

# D R A F T

## SUMMARY

Permits nonprofit corporation organized under laws of other jurisdiction to become nonprofit corporation organized under laws of this state. Specifies procedures for domestication of foreign nonprofit corporation.

Specifies circumstances under which members of nonprofit corporation and board of directors of nonprofit corporation may discuss issues or take action by electronic means without meeting.

Specifies circumstances under which majority of directors may approve dissolution if number of directors in office at time at which directors consider dissolution is less than required by laws of this state or by articles of incorporation or bylaws of nonprofit corporation.

## A BILL FOR AN ACT

Relating to the governance of nonprofit corporations; creating new provisions; and amending ORS 65.001, 65.038, 65.144, 65.212, 65.354, 65.387, 65.624 and 65.637.

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

**SECTION 1. Sections 2 to 4 of this 2021 Act are added to and made a part of ORS chapter 65.**

**SECTION 2. (1) A nonprofit corporation organized under this chapter may become a nonprofit corporation organized under the laws of another jurisdiction if the laws of the other jurisdiction permit the nonprofit corporation to do so and the nonprofit corporation:**

**(a) Complies with the requirements set forth in the laws of the other jurisdiction;**

**(b) Approves a plan to organize under the laws of the other jurisdiction; and**

1 (c) Files the plan to organize under the laws of the other jurisdic-  
2 tion with the Secretary of State, along with a notification as to  
3 whether the nonprofit corporation intends to continue to transact  
4 business in this state.

5 (2) A nonprofit corporation organized under the laws of another  
6 jurisdiction may become a nonprofit corporation organized under this  
7 chapter if the laws of the other jurisdiction permit the nonprofit cor-  
8 poration to do so and the nonprofit corporation:

9 (a) Complies with the laws of the other jurisdiction that apply to  
10 domestications outside the other jurisdiction;

11 (b) Approves a plan of domestication;

12 (c) Files with the Secretary of State articles of domestication; and

13 (d) Applies in accordance with ORS 65.707 for authority to transact  
14 business in this state, unless the nonprofit corporation does not intend  
15 to transact business in this state.

16 (3)(a) Articles of domestication must set forth:

17 (A) The name of the nonprofit corporation before domestication;

18 (B) The name of the nonprofit corporation after domestication;

19 (C) All proposed amendments to the nonprofit corporation's articles  
20 of organization and bylaws; and

21 (D) A statement of the manner in which and the basis on which the  
22 nonprofit corporation, after domestication, will cancel or reclassify  
23 memberships of the nonprofit corporation into memberships, obli-  
24 gations, rights to acquire membership, cash, property or any combi-  
25 nation of memberships, obligations, rights to acquire membership,  
26 cash or property.

27 (b)(A) Except as provided in subparagraph (B) of this paragraph,  
28 articles of domestication may also provide that the nonprofit corpo-  
29 ration may amend the articles before filing with the Secretary of  
30 State.

31 (B) After the nonprofit corporation approves the articles of

1 domestication, the nonprofit corporation may not amend the articles  
2 of incorporation without the approval of the members if the amend-  
3 ment would change:

4 (i) The amount or kind of memberships, obligations, rights to ac-  
5 quire memberships, cash or property that members would receive un-  
6 der the articles of domestication;

7 (ii) The nonprofit corporation's articles of incorporation or bylaws  
8 other than as proposed under paragraph (a)(C) of this subsection; or

9 (iii) Any other of the terms and conditions of the articles of  
10 domestication that would adversely affect the members in any mate-  
11 rial respect.

12 (c) In addition to the provisions described in paragraphs (a) and (b)  
13 of this subsection, the articles of domestication may set forth other  
14 provisions related to the domestication.

15 (4) A nonprofit corporation shall approve articles of domestication  
16 in the manner provided for approving mergers under ORS 65.487.

17 SECTION 3. A public benefit corporation or religious corporation  
18 organized under this chapter must notify the Attorney General in  
19 writing at least 30 days before the public benefit corporation or reli-  
20 gious corporation files articles of domestication in another jurisdiction  
21 unless the Attorney General waives this requirement in writing. The  
22 notice must include the public benefit corporation's or religious  
23 corporation's plan of domestication, must describe any restricted as-  
24 sets the public benefit corporation or religious corporation holds and  
25 any activities the public benefit corporation or religious corporation  
26 expects to continue in this state.

27 SECTION 4. (1) After the members approve a plan of domestication,  
28 the nonprofit corporation shall file with the Secretary of State:

29 (a) The approved plan of domestication; or

30 (b) In lieu of the plan of domestication, a written declaration that:

31 (A) Identifies an address for an office of the domesticated entity

1 where the plan of domestication is on file; and

2 (B) States that the nonprofit corporation will provide any member  
3 with a copy of the plan of domestication upon request and at no cost.

4 (2) The domestication takes effect at the date and time determined  
5 in accordance with ORS 60.011.

6 SECTION 5. Section 6 of this 2021 Act is added to and made a part  
7 of ORS 65.337 to 65.351.

8 SECTION 6. (1) Unless a corporation's articles of incorporation or  
9 bylaws provide otherwise, the corporation's board of directors may,  
10 without a meeting, use electronic mail or other electronic means to  
11 take action that this chapter otherwise requires or permits the board  
12 of directors to take at a board of directors' meeting if the corporation  
13 complies with this section.

14 (2)(a) Before taking an action under subsection (1) of this section,  
15 a corporation shall send to the electronic mail address that each di-  
16 rector provided to the corporation for receiving communications from  
17 the corporation an electronic mail announcement that states that the  
18 board of directors will take the action.

19 (b) The electronic mail announcement the corporation sends under  
20 paragraph (a) of this subsection must include a description of the  
21 matter on which the board of directors will take action. The elec-  
22 tronic mail announcement must specify a deadline of not less than 48  
23 hours after the time the corporation sends the announcement in which  
24 a director may record the director's vote.

25 (c) The corporation shall include the electronic mail announcement  
26 described in this subsection and a record of the directors' votes in the  
27 minutes for the directors' meeting or shall file the announcement and  
28 record of the directors' votes in documents that reflect the action that  
29 the board took.

30 (3) Notwithstanding subsection (1) of this section, a corporation's  
31 board of directors may not use electronic mail or other electronic

means to take action if the corporation does not have a record of an electronic mail address for a director.

(4) A director may change the director's vote at any time before the deadline set forth in the electronic mail announcement described in subsection (2) of this section.

(5) An affirmative vote of the majority of the directors who hold office at the time the board of directors takes an action by means of electronic mail or by other electronic means is an act of the board, unless a corporation's articles of incorporation or bylaws require an affirmative vote of a greater number of directors. The board's action under this subsection has the effect of a meeting vote and the corporation may describe the action as a meeting vote in any document.

(6) The board of directors' action under subsection (5) of this section is effective on the deadline specified in the electronic mail announcement described in subsection (2) of this section, unless the announcement specifies a different effective date or time.

(7) The board of directors may, without complying with all of the requirements of this section, use electronic mail to discuss, but not take action on, an issue that comes before the board.

**SECTION 7.** ORS 65.001 is amended to read:

65.001. As used in this chapter:

(1)(a) "Anniversary" means, except as provided in paragraph (b) of this subsection, the day each year that is exactly one or more years after the date on which the Secretary of State files:

(A) The articles of incorporation for a domestic corporation; or

(B) An application for authority to transact business for a foreign corporation.

(b) "Anniversary" means February 28 if an event occurs that would otherwise cause an anniversary to fall on February 29.

(2) "Appointed director" means a director who is appointed by a person other than the board of directors.

1 (3) “Approved by the members” or “approval by the members” means ap-  
2 proved or ratified by members entitled to vote on an issue through either:

3 (a) The affirmative vote of a majority of the votes of the members re-  
4 presented and voting at a duly held meeting at which a quorum is present  
5 or the affirmative vote of a greater proportion including the votes of any  
6 required proportion of the members of any class as the articles of incorpo-  
7 ration, bylaws or this chapter may provide for specified types of member  
8 action; or

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

10 (4) **“Articles of domestication” means the articles of domestication**  
11 **described in section 2 of this 2021 Act and corrected, amended and re-**  
12 **stated articles of domestication.**

13 [(4)] (5) “Articles of incorporation” means the articles of incorporation  
14 described in ORS 65.047 and corrected, amended and restated articles of in-  
15 corporation.

16 [(5)] (6) “Articles of merger” means the articles of merger described in  
17 ORS 65.491 and corrected, amended and restated articles of merger.

18 [(6)] (7) “Board of directors” means the individual or individuals who are  
19 vested with overall management of the affairs of a domestic corporation or  
20 foreign corporation, irrespective of the name that designates the individual  
21 or individuals.

22 [(7)] (8) “Bylaws” means a set of provisions for managing and regulating  
23 a corporation’s affairs that the corporation must adopt under ORS 65.061.

24 [(8)] (9) “Class” means a group of memberships that have the same rights,  
25 including rights that are determined by a formula that is applied uniformly,  
26 with respect to voting, dissolution, redemption and transfer.

27 [(9)] (10) “Contact information” means a street address, a mailing address  
28 or an electronic address at which a member or director elects to receive  
29 notices and other messages from the corporation.

30 [(10)] (11) “Corporation” means a domestic corporation or a foreign cor-  
31 poration.

1       [(11)] **(12)** “Delegate” means a person who is elected or appointed to vote  
2 in a representative assembly for electing a director or directors or on other  
3 matters.

4       [(12)] **(13)** “Deliver” means to transfer by any method of delivery used in  
5 conventional commercial practice, including delivery by hand, mail, com-  
6 mercial delivery and electronic transmission.

7       [(13)] **(14)** “Designated director” means a director that the articles of in-  
8 corporation or the bylaws designate as a director in a manner that identifies  
9 a specific individual or a group of individuals.

10       [(14)] **(15)** “Director” means an individual who acts as a member of the  
11 board of directors, who has a right to vote on questions concerning the  
12 management and regulation of a corporation’s affairs and who is:

- 13       (a) An appointed director;
- 14       (b) A designated director; or
- 15       (c) A director elected by the incorporators, directors or members.

16       [(15)] **(16)** “Distribution” means a payment to a person from the income  
17 or assets of a corporation, other than a payment of reasonable value to a  
18 person for property received or services performed or a payment that furthers  
19 the corporation’s purposes.

20       [(16)] **(17)** “Document” means:

- 21       (a) A medium that embodies information in tangible form, including any  
22 writing or written instrument; or
- 23       (b) An electronic medium that embodies information that a person may  
24 retain, retrieve and reproduce, in tangible form or otherwise.

25       [(17)] **(18)** “Domestic business corporation” means a for profit corporation  
26 that is incorporated under ORS chapter 60.

27       [(18)] **(19)** “Domestic corporation” means a nonprofit corporation that is  
28 not a foreign corporation and that is incorporated under or subject to the  
29 provisions of this chapter.

30       [(19)] **(20)** “Domestic limited liability company” means an unincorporated  
31 association that has one or more members and that is organized under ORS

chapter 63.

[(20)] (21) “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.

**(22) “Domestication” means the process described in sections 2, 3 and 4 of this 2021 Act under which a nonprofit corporation organized under the laws of another jurisdiction becomes a nonprofit corporation organized under this chapter.**

[(21)] (23) “Employee” means an individual that a corporation employs, including an officer or director whom the corporation employs with compensation for services beyond the services of board membership.

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

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

[(24)] (26) “Foreign corporation” means a corporation that is organized under laws other than the laws of the state and that would be a nonprofit corporation if organized under the laws of the state.

[(25)] (27) “Foreign limited liability company” means an unincorporated association that is organized under laws other than the laws of the state and under a statute that permits an entity to organize and that affords to each of the entity’s members limited liability with respect to liabilities of the entity.

[(26)] (28) “Foreign professional corporation” means a professional corporation that is organized under laws other than the laws of the state.

[(27)] (29) “Gift instrument” means a record, including a record of a solicitation, under which a corporation holds property or under which property



is granted or transferred to the corporation.

[(28)] **(30)** “Governmental subdivision” means a unit of government, including an authority, county, district and municipality.

[(29)] **(31)** “Individual” means a natural person, including the guardian of an incompetent individual.

[(30)(a)] **(32)(a)** “Member” means a person that is entitled, under a domestic corporation’s or foreign corporation’s articles of incorporation or bylaws, to exercise any of the rights described in ORS 65.144 without regard to whether the articles of incorporation or bylaws identify the person as a member or which other title or identity the domestic corporation or foreign corporation gives to the person.

(b) “Member” does not include:

(A) A person that does not have the rights described in ORS 65.144 or that has only one or more of the following rights:

(i) Rights granted to a delegate;

(ii) A right to designate or appoint a director or directors;

(iii) Rights that a director has;

(iv) A right to vote on only one occasion to elect a director or directors;

or

(v) Rights that a person has as a consequence of holding evidence of indebtedness the corporation has issued or will issue.

(B) A person for which membership rights have been eliminated as provided in ORS 65.164 or 65.167.

[(31)] **(33)** “Membership” means the rights and obligations a member has under this chapter.

[(32)] **(34)** “Mutual benefit corporation” means a domestic corporation that is organized to serve and operates primarily to serve the mutual interests of a group of persons, but is not a public benefit corporation or religious corporation.

[(33)] **(35)** “Nonprofit corporation” means a mutual benefit corporation, a public benefit corporation or a religious corporation.

1 [(34)] **(36)** “Notice” means a notice described in ORS 65.034.

2 [(35)] **(37)** “Person” means an individual or an entity.

3 [(36)(a)] **(38)(a)** “Principal office” means the physical street address of the  
4 place, in or out of this state, where the principal executive offices of a do-  
5 mestic corporation or foreign corporation are located and that is designated  
6 as the principal office in the most recent annual report filed in accordance  
7 with ORS 65.787 or, if no annual report is on file, in the articles of incor-  
8 poration or the application for authority to transact business in this state.

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

11 [(37)] **(39)** “Proceeding” means a civil, criminal, administrative or  
12 investigatory action.

13 [(38)] **(40)** “Public benefit corporation” means a domestic corporation that:

14 (a) Is formed as a public benefit corporation under ORS 65.044 to 65.067,  
15 is designated as a public benefit corporation by a statute, is recognized as  
16 tax exempt under section 501(c)(3) of the Internal Revenue Code or is other-  
17 wise organized for a public or charitable purpose;

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

23 (c) Is not a religious corporation.

24 [(39)] **(41)** “Record date” means the date established under ORS 65.131 to  
25 65.177 or 65.201 to 65.254 on which a corporation determines the identity of  
26 the corporation’s members and the members’ membership rights for the pur-  
27 poses of this chapter.

28 [(40)] **(42)** “Religious corporation” means a domestic corporation that is  
29 formed as a religious corporation under ORS 65.044 to 65.067, is designated  
30 a religious corporation by a statute or is organized primarily or exclusively  
31 for religious purposes.

1 [(41)] **(43)** “Remote communication” means any method by which a person  
 2 that is not physically present at the location at which a meeting occurs may  
 3 nevertheless hear or otherwise communicate at substantially the same time  
 4 with other persons at the meeting and have access to materials necessary to  
 5 participate or vote in the meeting to the extent of the person’s authorization  
 6 to participate or vote.

7 [(42)] **(44)** “Secretary,” when used in the context of a corporate official,  
 8 means the corporate officer to whom the board of directors has delegated  
 9 responsibility under ORS 65.371 for preparing the minutes of the board of  
 10 directors’ meetings and membership meetings and for authenticating the re-  
 11 cords of the corporation.

12 [(43)] **(45)** “Shell entity” means an entity that has the characteristics de-  
 13 scribed in ORS 65.661.

14 [(44)] **(46)** “Sign” means to indicate a present intent to authenticate or  
 15 adopt a document by:

16 (a) Affixing a symbol to the document;

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

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

21 [(45)] **(47)** “State,” when referring to a part of the United States, means  
 22 a state, commonwealth, territory or insular possession of the United States  
 23 and the agencies and governmental subdivisions of the state, commonwealth,  
 24 territory or insular possession.

25 [(46)] **(48)** “Uncompensated officer” means an individual who serves in an  
 26 office without compensation other than payment solely for actual expenses  
 27 the individual incurs in performing duties of the individual’s office or pay-  
 28 ment for the average expenses the individual incurs over the course of a  
 29 year.

30 [(47)] **(49)** “United States” means the federal government or a district,  
 31 authority, bureau, commission, department or any other agency of the United

States.

[(48)] (50) "Vote" means an authorization by written ballot or written consent, where permitted, or by another method that a corporation specifies as an authorization.

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

[(50)] (52) "Written" means embodied as a document.

**SECTION 8.** ORS 65.038 is amended to read:

65.038. (1)(a) If a corporation asserts that calling or conducting a meeting of the corporation's members, delegates or directors or otherwise obtaining consent from the members, delegates or directors in accordance with the corporation's articles of incorporation or bylaws or in accordance with this chapter is impractical or impossible, or if the corporation cannot identify the corporation's members or directors, a director, an officer, a delegate, a member or the Attorney General may petition for an order to call or conduct a meeting or an order to identify the corporation's members or directors. The director, officer, delegate, member or the Attorney General shall submit the petition to the circuit court for the county in this state that the corporation's last filed annual report, the articles of incorporation or an application for authority to transact business in this state identifies as the location of the corporation's principal office. If the annual report, the articles of incorporation or the application does not identify the county in which the principal office is located, the director, officer, delegate, member or the Attorney General may petition for an order from the circuit court of Marion County or Multnomah County.

(b) In an order under paragraph (a) of this subsection, the court may:

(A) Direct the corporation to call a meeting and provide a written ballot or other form of obtaining the vote of members, delegates or directors in any manner that the court finds is fair and equitable under the circumstances;

1 or

2 (B) Determine who the members or directors of the corporation are or  
3 amend the articles of incorporation to state that the corporation does not  
4 have members.

5 (2) The court shall, in an order issued under this section, provide for a  
6 method of notice reasonably designed to give actual notice to all persons  
7 who would be entitled to notice of a meeting held pursuant to the articles  
8 of incorporation, bylaws and this chapter, whether or not the method results  
9 in actual notice to all such persons or conforms to the notice requirements  
10 that would otherwise apply.

11 (3) An order that a court issues in accordance with this section may for  
12 good cause shown dispense with any requirement to hold a meeting or to  
13 obtain votes, including any requirement that the articles of incorporation,  
14 bylaws or this chapter might otherwise impose as to quorum or as to the  
15 number or percentage of votes needed to approve an act.

16 (4) Whenever practical, a court in any order issued under this section  
17 shall limit the subject matter of meetings or other forms of consent judicially  
18 authorized to those items, including amendments to the articles of incorpo-  
19 ration or bylaws, the resolution of which will or may enable the corporation  
20 to continue managing the corporation's affairs without further resort to this  
21 section. An order issued under this section may also authorize the obtaining  
22 of whatever votes and approvals are necessary for *[the]* a dissolution,  
23 merger, **domestication** or sale of assets.

24 (5) Any meeting or other method of obtaining the vote of members, de-  
25 legates or directors conducted pursuant to an order issued under this section,  
26 and which complies with all the provisions of the order, is for all purposes  
27 a valid meeting or vote, as the case may be, and has the same force and ef-  
28 fect as if the meeting or method of obtaining the vote complied with every  
29 requirement imposed by the articles of incorporation, bylaws and this chap-  
30 ter.

31 **SECTION 9.** ORS 65.144 is amended to read:

65.144. (1) Unless a corporation's articles of incorporation or bylaws provide otherwise, members of the corporation have the same rights and obligations. The articles of incorporation or bylaws may establish classes of membership with different rights or obligations. Rights that members have, unless the corporation's articles of incorporation or bylaws provide otherwise, include rights to:

(a) Elect directors, as provided in ORS 65.311;

(b) Remove directors, as provided in ORS 65.324;

(c) Vote on any change to the number of directors, including a change to a fixed number of directors, a change to a variable range in the number of possible directors or a change from a fixed number of directors to a variable range in the number of possible directors, as provided in ORS 65.307;

(d) Vote to sell, transfer, lease, exchange, option, convey or otherwise dispose of the corporation's assets or to merge the corporation's assets with the assets of another entity, as provided in ORS 65.803;

(e) Vote to dissolve the corporation, as provided in ORS 65.624; *[and]*

**(f) Approve a plan of domestication; and**

*[(f)] (g)* Approve a conflict of interest transaction, as provided in ORS 65.361, if the member is a voting member of a mutual benefit corporation.

(2) Notwithstanding a provision in a corporation's articles of incorporation or bylaws, a member has a right to:

(a) Vote on an action or an amendment to the articles of incorporation if the action or amendment would reduce or eliminate the member's right to vote; and

(b) Inspect and copy the corporation's records, as provided in ORS 65.774.

**SECTION 10.** ORS 65.212 is amended to read:

65.212. (1) Unless a corporation's articles of incorporation or bylaws provide otherwise,[:]

*[(a)]* the corporation's *[board of directors]* **members** may, without a meeting, use electronic mail or other electronic means to take action that this chapter otherwise requires or permits the *[board of directors]* **members**

1 to take at a [board of directors'] meeting if the corporation complies with this  
2 section.

3 [(b) The board of directors may, without complying with all of the re-  
4 quirements of this section, use electronic mail to discuss, but not take action  
5 on, an issue that comes before the board.]

6 (2)(a) Before taking an action under subsection (1) of this section, a cor-  
7 poration shall send to the electronic mail address that each [director]  
8 **member** provided to the corporation for receiving communications from the  
9 corporation an electronic mail announcement that states that the [board of  
10 directors] **members** will take the action.

11 (b) The electronic mail announcement the corporation sends under para-  
12 graph (a) of this subsection must include a description of the matter on  
13 which the [board of directors] **members** will take action. The electronic mail  
14 announcement must specify a deadline of not less than 48 hours after the  
15 time the corporation sends the announcement in which a [director] **member**  
16 may record the [director's] **member's** vote.

17 (c) The corporation shall include the electronic mail announcement de-  
18 scribed in this subsection and a record of the [directors'] **members'** votes in  
19 the minutes for the [directors'] meeting or shall file the announcement and  
20 record of the [directors'] **members'** votes in documents that reflect the  
21 action that the [board] **members** took.

22 (3) Notwithstanding subsection (1) of this section, a corporation's [board  
23 of directors] **members** may not use electronic mail or other electronic means  
24 to take action if the corporation does not have a record of an electronic mail  
25 address for a [director] **member**.

26 (4) A [director] **member** may change the [director's] **member's** vote at  
27 any time before the deadline set forth in the electronic mail announcement  
28 described in subsection (2) of this section.

29 (5) An affirmative vote of the majority of the [directors who hold office]  
30 **members** at the time the [board of directors takes] **members take** an action  
31 by means of electronic mail or by other electronic means is an act of the

1 *[board]* **members**, unless a corporation's articles of incorporation or bylaws  
 2 require an affirmative vote of a greater number of *[directors]* **members**. The  
 3 *[board's]* **members'** action under this subsection has the effect of a meeting  
 4 vote and the corporation may describe the action as a meeting vote in any  
 5 document.

6 (6) The *[board of directors']* **members'** action under subsection (5) of this  
 7 section is effective on the deadline specified in the electronic mail an-  
 8 nouncement described in subsection (2) of this section, unless the announce-  
 9 ment specifies a different effective date or time.

10 (7) **Unless a record date for determining members who may take**  
 11 **an action without a meeting under this section is set in accordance**  
 12 **with ORS 65.207 or 65.221, the record date is the date of the electronic**  
 13 **mail announcement described in subsection (2)(a) of this section.**

14 (8) **Members may use electronic mail to discuss an issue that comes**  
 15 **before the members.**

16 **SECTION 11.** ORS 65.354 is amended to read:

17 65.354. (1)(a) Unless the articles of incorporation or bylaws provide oth-  
 18 erwise, a board of directors may create one or more committees that exercise  
 19 the authority of the board. The board may appoint directors to serve on a  
 20 committee or designate the method of selecting committee members. Each  
 21 committee must consist of two or more directors, who serve at the pleasure  
 22 of the board. Only a director may serve as a voting member of a committee.

23 (b) The creation of a committee and appointment of directors to the  
 24 committee or designation of a method of selecting committee members under  
 25 this subsection must be approved by the greater of:

26 (A) A majority of all the directors in office when the action is taken; or

27 (B) The number of directors required by the articles of incorporation or  
 28 bylaws to take action under ORS 65.351.

29 (2)(a) The board of directors may create committees to advise the board  
 30 or otherwise serve the corporation. The board may appoint individuals to  
 31 serve on a committee or specify a method for selecting committee members.



1 A member of a committee the board creates under this subsection may be,  
2 but need not be, a director or a member of the corporation.

3 (b) A committee the board creates under this subsection may not exercise  
4 the authority of the board of directors.

5 (3) ORS 65.337 to 65.351, governing meetings, action without meetings,  
6 notice and waiver of notice, and quorum and voting requirements of the  
7 board of directors, also apply to committees and committee members.

8 (4) Except as provided in subsections (2)(b) and (5) of this section, to the  
9 extent specified by the board of directors or in the articles of incorporation  
10 or bylaws, each committee of the board may exercise the authority of the  
11 board of directors.

12 (5) A committee the board creates under this section may not:

13 (a) Authorize distributions;

14 (b) Approve or recommend to members dissolution, merger,  
15 **domestication** or the sale, pledge or transfer of all or substantially all of  
16 the corporation's assets;

17 (c) Elect, appoint or remove directors or fill vacancies on the board or  
18 on any of the board's committees; or

19 (d) Adopt, amend or repeal the articles of incorporation or bylaws.

20 (6) The creation of, delegation of authority to, or action by a committee  
21 does not alone constitute compliance by a director with the standards of  
22 conduct described in ORS 65.357.

23 **SECTION 12.** ORS 65.387 is amended to read:

24 65.387. As used in ORS 65.387 to 65.414:

25 (1) "Corporation" includes any domestic or foreign predecessor entity of  
26 a corporation in a merger, **domestication** or other transaction in which the  
27 predecessor's existence ceased upon consummation of the transaction.

28 (2) "Director" means an individual who is or was a director of a corpo-  
29 ration or an individual who, while a director of a corporation, is or was  
30 serving at the corporation's request as a director, officer, partner, trustee,  
31 employee, or agent of another foreign or domestic business or nonprofit

1 corporation, partnership, joint venture, trust, employee benefit plan or other  
2 enterprise. A director is considered to be serving an employee benefit plan  
3 at the corporation's request if the director's duties to the corporation also  
4 impose duties on, or otherwise involve services by, the director to the plan  
5 or to participants in or beneficiaries of the plan. "Director" includes, unless  
6 the context requires otherwise, the estate or personal representative of a  
7 director.

8 (3) "Expenses" include attorney fees.

9 (4) "Liability" means the obligation to pay a judgment, settlement, pen-  
10 alty, fine, including an excise tax assessed with respect to an employee ben-  
11 efit plan, or reasonable expenses actually incurred with respect to a  
12 proceeding.

13 (5) "Officer" means an individual who is or was an officer of a corpo-  
14 ration or an individual who, while an officer of a corporation, is or was  
15 serving at the corporation's request as a director, officer, partner, trustee,  
16 employee or agent of another foreign or domestic corporation, partnership,  
17 joint venture, trust, employee benefit plan or other enterprise. An officer is  
18 considered to be serving an employee benefit plan at the corporation's re-  
19 quest if the officer's duties to the corporation also impose duties on or in-  
20 clude services by the officer to the employee benefit plan or to participants  
21 in or beneficiaries of the plan. "Officer" includes, unless the context requires  
22 otherwise, the estate or personal representative of an officer.

23 (6) "Party" includes an individual who was, is or is threatened to be made  
24 a named defendant or respondent in a proceeding.

25 (7) "Proceeding" means any threatened, pending or completed action, suit  
26 or proceeding whether civil, criminal, administrative or investigative and  
27 whether formal or informal.

28 **SECTION 13.** ORS 65.624 is amended to read:

29 65.624. (1) Unless a corporation's articles of incorporation, bylaws or the  
30 board of directors or members, acting in accordance with subsection (3) of  
31 this section, require a greater vote or voting by class, dissolution is author-

ized if the dissolution is approved:

(a) By the board of directors;

(b) By the members of a mutual benefit corporation entitled to vote on dissolution, if any, by at least two-thirds of the votes cast or a majority of the voting power, whichever is less, or by a majority of the votes cast, if the corporation is a public benefit corporation or religious corporation; and

(c) In writing, by any person or persons whose approval is required for an amendment of the articles of incorporation or bylaws, as authorized by ORS 65.467, or for dissolution.

(2)(a) If the corporation does not have members entitled to vote on dissolution, the board of directors must approve the dissolution [*and may do so even if the board does not have a quorum*]. In addition, the corporation shall provide notice of any meeting of the board of directors at which such approval is to be considered in accordance with ORS 65.344 (2). The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolution of the corporation and must contain or be accompanied by a copy or summary of the plan of dissolution.

**(b) Even if the number of directors in office at the time the board considers the proposed dissolution is less than the minimum required under this chapter, under the articles of incorporation or under the corporation's bylaws, a majority of the directors in office at the time the board considers the proposed dissolution may approve the dissolution.**

(3) The board of directors may condition the board's submission of the proposed dissolution to a vote of members, and the members may condition the members' approval of the dissolution on receipt of a higher percentage of affirmative votes or on any other basis.

(4) If the board of directors seeks to have dissolution approved by the members at a membership meeting, the corporation shall give all members, whether or not entitled to vote, notice of the proposed meeting in accordance with ORS 65.214. The notice must also state that the purpose, or one of the

purposes, of the meeting is to consider dissolving the corporation and must contain or be accompanied by a copy or summary of the plan of dissolution.

(5) If the board of directors seeks to have dissolution approved by the members by written consent or written ballot, the material soliciting the approval must contain or be accompanied by a copy or summary of the plan of dissolution.

(6) The plan of dissolution must indicate to whom the assets owned or held by the corporation will be distributed after all creditors have been paid.

**SECTION 14.** ORS 65.637 is amended to read:

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

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

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

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

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

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

(f) If the corporation is a public benefit corporation or religious corporation, and the corporation has not provided in the corporation's articles of incorporation or bylaws for distributing assets on dissolution, transferring, subject to any contractual or legal requirement, the corporation's assets to one or more persons described in ORS 65.001 [(38)(b)] **(40)(b)**;

(g) If the corporation is a mutual benefit corporation and the corporation

1 has not provided in the corporation's articles of incorporation or bylaws for  
2 distributing assets on dissolution, transferring, subject to any contractual  
3 or legal requirements, the corporation's assets to the corporation's members  
4 or, if the corporation has no members, to those persons whom the corpo-  
5 ration purports to benefit or serve;

6 (h) Adopting a plan of merger; and

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

9 (2) Dissolution of a corporation does not:

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

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

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

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

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

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

22 \_\_\_\_\_