

(To Resolve Conflicts)

C-Engrossed House Bill 2191

Ordered by the Senate July 7
Including House Amendments dated April 21 and July 4 and Senate
Amendments dated July 7 to resolve conflicts

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor)

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.

Authorizes Secretary of State to investigate alleged or potential violations of business entity statutes and to require business entity to provide list of shareholders and respond to interrogatories. Permits Secretary of State to impose penalties, cancel or revoke incorporation or dissolve business entity that violates statutes or fails to cooperate with investigation.

Permits Department of Revenue to recommend dissolution of business entity that fails to comply with tax laws of state, but not if department has allowed appeal of business entity's tax liability or if appeal is pending.

Subjects directors, officers, employees, members and managers of shell entity to claim for damages from person that suffers ascertainable loss of money or property resulting from knowing dissemination of materially false statement concerning certain aspects of shell entity's finances and operations.

Specifies information concerning street address of business entity and name and address of director, controlling shareholder, member or manager that must appear in articles of incorporation or articles of organization for business entity.

Permits court to dissolve business entity that court finds was shell entity that was used, incorporated or organized for illegal purpose, to defraud or deceive another person or to conceal business activity from another person or governmental agency. Permits Attorney General to bring action for dissolution and specifies elements of prima facie showing. Specifies effects of finding that business entity is shell entity.

Specifies that principal office of business entity incorporated or organized in this state or authorized to transact business in this state must have physical street address that may not be commercial mail receiving agency, mail forwarding business or virtual office.

Permits department to disclose certain information from taxpayer return to Secretary of State for purposes of initiating or supporting recommendation for administrative dissolution of business entity that fails to comply with applicable tax laws of state.

Becomes operative January 1, 2018.

Declares emergency, effective July 1, 2017.

A BILL FOR AN ACT

1
2 Relating to business entities; creating new provisions; amending ORS 56.035, 60.001, 60.004, 60.047,
3 60.074, 60.111, 60.131, 60.647, 60.661, 60.737, 62.155, 63.001, 63.004, 63.047, 63.074, 63.111, 63.647,
4 63.661, 63.737, 65.001, 65.111, 70.020, 70.025, 128.575, 128.595, 314.840 and 554.082; repealing
5 sections 1 and 2, chapter 55, Oregon Laws 2017 (Enrolled House Bill 2610); and declaring an
6 emergency.

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

8 **SECTION 1. Sections 2 and 3 of this 2017 Act are added to and made a part of ORS**
9 **chapter 60.**

10 **SECTION 2. (1)(a) The Secretary of State may investigate an alleged or potential vio-**
11 **lation of this chapter and, in the course of the investigation or in response to a request from**

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 a law enforcement agency, may order a corporation to:

2 (A) Prepare and submit to the Secretary of State within 30 days the list described in ORS
3 60.771 (3); and

4 (B) Answer within 30 days any interrogatory that is related to an alleged or potential
5 violation of this chapter that the Secretary of State submits to the corporation.

6 (b) Notwithstanding the provisions of ORS 192.410 to 192.505, the list described in para-
7 graph (a)(A) of this subsection and information that the Secretary of State obtains from an
8 interrogatory under paragraph (a)(B) of this subsection is not subject to public disclosure.
9 The Secretary of State may provide a law enforcement agency with the list described in
10 paragraph (a)(A) of this subsection and information the Secretary of State obtains from an
11 interrogatory under paragraph (a)(B) of this subsection.

12 (2)(a) If a corporation fails to comply with an order from the Secretary of State under
13 subsection (1) of this section, the Secretary of State may:

14 (A) Impose a civil penalty on the corporation in accordance with ORS 183.745;

15 (B) Cancel or revoke an incorporation, or revoke a foreign corporation's authorization
16 to transact business in this state, after conducting a hearing under ORS 183.413 to 183.470;
17 or

18 (C) Administratively dissolve the corporation in accordance with ORS 60.651.

19 (b) The Secretary of State shall provide in an order that imposes a civil penalty under
20 paragraph (a)(A) of this subsection that the civil penalty is not due and payable until after
21 the order becomes final following any appeal of the order or, if an appeal does not occur,
22 after the order becomes final by operation of law.

23 (3)(a) The Director of the Department of Revenue may recommend to the Secretary of
24 State that the Secretary of State administratively dissolve a corporation for a failure to
25 comply with the tax laws of the state, but the director may not recommend administrative
26 dissolution if the director has allowed an appeal of the corporation's tax liability or another
27 action of the Department of Revenue related to the corporation's failure to comply with the
28 tax laws of the state or if an appeal is pending. If the Secretary of State agrees with the
29 director, the Secretary of State may dissolve the corporation under ORS 60.651.

30 (b) The Secretary of State, in consultation with the department, may specify what con-
31 stitutes a failure to comply with the tax laws of the state for the purposes set forth in par-
32 agraph (a) of this subsection.

33 (4) The Secretary of State may not reinstate a corporation that was administratively or
34 judicially dissolved unless, as appropriate:

35 (a) The corporation complies with the Secretary of State's order under subsection (1) of
36 this section;

37 (b) A law enforcement agency that has completed an investigation of the corporation for
38 which the Secretary of State canceled or revoked incorporation or revoked an authorization
39 to transact business in this state recommends that the Secretary of State allow the incor-
40 poration or reinstatement;

41 (c) A court order compels a reinstatement; or

42 (d) The Department of Revenue recommends a reinstatement.

43 (5) A corporation may appeal in accordance with ORS 183.480 to 183.500 an order the
44 Secretary of State issues or an action the Secretary of State takes under this section.

45 (6) The Secretary of State and the Director of the Department of Revenue may each

1 adopt rules to implement the provisions of this section.

2 **SECTION 3.** (1) An officer, director, employee or agent of a shell entity is liable for
3 damages to a person that suffers an ascertainable loss of money or property as a result of
4 the officer, director, employee or agent:

5 (a) Making, issuing, delivering or publishing, or participating in making, issuing, deliver-
6 ing or publishing, a prospectus, report, circular, certificate, financial statement, balance
7 sheet, public notice or document concerning the shell entity or the shell entity's shares, as-
8 sets, liabilities, capital, dividends, earnings, accounts or business operations that the officer,
9 director, employee or agent knows is false in any material respect;

10 (b) Making an entry or causing another person to make an entry in a shell entity's books,
11 records, minutes or accounts that the director, officer, employee or agent knows is false in
12 any material respect; or

13 (c) Removing, erasing, altering or canceling, or causing another person to remove, erase,
14 alter or cancel, an entry in a shell entity's books, records, minutes or accounts if by means
15 of the removal, erasure, alteration or cancellation the director, officer, employee or agent
16 intends to deceive another person.

17 (2) An officer, director, employee or agent of a shell entity that engages in any of the
18 actions described in subsection (1) of this section in a submission to, or an interaction with,
19 a public agency, as defined in ORS 180.750, makes a false claim and is subject to a civil action
20 as provided in ORS 180.750 to 180.785.

21 **SECTION 4.** Sections 5 and 6 of this 2017 Act are added to and made a part of ORS
22 chapter 63.

23 **SECTION 5.** (1)(a) The Secretary of State may investigate an alleged or potential vio-
24 lation of this chapter and, in the course of the investigation or in response to a request from
25 a law enforcement agency, may order a limited liability company to:

26 (A) Prepare and submit to the Secretary of State within 30 days the list described in ORS
27 63.771 (1)(a); and

28 (B) Answer within 30 days any interrogatory that is related to an alleged or potential
29 violation of this chapter that the Secretary of State submits to the limited liability company.

30 (b) Notwithstanding the provisions of ORS 192.410 to 192.505, the list described in para-
31 graph (a)(A) of this subsection and information that the Secretary of State obtains from an
32 interrogatory under paragraph (a)(B) of this subsection is not subject to public disclosure.
33 The Secretary of State may provide a law enforcement agency with the list described in
34 paragraph (a)(A) of this subsection and information the Secretary of State obtains from an
35 interrogatory under paragraph (a)(B) of this subsection.

36 (2)(a) If a limited liability company fails to comply with an order from the Secretary of
37 State under subsection (1) of this section, the Secretary of State may:

38 (A) Impose a civil penalty on the limited liability company in accordance with ORS
39 183.745;

40 (B) Cancel or revoke an organization, or revoke a foreign limited liability company's au-
41 thorization to transact business in this state, after conducting a hearing under ORS 183.413
42 to 183.470; or

43 (C) Administratively dissolve the limited liability company in accordance with ORS 63.651.

44 (b) The Secretary of State shall provide in an order that imposes a civil penalty under
45 paragraph (a)(A) of this subsection that the civil penalty is not due and payable until after

1 the order becomes final following any appeal of the order or, if an appeal does not occur,
2 after the order becomes final by operation of law.

3 (3)(a) The Director of the Department of Revenue may recommend to the Secretary of
4 State that the Secretary of State administratively dissolve a limited liability company for a
5 failure to comply with the tax laws of the state, but the director may not recommend ad-
6 ministrative dissolution if the director has allowed an appeal of the limited liability
7 company's tax liability or another action of the Department of Revenue related to the limited
8 liability company's failure to comply with the tax laws of the state or if an appeal is pending.
9 If the Secretary of State agrees with the director, the Secretary of State may dissolve the
10 limited liability company under ORS 63.651.

11 (b) The Secretary of State, in consultation with the department, may specify what con-
12 stitutes a failure to comply with the tax laws of the state for the purposes set forth in par-
13 agraph (a) of this subsection.

14 (4) The Secretary of State may not reinstate a limited liability company that was ad-
15 ministratively or judicially dissolved unless, as appropriate:

16 (a) The limited liability company complies with the Secretary of State's order under
17 subsection (1) of this section;

18 (b) A law enforcement agency that has completed an investigation of the limited liability
19 company for which the Secretary of State canceled or revoked organization or revoked an
20 authorization to transact business in this state recommends that the Secretary of State al-
21 low the organization or reinstatement;

22 (c) A court order compels a reinstatement; or

23 (d) The Department of Revenue recommends a reinstatement.

24 (5) A limited liability company may appeal in accordance with ORS 183.480 to 183.500 an
25 order the Secretary of State issues or an action the Secretary of State takes under this
26 section.

27 (6) The Secretary of State and the Director of the Department of Revenue may each
28 adopt rules to implement the provisions of this section.

29 **SECTION 6.** (1) A member, manager, employee or agent of a shell entity is liable for
30 damages to a person that suffers an ascertainable loss of money or property as a result of
31 the member, manager, employee or agent:

32 (a) Making, issuing, delivering or publishing, or participating in making, issuing, deliver-
33 ing or publishing, a prospectus, report, circular, certificate, financial statement, balance
34 sheet, public notice or document concerning the shell entity or the shell entity's shares, as-
35 sets, liabilities, capital, dividends, earnings, accounts or business operations that the mem-
36 ber, manager, employee or agent knows is false in any material respect;

37 (b) Making an entry or causing another person to make an entry in a shell entity's books,
38 records, minutes or accounts that the member, manager, employee or agent knows is false
39 in any material respect; or

40 (c) Removing, erasing, altering or canceling, or causing another person to remove, erase,
41 alter or cancel, an entry in a shell entity's books, records, minutes or accounts if by means
42 of the removal, erasure, alteration or cancellation the member, manager, employee or agent
43 intends to deceive another person.

44 (2) A member, manager, employee or agent of a shell entity that engages in any of the
45 actions described in subsection (1) of this section in a submission to, or an interaction with,

1 **a public agency, as defined in ORS 180.750, makes a false claim and is subject to a civil action**
2 **as provided in ORS 180.750 to 180.785.**

3 **SECTION 7.** ORS 56.035 is amended to read:

4 56.035. (1) If a document is required by law to be verified before being submitted for filing with
5 the Secretary of State, the document must include or be accompanied by a written declaration that
6 the person who executes the document prepares under penalties of perjury to the effect that the
7 person has examined the document and to the best of the person's knowledge and belief the docu-
8 ment is true, correct and complete. An acknowledgment before a notary public or other officer is
9 not required.

10 (2) The Secretary of State, before filing a document that a person submits for filing, may verify
11 that the principal office address, [or] the registered office address, **the records office address de-**
12 **scribed in ORS 70.020 or the principal address described in ORS 648.010 for an entity that has**
13 **an assumed business name as** listed in the document is a physical street address and not a com-
14 mercial mail receiving agency, **a mail forwarding business or a virtual office.**

15 **SECTION 8.** ORS 60.001 is amended to read:

16 60.001. As used in this chapter:

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

18 (a) The date on which the Secretary of State files the articles of incorporation for a domestic
19 corporation.

20 (b) The date on which the Secretary of State files an application for authority to transact busi-
21 ness for a foreign corporation.

22 (2) "Articles of incorporation" means the articles described in ORS 60.047, amended and restated
23 articles of incorporation, articles of conversion or articles of merger.

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

26 (4) "Conspicuous" means written, printed or typed in text that is italicized, boldfaced, of a con-
27 trasting color, capitalized or underlined or similarly enhanced so that a reasonable person against
28 whom the writing is to operate should have noticed the writing.

29 (5) "Corporation" or "domestic corporation" means a corporation for profit that is incorporated
30 under or subject to the provisions of this chapter and that is not a foreign corporation.

31 (6) "Delivery" means any method of delivery used in conventional commercial practice, whether
32 by hand, mail, commercial delivery or electronic transmission.

33 (7) "Distribution" means a direct or indirect transfer of money or other property, except of a
34 corporation's own shares, or [an] **a corporation's** incurrence of indebtedness [*by a corporation*] to
35 or for the benefit of the corporation's shareholders in respect of any of the corporation's shares, in
36 the form of a declaration or payment of a dividend, a purchase, redemption or other acquisition of
37 shares, a distribution of indebtedness, or otherwise.

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

40 (9) "Domestic nonprofit corporation" means a corporation not for profit that is incorporated
41 under ORS chapter 65.

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

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

1 (12) "Electronic transmission" means any process of communication that does not directly in-
2 volve the physical transfer of paper and that is suitable for the recipient to retain, retrieve and re-
3 produce information.

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

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

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

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

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

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

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

21 (20) "Individual" means a natural person or the estate of an incompetent individual or a de-
22 ceased individual.

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

25 (22) "Person" means an individual or entity.

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

29 **(b) "Principal office" does not include a commercial mail receiving agency, a mail for-**
30 **warding business or a virtual office.**

31 (24) "Proceeding" means a civil, criminal, administrative or investigatory action.

32 (25) "Record date" means the date established under this chapter on which a corporation de-
33 termines the identity of the corporation's shareholders and their shareholdings for purposes of this
34 chapter.

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

40 (27) "Shares" means the units into which the proprietary interest in a corporation is divided.

41 (28) "Shareholder" means the person in whose name shares are registered in the records of a
42 corporation or the beneficial owner of shares to the extent of the rights granted by a nominee cer-
43 tificate on file with a corporation.

44 **(29) "Shell entity" means an entity that has the characteristics described in ORS 60.661**
45 **(1)(a)(C)(i).**

1 [(29)] (30) "Signature" means any manual, facsimile, conformed or electronic signature.

2 [(30)] (31) "Single voting group" means a voting group, the shares of which are entitled by the
3 articles of incorporation or this chapter to vote generally on a matter.

4 [(31)] (32) "State," when referring to a part of the United States, means a state, commonwealth,
5 territory or insular possession of the United States and the agencies and governmental subdivisions
6 of the state, commonwealth, territory or insular possession.

7 [(32)] (33) "Subscriber" means a person who subscribes for shares in a corporation, whether
8 before or after incorporation.

9 [(33)] (34) "United States" [includes] **means the federal government or** a district, authority,
10 bureau, commission, department [and] **or** any other agency of the United States.

11 [(34)] (35) "Voting group" means all shares of one or more classes or series that under the ar-
12 ticles of incorporation or this chapter are entitled to vote and be counted together collectively on
13 a matter at a meeting of shareholders.

14 **SECTION 8a. If House Bill 2610 becomes law, section 1, chapter 55, Oregon Laws 2017**
15 **(Enrolled House Bill 2610) (amending ORS 60.001), is repealed and ORS 60.001, as amended**
16 **by section 8 of this 2017 Act, is amended to read:**

17 60.001. As used in this chapter:

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

19 (a) The date on which the Secretary of State files the articles of incorporation for a domestic
20 corporation.

21 (b) The date on which the Secretary of State files an application for authority to transact busi-
22 ness for a foreign corporation.

23 (2) "Articles of incorporation" means the articles described in ORS 60.047, amended and restated
24 articles of incorporation, articles of conversion or articles of merger.

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

27 (4) "Conspicuous" means written, printed, [or] typed, **displayed or otherwise presented** [in text
28 that is italicized, boldfaced, of a contrasting color, capitalized or underlined or similarly enhanced] so
29 that a reasonable person against whom [the] a writing is to operate should have noticed the writing
30 **as a consequence of a use of a method to draw attention to the writing, such as italics,**
31 **boldface, contrasting color, capitalization or underlining.**

32 (5) "Corporation" or "domestic corporation" means a corporation for profit that is incorporated
33 under or subject to the provisions of this chapter and that is not a foreign corporation.

34 (6) "Delivery" means any method of delivery used in conventional commercial practice,
35 [whether] **including** by hand, mail, commercial delivery [or] **and, in accordance with ORS 60.034,**
36 electronic transmission.

37 (7) "Distribution" means a direct or indirect transfer of money or other property, except of a
38 corporation's own shares, or a corporation's incurrance of indebtedness to or for the benefit of the
39 corporation's shareholders in respect of any of the corporation's shares, in the form of a declaration
40 or payment of a dividend, a purchase, redemption or other acquisition of shares, a distribution of
41 indebtedness, or otherwise.

42 (8) **"Document" means:**

43 (a) **A medium that embodies information in tangible form, including any writing or**
44 **written instrument; or**

45 (b) **An electronic medium that embodies information that a person may retain, retrieve**

1 **and reproduce, in tangible form or otherwise, by means of an automated process that is used**
2 **in conventional commercial practice, except as otherwise provided in ORS 60.034 (4)(c).**

3 [(8)] (9) “Domestic limited liability company” means an entity that is an unincorporated associ-
4 ation that has one or more members and that is organized under ORS chapter 63.

5 [(9)] (10) “Domestic nonprofit corporation” means a corporation not for profit that is incorpo-
6 rated under ORS chapter 65.

7 [(10)] (11) “Domestic professional corporation” means a corporation that is organized under ORS
8 chapter 58 for the purpose of rendering professional services and for the purposes provided under
9 ORS chapter 58.

10 (12) **“Electronic notice revocation” means a notice in which a person states that the**
11 **person will not accept delivery of certain communications by means of electronic trans-**
12 **mission.**

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

14 [(12)] (14) “Electronic transmission” means *[any]* **a form or** process of communication that does
15 not directly involve *[the physical transfer of]* **physically transferring paper or another tangible**
16 **medium** and that *[is suitable for the recipient]* **enables a recipient** to retain, retrieve and reproduce
17 information **by means of an automated process that is used in conventional commercial**
18 **practice, except as provided in ORS 60.034 (4)(c).**

19 [(13)] (15) “Employee” includes an officer but not a director, unless the director accepts duties
20 that make the director also an employee.

21 [(14)] (16) “Entity” means a corporation, foreign corporation, nonprofit corporation, profit *[and]*
22 **or** nonprofit unincorporated association, business trust, partnership, two or more persons that have
23 a joint or common economic interest, any state, the United States, a federally recognized Native
24 American or American Indian tribal government and any foreign government.

25 [(15)] (17) “Foreign corporation” means a corporation for profit that is incorporated under laws
26 other than the laws of the state.

27 [(16)] (18) “Foreign limited liability company” means an entity that is an unincorporated asso-
28 ciation organized under laws other than the laws of the state and that is organized under a statute
29 under which an association may be formed that affords to each of the entity’s members limited li-
30 ability with respect to liabilities of the entity.

31 [(17)] (19) “Foreign nonprofit corporation” means a corporation not for profit that is organized
32 under laws other than the laws of the state.

33 [(18)] (20) “Foreign professional corporation” means a professional corporation that is organized
34 under laws other than the laws of the state.

35 [(19)] (21) “Governmental subdivision” includes an authority, county, district and municipality.

36 [(20)] (22) “Individual” means a natural person or the estate of an incompetent individual or a
37 deceased individual.

38 [(21)] (23) “Office,” when used to refer to the administrative unit directed by the Secretary of
39 State, means the office of the Secretary of State.

40 [(22)] (24) “Person” means an individual or entity.

41 [(23)(a)] (25)(a) “Principal office” means the physical street address of an office, in or out of this
42 state, where the principal executive offices of a domestic or foreign corporation are located and
43 designated in the annual report or in the application for authority to transact business in this state.

44 (b) “Principal office” does not include a (b) commercial mail receiving agency, a mail forwarding
45 business or a virtual office.

1 [(24)] (26) "Proceeding" means a civil, criminal, administrative or investigatory action.

2 [(25)] (27) "Record date" means the date established under this chapter on which a corporation
3 determines the identity of the corporation's shareholders and their shareholdings for purposes of this
4 chapter.

5 [(26)] (28) "Remote communication" means any method by which a person that is not physically
6 present at the location at which a meeting occurs may nevertheless hear or otherwise communicate
7 at substantially the same time with other persons at the meeting and have access to materials nec-
8 essary to participate or vote in the meeting to the extent of the person's authorization to participate
9 or vote.

10 [(27)] (29) ["Shares"] "**Share**" means [*the units*] **a unit** into which the proprietary interest in a
11 corporation is divided.

12 [(28)] (30) "Shareholder" means [*the*] **a person** in whose name [*shares are*] **a share is** registered
13 in the records of a corporation or the beneficial owner of [*shares*] **a share** to the extent of the rights
14 granted by a nominee certificate on file with a corporation.

15 [(29)] (31) "Shell entity" means an entity that has the characteristics described in ORS 60.661
16 (1)(a)(C)(i).

17 (32) "**Sign**" means to indicate a present intent to authenticate or adopt a document by:

18 (a) **Affixing a symbol to the document;**

19 (b) **Inscribing or affixing a manual, facsimile or conformed signature on the document;**

20 **or**

21 (c) **Attaching to, or logically associating with, an electronic transmission any electronic**
22 **sound, symbol or process, including an electronic signature.**

23 [(30)] (33) "Signature" means any [*manual, facsimile, conformed or electronic signature*] **embod-**
24 **iment of a person's intent to sign a document.**

25 [(31)] (34) "Single voting group" means a voting group, the shares of which are entitled by the
26 articles of incorporation or this chapter to vote generally on a matter.

27 [(32)] (35) "State," when referring to a part of the United States, means a state, commonwealth,
28 territory or insular possession of the United States and the agencies and governmental subdivisions
29 of the state, commonwealth, territory or insular possession.

30 [(33)] (36) "Subscriber" means a person who subscribes for shares in a corporation, whether
31 before or after incorporation.

32 [(34)] (37) "United States" means the federal government or a district, authority, bureau, com-
33 mission, department or any other agency of the United States.

34 [(35)] (38) "Voting group" means all shares of one or more classes or series that under the ar-
35 ticles of incorporation or this chapter are entitled to vote and be counted together collectively on
36 a matter at a meeting of shareholders.

37 (39) "**Written**" means **embodied as a document.**

38 **SECTION 9.** ORS 60.004 is amended to read:

39 60.004. (1) For the Secretary of State to file a document under this chapter, the document must
40 satisfy the requirements set forth in this section and any other requirements in this chapter that
41 supplement or modify the requirements set forth in this section.

42 (2) [*This chapter must require or permit filing*] The document **must be a type of document that**
43 **this chapter or another law requires or permits a person to file** with the Office of the Secretary
44 of State.

45 (3) The document must contain the information required by this chapter and may contain other

1 information.

2 (4) The document must be legible.

3 (5) The document must be in the English language. The certificate of existence required of for-
4 eign corporations need not be in English if accompanied by a reasonably authenticated English
5 translation.

6 (6) The document must be executed **by**:

7 (a) [By] The chair of the board of directors of a domestic or foreign corporation, the
8 corporation's president or another of the corporation's officers;

9 (b) **An incorporator**, if directors have not been selected or before the organizational meeting[,
10 *by an incorporator*];

11 (c) **A receiver, trustee or court-appointed fiduciary**, if the corporation is in the hands of a
12 receiver, trustee or other court-appointed fiduciary[, *by the fiduciary, receiver or trustee*]; or

13 (d) [By] An agent of a person identified in this subsection, if the person authorizes the agent to
14 execute the document.

15 (7) The person that executes the document shall:

16 (a) **Declare, above the person's signature and under penalty of perjury, that the docu-**
17 **ment does not fraudulently conceal, fraudulently obscure, fraudulently alter or otherwise**
18 **misrepresent the identity of the person or any of the officers, directors, employees or agents**
19 **of the corporation on behalf of which the person signs; and**

20 (b) State beneath or opposite the signature the person's name and the capacity in which the
21 person signs.

22 (8) The document may, but is not required to, contain:

23 (a) The corporate seal;

24 (b) An attestation by the secretary or an assistant secretary; or

25 (c) An acknowledgment, verification or proof.

26 [(8)] (9) If the Secretary of State has prescribed a mandatory form for the document under ORS
27 60.016, the document must be in or on the prescribed form.

28 [(9)] (10) The document must be delivered to the Office of the Secretary of State and must be
29 accompanied by the required fees.

30 [(10)] (11) Delivery of a document to the office is accomplished only when the office actually
31 receives the document.

32 **SECTION 9a. If House Bill 2610 becomes law, section 2, chapter 55, Oregon Laws 2017**
33 **(Enrolled House Bill 2610) (amending ORS 60.004), is repealed and ORS 60.004, as amended**
34 **by section 9 of this 2017 Act, is amended to read:**

35 60.004. (1) For the Secretary of State to file a document under this chapter, the document must
36 satisfy the requirements set forth in this section and any other requirements in this chapter that
37 supplement or modify the requirements set forth in this section.

38 (2) The document must be a type of document that this chapter or another law requires or per-
39 mits a person to file with the Office of the Secretary of State.

40 (3) The document must contain the information required by this chapter and may contain other
41 information.

42 (4) The document must be legible.

43 (5) The document must be in the English language. The certificate of existence required of for-
44 eign corporations need not be in English if accompanied by a reasonably authenticated English
45 translation.

1 (6) The document must be *[executed]* **signed** by:

2 (a) The chair of the board of directors of a domestic or foreign corporation, the corporation's
3 president or another of the corporation's officers;

4 (b) An incorporator, if directors have not been selected or before the organizational meeting;

5 (c) A receiver, trustee or court-appointed fiduciary, if the corporation is in the hands of a re-
6 ceiver, trustee or other court-appointed fiduciary; or

7 (d) An agent of a person identified in this subsection, if the person authorizes the agent to *[ex-*
8 *ecute]* **sign** the document.

9 (7) The person that *[executes]* **signs** the document shall:

10 (a) Declare, above the person's signature and under penalty of perjury, that the document does
11 not fraudulently conceal, fraudulently obscure, fraudulently alter or otherwise misrepresent the
12 identity of the person or any of the officers, directors, employees or agents of the corporation on
13 behalf of which the person signs; and

14 (b) State beneath or opposite the signature the person's name and the capacity in which the
15 person signs.

16 (8) The document may, but is not required to, contain:

17 (a) The corporate seal;

18 (b) An attestation by the secretary or an assistant secretary; or

19 (c) An acknowledgment, verification or proof.

20 (9) If the Secretary of State has prescribed a mandatory form for the document under ORS
21 60.016, the document must be in or on the prescribed form.

22 (10) The document must be delivered to the *[Office of the Secretary of State]* **office** and must be
23 accompanied by the required fees.

24 (11) Delivery of a document to the office is accomplished only when the office actually receives
25 the document.

26 **SECTION 10.** ORS 60.047 is amended to read:

27 60.047. (1) *[The]* Articles of incorporation *[shall]* **must** set forth:

28 (a) A corporate name for the corporation that satisfies the requirements of ORS 60.094;

29 (b) The number of shares the corporation is authorized to issue;

30 (c) The address, including street and number, and mailing address, if different, of the
31 corporation's initial registered office and the name of *[its]* **the corporation's** initial registered agent
32 at *[that]* **the initial registered** office;

33 (d) The name and address of each incorporator; *[and]*

34 (e) A mailing address to which notices, as required by this chapter, may be mailed until **the**
35 **corporation designates** an address *[has been designated by the corporation in its]* **in the**
36 **corporation's** annual report[.];

37 **(f) The initial physical street address, including the number and name of the street, and**
38 **the mailing address, if different, of the corporation's principal office; and**

39 **(g) The name and address of at least one individual who is a director or controlling**
40 **shareholder of the corporation or an authorized representative with direct knowledge of the**
41 **operations and business activities of the corporation.**

42 (2) The articles of incorporation may set forth:

43 (a) The names of the initial directors;

44 (b) The addresses of the initial directors;

45 (c) Provisions regarding:

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

2 (B) Managing the business and regulating the affairs of the corporation;

3 (C) Defining, limiting and regulating the powers of the corporation, *[its]* **the** board of directors
4 and shareholders; and

5 (D) A par value for authorized shares or classes of shares;

6 (d) A provision eliminating or limiting the personal liability of a director to the corporation or
7 *[its]* **the corporation's** shareholders for monetary damages for conduct as a director, provided that
8 *[no such provision shall]* **the provision does not** eliminate or limit the liability of a director for any
9 act or omission *[occurring prior to the date when such]* **that occurs before the date on which the**
10 provision becomes effective and *[such]* **the provision [shall] does** not eliminate or limit the liability
11 of a director for:

12 (A) Any breach of the director's duty of loyalty to the corporation or *[its]* **the corporation's**
13 shareholders;

14 (B) Acts or omissions **that are** not in good faith or *[which]* **that** involve intentional misconduct
15 or a knowing violation of law;

16 (C) Any unlawful distribution under ORS 60.367; or

17 (D) Any transaction from which the director derived an improper personal benefit;

18 (e) A provision authorizing or directing the corporation to conduct the business of the corpo-
19 ration in a manner that is environmentally and socially responsible; and

20 (f) Any provision that under this chapter is required or permitted to be set forth in the bylaws.

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

23 **SECTION 11.** ORS 60.074 is amended to read:

24 60.074. (1) Every corporation incorporated under this chapter has the purpose of engaging in any
25 lawful business unless a more limited purpose is set forth in the articles of incorporation. **A person**
26 **may not incorporate a corporation under this chapter for any illegal purpose or with an in-**
27 **tent to fraudulently conceal any business activity from another person or a governmental**
28 **agency.**

29 (2) A business that is subject to regulation under another statute of *[this]* **the** state may not be
30 incorporated under this chapter if *[such business is required to]* **the business must** be organized
31 under *[such]* **the** other statute.

32 **SECTION 12.** ORS 60.111 is amended to read:

33 60.111. (1) A corporation shall continuously maintain in this state a registered agent and regis-
34 tered office that may be, but need not be, the same as any of the corporation's places of business.
35 The registered office must be located at a physical street address where process may be personally
36 served on the registered agent. The registered office may not be a commercial mail receiving
37 agency, **a mail forwarding business or a virtual office.**

38 (2) A registered agent *[shall]* **must** be:

39 (a) An individual who resides in this state and whose business office is identical to the regis-
40 tered office;

41 (b) A domestic corporation, domestic limited liability company, domestic professional corporation
42 or domestic nonprofit corporation, the business office of which is identical to the registered office;
43 or

44 (c) A foreign corporation, foreign limited liability company, foreign professional corporation or
45 foreign nonprofit corporation that is authorized to transact business in this state, the business office

1 of which is identical to the registered office.

2 **SECTION 13.** ORS 60.131 is amended to read:

3 60.131. (1)(a) *[The]* Articles of incorporation must prescribe the classes of shares and the number
4 of shares of each class that *[the corporation is authorized to]* **a corporation may** issue.

5 **(b) A corporation may not issue a document that entitles an unidentified individual or**
6 **entity that possesses the document to a share in the corporation.**

7 **(c) If the corporation may issue** more than one class of shares *[is authorized]*, the articles of
8 incorporation must prescribe a distinguishing designation for each class, and *[prior to the issuance*
9 *of]* **before** shares of a class **are issued**, the preferences, limitations and relative rights of *[that]* **the**
10 class must be described in the articles of incorporation. All shares of a class must have preferences,
11 limitations and relative rights identical to *[those]* **the preferences, limitations and relative rights**
12 of other shares of the same class except to the extent otherwise permitted by ORS 60.134 and 60.157.

13 (2) If the articles of incorporation authorize only one class of shares, that class has unlimited
14 voting rights and rights to receive the net assets of the corporation upon dissolution. If the articles
15 of incorporation authorize more than one class of shares, then one or more classes of shares must
16 together have unlimited voting rights, and one or more classes of shares which may be the same
17 class or classes as those with voting rights, must together be entitled to receive the net assets of
18 the corporation upon dissolution.

19 (3) The articles of incorporation may authorize one or more classes of shares that:

20 (a) Have special, conditional or limited voting rights, or no voting rights, except to the extent
21 prohibited by this chapter;

22 (b) Are redeemable or convertible as specified in the articles of incorporation:

23 (A) At the option of the corporation, the shareholder or another person or upon the occurrence
24 of a designated event;

25 (B) For cash, indebtedness, securities or other property; or

26 (C) In a designated amount or in an amount determined in accordance with a designated formula
27 or by reference to extrinsic data or events;

28 (c) Entitle the holders to distributions calculated in any manner, including dividends that may
29 be cumulative, noncumulative or partially cumulative; or

30 (d) Have preference over any other class of shares with respect to distributions, including divi-
31 dends and distributions upon the dissolution of the corporation.

32 (4) The description of the designations, preferences, limitations and relative rights of share
33 classes in subsection (3) of this section is not exhaustive.

34 **SECTION 14.** ORS 60.647 is amended to read:

35 60.647. The Secretary of State may commence a proceeding under ORS 60.651 to administratively
36 dissolve a corporation if:

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

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

40 **(3) The corporation fails to comply with an order from the Secretary of State under**
41 **section 2 (1) of this 2017 Act or is the subject of a recommendation for dissolution from the**
42 **Director of the Department of Revenue under section 2 (3) of this 2017 Act;**

43 *[(3)]* (4) The corporation is without a registered agent or registered office in this state;

44 *[(4)]* (5) The corporation does not notify the Secretary of State that *[its]* **the corporation's**
45 registered agent or registered office has *[been]* changed, that *[its]* **the** registered agent has resigned

1 or that *[its]* **the** registered office has been discontinued; or

2 *[(5)]* **(6)** The corporation's period of duration stated in *[its]* **the** articles of incorporation expires.

3 **SECTION 15.** ORS 60.661 is amended to read:

4 60.661. **(1)** *[The circuit courts]* **A circuit court** may dissolve a corporation:

5 *[(1)]* **(a)** In a proceeding by the Attorney General if *[it is established]* **the court finds** that:

6 *[(a)]* **(A)** The corporation *[obtained its]* **filed** articles of incorporation *[through]* **with fraudulent**
7 **intent, with fraudulent information or in a manner that otherwise indicates** fraud; *[or]*

8 *[(b)]* **(B)** The corporation has continued to exceed or abuse the authority conferred upon *[it]* **the**
9 **corporation** by law*[,]*; **or**

10 **(C) The corporation is a shell entity. For purposes of this subparagraph:**

11 **(i) A court may find that a corporation is a shell entity if the court determines that the**
12 **corporation was used or incorporated for an illegal purpose, was used or incorporated to**
13 **defraud or deceive a person or a governmental agency or was used or incorporated to**
14 **fraudulently conceal any business activity from another person or a governmental agency;**
15 **and**

16 **(ii) The Attorney General may make a prima facie showing that a corporation is a shell**
17 **entity by stating in an affidavit that:**

18 **(I) The corporation did not provide a name or address required by the Secretary of State,**
19 **or the name or address the corporation provided was false, fraudulent or inadequate;**

20 **(II) The corporation's articles of incorporation, a record the corporation must keep under**
21 **ORS 60.771, or the corporation's annual report is false, fraudulent or inadequate;**

22 **(III) A public body, as defined in ORS 174.109, attempted to communicate with, or serve**
23 **legal process upon, the corporation at the address or by means of other contact information**
24 **the corporation provided to the Secretary of State, but the corporation failed to respond; or**

25 **(IV) The Attorney General has other evidence that shows that the corporation was used**
26 **or incorporated for an illegal purpose, was used or incorporated to defraud or deceive a**
27 **person or a governmental agency or was used or incorporated to fraudulently conceal any**
28 **business activity from another person or a governmental agency.**

29 *[(2)]* **(b)** In a proceeding by a shareholder in a corporation that has shares that are listed on a
30 national securities exchange or that are regularly traded in a market maintained by one or more
31 members of a national or affiliated securities association, if *[it is established]* **the court finds** that:

32 *[(a)]* **(A)** The directors are deadlocked in the management of the corporate affairs, the share-
33 holders are unable to break the deadlock and irreparable injury to the corporation is threatened or
34 being suffered, or the business and affairs of the corporation can no longer be conducted to the
35 advantage of the shareholders generally, because of the deadlock;

36 *[(b)]* **(B)** The directors or those in control of the corporation have acted, are acting or will act
37 in a manner that is illegal, oppressive or fraudulent;

38 *[(c)]* **(C)** The shareholders are deadlocked in voting power and have failed, for a period that in-
39 cludes at least two consecutive annual meeting dates, to elect successors to directors whose terms
40 have expired; or

41 *[(d)]* **(D)** The corporate assets are being misapplied or wasted.

42 *[(3)]* **(c)** In a proceeding by a creditor if *[it is established]* **the court finds** that:

43 *[(a)]* **(A)** The creditor's claim has been reduced to judgment, the execution on the judgment re-
44 turned unsatisfied and the corporation is insolvent; or

45 *[(b)]* **(B)** The corporation has admitted in writing that the creditor's claim is due and owing and

1 the corporation is insolvent.

2 [(4)] (d) In a proceeding by the corporation to have [its] **the corporation's** voluntary dissolution
3 continued under court supervision.

4 (2) **In addition to subjecting a corporation to dissolution under subsection (1)(a)(C) of this**
5 **section, a finding that a corporation is a shell entity has the following effects:**

6 (a) **A court may rebuttably presume that the corporation's filings with the Secretary of**
7 **State constitute a false claim, as defined in ORS 180.750, in any action the Attorney General**
8 **brings against the corporation under ORS 180.760 and may award to the Attorney General**
9 **reasonable attorney fees and the costs of investigation, preparation and litigation if the At-**
10 **torney General prevails in the action; and**

11 (b) **A public body, as defined in ORS 174.109, in any proceeding against the corporation,**
12 **may move to enjoin a director, officer or other person that exercises significant direction**
13 **or control over the corporation from engaging in commercial activity in this state, including**
14 **but not limited to incorporating or organizing an entity in this state.**

15 (3) **A corporation may affirmatively defend against an allegation that the corporation is**
16 **a shell entity by showing that the corporation, within 60 days after receiving a request to**
17 **provide or correct a name, address or other information required for a filing or in articles**
18 **of incorporation, a record the corporation must keep or an annual report, or within 60 days**
19 **after the date of a request to respond to a communication or service of process, provided**
20 **or corrected the name, address or other information or responded to the communication or**
21 **service of process.**

22 **SECTION 16.** ORS 60.737 is amended to read:

23 60.737. The Secretary of State may commence a proceeding under ORS 60.741 to revoke the
24 authority of a foreign corporation to transact business in this state if:

25 (1) The foreign corporation does not deliver [its] **the corporation's** annual report to the Secre-
26 tary of State within the time prescribed by this chapter;

27 (2) The foreign corporation does not pay within the time prescribed by this chapter any fees
28 imposed by this chapter;

29 (3) **The foreign corporation fails to comply with an order from the Secretary of State**
30 **under section 2 (1) of this 2017 Act;**

31 [(3)] (4) The foreign corporation has failed to appoint or maintain a registered agent or regis-
32 tered office in this state as prescribed by this chapter;

33 [(4)] (5) The foreign corporation does not inform the Secretary of State under ORS 60.724 or
34 60.727 that [its] **the corporation's** registered agent or registered office has changed, that [its] **the**
35 **registered agent has resigned or that [its] the registered office has been discontinued;**

36 [(5)] (6) An incorporator, director, officer or agent of the foreign corporation signed a document
37 knowing [it] **the document** was false in any material respect with intent that the document be de-
38 livered to the office for filing; or

39 [(6)] (7) The Secretary of State receives a duly authenticated certificate from the official having
40 custody of corporate records in the state or country under whose law the foreign corporation is
41 incorporated stating that [it] **the foreign corporation** has been dissolved or disappeared as the re-
42 sult of a merger.

43 **SECTION 17.** ORS 62.155 is amended to read:

44 62.155. (1) A cooperative shall have and continuously maintain in this state:

45 (a) A registered office that may be, but need not be, the same as the cooperative's place of

1 business. The registered office must be located at a physical street address where process may be
2 personally served on the registered agent. The registered office may not be a commercial mail re-
3 ceiving agency, **a mail forwarding business or a virtual office.**

4 (b) A registered agent that must be:

5 (A) An individual who resides in this state and whose business office is identical to the regis-
6 tered office;

7 (B) A domestic corporation, domestic limited liability company, domestic professional corpo-
8 ration or domestic nonprofit corporation that has a business office identical to the registered office;
9 or

10 (C) A foreign corporation, foreign limited liability company, foreign professional corporation or
11 foreign nonprofit corporation that is authorized to transact business in this state and that has a
12 business office identical to the registered office.

13 (2) A cooperative may change the cooperative's registered office or registered agent in accord-
14 ance with the procedure set forth in ORS 60.114.

15 (3) A person that a cooperative has designated as the cooperative's registered agent may resign
16 in accordance with the procedure set forth in ORS 60.117.

17 (4) A registered agent appointed by a cooperative is an agent of the cooperative upon whom any
18 process, notice or demand required or permitted by law to be served upon the cooperative may be
19 served.

20 (5) The provisions of ORS 60.121 are applicable to cooperatives.

21 **SECTION 18.** ORS 63.001 is amended to read:

22 63.001. As used in this chapter:

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

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

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

29 (2) "Articles of organization" means the document described in ORS 63.047 *[for the purpose of*
30 *forming]* **that forms** a limited liability company, including articles of organization as *[they]* **the**
31 **articles of organization** may be amended or restated, articles of conversion and articles of merger.

32 (3) "Bankruptcy" means:

33 (a) *[Assignment by a member]* **A member's assignment** for the benefit of creditors;

34 (b) **A member's** commencement of a voluntary bankruptcy case *[by a member]*;

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

36 (d) *[Filing by a member of]* **A member's filing of** a petition or answer *[seeking]* **to seek** for the
37 member any reorganization, arrangement, composition, readjustment, liquidation, dissolution or sim-
38 ilar relief under any statute, law or rule;

39 (e) **A member's** filing *[by a member]* of an answer or other pleading *[admitting or failing]* **that**
40 **admits or fails** to contest the material allegations of a petition filed against the member in *[any*
41 *proceeding of this nature]* **a bankruptcy procedure;**

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

44 (g) **A** commencement of an involuntary bankruptcy case against a member that has not been
45 dismissed on or before the 120th day after the commencement of the case;

1 (h) **An** appointment, without the member’s consent, of a trustee, receiver or liquidator either of
2 the member or of all or any substantial part of the member’s properties that is not vacated or stayed
3 on or before the 90th day after **the** appointment; or

4 (i) **An** appointment described in paragraph (h) of this subsection that is not vacated on or before
5 the 90th day after [*expiration of the stay under*] **the stay described in** paragraph (h) of this sub-
6 section **expires**.

7 (4) “Contribution” means anything of value that a person contributes to the limited liability
8 company as a prerequisite for or in connection with membership including cash, property or services
9 rendered or a promissory note or other binding obligation to contribute cash or property or to per-
10 form services.

11 (5) “Corporation” or “domestic corporation” means a corporation for profit **that is** incorporated
12 under ORS chapter 60.

13 (6) “Distribution” means a direct or indirect transfer of money or other property, except of a
14 limited liability company’s own interests, or **a limited liability company’s** incurrence of indebt-
15 edness [*by a limited liability company*] to or for the benefit of the limited liability company’s members
16 in respect of a member’s interests[. *A distribution may be*], **whether** in the form of a declaration or
17 payment of profits, a purchase, retirement or other acquisition of interests, a distribution of indebt-
18 edness, or otherwise.

19 (7) “Domestic nonprofit corporation” means a corporation not for profit **that is** incorporated
20 under ORS chapter 65.

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

24 (9) “Entity” [*includes*] **means** a domestic or foreign limited liability company, corporation, pro-
25 fessional corporation, foreign corporation, domestic or foreign nonprofit corporation, domestic or
26 foreign cooperative corporation, profit or nonprofit unincorporated association, business trust, do-
27 mestic or foreign general or limited partnership, two or more persons [*having*] **that have** a joint or
28 common economic interest, any state, the United States, a federally recognized Native American or
29 American Indian tribal government or any foreign government.

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

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

36 (12) “Foreign limited partnership” means a limited partnership formed under laws other than the
37 laws of [*this state and having*] **the state and that has** as partners one or more general partners and
38 one or more limited partners.

39 (13) “Foreign nonprofit corporation” means a corporation not for profit **that is** organized under
40 laws other than the laws of [*this*] **the** state.

41 (14) “Foreign professional corporation” means a professional corporation **that is** organized un-
42 der laws other than the laws of [*this*] **the** state.

43 (15) “Incompetency” means the entry of a judgment by a court of competent jurisdiction adju-
44 dicating the member incompetent to manage the member’s person or estate.

45 (16) “Individual” means a natural person.

1 (17) “Limited liability company” or “domestic limited liability company” means an entity that
2 is an unincorporated association [*having*] **that has** one or more members **and** [*that*] is organized
3 under this chapter.

4 (18) “Limited partnership” or “domestic limited partnership” means a partnership formed by two
5 or more persons under ORS chapter 70 [*and having*] **that has** one or more general partners and one
6 or more limited partners.

7 (19) “Manager” [*or “managers”*] means a person [*or persons, who need not be members, designated*
8 *by*], **not necessarily a member, that** the members of a manager-managed limited liability company
9 **designate** to manage the limited liability company’s business and affairs.

10 (20) “Manager-managed limited liability company” means a limited liability company that is
11 designated as a manager-managed limited liability company in the limited liability company’s articles
12 of organization or [*whose*] **the** articles of organization **of which** otherwise expressly provide that **a**
13 **manager will manage** the limited liability company [*will be managed by a manager or managers*].

14 (21)(a) “Member” [*or “members”*] means a person [*or persons*] with both an ownership interest
15 in a limited liability company and all the rights and obligations of a member specified under this
16 chapter.

17 (b) “Member” does not include an assignee of an ownership interest [*who*] **that** has not also
18 acquired the voting and other rights appurtenant to membership.

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

21 (23) “Membership interest” [*or “interest”*] means a member’s collective rights in a limited liabil-
22 ity company, including the member’s share of profits and losses of the limited liability company, the
23 right to receive distributions of the limited liability company’s assets and any right to vote or par-
24 ticipate in management.

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

27 (25) “Operating agreement” means any valid agreement, written or oral, of the member or
28 members as to the affairs of a limited liability company and the conduct of the limited liability
29 company’s business.

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

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

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

34 (29)(a) “Principal office” means the physical street address of an office, in or out of this
35 state, where the principal executive offices of a domestic or foreign limited liability company
36 are located and designated in the annual report or in the application for authority to trans-
37 act business in this state.

38 (b) “Principal office” does not include a commercial mail receiving agency, a mail for-
39 warding business or a virtual office.

40 [(29)] (30) “Proceeding” means any threatened, pending or completed action, suit or proceeding
41 whether civil, criminal, administrative or investigatory and whether formal or informal.

42 (31) “Shell entity” means an entity that has the characteristics described in ORS 63.661
43 (1)(a)(C)(i).

44 [(30)] (32) “State,” when referring to a part of the United States, [*includes*] means a state,
45 commonwealth, territory or insular possession of the United States and the agencies and govern-

1 mental subdivisions of the state, commonwealth, territory or insular possession.

2 [(31)] (33) "United States" [includes] **means the federal government and** a district, authority,
3 bureau, commission, department or any other agency of the United States.

4 **SECTION 19.** ORS 63.004 is amended to read:

5 63.004. (1) For the Secretary of State to file a document under this chapter, the document must
6 satisfy the requirements set forth in this section and any other requirements in this chapter that
7 supplement or modify the requirements set forth in this section.

8 (2) [This chapter must require or permit filing] The document **must be a type of document that**
9 **this chapter or another law requires or permits a person to file** with the Office of the Secretary
10 of State.

11 (3) The document must contain the information required by this chapter and may contain other
12 information.

13 (4) The document must be legible.

14 (5) The document must be in the English language. The certificate of existence required of for-
15 eign limited liability companies under ORS 63.707 need not be in English if accompanied by a rea-
16 sonably authenticated English translation.

17 (6)(a) Unless otherwise specified in this chapter, each document or report required by this
18 chapter to be filed with the office must be executed in the following manner:

19 (A) Articles of organization must be signed by or on behalf of one or more persons wishing to
20 form the limited liability company.

21 (B) Articles of amendment must be signed by at least one member or manager.

22 (C) Each annual report must be signed by one member or manager.

23 (D) If the limited liability company is in the hands of a receiver, trustee or other court-appointed
24 fiduciary, a document or report must be signed by that receiver, trustee or fiduciary.

25 (b) An agent of a person identified in paragraph (a) of this subsection may execute a document
26 identified in paragraph (a) of this subsection, if the person authorizes the agent to execute the doc-
27 ument.

28 (7) The person that executes the document shall:

29 (a) **Declare, above the person's signature and under penalty of perjury, that the docu-**
30 **ment does not fraudulently conceal, fraudulently obscure, fraudulently alter or otherwise**
31 **misrepresent the identity of the person or any of the members, managers, employees or**
32 **agents of the limited liability company on behalf of which the person signs; and**

33 (b) State beneath or opposite the signature the person's name and the capacity in which the
34 person signs.

35 (8) The document may, but is not required to, contain an acknowledgment, verification or proof.

36 [(8)] (9) If the Secretary of State has prescribed a mandatory form for the document under ORS
37 63.016, the document must be in or on the prescribed form.

38 [(9)] (10) The document must be delivered to the office accompanied by the required fees.

39 [(10)] (11) Delivery of a document to the office [is accomplished] **occurs** only when the office
40 actually receives the document.

41 **SECTION 20.** ORS 63.047 is amended to read:

42 63.047. (1) [The] Articles of organization [shall] **must** set forth:

43 (a) The name of the limited liability company, which [satisfies] **must satisfy** the requirements
44 of ORS 63.094;

45 (b) The address, including street and number, and mailing address, if different, of the limited li-

1 ability company's initial registered office and the name of *[its]* **the** initial registered agent at *[that]*
2 **the** office;

3 (c) A mailing address to which notices, as required by this chapter, may be mailed until **the**
4 **limited liability company designates** an address *[has been designated by the limited liability com-*
5 *pany in its]* **in an** annual report;

6 (d) If the limited liability company *[is to]* **will** be manager-managed, a statement that the limited
7 liability company will be manager-managed or a statement that the limited liability company *[is to]*
8 **will** be managed by a manager or managers;

9 (e) The name and address of each organizer;

10 (f) The latest date on which the limited liability company *[is to]* **will** dissolve or a statement that
11 *[its]* **the limited liability company's** existence is perpetual; *[and]*

12 (g) If a limited liability company *[is to]* **will** render professional service or services, as defined
13 in ORS 58.015, the professional service or services *[to be rendered through]* **that** the limited liability
14 company*[,] will render;*

15 **(h) The initial physical street address, including the number and name of the street, and**
16 **the mailing address, if different, of the limited liability company's principal office; and**

17 **(i) The name and address of at least one individual who is a member or manager of the**
18 **limited liability company or an authorized representative with direct knowledge of the oper-**
19 **ations and business activities of the limited liability company.**

20 (2) The articles of organization may set forth any other provisions, not inconsistent with law,
21 for *[the regulation of]* **regulating** the internal affairs of the limited liability company, including any
22 provision that is required or permitted to be included in any operating agreement of the limited li-
23 ability company under this chapter.

24 (3) The articles of organization need not set forth any of the powers enumerated in this chapter.

25 **SECTION 21.** ORS 63.074 is amended to read:

26 63.074. (1) Except as otherwise provided by the laws of *[this]* **the** state and in this section, a
27 limited liability company formed under this chapter may conduct or promote any lawful business or
28 purpose *[which]* **that** a partnership, corporation or professional corporation as defined in ORS 58.015
29 may conduct or promote, unless **the articles of organization set forth** a more limited purpose *[is*
30 *set forth in the articles of organization]. A person may not organize a limited liability company*
31 **under this chapter for any illegal purpose or with an intent to fraudulently conceal any**
32 **business activity from another person or a governmental agency.**

33 (2) Subject to the laws of *[this]* **the** state, the rules and regulations of *[the]* **a** regulatory board
34 of *[the]* **a** profession, if any, and the standards of professional conduct of the profession, if any, a
35 limited liability company or *[its]* members **of the limited liability company** may render professional
36 service in this state. Notwithstanding any other law, members **of a limited liability company**, in-
37 cluding members who are managers, *[of a limited liability company]* **and** who are also professionals,
38 as defined in ORS 58.015, *[shall be]* **are** personally liable as members of the limited liability company
39 to the same extent and in the same manner as provided for shareholders of a professional corpo-
40 ration in ORS 58.185 and 58.187 and as otherwise provided in this chapter.

41 (3) A business that is subject to regulation under another statute of *[this]* **the** state may not be
42 organized under this chapter if the business is required to be organized only under the other statute.

43 **SECTION 22.** ORS 63.111 is amended to read:

44 63.111. (1) A limited liability company shall continuously maintain in this state a registered
45 agent and registered office that may be, but need not be, the same as any of the limited liability

1 company's places of business. The registered office must be located at a physical street address
2 where process may be personally served on the registered agent. The registered office may not be
3 a commercial mail receiving agency, **a mail forwarding business or a virtual office.**

4 (2) A registered agent must be:

5 (a) An individual who resides in this state and whose business office is identical to the regis-
6 tered office;

7 (b) A domestic limited liability company, a domestic corporation, a domestic professional corpo-
8 ration or a domestic nonprofit corporation, the business office of which is identical to the registered
9 office; or

10 (c) A foreign limited liability company, foreign corporation, foreign professional corporation or
11 foreign nonprofit corporation that is authorized to transact business in this state, the business office
12 of which is identical to the registered office.

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

14 63.647. The Secretary of State may commence a proceeding under ORS 63.651 to administratively
15 dissolve a limited liability company if:

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

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

19 **(3) The limited liability company fails to comply with an order from the Secretary of**
20 **State under section 5 (1) of this 2017 Act or is the subject of a recommendation for dissol-**
21 **ution from the Director of the Department of Revenue under section 5 (3) of this 2017 Act;**

22 *[(3)]* (4) The limited liability company is without a registered agent or registered office in this
23 state;

24 *[(4)]* (5) The limited liability company does not notify the Secretary of State that *[its]* **the lim-**
25 **ited liability company's** registered agent or registered office has *[been]* changed, that *[its]* **the**
26 registered agent has resigned or that *[its]* **the** registered office has been discontinued; or

27 *[(5)]* (6) The limited liability company's period of duration stated in *[its]* **the** articles of organ-
28 ization expires.

29 **SECTION 24.** ORS 63.661 is amended to read:

30 63.661. (1) *[The circuit courts]* **A circuit court** may dissolve a limited liability company:

31 *[(1)]* (a) In a proceeding by the Attorney General if *[it is established]* **the court finds** that:

32 *[(a)]* (A) The limited liability company *[obtained its]* **filed** articles of organization *[through]* **with**
33 **fraudulent intent, with fraudulent information or in a manner that otherwise indicates** fraud;
34 *[or]*

35 *[(b)]* (B) The limited liability company has continued to exceed or abuse the authority conferred
36 upon *[it]* **the limited liability company** by law*[,]*; or

37 (C) **The limited liability company is a shell entity. For purposes of this subparagraph:**

38 (i) **A court may find that a limited liability company is a shell entity if the court deter-**
39 **mines that the limited liability company was used or organized for an illegal purpose, was**
40 **used or organized to defraud or deceive a person or a governmental agency or was used or**
41 **organized to fraudulently conceal any business activity from another person or a govern-**
42 **mental agency; and**

43 (ii) **The Attorney General may make a prima facie showing that a limited liability com-**
44 **pany is a shell entity by stating in an affidavit that:**

45 (I) **The limited liability company did not provide a name or address required by the Sec-**

1 retary of State, or the name or address the limited liability company provided was false,
2 fraudulent or inadequate;

3 **(II) The limited liability company's articles of organization, a record the limited liability**
4 **company must keep under ORS 63.771 or the limited liability company's annual report is**
5 **false, fraudulent or inadequate;**

6 **(III) A public body, as defined in ORS 174.109, attempted to communicate with, or serve**
7 **legal process upon, the limited liability company at the address or by means of other contact**
8 **information the limited liability company provided to the Secretary of State, but the limited**
9 **liability company failed to respond; or**

10 **(IV) The Attorney General has other evidence that shows that the limited liability com-**
11 **pany was used or organized for an illegal purpose, was used or organized to defraud or de-**
12 **ceive a person or a governmental agency or was used or organized to fraudulently conceal**
13 **any business activity from another person or a governmental agency.**

14 (2) (b) In a proceeding by or for a member if [*it is established*] **the court finds** that it is not
15 reasonably practicable to carry on the business of the limited liability company in conformance with
16 [*its*] **the** articles of organization or any operating agreement.

17 (3) (c) In a proceeding by the limited liability company to have [*its*] **the limited liability**
18 **company's** voluntary dissolution continued under court supervision.

19 **(2) In addition to subjecting a limited liability company to dissolution under subsection**
20 **(1)(a)(C) of this section, a finding that a limited liability company is a shell entity has the**
21 **following effects:**

22 (a) A court may rebuttably presume that the limited liability company's filings with the
23 Secretary of State constitute a false claim, as defined in ORS 180.750, in any action the At-
24 torney General brings against the limited liability company under ORS 180.760 and may
25 award to the Attorney General reasonable attorney fees and the costs of investigation,
26 preparation and litigation if the Attorney General prevails in the action; and

27 (b) A public body, as defined in ORS 174.109, in any proceeding against the limited liability
28 company, may move to enjoin a member, manager or other person that exercises significant
29 direction or control over the limited liability company from engaging in commercial activity
30 in this state, including but not limited to incorporating or organizing another entity in this
31 state.

32 (3) A limited liability company may affirmatively defend against an allegation that the
33 limited liability company is a shell entity by showing that the limited liability company,
34 within 60 days after receiving a request to provide or correct a name, address or other in-
35 formation required for a filing or in articles of organization, a record the limited liability
36 company must keep or an annual report, or within 60 days after the date of a request to
37 respond to a communication or service of process, provided or corrected the name, address
38 or other information or responded to the communication or service of process.

39 **SECTION 25.** ORS 63.737 is amended to read:

40 63.737. The Secretary of State may commence a proceeding under ORS 63.741 to revoke the
41 authority of a foreign limited liability company to transact business in this state if:

42 (1) The foreign limited liability company does not deliver [*its*] **the limited liability company's**
43 annual report to the Secretary of State within the time prescribed by this chapter;

44 (2) The foreign limited liability company does not pay within the time prescribed by this chapter
45 any fees imposed by this chapter;

1 **(3) The foreign limited liability company fails to comply with an order from the Secretary**
2 **of State under section 5 (1) of this 2017 Act;**

3 [(3)] (4) The foreign limited liability company has failed to appoint or maintain a registered
4 agent or registered office in this state as prescribed by this chapter;

5 [(4)] (5) The foreign limited liability company does not inform the Secretary of State under ORS
6 63.724 or 63.727 that [its] **the limited liability company's** registered agent or registered office has
7 changed, that [its] **the** registered agent has resigned or that [its] **the** registered office has been
8 discontinued;

9 [(5)] (6) An organizer, manager, member or agent of the foreign limited liability company signed
10 a document knowing [it] **the document** was false in any material respect with intent that the docu-
11 ment be delivered to the office for filing;

12 [(6)] (7) The foreign limited liability company no longer satisfies the requirements of ORS 63.714
13 (3);

14 [(7)] (8) The Secretary of State receives a duly authenticated certificate from the official having
15 custody of the limited liability company records in the state or country under whose law the foreign
16 limited liability company is organized stating that [it] **the foreign limited liability company** has
17 been dissolved or has ceased to exist as the result of a merger or other reorganization transaction;
18 or

19 [(8)] (9) The period of duration of the foreign limited liability company expires.

20 **SECTION 26.** ORS 65.001 is amended to read:

21 65.001. As used in this chapter:

22 (1) "Anniversary" means the day each year that is exactly one or more years after the date on
23 which the Office of the Secretary of State files the articles of incorporation for a domestic corpo-
24 ration or the date on which the office files an application for authority to transact business for a
25 foreign corporation[.], **except that** an event that would otherwise cause an anniversary to fall on
26 February 29 will cause the anniversary to fall on February 28.

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

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

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

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

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

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

45 (6) "Class" means a group of memberships that have the same rights with respect to voting,

1 dissolution, redemption and transfer. For the purpose of this section, rights are the same if the
2 rights are determined by a formula applied uniformly.

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

11 **(b) "Contact address" does not include the address of a registered agent.**

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

14 (9) ["Delegates" means those persons] **"Delegate" means a person** elected or appointed to vote
15 in a representative assembly for electing a director or directors or on other matters.

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

18 (11) ["Directors" means individuals] **"Director" means an individual** whom the articles or by-
19 laws designate or whom the incorporators elect to act as [members] **a member** of the board, and
20 [the successors to the individuals] **a successor to the individual.**

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

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

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

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

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

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

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

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

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

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

1 (22) "Foreign limited liability company" means an unincorporated association that is organized
2 under laws other than the laws of *[this]* **the** state and that is organized under a statute under which
3 an association may be formed that affords to each of the entity's members limited liability with re-
4 spect to liabilities of the entity.

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

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

8 (25) "Individual" means a natural person, including the guardian of an incompetent individual.

9 (26)(a) "Member" means a person that is entitled, under a domestic or foreign corporation's ar-
10 ticles or bylaws, without regard to what the person is called in the articles or bylaws, to vote on
11 more than one occasion to elect a director or directors.

12 (b) **"Member" does not include:**

13 (A) A person *[is not a member by virtue of any]* **that has only one or more** of the following
14 rights *[the person has]*:

15 [(A)] (i) As a delegate;

16 [(B)] (ii) To designate or appoint a director or directors;

17 [(C)] (iii) As a director; or

18 [(D)] (iv) As a holder of an evidence of indebtedness the corporation has issued or will issue.

19 [(c)] (B) *[Notwithstanding the provisions of paragraph (a) of this subsection, a person is not a*
20 *member if the person's]* **A person whose** membership rights have been eliminated as provided in ORS
21 65.164 or 65.167.

22 (27) "Membership" means the rights and obligations a member has under this chapter.

23 (28) "Mutual benefit corporation" means a domestic corporation that is formed as a mutual
24 benefit corporation under ORS 65.044 to 65.067 and is designated a mutual benefit corporation by
25 a statute or does not come within the definition of public benefit or religious corporation.

26 (29) "Nonprofit corporation" means a mutual benefit corporation, a public benefit corporation
27 or a religious corporation.

28 (30) "Notice" has the meaning given that term in ORS 65.034.

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

31 (32) "Person" means individual or entity.

32 (33)(a) "Principal office" means the physical street address of the place, in or out of this state,
33 where the principal executive offices of a domestic or foreign corporation are located and that is
34 designated as the principal office in the most recent annual report filed pursuant to ORS 65.787 or,
35 if no annual report is on file, in the articles of incorporation or the application for authority to
36 transact business in this state.

37 (b) **"Principal office" does not include a commercial mail receiving agency, a mail for-**
38 **warding business or a virtual office.**

39 (34) "Proceeding" means a civil, criminal, administrative or investigatory action.

40 (35) "Public benefit corporation" means a domestic corporation that:

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

44 (b) Is restricted so that on dissolution the corporation must distribute the corporation's assets
45 to an organization organized for a public or charitable purpose, a religious corporation, the United

1 States, a state or a person that is recognized as exempt under section 501(c)(3) of the Internal Re-
2 venue Code of 1986; and

3 (c) Does not come within the definition of “religious corporation.”

4 (36) “Record date” means the date established under ORS 65.131 to 65.177 or 65.201 to 65.254
5 on which a corporation determines the identity of the corporation’s members and the members’
6 membership rights for the purposes of this chapter.

7 (37) “Religious corporation” means a domestic corporation that is formed as a religious corpo-
8 ration under ORS 65.044 to 65.067, is designated a religious corporation by a statute or is organized
9 primarily or exclusively for religious purposes.

10 (38) “Remote communication” means any method by which a person that is not physically pres-
11 ent at the location at which a meeting occurs may nevertheless hear or otherwise communicate at
12 substantially the same time with other persons at the meeting and have access to materials neces-
13 sary to participate or vote in the meeting to the extent of the person’s authorization to participate
14 or vote.

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

19 (40) “State,” when referring to a part of the United States, means a state, commonwealth, ter-
20 ritory or insular possession of the United States and the agencies and governmental subdivisions
21 of the state, commonwealth, territory or insular possession.

22 (41) “Uncompensated officer” means an individual who serves in an office without compensation
23 for personal service. For purposes of this subsection, payment solely for actual expenses in per-
24 forming duties of the officer or a stipend that is paid only to compensate the average expenses the
25 individual incurs over the course of a year is not compensation.

26 (42) “United States” means **the federal government or** a district, authority, bureau, commis-
27 sion, department or any other agency of the United States.

28 (43) “Vote” means authorization by written ballot and written consent, where permitted.

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

32 **SECTION 27.** ORS 65.111 is amended to read:

33 65.111. (1) Each corporation shall continuously maintain in this state both:

34 [(1)] (a) A registered agent, who [shall] **must** be:

35 [(a)] (A) An individual who resides in this state;

36 [(b)] (B) A corporation, domestic business corporation, domestic limited liability company or
37 domestic professional corporation with an office in this state; or

38 [(c)] (C) A foreign corporation, foreign business corporation, foreign limited liability company
39 or foreign professional corporation authorized to transact business in this state with an office in this
40 state; and

41 [(2)] (b) A registered office of the corporation, which [shall] **must** be the residence or office
42 address of the registered agent.

43 (2) **A registered office under this section must be located at a physical street address**
44 **where process may be personally served on the registered agent. The registered office may**
45 **not be a commercial mail receiving agency, a mail forwarding business or a virtual office.**

1 **SECTION 28.** ORS 70.020 is amended to read:

2 70.020. Each limited partnership shall continuously maintain in this state an office at which the
3 records referred to in ORS 70.050 shall be kept. The office may be but need not be a place of busi-
4 ness of the limited partnership in this state **and may not be a commercial mail receiving agency,**
5 **a mail forwarding business or a virtual office.**

6 **SECTION 29.** ORS 70.025 is amended to read:

7 70.025. (1)(a) A domestic limited partnership and a foreign limited partnership that does business
8 in this state and all general partners of each domestic limited partnership or foreign limited part-
9 nership must continuously maintain in this state a registered agent and a registered office. The
10 registered office must be located at a physical street address where process may be personally
11 served on the registered agent. The registered office may not be a commercial mail receiving
12 agency, **a mail forwarding business or a virtual office.**

13 (b) The registered agent must be:

14 (A) An individual resident of this state who has a business office in this state;

15 (B) A domestic corporation, domestic limited liability company, domestic professional corpo-
16 ration or domestic nonprofit corporation that has a business office in this state; or

17 (C) A foreign corporation, foreign limited liability company, foreign professional corporation or
18 foreign nonprofit corporation that is authorized to transact business in this state and has a business
19 office in this state.

20 (2) A domestic or foreign limited partnership and the general partners of the domestic or foreign
21 limited partnership may change the registered agent of the domestic or foreign limited partnership
22 by submitting for filing to the Office of Secretary of State a statement described in this subsection.
23 The statement must be executed by a general partner. Filing the statement immediately terminates
24 the existing registered agent and establishes the newly appointed registered agent as the registered
25 agent of the domestic or foreign limited partnership and the general partners of the domestic or
26 foreign limited partnership. The statement must include:

27 (a) The name of the domestic or foreign limited partnership and the name and address of each
28 general partner of the domestic or foreign limited partnership; and

29 (b) The name of the successor registered agent and the physical street address of the registered
30 agent's business office in this state.

31 **SECTION 30.** ORS 128.575 is amended to read:

32 128.575. (1) Any business trust desiring to do business in this state shall first submit to the Of-
33 fice of Secretary of State a copy of the trust instrument creating the trust and any subsequent
34 amendments to the trust and a document setting forth:

35 (a) The business trust name and the state or country of formation;

36 (b) The names and addresses of *[its]* **the business trust's** trustees;

37 (c) The **physical** street address of the business trust's registered office in this state, **which**
38 **must be a location at which process may be personally served on the registered agent and**
39 **that may not be a commercial mail receiving agency, a mail forwarding business or a virtual**
40 **office,** and the name of the registered agent;

41 (d) A mailing address to which the Secretary of State may mail notices; and

42 (e) Any additional identifying information that the Secretary of State by rule may require.

43 (2) The filing described in subsection (1) of this section *[shall]* **must** be accompanied by the
44 applicable filing fee.

45 (3) If the Secretary of State finds that the document contains the required information, the

1 Secretary of State, when all fees have been paid, shall file the trust instrument and document and
2 return an acknowledgment of filing to the sender.

3 (4) If a business trust amends *[its]* a trust instrument *[it]*, **the business trust** shall submit for
4 filing a copy of the amendment to the Office of Secretary of State. The amendment *[shall]* **must** set
5 forth:

6 (a) The name of the business trust as shown on the records of the Office of Secretary of State;
7 and

8 (b) The information as changed.

9 **SECTION 31.** ORS 128.595 is amended to read:

10 128.595. (1) A business trust by the trust's anniversary date shall deliver to the office of the
11 Secretary of State for filing an annual report accompanied by the annual fee.

12 (2) The annual report must contain:

13 (a) The name of the business trust and the state or country under the law of which the business
14 trust is formed;

15 (b) The names and addresses of the business trust's trustees;

16 (c) The physical street address of the business trust's registered office in this state, which must
17 be a location at which process may be personally served on the registered agent and which may not
18 be a commercial mail receiving agency, **a mail forwarding business or a virtual office**, and the
19 name of the trust's registered agent at the registered office;

20 (d) A mailing address to which the Secretary of State may mail notices;

21 (e) A description of the primary business activity of the business trust; and

22 (f) Any additional identifying information that the Secretary of State may require by rule.

23 (3) The annual report must be on forms prescribed and furnished by the Secretary of State. The
24 information contained in the annual report must be current as of 30 days before the anniversary of
25 the business trust.

26 (4) The Secretary of State shall mail the report form to any address shown for the business trust
27 in the current records of the office of the Secretary of State. The business trust's failure to receive
28 the report form from the Secretary of State does not relieve the business trust of the trust's duty
29 under this section to deliver a report to the office.

30 (5) If the Secretary of State finds the report conforms to the requirements of this section, the
31 Secretary of State shall file the report.

32 (6) If the Secretary of State finds that the annual report does not conform to the requirements
33 of this section, the Secretary of State shall return the report to the business trust. The business
34 trust shall correct the annual report and return the corrected report to the Secretary of State
35 within 45 days after the Secretary of State returns the report.

36 (7) If *[no]* **a business trust has not filed the** report *[is filed]* by the reporting date or *[if no]*
37 **has not filed a** corrected report *[is filed]* within the 45-day period, the Secretary of State shall send
38 to the business trust a final notice advising that a report has not been filed and the Secretary of
39 State, therefore, assumes that the business trust is no longer active unless a report is filed within
40 45 days after the mailing of the final notice.

41 (8) Not less than 45 days after the mailing date of the final notice specified in subsection (7) of
42 this section, the Secretary of State may assume and note on the records of the Secretary of State
43 that the business trust is inactive.

44 **SECTION 32.** ORS 314.840 is amended to read:

45 314.840. (1) The Department of Revenue may:

1 (a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230
2 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, represen-
3 tative or designee, with a copy of the taxpayer's income tax return filed with the department for
4 any year, or with a copy of any report filed by the taxpayer in connection with the return, or with
5 any other information the department considers necessary.

6 (b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

7 (c) Publish statistics so classified as to prevent the identification of income or any particulars
8 contained in any report or return.

9 (d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social
10 Security number, employer identification number or other taxpayer identification number to the ex-
11 tent necessary in connection with collection activities or the processing and mailing of correspond-
12 ence or of forms for any report or return required in the administration of any local tax under ORS
13 305.620 or any law imposing a tax upon or measured by net income.

14 (2) The department also may disclose and give access to information described in ORS 314.835
15 to:

16 (a) The Governor of the State of Oregon or the authorized representative of the Governor with
17 respect to an individual who is designated as being under consideration for appointment or reap-
18 pointment to an office or for employment in the office of the Governor. The information disclosed
19 shall be confined to whether the individual:

20 (A) Has filed returns with respect to the taxes imposed by ORS chapter 316 for those of not
21 more than the three immediately preceding years for which the individual was required to file an
22 Oregon individual income tax return.

23 (B) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice or
24 otherwise respond to a deficiency notice within 30 days of its mailing.

25 (C) Has been assessed any penalty under the Oregon personal income tax laws and the nature
26 of the penalty.

27 (D) Has been or is under investigation for possible criminal offenses under the Oregon personal
28 income tax laws. Information disclosed pursuant to this paragraph shall be used only for the purpose
29 of making the appointment, reappointment or decision to employ or not to employ the individual in
30 the office of the Governor.

31 (b) An officer or employee of the Oregon Department of Administrative Services duly authorized
32 or employed to prepare revenue estimates, or a person contracting with the Oregon Department of
33 Administrative Services to prepare revenue estimates, in the preparation of revenue estimates re-
34 quired for the Governor's budget under ORS 291.201 to 291.226, or required for submission to the
35 Emergency Board or the Joint Interim Committee on Ways and Means, or if the Legislative As-
36 sembly is in session, to the Joint Committee on Ways and Means, and to the Legislative Revenue
37 Officer or Legislative Fiscal Officer under ORS 291.342, 291.348 and 291.445. The Department of
38 Revenue shall disclose and give access to the information described in ORS 314.835 for the purposes
39 of this paragraph only if:

40 (A) The request for information is made in writing, specifies the purposes for which the request
41 is made and is signed by an authorized representative of the Oregon Department of Administrative
42 Services. The form for request for information shall be prescribed by the Oregon Department of
43 Administrative Services and approved by the Director of the Department of Revenue.

44 (B) The officer, employee or person receiving the information does not remove from the premises
45 of the Department of Revenue any materials that would reveal the identity of a personal or corpo-

1 rate taxpayer.

2 (c) The Commissioner of Internal Revenue or authorized representative, for tax administration
3 and compliance purposes only.

4 (d) For tax administration and compliance purposes, the proper officer or authorized represen-
5 tative of any of the following entities that has or is governed by a provision of law that meets the
6 requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

7 (A) A state;

8 (B) A city, county or other political subdivision of a state;

9 (C) The District of Columbia; or

10 (D) An association established exclusively to provide services to federal, state or local taxing
11 authorities.

12 (e) The Multistate Tax Commission or its authorized representatives, for tax administration and
13 compliance purposes only. The Multistate Tax Commission may make the information available to
14 the Commissioner of Internal Revenue or the proper officer or authorized representative of any
15 governmental entity described in and meeting the qualifications of paragraph (d) of this subsection.

16 (f) The Attorney General, assistants and employees in the Department of Justice, or other legal
17 representative of the State of Oregon, to the extent the department deems disclosure or access
18 necessary for the performance of the duties of advising or representing the department pursuant to
19 ORS 180.010 to 180.240 and the tax laws of [*this*] **the** state.

20 (g) Employees of the State of Oregon, other than of the Department of Revenue or Department
21 of Justice, to the extent the department deems disclosure or access necessary for such employees
22 to perform their duties under contracts or agreements between the department and any other de-
23 partment, agency or subdivision of the State of Oregon, in the department's administration of the
24 tax laws.

25 (h) Other persons, partnerships, corporations and other legal entities, and their employees, to
26 the extent the department deems disclosure or access necessary for the performance of such others'
27 duties under contracts or agreements between the department and such legal entities, in the
28 department's administration of the tax laws.

29 (i) The Legislative Revenue Officer or authorized representatives upon compliance with ORS
30 173.850. Such officer or representative shall not remove from the premises of the department any
31 materials that would reveal the identity of any taxpayer or any other person.

32 (j) The Department of Consumer and Business Services, to the extent the department requires
33 such information to determine whether it is appropriate to adjust those workers' compensation
34 benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or
35 earned income received by an individual.

36 (k) Any agency of the State of Oregon, or any person, or any officer or employee of such agency
37 or person to whom disclosure or access is given by state law and not otherwise referred to in this
38 section, including but not limited to the Secretary of State as Auditor of Public Accounts under
39 Article VI, section 2, of the Oregon Constitution; the Department of Human Services pursuant to
40 ORS 412.094; the Division of Child Support of the Department of Justice and district attorney re-
41 garding cases for which they are providing support enforcement services under ORS 25.080; the
42 State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of Accountancy,
43 pursuant to ORS 673.415.

44 (L) The Director of the Department of Consumer and Business Services to determine that a
45 person complies with ORS chapter 656 and the Director of the Employment Department to determine

1 that a person complies with ORS chapter 657, the following employer information:

- 2 (A) Identification numbers.
- 3 (B) Names and addresses.
- 4 (C) Inception date as employer.
- 5 (D) Nature of business.
- 6 (E) Entity changes.
- 7 (F) Date of last payroll.

8 (m) The Director of the Oregon Health Authority to determine that a person has the ability to
9 pay for care that includes services provided by the Oregon State Hospital, or the Oregon Health
10 Authority to collect any unpaid cost of care as provided by ORS chapter 179.

11 (n) Employees of the Employment Department to the extent the Department of Revenue deems
12 disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary
13 to performance of their duties in administering the tax imposed by ORS chapter 657.

14 (o) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and
15 powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number and
16 standard industrial classification, if available.

17 (p) Employees of the Department of State Lands for the purposes of identifying, locating and
18 publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter
19 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the
20 refund amount.

21 (q) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement
22 agencies to assist in the investigation or prosecution of the following criminal activities:

23 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
24 to the stolen document, the name, address and taxpayer identification number of the payee, the
25 amount of the check and the date printed on the check.

26 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
27 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
28 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
29 dress and taxpayer identification number of the payee, the amount of the check, the date printed
30 on the check and the altered name and address.

31 (r) The United States Postal Inspection Service or a federal law enforcement agency, including
32 but not limited to the United States Department of Justice, to assist in the investigation of the fol-
33 lowing criminal activities:

34 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
35 to the stolen document, the name, address and taxpayer identification number of the payee, the
36 amount of the check and the date printed on the check.

37 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
38 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
39 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
40 dress and taxpayer identification number of the payee, the amount of the check, the date printed
41 on the check and the altered name and address.

42 (s) The United States Financial Management Service, for purposes of facilitating the offsets de-
43 scribed in ORS 305.612.

44 (t) A municipal corporation of this state for purposes of assisting the municipal corporation in
45 the administration of a tax of the municipal corporation that is imposed on or measured by income,

1 wages or net earnings from self-employment. Any disclosure under this paragraph may be made only
2 pursuant to a written agreement between the Department of Revenue and the municipal corporation
3 that ensures the confidentiality of the information disclosed.

4 (u) A consumer reporting agency, to the extent necessary to carry out the purposes of ORS
5 314.843.

6 (v) The Public Employees Retirement Board, to the extent necessary to carry out the purposes
7 of ORS 238.372 to 238.384, and to any public employer, to the extent necessary to carry out the
8 purposes of ORS 237.635 (3) and 237.637 (2).

9 **(w) The Secretary of State for the purpose of initiating or supporting a recommendation**
10 **under section 2 (3) or 5 (3) of this 2017 Act to administratively dissolve a corporation or**
11 **limited liability company that the Director of the Department of Revenue determines has**
12 **failed to comply with applicable tax laws of the state.**

13 (3)(a) Each officer or employee of the department and each person described or referred to in
14 subsection (2)(a), (b), (f) to (L) [or], (n) to (q) **or (w)** of this section to whom disclosure or access to
15 the tax information is given under subsection (2) of this section or any other provision of state law,
16 prior to beginning employment or the performance of duties involving such disclosure or access,
17 shall be advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the
18 violation of ORS 314.835, and shall as a condition of employment or performance of duties execute
19 a certificate for the department, in a form prescribed by the department, stating in substance that
20 the person has read these provisions of law, that the person has had them explained and that the
21 person is aware of the penalties for the violation of ORS 314.835.

22 (b) The disclosure authorized in subsection (2)(r) of this section shall be made only after a
23 written agreement has been entered into between the Department of Revenue and the person de-
24 scribed in subsection (2)(r) of this section to whom disclosure or access to the tax information is
25 given, providing that:

26 (A) Any information described in ORS 314.835 that is received by the person pursuant to sub-
27 section (2)(r) of this section is confidential information that may not be disclosed, except to the ex-
28 tent necessary to investigate or prosecute the criminal activities described in subsection (2)(r) of
29 this section;

30 (B) The information shall be protected as confidential under applicable federal and state laws;
31 and

32 (C) The United States Postal Inspection Service or the federal law enforcement agency shall
33 give notice to the Department of Revenue of any request received under the federal Freedom of In-
34 formation Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

35 (4) The Department of Revenue may recover the costs of furnishing the information described
36 in subsection (2)(L), (m) and (o) to (q) of this section from the respective agencies.

37 **SECTION 33.** ORS 554.082 is amended to read:

38 554.082. (1) A corporation shall continuously maintain in this state a registered agent and reg-
39 istered office that may be, but need not be, the same as any of the corporation's places of business.
40 The registered office must be located at a physical street address where process may be personally
41 served on the registered agent. The registered office may not be a commercial mail receiving
42 agency, **a mail forwarding business or a virtual office.**

43 (2) A registered agent must be:

44 (a) An individual who resides in this state and whose business office is identical to the regis-
45 tered office;

1 (b) A domestic corporation or domestic nonprofit corporation, the business office of which is
2 identical to the registered office; or

3 (c) A foreign corporation or foreign nonprofit corporation that is authorized to transact business
4 in this state, the business office of which is identical to the registered office.

5 **SECTION 34.** (1) Sections 2, 3, 5 and 6 of this 2017 Act and the amendments to ORS
6 56.035, 60.001, 60.004, 60.047, 60.074, 60.111, 60.131, 60.647, 60.661, 60.737, 62.155, 63.001, 63.004,
7 63.047, 63.074, 63.111, 63.647, 63.661, 63.737, 65.001, 65.111, 70.020, 70.025, 128.575, 128.595, 314.840
8 and 554.082 by sections 7 to 33 of this 2017 Act become operative on January 1, 2018.

9 (2) The Secretary of State and the Director of the Department of Revenue may adopt
10 rules and take any other action before the operative date specified in subsection (1) of this
11 section that is necessary to enable the Secretary of State or the director to exercise, on or
12 after the operative date specified in subsection (1) of this section, all of the duties, powers
13 and functions conferred on the Secretary of State and the director by sections 2, 3, 5 and 6
14 of this 2017 Act and the amendments to ORS 56.035, 60.001, 60.004, 60.047, 60.074, 60.111,
15 60.131, 60.647, 60.661, 60.737, 62.155, 63.001, 63.004, 63.047, 63.074, 63.111, 63.647, 63.661, 63.737,
16 65.001, 65.111, 70.020, 70.025, 128.575, 128.595, 314.840 and 554.082 by sections 7 to 33 of this 2017
17 Act.

18 **SECTION 35.** Notwithstanding any other law limiting expenditures, the limitation on
19 expenditures established by section 2 (5), chapter __, Oregon Laws 2017 (Enrolled Senate
20 Bill 5536), for the biennium beginning July 1, 2017, as the maximum limit for payment of ex-
21 penses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding
22 lottery funds and federal funds, collected or received by the Secretary of State, is increased
23 by \$157,718 for the purpose of carrying out the provisions of sections 2, 3, 5 and 6 of this 2017
24 Act and the amendments to ORS 56.035, 60.001, 60.004, 60.047, 60.074, 60.111, 60.131, 60.647,
25 60.661, 60.737, 62.155, 63.001, 63.004, 63.047, 63.074, 63.111, 63.647, 63.661, 63.737, 65.001, 65.111,
26 70.020, 70.025, 128.575, 128.595 and 554.082 by sections 7 to 31 and 33 of this 2017 Act.

27 **SECTION 36.** This 2017 Act being necessary for the immediate preservation of the public
28 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
29 July 1, 2017.

30