

**Enrolled**  
**House Bill 2610**

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

CHAPTER .....

AN ACT

Relating to corporation documents; amending ORS 60.001, 60.004, 60.014, 60.034, 60.097, 60.114, 60.144, 60.161, 60.227, 60.231, 60.307, 60.321, 60.381, 60.397, 60.724, 60.771, 60.774 and 60.964.

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

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

60.001. As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

**(b) An electronic medium that embodies information that a person may retain, retrieve and reproduce, in tangible form or otherwise, by means of an automated process that is used in conventional commercial practice, except as otherwise provided in ORS 60.034 (4)(c).**

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

[(9)] **(10)** “Domestic nonprofit corporation” means a corporation not for profit that is incorporated under ORS chapter 65.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[(24)] **(26)** “Proceeding” means a civil, criminal, administrative or investigatory action.

[(25)] **(27)** “Record date” means the date established under this chapter on which a corporation determines the identity of the corporation’s shareholders and their shareholdings for purposes of this chapter.

[(26)] **(28)** “Remote communication” means any method by which a person that is not physically present at the location at which a meeting occurs may nevertheless hear or otherwise communicate at substantially the same time with other persons at the meeting and have access to materials nec-

essary to participate or vote in the meeting to the extent of the person's authorization to participate or vote.

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

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

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

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

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

**or**

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

[29] (32) "Signature" means any *[manual, facsimile, conformed or electronic signature]* **embodiment of a person's intent to sign a document.**

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

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

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

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

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

(38) "**Written**" means embodied as a document.

**SECTION 2.** ORS 60.004 is amended to read:

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

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

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

(4) The document must be legible.

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

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

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

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

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

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

(7) The person that *[executes]* **signs** the document shall state beneath or opposite the signature the person's name and the capacity in which the person signs.

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

- (a) The corporate seal;
- (b) An attestation by the secretary or an assistant secretary; or
- (c) An acknowledgment, verification or proof.

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

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

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

**SECTION 3.** ORS 60.014 is amended to read:

60.014. (1) A domestic or foreign corporation may correct a document filed by the Secretary of State, other than an annual report, if the document contains an incorrect statement or was defectively [executed] **signed**, attested, sealed, verified or acknowledged.

(2) A domestic or foreign corporation shall correct a document by delivering articles of correction to the office. The articles [shall] **must** include the following:

(a) A description of the document, including [its] **the document's** filing date, or a copy of the document.

(b) The incorrect statement and the reason [it] **the statement** is incorrect, or a description of the manner in which the [execution] **signature**, attestation, seal, verification or acknowledgment is defective.

(c) A correction of the incorrect statement or defective [execution] **signature**, attestation, seal, verification or acknowledgment.

(3) Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

**SECTION 4.** ORS 60.034 is amended to read:

60.034. [(1) Except as provided in subsection (3) of this section, notice under this chapter shall be in writing unless oral notice is specifically permitted under the circumstances by the articles of incorporation or bylaws. Notice by electronic transmission, other than voice mail, is written notice.]

[(2)(a) Notice may be communicated in person, by mail or other method of delivery, by telephone or by voice mail or other electronic transmission.]

[(b) If a form of notice described in paragraph (a) of this subsection is impracticable, notice may be communicated by a newspaper of general circulation in the area where published, or by radio, television or other form of public broadcast communication.]

[(3) All notices required by this chapter by a corporation to its shareholders shall be in writing. Written notice by a domestic or foreign corporation to a shareholder or director, if in a comprehensible form, is effective:]

[(a) Upon deposit in the United States mail if it is mailed postpaid and is correctly addressed to the shareholder's address shown in the corporation's current record of shareholders or the director's address shown in the corporation's records;]

[(b) When electronically transmitted to the shareholder in a manner authorized in writing by the shareholder; or]

[(c) When electronically transmitted to the director in a manner authorized by the director.]

[(4) Written notice to a domestic or foreign corporation authorized to transact business in this state may be addressed to its registered agent at its registered office or to the domestic or foreign corporation or its president or secretary at its principal office or mailing address as shown in the records of the office.]

[(5) Except as provided in subsection (3) of this section, or unless the articles of incorporation or bylaws provide otherwise for notices to directors, written notice, if in a comprehensible form, is effective at the earliest of the following:]

[(a) When received;]

*[(b) Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed; or]*

*[(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested and the receipt is signed by or on behalf of the addressee.]*

*[(6) Oral notice is effective when communicated if communicated in a comprehensible manner.]*

*[(7) If this chapter prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements, not inconsistent with this section or other provisions of this chapter, those requirements govern.]*

**(1) Notice under this chapter must be written unless oral notice is reasonable in the circumstances in which the notice is given.**

**(2)(a) A notice or other communication may be given or sent by any method of delivery, except that an electronic transmission must use a method of delivery that complies with subsection (4) of this section.**

**(b) If delivery in accordance with paragraph (a) of this subsection is impracticable, a notice or other communication may be published in a newspaper of general circulation in the area where the newspaper is published, or by radio, television or another form of public broadcast communication.**

**(3) A notice or other communication to a domestic corporation or a foreign corporation that is authorized to transact business in this state may be delivered to the domestic or foreign corporation's registered agent at the registered agent's registered office or delivered to the domestic or foreign corporation or the domestic or foreign corporation's president or secretary at the domestic or foreign corporation's principal office or mailing address as shown in the Secretary of State's records.**

**(4)(a) Except as provided in paragraph (b) of this subsection, a notice or communication, including a notice of a meeting of a domestic corporation's board of directors or shareholders or a director's or shareholder's written consent, may be delivered by electronic transmission.**

**(b) A notice or communication may not be delivered by electronic transmission if:**

**(A) The articles of incorporation or bylaws of a domestic corporation prohibit delivery by electronic consent;**

**(B) The intended recipient of the notice or communication delivers an electronic notice revocation at least 30 days before the notice or communication is sent; or**

**(C) The notice or communication is related to a revocation of dissolution under ORS 60.634.**

**(c) A notice or communication delivered by electronic transmission need not be in a form that a recipient may retain, retrieve and reproduce in tangible form by means of an automated process that is used in conventional commercial practice if the recipient can retrieve the notice or communication in a perceivable form and the recipient agrees to a form of electronic transmission that does not permit retention, retrieval and reproduction in tangible form.**

**(5)(a) A person who delivered an electronic notice revocation may rescind the electronic notice revocation by notifying the recipient of the electronic notice revocation of the person's intent to rescind.**

**(b) A person has constructively delivered an electronic notice revocation if an electronic transmission of a notice or communication intended for the person fails after two successive delivery attempts and an individual with responsibility for delivering notices or communications from the corporation has actual knowledge of the failure.**

**(c) A corporation that continues to deliver notices or communications by electronic transmission after an individual with responsibility for delivering the notices or communications received an electronic notice revocation or has actual knowledge of the failure described in paragraph (b) of this subsection does not by that continuation invalidate a meeting or action.**

(d) If an electronic transmission of a notice or communication fails as provided in paragraph (b) of this subsection, the corporation that sent the notice or communication shall promptly use a method other than electronic transmission to deliver the notice or communication. A corporation's failure to use a method of delivery other than electronic transmission does not by that failure invalidate a meeting or action.

(6)(a) Unless a domestic corporation's articles of incorporation or bylaws provide otherwise or unless a person who sends a notice or communication and the intended recipient of the notice or communication agree otherwise, the recipient receives the notice or communication by electronic transmission:

(A) When the notice or communication enters an information processing system that the recipient uses to receive or has designated for receiving notices or communications from the person by electronic transmission;

(B) If the recipient can retrieve the notice or communication;

(C) If the notice or communication is in a form that the information processing system can process; and

(D) Even if the recipient or an employee or agent of the recipient is not aware of the electronic transmission.

(b) An acknowledgment of an electronic transmission from an information processing system establishes that the information processing system received the electronic transmission but does not alone establish that the content of the electronic transmission that was sent corresponds to the content of the electronic transmission that the information processing system received.

(7)(a) A notice is effective only if the notice is communicated in a comprehensible form.

(b) Unless a domestic or foreign corporation's articles of incorporation or bylaws provide otherwise or unless a person who sends a notice or communication and the intended recipient of the notice or communication agree otherwise, the notice or communication is delivered and effective on the earliest of the following dates or times:

(A) On the date and at the time the recipient actually receives a tangible copy of the notice or communication, or on the date and at the time the person that sends the notice or communication, or an agent of the person, leaves a tangible copy of the notice or communication at:

(i) A shareholder's address, as shown in the record described in ORS 60.771 (3);

(ii) A director's residence address or business address, as shown in the list described in ORS 60.771 (5)(f); or

(iii) The domestic or foreign corporation's principal place of business;

(B) On the day the person that sends the notice or communication, or an agent of the person, deposits the notice or communication in the United States mail, if the notice or communication is postage prepaid and correctly addressed to a shareholder;

(C) Five days after the person that sends the notice or communication, or an agent of the person, deposits the notice or communication in the United States mail, if the notice or communication is postage prepaid and correctly addressed to a recipient who is not a shareholder, except that if a person sends a notice or communication by registered or certified mail, return receipt requested, the notice or communication is delivered and effective on the date on which the recipient actually received the notice or communication or on the date shown on the return receipt signed by the recipient or an agent of the recipient;

(D) As provided in subsection (6)(a)(A) of this section, if a person sends the notice or communication by electronic transmission; or

(E) On the date and at the time a person delivers the notice or communication to the recipient orally.

(8) If this chapter requires a notice or communication in particular circumstances, the requirements in this chapter govern. If articles of incorporation or bylaws prescribe requirements for notices or communications that are consistent with this section or other

provisions of this chapter, the requirements in the articles of incorporation or bylaws govern.

**SECTION 5.** ORS 60.097 is amended to read:

60.097. (1) A person may apply to the [office] **Secretary of State** to reserve a corporate name. The application must set forth the name and address of the applicant and the name [proposed to be reserved] **the applicant intends to reserve.**

(2) If the Secretary of State finds that the corporate name applied for conforms to ORS 60.094, the Secretary of State shall reserve the name for the applicant for a 120-day period.

(3) A person may transfer the reservation of a corporate name to another person by delivering to the [office] **Secretary of State** a notice of the transfer [executed] **signed** by the person for whom the name was reserved and specifying the name and address of the transferee.

**SECTION 6.** ORS 60.114 is amended to read:

60.114. (1) A corporation may change [its] **the corporation's** registered office or registered agent by delivering to the [office of the] Secretary of State for filing a statement of change that [sets forth]:

(a) **Lists** the name of the corporation;

(b) [If the registered office is to be changed,] **Specifies** the address, including **the street name** and number, of the new registered office, **if the corporation intends to change the registered office;**

(c) [If the registered agent is to be changed,] **Specifies** the name of the new registered agent and **states** that the new agent has consented to the appointment, **if the corporation intends to change the registered agent;** and

(d) **States** that after the change or changes are made the street addresses of [its] **the** registered office and the business office of [its] **the** registered agent will be identical.

(2) If a registered agent changes the street address of the agent's business office, the registered agent shall change the street address of the registered office of the corporation for which the agent is the registered agent by [notifying the corporation in writing of the change and signing, either manually or in facsimile, and] delivering:

(a) **A signed written notice of the change to the corporation; and**

(b) **A signed statement** to [the office of] the Secretary of State [a statement] that complies with the requirements of subsection (1) of this section and recites that the corporation has been notified of the change.

(3) The [filing of the statement by the Secretary of State shall terminate] **Secretary of State's filing of the statement terminates** the existing registered office or agent, or both, on the effective date of the filing and [establish] **establishes** the newly appointed registered office or agent, or both, as that of the corporation.

**SECTION 7.** ORS 60.144 is amended to read:

60.144. (1) A subscription for shares entered into before incorporation is irrevocable for six months unless the subscription agreement provides a longer or shorter period or all the subscribers agree to revocation.

(2) The board of directors may determine the payment term of subscriptions for shares that were entered into before incorporation unless the subscription agreement specifies [them] **the payment term.** A call for payment by the board of directors must be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

(3) Shares issued pursuant to subscriptions entered into before incorporation are fully paid and nonassessable when the corporation receives the consideration specified in the subscription agreement.

(4) If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt. Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement if the debt remains unpaid more than 20 days after the corporation sends a written demand for payment to the subscriber.

(5) A subscription agreement entered into after incorporation is a contract between the subscriber and the corporation subject to ORS 60.147.

**SECTION 8.** ORS 60.161 is amended to read:

60.161. (1) Shares may be but are not required to be represented by certificates. Unless this chapter or another statute expressly provides otherwise, *[the]* **shareholder** rights and obligations *[of shareholders]* are identical whether or not *[their]* shares are represented by certificates.

(2) At a minimum, each share certificate *[shall]* **must** state on *[its]* **the certificate's** face:

(a) The name of the issuing corporation and that *[it]* **the corporation** is organized under the law of this state;

(b) The name of the person to whom the share is issued; and

(c) The number and class of shares and the designation of the series, if any, the certificate represents.

(3) If the issuing corporation *[is authorized to issue]* **issues** different classes of shares or different series within a class, the designations, relative rights, preferences and limitations applicable to each class, the variations in rights, preferences and limitations determined for each series and the authority of the board of directors to determine variations for future series *[shall]* **must** be summarized on the front or back of each certificate, or, *[each certificate may state conspicuously on]* *[its]* **the** front or back that the corporation will furnish the shareholder with this information on request in writing and without charge.

(4) Each share certificate must be signed *[either manually or in facsimile,]* by two officers designated in the bylaws or by the board of directors. Each certificate may bear the corporate seal or *[its]* **a facsimile of the corporate seal.**

(5) If the person who signed a share certificate *[either manually or in facsimile,]* no longer holds office when the certificate is issued, the certificate is nevertheless valid.

**SECTION 9.** ORS 60.227 is amended to read:

60.227. (1) Except as provided in subsections (2) and (3) of this section and **in** ORS 60.807, or unless *[the]* **a corporation's** articles of incorporation provide otherwise, each outstanding share, regardless of class, is entitled to one vote on each matter voted on at a shareholders' meeting. Only shares are entitled to vote.

(2) The shares of a corporation are not entitled to vote if they are owned, directly or indirectly, by a second domestic or foreign corporation, and the first corporation owns, directly or indirectly, a majority of the shares entitled to vote for directors of the second corporation.

(3) Subsection (2) of this section does not limit the power of a corporation to vote any shares, including *[its]* **the corporation's** own shares *[held by it]* **that the corporation holds** in a fiduciary capacity.

(4) Redeemable shares are not entitled to vote after notice of redemption is *[mailed]* **delivered** to the holders and a sum sufficient to redeem the shares has been deposited with a bank, trust company or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

**SECTION 10.** ORS 60.231 is amended to read:

60.231. (1) A shareholder may vote shares in person or by proxy.

(2) A shareholder may authorize a person or persons to act for the shareholder as proxy in any one of the following manners:

(a) A shareholder or the shareholder's designated officer, director, employee or agent may *[execute a writing by:]* **sign a document.**

*[(A) Signing it; or]*

*[(B) Causing the shareholder's signature or the signature of the designated officer, director, employee or agent of the shareholder to be affixed to the writing by any reasonable means, including facsimile signature.]*

(b) A shareholder may **send or** authorize **an agent to send** an electronic transmission that:

(A) May be transmitted to:

(i) The person who will *[be the holder of]* **hold** the proxy;



(ii) The proxy solicitation firm; or  
(iii) A proxy support service organization or similar agency [authorized by] **that** the person who will [be the holder of] **hold** the proxy **authorizes** to receive the electronic transmission; and

(B) Must contain or be accompanied by information [from which it can be determined] **that shows the date of the transmission and** that the shareholder or the shareholder's designated officer, director, employee or agent authorized the transmission.

(c) Any other method allowed by law.

(3) A copy, facsimile telecommunication or other reliable reproduction of the [writing] **document** or electronic transmission created under subsection (2)(a) or (b) of this section may be used instead of the original [writing] **document** or electronic transmission for all purposes for which the original [writing] **document** or electronic transmission may be used if the copy, facsimile telecommunication or other reproduction is a complete copy of the entire original [writing] **document** or electronic transmission.

(4) An authorization of a proxy is effective when received by the secretary or other officer or agent authorized to tabulate votes. An authorization is valid for 11 months unless a longer period is expressly provided in the authorization form.

(5) An authorization of a proxy is revocable by the shareholder unless the authorization conspicuously states that [it] **the authorization** is irrevocable and the authorization is coupled with an interest. Authorizations coupled with an interest include the authorization of:

(a) A pledgee;

(b) A person who purchased or agreed to purchase the shares;

(c) A creditor of the corporation [who] **that** extended [it] **the corporation** credit under terms requiring the authorization;

(d) An employee of the corporation whose employment contract requires the authorization; or

(e) A party to a voting agreement created under ORS 60.257.

(6) The death or incapacity of the shareholder authorizing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises the proxy's authority under the authorization.

(7) An authorization made irrevocable under subsection (5) of this section is revoked when the interest with which [it] **the authorization** is coupled is extinguished.

(8) A transferee for value of shares subject to an irrevocable authorization may revoke the authorization if the transferee did not know of [its] **the authorization's** existence when the transferee acquired the shares and the existence of the irrevocable authorization was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

(9) Subject to ORS 60.237 and to any express limitation on the proxy's authority appearing on the face of the authorization form or electronic transmission, a corporation is entitled to accept the proxy's vote or other action as that of the shareholder making the authorization.

**SECTION 11.** ORS 60.307 is amended to read:

60.307. (1) A board of directors must consist of one or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws. Notwithstanding ORS 60.001 [(20)] **(22)**, the estate of an incompetent individual or a deceased individual may not be a director.

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

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

**SECTION 12.** ORS 60.321 is amended to read:

60.321. (1) A director may resign at any time by delivering written notice to the board of directors, [its] **the board's** chairperson or the corporation.

(2) A resignation is effective when the notice is effective under ORS 60.034 [(5)] unless the notice specifies a later effective date.

(3) Once delivered, a notice of resignation is irrevocable unless **the board of directors permits the revocation [is permitted by the board of directors]**.

**SECTION 13.** ORS 60.381 is amended to read:

60.381. (1) An officer may resign at any time by delivering notice to the corporation. A resignation is effective when the notice is effective under ORS 60.034 [(5)] unless the notice specifies a later effective time. If a resignation is made effective at a later time and the corporation accepts the future effective time, [its] **the corporation's** board of directors or the appointing officer may fill the pending vacancy before the effective time if the board of directors or the appointing officer provides that the successor does not take office until the effective time.

(2) An officer may be removed at any time with or without cause by:

(a) The board of directors;

(b) The appointing officer, unless otherwise provided by the bylaws or the board of directors;

or

(c) Any other officer if authorized by the bylaws or the board of directors.

(3) Once delivered, a notice of resignation is irrevocable unless **the board of directors permits the revocation [is permitted by the board of directors]**.

(4) As used in this section, "appointing officer" means the officer or any successor to [that] **the officer who appointed the officer that is resigning or being removed.**

**SECTION 14.** ORS 60.397 is amended to read:

60.397. (1) A corporation may pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if:

(a) The director furnishes the corporation [a] **with a signed** written affirmation of the director's good faith belief that the director has met the standard of conduct described in ORS 60.391; and

(b) The director furnishes the corporation **with** a written undertaking, [executed] **signed** personally or on the director's behalf, to repay the advance if the director is ultimately determined not to have met the standard of conduct.

(2) The undertaking required by subsection (1)(b) of this section must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make repayment.

(3) An authorization of payments under this section may be made by provision in the articles of incorporation or bylaws, by a resolution of the shareholders or board of directors or by contract.

(4)(a) A corporation that authorizes payments in accordance with subsection (3) of this section may not amend or rescind the articles of incorporation, bylaws or resolution that authorizes the payments so as to eliminate or impair a director's right to payments after an act or omission occurs that subjects the director to a proceeding for which the director seeks payment.

(b) Notwithstanding the prohibition set forth in paragraph (a) of this subsection, a corporation may eliminate or impair a director's right to payments if at the time the act or omission occurred the corporation's articles of incorporation, bylaws or resolution explicitly authorized the corporation to eliminate or impair the right after an act or omission occurs.

**SECTION 15.** ORS 60.724 is amended to read:

60.724. (1) A foreign corporation authorized to transact business in this state may change [its] **the foreign corporation's** registered office or registered agent by delivering to the [office of the] Secretary of State for filing a statement of change that [sets forth]:

(a) **Lists** the name of the foreign corporation;

(b) [If the registered office is to be changed,] **Specifies** the street address, including **the street name** and number, of the new registered office, **if the corporation intends to change the registered office;**

(c) [If the registered agent is to be changed,] **Specifies** the name of the new registered agent and a statement that the new agent has consented to the appointment, **if the corporation intends to change the registered agent;** and

(d) **States** that after the change or changes are made, the street addresses of the registered office and the business office of [its] **the** registered agent will be identical.

(2) If a registered agent changes the street address of the agent's business office, the registered agent shall change the street address of the registered office of the foreign corporation for which the agent is the registered agent by [notifying the corporation in writing of the change and signing, either manually or in facsimile, and] delivering:

(a) **A signed written notice of the change to the foreign corporation; and**

(b) **A signed statement** to the [office of the] Secretary of State [a statement of change] that complies with the requirements of subsection (1) of this section and [states] **recites** that the corporation has been notified of the change.

(3) The [filing of the statement by the Secretary of State] **Secretary of State's filing of the statement terminates** [shall terminate] the existing registered office or agent, or both, on the effective date of the filing and [establish] **establishes** the newly appointed registered office or agent, or both, as that of the foreign corporation.

**SECTION 16.** ORS 60.771 is amended to read:

60.771. (1) A corporation shall keep as permanent records minutes of all meetings of [its] **the corporation's** shareholders and board of directors, a record of all actions [taken by] **that** the shareholders or board of directors **takes** without a meeting and a record of all actions [taken by] **that** a committee of the board of directors **takes** in place of the board of directors on behalf of the corporation.

(2) A corporation shall maintain appropriate accounting records.

(3) A corporation or [its] **the corporation's** agent shall maintain a record of [its] **the corporation's** shareholders, in a form that permits preparation of a list of the names and addresses of all shareholders in alphabetical order by class of shares showing the number and class of shares [held by] each **shareholder holds**.

(4) A corporation shall maintain [its] **the corporation's** records [in written form or in another form] **as documents** capable of conversion into a **tangible** written form within a reasonable time.

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

(a) [Its] **The** articles or restated articles of incorporation and all amendments to [them] **the articles of incorporation or restated articles of incorporation that are** currently in effect;

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

(c) Resolutions [adopted by its] **that the corporation's** board of directors [creating] **adopts to create** one or more classes or series of shares and fixing [their] **the** relative rights, preferences and limitations **for each class or series**, if shares issued pursuant to those resolutions are outstanding;

(d) The minutes of all shareholders' meetings and records of all action [taken by] **that** shareholders **take** without a meeting, for the past three years;

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

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

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

**SECTION 17.** ORS 60.774 is amended to read:

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

(2) A shareholder of a corporation [is entitled to] **may** inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder meets the requirements of subsection (3) of this section and gives the

corporation **a signed** written notice of the shareholder's demand at least five business days before the date on which the shareholder wishes to inspect and copy **the records**:

(a) Excerpts from minutes of any meeting of the board of directors[, *records of any action of] or a meeting that* a committee of the board of directors **conducts** while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the shareholders and records of action [*taken by*] the shareholders, **the board of directors** or **a committee of the** board of directors **takes** without a meeting, to the extent not subject to inspection under subsection (1) of this section;

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

(c) The record of shareholders.

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

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

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

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

(4) The right of inspection granted by this section may not be abolished or limited by a corporation's articles of incorporation or bylaws.

(5) This section does not affect:

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

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

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

**SECTION 18.** ORS 60.964 is amended to read:

60.964. (1) Except as provided in subsections (2), (3) and (4) of this section, the repeal of a statute by this chapter does not affect:

(a) The operation of the statute or any action taken under [*it*] **the statute** before [*its*] **the** repeal;

(b) Any ratification, right, remedy, privilege, obligation or liability acquired, accrued or incurred under the statute before [*its*] **the** repeal;

(c) Any violation of the statute, or any penalty, forfeiture or punishment incurred because of the violation, before [*its*] **the** repeal; or

(d) Any proceeding, reorganization or dissolution commenced under the statute before [*its*] **the** repeal. The proceeding, reorganization or dissolution may be completed in accordance with the statute as if [*it*] **the statute** had not been repealed.

(2) The provisions of ORS 60.387 to 60.411 [*shall*] apply to all indemnification [*made by*] a corporation **makes** after June 15, 1987, and all other actions regarding indemnification taken by or on behalf of a corporation or by a court after June 15, 1987, including all indemnification made and other actions taken after June 15, 1987, with respect to claims that arose or matters that occurred [*prior to*] **before** June 15, 1987, or pursuant to any provisions of any articles of incorporation, bylaws, resolutions or agreements in effect [*prior to*] **before** June 15, 1987.

(3) If a penalty or punishment imposed for violation of a statute repealed by this chapter is reduced by this chapter, the penalty or punishment, if not already imposed, [*shall*] **must** be imposed in accordance with this chapter.

(4) This chapter [*shall apply*] **applies** to any amendment to a corporation's articles of incorporation filed after June 15, 1987, even if shareholder approval of such amendment occurred [*prior to*] **before** the effective date.

**(5) If a provision of this chapter has the effect of modifying, limiting or superseding the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq.,**

**the provision of this chapter controls to the maximum extent permitted under 15 U.S.C. 7002(a)(2).**

**Passed by House February 15, 2017**

.....  
Timothy G. Sekerak, Chief Clerk of House

.....  
Tina Kotek, Speaker of House

**Passed by Senate May 4, 2017**

.....  
Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2017

**Approved:**

.....M,....., 2017

.....  
Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2017

.....  
Dennis Richardson, Secretary of State