

SENATE AMENDMENTS TO RESOLVE CONFLICTS TO B-ENGROSSED HOUSE BILL 2191

By JOINT COMMITTEE ON WAYS AND MEANS

July 7

1 On page 1 of the printed B-engrossed bill, line 4, after the semicolon insert “repealing sections
2 1 and 2, chapter 55, Oregon Laws 2017 (Enrolled House Bill 2610);”.

3 On page 7, after line 11, insert:

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5 **(Enrolled House Bill 2610) (amending ORS 60.001), is repealed and ORS 60.001, as amended**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

7 “60.001. As used in this chapter:

8 “(1) ‘Anniversary’ means the day each year that is exactly one or more years after:

9 “(a) The date on which the Secretary of State files the articles of incorporation for a domestic
10 corporation.

11 “(b) The date on which the Secretary of State files an application for authority to transact
12 business for a foreign corporation.

13 “(2) ‘Articles of incorporation’ means the articles described in ORS 60.047, amended and restated
14 articles of incorporation, articles of conversion or articles of merger.

15 “(3) ‘Authorized shares’ means the shares of all classes that a domestic or foreign corporation
16 is authorized to issue.

17 “(4) ‘Conspicuous’ means written, printed, [or] typed, **displayed or otherwise presented** [*in text*
18 *that is italicized, boldfaced, of a contrasting color, capitalized or underlined or similarly enhanced*] so
19 that a reasonable person against whom [*the*] a writing is to operate should have noticed the writing
20 **as a consequence of a use of a method to draw attention to the writing, such as italics,**
21 **boldface, contrasting color, capitalization or underlining.**

22 “(5) ‘Corporation’ or ‘domestic corporation’ means a corporation for profit that is incorporated
23 under or subject to the provisions of this chapter and that is not a foreign corporation.

24 “(6) ‘Delivery’ means any method of delivery used in conventional commercial practice,
25 [*whether*] **including** by hand, mail, commercial delivery [or] **and, in accordance with ORS 60.034,**
26 electronic transmission.

27 “(7) ‘Distribution’ means a direct or indirect transfer of money or other property, except of a
28 corporation’s own shares, or a corporation’s incurrence of indebtedness to or for the benefit of the
29 corporation’s shareholders in respect of any of the corporation’s shares, in the form of a declaration
30 or payment of a dividend, a purchase, redemption or other acquisition of shares, a distribution of
31 indebtedness, or otherwise.

32 “(8) ‘Document’ means:

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

35 “(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 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 On page 8, after line 5, insert:

39 **“SECTION 9a. If House Bill 2610 becomes law, section 2, chapter 55, Oregon Laws 2017**

40 **(Enrolled House Bill 2610) (amending ORS 60.004), is repealed and ORS 60.004, as amended**

41 **by section 9 of this 2017 Act, is amended to read:**

42 “60.004. (1) For the Secretary of State to file a document under this chapter, the document must

43 satisfy the requirements set forth in this section and any other requirements in this chapter that

44 supplement or modify the requirements set forth in this section.

45 “(2) The document must be a type of document that this chapter or another law requires or

1 permits a person to file with the Office of the Secretary of State.

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

4 “(4) The document must be legible.

5 “(5) The document must be in the English language. The certificate of existence required of
6 foreign corporations need not be in English if accompanied by a reasonably authenticated English
7 translation.

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

9 “(a) The chair of the board of directors of a domestic or foreign corporation, the corporation’s
10 president or another of the corporation’s officers;

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

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

14 “(d) An agent of a person identified in this subsection, if the person authorizes the agent to
15 [execute] **sign** the document.

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

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

21 “(b) State beneath or opposite the signature the person’s name and the capacity in which the
22 person signs.

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

24 “(a) The corporate seal;

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

26 “(c) An acknowledgment, verification or proof.

27 “(9) If the Secretary of State has prescribed a mandatory form for the document under ORS
28 60.016, the document must be in or on the prescribed form.

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

31 “(11) Delivery of a document to the office is accomplished only when the office actually receives
32 the document.”.

33
