

House Bill 2312

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon State Bar Indian Law Section)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Adds business entities formed by Native American or American Indian tribes to definitions of certain entities in Oregon law of corporations and partnerships.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to recognition of business entities formed by tribal governments; amending ORS 60.001,
3 62.015, 63.001, 65.001, 70.005 and 648.005; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 60.001 is amended to read:

6 60.001. As used in this chapter:

7 (1) "Anniversary" means that day each year exactly one or more years after:

8 (a) The date of filing by the Secretary of State of the articles of incorporation in the case of a
9 domestic corporation.

10 (b) The date of filing by the Secretary of State of an application for authority to transact busi-
11 ness in the case of a foreign corporation.

12 (2) "Articles of incorporation" include amended and restated articles of incorporation, articles
13 of conversion and articles of merger.

14 (3) "Authorized shares" means the shares of all classes a domestic or foreign corporation is
15 authorized to issue.

16 (4) "Conspicuous" means so written that a reasonable person against whom the writing is to
17 operate should have noticed [*it*] **the writing**. For example, **a writing printed** [*printing*] in italics,
18 boldface or contrasting color, [*typing*] **typed** in capitals or underlined is conspicuous.

19 (5) "Corporation" or "domestic corporation" means a corporation for profit[, *which is not a for-*
20 *foreign corporation,*] incorporated under or subject to the provisions of this chapter **that is not a**
21 **foreign corporation**.

22 (6) "Delivery" means any method of delivery used in conventional commercial practice, including
23 delivery by hand, mail, commercial delivery and electronic transmission.

24 (7) "Distribution" means a direct or indirect transfer of money or other property, except of a
25 corporation's own shares, or incurrence of indebtedness by a corporation to or for the benefit of
26 [*its*] **the corporation's** shareholders in respect of any of [*its*] **the corporation's** shares. A distrib-
27 ution may be in the form of a declaration or payment of a dividend, a purchase, redemption or other
28 acquisition of shares, a distribution of indebtedness, or otherwise.

29 (8) "Domestic limited liability company" means an entity that is an unincorporated association
30 having one or more members and that is organized under ORS chapter 63.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (9) "Domestic nonprofit corporation" means a corporation not for profit incorporated under ORS
2 chapter 65.

3 (10) "Domestic professional corporation" means a corporation organized under ORS chapter 58
4 for the purpose of rendering professional services and for the purposes provided under ORS chapter
5 58.

6 (11) "Electronic signature" has the meaning given that term in ORS 84.004.

7 (12) "Electronic transmission" means any process of communication that does not directly in-
8 volve the physical transfer of paper and that is suitable for the retention, retrieval and reproduction
9 of information by the recipient.

10 (13) "Employee" includes an officer but not a director[. *A director may accept*], **unless the di-**
11 **rector accepts** duties that make the director also an employee.

12 (14) "Entity" includes a corporation, foreign corporation, nonprofit corporation, profit and
13 nonprofit unincorporated association, business trust, estate, partnership, trust, two or more persons
14 having a joint or common economic interest, any state, the United States, **a federally recognized**
15 **Native American or American Indian tribal government** and any foreign government.

16 (15) "Foreign corporation" means a corporation for profit incorporated under [*a law other than*
17 *the law*] **laws other than the laws** of this state.

18 (16) "Foreign limited liability company" means an entity that is an unincorporated association
19 organized under [*the laws of a state other than this state, under the laws of a federally recognized*
20 *Indian tribe or under the laws of a foreign country*] **laws other than the laws of this state** and that
21 is organized under a statute under which an association may be formed that affords to each of [*its*]
22 **the entity's** members limited liability with respect to liabilities of the entity.

23 (17) "Foreign nonprofit corporation" means a corporation not for profit organized under [*the*
24 *laws of a state other than*] **laws other than the laws of** this state.

25 (18) "Foreign professional corporation" means a professional corporation organized under [*the*
26 *laws of a state other than*] **laws other than the laws of** this state.

27 (19) "Governmental subdivision" includes an authority, county, district and municipality.

28 (20) "Includes" denotes a partial definition.

29 (21) "Individual" means a natural person. "Individual" includes the estate of an incompetent
30 individual or a deceased individual.

31 (22) "Means" denotes an exhaustive definition.

32 (23) "Office," when used to refer to the administrative unit directed by the Secretary of State,
33 means the office of the Secretary of State.

34 (24) "Person" includes individual and entity.

35 (25) "Principal office" means the office, in or out of this state, where the principal executive
36 offices of a domestic or foreign corporation are located and designated in the annual report or ap-
37 plication for authority to transact business in this state.

38 (26) "Proceeding" includes civil, criminal, administrative and investigatory action.

39 (27) "Record date" means the date established under this chapter on which a corporation de-
40 termines the identity of [*its*] **the corporation's** shareholders and their shareholdings for purposes
41 of this chapter. The determinations shall be made as of the close of business on the record date
42 unless another time for doing so is specified when the record date is fixed.

43 (28) "Shares" means the units into which the proprietary interest in a corporation are divided.

44 (29) "Shareholder" means the person in whose name shares are registered in the records of a
45 corporation or the beneficial owner of shares to the extent of the rights granted by a nominee cer-

1 tificate on file with a corporation.

2 (30) "Signature" includes any manual, facsimile, conformed or electronic signature.

3 (31) "State," when referring to a part of the United States, includes a state, commonwealth,
4 territory and insular possession of the United States and *[its]* **the** agencies and governmental sub-
5 divisions **of the state, commonwealth, territory or insular possession.**

6 (32) "Subscriber" means a person who subscribes for shares in a corporation, whether before
7 or after incorporation.

8 (33) "United States" includes a district, authority, bureau, commission, department and any
9 other agency of the United States.

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

14 **SECTION 2.** ORS 62.015 is amended to read:

15 62.015. As used in this chapter, unless the context requires otherwise:

16 (1) "Anniversary" means that day each year exactly one or more years after:

17 (a) The date of filing by the Secretary of State of the articles of incorporation in the case of a
18 domestic cooperative.

19 (b) The date of filing by the Secretary of State of an application for authority to transact busi-
20 ness in the case of a foreign cooperative.

21 (2) "Articles" means articles of incorporation, articles of conversion and articles of merger.

22 (3) "Board" means board of directors.

23 (4) "Cooperative" means a cooperative corporation *[which]* **that** is subject to the provisions of
24 this chapter.

25 (5) "Corporation" means a corporation *[which]* **that** is not a cooperative.

26 (6) "Domestic limited liability company" means an entity that is an unincorporated association
27 having one or more members and that is organized under ORS chapter 63.

28 (7) "Domestic nonprofit corporation" means a corporation not for profit incorporated under ORS
29 chapter 65.

30 (8) "Domestic professional corporation" means a corporation organized under ORS chapter 58
31 for the purpose of rendering professional services and for the purposes provided under ORS chapter
32 58.

33 (9) "Foreign cooperative" means a cooperative corporation organized under laws other than the
34 laws of this state.

35 (10) "Foreign corporation" means a corporation for profit incorporated under *[the laws of a state*
36 *other than]* **laws other than the laws of** this state.

37 (11) "Foreign limited liability company" means an entity that is an unincorporated association
38 organized under *[the laws of a state other than this state, under the laws of a federally recognized*
39 *Indian tribe or under the laws of a foreign country]* **laws other than the laws of this state** and that
40 is organized under a statute under which an association may be formed that affords to each of *[its]*
41 **the entity's** members limited liability with respect to liabilities of the entity.

42 (12) "Foreign nonprofit corporation" means a corporation not for profit organized under *[the*
43 *laws of a state other than]* **laws other than the laws of** this state.

44 (13) "Foreign professional corporation" means a professional corporation organized under *[the*
45 *laws of a state other than]* **laws other than the laws of** this state.

1 (14) "Member" means a person who has been qualified and accepted for membership in a coop-
 2 erative.

3 (15) "Membership stock" means any class of stock, continuous ownership of which is required
 4 for membership in a cooperative.

5 (16) "Negotiate" means to confer with another in order to come to terms.

6 (17) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock
 7 companies, trusts, estates and foreign and domestic cooperative corporations.

8 (18) "Shareholder" means a holder of shares of capital stock of a cooperative other than mem-
 9 bership stock.

10 **SECTION 3.** ORS 63.001 is amended to read:

11 63.001. As used in this chapter:

12 (1) "Anniversary" means that day each year exactly one or more years after:

13 (a) The date of filing by the Secretary of State of the articles of organization in the case of a
 14 domestic limited liability company.

15 (b) The date of filing by the Secretary of State of an application for authority to transact busi-
 16 ness in the case of a foreign limited liability company.

17 (2) "Articles of organization" means the document described in ORS 63.047 for the purpose of
 18 forming a limited liability company, including articles of organization as they may be amended or
 19 restated, articles of conversion and articles of merger.

20 (3) "Bankruptcy" means:

21 (a) Assignment by a member for the benefit of creditors;

22 (b) Commencement of a voluntary bankruptcy case by a member;

23 (c) Adjudication of a member as bankrupt or insolvent;

24 (d) Filing by a member of a petition or answer seeking for the member any reorganization, ar-
 25 rangement, composition, readjustment, liquidation, dissolution or similar relief under any statute,
 26 law or rule;

27 (e) Filing by a member of an answer or other pleading admitting or failing to contest the mate-
 28 rial allegations of a petition filed against the member in any proceeding of this nature;

29 (f) Seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator
 30 of the member or of all or any substantial part of the member's properties;

31 (g) Commencement of an involuntary bankruptcy case against a member that has not been dis-
 32 missed on or before the 120th day after the commencement of the case;

33 (h) Appointment, without the member's consent, of a trustee, receiver or liquidator either of the
 34 member or of all or any substantial part of the member's properties that is not vacated or stayed
 35 on or before the 90th day after appointment; or

36 (i) Appointment described in paragraph (h) of this subsection that is not vacated on or before
 37 the 90th day after expiration of the stay under paragraph (h) of this subsection.

38 (4) "Contribution" means anything of value [*which*] **that** a person contributes to the limited li-
 39 ability company as a prerequisite for or in connection with membership including cash, property or
 40 services rendered or a promissory note or other binding obligation to contribute cash or property
 41 or to perform services.

42 (5) "Corporation" or "domestic corporation" means a corporation for profit incorporated under
 43 ORS chapter 60.

44 (6) "Distribution" means a direct or indirect transfer of money or other property, except of a
 45 limited liability company's own interests, or incurrence of indebtedness by a limited liability com-

1 pany to or for the benefit of *[its]* **the limited liability company's** members in respect of *[any of*
2 *its]* a member's interests. A distribution may be in the form of a declaration or payment of profits,
3 a purchase, retirement or other acquisition of interests, a distribution of indebtedness, or otherwise.

4 (7) "Domestic nonprofit corporation" means a corporation not for profit incorporated under ORS
5 chapter 65.

6 (8) "Domestic professional corporation" means a corporation organized under ORS chapter 58
7 for the purpose of rendering professional services and for the purposes provided under ORS chapter
8 58.

9 (9) "Entity" includes a domestic or foreign limited liability company, corporation, professional
10 corporation, foreign corporation, domestic or foreign nonprofit corporation, domestic or foreign co-
11 operative corporation, profit or nonprofit unincorporated association, business trust, estate, domestic
12 or foreign general or limited partnership, trust, two or more persons having a joint or common
13 economic interest, any state, the United States, **a federally recognized Native American or**
14 **American Indian tribal government** or any foreign government.

15 (10) "Foreign corporation" means a corporation for profit incorporated under *[a law]* **laws** other
16 than the *[law]* **laws** of this state.

17 (11) "Foreign limited liability company" means an entity that is an unincorporated association
18 organized under *[the laws of a state other than this state, under the laws of a federally recognized*
19 *Indian tribe or under the laws of a foreign country]* **laws other than the laws of this state** and that
20 is organized under a statute under which an association may be formed that affords to each of *[its]*
21 **the entity's** members limited liability with respect to the liabilities of the entity.

22 (12) "Foreign limited partnership" means a limited partnership formed under *[the laws of any*
23 *jurisdiction other than]* **laws other than the laws of** this state and having as partners one or more
24 general partners and one or more limited partners.

25 (13) "Foreign nonprofit corporation" means a corporation not for profit organized under *[the*
26 *laws of a state other than]* **laws other than the laws of** this state.

27 (14) "Foreign professional corporation" means a professional corporation organized under *[the*
28 *laws of a state other than]* **laws other than the laws of** this state.

29 (15) "Incompetency" means the entry of a judgment by a court of competent jurisdiction adju-
30 dicating the member incompetent to manage the member's person or estate.

31 (16) "Individual" means a natural person.

32 (17) "Limited liability company" or "domestic limited liability company" means an entity that
33 is an unincorporated association having one or more members that is organized under this chapter.

34 (18) "Limited partnership" or "domestic limited partnership" means a partnership formed by two
35 or more persons under ORS chapter 70 and having one or more general partners and one or more
36 limited partners.

37 (19) "Manager" or "managers" means a person or persons, who need not be members, designated
38 by the members of a manager-managed limited liability company to manage the limited liability
39 company's business and affairs.

40 (20) "Manager-managed limited liability company" means a limited liability company that is
41 designated as a manager-managed limited liability company in *[its]* **the limited liability company's**
42 articles of organization or whose articles of organization otherwise expressly provide that the lim-
43 ited liability company will be managed by a manager or managers.

44 (21) "Member" or "members" means a person or persons with both an ownership interest in a
45 limited liability company and all the rights and obligations of a member specified under this chapter.

1 “Member” does not include an assignee of an ownership interest who has not also acquired the
 2 voting and other rights appurtenant to membership.

3 (22) “Member-managed limited liability company” means a limited liability company other than
 4 a manager-managed limited liability company.

5 (23) “Membership interest” or “interest” means a member’s collective rights in a limited liability
 6 company, including the member’s share of profits and losses of the limited liability company, the
 7 right to receive distributions of the limited liability company’s assets and any right to vote or par-
 8 ticipate in management.

9 (24) “Office,” when used to refer to the administrative unit directed by the Secretary of State,
 10 means the office of the Secretary of State.

11 (25) “Operating agreement” means any valid agreement, written or oral, of the member or
 12 members as to the affairs of a limited liability company and the conduct of *[its]* **the limited liability**
 13 **company’s** business.

14 (26) “Organizer” means one of the signers of the initial articles of organization.

15 (27) “Party” includes an individual who was, is or is threatened to be made a named defendant
 16 or respondent in a proceeding.

17 (28) “Person” means an individual or entity.

18 (29) “Proceeding” means any threatened, pending or completed action, suit or proceeding
 19 whether civil, criminal, administrative or investigatory and whether formal or informal.

20 (30) “State,” when referring to a part of the United States, includes a state, commonwealth,
 21 territory or insular possession of the United States and *[its]* **the** agencies and governmental subdivi-
 22 sions **of the state, commonwealth, territory or insular possession.**

23 (31) “United States” includes a district, authority, bureau, commission, department or any other
 24 agency of the United States.

25 **SECTION 4.** ORS 65.001 is amended to read:

26 65.001. As used in this chapter, unless otherwise specifically provided:

27 (1) “Anniversary” means that day each year exactly one or more years after the date of filing
 28 by the Office of the Secretary of State of the articles of incorporation in the case of a domestic
 29 corporation or the date of filing by the Office of the Secretary of State of an application for au-
 30 thority to transact business in the case of a foreign corporation. An event *[which]* **that** would oth-
 31 erwise cause an anniversary to fall on February 29 shall be deemed to have occurred on February
 32 28.

33 (2) “Approved by the members” or “approval by the members” means approved or ratified by the
 34 members entitled to vote on the issue through either:

35 (a) The affirmative vote of a majority of the votes of such members represented and voting at
 36 a duly held meeting at which a quorum is present or the affirmative vote of such greater proportion
 37 including the votes of any required proportion of the members of any class as the articles, bylaws
 38 or this chapter may provide for specified types of member action; or

39 (b) A written ballot or written consent in conformity with this chapter.

40 (3) “Articles of incorporation” or “articles” include amended and restated articles of incorpo-
 41 ration and articles of merger, and corrections thereto.

42 (4) “Board” or “board of directors” means the individual or individuals vested with overall
 43 management of the affairs of the domestic or foreign corporation, irrespective of the name by which
 44 the individual or individuals are designated, except that no individual or group of individuals are
 45 the board of directors because of powers delegated to that individual or group pursuant to ORS

1 65.301.

2 (5) "Bylaws" means the code or codes of rules, other than the articles adopted pursuant to this
3 chapter or the laws governing a foreign corporation, for the regulation or management of the affairs
4 of the domestic or foreign corporation, irrespective of the name or names by which such rules are
5 designated.

6 (6) "Class" means a group of memberships *[which]* **that** have the same rights with respect to
7 voting, dissolution, redemption and transfer. For the purpose of this section, rights *[shall be consid-*
8 *ered]* **are** the same if *[they]* **the rights** are determined by a formula applied uniformly.

9 (7) "Contact address" means a mailing address at which a person affiliated with the organization
10 will receive and transmit to the organization notices intended for the foreign or domestic corpo-
11 ration **either when sending** *[when it is either not practical to send]* such notices to the registered
12 agent **is not practical**[,] or **when** a duplicate notice is desirable. The contact address may be the
13 principal place of business, if any, or the business or residence address of any person associated
14 with the corporation or foreign corporation who has consented to serve, but shall not be the address
15 of the registered agent.

16 (8) "Corporation" or "domestic corporation" means a nonprofit corporation that is not a foreign
17 corporation, and that is incorporated under or subject to the provisions of this chapter.

18 (9) "Delegates" means those persons elected or appointed to vote in a representative assembly
19 for the election of a director or directors or on other matters.

20 (10) "Deliver" includes mail.

21 (11) "Directors" means individuals designated in the articles or bylaws or elected by the
22 incorporators to act as members of the board, and their successors.

23 (12) "Distribution" means the payment of a dividend or any part of the income or profit of a
24 corporation to *[its]* **the corporation's** members, directors or officers, *[and does not include]* **other**
25 **than** payment of value for property received or services performed or payment of benefits in
26 furtherance of the corporation's purposes.

27 (13) "Domestic business corporation" means a for profit corporation incorporated under ORS
28 chapter 60.

29 (14) "Domestic limited liability company" means an entity that is an unincorporated association
30 having one or more members and that is organized under ORS chapter 63.

31 (15) "Domestic professional corporation" means a corporation organized under ORS chapter 58
32 for the purpose of rendering professional services and for the purposes provided under ORS chapter
33 58.

34 (16) "Effective date of notice" has the meaning given that term in ORS 65.034.

35 (17) "Employee" *[does not include]* **includes** an officer or director who is *[not]* employed by the
36 corporation with compensation for services beyond those encompassed by board membership.

37 (18) "Entity" includes a corporation, foreign corporation, business corporation and foreign
38 business corporation, profit and nonprofit unincorporated association, corporation sole, business
39 trust, estate, partnership, trust, two or more persons having a joint or common economic interest,
40 any state, the United States, **a federally recognized Native American or American Indian tribal**
41 **government** and any foreign government.

42 (19) "File," "filed" or "filing" means reviewed, accepted and entered in the Office of the Secre-
43 tary of State.

44 (20) "Foreign business corporation" means a for profit corporation incorporated under *[the laws*
45 *of a state other than]* **laws other than the laws of** this state.

1 (21) "Foreign corporation" means a corporation organized under [*a law*] **laws** other than the
2 [*law*] **laws** of this state [*which*] **that** would be a nonprofit corporation if formed under the laws of
3 this state.

4 (22) "Foreign limited liability company" means an entity that is an unincorporated association
5 organized under [*the laws of a state other than this state, under the laws of a federally recognized*
6 *Indian tribe or under the laws of a foreign country*] **laws other than the laws of this state** and that
7 is organized under a statute under which an association may be formed that affords to each of [*its*]
8 **the entity's** members limited liability with respect to liabilities of the entity.

9 (23) "Foreign professional corporation" means a professional corporation organized under [*the*
10 *laws of a state other than*] **laws other than the laws of** this state.

11 (24) "Governmental subdivision" includes an authority, county, district and municipality.

12 (25) "Includes" denotes a partial definition.

13 (26) "Individual" means a natural person and includes the guardian of an incompetent individual.

14 (27) "Means" denotes an exhaustive definition.

15 (28)(a) "Member" means [*any*] **a** person or persons entitled, pursuant to a domestic or foreign
16 corporation's articles or bylaws, without regard to what [*a*] **the** person is called in the articles or
17 bylaws, to vote on more than one occasion for the election of a director or directors.

18 (b) A person is not a member by virtue of any of the following rights the person has:

19 (A) As a delegate;

20 (B) To designate or appoint a director or directors;

21 (C) As a director; or

22 (D) As a holder of an evidence of indebtedness issued or to be issued by the corporation.

23 (c) Notwithstanding the provisions of paragraph (a) of this subsection, a person is not a member
24 if the person's membership rights have been eliminated as provided in ORS 65.164 or 65.167.

25 (29) "Membership" refers to the rights and obligations a member [*or members, as defined in this*
26 *chapter, have pursuant to*] **has under** this chapter.

27 (30) "Mutual benefit corporation" means a domestic corporation [*which either*] **that** is formed
28 as a mutual benefit corporation pursuant to ORS 65.044 to 65.067, is designated a mutual benefit
29 corporation by a statute or does not come within the definition of public benefit or religious cor-
30 poration.

31 (31) "Nonprofit corporation" means mutual benefit corporations, public benefit corporations and
32 religious corporations.

33 (32) "Notice" has the meaning given that term in ORS 65.034.

34 (33) "Office" when used to refer to the administrative unit directed by the Secretary of State,
35 means the Office of the Secretary of State.

36 (34) "Person" includes any individual or entity.

37 (35) "Principal office" means the place[,] in or out of this state[,] so designated in the most re-
38 cent annual report filed pursuant to ORS 65.787 or, if no annual report is on file, as designated in
39 the articles of incorporation[,] or the application for authority to transact business in this state,
40 [*which shall be*] **that is** the place where the principal executive offices of a domestic or foreign
41 corporation are located[,] or, if none, the contact address.

42 (36) "Proceeding" includes civil, criminal, administrative and investigatory action.

43 (37) "Public benefit corporation" means a domestic corporation [*which*] **that**:

44 (a) Is formed as a public benefit corporation pursuant to ORS 65.044 to 65.067, is designated as
45 a public benefit corporation by a statute, is recognized as tax exempt under section 501 (c) (3) of the

1 Internal Revenue Code of 1986 or is otherwise organized for a public or charitable purpose;

2 (b) Is restricted so that on dissolution *[it]* **the corporation** must distribute *[its]* **the corpo-**
 3 **ration's** assets to an organization organized for a public or charitable purpose, a religious corpo-
 4 ration, the United States, a state or a person *[which]* **that** is recognized as exempt under section
 5 501 (c) (3) of the Internal Revenue Code of 1986; and

6 (c) Does not come within the definition of "religious corporation."

7 (38) "Record date" means the date established under ORS 65.131 to 65.177 or 65.201 to 65.254
 8 on which a corporation determines the identity of *[its]* **the corporation's** members and their mem-
 9 bership rights for the purposes of this chapter. The determinations shall be made as of the time of
 10 close of transactions on the record date unless another time for doing so is specified at the time the
 11 record date is fixed.

12 (39) "Religious corporation" means a domestic corporation *[which]* **that** is formed as a religious
 13 corporation pursuant to ORS 65.044 to 65.067, is designated a religious corporation by a statute or
 14 is organized primarily or exclusively for religious purposes.

15 (40) "Secretary," when used in the context of a corporate official, means the corporate officer
 16 to whom the board of directors has delegated responsibility under ORS 65.371 for preparing the
 17 minutes of the directors' and members' meetings and for authenticating the records of the corpo-
 18 ration.

19 (41) "State" when referring to a part of the United States, includes a state, commonwealth,
 20 territory and insular possession of the United States and *[its]* **the** agencies and governmental sub-
 21 divisions **of the state, commonwealth, territory or insular possession.**

22 (42) "Uncompensated officer" means an individual who serves in an office without compensation
 23 for personal service. **For purposes of this subsection,** payment solely for actual expenses in per-
 24 forming duties of the officer or a stipend *[which]* **that** is paid only to compensate the average ex-
 25 penses *[incurred]* **the individual incurs** over the course of a year *[shall not be deemed to be]* **is not**
 26 compensation.

27 (43) "United States" includes district, authority, bureau, commission, department and any other
 28 agency of the United States.

29 (44) "Vote" includes authorization by written ballot and written consent, where permitted.

30 (45) "Voting power" means the total number of votes entitled to be cast on the issue at the time
 31 the determination of voting power is made, excluding a vote *[which]* **that** is contingent upon the
 32 happening of a condition or event *[which]* **that** has not occurred at the time. *[Where]* **When** a class
 33 is entitled to vote as a class for directors, the determination of voting power of the class shall be
 34 based on the percentage of the number of directors the class is entitled to elect out of the total
 35 number of authorized directors.

36 **SECTION 5.** ORS 70.005 is amended to read:

37 70.005. As used in this chapter:

38 (1) "Certificate of limited partnership" means the certificate referred to in ORS 70.075, and the
 39 certificate as amended, articles of conversion and articles of merger.

40 (2) "Contribution" means any cash, property, services rendered, or a promissory note or other
 41 binding obligation to contribute cash or property or to perform services, that a partner contributes
 42 to a limited partnership in the capacity as a partner.

43 (3) "Corporation" or "domestic corporation" means a corporation for profit incorporated under
 44 ORS chapter 60.

45 (4) "Domestic limited liability company" means an entity that is an unincorporated association

1 having one or more members and that is organized under ORS chapter 63.

2 (5) “Domestic nonprofit corporation” means a corporation not for profit incorporated under ORS
3 chapter 65.

4 (6) “Domestic professional corporation” means a corporation organized under ORS chapter 58
5 for the purpose of rendering professional services and for the purposes provided under ORS chapter
6 58.

7 (7) “Event of withdrawal of a general partner” means an event that causes a person to cease
8 to be a general partner as provided in ORS 70.180.

9 (8) “Foreign corporation” means a corporation for profit incorporated under [*the laws of a state*
10 *other than*] **laws other than the laws of** this state.

11 (9) “Foreign limited liability company” means an entity that is an unincorporated association
12 organized under [*the laws of a state other than this state, under the laws of a federally recognized*
13 *Indian tribe or under the laws of a foreign country*] **laws other than the laws of this state** and that
14 is organized under a statute under which an association may be formed that affords to each of [*its*]
15 **the entity’s** members limited liability with respect to liabilities of the entity.

16 (10) “Foreign limited partnership” means a partnership formed under [*the laws of any jurisdiction*
17 *other than*] **laws other than the laws of** this state and having as partners one or more general
18 partners and one or more limited partners.

19 (11) “Foreign nonprofit corporation” means a corporation not for profit organized under [*the*
20 *laws of a state other than*] **laws other than the laws of** this state.

21 (12) “Foreign professional corporation” means a professional corporation organized under [*the*
22 *laws of a state other than*] **laws other than the laws of** this state.

23 (13) “General partner” means a person who has been admitted to a limited partnership as a
24 general partner in accordance with the partnership agreement and named in the certificate of lim-
25 ited partnership as a general partner.

26 (14) “Limited partner” means a person who has been admitted to a limited partnership as a
27 limited partner in accordance with the partnership agreement.

28 (15) “Limited partnership” and “domestic limited partnership” mean a partnership formed by two
29 or more persons under the laws of this state and having one or more general partners and one or
30 more limited partners.

31 (16) “Partner” means a limited or general partner.

32 (17) “Partnership agreement” means any valid agreement, written or oral, of the partners as to
33 the affairs of a limited partnership and the conduct of [*its*] **the business of the limited**
34 **partnership.**

35 (18) “Partnership interest” means a partner’s share of the profits and losses of a limited part-
36 nership and the right to receive distributions of partnership assets.

37 (19) “Person” means an individual, partnership, limited partnership (domestic or foreign), trust,
38 estate, association or corporation.

39 **SECTION 6.** ORS 648.005 is amended to read:

40 648.005. As used in this chapter:

41 (1) “Assumed business name” means one or more words or numerals, or a combination of words
42 and numerals, that a person uses to identify any business that the person carries on, conducts or
43 transacts, if at the time and place that the person carries on, conducts or transacts the business,
44 the person does not conspicuously disclose the real and true name of each person [*who*] **that** is
45 carrying on, conducting or transacting the business. Any name that a person uses to identify a

1 business that includes a word or phrase that suggests the existence of additional owners, such as
 2 “Company,” “& Company,” “& Daughters,” “& Associates,” or a similar word or phrase, is an as-
 3 sumed business name, unless *it* **the name** is the real and true name of the person that carries on,
 4 conducts or transacts the business.

5 (2) “Business” includes activity carried on, conducted or transacted by or on behalf of nonprofit,
 6 social, fraternal and charitable entities and unincorporated associations, as well as activity carried
 7 on, conducted or transacted for commercial gain.

8 (3) “Carry on, conduct or transact business” means:

9 (a) To sell or to lease to another, real estate, goods, intangible property or services;

10 (b) To purchase or to lease from another, real estate, goods, intangible property or services;

11 (c) To solicit an investment in or a donation to a business;

12 (d) Knowingly to permit another person to solicit an investment in or a donation to a business
 13 in which one has an interest; or

14 (e) To apply for an extension of credit.

15 (4) “Entity” includes a foreign or domestic corporation, foreign or domestic nonprofit corpo-
 16 ration, foreign or domestic profit or nonprofit unincorporated association, foreign or domestic busi-
 17 ness trust, foreign or domestic estate, foreign or domestic limited partnership, foreign or domestic
 18 general partnership, foreign or domestic limited liability company, foreign or domestic business
 19 trust, two or more persons having a joint or common economic interest, any state, the United
 20 States, **a federally recognized Native American or American Indian tribal government** or any
 21 foreign government.

22 (5) “Person” includes individual and entity.

23 (6) “Real and true name” means:

24 (a) The surname of an individual coupled with a combination of the individual’s given names and
 25 initials;

26 (b) The corporate name of a domestic corporation stated in the articles of incorporation or
 27 amendment filed with the Office of the Secretary of State or the corporate name of a foreign cor-
 28 poration as stated under ORS 60.707 (1);

29 (c) The name of a foreign or domestic limited partnership stated in the documents filed with the
 30 Office of the Secretary of State under ORS chapter 70;

31 (d) The name of a foreign or domestic limited liability company stated in the documents filed
 32 with the Office of the Secretary of State under ORS chapter 63;

33 (e) The name of a foreign or domestic nonprofit corporation stated in the documents filed with
 34 the Office of the Secretary of State under ORS chapter 65;

35 (f) The name of a foreign or domestic general partnership stated in any documents filed with the
 36 Office of the Secretary of State under this chapter; or

37 (g) The name of a foreign or domestic business trust or estate stated in any documents filed with
 38 the Office of the Secretary of State.

39 (7) “Service mark” has the meaning given in ORS 647.005.

40 **SECTION 7. This 2009 Act being necessary for the immediate preservation of the public**
 41 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
 42 **on its passage.**