

House Bill 2364

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Consumer Protection)

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**.

Requires corporation and limited liability company to appoint records custodian to keep certain records. Requires corporation or limited liability company that is not publicly traded to keep certain information concerning officers and directors of corporation and members and managers of limited liability company. Requires corporation and limited liability company to verify identities and other information concerning shareholders, beneficial owners, members and managers that are not United States citizens or lawful permanent residents of the United States.

Requires person that serves as registered agent for 10 or more corporations or limited liability companies to obtain certification from Secretary of State as commercial registered agent. Prescribes information for application for certification. Requires payment of fee for application. Authorizes Secretary of State to investigate applicant and prohibits certification of applicant in certain cases. Specifies duties for commercial registered agent. Authorizes Secretary of State to suspend or revoke certification in certain cases.

Requires corporation or limited liability company to provide information or answer interrogatories from Secretary of State when law enforcement agencies or certain state agencies make request. Authorizes Secretary of State to administratively dissolve corporation or limited liability company for failing to provide information or answer interrogatories.

Provides that failure to provide information or answer interrogatories is punishable by maximum of one year's imprisonment, \$6,250 fine, or both.

Authorizes Secretary of State to collect \$100 fee for filing articles of incorporation or organization and annual reports delivered by corporations and limited liability companies.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to business entity registry functions performed by Secretary of State; creating new pro-
3 visions; amending ORS 56.041, 56.140, 58.410, 60.001, 60.307, 60.647, 60.654, 60.771, 60.774, 62.030,
4 62.690, 63.001, 63.647, 63.654, 63.771, 65.007, 67.525, 70.065, 128.600, 554.016, 647.009, 648.115,
5 649.090 and 661.245; appropriating money; and declaring an emergency.

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

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

8 60.001. As used in this chapter:

9 (1) "Anniversary" means *[that]* **the** day each year **that is** exactly one or more years after:

10 (a) The date *[of filing by]* **on which** the Secretary of State *[of]* **files** the articles of incorporation
11 *[in the case of]* **for** a domestic corporation.

12 (b) The date *[of filing by]* **on which** the Secretary of State *[of an]* **files a foreign corporation's**
13 application for authority to transact business. *[in the case of a foreign corporation.]*

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

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

18 (4) "**Beneficial owner**" means an individual who, directly or indirectly, by means of a
19 contract, arrangement, understanding, warrant, option, conversion or other right or re-

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 **lationship has, participates in or may acquire the power to:**

2 (a) **Vote or direct the voting of shares;**

3 (b) **Dispose or direct the disposition of shares; or**

4 (c) **Receive or direct the receipt of dividends, funds or assets from shares.**

5 (5) **“Commercial registered agent” means a person certified by the Secretary of State**
6 **under section 5 of this 2009 Act.**

7 [(4)] (6) **“Conspicuous” means [so] written, printed or typed in text that is italicized, bold-**
8 **facd, of a contrasting color, capitalized or underlined or similarly enhanced so that a rea-**
9 **sonable person against whom the writing is to operate should have noticed [it. For example, printing**
10 **in italics, boldface or contrasting color, typing in capitals or underlined is conspicuous] the writing.**

11 [(5)] (7) **“Corporation” or “domestic corporation” means a corporation for profit[, which] that**
12 **is not a foreign corporation[,] and that is incorporated under or subject to the provisions of this**
13 **chapter.**

14 [(6)] (8) **“Delivery” means [any] a method of delivery used in conventional commercial practice,**
15 **including delivery by hand, mail, commercial delivery and electronic transmission.**

16 [(7)] (9) **“Distribution” means a direct or indirect transfer of money or other property, except**
17 **of a corporation’s own shares, or incurrence of indebtedness by a corporation to or for the benefit**
18 **of [its] the corporation’s shareholders in respect of any of [its] the corporation’s shares. A dis-**
19 **tribution may be in the form of a declaration or payment of a dividend, a purchase, redemption or**
20 **other acquisition of shares, a distribution of indebtedness, or otherwise.**

21 [(8)] (10) **“Domestic limited liability company” means an entity that is an unincorporated asso-**
22 **ciation having one or more members and that is organized under ORS chapter 63.**

23 [(9)] (11) **“Domestic nonprofit corporation” means a corporation not for profit incorporated un-**
24 **der ORS chapter 65.**

25 [(10)] (12) **“Domestic professional corporation” means a corporation organized under ORS chap-**
26 **ter 58 for the purpose of rendering professional services and for the purposes provided under ORS**
27 **chapter 58.**

28 [(11)] (13) **“Electronic signature” has the meaning given that term in ORS 84.004.**

29 [(12)] (14) **“Electronic transmission” means [any] a process of communication that does not di-**
30 **rectly involve the physical transfer of paper and that is suitable for the retention, retrieval and re-**
31 **production of information by the recipient.**

32 [(13)] (15) **“Employee” includes an officer but not a director[. A director may accept] unless the**
33 **director accepts duties that make the director also an employee.**

34 [(14)] (16) **“Entity” includes a corporation, foreign corporation, nonprofit corporation, profit and**
35 **nonprofit unincorporated association, business trust, estate, partnership, trust, two or more persons**
36 **having a joint or common economic interest, [any] a state, the United States and [any] a foreign**
37 **government.**

38 [(15)] (17) **“Foreign corporation” means a corporation for profit incorporated under a law other**
39 **than the law of this state.**

40 [(16)] (18) **“Foreign limited liability company” means an entity that is an unincorporated asso-**
41 **ciation organized under the laws of a state other than this state, under the laws of a federally re-**
42 **cognized Indian tribe or under the laws of a foreign country and that is organized under a statute**
43 **under which an association may be formed that affords to each of [its] the association’s members**
44 **limited liability with respect to liabilities of the entity.**

45 [(17)] (19) **“Foreign nonprofit corporation” means a corporation not for profit organized under**

1 the laws of a state other than this state.

2 [(18)] (20) "Foreign professional corporation" means a professional corporation organized under
3 the laws of a state other than this state.

4 [(19)] (21) "Governmental subdivision" includes an authority, county, district and municipality.

5 [(20)] (22) "Includes" denotes a partial definition.

6 [(21)] (23)(a) "Individual" means a natural person.

7 (b) "Individual" includes the estate of an incompetent individual or a deceased individual.

8 [(22)] (24) "Means" denotes an exhaustive definition.

9 [(23)] (25) "Office," when used to refer to the administrative unit directed by the Secretary of
10 State, means the office of the Secretary of State.

11 [(24)] (26) "Person" includes individual and entity.

12 [(25)] (27) "Principal office" means the office, in or out of this state, where the principal exec-
13 utive offices of a domestic or foreign corporation are located and designated in the annual report
14 or application for authority to transact business in this state.

15 [(26)] (28) "Proceeding" includes civil, criminal, administrative and investigatory action.

16 [(27)] (29) "Record date" means the date established under this chapter on which a corporation
17 determines the identity of [its] **the corporation's** shareholders and their shareholdings for purposes
18 of this chapter. The determinations shall be made as of the close of business on the record date
19 unless another time for doing so is specified when the record date is fixed.

20 [(28)] (30) "Shares" means the units into which the proprietary interest in a corporation are
21 divided.

22 [(29)] (31) "Shareholder" means the person in whose name shares are registered in the records
23 of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee
24 certificate on file with a corporation.

25 [(30)] (32) "Signature" includes any manual, facsimile, conformed or electronic signature.

26 [(31)] (33) "State," when referring to a part of the United States, includes a state, common-
27 wealth, territory and insular possession of the United States and [its] **the** agencies and governmental
28 subdivisions **of the state, commonwealth, territory or insular possession.**

29 [(32)] (34) "Subscriber" means a person who subscribes for shares in a corporation, whether
30 before or after incorporation.

31 [(33)] (35) "United States" includes a district, authority, bureau, commission, department and
32 [any other] agency of the United States.

33 [(34)] (36) "Voting group" means all shares of one or more classes or series that under the ar-
34 ticles of incorporation or this chapter are entitled to vote and be counted together collectively on
35 a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this
36 chapter to vote generally on the matter are for that purpose a single voting group.

37 **SECTION 2. Sections 3 to 7 of this 2009 Act are added to and made a part of ORS chapter**
38 **60.**

39 **SECTION 3. (1) A person may not be appointed to accept service of process, notice or**
40 **demand for 10 or more corporations or for an individual or entity that is a registered agent**
41 **for 10 or more corporations unless:**

42 (a) **The person meets the requirements set forth in ORS 60.111; and**

43 (b) **The Secretary of State certifies the person as a commercial registered agent under**
44 **section 5 of this 2009 Act.**

45 (2) **Subsection (1) of this section does not apply to an attorney licensed or authorized to**

1 practice law in this state if as an incidental part of the attorney's practice of law the attorney
 2 is appointed to accept service, notice or demand on behalf of 10 or more corporations.

3 **SECTION 4.** (1) A person required under section 3 of this 2009 Act to be certified as a
 4 commercial registered agent shall apply in writing in a form the Secretary of State pre-
 5 scribes by rule and shall attest under penalty of perjury that the contents of the application
 6 are true.

7 (2) All applications submitted under subsection (1) of this section must contain:

8 (a) The applicant's exact legal name;

9 (b) The applicant's address and telephone number or other contact information;

10 (c) A statement that the applicant is 18 years of age or older if the applicant is an indi-
 11 vidual;

12 (d) A history of the applicant's material litigation and criminal convictions in the five-
 13 year period before the date of the application; and

14 (e) Other information the Secretary of State may require.

15 (3) If the applicant is a corporation or other business entity, in addition to the informa-
 16 tion required under subsection (2) of this section, the application must contain:

17 (a) The fictitious name, assumed business name or trade name the applicant uses in
 18 conducting the applicant's business;

19 (b) The name, address and telephone number or other contact information for the appli-
 20 cant's registered agent in this state or for a person that has authority to act on the appli-
 21 cant's behalf;

22 (c) The names, addresses and telephone numbers or other contact information for the
 23 corporation's officers and directors, the limited liability company's members, the partner-
 24 ship's partners or other persons authorized to act on behalf of the entity;

25 (d) The address, telephone number and hours of business for the location in which the
 26 applicant conducts business;

27 (e) The date of the applicant's incorporation and the state of incorporation;

28 (f) A copy of a certificate of existence from the state in which the applicant was incor-
 29 porated or organized;

30 (g) A history of the material litigation and criminal convictions in the five-year period
 31 before the date of the application for each of the entity's officers, directors, members, part-
 32 ners or other persons authorized to act on the entity's behalf; and

33 (h) Other information the Secretary of State may require.

34 (4) A person that submits an application under subsection (1) of this section shall pay to
 35 the Secretary of State a fee in an amount the Secretary of State sets by rule. The Secretary
 36 of State shall set the fee such that the aggregate of fees collected under this subsection is
 37 sufficient to pay the costs of administering and enforcing sections 3 to 7 of this 2009 Act.
 38 Fees collected under this subsection shall be paid and credited as provided in ORS 56.041.

39 **SECTION 5.** (1) The Secretary of State shall review an application submitted under sec-
 40 tion 4 of this 2009 Act and may verify the information the applicant provided in the applica-
 41 tion and investigate the applicant's responsibility, business experience, litigation and criminal
 42 history and general fitness. Except as provided in subsection (2) of this section, if the Sec-
 43 retary of State finds that the applicant will conduct business as a commercial registered
 44 agent honestly and in a manner that commands the confidence and trust of the community,
 45 the Secretary of State shall certify the applicant as a commercial registered agent.

1 (2) The Secretary of State may not certify an applicant as a commercial registered agent
2 if the applicant:

3 (a) Is an individual who has:

4 (A) Been convicted of a felony;

5 (B) Engaged in dishonest, fraudulent or illegal practices in connection with an appoint-
6 ment as a registered agent; or

7 (C) Had a certification, registration, authority or other ability to act as a registered
8 agent denied, suspended or revoked in another state.

9 (b) Is a corporation or other business entity, a director, officer, member or partner of
10 which has:

11 (A) Been convicted of a felony;

12 (B) Engaged in dishonest, fraudulent or illegal practices in connection with an appoint-
13 ment as a registered agent; or

14 (C) Had a certification, registration, authority or other ability to act as a registered
15 agent denied, suspended or revoked in another state.

16 (3) A certification issued under this section is valid for the calendar year in which the
17 Secretary of State issues the certification. The certification expires on December 31 of each
18 calendar year.

19 (4) The Secretary of State may publish or disseminate a list of persons certified as com-
20 mercial registered agents.

21 **SECTION 6.** A person certified as a commercial registered agent under section 5 of this
22 2009 Act shall:

23 (1) Maintain a physical address in this state;

24 (2) Accept service of process, notice or demand as provided in ORS 60.121 for a corpo-
25 ration that has appointed the person as a registered agent;

26 (3) Maintain a current and accurate address for the corporation on behalf of which the
27 person accepts the service, notice or demand;

28 (4) Maintain current versions of records that are required to be kept under ORS 60.771
29 (4) if a corporation appointed the person as a records custodian in accordance with ORS
30 60.771 (1);

31 (5) Keep a copy of the agreement or contract that creates an agency relationship between
32 the person and each corporation that has appointed the person as the corporation's regis-
33 tered agent;

34 (6) Respond timely to a lawful demand for production of records or information the reg-
35 istered agent keeps or maintains on behalf of a corporation that appointed the person as a
36 registered agent or records custodian;

37 (7) Keep records of the person's activities as a commercial registered agent that the
38 Secretary of State by rule requires the person to keep and produce the records upon the
39 request of the Secretary of State; and

40 (8) Notify the Secretary of State if information the person provided in an application
41 under section 4 of this 2009 Act changes and provide the Secretary of State with a current
42 version of the information within 10 business days after the information changes.

43 **SECTION 7.** The Secretary of State may suspend or revoke a certification issued under
44 section 5 of this 2009 Act if a commercial registered agent fails to pay a fee required under
45 section 4 of this 2009 Act or if the commercial registered agent:

1 (1) Is an individual who:

2 (a) Violated a provision of section 6 of this 2009 Act;

3 (b) Cannot be located or served with process, notice or demand at the address provided
4 on the application for certification or in the most recent notice to the Secretary of State of
5 a change in the information provided on the application;

6 (c) Was convicted of a felony or engaged in a dishonest, illegal or fraudulent act or
7 practice in connection with the commercial registered agent's duties as a commercial regis-
8 tered agent;

9 (d) Had a certification, registration, authority or other ability to act as a registered agent
10 denied, suspended or revoked in another state; or

11 (e) Knowingly provided, false, inaccurate or misleading information in connection with
12 an application submitted under section 4 of this 2009 Act or a notice provided to the Secre-
13 tary of State under section 6 (8) of this 2009 Act.

14 (2) Is a corporation or other business entity, a director, officer, member or partner of
15 which:

16 (a) Violated a provision of section 6 of this 2009 Act;

17 (b) Cannot be located or served with process, notice or demand at the address provided
18 on the application for certification or in the most recent notice to the Secretary of State of
19 a change in the information provided on the application;

20 (c) Was convicted of a felony or engaged in a dishonest, illegal or fraudulent act or
21 practice in connection with the commercial registered agent's duties as a commercial regis-
22 tered agent;

23 (d) Had a certification, registration, authority or other ability to act as a registered agent
24 denied, suspended or revoked in another state; or

25 (e) Knowingly provided, false, inaccurate or misleading information in connection with
26 an application submitted under section 4 of this 2009 Act or a notice provided to the Secre-
27 tary of State under section 6 (8) of this 2009 Act.

28 (3) The Secretary of State shall notify a commercial registered agent of a suspension or
29 revocation under this section and shall provide an opportunity for a hearing in accordance
30 with the provisions of ORS 183.413 to 183.470. The Secretary of State by order may reinstate
31 a certification for a commercial registered agent if the Secretary of State is satisfied that
32 the commercial registered agent has remedied the deficiency that caused the Secretary of
33 State to order the suspension or revocation.

34 **SECTION 8.** ORS 60.307 is amended to read:

35 60.307. (1) A board of directors must consist of one or more individuals, with the number speci-
36 fied in or fixed in accordance with the articles of incorporation or bylaws. Notwithstanding ORS
37 60.001 [(21)] (23), the estate of an incompetent individual or a deceased individual may not be a di-
38 rector.

39 (2) The number of directors may be increased or decreased from time to time by amendment to,
40 or in the manner provided in, the articles of incorporation or the bylaws.

41 (3) Directors are elected at the first annual shareholders' meeting and at each annual meeting
42 thereafter unless their terms are staggered under ORS 60.317.

43 **SECTION 9.** ORS 60.647 is amended to read:

44 60.647. The Secretary of State may commence a proceeding under ORS 60.651 to administratively
45 dissolve a corporation if:

(1) The corporation does not pay when due any fees imposed by this chapter;

(2) The corporation does not deliver *[its]* **the corporation's** annual report to the Secretary of State when due;

(3) The corporation is without a registered agent or registered office in this state;

(4) The corporation does not notify the Secretary of State that *[its]* **the corporation's** registered agent or registered office has *[been]* changed, that *[its]* **the corporation's** registered agent has resigned or that *[its]* **the corporation's** registered office has been discontinued; *[or]*

(5) The corporation fails to comply with the requirements set forth in ORS 60.771 (4) or a director, officer or records custodian of the corporation knowingly provides false, inaccurate or misleading information in connection with an order issued under section 15 of this 2009 Act; or

[(5)] (6) The corporation's period of duration stated in *[its]* **the corporation's** articles of incorporation expires.

SECTION 10. ORS 60.654 is amended to read:

60.654. (1) **Except as provided in subsection (3) of this section,** a corporation **that is** administratively dissolved under ORS 60.651 may apply to the Secretary of State for reinstatement within five years from the date of dissolution. The application shall:

(a) State the name of the corporation and the effective date of *[its]* **the corporation's** administrative dissolution; and

(b) State that the ground or grounds for dissolution either did not exist or have been eliminated.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section, that the information is correct and that the corporation's name satisfies the requirements of ORS 60.094, the Secretary of State shall reinstate the corporation.

(3) A corporation that the Secretary of State administratively dissolved for reasons set forth in ORS 60.647 (5) may not apply for reinstatement until the corporation complies with the requirements of ORS 60.771 (4) or corrects false, inaccurate or misleading information the corporation provided in connection with an order issued under section 15 of this 2009 Act.

[(3)] (4) When the reinstatement is effective, *[it]* **the reinstatement** relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on *[its]* **the business of the corporation** as if the administrative dissolution had never occurred.

SECTION 11. ORS 62.690 is amended to read:

62.690. **Except for ORS 60.647 (5),** the provisions of ORS 60.647 to 60.657[,] relating to dissolution by the Secretary of State[,] apply to cooperatives.

SECTION 12. ORS 60.771 is amended to read:

60.771. (1) A corporation shall keep as permanent records minutes of all meetings of *[its]* **the corporation's** shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation. **The corporation shall appoint a records custodian, who may be the corporation's registered agent, to keep the records required under this section. The records custodian must reside in the United States. The corporation shall provide the name of and current address and other contact information for the records custodian to the Secretary of State and shall notify the Secretary of State immediately if the name of or contact information for the records custodian changes.**

(2) A corporation shall maintain appropriate accounting records.

(3) A corporation *[or its agent]* **and the corporation's records custodian** shall maintain a re-

1 cord of *[its]* **the corporation's** shareholders, in a form that permits preparation of a list of the
 2 names and addresses of all shareholders in alphabetical order by class of shares showing the number
 3 and class of shares held by each.

4 **(4) A corporation that is not a publicly traded corporation shall maintain a current re-**
 5 **cord of the corporation's shareholders and beneficial owners in a form that permits the**
 6 **preparation of a list of the shareholders and beneficial owners in alphabetical order. The**
 7 **corporation shall provide the information and the list to the corporation's records custodian.**
 8 **The list must identify each individual shareholder and beneficial owner by name and include**
 9 **an address and other contact information for the shareholder or beneficial owner. If the**
 10 **shareholder or beneficial owner is not a United States citizen or lawful permanent resident**
 11 **of the United States, the records custodian shall state in writing under penalty of perjury**
 12 **that the corporation:**

13 (a) **Has verified the identity and name of and address and contact information for the**
 14 **shareholder or beneficial owner;**

15 (b) **Has a copy of the page of the shareholder's or beneficial owner's passport or**
 16 **government-issued identification that displays a photograph of the shareholder or beneficial**
 17 **owner and the name of and other identifying information for the shareholder or beneficial**
 18 **owner;**

19 (c) **Will provide proof of the verification to the Secretary of State upon request; and**

20 (d) **Will retain the information and documents the corporation obtained and used for the**
 21 **verification for the duration of the corporation's existence and deliver the information and**
 22 **documents to the records custodian for retention for five years following the corporation's**
 23 **dissolution.**

24 *[(4)]* (5) A corporation shall maintain *[its]* **the corporation's** records in written form or in an-
 25 other form capable of conversion into written form within a reasonable time.

26 *[(5)]* (6) A corporation shall keep a copy of the following records at *[its]* **the corporation's**
 27 principal office or registered office:

28 (a) *[Its]* **The corporation's** articles or restated articles of incorporation and all amendments to
 29 *[them]* **the articles or restated articles of incorporation** currently in effect;

30 (b) *[Its]* **The corporation's** bylaws or restated bylaws and all amendments to *[them]* **the bylaws**
 31 **or restated bylaws that are** currently in effect;

32 (c) Resolutions adopted by *[its]* **the corporation's** board of directors *[creating]* **that create** one
 33 or more classes or series of shares and *[fixing their]* **fix the** relative rights, preferences and limita-
 34 tions **of the classes or series of shares**, if shares issued pursuant to *[those]* **the** resolutions are
 35 outstanding;

36 (d) The minutes of all shareholders' meetings and records of all action taken by shareholders
 37 without a meeting, for the past three years;

38 (e) All written communications to shareholders generally within the past three years;

39 (f) A list of the names and business addresses of *[its]* **the corporation's** current directors and
 40 officers; and

41 (g) *[Its]* **The corporation's** most recent annual report delivered to the Secretary of State under
 42 ORS 60.787.

43 (7) **As used in this section, "publicly traded corporation" means a corporation the shares**
 44 **of which are traded on an established exchange or securities market that is subject to the**
 45 **regulatory authority of a state, the United States, a foreign government or an agency of a**

1 **state, the United States or a foreign government.**

2 **SECTION 13.** ORS 60.774 is amended to read:

3 60.774. (1) Subject to ORS 60.777 (3), a shareholder of a corporation is entitled to inspect and
 4 copy, during regular business hours at the corporation’s principal office, any of the records of the
 5 corporation described in ORS 60.771 [(5)] **(6)** if the shareholder gives the corporation written notice
 6 of the shareholder’s demand at least five business days before the date on which the shareholder
 7 wishes to inspect and copy.

8 (2) A shareholder of a corporation is entitled to inspect and copy, during regular business hours
 9 at a reasonable location specified by the corporation, any of the following records of the corporation
 10 if the shareholder meets the requirements of subsection (3) of this section and gives the corporation
 11 written notice of the shareholder’s demand at least five business days before the date on which the
 12 shareholder wishes to inspect and copy:

13 (a) Excerpts from minutes of any meeting of the board of directors, records of any action of a
 14 committee of the board of directors while acting in place of the board of directors on behalf of the
 15 corporation, minutes of any meeting of the shareholders and records of action taken by the share-
 16 holders or board of directors without a meeting, to the extent not subject to inspection under sub-
 17 section (1) of this section;

18 (b) Accounting records of the corporation, including tax returns; and

19 (c) The record of shareholders.

20 (3) A shareholder may inspect and copy the records identified in subsection (2) of this section
 21 only if:

22 (a) The shareholder’s demand is made in good faith and for a proper purpose;

23 (b) The shareholder described with reasonable particularity the shareholder’s purpose and the
 24 records the shareholder desires to inspect; and

25 (c) The records are directly connected with the shareholder’s purpose.

26 (4) The right of inspection granted by this section may not be abolished or limited by a corpo-
 27 ration’s articles of incorporation or bylaws.

28 (5) This section does not affect:

29 (a) The right of a shareholder to inspect records under ORS 60.224 or, if the shareholder is in
 30 litigation with the corporation, to the same extent as any other litigant; or

31 (b) The power of a court, independent of this chapter, to compel the production of corporate
 32 records for examination.

33 (6) For purposes of this section, “shareholder” includes a beneficial owner whose shares are held
 34 in a voting trust or by a nominee on behalf of the beneficial owner.

35 **SECTION 14.** Section 15 of this 2009 Act is added to and made a part of ORS chapter 60.

36 **SECTION 15.** (1) **In response to a request for information related to a criminal investi-**
 37 **gation from a law enforcement agency, the Attorney General, the Director of the Depart-**
 38 **ment of Revenue or the Director of the Department of Consumer and Business Services, the**
 39 **Secretary of State by order shall require a corporation to:**

40 (a) **Provide to the Secretary of State within three business days after the date of the**
 41 **order a copy of the list and statement described in ORS 60.771 (4); or**

42 (b) **Answer within three business days after the date of the order an interrogatory from**
 43 **the Secretary of State that will assist in the investigation.**

44 (2) **Records and information a corporation provides to the Secretary of State under sub-**
 45 **section (1) of this section are exempt from disclosure under ORS 192.410 to 192.505. However,**

1 **the Secretary of State shall provide the records and information to a law enforcement**
 2 **agency, the Attorney General, the Director of the Department of Revenue or the Director**
 3 **of the Department of Consumer and Business Services upon request.**

4 (3) **The Secretary of State may impose a civil penalty as provided in ORS 183.745 in an**
 5 **amount that does not exceed \$2,500 against a corporation that fails to provide the records,**
 6 **information or answers required under subsection (1) of this section within 30 days after the**
 7 **date of the order. Penalties recovered under this section shall be paid into the State Treas-**
 8 **ury and credited to the General Fund.**

9 (4) **Violation of subsection (1)(a) or (b) of this section is a Class A misdemeanor.**

10 **SECTION 16.** ORS 63.001 is amended to read:

11 63.001. As used in this chapter:

12 (1) "Anniversary" means *[that]* **the** day each year **that is** exactly one or more years after:

13 (a) The date *[of filing by]* **on which** the Secretary of State *[of]* **files** the articles of organization
 14 *[in the case of]* **for** a domestic limited liability company.

15 (b) The date *[of filing by]* **on which** the Secretary of State *[of an]* **files a foreign limited li-**
 16 **ability company's** application for authority to transact business *[in the case of a foreign limited li-*
 17 *ability company]*.

18 (2) "Articles of organization" means the document described in ORS 63.047 *[for the purpose of*
 19 *forming]* **that is intended to form** a limited liability company, including articles of organization as
 20 *[they]* **the articles of organization** may be amended or restated, articles of conversion and articles
 21 of merger.

22 (3) "Bankruptcy" means:

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

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

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

26 (d) Filing by a member of a petition or answer seeking for the member *[any]* **a** reorganization,
 27 arrangement, composition, readjustment, liquidation, dissolution or similar relief under *[any]* **a** stat-
 28 ute, law or rule;

29 (e) Filing by a member of an answer or other pleading admitting or failing to contest the mate-
 30 rial allegations of a petition filed against the member in *[any proceeding of this nature]* **a bank-**
 31 **ruptcy proceeding;**

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

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

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

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

41 (4) **"Commercial registered agent" means a person certified by the Secretary of State**
 42 **under section 20 of this 2009 Act.**

43 *[(4)]* (5) "Contribution" means anything of value *[which]* **that** a person contributes to the limited
 44 liability company as a prerequisite for or in connection with membership including cash, property
 45 or services rendered or a promissory note or other binding obligation to contribute cash or property

1 or to perform services.

2 [(5)] (6) “Corporation” or “domestic corporation” means a corporation for profit **that is** incor-
3 porated under ORS chapter 60.

4 [(6)] (7) “Distribution” means a direct or indirect transfer of money or other property, except
5 of a limited liability company’s own interests, or incurrence of indebtedness by a limited liability
6 company to or for the benefit of [*its*] **the members of the limited liability company** in respect of
7 [*any of its member’s*] **the members’** interests. A distribution may be in the form of a declaration or
8 payment of profits, a purchase, retirement or other acquisition of interests, a distribution of indebt-
9 edness, or otherwise.

10 [(7)] (8) “Domestic nonprofit corporation” means a corporation not for profit incorporated under
11 ORS chapter 65.

12 [(8)] (9) “Domestic professional corporation” means a corporation organized under ORS chapter
13 58 for the purpose of rendering professional services and for the purposes provided under ORS
14 chapter 58.

15 [(9)] (10) “Entity” includes a domestic or foreign limited liability company, corporation, profes-
16 sional corporation, foreign corporation, domestic or foreign nonprofit corporation, domestic or fore-
17 eign cooperative corporation, profit or nonprofit unincorporated association, business trust, estate,
18 domestic or foreign general or limited partnership, trust, two or more persons having a joint or
19 common economic interest, [*any*] **a** state, the United States or [*any*] **a** foreign government.

20 [(10)] (11) “Foreign corporation” means a corporation for profit incorporated under a law other
21 than the law of this state.

22 [(11)] (12) “Foreign limited liability company” means an entity that is an unincorporated asso-
23 ciation organized under the laws of a state other than this state, under the laws of a federally re-
24 cognized Indian tribe or under the laws of a foreign country and that is organized under a statute
25 under which an association may be formed that affords to each of [*its*] **the association’s** members
26 limited liability with respect to the liabilities of the entity.

27 [(12)] (13) “Foreign limited partnership” means a limited partnership formed under the laws of
28 any jurisdiction other than this state and having as partners one or more general partners and one
29 or more limited partners.

30 [(13)] (14) “Foreign nonprofit corporation” means a corporation not for profit organized under
31 the laws of a state other than this state.

32 [(14)] (15) “Foreign professional corporation” means a professional corporation organized under
33 the laws of a state other than this state.

34 [(15)] (16) “Incompetency” means the entry of a judgment by a court of competent jurisdiction
35 adjudicating the member incompetent to manage the member’s person or estate.

36 [(16)] (17) “Individual” means a natural person.

37 [(17)] (18) “Limited liability company” or “domestic limited liability company” means an entity
38 that is an unincorporated association having one or more members that is organized under this
39 chapter.

40 [(18)] (19) “Limited partnership” or “domestic limited partnership” means a partnership formed
41 by two or more persons under ORS chapter 70 and having one or more general partners and one
42 or more limited partners.

43 [(19)] (20) “Manager” or “managers” means a person or persons, who need not be members,
44 designated by the members of a manager-managed limited liability company to manage the limited
45 liability company’s business and affairs.

1 [(20)] (21) “Manager-managed limited liability company” means a limited liability company that
 2 is designated as a manager-managed limited liability company in *[its]* **the** articles of organization
 3 or *[whose]* **for which the** articles of organization otherwise expressly provide that the limited li-
 4 ability company will be managed by a manager or managers.

5 [(21)] (22)(a) “Member” or “members” means a person or persons with both an ownership in-
 6 terest in a limited liability company and all the rights and obligations of a member specified under
 7 this chapter.

8 (b) “Member” does not include an assignee of an ownership interest who has not also acquired
 9 the voting and other rights appurtenant to membership.

10 [(22)] (23) “Member-managed limited liability company” means a limited liability company other
 11 than a manager-managed limited liability company.

12 [(23)] (24) “Membership interest” or “interest” means a member’s collective rights in a limited
 13 liability company, including the member’s share of profits and losses of the limited liability company,
 14 the right to receive distributions of the limited liability company’s assets and any right to vote or
 15 participate in management.

16 [(24)] (25) “Office,” when used to refer to the administrative unit directed by the Secretary of
 17 State, means the office of the Secretary of State.

18 [(25)] (26) “Operating agreement” means *[any]* a valid agreement, written or oral, of the member
 19 or members as to the affairs of a limited liability company and the conduct of *[its]* **the business of**
 20 **the limited liability company.**

21 [(26)] (27) “Organizer” means one of the signers of the initial articles of organization.

22 [(27)] (28) “Party” *[includes]* **means** an individual who was, is or is threatened to be made a
 23 named defendant or respondent in a proceeding.

24 [(28)] (29) “Person” means an individual or entity.

25 [(29)] (30) “Proceeding” means *[any]* a threatened, pending or completed action, suit or pro-
 26 ceeding whether civil, criminal, administrative or investigatory and whether formal or informal.

27 [(30)] (31) “State,” when referring to a part of the United States, includes a state, common-
 28 wealth, territory or insular possession of the United States and *[its]* **the** agencies and governmental
 29 subdivisions **of the state, commonwealth, territory or insular possession.**

30 [(31)] (32) “United States” includes a district, authority, bureau, commission, department or *[any*
 31 *other]* agency of the United States.

32 **SECTION 17. Sections 18 to 22 of this 2009 Act are added to and made a part of ORS**
 33 **chapter 63.**

34 **SECTION 18. (1) A person may not be appointed to accept service of process, notice or**
 35 **demand for 10 or more limited liability companies or for an individual or entity that is a**
 36 **registered agent for 10 or more limited liability companies unless:**

37 (a) **The person meets the requirements set forth in ORS 63.111; and**

38 (b) **The Secretary of State certifies the person as a commercial registered agent under**
 39 **section 20 of this 2009 Act.**

40 (2) **Subsection (1) of this section does not apply to an attorney licensed or authorized to**
 41 **practice law in this state if as an incidental part of the attorney’s practice of law the attor-**
 42 **ney is appointed to accept service, notice or demand on behalf of 10 or more limited liability**
 43 **companies.**

44 **SECTION 19. (1) A person required under section 18 of this 2009 Act to be certified as a**
 45 **commercial registered agent shall apply in writing in a form the Secretary of State pre-**

1 scribes by rule and shall attest under penalty of perjury that the contents of the application
 2 are true.

3 (2) All applications submitted under subsection (1) of this section must contain:

4 (a) The applicant's exact legal name;

5 (b) The applicant's address and telephone number or other contact information;

6 (c) A statement that the applicant is 18 years of age or older if the applicant is an indi-
 7 vidual;

8 (d) A history of the applicant's material litigation and criminal convictions in the five-
 9 year period before the date of the application; and

10 (e) Other information the Secretary of State may require.

11 (3) If the applicant is a corporation or other business entity, in addition to the informa-
 12 tion required under subsection (2) of this section, the application must contain:

13 (a) The fictitious name, assumed business name or trade name the applicant uses in
 14 conducting the applicant's business;

15 (b) The name, address and telephone number or other contact information for the appli-
 16 cant's registered agent in this state or for a person that has authority to act on the appli-
 17 cant's behalf;

18 (c) The names, addresses and telephone numbers or other contact information for the
 19 corporation's officers and directors, the limited liability company's members, the partner-
 20 ship's partners or other persons authorized to act on behalf of the entity;

21 (d) The address, telephone number and hours of business for the location in which the
 22 applicant conducts business;

23 (e) The date of the applicant's incorporation and the state of incorporation;

24 (f) A copy of a certificate of existence from the state in which the applicant was incor-
 25 porated or organized;

26 (g) A history of the material litigation and criminal convictions in the five-year period
 27 before the date of the application for each of the entity's officers, directors, members, part-
 28 ners or other persons authorized to act on the entity's behalf; and

29 (h) Other information the Secretary of State may require.

30 (4) A person that submits an application under subsection (1) of this section shall pay to
 31 the Secretary of State a fee in an amount the Secretary of State sets by rule. The Secretary
 32 of State shall set the fee such that the aggregate of fees collected under this subsection is
 33 sufficient to pay the costs of administering and enforcing sections 18 to 22 of this 2009 Act.
 34 Fees collected under this subsection shall be paid and credited as provided in ORS 56.041.

35 **SECTION 20.** (1) The Secretary of State shall review an application submitted under
 36 section 19 of this 2009 Act and may verify the information the applicant provided in the ap-
 37 plication and investigate the applicant's responsibility, business experience, litigation and
 38 criminal history and general fitness. Except as provided in subsection (2) of this section, if
 39 the Secretary of State finds that the applicant will conduct business as a commercial regis-
 40 tered agent honestly and in a manner that commands the confidence and trust of the com-
 41 munity, the Secretary of State shall certify the applicant as a commercial registered agent.

42 (2) The Secretary of State may not certify an applicant as a commercial registered agent
 43 if the applicant:

44 (a) Is an individual who has:

45 (A) Been convicted of a felony;

1 (B) Engaged in dishonest, fraudulent or illegal practices in connection with an appoint-
2 ment as a registered agent; or

3 (C) Had a certification, registration, authority or other ability to act as a registered
4 agent denied, suspended or revoked in another state.

5 (b) Is a corporation or other business entity, a director, officer, member or partner of
6 which has:

7 (A) Been convicted of a felony;

8 (B) Engaged in dishonest, fraudulent or illegal practices in connection with an appoint-
9 ment as a registered agent; or

10 (C) Had a certification, registration, authority or other ability to act as a registered
11 agent denied, suspended or revoked in another state.

12 (3) A certification issued under this section is valid for the calendar year in which the
13 Secretary of State issues the certification. The certification expires on December 31 of each
14 calendar year.

15 (4) The Secretary of State may publish or disseminate a list of persons certified as com-
16 mercial registered agents.

17 **SECTION 21.** A person certified as a commercial registered agent under section 20 of this
18 2009 Act shall:

19 (1) Maintain a physical address in this state;

20 (2) Accept service of process, notice or demand as provided in ORS 63.121 for a limited
21 liability company that has appointed the person as a registered agent;

22 (3) Maintain a current and accurate address for the limited liability company on behalf
23 of which the person accepts the service, notice or demand;

24 (4) Maintain current versions of records that are required to be kept under ORS 63.771
25 (3) if a corporation appointed the person as a records custodian in accordance with ORS
26 63.771 (1);

27 (5) Keep a copy of the agreement or contract that creates an agency relationship between
28 the person and each limited liability company that has appointed the person as the limited
29 liability company's registered agent;

30 (6) Respond timely to a lawful demand for production of records or information the reg-
31 istered agent keeps or maintains on behalf of a limited liability company that appointed the
32 person as a registered agent or records custodian;

33 (7) Keep records of the person's activities as a commercial registered agent that the
34 Secretary of State by rule requires the person to keep and produce the records upon the
35 request of the Secretary of State; and

36 (8) Notify the Secretary of State if information the person provided in an application
37 under section 19 of this 2009 Act changes and provide the Secretary of State with a current
38 version of the information within 10 business days after the information changes.

39 **SECTION 22.** The Secretary of State may suspend or revoke a certification issued under
40 section 20 of this 2009 Act if a commercial registered agent fails to pay a fee required under
41 section 19 of this 2009 Act or if the commercial registered agent:

42 (1) Is an individual who:

43 (a) Violated a provision of section 21 of this 2009 Act;

44 (b) Cannot be located or served with process, notice or demand at the address provided
45 on the application for certification or in the most recent notice to the Secretary of State of

1 a change in the information provided on the application;

2 (c) Was convicted of a felony or engaged in a dishonest, illegal or fraudulent act or
3 practice in connection with the commercial registered agent's duties as a commercial regis-
4 tered agent;

5 (d) Had a certification, registration, authority or other ability to act as a registered agent
6 denied, suspended or revoked in another state; or

7 (e) Knowingly provided, false, inaccurate or misleading information in connection with
8 an application submitted under section 19 of this 2009 Act or a notice provided to the Sec-
9 retary of State under section 21 (8) of this 2009 Act.

10 (2) Is a corporation or other business entity, a director, officer, member or partner of
11 which:

12 (a) Violated a provision of section 21 of this 2009 Act;

13 (b) Cannot be located or served with process, notice or demand at the address provided
14 on the application for certification or in the most recent notice to the Secretary of State of
15 a change in the information provided on the application;

16 (c) Was convicted of a felony or engaged in a dishonest, illegal or fraudulent act or
17 practice in connection with the commercial registered agent's duties as a commercial regis-
18 tered agent;

19 (d) Had a certification, registration, authority or other ability to act as a registered agent
20 denied, suspended or revoked in another state; or

21 (e) Knowingly provided, false, inaccurate or misleading information in connection with
22 an application submitted under section 19 of this 2009 Act or a notice provided to the Sec-
23 retary of State under section 21 (8) of this 2009 Act.

24 (3) The Secretary of State shall notify a commercial registered agent of a suspension or
25 revocation under this section and shall provide an opportunity for a hearing in accordance
26 with the provisions of ORS 183.413 to 183.470. The Secretary of State by order may reinstate
27 a certification for a commercial registered agent if the Secretary of State is satisfied that
28 the commercial registered agent has remedied the deficiency that caused the Secretary of
29 State to order the suspension or revocation.

30 **SECTION 23.** ORS 63.647 is amended to read:

31 63.647. The Secretary of State may commence a proceeding under ORS 63.651 to administratively
32 dissolve a limited liability company if:

33 (1) The limited liability company does not pay when due any fees imposed by this chapter;

34 (2) The limited liability company does not deliver *[its]* **the limited liability company's** annual
35 report to the Secretary of State when due;

36 (3) The limited liability company is without a registered agent or registered office in this state;

37 (4) The limited liability company does not notify the Secretary of State that *[its]* **the limited**
38 **liability company's** registered agent or registered office has *[been]* changed, that *[its]* **the limited**
39 **liability company's** registered agent has resigned or that *[its]* **the limited liability company's**
40 registered office has been discontinued; *[or]*

41 (5) **The limited liability company fails to comply with the requirements set forth in ORS**
42 **63.771 (3) or a member, manager or records custodian of the limited liability company**
43 **knowingly provides false, inaccurate or misleading information in connection with an order**
44 **issued under section 27 of this 2009 Act; or**

45 *[(5)]* (6) The limited liability company's period of duration stated in *[its]* **the limited liability**

1 **company's** articles of organization expires.

2 **SECTION 24.** ORS 63.654 is amended to read:

3 63.654. (1) **Except as provided in subsection (3) of this section,** a limited liability company
4 **that is** administratively dissolved under ORS 63.651 may apply to the Secretary of State for rein-
5 statement within five years from the date of dissolution. The application shall:

6 (a) State the name of the limited liability company and the effective date of *[its]* **the limited**
7 **liability company's** administrative dissolution; and

8 (b) State that the ground or grounds for dissolution either did not exist or have been eliminated.

9 (2) If the Secretary of State determines that the application contains the information required
10 by subsection (1) of this section, that the information is correct and that the limited liability com-
11 pany's name satisfies the requirements of ORS 63.094, the Secretary of State shall reinstate the
12 limited liability company.

13 **(3) A limited liability company that the Secretary of State administratively dissolved for**
14 **reasons set forth in ORS 63.647 (5) may not apply for reinstatement until the limited liability**
15 **company complies with the requirements of ORS 63.771 (3) or corrects false, inaccurate or**
16 **misleading information the limited liability company provided in connection with an order**
17 **issued under section 27 of this 2009 Act.**

18 *[(3)]* (4) When the reinstatement is effective, *[it]* **the reinstatement** relates back to and takes
19 effect as of the effective date of the administrative dissolution and the limited liability company re-
20 sumes carrying on *[its]* **the business of the limited liability company** as if the administrative dis-
21 solution had never occurred.

22 **SECTION 25.** ORS 63.771 is amended to read:

23 63.771. (1) *[Each]* **A** limited liability company shall keep at an office specified in the manner
24 provided in *[any]* **the limited liability company's** operating agreement or, if none, at the registered
25 office, the *[following:]* **materials identified in subsection (2) of this section. The limited liability**
26 **company shall appoint a records custodian, who may be the limited liability company's reg-**
27 **istered agent, to keep the records required under this section. The records custodian must**
28 **reside in the United States. The limited liability company shall provide the name of and**
29 **current address and other contact information for the records custodian to the Secretary**
30 **of State and shall notify the Secretary of State immediately if the name of or contact infor-**
31 **mation for the records custodian changes.**

32 **(2) The materials the limited liability company must keep are:**

33 (a) A current list of the full name and last-known business, residence or mailing address of each
34 member and manager, both past and present.

35 (b) A copy of the articles of organization and all amendments thereto, together with executed
36 copies of *[any]* powers of attorney pursuant to which any amendment has been executed.

37 (c) Copies of the limited liability company's federal, state and local income tax returns and re-
38 ports, if any, for the three most recent years.

39 (d) Copies of *[any]* currently effective written operating agreements and all amendments thereto,
40 copies of any writings permitted or required under this chapter, and copies of *[any]* financial state-
41 ments of the limited liability company for the three most recent years.

42 (e) Unless contained in a written operating agreement or in a writing permitted or required
43 under this chapter, a statement prepared and certified as accurate by a manager of the limited li-
44 ability company *[which]* **that** describes:

45 (A) The amount of cash and a description and statement of the agreed value of other property

1 or services contributed by each member and *[which]* **that** each member has agreed to contribute in
 2 the future;

3 (B) The times at which or events on the occurrence of which *[any]* **an** additional
 4 *[contributions]* **contribution** agreed to be made by each member *[are]* **is** to be made; and

5 (C) If agreed upon, the time at which or the events on the occurrence of which the limited li-
 6 ability company is dissolved and *[its]* **the affairs of the limited liability company** are wound up.

7 **(3) A limited liability company, the interests of which are not publicly traded, in addition**
 8 **to the information required under subsection (2) of this section shall maintain a current re-**
 9 **cord in a form that permits the preparation of a list in alphabetical order of the limited li-**
 10 **ability company's individual members, managers and persons who are assignees of a**
 11 **membership interest. The limited liability company shall provide the record and the list to**
 12 **the limited liability company's records custodian. The list must identify each individual**
 13 **member, manager and assignee by name and include an address and other contact informa-**
 14 **tion for the member, manager or assignee. If the member, manager or assignee is not a**
 15 **United States citizen or lawful permanent resident of the United States, the records custo-**
 16 **dian shall state in writing under penalty of perjury that the limited liability company:**

17 (a) **Has verified the identity and name of and address and contact information for the**
 18 **member, manager or assignee;**

19 (b) **Has a copy of the page of the member's, manager's or assignee's passport or**
 20 **government-issued identification that displays a photograph of the member, manager or**
 21 **assignee and the name of and other identifying information for the member, manager or**
 22 **assignee;**

23 (c) **Will provide proof of the verification to the Secretary of State upon request; and**

24 (d) **Will retain the information and documents the limited liability company obtained and**
 25 **used for the verification for the duration of the limited liability company's existence and**
 26 **deliver the information and documents to the records custodian for retention for five years**
 27 **following the limited liability company's dissolution.**

28 *[(2)]* (4) Any limited liability company records are subject to inspection and copying at the rea-
 29 sonable request, and at the expense, of any member during ordinary business hours.

30 *[(3)]* (5) Failure of the limited liability company to keep or maintain any of the records or in-
 31 formation required pursuant to this section *[shall]* **is** not *[be]* grounds for imposing liability on any
 32 person for the debts and obligations of the limited liability company.

33 (6) **As used in this section, "publicly traded" means traded on an established exchange**
 34 **or market that is subject to the regulatory authority of a state, the United States, a foreign**
 35 **government or an agency of a state, the United States or a foreign government.**

36 **SECTION 26.** Section 27 of this 2009 Act is added to and made a part of ORS chapter 63.

37 **SECTION 27.** (1) In response to a request for information related to a criminal investi-
 38 gation from a law enforcement agency, the Attorney General, the Director of the Depart-
 39 ment of Revenue or the Director of the Department of Consumer and Business Services, the
 40 Secretary of State by order shall require a limited liability company to:

41 (a) **Provide to the Secretary of State within three business days after the date of the**
 42 **order a copy of the list and statement described in ORS 63.771 (3); or**

43 (b) **Answer within three business days after the date of the order an interrogatory from**
 44 **the Secretary of State that will assist in the investigation.**

45 (2) **Records and information a limited liability company provides to the Secretary of State**

1 **under subsection (1) of this section are exempt from disclosure under ORS 192.410 to 192.505.**
 2 **However, the Secretary of State shall provide the records and information to a law enforce-**
 3 **ment agency, the Attorney General, the Director of the Department of Revenue or the Di-**
 4 **rector of the Department of Consumer and Business Services upon request.**

5 (3) **The Secretary of State may impose a civil penalty as provided in ORS 183.745 in an**
 6 **amount that does not exceed \$2,500 against a limited liability company that fails to provide**
 7 **the records, information or answers required under subsection (1) of this section within 30**
 8 **days after the date of the order. Penalties recovered under this section shall be paid into the**
 9 **State Treasury and credited to the General Fund.**

10 (4) **Violation of subsection (1)(a) or (b) of this section is a Class A misdemeanor.**

11 **SECTION 28.** ORS 56.041 is amended to read:

12 56.041. (1) The Operating Account is established in the General Fund of the State Treasury.

13 (2) The net amount accruing to the Secretary of State from all fees, charges, interest, fines,
 14 penalties and miscellaneous revenues from all sources relating to business registry functions, and
 15 moneys received by the Secretary of State under ORS chapters 79 and 194 and ORS 80.100 to 80.130,
 16 87.246, 87.767 and 87.806 to 87.831 shall, after deduction of refunds, be paid over to the State
 17 Treasurer and deposited at least monthly in the Operating Account.

18 (3) **Except for moneys deposited from fees collected under ORS 56.140 (2),** moneys deposited
 19 to the credit of the Operating Account are continuously appropriated **to the Secretary of State** for
 20 the expenses of carrying out the functions and duties of the Secretary of State relating to business
 21 registry, and the functions and duties of the Secretary of State under ORS chapters 79 and 194 and
 22 ORS 80.100 to 80.130, 87.246, 87.767 and 87.806 to 87.831. **Moneys deposited from fees collected**
 23 **under ORS 56.140 (2) are continuously appropriated to the Secretary of State for the expenses**
 24 **of carrying out the functions and duties of the Secretary of State under, and enforcing the**
 25 **provisions of, ORS 60.647 and 63.647 and sections 15 and 27 of this 2009 Act.**

26 (4) At the end of each month,[:]

27 [(a)] the Secretary of State shall determine for that month the number of business registry filings
 28 for which the Secretary of State collected the [fee] fees described in ORS 56.140 (1) and (2) and
 29 **shall transfer[: and]**

30 [(b)] an amount equal to \$30 for each business registry filing [described in paragraph (a) of this
 31 subsection shall be transferred] to the General Fund, **which amount [and]** shall become available for
 32 general governmental expenses.

33 (5) [As of] **Not later than** July 1 of each year, **the Secretary of State shall transfer to the**
 34 **General Fund** any unexpended and unobligated balance in the Operating Account that is in excess
 35 of the amount that is necessary to administer the functions and duties of the Secretary of State as
 36 described in subsection (3) of this section for two months, as certified by the Secretary of State[,
 37 shall be transferred to the General Fund and shall become]. **The moneys transferred under this**
 38 **subsection are** available for general governmental expenses.

39 **SECTION 29.** ORS 56.140 is amended to read:

40 56.140. (1) **Except as provided in subsection (2) of this section,** the Secretary of State shall
 41 collect a nonrefundable fee of \$50 for each document delivered for filing to the Secretary of State
 42 as part of the secretary's business registry functions described in ORS 56.022.

43 (2) **The Secretary of State shall collect a nonrefundable fee of \$100 for each annual report**
 44 **delivered for filing to the Secretary of State under ORS 60.787 and 63.787 and for each deliv-**
 45 **ery of articles of incorporation for filing under ORS 60.051 and articles of organization for**

1 **filing under ORS 63.051.**

2 [(2)] (3) The Secretary of State by rule may establish fees, in addition to those provided for in
 3 [subsection (1)] **subsections (1) and (2)** of this section, for:

4 (a) Copying any public record maintained by the secretary and relating to the secretary's busi-
 5 ness registry functions, and for certifying the copy; and

6 (b) Certifying to other facts of record, including certificates of existence, relating to the secre-
 7 tary's business registry functions.

8 [(3)] (4) The Secretary of State shall collect a nonrefundable fee of \$20 each time process **that**
 9 **is related to the Secretary of State's business registry functions** is served on the Secretary of
 10 State [*and the process relates to the secretary's business registry functions*].

11 [(4)] (5) The Secretary of State may waive collection of any fee, charge or interest[,] or portion
 12 of a fee, charge or interest[,] that is collectible by the Secretary of State as part of the secretary's
 13 business registry functions.

14 [(5)] (6) The Secretary of State by rule shall establish and collect reasonable fees for the fol-
 15 lowing services relating to the secretary's business registry functions:

16 (a) Computer generated lists on electronic data processing media.

17 (b) Terminal access to the files of the office.

18 (c) Microfilm records of the files of the office.

19 (d) Microfilm processing and development services.

20 (e) Copies of the programs and files on paper or electronic data processing media.

21 **SECTION 30.** ORS 58.410 is amended to read:

22 58.410. (1) **Except as provided in subsection (2) of this section**, the Secretary of State shall
 23 collect the fees described in ORS 56.140 for each document delivered for filing under this chapter
 24 and for process served on the secretary under this chapter. The secretary may collect the fees de-
 25 scribed in ORS 56.140 for copying any public record under this chapter, certifying the copy or cer-
 26 tifying to other facts of record under this chapter.

27 **(2) The Secretary of State may not collect a fee under ORS 56.140 (2) for a document**
 28 **delivered for filing under this chapter.**

29 **SECTION 31.** ORS 62.030 is amended to read:

30 62.030. (1) **Except as provided in subsection (2) of this section**, the Secretary of State shall
 31 collect the fees described in ORS 56.140 for each document delivered for filing under this chapter
 32 and for process served on the secretary under this chapter. The secretary may collect the fees de-
 33 scribed in ORS 56.140 for copying any public record under this chapter, certifying the copy or cer-
 34 tifying to other facts of record under this chapter.

35 **(2) The Secretary of State may not collect a fee under ORS 56.140 (2) for a document**
 36 **delivered for filing under this chapter.**

37 **SECTION 32.** ORS 65.007 is amended to read:

38 65.007. (1) **Except as provided in subsection (2) of this section**, the Secretary of State shall
 39 collect the fees described in ORS 56.140 for each document delivered for filing under this chapter
 40 and for process served on the secretary under this chapter. The secretary may collect the fees de-
 41 scribed in ORS 56.140 for copying any public record under this chapter, certifying the copy or cer-
 42 tifying to other facts of record under this chapter.

43 **(2) The Secretary of State may not collect a fee under ORS 56.140 (2) for a document**
 44 **delivered for filing under this chapter.**

45 **SECTION 33.** ORS 67.525 is amended to read:

1 67.525. (1) **Except as provided in subsection (2) of this section**, the Secretary of State shall
 2 collect the fees described in ORS 56.140 for each document delivered for filing under this chapter
 3 and for process served on the secretary under this chapter. The secretary may collect the fees de-
 4 scribed in ORS 56.140 for copying any public record under this chapter, certifying the copy or cer-
 5 tifying to other facts of record under this chapter.

6 (2) **The Secretary of State may not collect a fee under ORS 56.140 (2) for a document**
 7 **delivered for filing under this chapter.**

8 **SECTION 34.** ORS 70.065 is amended to read:

9 70.065. (1) **Except as provided in subsection (2) of this section**, the Secretary of State shall
 10 collect the fees described in ORS 56.140 for each document delivered for filing under this chapter
 11 and for process served on the secretary under this chapter. The secretary may collect the fees de-
 12 scribed in ORS 56.140 for copying any public record under this chapter, certifying the copy or cer-
 13 tifying to other facts of record under this chapter.

14 (2) **The Secretary of State may not collect a fee under ORS 56.140 (2) for a document**
 15 **delivered for filing under this chapter.**

16 **SECTION 35.** ORS 128.600 is amended to read:

17 128.600. (1) **Except as provided in subsection (2) of this section**, the Secretary of State shall
 18 collect the fees described in ORS 56.140 for each document delivered for filing under ORS 128.560
 19 to 128.600 and for process served on the secretary under ORS 128.560 to 128.600. The secretary may
 20 collect the fees described in ORS 56.140 for copying any public record under ORS 128.560 to 128.600,
 21 certifying the copy or certifying to other facts of record under ORS 128.560 to 128.600.

22 (2) **The Secretary of State may not collect a fee under ORS 56.140 (2) for a document**
 23 **delivered for filing under ORS 128.560 to 128.600.**

24 **SECTION 36.** ORS 554.016 is amended to read:

25 554.016. (1) **Except as provided in subsection (2) of this section**, the Secretary of State shall
 26 collect the fees described in ORS 56.140 for each document delivered for filing under this chapter
 27 and for process served on the secretary under this chapter. The secretary may collect the fees de-
 28 scribed in ORS 56.140 for copying any public record under this chapter, certifying the copy or cer-
 29 tifying to other facts of record under this chapter.

30 (2) **The Secretary of State may not collect a fee under ORS 56.140 (2) for a document**
 31 **delivered for filing under this chapter.**

32 **SECTION 37.** ORS 647.009 is amended to read:

33 647.009. (1) **Except as provided in subsection (2) of this section**, the Secretary of State shall
 34 collect the fees described in ORS 56.140 for each document delivered for filing under this chapter
 35 and for process served on the secretary under this chapter. The secretary may collect the fees de-
 36 scribed in ORS 56.140 for copying any public record under this chapter, certifying the copy or cer-
 37 tifying to other facts of record under this chapter.

38 (2) **The Secretary of State may not collect a fee under ORS 56.140 (2) for a document**
 39 **delivered for filing under this chapter.**

40 **SECTION 38.** ORS 648.115 is amended to read:

41 648.115. (1) **Except as provided in subsection (2) of this section**, the Secretary of State shall
 42 collect the fees described in ORS 56.140 for each document delivered for filing under this chapter
 43 and for process served on the secretary under this chapter. The secretary may collect the fees de-
 44 scribed in ORS 56.140 for copying any public record under this chapter, certifying the copy or cer-
 45 tifying to other facts of record under this chapter.

1 **(2) The Secretary of State may not collect a fee under ORS 56.140 (2) for a document**
2 **delivered for filing under this chapter.**

3 **SECTION 39.** ORS 649.090 is amended to read:

4 649.090. **(1) Except as provided in subsection (2) of this section,** the Secretary of State shall
5 collect the fees described in ORS 56.140 for each document delivered for filing under ORS 649.010
6 to 649.060. The secretary may collect the fees described in ORS 56.140 for copying any public record
7 registered or filed under ORS 649.010 to 649.060, certifying the copy or certifying to other facts of
8 record under ORS 649.010 to 649.060.

9 **(2) The Secretary of State may not collect a fee under ORS 56.140 (2) for a document**
10 **delivered for filing under ORS 649.010 to 649.060.**

11 **SECTION 40.** ORS 661.245 is amended to read:

12 661.245. **(1) Except as provided in subsection (2) of this section,** the Secretary of State shall
13 collect the fees described in ORS 56.140 for each document delivered for filing under ORS 661.210
14 to 661.280 and for process served on the secretary under ORS 661.210 to 661.280. The secretary may
15 collect the fees described in ORS 56.140 for copying any public record under ORS 661.210 to 661.280,
16 certifying the copy or certifying to other facts of record under ORS 661.210 to 661.280.

17 **(2) The Secretary of State may not collect a fee under ORS 56.140 (2) for a document**
18 **delivered for filing under ORS 661.210 to 661.280.**

19 **SECTION 41.** **(1) Sections 3 to 7, 15, 18 to 22 and 27 of this 2009 Act and the amendments**
20 **to ORS 56.041, 56.140, 58.410, 60.001, 60.307, 60.647, 60.654, 60.771, 60.774, 62.030, 62.690, 63.001,**
21 **63.647, 63.654, 63.771, 65.007, 67.525, 70.065, 128.600, 554.016, 647.009, 648.115, 649.090 and 661.245**
22 **by sections 1, 8 to 13, 16, 23 to 25 and 28 to 40 of this 2009 Act become operative 90 days**
23 **following the effective date of this 2009 Act.**

24 **(2) The Secretary of State may take any action before the operative date set forth in**
25 **subsection (1) of this section that is necessary to enable the Secretary of State to exercise,**
26 **on and after the operative date, all of the duties, functions and powers conferred on the**
27 **Secretary of State by sections 3 to 7, 15, 18 to 22 and 27 of this 2009 Act and the amendments**
28 **to ORS 56.041, 56.140, 58.410, 60.001, 60.307, 60.647, 60.654, 60.771, 60.774, 62.030, 62.690, 63.001,**
29 **63.647, 63.654, 63.771, 65.007, 67.525, 70.065, 128.600, 554.016, 647.009, 648.115, 649.090 and 661.245**
30 **by sections 1, 8 to 13, 16, 23 to 25 and 28 to 40 of this 2009 Act.**

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

34