

Enrolled
House Bill 2567

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CHAPTER

AN ACT

Relating to shareholders’ meetings conducted by remote communication; creating new provisions; and amending ORS 60.001, 60.201, 60.204, 60.221, 60.222, 60.307, 65.001, 65.201, 65.204, 65.221, 65.227, 65.637, 271.330 and 307.518.

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

SECTION 1. ORS 60.001 is amended to read:

60.001. As used in this chapter:

- (1) “Anniversary” means *[that]* **the** day each year **that is** exactly one or more years after:
 - (a) The date *[of filing by]* **on which** the Secretary of State *[of]* **files** the articles of incorporation *[in the case of]* **for** a domestic corporation.
 - (b) The date *[of filing by]* **on which** the Secretary of State *[of]* **files** an application for authority to transact business *[in the case of]* **for** a foreign corporation.
- (2) “Articles of incorporation” *[include]* **means the articles described in ORS 60.047**, amended and restated articles of incorporation, articles of conversion *[and]* **or** articles of merger.
- (3) “Authorized shares” means the shares of all classes **that** a domestic or foreign corporation is authorized to issue.
- (4) “Conspicuous” means *[so]* written, **printed or typed in text that is italicized, boldfaced, of a contrasting color, capitalized or underlined or similarly enhanced so** that a reasonable person against whom the writing is to operate should have noticed the writing. *[For example, a writing printed in italics, boldface or contrasting color, typed in capitals or underlined is conspicuous.]*
- (5) “Corporation” or “domestic corporation” means a corporation for profit **that is** incorporated under or subject to the provisions of this chapter **and** that is not a foreign corporation.
- (6) “Delivery” means any method of delivery used in conventional commercial practice, *[including delivery]* **whether** by hand, mail, commercial delivery *[and]* **or** electronic transmission.
- (7) “Distribution” means a direct or indirect transfer of money or other property, except of a corporation’s own shares, or **an** incurrence of indebtedness by a corporation to or for the benefit of the corporation’s shareholders in respect of any of the corporation’s shares. *[A distribution may be]*, in the form of a declaration or payment of a dividend, a purchase, redemption or other acquisition of shares, a distribution of indebtedness, or otherwise.
- (8) “Domestic limited liability company” means an entity that is an unincorporated association *[having]* **that has** one or more members and that is organized under ORS chapter 63.
- (9) “Domestic nonprofit corporation” means a corporation not for profit **that is** incorporated under ORS chapter 65.

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

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

(12) "Electronic transmission" means any process of communication that does not directly involve the physical transfer of paper and that is suitable for *[the retention, retrieval and reproduction of]* **the recipient to retain, retrieve and reproduce** information *[by the recipient]*.

(13) "Employee" includes an officer but not a director, unless the director accepts duties that make the director also an employee.

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

(15) "Foreign corporation" means a corporation for profit **that is** incorporated under laws other than the laws of this state.

(16) "Foreign limited liability company" means an entity that is an unincorporated association organized under laws other than the laws of this state and that is organized under a statute under which an association may be formed that affords to each of the entity's members limited liability with respect to liabilities of the entity.

(17) "Foreign nonprofit corporation" means a corporation not for profit **that is** organized under laws other than the laws of this state.

(18) "Foreign professional corporation" means a professional corporation **that is** organized under laws other than the laws of this state.

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

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

[(21)] **(20)** "Individual" means a natural person. *"Individual" includes* **or** the estate of an incompetent individual or a deceased individual.

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

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

[(24)] **(22)** "Person" *[includes]* **means** individual *[and]* **or** entity.

[(25)] **(23)** "Principal office" means the office, in or out of this state, where the principal executive offices of a domestic or foreign corporation are located and designated in the annual report or **in the** application for authority to transact business in this state.

[(26)] **(24)** "Proceeding" *[includes]* **means a** civil, criminal, administrative *[and]* **or** investigatory action.

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

(26) "Remote communication" means any method by which a person that is not physically present at the location at which a meeting occurs may nevertheless hear or otherwise communicate at substantially the same time with other persons at the meeting and have access to materials necessary to participate or vote in the meeting to the extent of the person's authorization to participate or vote.

[(28)] **(27)** "Shares" means the units into which the proprietary interest in a corporation *[are]* **is** divided.

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

[(30)] **(29)** "Signature" *[includes]* **means** any manual, facsimile, conformed or electronic signature.

(30) **“Single voting group” means a voting group the shares of which are entitled by the articles of incorporation or this chapter to vote generally on a matter.**

(31) “State,” when referring to a part of the United States, *[includes]* **means** a state, commonwealth, territory *[and]* **or** insular possession of the United States and the agencies and governmental subdivisions of the state, commonwealth, territory or insular possession.

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

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

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

SECTION 2. ORS 60.201 is amended to read:

60.201. (1) Except as provided in subsection (4) of this section, a corporation shall hold an annual meeting of the shareholders at a time stated in or fixed in accordance with the bylaws.

(2) **An** annual shareholders’ *[meetings]* **meeting** may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. *[If no place is stated in or fixed in accordance with the bylaws, annual meetings shall]* **or at a place the board of directors specifies, provided that the board’s specification is not inconsistent with the bylaws. If the board of directors does not determine that the annual meeting will occur solely by means of remote communication and a place for the annual meeting is not stated in or otherwise fixed in accordance with the bylaws, the annual meeting must** be held at the corporation’s principal office.

(3) *[The]* **A** failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation’s bylaws does not affect the validity of any corporate action.

(4) If the articles of incorporation or bylaws of a corporation registered under the Investment Company Act of 1940, as amended, so provide, the corporation *[shall]* **may** not be required to hold an annual meeting in any year in which an election of directors is not required under the Investment Company Act of 1940, as amended.

SECTION 3. ORS 60.204 is amended to read:

60.204. (1) A corporation shall hold a special meeting of shareholders:

(a) On call of the board of directors of the corporation or **of** a person *[authorized to do so by]* **that** the articles of incorporation or bylaws **authorize to call the meeting;** or

(b) Except as provided in this paragraph and in subsection (2) of this section, if the holders of at least 10 percent of all votes entitled to be cast on any issue proposed for consideration at the proposed special meeting sign, date and deliver to the corporation’s secretary one or more written demands for the meeting *[describing]* **that describe** the purpose or purposes for which the meeting is to be held. The articles of incorporation may fix a lower percentage or a higher percentage not exceeding 25 percent of all the votes entitled to be cast on any issue proposed for consideration. Unless otherwise provided in the articles of incorporation, a shareholder who signed the original demand for a special meeting may revoke the shareholder’s demand by signing a writing that contains a revocation. The revocation is effective if the corporation receives the writing before the corporation receives a demand sufficient to require the corporation to hold a special meeting.

(2) A publicly traded corporation shall hold a special meeting at the demand of shareholders of the publicly traded corporation only if the articles of incorporation or bylaws authorize the shareholders to demand a special meeting. The articles of incorporation or bylaws may also specify what percentage of votes entitled to be cast on an issue proposed for consideration at the special meeting will be necessary to require the publicly traded corporation to hold the special meeting.

(3) If not otherwise fixed under ORS 60.207 or 60.221, the record date for determining shareholders entitled to demand a special meeting is the date the first shareholder signs the demand.

(4) **A** special shareholders’ *[meetings]* **meeting** may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. *[If no place is stated or fixed in accordance with*

the bylaws,] or at a place the board of directors specifies, provided that the board's specification is not inconsistent with the bylaws. If the board of directors does not determine that the special meeting will occur solely by means of remote communication and a place for the special meeting is not stated in or otherwise fixed in accordance with the bylaws, the special [meetings shall] meeting must be held at the corporation's principal office.

(5) Only business within the purpose or purposes described in the meeting notice required by ORS 60.214 (3) may be conducted at a special shareholders' meeting.

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

SECTION 4. ORS 60.221 is amended to read:

60.221. (1) The bylaws may fix or provide the manner of fixing the record date for one or more voting groups in order to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote or to take any other action. The record date *[shall] must* be the same for all voting groups. If the bylaws do not fix or provide for fixing a record date, the board of directors of the corporation may fix a future date, or a later time on the date the board of directors fixes the record date, as the record date.

(2)(a) A record date fixed under this section may not be more than 70 days before the meeting or action requiring a determination of shareholders.

(b) A determination of shareholders must be made as of the close of business on the record date unless another time for making the determination is specified when the record date is fixed.

(3) A determination of shareholders entitled to notice of or to vote at a shareholders' meeting is effective for any adjournment of the meeting unless the board of directors fixes a new record date, which *[it] the board* must do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

(4) If a court orders a meeting adjourned to a date more than 120 days after the date fixed for the original meeting, *[it] the court* may provide that the original record date continues in effect or *[it] the court* may fix a new record date.

SECTION 5. ORS 60.222 is amended to read:

60.222. *[(1) Unless the articles of incorporation or bylaws provide otherwise, the bylaws or the board of directors, by resolution adopted in advance either specifically with respect to a particular meeting or generally with respect to future meetings, may permit any or all shareholders to participate in an annual or special meeting by, or may permit the conduct of a meeting through, use of any means of communication by which all shareholders participating may simultaneously hear each other. A shareholder participating in a meeting by this means is deemed to be present in person at the meeting.]*

(1)(a) Shareholders and proxy holders that are not physically present for a shareholders' meeting may participate in the meeting, be deemed present in person and vote if the board of directors authorizes participation by remote communication. Participation by remote communication is subject to guidelines and procedures that the board adopts.

(b) Before a board of directors may authorize shareholders or proxy holders to participate by remote communication in a shareholders' meeting, the corporation shall implement measures to:

(A) Verify that a person that is participating in the meeting by remote communication is a shareholder or a proxy holder; and

(B) Ensure that a shareholder or proxy holder may participate by remote communication in an effective manner.

(c) The corporation shall maintain a record of the vote or other action of a shareholder or proxy holder that participates in a shareholders' meeting by remote communication.

(2) The notice of each annual or special meeting of shareholders at which **the board authorizes** participation in the manner [*referred to*] **described** in subsection (1) of this section [*is permitted*] shall state that [*fact*] **the board authorizes participation by remote communication** and shall describe how [*any*] **a shareholder** [*desiring to participate*] may notify the corporation of the shareholder's desire to [*be included*] **participate** in the meeting **by remote communication**.

SECTION 6. ORS 60.307 is amended to read:

60.307. (1) A board of directors must consist of one or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws. Notwithstanding ORS 60.001 [(21)] **(20)**, the estate of an incompetent individual or a deceased individual may not be a director.

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

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

SECTION 7. ORS 65.001 is amended to read:

65.001. As used in this chapter, [*unless otherwise specifically provided*]:

(1) "Anniversary" means [*that*] **the day each year that is** exactly one or more years after the date [*of filing by*] **on which** the Office of the Secretary of State [*of*] **files** the articles of incorporation [*in the case of*] **for** a domestic corporation or the date [*of filing by*] **on which** the office [*of the Secretary of State of*] **files** an application for authority to transact business [*in the case of*] **for** a foreign corporation. An event that would otherwise cause an anniversary to fall on February 29 [*shall be deemed to have occurred*] **causes the anniversary to fall** on February 28.

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

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

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

(3) "Articles of incorporation" or "articles" [*include*] **means the articles described in ORS 65.047**, amended and restated articles of incorporation [*and*] **or** articles of merger, and corrections [*thereto*] **to the articles**.

(4) "Board" or "board of directors" means the individual or individuals vested with overall management of the affairs of the domestic or foreign corporation, irrespective of the name by which the individual or individuals are designated, except that [*no*] **an** individual or **a** group of individuals [*are*] **is not** the board of directors because of powers delegated to [*that*] **the** individual or group [*pursuant to*] **under** ORS 65.301.

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

(6) "Class" means a group of memberships that have the same rights with respect to voting, dissolution, redemption and transfer. For the purpose of this section, rights are the same if the rights are determined by a formula applied uniformly.

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

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

(9) “Delegates” means those persons elected or appointed to vote in a representative assembly for *[the election of]* **electing** a director or directors or on other matters.

(10) “Deliver” *[includes mail.]* **means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery and electronic transmission.**

(11) “Directors” means individuals *[designated in]* **whom** the articles or bylaws **designate** or *[elected by]* **whom** the incorporators **elect** to act as members of the board, and *[their]* successors **to the individuals.**

(12) “Distribution” means *[the payment of]* **paying** a dividend or any part of the income or profit of a corporation to the corporation’s members, directors or officers, other than *[payment of]* **paying** value for property received or services performed or *[payment of]* **paying** benefits *[in furtherance of]* **to further** the corporation’s purposes.

(13) “Domestic business corporation” means a for profit corporation **that is** incorporated under ORS chapter 60.

(14) “Domestic limited liability company” means *[an entity that is]* an unincorporated association *[having]* **that has** one or more members and that is organized under ORS chapter 63.

(15) “Domestic professional corporation” means a corporation **that is** organized under ORS chapter 58 for the purpose of rendering professional services and for the purposes provided under ORS chapter 58.

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

(17) “Employee” includes an officer or director *[who is employed by]* **whom** the corporation **employs** with compensation for services beyond those encompassed by board membership.

(18) “Entity” *[includes]* **means** a corporation, foreign corporation, business corporation and foreign business corporation, profit and nonprofit unincorporated association, corporation sole, business trust, partnership, two or more persons *[having]* **that have** a joint or common economic interest, any state, the United States, a federally recognized Native American or American Indian tribal government and any foreign government.

(19) “File,” “filed” or “filing” means reviewed, accepted and entered in the Office of the Secretary of State.

(20) “Foreign business corporation” means a for profit corporation **that is** incorporated under laws other than the laws of this state.

(21) “Foreign corporation” means a corporation **that is** organized under laws other than the laws of this state **and** that would be a nonprofit corporation if formed under the laws of this state.

(22) “Foreign limited liability company” means *[an entity that is]* an unincorporated association **that is** organized under laws other than the laws of this state and that is organized under a statute under which an association may be formed that affords to each of the entity’s members limited liability with respect to liabilities of the entity.

(23) “Foreign professional corporation” means a professional corporation **that is** organized under laws other than the laws of this state.

(24) “Governmental subdivision” includes an authority, county, district and municipality.

[(25) “Includes” denotes a partial definition.]

[(26)] **(25)** “Individual” means a natural person, *[and includes]* **including** the guardian of an incompetent individual.

[(27) “Means” denotes an exhaustive definition.]

[(28)(a)] **(26)(a)** “Member” means a person *[or persons]* **that is** entitled, *[pursuant to]* **under** a domestic or foreign corporation’s articles or bylaws, without regard to what the person is called in the articles or bylaws, to vote on more than one occasion *[for the election of]* **to elect** a director or directors.

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

(A) As a delegate;

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

(C) As a director; or

(D) As a holder of an evidence of indebtedness *[issued or to be issued by]* the corporation **has issued or will issue.**

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

[29] (27) "Membership" *[refers to]* **means** the rights and obligations a member has under this chapter.

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

[31] (29) "Nonprofit corporation" means **a** mutual benefit *[corporations]* **corporation, a** public benefit *[corporations and]* **corporation or a** religious *[corporations]* **corporation.**

[32] (30) "Notice" has the meaning given that term in ORS 65.034.

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

[34] (32) "Person" *[includes any]* **means** individual or entity.

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

[36] (34) "Proceeding" *[includes]* **means a** civil, criminal, administrative *[and]* **or** investigatory action.

[37] (35) "Public benefit corporation" means a domestic corporation that:

(a) Is formed as a public benefit corporation *[pursuant to]* **under** ORS 65.044 to 65.067, is designated as a public benefit corporation by a statute, is recognized as tax exempt under section 501 (c) (3) of the Internal Revenue Code of 1986 or is otherwise organized for a public or charitable purpose;

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

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

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

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

(38) "**Remote communication**" means any method by which a person that is not physically present at the location at which a meeting occurs may nevertheless hear or otherwise communicate at substantially the same time with other persons at the meeting and have access to materials necessary to participate or vote in the meeting to the extent of the person's authorization to participate or vote.

[40] (39) "Secretary," when used in the context of a corporate official, means the corporate officer to whom the board of directors has delegated responsibility under ORS 65.371 for preparing the minutes of the directors' and members' meetings and for authenticating the records of the corporation.

[(41)] (40) "State," when referring to a part of the United States, [includes] **means** a state, commonwealth, territory [and] **or** insular possession of the United States and the agencies and governmental subdivisions of the state, commonwealth, territory or insular possession.

[(42)] (41) "Uncompensated officer" means an individual who serves in an office without compensation for personal service. For purposes of this subsection, payment solely for actual expenses in performing duties of the officer or a stipend that is paid only to compensate the average expenses the individual incurs over the course of a year is not compensation.

[(43)] (42) "United States" [includes] **means a** district, authority, bureau, commission, department [and] **or** any other agency of the United States.

[(44)] (43) "Vote" [includes] **means** authorization by written ballot and written consent, where permitted.

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

SECTION 8. ORS 65.201 is amended to read:

65.201. (1) A corporation with members shall hold a membership meeting annually at a time stated in or fixed in accordance with the bylaws.

(2) A corporation with members may hold regular membership meetings at the times stated in or fixed in accordance with the bylaws.

(3) **An** annual and regular membership [meetings] **meeting** may be held in or out of this state at the place stated in or fixed in accordance with the bylaws[. *If no place is stated in or fixed in accordance with the bylaws, annual and regular meetings shall*] **or at a place the board of directors specifies, provided that the board's specification is not inconsistent with the bylaws. If the board of directors does not determine that the annual and regular meeting will occur solely by means of remote communication and a place for the annual and regular meeting is not stated in or otherwise fixed in accordance with the bylaws, the annual and regular meeting must** be held at the corporation's principal office.

(4) At the annual meeting:

(a) The president, and any other officer the board of directors or the president may designate, shall report on the activities and financial condition of the corporation; and

(b) The members shall consider and act upon such other matters as may be raised consistent with the notice requirements of ORS 65.214.

(5) At regular meetings the members shall consider and act upon such matters as may be raised consistent with the notice requirements of ORS 65.214.

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

SECTION 9. ORS 65.204 is amended to read:

65.204. (1) A corporation with members shall hold a special meeting of members:

(a) On call of [its] **the corporation's** board of directors or **of** the person or persons [authorized to do so by] **that** the articles of incorporation or bylaws **authorize to call the meeting;** or

(b) Except as provided in the articles or bylaws, if the holders of at least five percent of the voting power of any corporation sign, date and deliver to the corporation's secretary one or more written demands for the meeting [describing] **that describe** the purpose or purposes for which [it] **the meeting** is to be held.

(2) If not otherwise fixed under ORS 65.207 or 65.221, the record date for members entitled to demand a special meeting is the date the first member signs the demand.

(3) If a notice for a special meeting demanded under subsection (1)(b) of this section is not given pursuant to ORS 65.214 within 30 days after the date the written demand or demands are delivered to the corporation's secretary then, regardless of the requirements of subsection (4) of this section,

a person *[signing]* **that signs** the demand or demands may set the time and place of the meeting and give notice pursuant to ORS 65.214.

(4) **A special *[meetings]* meeting** of members may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. *If no place is stated or fixed in accordance with the bylaws,* **or at a place the board of directors specifies, provided that the board's specification is not inconsistent with the bylaws. If the board of directors does not determine that the special meeting will occur solely by means of remote communication and a place for the special meeting is not stated in or otherwise fixed in accordance with the bylaws, the special *[meetings shall]* meeting must** be held at the corporation's principal office.

(5) Only matters within the purpose or purposes described in the meeting notice required by ORS 65.214 may be conducted at a special meeting of members.

SECTION 10. ORS 65.221 is amended to read:

65.221. (1) The bylaws may fix or provide the manner of fixing the record date in order to determine the members entitled to notice of a members' meeting, to demand a special meeting, to vote or to take any other lawful action. **A determination of members must be made as of the time of close of transactions on the record date unless another time for doing so is specified at the time the record date is fixed.** If the bylaws do not fix or provide for fixing *[such]* a record date, the board of directors may fix a future date as the record date. If *[no such]* a record date is **not** fixed, then:

(a) To determine the members entitled to notice of a members' meeting, the record date *[shall be]* **is** the day before the day on which first notice is mailed or otherwise transmitted to members in accordance with ORS 65.034, or if notice is waived, the day preceding the day on which the meeting is held.

(b) To determine the members entitled to demand a special meeting, the record date *[shall be]* **is** as set forth in ORS 65.204 (2).

(c) To determine the members entitled to take action without a meeting, the record date *[shall be]* **is** as set forth in ORS 65.211 (2).

(d) To determine the members entitled to vote at a members' meeting, the record date *[shall be]* **is** the date of the meeting.

(e) To determine the members entitled to exercise any rights in respect to any other lawful action, the record date *[shall be]* **is** the day on which the board adopts the resolution *[relating thereto]* **that relates to the other action**, or the 60th day *[prior to]* **before** the date of *[such]* **the** other action, whichever is later.

(2) A record date fixed under this section may not be more than 70 days before the meeting or action *[requiring the]* **that requires a** determination of members.

(3) A determination of members entitled to notice of or to vote at a membership meeting is effective for any adjournment of the meeting unless the board fixes a new record date, which *[it]* **the board** must do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

(4) If a court orders a meeting adjourned to a date more than 120 days after the date fixed for the original meeting, *[it]* **the court** may provide that the original record date continues in effect or *[it]* **the court** may fix a new record date.

SECTION 11. ORS 65.227 is amended to read:

65.227. (1) Unless the articles or bylaws provide otherwise, each member is entitled to one vote on each matter *[voted on by]* **on which** the members **vote**, including each matter on which a member *[is entitled to]* **may** vote under this chapter or the articles or bylaws. Except as expressly prohibited in this chapter, the articles or bylaws may provide for different allocations of votes among member classes or exclude the members or some or all member classes from voting on any issue on which they would otherwise be entitled to vote under this chapter. *[Persons not retaining]* **A person that does not retain** a right to vote on more than one occasion *[for the election of]* **to elect** a director or directors *[shall not be deemed members]* **is not a member.**

(2) Unless the articles or bylaws provide otherwise, if a membership stands of record in the names of two or more persons, [*their acts*] with respect to voting [*shall*] **the persons' acts** have the following effect:

(a) If only one **person** votes, [*such*] **the person's act** binds all; and

(b) If more than one **person** votes, the vote [*shall be*] **is** divided on a pro rata basis.

(3) If a class is entitled to vote as a class for directors, a determination of the voting power of the class must be based on the percentage of the number of directors the class may elect out of the total number of authorized directors.

SECTION 12. ORS 65.637 is amended to read:

65.637. (1) A dissolved corporation continues the corporation's corporate existence but may not carry on any activities except those appropriate to wind up and liquidate the corporation's affairs, including:

(a) Preserving and protecting the corporation's assets and minimizing the corporation's liabilities;

(b) Discharging or providing for discharging the corporation's liabilities and obligations;

(c) Disposing of the corporation's properties that will not be distributed in kind;

(d) Returning, transferring or conveying assets in accordance with a condition under which the corporation holds the assets subject to a requirement to return, transfer or convey the assets, if the condition occurs by reason of the dissolution;

(e) Transferring, subject to any contractual or legal requirements, the corporation's assets as provided in or authorized by the corporation's articles of incorporation or bylaws;

(f) If the corporation is a public benefit or religious corporation, and the corporation has not provided in the corporation's articles or bylaws for distributing assets on dissolution, transferring, subject to any contractual or legal requirement, the corporation's assets to one or more persons described in ORS 65.001 [(37)(b)] **(35)(b)**;

(g) If the corporation is a mutual benefit corporation and the corporation has not provided in the corporation's articles or bylaws for distributing assets on dissolution, transferring, subject to any contractual or legal requirements, the corporation's assets to the corporation's members or, if the corporation has no members, to those persons whom the corporation purports to benefit or serve;

(h) Adopting a plan of merger; and

(i) Doing other acts necessary to liquidate the corporation's assets and wind up the corporation's affairs.

(2) Dissolution of a corporation does not:

(a) Transfer title to the corporation's property;

(b) Subject the corporation's directors or officers to standards of conduct different from those prescribed in ORS 65.301 to 65.414;

(c) Change quorum or voting requirements for the corporation's board or members, change provisions for selection, resignation or removal of the corporation's directors or officers, or both, or change provisions for amending the corporation's bylaws;

(d) Prevent commencement of a proceeding by or against the corporation in the corporation's corporate name;

(e) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or

(f) Terminate the authority of the registered agent of the corporation.

SECTION 13. ORS 271.330 is amended to read:

271.330. (1) Any political subdivision is granted express power to relinquish the title to any of its property not needed for public use to any governmental body, providing such property shall be used for not less than 20 years for a public purpose by the governmental body in the State of Oregon. These transfers for public purposes may include transfers without consideration of property held by counties as a result of tax foreclosures.

(2)(a) Any political subdivision is granted express power to relinquish the title to any of its property to a qualifying nonprofit corporation or a municipal corporation for the purpose of providing any of the following:

- (A) Low income housing;
 - (B) Social services; or
 - (C) Child care services.
- (b) As used in this subsection:

(A) "Qualifying nonprofit corporation" means a corporation that is a public benefit corporation under ORS 65.001 [(37)] **(35)** and that has obtained a ruling from the federal Internal Revenue Service providing that the corporation is exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code.

(B) "Social services" and "child care services" include but are not limited to education, training, counseling, health and mental health services and the provision of facilities and administrative services to support social services and child care services.

(3) Any political subdivision is granted express power to convey real property to a nonprofit or municipal corporation to be used by the nonprofit or municipal corporation for the creation of open space, parks or natural areas for perpetual public use. The instrument conveying the real property shall include a restriction on the use of the property that limits the uses of the property to those uses described in this subsection. The instrument conveying the property shall also contain a provision for the reversion of the property to the political subdivision if the property is not used in conformance with the restriction. Real property conveyed under this subsection may include real property held by a political subdivision as a result of tax foreclosures.

(4) Transfers under this section may include transfers without consideration of property held by counties as a result of tax foreclosures.

(5) Before any county court or board of county commissioners may transfer, under subsection (1) of this section, any tax foreclosed lands in which the state or a political subdivision has represented delinquent and uncollected taxes, liens or assessments, it shall advertise in a newspaper of general circulation in the county for two successive weeks its intention to so transfer the property. The notice shall state when the county court will hear objections to the transfer and must specifically describe the property intended to be transferred. After the hearing set in the notice is held and objections are heard, it may, in its sound discretion, proceed with the transfer. Except in the case of a transfer for low income housing, real property shall be conveyed by deed, subject to a reversionary interest retained by the granting political subdivision in the event that the property is used for a purpose that is inconsistent with the grant. The granting political subdivision may waive the subdivision's right to a reversionary interest at the time the property is conveyed. After the transfer the interests of the state or any political subdivision in the land on account of uncollected taxes, liens or assessments are extinguished, and the county is relieved of the necessity to account for uncollected taxes, liens or assessments.

SECTION 14. ORS 307.518 is amended to read:

307.518. (1) Property or a portion of property that meets all of the following criteria shall be exempt from taxation as provided under ORS 307.515 to 307.523:

- (a) If unoccupied, the property:
 - (A) Is offered for rental solely as a residence for low income persons; or
 - (B) Is held for the purpose of developing low income rental housing.
- (b) If occupied, the property is occupied solely as a residence for low income persons.
- (c) An exemption for the property has been approved as provided under ORS 307.523, pursuant to an application filed before January 1, 2020.
- (d) The property is owned or being purchased by a nonprofit corporation organized in a manner that meets the criteria for a public benefit corporation, as [*described under*] **defined in** ORS 65.001 [(37)] **(35)**, or for a religious corporation, as [*described under*] **defined in** ORS 65.001 [(39)] **(37)**.
- (e) The property is owned or being purchased by a nonprofit corporation that expends no more than 10 percent of its annual income from residential rentals for purposes other than the acquisition,

maintenance or repair of residential rental property for low income persons or for the provision of on-site child care services for the residents of the rental property.

(2) For the purposes of this section, a nonprofit corporation that has only a leasehold interest in property is considered to be a purchaser of that property if:

(a) The nonprofit corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in the rental activity on that property; or

(b) The rent payable has been established to reflect the savings resulting from the exemption from taxation.

(3) A partnership shall be considered a nonprofit corporation for purposes of this section if:

(a) A nonprofit corporation is a general partner of the partnership; and

(b) The nonprofit corporation is responsible for the day-to-day operation of the property that is the subject of the exemption under ORS 307.515 to 307.523.

SECTION 15. Section 16 of this 2013 Act is added to and made a part of ORS chapter 65.

SECTION 16. (1)(a) Members that are not physically present for a membership meeting may participate in, be deemed present in person at and vote at the membership meeting if the board of directors authorizes participation by remote communication. Participation by remote communication is subject to guidelines and procedures that the board adopts.

(b) Before a board of directors may authorize members to participate in a membership meeting by remote communication, the corporation shall implement measures to:

(A) Verify that a person that is participating in the membership meeting by remote communication is a member; and

(B) Ensure that a member may participate by remote communication in an effective manner.

(c) The corporation shall maintain a record of the vote or other action of a member that participates in a membership meeting by remote communication.

(2) A notice of a membership meeting at which the board authorizes participation by remote communication shall state that the board authorizes participation by remote communication and shall describe how a member may notify the corporation that the member intends to participate in the membership meeting by remote communication.

SECTION 17. If Senate Bill 141 becomes law, section 7 of this 2013 Act (amending ORS 65.001) is repealed and ORS 65.001, as amended by section 27, chapter __, Oregon Laws 2013 (Enrolled Senate Bill 141), is amended to read:

65.001. As used in this chapter:

(1) "Anniversary" means the day each year that is exactly one or more years after the date on which the Office of the Secretary of State files the articles of incorporation for a domestic corporation or the date on which the office files an application for authority to transact business for a foreign corporation. An event that would otherwise cause an anniversary to fall on February 29 will cause the anniversary to fall on February 28.

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

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

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

(3) "Articles of incorporation" or "articles" means the articles described in ORS 65.047, amended and restated articles of incorporation or articles of merger, and corrections to the articles.

(4) "Board" or "board of directors" means the individual or individuals vested with overall management of the affairs of the domestic or foreign corporation, irrespective of the name by which the individual or individuals are designated, except that an individual or a group of individuals is not the board of directors because of powers delegated to the individual or group under ORS 65.301.

(5) "Bylaws" means the code or codes of rules, other than the articles adopted under this chapter or the laws governing a foreign corporation, for regulating or managing the affairs of the domestic or foreign corporation, irrespective of the name or names by which the rules are designated.

(6) "Class" means a group of memberships that have the same rights with respect to voting, dissolution, redemption and transfer. For the purpose of this section, rights are the same if the rights are determined by a formula applied uniformly.

(7) "Contact address" means a mailing address at which a person affiliated with the organization will receive and transmit to the organization notices intended for the foreign or domestic corporation either when sending the notices to the registered agent is not practical or when a duplicate notice is desirable. The contact address may be the principal place of business, if any, or the business or residence address of any person associated with the corporation or foreign corporation who has consented to serve, but may not be the address of the registered agent.

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

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

(10) "Deliver" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery and electronic transmission.

(11) "Directors" means individuals whom the articles or bylaws designate or whom the incorporators elect to act as members of the board, and the successors to the individuals.

(12) "Distribution" means paying a dividend or any part of the income or profit of a corporation to the corporation's members, directors or officers, other than paying value for property received or services performed or paying benefits to further the corporation's purposes.

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

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

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

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

(17) "Employee" includes an officer or director whom the corporation employs with compensation for services beyond those encompassed by board membership.

(18) "Entity" means a corporation, foreign corporation, business corporation and foreign business corporation, profit and nonprofit unincorporated association, corporation sole, business trust, partnership, two or more persons that have a joint or common economic interest, any state, the United States, a federally recognized Native American or American Indian tribal government and any foreign government.

(19) "File," "filed" or "filing" means reviewed, accepted and entered in the Office of the Secretary of State.

(20) "Foreign business corporation" means a for profit corporation that is incorporated under laws other than the laws of this state.

(21) "Foreign corporation" means a corporation that is organized under laws other than the laws of this state and that would be a nonprofit corporation if formed under the laws of this state.

(22) "Foreign limited liability company" means an unincorporated association that is organized under laws other than the laws of this state and that is organized under a statute under which an association may be formed that affords to each of the entity's members limited liability with respect to liabilities of the entity.

(23) "Foreign professional corporation" means a professional corporation that is organized under laws other than the laws of this state.

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

- (25) "Individual" means a natural person, including the guardian of an incompetent individual.
- (26)(a) "Member" means a person that is entitled, under a domestic or foreign corporation's articles or bylaws, without regard to what the person is called in the articles or bylaws, to vote on more than one occasion to elect a director or directors.
- (b) A person is not a member by virtue of any of the following rights the person has:
- (A) As a delegate;
 - (B) To designate or appoint a director or directors;
 - (C) As a director; or
 - (D) As a holder of an evidence of indebtedness the corporation has issued or will issue.
- (c) Notwithstanding the provisions of paragraph (a) of this subsection, a person is not a member if the person's membership rights have been eliminated as provided in ORS 65.164 or 65.167.
- (27) "Membership" means the rights and obligations a member has under this chapter.
- (28) "Mutual benefit corporation" means a domestic corporation that is formed as a mutual benefit corporation under ORS 65.044 to 65.067 and is designated a mutual benefit corporation by a statute or does not come within the definition of public benefit or religious corporation.
- (29) "Nonprofit corporation" means a mutual benefit corporation, a public benefit corporation or a religious corporation.
- (30) "Notice" has the meaning given that term in ORS 65.034.
- (31) "Office," when used to refer to the administrative unit directed by the Secretary of State, means the Office of the Secretary of State.
- (32) "Person" means individual or entity.
- (33) "Principal office" means the physical street address of the place, in or out of this state, where the principal executive offices of a domestic or foreign corporation are located and that is designated as the principal office in the most recent annual report filed pursuant to ORS 65.787 or, if no annual report is on file, in the articles of incorporation or the application for authority to transact business in this state.
- (34) "Proceeding" means a civil, criminal, administrative or investigatory action.
- (35) "Public benefit corporation" means a domestic corporation that:
- (a) Is formed as a public benefit corporation under ORS 65.044 to 65.067, is designated as a public benefit corporation by a statute, is recognized as tax exempt under section 501 (c) (3) of the Internal Revenue Code of 1986 or is otherwise organized for a public or charitable purpose;
 - (b) Is restricted so that on dissolution the corporation must distribute the corporation's assets to an organization organized for a public or charitable purpose, a religious corporation, the United States, a state or a person that is recognized as exempt under section 501 (c) (3) of the Internal Revenue Code of 1986; and
 - (c) Does not come within the definition of "religious corporation."
- (36) "Record date" means the date established under ORS 65.131 to 65.177 or 65.201 to 65.254 on which a corporation determines the identity of the corporation's members and the members' membership rights for the purposes of this chapter.
- (37) "Religious corporation" means a domestic corporation that is formed as a religious corporation under ORS 65.044 to 65.067, is designated a religious corporation by a statute or is organized primarily or exclusively for religious purposes.
- (38) "Remote communication" means any method by which a person that is not physically present at the location at which a meeting occurs may nevertheless hear or otherwise communicate at substantially the same time with other persons at the meeting and have access to materials necessary to participate or vote in the meeting to the extent of the person's authorization to participate or vote.**
- [38] (39) "Secretary," when used in the context of a corporate official, means the corporate officer to whom the board of directors has delegated responsibility under ORS 65.371 for preparing the minutes of the directors' and members' meetings and for authenticating the records of the corporation.

[(39)] (40) "State," when referring to a part of the United States, means a state, commonwealth, territory or insular possession of the United States and the agencies and governmental subdivisions of the state, commonwealth, territory or insular possession.

[(40)] (41) "Uncompensated officer" means an individual who serves in an office without compensation for personal service. For purposes of this subsection, payment solely for actual expenses in performing duties of the officer or a stipend that is paid only to compensate the average expenses the individual incurs over the course of a year is not compensation.

[(41)] (42) "United States" means a district, authority, bureau, commission, department or any other agency of the United States.

[(42)] (43) "Vote" means authorization by written ballot and written consent, where permitted.

[(43)] (44) "Voting power" means the total number of votes entitled to be cast on an issue at the time the determination of voting power is made, excluding a vote that is contingent upon a condition or event occurring that has not occurred at the time.

SECTION 18. If Senate Bill 141 becomes law, section 14 of this 2013 Act (amending ORS 307.518) is repealed.

Passed by House March 20, 2013

Received by Governor:

Repassed by House May 22, 2013

.....M.,....., 2013

Approved:

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Ramona J. Line, Chief Clerk of House

.....M.,....., 2013

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Tina Kotek, Speaker of House

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John Kitzhaber, Governor

Passed by Senate May 20, 2013

Filed in Office of Secretary of State:

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Peter Courtney, President of Senate

.....M.,....., 2013

.....
Kate Brown, Secretary of State