing of a certificate of formation by a filing entity under this code, an application for registration by a foreign filing entity under this code, or an application for reservation or registration of a name under this chapter does not authorize the

use of a name in this state in violation of a right of another under:

(1) the Trademark Act of 1946, as amended (15 U.S.C. Section 1051 et seq.);

(2) Chapter 16 or 36, Business & Commerce Code; or

(3) common law.

(b) The secretary of state shall deliver a notice that contains the substance of Subsection (a) to each of the following:

(1) a filing entity that files a certificate of formation under this code;

(2) a foreign filing entity that registers under this code;

(3) a person that reserves a name under Subchapter C; and

(4) a person that registers a name under Subchapter D. (TBCA 2.05.C; TLLCA 2.03.C.)

Source Law

[TBCA 2.05]

C. The filing of articles of incorporation under Part Three of this Act, [V.A.T.S. Bus.Corp.Act, Art. 3.01 et seq.] an application to reserve a specified Corporate name under Article 2.06 of this Act, or an application to register a Corporate name by a foreign corporation under Article 2.07 of this Act does not authorize the use of a Corporate name in this State in violation of the rights of another under the federal Trademark Act of 1946 (15 U.S.C., Section 1051 et seq.), the Texas trademark law (Chapter 16, Business & Commerce Code), the Assumed Business or Professional Name Act (Chapter 36, Business & Commerce Code), or the common law. The Secretary of State shall deliver to each newly organized corporation, applicant for reservation of a Corporate name, and newly registered foreign corporation a notice containing the substance of this section.

[TLLCA 2.03]

C. The filing of articles of organization under Part Three of this Act or an application to reserve a specified company name under Article 2.04 of this Act, does not authorize the use of limited liability company name in this State in violation of the rights of another under the Federal Trademark Act of 1946 (15 U.S.C., Section 1051 et seq.), the Texas trademark law (Chapter 16, Business & Commerce Code), the Assumed Business or Professional Name Act (Chapter 36, Business & Commerce Code), or the common law.

Revisor's Note

No substantive change is intended. The revised law essentially restates the common law for all entities and, therefore, is implicit in existing statutes. The language of the revised law is derived from specific provisions in the Texas Business Corporation Act and Texas Limited Liability Company Act.

[Sections 5.002-5.050 reserved for expansion]

SUBCHAPTER B. GENERAL PROVISIONS RELATING TO NAMES OF ENTITIES

Revised Law

Sec. 5.051. ASSUMED NAME. A domestic entity or a foreign entity having authority to transact business in this state may transact business under an assumed name by filing an assumed name certificate in accordance with Chapter 36, Business & Commerce Code. The requirements of this subchapter do not apply to an assumed name set forth in an assumed name certificate filed under that chapter. (TBCA 2.05.B, 8.03.A(2) (part); TNPCA 8.04.A (part); TLLCA 2.03.B; TRLPA 9.03(b).)

Source Law

[TBCA 2.05]

B. Any domestic or foreign corporation having authority to transact business in this State may do so under an assumed name by filing an assumed name certificate in the manner prescribed by law. The assumed name may, but is not required to, comply with the requirements of Section A(1) of this Article.

[TBCA 8.03.A]

(2) . . . The foreign corporation shall set forth in the application for a certificate of authority the name under which it is qualifying and shall file an assumed name certificate in accordance with Chapter 36, Business & Commerce Code, as amended.

[TNPCA 8.04]

A. A foreign corporation, in order to procure a certificate of authority to conduct affairs in this State, shall make application therefor to the Secretary of State, which application shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated and, if the corporation is required to qualify under a name other than its corporate name, the name under which the corporation is to be qualified.

. . .

[TLLCA 2.03]

B. Any domestic or foreign limited liability company having authority to transact business in this State, may do so under an assumed name, by filing an assumed name certificate in the manner prescribed by law.

[TRLPA 9.03]

(b) Unless the partnership conducts business under another name, filing the application with the secretary of state makes it unnecessary to file any other documents under the Assumed Business or Professional Name Act (Chapter 36, Business & Commerce Code).

Revisor's Note

No substantive change is intended. Section 5.051 provides that a domestic entity or a foreign entity having authority to do business in this state may transact business under an assumed name. While not explicit in the source laws for all types of

entities, it is implicit in these laws because of Chapter 36, Business & Commerce Code, which applies to all types of entities.

In the last sentence, the revised law specifies that the assumed name of the entity need not meet the requirements of the subchapter. The last sentence of the revised law is derived from the Texas Business Corporation Act and is implicit as it relates to the use of assumed names by other domestic and foreign entities.

Revised Law

Sec. 5.052. UNAUTHORIZED PURPOSE IN NAME PROHIBITED. A filing entity or a foreign filing entity may not have a name that contains any word or phrase that indicates or implies that the entity is engaged in a business that the entity is not authorized by law to pursue. (TBCA 2.05.A(2); TLLCA 2.03.A(2), 7.03 (part); TNPCA 2.04 (part); TRLPA 1.03 (part).)

Source Law

[TBCA 2.05.A]

(2) It shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

[TLLCA 2.03.A]

(2) It shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of organization.

[TLLCA]

7.03.A. No certificate of authority shall be issued to a foreign limited liability company unless the limited liability company name of such limited liability company:

. . .

(2) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other

than one or more of the purposes contained in its articles of organization.

. . .

[TNPCA]

2.04.A. The corporate name shall conform to the following requirements:

(1) It shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

. . .

[TRLPA]

1.03. . . .

(2) contain a word or phrase indicating or implying that it is organized other than for a purpose stated in its partnership agreement;

. . .

Revisor's Note

No substantive change is intended. Although there are no comparable provisions found in the Texas Real Estate Investment Trust Act, Cooperative Association Act, Texas Professional Corporation Act, or Texas Professional Association Act for many provisions in this chapter, including this section, these statutes include these provisions by incorporating the Texas Business Corporation Act or Texas Non-Profit Corporation Act as supplementing law.

Revised Law

Sec. 5.053. IDENTICAL AND DECEPTIVELY SIMILAR NAMES PROHIBITED. (a) A filing entity may not have a name, and a foreign filing entity may not register to transact business in this state under a name, that is the same as, or that the secretary of state determines to be deceptively similar or similar to:

(1) the name of another existing filing entity;

(2) the name of a foreign filing entity that is registered under Chapter 9;

(3) a name that is reserved under Subchapter C; or

(4) a name that is registered under Subchapter D.

(b) Subsection (a) does not apply if the other entity or the person for whom the name is reserved or registered, as appropriate, consents in writing to the use of the similar name. (TBCA 2.05.A(3), 8.03.A(2) (part); TLLCA 2.03.A(3), 7.03 (part); TNPCA 2.04 (part), 8.03.A(2) (part); TRLPA 1.03 (part).)

Source Law

[TBCA 2.05.A]

(3) It shall not be the same as, or deceptively similar to, the name of any domestic corporation, limited partnership, or limited liability company existing under the laws of this State, or the name of any foreign corporation, non-profit corporation, limited partnership, or limited liability company authorized to transact business in this State, or a name the exclusive right to which is, at the time, reserved in the manner provided in this Act or any other statute providing for reservation of names by a limited partnership or limited liability company, or the name of a corporation, limited partnership, or limited liability company which has in effect a registration of its company name as provided in this Act or any other applicable law; provided that a name may be similar if written consent is obtained from the existing corporation, limited partnership, or limited liability company having the name deemed to be similar or the person for whom the name deemed to be similar is reserved in the office of the Secretary of State.

[TBCA 8.03.A]

(2) Shall not be the same as, or deceptively similar to, the name of any domestic corporation, limited partnership, or limited liability company existing under the laws of this state or of any foreign corporation, limited partnership, or limited liability company authorized to transact business in this state,

or a name the exclusive right to which is, at the time, reserved or registered in the manner provided in this Act or any other statute providing for the reservation or registration of names by a limited partnership or limited liability company; provided that a name may be similar if written consent is obtained from the existing corporation, limited partnership, or limited liability company having the name deemed to be similar or the person for whom the name deemed to be similar is reserved or registered in the office of the Secretary of State. . . .

[TLLCA 2.03.A]

(3) It shall not be the same as, or deceptively similar to, the name of any domestic limited liability company, corporation or limited partnership existing under the laws of this state, or the name of any foreign limited liability company, corporation or limited partnership authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this Act or any other statute providing for reservation of names by a corporation or limited partnership, or the name of a limited liability company, corporation or limited partnership which has in effect a registration of its company name as provided in this act or any other applicable law provided that a name may be similar if written consent is obtained from the existing limited liability company, corporation or limited partnership having the name deemed to be similar or the person for whom the name deemed to be similar is reserved in the office of the Secretary of State.

[TLLCA]

7.03.A. No certificate of authority shall be issued to a foreign limited liability company unless the limited liability company name of such limited liability company:

. . .

(3) Shall not be the same as, or deceptively similar to, the name of any domestic limited liability company,

corporation or limited partnership existing under the laws of this state or of any foreign limited liability company, corporation or limited partnership authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved or registered in the manner provided in this Act or any other statute relating to corporations, partnerships, or other business entities; provided that a name may be similar if written consent is obtained from the existing limited liability company, corporation or limited partnership having the name deemed to be similar or the person, or limited liability company, for whom the name deemed to be similar is reserved or registered in the office of the Secretary of State. . . .

[TNPCA]

2.04.A. The corporate name shall conform to the following requirements:

. . .

(2) It shall not be the same as, or deceptively similar to, the name of any domestic corporation, whether for profit or not for profit, existing under the laws of this State, or the name of any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this State, or a name the exclusive right to which is, at the time, reserved in the manner provided by the Texas Business Corporation Act, or the name of a corporation which has in effect a registration of its corporate name as provided in the Texas Business Corporation Act; provided that a name may be similar if written consent is obtained from the existing corporation having the name deemed to be similar, or the person, or corporation, for whom the name deemed to be similar is reserved or registered in the office of the Secretary of State.

. . .

[TNPCA 8.03.A]

(2) Is the same as, or deceptively similar to, the

name of any corporation, whether for profit or not for profit, existing under any Act of this State, or any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this State, or a corporate name reserved or registered as permitted by the laws of this State; provided that a name may be similar if written consent is obtained from the existing corporation having the name deemed to be similar or the person, or corporation for whom the name deemed to be similar is reserved or registered in the office of the Secretary of State. . . .

[TRLPA]

1.03. Except as provided by Section 2.14(a)(3) of this Act, the name of a limited partnership as stated in its certificate of limited partnership, a reserved or registered name, or the name under which a foreign limited partnership is permitted to register to do business in Texas as contained in its application for registration as a foreign limited partnership . . . may not:

. . .

(3) be the same as or deceptively similar to the name of a corporation, limited liability company, or limited partnership that exists under the laws of Texas, that has a certificate of authority to transact business as a foreign corporation or limited liability company in Texas, or that is registered as a foreign limited partnership in Texas, or a name that has been reserved or registered for a corporation, limited liability company, limited partnership, or foreign limited partnership under the laws of Texas, except that a limited partnership or foreign limited partnership may adopt, reserve, or register, as appropriate, a name that is similar if written consent is obtained from the corporation, limited liability company, limited partnership, or foreign limited partnership having the name considered similar or from the person for whom the name considered similar is reserved or registered in the office of the secretary of state; or

. . .

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 5.054. NAME OF CORPORATION, FOREIGN CORPORATION, OR PROFESSIONAL CORPORATION. (a) The name of a corporation or foreign corporation must contain:

(1) the word "company," "corporation," "incorporated," or "limited"; or

(2) an abbreviation of one of those words.

(b) Subsection (a) does not apply to a nonprofit corporation or foreign nonprofit corporation.

(c) Instead of a word or abbreviation required by Subsection (a), the name of a professional corporation may contain the phrase "professional corporation" or an abbreviation of the phrase. (TBCA 2.05.A(1), 8.03.A(1); TPCA 8 (part).)

Source Law

[TBCA 2.05.A]

(1) It shall contain the word "corporation," "company," "incorporated," or "limited," or shall contain an abbreviation of one of such words, and shall contain such additional words as may be required by law.

[TBCA 8.03.A]

(1) Shall contain the word "corporation," "company," "incorporated," or "limited," or shall contain an abbreviation of one (1) of such words, or such corporation shall, for use in this state, add at the end of its name one (1) of such words or an abbreviation thereof.

[TPCA]

8. . . . A professional corporation may use the initials "P.C." in its corporate name in lieu of the word, or in lieu of the abbreviation of the word, "corporation," "company," or "incorporated."

Revisor's Note

Section 5.054(a)(1) includes the word "limited" as one of the approved words that a domestic corporation's name must contain. Article 2.05.A(1), Texas Business Corporation Act, does not include this word as an option for domestic corporations, although it is permitted for foreign corporations under the Texas Business Corporation Act. This change is consistent with the trend in modern corporate practice.

Revised Law

Sec. 5.055. NAME OF LIMITED PARTNERSHIP OR FOREIGN LIMITED PARTNERSHIP. (a) The name of a limited partnership or foreign limited partnership must contain:

- (1) the word "limited";
- (2) the phrase "limited partnership"; or
- (3) an abbreviation of that word or phrase.

(b) The name of a limited partnership that is a limited liability limited partnership must also contain:

- (1) the phrase "limited liability partnership" or "limited liability limited partnership"; or
- (2) an abbreviation of one of those phrases. (TRLPA 1.03 (part); TRPA 3.08(c).)

Source Law

[TRLPA]

1.03. Except as provided by Section 2.14(a)(3) of this Act, the name of a limited partnership as stated in its certificate of limited partnership, a reserved or registered name, or the name under which a foreign limited partnership is permitted to register to do business in Texas as contained in its application for registration as a foreign limited partnership must contain the words "Limited Partnership," "Limited," or the abbreviation "L.P." or "Ltd." as the last words or letters of its name and may not:

- (1) contain the name of a limited partner unless:
 - (A) that name is also the name of a general partner; or

(B) the business of the limited partnership or foreign limited partnership had been carried on under that name before the admission of that limited partner;

. . .

(4) contain a word or phrase indicating or implying that it is a corporation.

[TRPA 3.08]

(c) Name. A registered limited liability partnership's name must contain the words "registered limited liability partnership" or the abbreviation "L.L.P." as the last words or letters of its name.

Revisor's Note

Sections 5.055, 5.056, 5.058, and 5.059 set forth the words or phrases indicative of status as a particular type of entity and require that the name of an entity contain a word or phrase or an abbreviation of such word or phrase indicative of such entity type. These provisions permit greater flexibility of acceptable abbreviations. The source law set forth the acceptable abbreviations of the words and phrases with particularity.

Section 5.055 does not include the prohibition contained in Section 1.03(1), Texas Revised Limited Partnership Act, against the name of a limited partnership containing a limited partner's name. The prohibition is outmoded and difficult to enforce and, in practice, is not enforced by the secretary of state. The prohibition also creates an issue as to the validity of the formation of the limited partnership to the detriment of all of the other limited partners.

The revised law omits the requirement that the required words or abbreviation appear in the limited partnership's name as the last words or letters. This change permits more flexibility in name choice. Similar flexibility exists for the names of for-profit corporations and has not proved in that context to be confusing. There is no public policy reason why limited

partnerships should be treated differently.

Subdivision (4) of Texas Revised Limited Partnership Act Section 1.03 was omitted from the revised law because Section 17.46(b)(24), Business & Commerce Code (Deceptive Trade Practices Act), has a similar provision that would apply to prohibit a business entity from using "incorporated," "corporation," or an abbreviation of either of those terms in its name if it is not a corporation.

Revised Law

Sec. 5.056. NAME OF LIMITED LIABILITY COMPANY OR FOREIGN LIMITED LIABILITY COMPANY. (a) The name of a limited liability company or a foreign limited liability company doing business in this state must contain:

(1) the phrase "limited liability company" or "limited company"; or

(2) an abbreviation of one of those phrases.

(b) A limited liability company formed before September 1, 1993, the name of which complied with the laws of this state on the date of formation but does not comply with this section is not required to change its name. (TLLCA 2.03.A (part), 7.03 (part).)

Source Law

[2.03]

A. The limited liability company name shall conform to the following requirements:

(1) It shall either contain the words "Limited Liability Company" or "Limited Company" or the abbreviations "L.L.C.," "LLC," "LC," or "L.C." and shall contain such additional words as may be required by law. The word "Limited" may be abbreviated as "Ltd." or "LTD" and the word "Company" may be abbreviated as "Co." However, a limited liability company formed before September 1, 1993, that complied with this Section on the date of formation, but does not comply with this Section as revised, is not required to change its name.

. . .

7.03.A. No certificate of authority shall be issued to a foreign limited liability company unless the limited liability company name of such limited liability company:

(1) Shall contain the word "Limited Liability Company" or "Limited Company" or the abbreviations "L.L.C.," "LLC," "LC," or "L.C." and shall contain such additional words as may be required by law. The word "Limited" may be abbreviated as "Ltd." or "LTD" and the word "Company" may be abbreviated as "Co." However, a foreign limited liability company that procured a certificate of authority to transact business in this state before September 1, 1993, and that complied with this Section on the date of procuring the certificate, but does not comply with this Section as revised, is not required to change its name.

. . .

Revisor's Note

Except as discussed in the first paragraph of the Revisor's Note to Section 5.055, no substantive change is intended.

Revised Law

Sec. 5.057. NAME OF COOPERATIVE ASSOCIATION. (a) The name of a cooperative association must contain:

- (1) the word "cooperative"; or
- (2) an abbreviation of that word.

(b) A domestic or foreign entity may use the word "cooperative" in its name to the extent permitted by Section 251.452. (CAA 8(b) (part), 39(a).)

Source Law

[CAA 8]

(b) Subject to the limitations of this Act, the articles must contain:

. . .

(2) the name of the association, which must include the word "cooperative" or an abbreviation or derivative of it;

. . .

[CAA 39]

(a) Only an association organized under this Act, a group organized on a cooperative basis under any other law of this state, or a foreign corporation operating on a cooperative basis and authorized to do business in this state under this or any other law of this state may use the term "cooperative," or any abbreviation or derivation of the term "cooperative," as part of its business name, or represent itself, in advertising or otherwise, as conducting business on a cooperative basis.

Revisor's Note

No substantive change is intended. Section 5.057 is derived from Cooperative Association Act Section 8(b)(2) but omits the word "derivative" as redundant of the word "abbreviation."

Subsection (b) of the revised law cross-references to Section 251.452, which contains the prohibitions on the use of the word "cooperative" derived from Cooperative Association Act Section 39(a).

Revised Law

Sec. 5.058. NAME OF PROFESSIONAL ASSOCIATION. The name of a professional association must contain:

- (1) the word "associated," "associates," or "association";
- (2) the phrase "professional association"; or
- (3) an abbreviation of one of those words or that phrase. (TPAA 4 (part).)

Source Law

4. A professional association shall adopt a name which shall be followed by the word or words "Associated," "Association," "Professional Association," "and Associates," or the abbreviation "Assoc." or "P.A.";

Revisor's Note

The revised law omits the requirement that required words or abbreviations must follow the name of the professional

association. This change permits more flexibility in name choice. Similar flexibility exists for the names of for-profit corporations and has not proved to be confusing. There is no public policy reason why professional entities should be treated differently.

Revised Law

Sec. 5.059. NAME OF PROFESSIONAL LIMITED LIABILITY COMPANY.

(a) The name of a professional limited liability company must contain:

(1) the phrase "professional limited liability company"; or

(2) an abbreviation of that phrase.

(b) A professional limited liability company formed before September 1, 1993, the name of which complied with the laws of this state on the date of formation but does not comply with this section, is not required to change its name. (TLLCA 11.02 (part).)

Source Law

11.02.A. . . . The name of the limited liability company must contain the words "Professional Limited Liability Company" or the abbreviations "P.L.L.C." or "PLLC" and must contain other words as may be required by law. A limited liability company formed before September 1, 1993, that complied with Section A of Article 2.03 of this Act or with Section A of Article 7.03 of this Act on the date of formation, but does not comply with this Article, is not required to change its name.

Revisor's Note

Except as discussed in the first paragraph of the Revisor's Note to Section 5.055, no substantive change is intended.

Revised Law

Sec. 5.060. NAME OF PROFESSIONAL ENTITY; CONFLICTS WITH OTHER LAW OR ETHICAL RULE. The name of a professional entity must not be contrary to a statute or regulation that governs a person who provides a professional service through the professional

entity, including a rule of professional ethics. (TLLCA 11.02 (part); TPAA 4 (part); TPCA 8 (part).)

Source Law

[TLLCA]

11.02.A. A professional limited liability company may adopt a name not contrary to the law or ethics regulating the practice of the professional service rendered through the professional limited liability company. . . .

[TPAA]

4. . . . provided, and except, however, a professional association shall not adopt or make use of any name which is contrary to or in conflict with any law or ethics regulating the practice or practitioners of any professional service rendered through or in connection with the professional association.

[TPCA]

8. A professional corporation may adopt any name that is not contrary to the law or ethics regulating the practice of the professional service rendered through the professional corporation. . . .

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 5.061. NAME CONTAINING "LOTTO" OR "LOTTERY" PROHIBITED. A filing entity or a foreign filing entity may not have a name that contains the word "lotto" or "lottery." (TBCA 2.05.A(4); TNPCA 2.04.A(3).)

Source Law

[TBCA 2.05.A]

(4) It shall not contain the word "lottery."

[TNPCA 2.04.A]

- (3) It shall not contain the word "lottery."

Revisor's Note

Section 5.061 prohibits a filing entity or foreign filing entity from having a name that contains the word "lotto" or "lottery." The provision is derived from the Texas Business Corporation Act and Texas Non-Profit Corporation Act and is made applicable to all filing entities. The current prohibition relates to use of the term "lottery." The revised law includes the term "lotto" within the prohibition to take into account the "lotto" game instituted since the time of the constitutional amendment authorizing the state lottery in November 1991.

Revised Law

Sec. 5.062. VETERANS ORGANIZATIONS; UNAUTHORIZED USE OF NAME. (a) Subject to Subsection (b), a filing entity may not have a name that:

(1) reasonably implies that the entity is created by or for the benefit of war veterans or their families; and

(2) contains the word or phrase, or any variation or abbreviation of:

- (A) "veteran";
- (B) "legion";
- (C) "foreign";
- (D) "Spanish";
- (E) "disabled";
- (F) "war"; or
- (G) "world war."

(b) The prohibition in Subsection (a) does not apply to a filing entity with a name approved in writing by:

(1) a congressionally recognized veterans organization with a name containing the same word or phrase, or variation or abbreviation, contained in the filing entity's name; or

(2) if a veterans organization described by Subdivision (1) does not exist, the state commander of the:

- (A) American Legion;
- (B) Disabled American Veterans of the World War;

(C) Veterans of Foreign Wars of the United States;
(D) United Spanish War Veterans; or
(E) Veterans of the Spanish-American War. (TMCLA 3.01.)

Source Law

3.01.A. The Secretary of State shall not hereafter issue to any corporation any charter using in the name thereof any of the following words either in the singular or the plural: "Veteran," "Legion," "Foreign," "Spanish," "Disabled," "War," "World War," or any abbreviation of such word or words, or words of the same or similar meanings, without the written approval filed with the application for charter of some Congressionally recognized Veterans' organization, in whose name any such quoted word appears, and if there be no Congressionally recognized organization in whose name the prohibited word appears, then it shall be necessary to secure the written permission of either the State Commander of the American Legion, or Disabled American Veterans of the World War, Veterans of Foreign Wars of the United States, or the United Spanish War Veterans, Veterans of Foreign Wars, or Veterans of the Spanish-American War.

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 5.063. NAME OF LIMITED LIABILITY PARTNERSHIP. (a) The name of a domestic or foreign limited liability partnership must contain:

- (1) the phrase "limited liability partnership"; or
- (2) an abbreviation of the phrase.

(b) A domestic or foreign limited liability partnership is subject to Section 5.053.

(c) A domestic or foreign limited liability partnership that is also a limited partnership must comply with Section 5.055 and not this section. (TRPA 3.08(c).)

Source Law

[TRPA 3.08]

(c) Name. A registered limited liability partnership's name must contain the words "registered limited liability partnership" or the abbreviation "L.L.P." as the last words or letters of its name.

Revisor's Note

See the Revisor's Note in Section 1.002 to the definition of the term "limited liability partnership" for an explanation of the deletion of the word "registered."

Section 5.063 carries forward current statutory law with respect to the name although substituting a statement permitting the use of an abbreviation of the phrase "limited liability partnership" rather than the specific abbreviation. Under the revised law, a limited liability partnership is not considered a filing entity and is thus not subject to the statutory requirements for filing entities.

The revised law omits the requirement that the required words or abbreviation appear in the limited liability partnership's name as the last words or letters. This change permits more flexibility in name choice. Similar flexibility exists for the names of for-profit corporations and has not proved to be confusing. There is no public policy reason why limited liability partnerships should be treated differently.

[Sections 5.064-5.100 reserved for expansion]

SUBCHAPTER C. RESERVATION OF NAMES

Revised Law

Sec. 5.101. APPLICATION FOR RESERVATION OF NAME. (a) Any person may file an application with the secretary of state to reserve the exclusive use of a name under this chapter.

(b) The application must be:

- (1) accompanied by any required filing fee; and
- (2) signed by the applicant or by the agent or attorney of the applicant. (TBCA 2.06.A, B (part); TLLCA 2.04.A,

B (part); TNPCA 2.04A; TRLPA 1.04(a), (b) (part).)

Source Law

[TBCA 2.06]

A. The exclusive right to the use of a corporate name may be reserved by:

(1) Any person intending to organize a corporation under this Act.

(2) Any domestic corporation intending to change its name.

(3) Any foreign corporation intending to make application for a certificate of authority to transact business in this State.

(4) Any foreign corporation authorized to transact business in this State and intending to change its name.

(5) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this State.

B. The reservation shall be made by filing with the Secretary of State an application to reserve a specified corporate name, executed by the applicant or the attorney or agent thereof. . . .

[TLLCA 2.04]

A. The exclusive right to the use of a limited liability company name may be reserved by any person.

B. The reservation shall be made by filing with the Secretary of State an application to reserve a specified company name, executed by the applicant or the attorney or agent thereof. . . .

[TNPCA]

2.04A.A. The exclusive right to the use of a corporate name may be reserved by:

(1) a person intending to organize a corporation under

this Act;

(2) a domestic corporation intending to change its name;

(3) a foreign corporation intending to apply for a certificate of authority to conduct affairs in this State;

(4) a foreign corporation authorized to conduct affairs in this State and intending to change its name; or

(5) a person intending to organize a foreign corporation and intending to have that corporation apply for a certificate of authority to conduct affairs in this State.

B. An application for name reservation or transfer of the exclusive use of a specified corporate name is subject to the procedures and period prescribed by Article 2.06, Texas Business Corporation Act.

[TRLPA 1.04]

(a) The exclusive right to the use of a name may be reserved by:

(1) a person intending to organize a limited partnership under this Act and adopt that name;

(2) a domestic limited partnership or a foreign limited partnership registered in Texas that proposes to change its name to that name;

(3) a foreign limited partnership intending to register in Texas and adopt that name; or

(4) a person intending to organize a foreign limited partnership and intending to have it registered in this state and adopt that name.

(b) A specified name may be reserved by filing with the secretary of state an application executed by the applicant or an attorney or agent of the applicant, together with a duplicate copy of the application, which need not be an executed original or a photocopy of an executed original, and paying the applicable filing fee. . . .

Revisor's Note

Section 5.101(a) provides that any person may file an application with the secretary of state to reserve the exclusive use of a name. This provision varies from the source laws, which require specific intentions from the reserving person. However, the Secretary of State in practice does not inquire as to the intentions of the reserving person to enforce these limitations. The revised law adopts the more general and modern approach in the Texas Limited Liability Company Act.

Revised Law

Sec. 5.102. RESERVATION OF CERTAIN NAMES PROHIBITED; EXCEPTIONS. (a) The secretary of state may not reserve a name that is the same as, or that the secretary of state considers deceptively similar or similar to:

- (1) the name of an existing filing entity;
- (2) the name of a foreign filing entity that is registered under Chapter 9;
- (3) a name that is reserved under this subchapter; or
- (4) a name that is registered under Subchapter D.

(b) Subsection (a) does not apply if the other entity or the person for whom the name is reserved or registered, as appropriate, consents in writing to the subsequent reservation of the similar name. (TBCA 2.05.A(3), 2.06.B (part); TLLCA 2.03.A(3), 2.04.B (part); TNPCA 2.04.A(2); TRLPA 1.03 (part), 1.04(b) (part).)

Source Law

[TBCA 2.05.A]

(3) It shall not be the same as, or deceptively similar to, the name of any domestic corporation, limited partnership, or limited liability company existing under the laws of this state, or the name of any foreign corporation, non-profit corporation, limited partnership, or limited liability company authorized to transact business in this State, or a name the exclusive right to which is, at the time, reserved in the manner provided in this Act or any other statute providing for reservation of names by a

limited partnership or limited liability company, or the name of a corporation, limited partnership, or limited liability company which has in effect a registration of its company name as provided in this Act or any other applicable law; provided that a name may be similar if written consent is obtained from the existing corporation, limited partnership, or limited liability company having the name deemed to be similar or the person for whom the name deemed to be similar is reserved in the office of the Secretary of State.

[TBCA 2.06]

B. . . . If the Secretary of State finds that the name is available for corporate use, he shall reserve

[TLLCA 2.03.A]

(3) It shall not be the same as, or deceptively similar to, the name of any domestic limited liability company, corporation or limited partnership existing under the laws of this state, or the name of any foreign limited liability company, corporation or limited partnership authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this Act or any other statute providing for reservation of names by a corporation or limited partnership, or the name of a limited liability company, corporation or limited partnership which has in effect a registration of its company name as provided in this act or any other applicable law provided that a name may be similar if written consent is obtained from the existing limited liability company, corporation or limited partnership having the name deemed to be similar or the person for whom the name deemed to be similar is reserved in the office of the Secretary of State.

[TLLCA 2.04]

B. If the Secretary of State finds that the name is available for limited liability company use, the Secretary of State shall reserve the same

[TNPCA 2.04.A]

(2) It shall not be the same as, or deceptively similar to, the name of any domestic corporation, whether for profit or not for profit, existing under the laws of this State, or the name of any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this State, or a name the exclusive right to which is, at the time, reserved in the manner provided by the Texas Business Corporation Act, or the name of a corporation which has in effect a registration of its corporate name as provided in the Texas Business Corporation Act; provided that a name may be similar if written consent is obtained from the existing corporation having the name deemed to be similar, or the person, or corporation, for whom the name deemed to be similar is reserved or registered in the office of the Secretary of State.

[TRLPA]

1.03. . . .

(3) be the same as or deceptively similar to the name of a corporation, limited liability company, or limited partnership that exists under the laws of Texas, that has a certificate of authority to transact business as a foreign corporation or limited liability company in Texas, or that is registered as a foreign limited partnership in Texas, or a name that has been reserved or registered for a corporation, limited liability company, limited partnership, or foreign limited partnership under the laws of Texas, except that a limited partnership or foreign limited partnership may adopt, reserve, or register, as appropriate, a name that is similar if written consent is obtained from the corporation, limited liability company, limited partnership, or foreign limited partnership having the name considered similar or from the person for whom the name considered similar is reserved or registered in the office of the secretary of state; or

. . .

[TRLPA 1.04]

(b) If the secretary of state finds that the name is available for use by a domestic or foreign limited partnership

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 5.103. ACTION ON APPLICATION. If the secretary of state determines that the name specified in the application is eligible for reservation, the secretary shall reserve that name for the exclusive use of the applicant. (TBCA 2.06.B (part); TLLCA 2.04.B (part); TNPCA 2.04A.B; TRLPA 1.04(b) (part).)

Source Law

[TBCA 2.06]

B. . . . If the Secretary of State finds that the name is available for corporate use, he shall reserve the same for the exclusive use of the applicant for a period of one hundred and twenty (120) days.

[TLLCA 2.04]

B. . . . If the Secretary of State finds that the name is available for limited liability company use, the Secretary of State shall reserve the same for the exclusive use of the applicant for a period of one hundred and twenty (120) days.

[TNPCA 2.04A]

B. An application for name reservation or transfer of the exclusive use of a specified corporate name is subject to the procedures and period prescribed by Article 2.06, Texas Business Corporation Act.

[TRLPA 1.04]

(b) If the secretary of state finds that the name is available for use by a domestic or foreign limited partnership, the secretary of state shall reserve the name for the exclusive

use of the applicant for a period of 120 days. . . .

Revisor's Note

No substantive change is intended.

Revised Law

Sec. 5.104. DURATION OF RESERVATION OF NAME. The secretary of state shall reserve the name for the applicant until the earlier of:

(1) the 121st day after the date the application is accepted for filing; or

(2) the date the applicant files with the secretary of state a written notice of withdrawal of the reservation. (TBCA 2.06.B (part), D; TLLCA 2.04.B (part), D; TNPCA 2.04A.B; TRLPA 1.04(b) (part).)

Source Law

[TBCA 2.06]

B. . . . he shall reserve the same for the exclusive use of the applicant for a period of one hundred and twenty (120) days.

. . .

D. Any person for whom a specified corporate name has been reserved pursuant to Section B of this article may, during the period for which such name is reserved, terminate such reservation by filing with the Secretary of State an application for cancellation of reservation of corporate name, together with the applicable fee.

[TLLCA 2.04]

B. . . . the Secretary of State shall reserve the same for the exclusive use of the applicant for a period of one hundred and twenty (120) days.

. . .

D. Any person for whom a specified company name has been reserved pursuant to Section B of this article may, during the period for which such name is reserved, terminate such

reservation by filing with the Secretary of State an application for cancellation of reservation of company name, together with the applicable fee.

[TNPCA 2.04A]

B. An application for name reservation or transfer of the exclusive use of a specified corporate name is subject to the procedures and period prescribed by Article 2.06, Texas Business Corporation Act.

[TRLPA 1.04]

(b) . . . the secretary of state shall reserve the name for the exclusive use of the applicant for a period of 120 days. An applicant may reserve the same name for one or more successive 120-day periods by filing a new application and paying the applicable filing fee. . . .

Revisor's Note

No substantive change is intended.